

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jay Hardison,

Complainant

Docket # FIC 2017-0068

against

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

Respondents

November 15, 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).

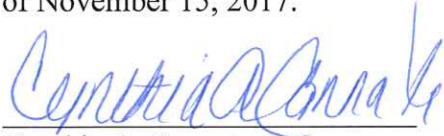
Bayer v. Showmotion, Inc., 292 Conn. 381, 395-96 (2009).

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of November 15, 2017.



Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**JAY HARDISON**, 11 Nearwater Lane, Darien, CT 06820

**SUPERINTENDENT OF SCHOOLS, DARIEN PUBLIC SCHOOLS; AND DARIEN PUBLIC SCHOOLS**, c/o Attorney Thomas B. Mooney, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103-1919

**Intervenor:** Brian A. Zuro, 9 Parish Road, Darien, CT 06820



Cynthia A. Cannata  
Acting Clerk of the Commission