

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
David Myers,

FINAL DECISION

Complainant

Docket #FIC85-111

against

October 23, 1985

Personnel Department of the  
Hartford Board of Education;  
City and Town of Hartford

Respondents

The above captioned matter was heard as a contested case on July 23, 1985 at which time the complainant and the respondent personnel department appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondent personnel department is a public agency within the meaning of §1-18a(a), G.S.
2. On or about April 12, 1985 the complainant, a school security guard, was asked to meet with school personnel regarding a student's complaint of improper conduct. Present at the gathering, in addition to the complainant and his union representative, were Lois Sharpe, associate administrator of personnel and labor relations, and Peter Roach, school security administrator.
3. On or about April 23, 1985 the complainant telephoned the office of Ms. Sharpe to request copies of all statements and documents concerning him, but was unable to reach her. The complainant relayed his message to Ms. Sharpe through personnel answering his call.
4. By letter dated April 25, 1985 Ms. Sharpe notified the complainant of his suspension, without pay, for the April 12, 1985 incident.
5. By letter of complaint filed with the Commission on May 7, 1985 the complainant alleged that he had been suspended without having had the opportunity to view any statements or documents pertaining to his suspension. In a brief submitted subsequent to the date of hearing the complainant asked the Commission to nullify his suspension and order payment for the three days.

6. On June 13, 1985 the complainant made a written request of the respondent for all documents in his personnel file and elsewhere pertaining to his employment at Bulkely High School, Moylan High School and Weaver High School.

7. Although testimony at hearing conflicted on the issue, it is found that the complainant, on April 12, 1985, had a copy of the statement which instigated the investigation into his behavior. As of the date of hearing no other documents had been provided to the complainant.

8. Following the initial meeting on April 12, 1985 Ms. Sharpe investigated the student's allegations and obtained written statements from other students. The complainant has not received copies of any such statements.

9. The respondent board claims that under the terms of a collective bargaining agreement to which it and the complainant are parties, the complainant must make arrangements to view his personnel file in the presence of a school administrator, and that the complainant failed to comply with the terms of such agreement.

10. It is found that the respondent board cannot, by contract, deprive the complainant of the statutorily created rights provided by the Freedom of Information Act.

11. It is further found that the complainant requested copies of documents, not access to inspect his file.

12. It is concluded that the board's claim with respect to the terms of its collective bargaining agreement with the Commission's union is without merit.

13. The respondent board's claims that it did not need to provide the complainant with copies of additional statements because the complainant's union representative, Mr. Johnson, had copies.

14. It is found that the fact that records were provided to Mr. Johnson did not relieve the respondent board of its responsibilities with respect to the complainant. No evidence was presented that records were provided to Mr. Johnson as agent for the complainant.

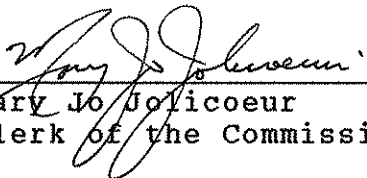
15. It is concluded that the respondent board violated §1-15, G.S. when it failed to provide the complainant with copies of records relating to the April 12, 1985 incident as well as other records in his personnel file.

16. The Commission declines to order the remedy requested by the complainant.

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

1. The respondent shall forthwith provide the complainant with copies of all documents in his personnel file, including all documents relating to the April 12, 1985 incident which formed the basis of his suspension.

Approved by order of the Freedom of Information Commission at its regular meeting of October 23, 1985.

  
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Mary Jo Jolicoeur  
Clerk of the Commission