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FREEDOM OF INFORMATION



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Bradshaw Smith,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-857

Anna Christina Santos, Chairperson, Executive
Committee, Board of Education, Windsor Public Schools;
Executive Committee, Board of Education, Windsor Public
Schools; and Windsor Public Schools,
Respondent(s)

June 30, 2015

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, July 22, 2015**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE July 10, 2015**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE July 10, 2015**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE July 10, 2015**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Bradshaw Smith
Gary Brochu, Esq.

2015-06-30/FIC# 2014-857/Trans/wrbp/CAL//LFS

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Bradshaw Smith,

Complainant

against

Docket #FIC 2014-857

Anna Christina Santos, Chairperson,
Executive Committee, Board of Education,
Windsor Public Schools; Executive Committee,
Board of Education, Windsor Public Schools;
And Windsor Public Schools,

Respondents

June 19, 2015

The above-captioned matter was consolidated for hearing with Docket #FIC 2014-834; Bradshaw Smith v. Christina Santos, President, Board of Education, Windsor Public Schools; and Board of Education, Windsor Public Schools. Both matters were heard as contested cases on May 20, 2015, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1)(A), G.S.
2. It is found that, by letter dated October 6, 2014, the complainant made a request to respondent Santos for a copy of the “proposed agenda for the coming October 21, 2104 [sic] Board of Education meeting, as distributed at the Executive Committee meeting of September 29, 2014.”
3. It is found that, by letter dated October 16, 2016 [sic] and filed with the Commission on October 16, 2014, the complainant appealed to the Commission, alleging that the failure of the respondents to provide requested records violated the Freedom of Information Act (“FOIA”). The complaint also requested the imposition of civil penalties against four named public officials.
4. Section 1-200(5), G.S., provides:

“Public records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned,

used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

5. Sections 1-210(a) and 1-212(a), G.S., state, respectively, in relevant parts:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

...

Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.

6. It is concluded that the requested records are “public records” within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

7. It is found that the respondent Executive Committee held a publicly noticed meeting on September 29, 2014 for the purpose of determining the agenda for the meeting of the full Board of Education on October 21, 2014. At the September 29, 2014 meeting of the respondent Executive Committee, copies of a proposed agenda for the October 21, 2014 meeting of the full Board were distributed for discussion. (There was some evidence that the complainant attended a portion of this September 29, 2014 meeting and that there were no extra copies of the proposed agenda to give to the complainant.)

8. It is also found that the respondents never acknowledged the complainant’s October 6, 2014 request and never furnished him with a copy of the proposed agenda that was considered at the September 29, 2014 meeting of the respondent Executive Committee. (The complainant was provided with a copy of the final agenda at the October 21, 2014 meeting of the full Board of Education. There was some evidence that the final agenda was substantively nearly identical to the proposed agenda, with no items deleted from the proposed agenda and a couple of items added to the final agenda. Indeed, respondents’ counsel argued that the electronic copy of the proposed agenda might have been overwritten when the final agenda was prepared.)

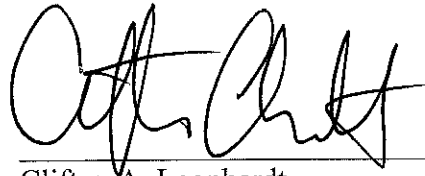
9. It is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by failing to provide the complainant with a copy of the proposed agenda which they maintained at the time of the request, at least in the form of a paper copy.

10. Given the substantially similar substance of the proposed agenda and the final agenda for the October 21, 2014 meeting of the Board of Education, which final agenda the complainant did ultimately receive, the Commission declines to order the imposition of a civil penalty.

11. The complainant testified at the hearing that the respondent Executive Committee, following its November 3, 2014 meeting, has been providing copies of the proposed agendas to members of the public at their meetings. The Commission commends the respondents for making public records promptly available.

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

1. The respondents shall forthwith provide to the complainant a copy of the proposed agenda considered at the September 29, 2014 meeting of the respondent Executive Committee, if a copy is still maintained. If a copy of the proposed agenda is not still maintained, the respondents shall write a letter to the complainant so stating.



Clifton A. Leonhardt
as Hearing Officer