

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Edward A. Campochiaro,  
Complainant

Report of Hearing Officer

against

Docket #FIC78-197

Board of Education of the  
Town of Plainville; Super-  
intendent of Schools of the  
Town of Plainville; and  
Assistant Superintendent of  
Schools of the Town of Plain-  
ville,

August , 1979

Respondents

The above captioned matter was heard as a contested case on November 27, 1978, at which time the complainant and respondents appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.
2. By letter filed with this Commission October 11, 1978 the complainant alleged his rights under the Freedom of Information Act were violated when the respondents denied him copies of certain letters to and from his own attorney and attorneys for the respondents which he alleged were part of his son's file.
3. By letter to the respondent assistant superintendent of schools the complainant requested copies of six letters as follows:
  - a) a letter dated June 2, 1975 from Attorney Koskoff to Kessler and Magipinto,
  - b) a letter dated June 12, 1975 from Attorney Koskoff to Attorney Sikorsky,
  - c) a letter dated July 8, 1975 from Attorney Sikorsky to Attorney Koskoff,
  - d) a note dated August 27, 1975 from Attorney Sikorsky to Attorney Koskoff,
  - e) a letter dated September 2, 1975 from Attorney Koskoff to Attorney Sikorsky,
  - f) a letter dated September 4, 1976 from Attorney Koskoff to Attorney Sikorsky.

4. The respondents asserted that the requested documents are exempt from disclosure under §1-19(b)(4), G.S.

5. All of the letters requested by the complainant pertain to negotiations with respect to some or all of the litigation filed in federal or state court by the complainant against the respondent board of education and/or teachers and/or administrators of the Plainville school system.

6. It is found therefore that the letters requested by the complainant fall within the exemption to disclosure set forth at §1-19(b)(4), G.S. for records pertaining to strategy and negotiations with respect to pending claims and litigation to which the public agency is a party.

7. The complainant maintained that the respondents waived the §1-19(b)(4) exemption because the letters from attorney to attorney had been included in the record of the proceedings of a panel assembled by the state board of education for the purpose of reviewing a decision of the Plainville board of education concerning the complainant's son.

8. §10-76(d) requires the respondent board to furnish educational records deemed relevant by the hearing panel.

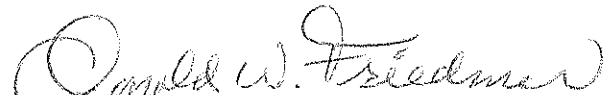
9. The respondent mailed the attorney letters to Dr. Breyer, one of the members of the hearing panel after the letters had been requested by Dr. Breyer.

10. The letters were not part of the record which was considered by the aforesaid panel.

11. It is concluded that the fact that the letters were provided to Dr. Breyer by the respondents did not constitute a waiver of the exemption to disclosure set forth at §1-19(b)(4), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above caption complaint:

1. The complaint is hereby dismissed.

  
Commissioner Donald Friedman  
as Hearing Officer

Approved by Order of the Freedom of Information Commission on  
August 22, 1979.

  
Leslie Ann McGwire  
Clerk of the Commission