

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Robert Goodrich and RACCE,

Complainants

against

Docket #FIC 2016-0643

Chairman, Board of Education,  
Waterbury Public Schools; and  
Board of Education, Waterbury  
Public Schools,

Respondents

July 12, 2017

The above-captioned matter was heard as a contested case on November 14, 2016, at which time the complainants and the respondents 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 and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. By letter of complaint filed September 9, 2016, the complainants appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with their July 28, 2016 request for certain public records.
3. It is found that the complainants made a July 28, 2016 request to the respondents for “all documents and communications made available to the Waterbury Board of Education that were used by the Waterbury Board of Education to make the judgments conveyed in the evaluation of the Superintendent of Schools, Dr. Kathleen Ouellette, for the 2015-2016 school year.”
4. It is found that the respondents acknowledged the request on August 5, 2016, and denied the request on August 18, 2016, on the ground that the discussion concerning the Superintendent’s performance was conducted in executive session.

5. It is found that the respondents conducted three meetings in June of 2016, and discussed the superintendent's performance evaluation in executive session at those meetings

6. It is found that the respondents used the five standards of performance (Educational Leadership, Fiscal Management, District Climate, Relationship with the Board and Board Members, and Personal/Professional Qualities), as identified by the Connecticut Association of Board of Education ("CABE"), as the format to discuss the Superintendent's evaluation. Each standard is broken down into multiple categories. For example, the standard "Educational Leadership" is further divided into Goals, Curriculum Development, Professional Development, and Supervision. Each of those categories is further subdivided. For example, "Supervision" is further subdivided into "Establishes self as educational leader," "Delegates responsibilities wisely," "Works within federal and state mandates," and so forth. Each of these final subdivisions was discussed by the respondents, who arrived at a rating of "exceeded expectations, met expectations, or expectations unmet." A space for comments was also provided.

7. It is found that the respondents did not bring, use, or read any documents in their executive sessions to discuss the superintendent's evaluation, other than the blank CABE evaluation form. The respondents' discussion was based upon their year-long experience with the Superintendent, not on any specific documents.

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

"Public 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, printed, photostated, photographed or recorded by any other method.

9. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours . . . (3) receive a copy of such records in accordance with section 1-212.

10. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

11. It is found that there are no public records within the meaning of §§1-200(5) and 1-210(a), G.S., that were used by the respondents at their executive sessions to discuss the Superintendent’s evaluation. While the respondents presumably had received public records during the course of the year that impacted their judgments of the Superintendent’s evaluation, none of those records were brought to the executive session. Moreover, identification of records that had informed the respondents’ judgments in the course of the year would require the respondents to conduct research not required by the FOI Act.

12. It is therefore concluded that the respondents did not violate the FOI Act as alleged.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 12, 2017.



Cynthia C. Cannata  
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:

**ROBERT GOODRICH, AND RACCE**, 14 Stanrod Avenue, Waterbury, CT 06704

**CHAIRMAN, BOARD OF EDUCATION, WATERBURY PUBLIC SCHOOLS;  
AND BOARD OF EDUCATION, WATERBURY PUBLIC SCHOOLS,**  
c/o Attorney Kevin J. Daly, Office of the Corporation Counsel, 235 Grand Street,  
Waterbury, CT 06702



Cynthia C. Cannata  
Acting Clerk of the Commission