



THE NEW YORK CITY DEPARTMENT OF EDUCATION  
JOEL I. KLEIN, *Chancellor*

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Michael Best, *General Counsel*  
52 Chambers Street – New York, NY 10007

June 12, 2007

Ms. Betsy Combier  
President  
The E-Accountability Foundation  
315 East 65<sup>th</sup> Street  
New York, NY 10021  
[betsy@parentadvocates.org](mailto:betsy@parentadvocates.org)

RE: FOIL Request # 5001—Appeal

Dear Ms. Combier:

On February 17, 2007, you made a FOIL request for the following records:

- 1) all written annual professional performance reviews of Chancellor Joel I. Klein that were generated by the Panel for Educational Policy (or any subcommittee thereof) in order to comply with §100.2(o)(2)(v) of the Regulations of the Commissioner of Education; and
- 2) all formal written procedures for evaluating the Chancellor developed by the Panel for Educational Policy (or the former Board of Education) in consultation with any Chancellor, and which formal written procedures are likely located in the Chancellor's Office, Office of the Secretary of the Panel for Educational Policy (Michael Best), Office of Legal Services, or offices of the individual members of the Panel for Educational Policy

On or about April 5, 2007, the Central Records Officer denied your request, informing you that no responsive records could be located. On May 3, 2007, you appealed that denial. For the reasons set forth below, your appeal is denied.

You assert that Part 100 of the Commissioner's Regulations ensures the existence of such records because they require that the "governing body of each school district [shall] annually review the performance of the superintendent of schools." You also state that prior chancellors were evaluated by the former Board of Education.

As you know, sweeping changes in the governance law were implemented in 2002. At the time, § 2590-h of the Education Law was modified to provide that the "chancellor shall serve at the pleasure of and be employed by the mayor of the city of New York." Prior to these statutory changes, the chancellor was appointed by the seven-member board of education, and as a governing body, it did evaluate past chancellors. The Panel for Educational Policy (the city board) has the powers and duties set forth in § 2590-g of the Education Law. They include

Policy (the city board) has the powers and duties set forth in § 2590-g of the Education Law. They include advising the chancellor on matters of policy affecting the welfare of the city school district and its pupils. That section also provides that the "board shall exercise no executive power and perform no executive or administrative functions." Accordingly, it has no duty or authority to evaluate the chancellor, and no such evaluations have been conducted.

Therefore, there are no records responsive to your request, and the Central Records Access Officer was correct in denying your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Best", with a long horizontal flourish extending to the right.

Michael Best

c: Robert J. Freeman, Esq.