

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Thomas Green,

Complainant

against

Docket # FIC 2024-0500

Superintendent of Schools, Windham
Public Schools; and Windham Public
Schools,

Respondents

February 13, 2025

On October 17, 2024, the respondents in the above-captioned matter moved to dismiss the complaint without a hearing, contending that records responsive to the complainant's request were already the subject of a complaint then pending before the Freedom of Information Commission ("Commission"). The complainant, by email dated October 18, 2024, filed his opposition to such motion. The Commission takes administrative notice of the findings and conclusions in Docket #FIC 2024-0099, Thomas Green v. Superintendent of Schools, Windham Public Schools; and Windham Public Schools (January 22, 2025).

After consideration of the entire record, the Commission hereby grants the respondents' motion to dismiss for the following reasons:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. Section 1-206(b)(4), G.S., provides that:

[n]otwithstanding any provision of this subsection, in the case of an appeal to the commission of a denial by a public agency, the commission may, upon motion of such agency, confirm the action of the agency and dismiss the appeal without a hearing if it finds, after examining the notice of appeal and construing all allegations most favorably to the appellant, that (A) the agency has not violated the Freedom of Information Act, or (B) the agency has committed a technical violation of the Freedom of Information Act that constitutes a harmless error that does not infringe the appellant's rights under said act.

3. By email dated July 24, 2024, the complainant requested from the respondents a copy of his "personnel file, specifically any data regarding observations and evaluations."

4. By email dated, July 29, 2024, the respondents notified the complainant that on February 14, 2024, they had disclosed to the complainant all responsive records that they were able to locate, in response to the complainant's January 30, 2024 request for the same information.

5. By letter of complaint filed on August 21, 2024, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to disclose copies of the records described in paragraph 3, above.

6. Section 1-200(5), G.S., defines "public records or files" as follows:

any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

7. Section 1-210(a), G.S., provides, in relevant part:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212...

8. Nevertheless, §10-151c, G.S., provides, in relevant part:

[a]ny records maintained or kept on file by the Department of Education or any local or regional board of education that are records of teacher performance and evaluation shall not be deemed to be public records and shall not be subject to the provisions of section 1-210, provided that any teacher may consent in writing to the release of such teacher's records by the department or a board of education. Such consent shall be required for each request for a release of such records. . . . For the purposes of this section, "teacher" includes each certified professional employee below the rank of superintendent employed by a board of education in a position requiring a certificate issued by the State Board of Education. (Emphasis added.)

9. It is found that, by email dated January 30, 2024, the complainant made a request to the respondents to "inspect [his] full personnel file from the Windham Public Schools." It is also

found that on February 2, 2024, the complainant requested that the respondents provide his personnel file digitally.

10. It is found that, by letter of complaint filed on February 17, 2024, the complainant appealed to this Commission alleging that the respondents violated the FOI Act by failing to include his employee evaluations in the records provided to him on February 14, 2024.

11. On January 22, 2025, a Final Decision was issued in Docket #FIC 2024-0099, Thomas Green v. Superintendent of Schools, Windham Public Schools; and Windham Public Schools, in which the Commission concluded that the requested records, described in paragraph 10, above, were not public records, pursuant to §10-151c, G.S., and therefore claims concerning such records are outside the Commission's jurisdiction.

12. It is found that responsive records in the instant matter would necessarily be the same as the responsive records that this Commission concluded were outside its jurisdiction in Docket #FIC 2024-0099, Thomas Green v. Superintendent of Schools, Windham Public Schools; and Windham Public Schools (January 22, 2025).

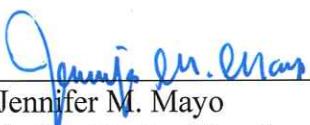
13. It is therefore concluded that the requested records regarding the complainant's "observations and evaluations" described in paragraph 3, above, to the extent they exist, are not public records within the meaning of §1-210, G.S.

14. After consideration of the notice of appeal and construing all allegations most favorably to the complainant, it is concluded that the Commission lacks subject matter jurisdiction over the complaint and that the respondents, therefore, have not violated the FOI Act in this case.

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

1. The complaint is dismissed without a hearing, pursuant to §1-206(b)(4), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 13, 2025.



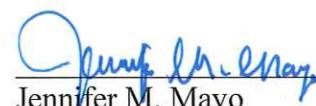
Jennifer M. Mayo
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

THOMAS GREEN, 9 Lebanon Square, Mansfield Center, CT 06250

SUPERINTENDENT OF SCHOOLS, WINDHAM PUBLIC SCHOOLS; AND
WINDHAM PUBLIC SCHOOLS, c/o Attorney Julie Reznik, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103



Jennifer M. Mayo

Acting Clerk of the Commission