



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.state.ct.us/foi/ • email: foi@po.state.ct.us

Paul Kadri,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-317

Chairman, Board of Education, Groton Public
Schools; and Board of Education, Groton
Public Schools,
Respondent(s)

May 28, 2015

Transmittal of Proposed Final Decision May 22, 2015

In accordance with Sections 4-179 and 4-183(h) of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision dated May 22, 2015 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 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 June 12, 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 June 12, 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 **fourteen (14) copies** be filed *on or before June 12, 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: Kevin Smith, Esq.
Warren L. Holcomb, Esq.

2015-05-28/FIC# 2013-317/Trans/wrbp/LFS/TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer on
Remand

Paul Kadri,

Complainant

against

Docket #FIC 2013-317

Chairman, Board of Education, Groton
Public Schools; and Board of Education,
Groton Public Schools,

Respondents

May 22, 2015

The above-captioned matter was scheduled to be heard as a contested case on February 6, 2014, at which time the complainant and the respondents appeared. Prior to the hearing, on January 31, 2014, the respondents filed a motion to dismiss for lack of subject matter jurisdiction. Although the hearing was opened on February 6, 2014, no evidence was taken and the matter was continued to March 12, 2014, for hearing on the motion to dismiss. Upon review of the respondents' motion and the complaint in this matter, the Commission granted the respondents' motion without an evidentiary hearing.

The complainant appealed the Commission's dismissal of his complaint to the Superior Court. By order dated October 29, 2014, the Superior Court remanded the case to the Commission for an evidentiary hearing on the timeliness of the complaint. Such hearing was held on April 9, 2015, at which time the complainant and the respondents appeared. Attorney Floyd Dugas testified pursuant to the complainant's subpoena. The respondents moved to quash the complainant's subpoena duces tecum of Attorney Dugas for "any notes, correspondence (e-mail, text or otherwise), and any other documentation relating to Paul Kadri from May 2012 to September 2013." At the outset of the hearing, the motion to quash was granted, without prejudice, based on the immateriality of the evidence subject to the subpoena. "[T]he presiding officer shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence." Regulations of Connecticut State Agencies, §1-21j-37(a).

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

1. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.

2. By letter filed May 24, 2013, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by:

[a.] Holding an illegal meeting...;

[b.] Acting in a fraudulent manner in conducting the investigation ... thereby piercing the attorney-client protections allowing for the full disclosure of related documents;

[c.] Inappropriately barring me from attending public meetings related to the Board of Education; [and]

[d.] Prohibiting me to enter my office to gather my personal files and belongings.

3. With respect to the respondents’ motion to dismiss for lack of subject matter jurisdiction, §1-206(b)(1), G.S., provides in relevant part:

Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial, except in the case of an unnoticed or secret meeting, in which case the appeal shall be filed not later than thirty days after the person filing the appeal receives notice in fact that such meeting was held.

4. It is found that the complainant was the superintendent of schools for the respondents on May 4 and 7, 2012.

5. The complainant alleges that the respondents held an improper executive session at their meeting on May 7, 2012, in which they discussed his performance as superintendent. The complainant claims that he received actual notice of the discussion at such meeting one year later, on May 1, 2013. The complainant contends that the respondents failed to give him the opportunity to require the discussion to be held in public.

6. It is found that the agenda for the May 7, 2012 special meeting was posted properly on May 4, 2012. It is found that the notice for such meeting stated, “there may be discussion concerning superintendent performance.”

7. It is found that the minutes for the May 7, 2012 special meeting were posted on the respondents’ website on May 15, 2012. It is found that the minutes stated that the respondents entered executive session for “discussion of the Superintendent’s performance.”

8. It is also found that the complainant actually attended the May 7, 2012 meeting. It is found that the respondents' attorney told the complainant that he planned to advise the respondents to go into executive session in order to brief the respondents about allegations of misconduct that a district employee made against the complainant.

9. It is found that when the respondents returned from executive session, a motion was passed to authorize an investigation of the complainant's alleged misconduct and to place the complainant on paid administrative leave, effective immediately. It is found that the respondents' attorney immediately told the complainant what the respondents had decided to do.

10. Nevertheless, the complainant contends that he did not understand at the time that the respondents discussed his performance at the executive session. The complainant claims that not until May 1, 2013 – one year later – did he finally understand that discussion of performance included discussion of his alleged misconduct toward district employees.

11. It is found, however, based on the notice of May 7, 2012 meeting, the complainant's actual presence at the meeting, the information he received personally from the respondents' attorney, and the meeting's minutes, which were posted on May 15, 2012, that the meeting was neither unnoticed nor secret.

12. Section 1-206(b)(1), G.S., therefore, required the complainant to file his notice of appeal within thirty days of the May 7, 2012 meeting.

13. It is found that the complainant did not file his notice of appeal within thirty days of May 7, 2012, or even within thirty days of May 15, 2012 (when the minutes were posted on the respondents' public website).

14. It is concluded, therefore, that the Commission is without jurisdiction to hear the complainant's allegation described in paragraph 2.a, above.

15. With respect to the complainant's allegation in paragraph 2.b, above, it is found that the Commission already adjudicated this matter between the complainant and the respondents in Docket #FIC2012-642, Paul Kadri v. Chairman, Board of Education, Groton Public School; and Board of Education, Groton Public Schools. The Commission takes administrative notice of the administrative record and final decision in that matter. It is found, moreover, that the complainant's notice of appeal to the Commission fails to allege that the complainant requested records or that the agency denied such request.

16. It is concluded that the respondents have not violated the FOI Act with respect to the complainant's allegation described in paragraph 2.b, above.

17. With respect to the complainant's allegation in paragraph 2.c, above, the complainant claims that the respondents prohibited him from attending their public meetings "until further notice." The complainant alleged that the respondents prohibited him from attending a meeting on September 24, 2012, and that the respondents' counsel reiterated that ban to the complainant's attorney on October 1, 2012.


18. It is found that the complainant did not file his notice of appeal with respect to the allegation described in paragraph 2.c, above, within thirty days of October 1, 2012.

19. It is concluded, therefore, that the Commission is without jurisdiction to hear the allegation described in paragraph 2.c, above.

20. It is concluded that the complainant's allegation in paragraph 2.d., above, does not constitute a denial of any right conferred by the FOI Act.

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.



Lisa Fein Siegel
as Hearing Officer