

February 7, 2025

Alyssa DaCunha
Matthew T. Martens

By E-mail

Peter J. Murphy
Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103

Email: [REDACTED]
Of counsel for Defendants

Re: Improper Disclosures to Media

Dear Mr. Murphy:

We write to object to your clients' disclosure of administrative notes regarding Ms. Marisol Arroyo-Castro to the media. Connecticut's Freedom of Information Act does not authorize school districts or their agents to release such records. They are legally irrelevant to the present case and unnecessarily prejudicial to Ms. Castro.

We insist that the Consolidated School District of New Britain ("the District") and its agents comply with Connecticut law and stop releasing confidential administrative records to the media. Continued leaks may compel us to pursue a protective order, state administrative remedies, retaliation claims under Title VII, and intentional tort claims in your clients' individual capacities. We may also refer the matter to the New Britain Federation of Teachers unless we receive appropriate assurances from your clients.

The Records

We recently discovered that one or more of your clients released approximately 21 pages of notes regarding Ms. Castro to multiple media outlets. These notes are labeled "FOI"¹ and include evaluations of Ms. Castro's teaching performance from August 2024 through the present. Some of these notes concern the events at the center of the present case, but most are unrelated to Ms. Castro's crucifix. The notes appear to be written from the perspective of Vice Principal Andrew Mazzei. They generally reflect Mr. Mazzei's intake of parent and student complaints and his efforts to coach Ms. Castro as to her teaching style. Ms. Castro has not been apprised of the existence of these notes nor had the opportunity to contest their accuracy before their release.

¹ Given that the federal Freedom of Information Act does not apply to local school districts, we presume the records were disclosed in response to a state-law Freedom of Information Act request made to one or more of your clients. *See Conn. Gen. Stat. § 1-210.*

Connecticut Freedom of Information Act & the Teacher Evaluation Exception

Connecticut's Freedom of Information Act permits disclosure of public records, including those kept by school districts. Conn. Gen. Stat. § 1-210. An exception is Section 10-151c, which prohibits disclosure of "records of teacher performance and evaluation" without the teacher's knowledge and consent. Conn. Gen. Stat. § 10-151c.

Whether specific records are "records of teacher performance and evaluation" requires considering various factors: (1) whether the purpose for which the records were created was evaluative versus disciplinary, *see Lieberman v. Aronow*, 27 A.3d 970, 985 (Conn. 2015); (2) whether the underlying conduct was related to teaching or instead was generally improper activity that happened to take place during teaching hours, *Carpenter v. Freedom of Info. Comm'n*, 755 A.2d 364, 364 (Conn. App. Ct. 2000); and (3) whether the statutory purpose of preventing "teacher shopping" in public schools by parents would be furthered by non-disclosure. *Wiese v. Freedom of Info. Comm'n*, 847 A.2d 1004, 1007-1008 (Conn. App. Ct. 2004).

Connecticut's Freedom of Information Act is enforced by a state Freedom of Information Commission. Conn. Gen. Stat. § 1-205. Typically, when media outlets request teacher files, school districts and their agents defend the professional reputations of their teachers by contesting the release of administrative records. *See, e.g., In re Lisa Treat-Perry v. East Haddam Public Schools, et al*, FIC No. 2013-034, ¶¶2-3 (Conn. Freedom of Inf. Comm'n, Sept. 24, 2014); *In re Jay Lewin v. New Milford Public Schools, et al*, FIC No. 2007-133, ¶¶2-3 (Conn. Freedom of Inf. Comm'n, Feb. 27, 2008); *In re Spatola v. New Milford Public Schools, et al*, FIC No. 2015-453, ¶¶2-4 (Conn. Freedom of Inf. Comm'n, Apr. 27, 2016). It appears here, however, that your clients had no such inclination.

The Records Here Are Confidential

The administrative records here not involving Ms. Castro's crucifix are "records of teacher performance and evaluation" under each of the factors identified in caselaw. It was thus improper for your clients to disclose them under Connecticut's Freedom of Information Act. § 10-151c.

First, the vast majority of these records are evaluative of Ms. Castro's performance rather than related to disciplinary actions. *See Wiese*, 847 A.2d at 1009. Throughout the notes, Mr. Mazzei imparts his generally negative opinion of Ms. Castro's teaching style, suggests changes, and documents attempts to coach her, but makes no mention (with one possible exception) as to disciplinary actions arising from her non-crucifix related conduct.² In other words, they reflect a "months-long, in-depth focus on an individual employee's development, achievements and

² The possible exception involves a "Written Warning meeting" that took place on November 13, 2024.

adherence to established practice goals and guidelines.” *In re John Spatola*, FIC No. 2015-453, ¶ 22. Furthermore, at least some of the notes here appear to be the kind of “raw data” that the District collects on its teachers on a regular basis throughout the year for evaluation purposes. *In re Lisa Treat-Perry*, FIC No. 2013-034, ¶ 18; *see generally* CSDNB Educator Evaluation and Support Plan 2024-2025, https://portal.ct.gov/new_britain_evaluation_plan_2024.

