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# FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2015-165

Board of Education, Town of Trumbull; and Town of Trumbull,

Respondent(s)

October 1, 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, October 28, 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 October 16, 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 October 16, 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 October 16, 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: Lisa Labella  
Floyd J. Dugas, Esq.

2015-10-01/FIC# 2015-165/Trans/wrbp/LFS//TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Lisa Labella,

Complainant

against

Docket #FIC 2015-165

Board of Education, Town of Trumbull;  
and Town of Trumbull,

Respondents

July 22, 2015

The above-captioned matter was heard as a contested case on July 13, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The matter was consolidated for hearing with Docket #FIC 2015-268; Lisa Labella v. Chairman, Board of Education, Trumbull Public Schools; and Board of Education, Trumbull Public Schools. This matter was incorrectly docketed against the Town of Trumbull; therefore, the Town of Trumbull is hereby dismissed from the complaint.

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

1. The respondent is a public agency within the meaning of §1-200(1), G.S.
2. By letter filed March 3, 2015, the complainant appealed to this Commission, alleging that the respondent violated the Freedom of Information ("FOI") Act by a) failing to state on their agenda for their February 3, 2015 meeting that they intended to discuss a certain agenda item in executive session; and, b) when the respondent voted at the meeting to go into executive session, they cited "personnel" as the reason, thereby failing to give the public sufficient information to determine the nature of the business to be transacted. The complainant also alleged that the executive session was held for an improper reason.
3. With respect to the complainant's allegation described in paragraph 2.a, above, the complainant withdrew this part of her appeal at the hearing in this matter.
4. With respect to the complainant's allegation described in paragraph 2.b, above, the respondent conceded at the hearing in this matter, and it is found, that citing "personnel" as a reason to convene in executive session fails to give the public sufficient information to determine the nature of the business to be transacted.

5. With respect to the complainant's allegation that the executive session was held for an improper reason, §1-225(a), G.S., provides in relevant part: "The meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public."

6. Section 1-200(6), G.S., defines "executive session" as:

[A] meeting of a public agency at which the public is excluded for one or more of the following purposes: (A) Discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting; (B) strategy and negotiations with respect to pending claims or pending litigation to which the public agency or a member thereof, because of the member's conduct as a member of such agency, is a party until such litigation or claim has been finally adjudicated or otherwise settled; (C) matters concerning security strategy or the deployment of security personnel, or devices affecting public security; (D) discussion of the selection of a site or the lease, sale or purchase of real estate by the state or a political subdivision of the state when publicity regarding such site, lease, sale, purchase or construction would adversely impact the price of such site, lease, sale, purchase or construction until such time as all of the property has been acquired or all proceedings or transactions concerning same have been terminated or abandoned; and (E) discussion of any matter which would result in the disclosure of public records or the information contained therein described in subsection (b) of section 1-210.

7. It is found that Item IV-B of the agenda for the February 3, 2015 meeting stated "Discussion of Trumbull Youth Association [TYA] Programming – Hon. T. Herbst."

8. It is found that when the respondent reached that item on the agenda, the respondent voted to go into executive session "to discuss TYA Programming, the reason being it involves personnel."

9. It is found that at the time of the meeting, the TYA was a program of the Town of Trumbull, under the supervision of the First Selectman. It is found that the purpose of the discussion at the respondent's February 3, 2015 meeting was to consider moving the TYA to the Board of Education's department of continuing education.

10. It is found that any discussion of personnel in the respondent's executive session would have involved transfer of all personnel of the TYA to the Board of Education.

11. It is found, however, that §1-200(6), G.S., permits an executive session only for discussion concerning the employment of "a public officer or employee, provided that such

individual may require that discussion be held at an open meeting...” By its terms, §1-200(6), G.S., applies to discussion of a specific employee, not classes or categories of employees. Moreover, it is found that even if the respondent discussed a specific employee, it failed to give such employee or employees the opportunity to have the discussion in public.

12. It is also found that discussion of TYA programming is not a proper reason for executive session, within the meaning of §1-200(6), G.S.


13. It is concluded that the respondent violated §1-225(a), G.S., by convening in executive session at its February 3, 2015 meeting to discuss the TYA.

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

1. The respondent shall, within 60 days of the notice of final decision in this matter, cause minutes to be filed of the February 3, 2015 executive session concerning TYA programming. In preparing such minutes, the respondent shall ensure that the minutes disclose what transpired in executive session to the same degree as would have been revealed by conducting the session in public.

2. Henceforth, the respondent shall comply with §1-225(a), G.S.

3. The complaint against the Town of Trumbull is dismissed.

  
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Lisa Fein Siegel  
as Hearing Officer