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Date: 6-11-08  
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# of pages: 4

**From:** John Roche <jrocherr@optonline.net>  
**To:** <jrocherr@optonline.net>  
**Date:** Monday, June 25, 2007 3:53 PM  
**Subject:** FW: FOIL request

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From: John Roche <jrocherr@optonline.net>  
Date: Mon, 25 Jun 2007 15:10:34 -0400  
To: rj <recordreview@optonline.net>  
Subject: FOIL request

Carole,  
Under the NYS Freedom of Information Law, I am requesting any and all records relating to the "certain dispute" between the Bedford Central Board of Education and Superintendent of Schools Dr. Debra Jackson that resulted in her termination agreement.  
After consulting with a FOIL expert, based on previous court rulings, BOE and district records relating to the "dispute" cited in the agreement are covered under FOIL, regardless of any confidentiality clause between the board and the superintendent.  
Please let me know a response to this request as soon as possible, and if you need anything further from me.  
Thank you,  
John Roche

LAW OFFICES

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Of Counsel

\*Also admitted in  
\*\*Also admitted in  
\*\*\*Also admitted in

*-via electronic transmission and first class mail-*

July 26, 2007

John Roche  
The Record-Review  
264 Adams Street  
Bedford Hills, New York 10507

Re: FOIL APPEAL

Dear Mr. Roche:

This firm serves as general counsel to the Board of Education of the Bedford Central School District. The Board has asked me to respond to your recent Freedom of Information Law (FOIL) appeal, dated June 26, 2007. In your appeal you request records relating to the dispute between the Superintendent, Debra Jackson, and the Board of Education mentioned in an agreement entered into by the Board. The Board of Education considered your appeal in executive session on July 13, 2007 and acted upon said appeal in public session on July 17, 2007.

After carefully reviewing the request with this office and acting upon our strong recommendation, the Board of Education has determined that the disclosure of the documents requested would constitute an unwarranted invasion of privacy<sup>1</sup>. We have advised the Board that this disclosure, regarding a public employee, would violate the employee's confidentiality rights and would most likely subject the District to significant litigation by the public employee. The Appellate Division, Second Department, in LaRocca v. Board of Education, 632 N.Y.S.2d 576, 1995 stated,

It is well settled that FOIL imposes a broad duty of disclosure on government agencies (see, Public Officers Law § 84; Matter of Fink v. Lefkowitz, 47 N.Y.2d 567, 419 N.Y.S.2d 467, 393 N.E.2d 463). All agency records are presumptively available for public inspection and copying, unless they fall within 1 of 10

<sup>1</sup> See Public Officers Law §§ 87(2)(b); 89(2)(b)(i)

Re: FOIL APPEAL

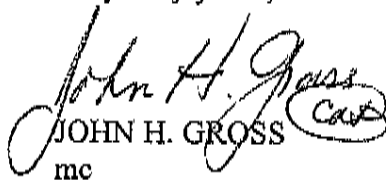
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I have advised the Board that the substantial risk of litigation if the requested employment records were released warrants and, indeed, demands the Board's judicious application of the exemption from record release permitted by Public Officers Law §§ 87(2)(b); 89(2)(b)(i), to insure the non-disclosure of the above-referenced documents. Although it has been and continues to be the Board's commitment to conduct its business in an open and transparent manner, it is required to do so in consonant with the protection of important individual rights and interests of its employees, consistent with the advice of its attorneys.

For the reasons set forth hereinabove, the Board has reluctantly decided, based upon the advice of counsel, that it may not release the requested documents and hereby denies your appeal.

Thank you for your attention to this matter and please feel free to contact me directly with any further questions or concerns.

Very truly yours,

  
JOHN H. GROSS  
mc

**From:** LaColla, Carole <clacolla1777@bcisdny.org>  
**To:** John Roche <jrocherr@optonline.net>  
**Cc:** <jhgross@ingermansmith.com>, Emily Lucas  
<elucas@ingermansmith.com>  
**Date:** Tuesday, July 3, 2007 12:27 PM  
**Subject:** Foil Request

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July 2, 2007

Mr. John Roche

Record Review

Via Email: jrocherr@optonline.net

Dear John:

I write in response to your FOIL request for "all records relating to the certain dispute between the Bedford Board of Education and Superintendent of Schools Dr. Debra Jackson that resulted in her termination agreement". I regret to inform you that your request is denied. The release of these records constitutes an unwarranted invasion of privacy and your request implicates a confidential matter.

Please be aware that an applicant denied access to a public record may file an appeal by delivering a copy of the request and a copy of the denial to the District Clerk within 30 days after the denial from which such appeal is taken.. The appeal will be submitted to the Board for decision. The applicant and the New York State Committee on Open Government will be informed of the Board's determination in writing within ten business days of receipt of an appeal. The District Clerk shall transmit to the Committee on Open Government photocopies of all appeals and determinations.