

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
Edward A. Campochiaro,)
Complainant) Final Decision
)
against) Docket #FIC78-107
)
Town of Plainville; and the) September 27, 1978
Superintendent of Schools of)
the Town of Plainville,)
Respondents)
)

The above captioned matter was heard as a contested case on August 1, 1978, at which time the complainant and the 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 dated May 2, 1978 the complainant requested access to the complete files of his son including eighteen enclosures sent to the chairperson of a special education hearing board in November, 1975.
3. In the aforesaid letter the complainant specifically requested material developed pursuant to a report of the special education hearing board in January, 1976.
4. The aforesaid report of the special education hearing board recommended compilation of samples of academic work, formal monitoring and record keeping of the child's social behavior in the classroom, definition of objectives, curriculum and methods for assessing ongoing progress, and an evaluation in May, 1976.
5. By appeal filed with the Commission May 2, 1978 the complainant alleged that the respondents' attorney had promised to produce the requested records by April 28, 1978, but that compliance with his request had not occurred.
6. The complainant had been seeking access to the above enumerated records since February, 1978.
7. By the conclusion of the hearing the only documents which had any relation to the complainant's son which had not been provided to the complainant were certain records developed by teachers pursuant to the recommendation of the report of the special education hearing board of January, 1976, and certain letters from attorneys and persons at the school pertaining to litigation which had been initiated by the complainant on behalf of his son.

8. Some of the records developed pursuant to the report of the special education board no longer existed.

9. The respondents moved to dismiss on the basis that the complainant's complaint was not timely filed.

10. It is found that the complaint was timely filed.

11. The respondents claimed in addition that the Commission is deprived of jurisdiction over the complaint by §10-15(b) and §10-154, G.S. and 20 USC 1232g, popularly known as the Buckley Amendment.

12. It is found that the Buckley Amendment is not such a compulsory and mandatory provision of federal law as to exclude the requested documents from the category of public records under §1-19a, G.S.

13. It is further found that since the requested records do not fall into any of the exemptions to disclosure of student records set forth at §10-15(b) and §10-154a, G.S., those statutes do not protect the student records from disclosure under §1-19a, G.S.

14. It is concluded, therefore, that the Commission does have jurisdiction over the complainant's appeal.


15. The respondents further claimed that the records which had been developed by the teachers in response to the recommendation of the special education hearing board were the property of the teachers and not "public records" within the meaning of §1-18a(d) and §1-19(a), G.S.

16. It is found that the aforesaid records are public records which are prepared and used by a public agency within the meaning of §1-18a(d), G.S. and subject to public access under §1-19a, G.S.

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

1. The motion to dismiss is denied.
2. The respondents shall forthwith furnish the complainant with copies of existing records which the teachers developed pursuant to the recommendation of the special education hearing board in January, 1976.
3. Based on the evidence presented at hearing the Commission does not at this time find it possible to treat the question of whether or not letters from attorneys and persons to the school pertaining to litigation which had been initiated by the complainant on behalf of his son are subject to disclosure.

Approved by order of the Freedom of Information
Commission on September 27, 1978.


Charlene G. Arnold
Clerk of the Commission