

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Chris Powell (Journal Docket #FIC83-98
Inquirer

 Complainant(s) February 22, 1984

Board of Education of the
Town of Somers and
Superintendent of Schools
of the Town of Somers

 Respondent(s)

The above captioned matter was scheduled for hearing August 11, 1983 and continued to August 22, 1983 at which times the parties appeared and presented evidence and argument on the complaint. At the hearing the Connecticut Education Association was granted limited intervenor status with rights to cross-examine witnesses and to present legal argument.

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

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.
2. By letter dated May 11, 1983 the complainant requested access to all documents in the possession of the superintendent of schools describing the goals and objectives of Somers school administrators, and particularly the report the disclosure of which to the public by school board members Ralph Burnette Jr. resulted in the board's censuring of Burnette.
3. By letter dated May 13, 1983 the respondent board of education refused to provide him with the requested information.
4. By complaint filed May 16, 1983 the complainant alleged violation of the disclosure provision and requested that a civil penalty be imposed upon the respondent.

5. The complainant's request included documents developed as part of an evaluation process for school personnel which is mandated by §10-151(b) of the Connecticut General Statutes.

6. The evaluation procedures of which the requested documents are a part were developed in accordance with guidelines of the state board of education by a committee of the Somers school system.

7. The philosophy of education which guided the formulation of procedures is stated by the committee in relevant part in this way:

The spirit of this mutual goal setting process shall be one of positive cooperation which assumes from the start that the teacher is performing at a satisfactory level and attempts at improvement shall be viewed as further professional growth.

8. The evaluation procedures utilized two formats only one of which, the mutual goal setting format, was based on the premise that the evaluatee is performing at an acceptable level or better.

9. The other format, which was labeled the performance assessment format, was for personnel who were under consideration for withholding of salary increment or termination of contract, and was not within the scope of the complainant's request.

10. The mutual goal setting format employed within the Somers school system involved the creation of forms labeled "Diagnosis of Current Needs Performance, Specific Objective/Action Plan Work Sheet, Final Evaluation Reports, and Assessment of Overall Performance."

11. The complainant's request was limited to documents "describing goals and objectives of Somers school administrators, and ... the document whose disclosure to the public by the board member Ralph Burnette, Jr. led to his censure by the board."

12. It is found that if the respondents have other evaluation documents describing goals and objectives of administrators in addition to the document which led to Burnette's censure that these are also included within the request.

13. It is found, however, that the complainant's request does not extend to Diagnoses of Current Needs Performance, Final Evaluation Reports and Assessments of Overall Performance, except as these may be included in the document which led to Burnette's censure.

14. It is found that the respondents failed to prove that any of the documents in Burnette's packet were exempt from disclosure under §1-19(b)(2), G.S.

15. The evaluation forms contain references to areas and categories of responsibility for the administrator which are expressed in numbers which may be readily understood by inspecting a public document titled "Evaluation Procedures for the Somers Public Schools."

16. The areas and categories of responsibility described above refer to the needs of the Somers school system rather than deficits in individual performance.

17. The respondents claim that the requested records are exempt from disclosure under §1-19(b)(2), G.S. which provides that personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy are exempt from disclosure.

18. It is found that inasmuch as the requested records are part of an evaluation procedure that they are "personnel or ... similar files" within the meaning of §1-19(b)(2), G.S.

19. It is found, however that there is nothing intrinsically private about the statements of goals and objectives of the administrators of the Somers school system and that the public does have a legitimate interest in such goals and objectives.

20. It is concluded that the respondents failed to prove that disclosure of the statements of goals and objectives would constitute an invasion of personal privacy and that the records are not exempt under §1-19(b)(2).

21. The respondents contend that disclosure would constitute breach of the policy of confidentiality which was formally adopted by the board.

22. It is found that the board cannot override its statutory obligation to disclose records not otherwise exempt from public disclosure by adopting a policy of confidentiality.

23. The respondents contend finally that the documents in question are exempt from disclosure as preliminary notes and drafts under §1-19(b)(1), G.S.

24. The documents which after disclosure to a reporter led to the censure of board member Ralph Burnette had been submitted to members of the respondent board for inspection.

25. The documents requested constitute a portion of the evaluation process which is mandated by §10-151(b) of the General Statutes.

26. It is found that public disclosure of the documents which led to the censure of Ralph Burnette is required because they fall within the mandatory disclosure requirements of §1-19(c) as reports comprising part of the process by which governmental decisions are formulated.

27. The evaluation plan considered herein has a specific time frame with a preparation phase, an achievement phase and an assessment phase.

28. Each phase has an accompanying form, e.g., the achievement phase has a "Specific Action Plan Worksheet."

29. The achievement phase also provides for two steps, i.e., development and implementation of action plans (October 1 - June 1); and interim conferences for review and modifications if necessary, continuation of implementation (January 1 - April 1).

30. The respondents claim that the possibility of the modification of the action plan renders them preliminary drafts and notes within the meaning of §1-19(b)(1).

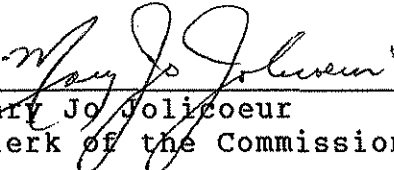
31. It is found that the respondent failed to prove that the "Specific Objective Action Plan Worksheets" requested by the complainant are preliminary notes or drafts within the meaning of §1-19(b)(1), G.S.

32. It is found that under the facts herein a civil penalty is not warranted.

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

1. The respondent shall provide the complainant with the records requested by him and described at paragraphs 2, 11 and 12 herein, within one week of the receipt of the final decision in this matter.

Approved by order of the Freedom of Information Commission at its regular meeting of February 22, 1984.



Mary Jo Jolicoeur
Clerk of the Commission