

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Chris Powell (Journal Inquirer),

FINAL DECISION

Complainant

Docket #FIC83-185

against

March 14, 1984

Superintendent of Somers Public
Schools and the Somers Board of
Education,

Respondents

The above captioned matter was heard as a contested case on November 8, 1983 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 August 12, 1983 the complainant made a request of the respondents for "access to all documents in the possession of the Somers public schools relating to evaluation of the school system's employees."
3. The respondents did not comply with the complainant's request.
4. By letter of complaint filed with the Commission on August 31, 1983 the complainant appealed the failure of the respondents to comply with his request.
5. At hearing, the Somers Education Association moved for admission as a party in the above matter. Such motion was denied, but the Somers Education Association was granted permission to participate at the hearing level.
6. The respondent claims that the records in question, which are stored in the offices of each school's principal, are exempted from disclosure by §1-19(b)(2), G.S.
7. The respondent claims that disclosure of evaluative materials would inhibit honest evaluations; would create discipline problems in the classroom and would hinder the improvement of employees' performance.

8. The respondents also claim that there is a mutual expectation of confidentiality with respect to evaluation records.

9. Pursuant to §10-151b, the superintendent of each local or regional board of education

shall, in accordance with guidelines established by the state board of education . . . and such other guidelines as may be established . . . continuously evaluate or cause to be evaluated each teacher. The superintendent shall report the status of such evaluations to the local or regional board of education on or before June first of each year.

10. §10-157, G.S., provides that

[Each] board of education shall evaluate the performance of [its] superintendent annually in accordance with guidelines and criteria mutually determined and agreed to by such board and such superintendent.

11. It is found that evaluations of secretaries, aides, custodians, cafeteria personnel, nurses and other personnel not included in the language of §§10-151b or 10-157, G.S. are conducted by such employees' supervisors.

12. The respondents make use of a "mutual goalsetting format" for evaluation purposes. At the beginning of each year, an evaluator and evaluatee assess needs regarding performance of duties at which time the evaluatee fills out an "action plan." A year-end conference is then held to determine the evaluatee's success.

13. If the goalsetting format is unsuccessful the employee is placed in a supervisor/supervisee relationship, referred to as an "overall performance format," in order to resolve performance problems.

14. At hearing, the respondents offered to provide the Commission with the records in question for in camera inspection, which offer was refused. The respondents, however, submitted for inspection several evaluative documents with names of employees deleted.

15. Documents submitted by the respondents and classifiable as "evaluative" included worksheets entitled "Diagnosis of Status of Current Needs/Performance" and "Specific Objective/Action Plan Worksheet," documents entitled "Final Evaluation Report," "Assessment Of Overall Performance," "Notice of Placement on Overall Performance Format," "Supervisory Worksheet," "Teacher Observation Checklist," "Coaches Evaluation Form," "Confidential

Annual Tenured Teacher Evaluation", "Employee Performance Appraisal," "Administrative Merit Evaluation," and "Evaluation of Superintendents".

16. Such documents list specific job performance criteria upon which the evaluatee is rated.

17. Also submitted by the respondents and classifiable as evaluative documents were letters of commendation and complaint from parents and a "Memorandum of Concern," which expressed in letter form a supervisor's criticisms of a teacher's performance. Such documents referred not only to the employee being evaluated, but also to students with whom the employee had interacted.

18. It is found that the documents referred to above are maintained in the personnel files of the respondents' employees.

19. It is found that the requested records are "personnel or . . . similar files" within the meaning of §1-19(b)(2), G.S.

20. It is found, however, that the public has a legitimate interest in the performance of public employees. It is found that the public interest in the quality of the persons employed by public educational institutions is exceptionally high.

21. It is also found that the expectation of confidentiality described by the respondent does not affect the disclosability of the records in question.

22. The Commission also finds unpersuasive the respondents' claims that disclosure of the records in question would inhibit honest evaluations, create discipline problems in the classroom and hinder the improvement of employees' performance.

23. It is found that to the extent that evaluative materials contain references only to the actual job performance of an evaluatee, the respondents failed to prove that disclosure of any information contained therein would constitute an invasion of personal privacy within the meaning of §1-19(b)(2), G.S.

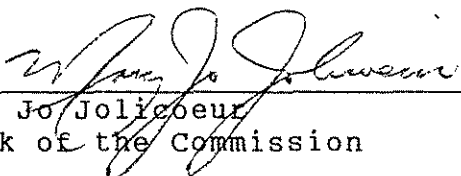
24. It is also found that disclosure of references to persons other than the evaluatee might invade the privacy of such other persons and that to such extent evaluative records are exempted from disclosure by §1-19(b)(2), G.S.

25. It is concluded that the records in question are not exempted from disclosure by §1-19(b)(2), G.S., except to the extent that they may contain references to persons other than public employees, or to matters other than the actual job performance of the evaluatee, the disclosure of which would constitute an invasion of personal privacy.

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

1. The respondents shall forthwith provide the complainant with access to the documents referred to at paragraphs 15 and 17 of the findings, above.
2. The respondents shall also provide the complainant with access to any other type of document in their files which evaluates or otherwise comments upon the job performances of their employees, including those prepared by professional evaluators or supervisors, parents' letters of comment or other community input and self-evaluations or rebuttals to others' comments.
3. The respondents may mask or delete materials exempted from disclosure by §1-19(b)(2), as described at paragraphs 24 and 25 of the findings, above.

Approved by order of the Freedom of Information Commission at its regular meeting of March 14, 1984.



Mary Jo Jolicœur
Clerk of the Commission