



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Robert Goodrich and RACCE,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0643

Chairman, Board of Education, Waterbury Public Schools; and
Board of Education, Waterbury Public Schools,
Respondent(s)

June 19, 2017

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, July 12, 2017**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE June 28, 2017**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE June 28, 2017**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE June 28, 2017**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Robert Goodrich
Attorney Kevin J. Daly

FIC# 2016-0643/Trans/wrbp/VRP//LFS/2017-06-19

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

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

June 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 grounds that the discussion concerning the Superintendent's performance were 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.

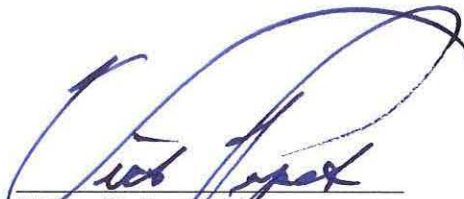
10. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

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.



Victor R. Perpetua
As Hearing Officer