Second, the records discuss teaching-related conduct over the course of the year, rather than improper behavior on a specific occasion with no valid pedagogical purpose. *Carpenter*, 755 A.2d at 368. In particular, the records here show Mr. Mazzei imparting guidance to Ms. Castro throughout the fall of 2024 on how to achieve her educational purposes in different ways. They also show the occasions when Mr. Mazzei believed Ms. Castro’s teaching style was ineffective for the age group she was teaching. In short, for each non-crucifix related incident discussed in the notes, the underlying conduct by Ms. Castro was related to her teaching abilities and performance, not to non-educational activity.

Third, the student and parent complaints here were exactly of the sort that would influence “teacher shopping” in the public schools. *Wiese*, 847 A.2d 1007-1008. A school administration’s handling of student and parent complaints as to a teacher’s classroom demeanor and her disciplinary approach are exactly the kinds of records that parents would likely use to “demand[] that their children be placed with one specific teacher.” *In re John Spatola*, ¶ 23.

The Records Here Are Legally Irrelevant and Prejudicial

Whether or not Mr. Mazzei disagreed with Ms. Castro’s classroom demeanor is irrelevant to the currently pending lawsuit. It is indisputable that Ms. Castro has been placed on administrative leave and subjected to discipline due to the placement of a crucifix on the wall of her classroom. According to your clients’ disciplinary communications with Ms. Castro, neither her two-day unpaid suspension, current administrative leave, nor possible termination have been premised in any way on the allegations in these notes. Any newfound issues the school has with Ms. Castro’s teaching style unrelated to her religious exercise thus have no bearing on her First Amendment claim or your clients’ possible defenses. *See Janus v. Am. Fed’n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 906 (2018) (taking a “dim view” of new rationalizations for past unconstitutional actions).

Because of these records’ irrelevance, they unnecessarily cast Ms. Castro’s professional reputation in a negative light. Worse, they are likely an inaccurate reflection of Ms. Castro’s teaching abilities. First, common sense dictates that Ms. Castro, a veteran educator with thirty years’ experience, possessed numerous positive qualities as a teacher—yet few positive remarks appear in the records at issue. Secondly, we have concerns as to the credibility of the claims made in Mr. Mazzei’s notes. Indeed, even Mr. Mazzei recorded here that a complaint against Ms. Castro as to physical contact was “false” and that student viewpoints of events can be “skewed.” Finally, these one-sided notes lack necessary context and have not been subject to

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factual testing. In fact, Mr. Mazzei chose “not [to bring] to Ms. Castro’s attention” some of the alleged complaints, and Ms. Castro’s written rebuttals to others are not included.

* * *

Given that the disclosed records are so one-sided against Ms. Castro, and that your clients made no effort to object to their disclosure, we are left with the suspicion they were released with the specific purpose of tarnishing Ms. Castro’s reputation in the community. If so, the disclosure would provide the basis for a Title VII retaliation claim against your clients, along with state-law intentional tort claims of defamation and invasion of privacy by false light. *See Mendillo v. Bd. of Educ. of Town of E. Haddam*, 717 A.2d 1177, 1185-1186 (Conn. 1998) (permitting a defamation and false-light invasion of privacy claim to go forward for a violation of § 10-151c), *overruled on other grounds by Campos v. Coleman*, 123 A.3d 854 (Conn. 2015).

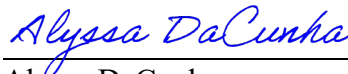
We further anticipate that the New Britain Federation of Teachers, Local 871, would be displeased to discover that negative personnel files are being disseminated to the press for such a purpose, especially when such files may have been maintained in violation of the District’s collective bargaining agreement. *See Collective Bargaining Agreement Between the New Britain Board of Education and the New Britain Federation of Teachers, Local 871*, Art. VIII, at 19 (Dec. 2, 2021), <https://www.csdnb.org/pdf/Local-871-Contract.pdf> (requiring teachers be notified of negative evaluations being placed in their personnel files).

Please reply expeditiously to this letter with confirmation that your clients will cease releasing irrelevant and prejudicial notes of Ms. Castro’s performance to the media in violation of Connecticut law. Further disclosures without Ms. Castro’s permission or authorization by the Freedom of Information commission will be met with an appropriate response.

Sincerely,



Matthew T. Martens
Partner, Wilmer, Cutler, Pickering, Hale &
Dorr LLP



Alyssa DaCunha
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cc: Keisha Toni Russell, *Senior Counsel*, First Liberty Institute
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