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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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Michele McEwen,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0854

Chairman, Board of Directors, Oxford Ambulance Association;
and Oxford Ambulance Association,
Respondent(s)

June 2, 2017

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, June 28, 2017**. 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 June 16, 2017**. 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 June 16, 2017**. **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 June 16, 2017**, 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: Attorney Daniel P. Hunsberger, Sr.
Attorney Francis A. Teodosio

FIC# 2016-0854/Trans/wrbp/LFS/TAH/2017-16-02

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Michele McEwen,

Complainant

against

Docket #FIC 2016-0854

Chairman, Board of Directors, Oxford
Ambulance Association; and Oxford
Ambulance Association,

Respondents

May 26, 2017

The above-captioned matter was heard as a contested case on May 5, 2017, 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. By letter filed December 16, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act at their meeting of November 16, 2016, by convening in executive session without stating the reasons for such executive session and by discussing the complainant's job performance without giving her the opportunity to require the discussion to be held in open session. At the hearing in this matter, the complainant asked the Commission to declare null and void any actions taken by the respondents in their meeting concerning the complainant.

3. Section 1-225, G.S., provides:

(a) The meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public.

...

(f) A public agency may hold an executive session as defined in subdivision (6) of section 1-200, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and stating the reasons for such executive session, as defined in section 1-200.

4. Section 1-200(6)(A), G.S., provides:

“Executive sessions” means 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;

5. It is found that the agenda for the respondents’ Board of Directors’ meeting of November 16, 2016 (“meeting”) stated that the board would discuss “Personnel Issues (Will likely require Executive Session).”

6. It is found that the Chairman of the Board notified the complainant, who at that time had been appointed as the respondents’ Training Coordinator, that at her request, the board intended to discuss concerns she had about working without an employment contract.

7. It is found that the complainant attended the meeting, and in open session, presented her concerns to the board, and some discussion ensued.

8. It is found that later in the meeting, the board voted to go into executive session to discuss “personnel issues.”

9. It is found that the respondents failed to state the reason for the executive session with sufficient particularity.

10. It is found that in their executive session, the board discussed the complainant’s appointment and her job performance. It is found that parts of the discussion concerned alleged wrongdoing by the complainant.

11. It is found that the board voted not to offer the complainant an employment contract.

12. It is found that the respondents did not provide the complainant with an opportunity to require that the discussion concerning her performance and appointment be held at an open meeting.

13. It is found that the respondents’ executive session was improper because the board did not follow the requirements of §1-200(6)(A), G.S.

14. It is concluded, therefore, that the respondents violated §1-225(a) and (f), G.S., as alleged.

15. With respect to the complainant’s request that the Commission declare null and void any votes taken by the respondents concerning the complainant at their November 16, 2016 meeting, §1-206(b)(2), G.S., provides in relevant part:

In any appeal to the Freedom of Information Commission ..., the commission may ... order the agency to provide relief that the commission, in its discretion, believes appropriate to rectify the denial of any right conferred by the Freedom of Information Act. The commission may declare null and void any action taken at any meeting which a person was denied the right to attend[.]
(Emphasis added.)

16. It is found that the respondents denied the complainant her right to attend the portion of their meeting in which they discussed her performance. It is found that by not permitting the complainant the opportunity to require the discussion be held in public, the respondents denied the complainant her right to hear, and perhaps address, any allegations of misconduct.

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

1. The respondents' vote concerning the complainant at their meeting of November 16, 2016, is hereby declared null and void.
2. Henceforth, the respondents shall strictly comply with the requirements of §1-225(a) and (f), G.S.



Lisa Fein Siegel
as Hearing Officer