

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

STEVEN BROWN, Executive Director of the
AMERICAN CIVIL LIBERTIES UNION OF RHODE
ISLAND; and the AMERICAN CIVIL
LIBERTIES UNION OF RHODE ISLAND

Plaintiff

Vs.

DEBORAH CYLKE, In her Capacity as
SUPERINTENDENT OF PAWTUCKET SCHOOLS
and JOANNA L'HEUREUX, In Her Capacity as
FINANCE DIRECTOR of the CITY OF
PAWTUCKET

Defendants

C.A. No. PC 13-6182

COMPLAINT

1. Plaintiff Steven Brown ("Brown") is a Rhode Island resident and the Executive Director of the American Civil Liberties Union of Rhode Island.
2. Plaintiff the American Civil Liberties Union of Rhode Island ("ACLURI") is a Rhode Island non-profit corporation dedicated to preserving the civil liberties of all citizens under the laws of the State of Rhode Island.
3. Deborah Cylke ("Cylke") is the Superintendent of the Pawtucket Schools, and is sued in that official capacity. Defendant Cylke is the custodian or chief administrative officer who has the custody or control of the public records of the Pawtucket Schools.
4. Defendant Joanna L'Heureux is the Finance Director of the City of Pawtucket and is sued in that official capacity.
5. On or about October 25, 2013, Plaintiffs submitted a written request to Defendant Cylke

and the Pawtucket School Department requesting certain public documents pertaining to the School District's implementation of the State's Proficiency-Based Graduation Requirements and more specifically, the District's Waiver Process and policy regarding same. A copy of the Plaintiffs' letter is attached hereto as Exhibit "A".

6. Records requested in Plaintiffs' letter of October 25, 2013 ("A") are public records and are owned, maintained and controlled by the Pawtucket School Department and Defendant Cylke.

7. Not having heard any response from Defendant Cylke within the time prescribed by Rhode Island General Laws Sec. 38-2-7 (a), Plaintiffs again wrote to Defendant Cylke on November 14, 2013 and inquired about the status of their requests. A copy of that letter is attached as Exhibit "B".

8. To date, there has been no response to any of Plaintiffs' requests.

9. Pursuant to Rhode Island General Laws Sec. 28-2-7 (b), failure to respond to a request for public records with ten (10) business days is deemed a denial of the request.

10. This action is brought pursuant to Rhode Island General Laws Sec. 38-2-1 et seq., entitled "Access to Public Records".

COUNT I

11. Plaintiffs reallege paragraphs 1 through 10 as though fully alleged herein.

12. Defendants' refusal to respond to Plaintiffs' requests is the equivalent of a denial of access to the public records and none of the records are exempted from disclosure by any of the exceptions set forth in Rhode Island General laws Sec. 38-2-2.

13. The refusal by Defendants to make the requested records available for inspection:

- a. Violates the rights of Plaintiffs and the public under Access to Public Records Act in General laws Sec. 38-2-1 et seq.;
- b. Violates the rights of Plaintiffs under the Constitution of the United States and the Constitution of Rhode Island; and
- c. Violates the rights of Plaintiffs at common law.

WHEREFORE, Plaintiffs request that this Honorable Court:

- a. Declare that Plaintiffs are entitled to access the requested records pursuant to the Access to Public Records Act, the United States Constitution and the Rhode Island Constitution and common law;
- b. Issue such orders incident to the foregoing as may be necessary to command the Defendants to make available Plaintiffs' requested records forthwith;
- c. Impose fines and penalties as provided for in Rhode Island General Laws Sec. 38-2-1 *et seq.*; and
- d. Award Plaintiffs their costs including attorney fees, and issue such other further relief as this court may deem necessary.

Dated: December 4, 2013

PLAINTIFFS,
Steven Brown, et al
By Their Attorney,



Karen Davidson, Esquire
One Ship Street
Providence, RI 02903
phone (401) 453-6200
fax (401) 331-6110

EXHIBIT "A"



128 DORRANCE STREET, SUITE 220
PROVIDENCE, RI 02903
401.831.7171 (t)
401.831.7175 (f)
www.riaclu.org

October 25, 2013

Supt. Debbie Cylke
Pawtucket School Department
286 Main Street
Pawtucket, RI 02860

Dear Superintendent Cylke:

Please consider this a formal request pursuant to the Access to Public Records Act, R.I.G.L. 38-2-1 et seq.

Under the state regulations governing proficiency-based graduation requirements, school districts must develop and implement a waiver process and policy in order to provide an avenue for high school students who do not obtain a sufficient score on the NECAP test to nonetheless potentially qualify for a diploma.

I am writing to obtain a copy of your school district's waiver policy and any documents related to its implementation, including any notice or instructions provided to parents or students about it and any forms that must be completed for a student to apply for a waiver. If your school district's policy has not yet been adopted, I request a copy of any proposed policy or procedures or other documents related to its consideration by the school district.

As provided for by APRA, I look forward to receiving the requested documents within 10 business days. Please be advised we are also willing to pay reasonable copying costs for the information in accordance with APRA.

If you have any questions about this request, please feel free to let me know. Thank you in advance for your prompt attention.

Sincerely,

A handwritten signature in black ink, appearing to read "H. B.", written over a horizontal line.

Steven Brown
Executive Director

EXHIBIT "B"



128 DORRANCE STREET, SUITE 220
PROVIDENCE, RI 02903
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www.riaclu.org

November 14, 2013

Supt. Debbie Cylke
Pawtucket School Department
286 Main Street
Pawtucket, RI 02860


Dear Superintendent Cylke:

On October 25th, I sent you an Access to Public Records Act request, seeking copies of certain documents related to your school district's waiver policy for students who fail to obtain a sufficient score on the NECAP test to qualify for a diploma. Despite the passage of more than ten business days, I have not received a response to that letter.

Because I remain interested in receiving this information, I am writing to reiterate that request. If I do not receive the documents, or a response stating that no documents satisfying this request exist, by Wednesday, November 20th, I will consider the request denied and our organization will seek appropriate remedies. Your prompt response to this request would therefore be appreciated.

For ease of reference, I have enclosed a copy of my initial letter to you. I apologize in advance if your response has crossed in the mail. Thank you.

Sincerely,


Steven Brown
Executive Director

Enclosure