

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Thomas Green,

Complainant

against

Docket #FIC 2024-0099

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

Respondents

January 22, 2025

The above-captioned matter was heard as a contested case on November 15, 2024, 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 and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that on January 30, 2024, the complainant, via email to the respondents requested to “inspect [his] full personnel file from the Windham Public Schools.”
3. It is found that on February 1, 2024, the respondents replied to the complainant indicating that his file was available for review and attempted to coordinate a time for the complainant to review the records at the respondents’ central office.
4. It is found that on February 2, 2024, the complainant requested that the respondents provide his personnel file digitally. It is found that on the same day, the respondents expressed their preference that the complainant review his file in person and again attempted to coordinate with the complainant.
5. It is found that on February 4, 2024, the complainant reiterated his desire to receive his personnel file electronically.
6. It is found that on February 12, 2024, the complainant followed up with the respondents via email indicating that they had not replied to his February 4 email.

7. It is found that on February 14, 2024, the respondents replied to the complainant, via email, attaching the complainant's personnel file.

8. It is found that on February 17, 2024, the complainant indicated that the records disclosed by the respondents on February 14, 2024, did not include his "employee evaluations," and thus was not his "complete personnel file."

9. By letter of complaint filed and received on February 17, 2024, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to include his employee evaluations in the records they provided to him on February 14, 2024.¹

10. Section 1-200(5), G.S., provides:

"[p]ublic records or files" means 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.

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

Any 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.)

12. It is found that prior to his resignation on August 16, 2023, the complainant was employed as a teacher, within the meaning of §10-151c, G.S., with the respondents. Accordingly, it is found that the employee evaluations that are the subject of the current complaint are "records of teacher performance and evaluation."

¹ The Commission notes that the only records the complainant identified as missing from the records provided by the respondents on February 14, 2024, are his employee evaluations. Accordingly, the Commission limits its review in this matter to the complainant's employee evaluations.

13. The Commission has previously considered the applicability of §10-151c, G.S., under facts similar to the instant case in, Docket #FIC 1998-071, Cynthia Marzurek v. Superintendent of Schools, Wolcott Public Schools et al. (July 8, 1998) (hereinafter, "Marzurek").

14. The complainant in Marzurek requested copies of "any and all documents generated in the course of evaluating her performance as a teacher. . . ." The Commission dismissed the complaint because the complainant requested

records of teacher performance and evaluation, and that pursuant to §10-151c, G.S., such records are not public records, and are not subject to the disclosure provisions of §1-[210], G.S. Accordingly, the Commission cannot conclude that the respondents violated the provisions of §1-[210], G.S., nor can it order disclosure of [such] records

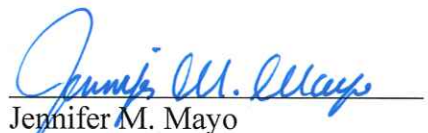
15. As noted in paragraph 9 above, the only records the complainant alleges he did not receive in response to his January 30 request are his employee evaluations. Per §10-151c, G.S., such records are not public records, and therefore, claims concerning such records are outside the Commission's jurisdiction.

16. Accordingly, as in Marzurek, the Commission in the instant matter, cannot conclude that the respondents violated the provisions of §1-210, G.S., nor can it order the respondents to disclose the complainant's employee evaluations.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 22, 2025.

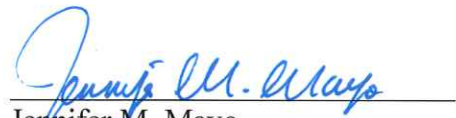

Jennifer M. Mayo
Acting Clerk of the Commission

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 Jessica L. Ritter, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103 and Attorney Sarah Gleason, Shipman & Goodwin LLP, 300 Atlantic Street, 3rd Floor, Stamford, CT 06901



Jennifer M. Mayo
Acting Clerk of the Commission