

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Joseph Volak, Complainant)	Report of Hearing Officer
)	
against)	Docket #FIC77-108
)	
Town of Berlin and Board of Education of the Town of Berlin, Respondents)	July 27, 1977
)	

The above captioned matter was heard as a contested case on June 22, 1977, at which time the complainant and the respondent board appeared and presented testimony and argument on the complaint.

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

1. The respondents are public agencies as defined by §1-18a(a), G.S.
2. By letter dated May 18, 1977 the complainant requested from the respondent board and the superintendent of the Berlin School system the names, addresses, telephone numbers and the names of parents or legal guardians of the present and future graduating classes of the Berlin High School.
3. By letter of reply from the superintendent dated May 20, 1977, the requested information was denied.
4. From such denial the complainant filed the present complaint on June 2, 1977, alleging that the respondents have wilfully not complied with a prior order of this Commission concerning the disclosure of the names and addresses of students, and asking that this Commission compel the respondents to disclose such information and all of the additional data requested herein.
5. The same issue, as to the disclosure of the names and addresses of high school students, was raised before the Commission by the same parties hereto In the Matter of a Complaint by Joseph Volak against Town of Berlin, et al., docket #FIC76-176. In that case, the Commission ordered the disclosure of the names and addresses of the 1977 graduating class of high school students.
6. The decision of the Commission relative to the above matter is on appeal to the Court of Common Pleas at New Britain, docket #137459.

7. Although the Freedom of Information Act, has been amended by P.A. 77-609, effective July 1, 1977, to expressly preclude disclosure of the names and addresses of students, except under prescribed conditions, the validity of the aforesaid Commission determination in docket #FIC76-176, under the state of the law as it existed prior to the amendment, is a viable question before the courts.

8. However, the respondent town has chosen, to date, not to appeal that part of the aforesaid Commission determination requiring the disclosure of the addresses of high school students.

9. Similarly, the respondent town has not sought, as is ordinarily the case in such an appeal, a restraining order or stay of execution from the court concerning any part of the Commission's order therein, which order required the disclosure forthwith of both the names and addresses of high school students. Thus, such order remains, in its entirety, in force and effect.

10. It is found that the respondents have failed to comply with the order of the Freedom of Information Commission in docket #FIC76-176.

11. The Commission has not, as yet, determined whether the telephone numbers and names of the parents and legal guardians of students are subject to the same rule of disclosure. Such a matter is raised for the first time in the present complaint.

12. The telephone numbers and the names of the parents or legal guardians of students are kept in records maintained in the student files of the respondent board.

13. It is found that such records consist of personnel and similar files the disclosure of which would constitute an invasion of the personal privacy of the students.

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

1. The complaint is hereby dismissed as to the request for the names, addresses and telephone numbers of parents or legal guardians of present and future graduating classes of the Berlin High School.

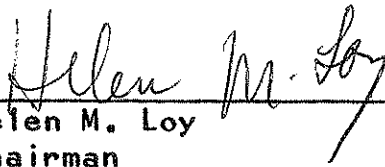
2. The respondents shall immediately and fully comply with the order of this Commission in docket #FIC760176, or in lieu thereof;

3. The respondents shall, within two weeks of this decision, serve upon the Commission a certified copy of a prayer to the Court for leave to amend their appeal from the decision in docket

#FIC76-176 so as to raise on appeal this Commission's finding therein that the disclosure of the addresses of high school students is required and;

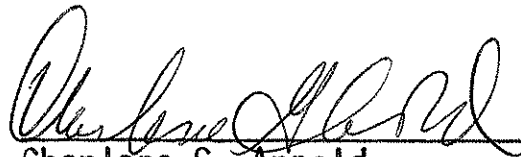
4. The respondents shall, also within two weeks from the decision hereof, ask the Court to issue a restraining order or stay of execution against the enforcement of any part of the Commission's order in docket #FIC76-176 so as to preserve the position of the parties thereto, in status quo, during the pendency of such appeal.

5. The failure to comply with paragraphs 1 or 2 and 3 above will result in this Commission's issuing a supplemental order in this matter wherein the full sanctions of law will be implemented to remedy a wilful violation of an order of this Commission.



Helen M. Loy
Chairman

Approved by order of the Freedom of Information Commission on
July 27, 1977.



Charlene G. Arnold
Clerk of the Commission