

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Phil L. Ragozzino,

FINAL DECISION

Complainant

Docket #FIC81-68

against

September 30, 1981

City and Town of Stamford; and  
the Superintendent of Schools  
of the City and Town of Stamford

Respondents

The above captioned matter was heard as a contested case on July 20, 1981, at which time the complainant and the respondent superintendent appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

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

1. The respondent superintendent is a public agency as defined by § 1-18a(a), G.S.
2. The complainant is an employee of the Stamford school system.
3. During October or November of 1980, the complainant applied for a promotion from his then position of physical education teacher to the position of physical education department head, and which incorporates the position of interscholastic athletic director.
4. A screening committee was established by the then acting superintendent of the Stamford school system to evaluate applicants for the position of physical education department head, and which committee, in fact, interviewed the complainant.
5. On or about April 3, 1981, the complainant requested of the acting superintendent access to the screening committee's completed evaluation profile or rating of the complainant.
6. The complainant subsequently renewed his request to the acting superintendent and the President of the Stamford Board of Education a week to ten days after April 3, 1981.
7. The complainant was informed by the assistant superintendent for personnel of the Stamford school system that such an evaluation profile or rating existed, but would not be made available to him.
8. By letter filed with the Commission on May 7, 1981, the complainant alleged that this denial violated § 1-19b, G.S., and sought an order by the Commission directing access to the requested evaluation profile or rating.

9. At the hearing on this complaint, the complainant also requested that the Commission declare null and void all actions taken by the respondent superintendent and the Stamford school system to fill the position for which the complainant applied.

10. At the hearing on this complaint, some evidence was offered that tended to prove that the requested evaluation profile or rating exists, and is being maintained in the office of the respondent superintendent. In this regard, it is found that the respondent superintendent failed to prove by any credible evidence that the requested evaluation profile or rating either does not exist, or is not being maintained under his control, although he was the party best able to establish such facts.

11. It is therefore found that the requested evaluation profile or rating exists and is maintained under the control of the respondent superintendent.

12. It is further found that the requested evaluation profile or rating is a public record as defined in § 1-18a(d), G.S.

13. The respondent superintendent contends that the requested evaluation profile or rating is exempt from disclosure pursuant to § 1-19(b)(1), G.S.

14. It is found that the respondent superintendent failed to prove by any credible evidence that the completed evaluation profile or rating in question constitutes a preliminary draft or note within the meaning of § 1-19(b)(1), G.S.

15. It is also found that the respondent superintendent failed to prove by any credible evidence that he had determined that the public interest in withholding the record specifically requested by the complainant clearly outweighs the public interest in disclosure, as required by § 1-19(b)(1), G.S.

16. It is therefore concluded that the requested evaluation profile or rating is not exempt from disclosure pursuant to § 1-19(b)(1), G.S.

17. The respondent superintendent further contends that the requested evaluation profile or rating is not contained in personnel files and that, in any event, the complainant waived his right to such evaluation or rating by employing the grievance procedure set forth in a collective bargaining agreement and by following the administrative procedures promulgated in support of Stamford Board of Education policy concerning the filling of job positions.

18. The respondent superintendent conceded at the hearing on this complaint that the complainant's application for the position of physical education department head is a personnel matter.

19. It is found that the requested evaluation profile or rating is an integral portion of a personnel matter and therefore constitutes part of "personnel files" within the meaning of § 1-19b(2), G.S., notwithstanding the statement in the administrative procedures of the

Stamford Board of Education that "[n]o data of this type will be added to any candidate's personnel file."

20. It is also found that the respondent superintendent failed to prove by any credible evidence that the complainant waived his right to the requested evaluation profile or rating by employing a collective bargaining grievance procedure or by following the administrative procedures promulgated in support of Stamford Board of Education policy concerning the filling of job positions.

21. It is further found that the respondent superintendent failed to prove by any credible evidence that the requested evaluation profile or rating is exempt from disclosure under any provision of the Freedom of Information Act.

22. It is therefore concluded that the respondent superintendent violated § 1-19(a) and 1-19b(2), G.S., by failing to provide the complainant with access to the requested evaluation profile or rating.

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

1. The respondent superintendent shall forthwith provide the complainant with access to any completed evaluation profile or rating, more fully described in paragraph 5 of the findings above which existed at the time of the complainant's request.

2. If the profile or rating ordered disclosed under paragraph 1 of this order does not exist, the respondent superintendent shall submit an affidavit to the complainant stating his efforts to locate such records and attesting to the fact that no such records exist.

3. All other claims for relief are hereby denied.

Approved by order of the Freedom of Information Commission at its regular meeting of September 23, 1981.

  
Mary Jo Jolicoeur  
Clerk of the Commission