



# 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 2015-268

Chairman, Board of Education, Trumbull Public Schools;  
and Board of Education, Trumbull Public Schools,  
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# 2015-268/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 2015-268

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

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 2015-165; Lisa Labella v. Board of Education, Town of Trumbull; and Town of Trumbull.

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 April 15, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by convening in executive session for an improper purpose during their meeting of March 24, 2015.
3. Section 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.”
4. 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: ... (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.
5. Section 1-210(b)(10), G.S., exempts from mandatory disclosure “[r]ecords ... or communications privileged by the attorney-client relationship ...”

6. It is found that the agenda of the respondents' March 24, 2015 meeting stated that an executive session was anticipated "for the purpose of discussing an opinion of the Board of Education attorney."

7. Section 1-231(b), G.S., provides:

An executive session may not be convened to receive or discuss *oral* communications that would otherwise be privileged by the attorney-client relationship if the agency were a nongovernmental entity, unless the executive session is for a purpose explicitly permitted pursuant to subdivision (6) of section 1-200. (Emphasis added.)

8. It is found that the respondents' attorney prepared a written confidential legal memorandum for the respondent chairman and the respondents' superintendent that contained advice concerning international student travel and also issues relating to the respondents' meetings' "consent agenda."

9. It is found that the respondents voted unanimously to convene in executive session to discuss such memorandum and it is found that the respondents discussed the memorandum in executive session.

10. Although the agenda does not state that the respondents anticipated an executive session to discuss a *written* legal opinion, it is found that they did discuss a written communication that was privileged by the attorney-client relationship within the meaning of §1-210(b)(10), G.S.

11. It is concluded that §1-231, G.S., did not prohibit the respondents' executive session.

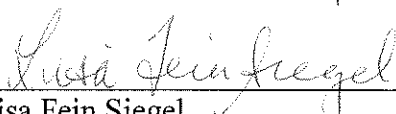
12. It is also concluded that §1-200(6)(E), G.S., permitted the respondents to convene in executive session to discuss their attorney's written memorandum.

13. It is concluded that the respondents did not violate §1-225(a), G.S.

14. The Commission observes that a more detailed explanation in the agenda about the subject of the privileged written communication would have provided to the public better information concerning the nature of the business transacted in executive session.

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.

  
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Lisa Fein Siegel  
as Hearing Officer