



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Jonathan LaFrance,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-891

Principal, Frenchtown Elementary School,
Trumbull Public Schools; and Trumbull Public
Schools,

Respondent(s)

August 24, 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 Thursday, September 24, 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 September 11, 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 September 11, 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 September 11, 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: Dan LaBelle, Esq.
Floyd J. Dugas, Esq.

2015-08-24/FIC# 2014-891/Trans/wrbp/VDH//KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Jonathan LaFrance,

Complainant

against

Docket #FIC 2014-891

Principal, Frenchtown Elementary
School, Trumbull Public Schools;
and Trumbull Public Schools,

Respondents

August 21, 2015

The above-captioned matter was heard as a contested case on July 14, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts 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), G.S.
2. It is found that, by email dated November 11, 2014, the complainant sent the following request for copies of records to the Principal of the Frenchtown Elementary School:
 - a. All documents, including but not limited to email correspondence, which relate to or refer to a meeting held at the office of the First Selectman Tim Herbst on or about September 8, 2014 at approximately 11:00 a.m. (“the meeting”), and
 - b. Any documents you held, discussed, shared, or displayed while attending the meeting.
3. It is found that, by email dated November 13, 2014, the Principal of the Frenchtown Elementary School acknowledged the request for records, but denied the request, stating that her attendance at the meeting referred to in paragraph 2.a, above, was in her “position/role as co-President of Trumbull Administrators’ Association. . . [and] in this

position I am not under the Connecticut Freedom of Information Act. . . .”

4. By letter dated December 11, 2014 and filed December 12, 2014, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act (“FOI Act”) by denying her a copy of the requested records.

5. 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.

6. Section 1-210(a), G.S., provides in relevant part that:

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

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that, to the extent that the respondents maintain the records described in paragraph 2, above, and to the extent that such records are determined to be “public records,” such records must be disclosed in accordance with §§1-210(a) and 1-212(a), G.S., unless they are exempt from disclosure.

9. It is found that the complainant’s wife is a member of the Trumbull Board of Education. It is found that, sometime after September 8, 2014, the complainant’ wife was informed that a meeting had occurred on September 8, 2014.

10. It is found that that the sole purpose of the September 8, 2014 meeting was to discuss the complainant’s wife’s performance as a member of the Board of Education.¹

¹ The complaint in this case contains no allegation that the September 8, 2014 meeting was an illegal, public meeting.

11. It is found that the following individuals attended the September 8, 2014 meeting: Tim Herbst, the First Selectman; Debra Herbst, the Chairwoman of the Board of Education; Gary Cialfi, the Superintendent of Schools; Michael McGrath, the Assistant Superintendent of Schools; Rosemary Seaman, a member of the Board of Education; Jackie Norcel, the Principal of Frenchtown Elementary School; Jane Klupses, a Teachers Education Association Union Representative; Barbara Wetstone, a community member; Diane Chiota, a community member; and Paul Lavoie, a community member. It is found that Mr. Lavoie was the only member who did not attend the September 8, 2014 in person; Mr. Lavoie attended the meeting telephonically.

12. It is further found that, subsequent to the September 8, 2014 meeting, Mr. Lavoie informed the complainant's wife that he believed that the individuals who attended the September 9, 2014 meeting were looking at and/or distributing records at the meeting. It is found that Mr. Lavoie's belief in this regard was based on comments that he heard the First Selectman make during the meeting.

13. However, at the contested case hearing, the respondents testified that, other than one email inviting Principal Norcel to attend the September 8, 2014 and her email response indicating that she planned on attending the meeting, there were no other records responsive to the request. Specifically, the respondents called four witnesses to testify at the contested case hearing. It is found that each of these witnesses was physically present at the September 8, 2014 meeting and each witness testified consistently that no records were distributed at the meeting. It further found that, while a video was discussed during the meeting and a complaint about the complainant's wife may have been discussed at the meeting, neither the video nor the complaint was presented or present at the September 8, 2014 meeting.


14. It is found that the two email records referred to in paragraph 13, above, have been offered to the complainant. It is further found that the respondents have not withheld any record or otherwise claimed that records in their possession are exempt from disclosure.

15. Based on the testimony of the respondents' witnesses, it is found that there are no other records responsive to the request.

16. Accordingly, it is concluded that the respondents did not violate the FOI Act, as alleged in the complaint.

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

1. The complaint is dismissed.


Valicia Dee Harmon
as Hearing Officer