

Since 1975



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866) 374-3617 Tel: (860) 566-5682 Fax: (860) 566-6474 • www.ct.gov/foi • email: foi@ct.gov

Jay Hardison

Complainant(s)

against

Notice of Meeting

Docket #FIC 2017-0068

Superintendent of Schools, Darien Public Schools; and
Darien Public Schools

Respondent(s)

October 24, 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 **2:00 p.m. on Wednesday, November 15, 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 November 3, 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 November 3, 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 November 3, 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

Wendy R.B. Paradis
Acting Clerk of the Commission

Notice to: Jay Hardison
Attorney Thomas B. Mooney
Attorney Brian Zuro

FIC# 2017-0068/ITRA/VRP/TAH/WRBP/2017-10-24

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Jay Hardison,

Complainant

Docket # FIC 2017-0068

against

Superintendent of Schools, Darien Public
Schools; and Darien Public Schools,

Respondents

October 24, 2017

The above-captioned matter was heard as a contested case on May 18, 2017, at which time the complainant and respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The matter was consolidated for hearing with Docket #FIC 2017-0036, Jay Hardison v. Darien Public Schools et al. Brian Zuro, the father of the student who is a subject of the records sought by the complainant, requested and was granted intervenor status.

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 of complaint filed February 2, 2017, the complainant appealed to the Commission, alleging that the respondents denied his requests for a certain list of witnesses and the testimony of those witnesses.
3. At the hearing, the parties stipulated that the appeal in this matter is duplicative of a portion of the complainant's prior appeal in Docket #FIC 2016-0853, Jay Hardison v. Superintendent of Schools, Darien Public Schools et al., which is pending as of the date of the hearing, and as of the date of the proposed decision, in this matter.
4. Our Supreme Court has stated:

The prior pending action doctrine permits the court to dismiss a second case that raises issues currently pending before the court. The pendency of a prior suit of the same character, between the same parties, brought to obtain the same end or object, is, at common law, good cause for abatement. It is so, because there cannot be any reason or necessity for bringing the second, and,


therefore, it must be oppressive and vexatious. This is a rule of justice and equity, generally applicable, and always, where the two suits are virtually alike, and in the same jurisdiction." (Internal quotation marks omitted.) Cumberland Farms, Inc. v. Groton, 247 Conn. 196, 216, 719 A.2d 465 (1998); see also Halpern v. Board of Education, 196 Conn. 647, 652-53, 495 A.2d 264 (1985).

Bayer v. Showmotion, Inc., 292 Conn. 381, 395-96 (2009).

5. It is concluded that the prior pending action doctrine is applicable in this case, and that there is no reason not to apply it.

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.



Victor R. Perpetua
as Hearing Officer