



# FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2015-605

Superintendent of Schools, Fairfield Public Schools; and  
Fairfield Public Schools,  
Respondent(s)

June 1, 2016

## 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 22, 2016**. 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 10, 2016**. 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 10, 2016**. **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 10, 2016**, 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: Brian Haberly  
Attorney Zachary D. Schurin

2016-06-01/FIC# 2015-605/Trans/wrbp/VRP//TCB

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Brian Haberly,

Complainant

against

Docket #FIC 2015-605

Superintendent of Schools, Fairfield Public  
Schools; and Fairfield Public Schools,

Respondents

May 27, 2016

The above-captioned matter was heard as a contested case on December 14, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. On January 15, 2016 the respondents, at the request of the hearing officer, filed a package of documents that have collectively been marked as respondents' exhibit 4.

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 September 15, 2015, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his request for certain public records.
3. It is found that the complainant made an August 23, 2015 request to the respondents for:

... any and all letters, documents, emails, correspondences, statements, notes, reports, supporting documents, texts and findings (along with any and all information on any computer and/or cell phone) in reference to the investigation done dealing with the Christies Country Store invoice Ms. Anziano sent to the Riverfield School community via email and posted on Fairfield Public School's Infinite Campus system on September 3, 2014.

This information should include (but not be limited to) the dates and descriptions of any and all meetings and the minutes of any meetings and the description of who was at the meetings.

4. It is found that the August 23, 2015 request was a renewal of the same request first made on March 9, 2015.

5. It is found that the respondents on March 17, 2015 responded to the original March 9, 2015 request by advising the complainant that there were no records responsive to his request.

6. It is found that the so-called investigation referenced by the complainant in his March 9 and August 23, 2015 requests concerned an invoice issued by Christies Country Store for food, beer, wine and ice purchased for a school staff appreciation night.

7. It is found that the invoice was originally sent to Riverfield School, and indicated that the purchase was exempt from the state sales tax.

8. It is found that the invoice was subsequently amended on September 10, 2014 to exclude the charge for the beer and wine, and to collect the sales tax.

9. It is found that the invoice was paid in full by the principal of the school from her personal funds.

10. It is found that further correspondence ensued in May 2015 concerning the invoice (respondents' exhibit 4), and that such correspondence has been provided to the complainant.

11. Section 1-200(5), G.S., provides:

“Public records or files” means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

12. Section 1-210(a), G.S., provides in relevant part:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records

and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

13. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

14. It is found that, at the time of the complainant’s original March 9, 2015 request, there was no documentary evidence of an investigation into the Christies invoice. It is found that the respondents’ Director of Finance and Business Services had reviewed disbursements electronically to verify that nothing was paid from school funds to Christies, and reported orally to two individuals, the Human Resources Director, and the Director of Elementary Education, but drafted no report, made no notes, and emailed no one.

15. It is also found, however, that an amended invoice, proof of payment of that invoice, and some correspondence to the Fairfield Board of Education (collectively respondent’s exhibit 4) ensued between the complainant’s March 9 and August 23, 2015 requests.

16. The respondents maintain that the records described in paragraph 15, above, are beyond the scope of the complainant’s request, because they were not part of their investigation into the Christies Country Store issue, and that the respondents reasonably interpreted the complainant’s request as a request for records generated by the investigation.

17. It is found, however, that the request, described in paragraph 3, above, is sufficiently broad to encompass the documents described in paragraph 15, above.

16. It is also found that the records described in paragraph 15, above, were subsequently provided to the complainant, albeit at the request of the hearing officer.

17. It is concluded that the respondents violated §1-210(a), G.S., by failing to promptly provide the records described in paragraph 15, above.

Under the facts and circumstances of this case, which indicate that the records ultimately provided to the complainant were generated between his March and August 2015 requests, and could have reasonably, if mistakenly, been understood by the respondents to be beyond the scope of his original March 2015 request, no order is recommended on the basis of the record concerning the above-captioned matter.



Victor R. Perpetua  
as Hearing Officer

FIC2015-605/HOR/VRP/05262016