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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

Maria Naughton
Complainant(s)
against

Superintendent of Schools, New Canaan Public Schools; Chair, Board of Education, New Canaan Public Schools; Board of Education, New Canaan Public Schools; and New Canaan Public Schools
Respondent(s)

Notice of Meeting
Docket #FIC 2019-0657

August 18, 2020

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 at **2:00 p.m. on Wednesday, September 9, 2020**.

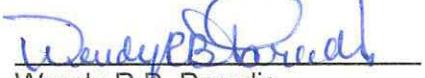
At the meeting you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE August 28, 2020**. 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.

NOTICE: Due to public health concerns surrounding the COVID-19 pandemic as well as the Governor's reopening guidelines, the September 9, 2020 meeting will be conducted telephonically. Further guidance is included regarding the dial-in procedure to follow in the event that you wish to attend, or to present oral argument at, the September 9, 2020 meeting.

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 August 28, 2020**. 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 August 28, 2020** 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: Maria Naughton
Attorney Andreana Bellach
Attorney Thomas B. Mooney

FIC# 2019-0657/ITRA/DLM//TAH/WRBP/8/18/20

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Maria Naughton

Complainant(s)

Against

Docket # 2019-0657

Superintendent of Schools, New
Canaan Public Schools; Chair, Board of
Education, New Canaan Public Schools;
Board of Education, New Canaan Public
Schools; and New Canaan Public
Schools

Respondent(s)

August 18, 2020

NOTICE OF DIAL IN INFORMATION

Due to public health concerns surrounding the Covid 19
pandemic, the Commission Meeting of September 9, 2020
will be conducted telephonically at 2:00 p.m.

Should you wish to attend the meeting telephonically, please
dial in at 1:50 p.m.

+1 860-840-2075

Conference ID: 167 928 297#

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Maria Naughton,

Complainant

against

Docket # FIC 2019-0657

Superintendent of Schools, New Canaan
Public Schools; Chair, Board of Education,
New Canaan Public Schools; Board of
Education, New Canaan Public Schools; and
New Canaan Public Schools,

Respondents

August 14, 2020

The above-captioned matter was heard as a contested case on January 28, 2020, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

Following the January 28, 2020 hearing, the hearing officer ordered the complainant to submit additional evidence in the form of an affidavit. The complainant filed a two-page document on May 15, 2020. The respondents subsequently filed a written objection to the two-page document being marked as evidence on June 8, 2020. By Notice dated July 21, 2020, the hearing officer sustained the respondents' objection, in part, and the two-page document was therefore marked for identification purposes only as complainant's after-filed exhibit C.

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 October 30, 2019, the complainant appealed to the Commission, alleging that the respondents violated the FOI Act by conducting several unnoticed or "secret" meetings of a curriculum committee identified as the "Curriculum Leadership Council" by failing to file and post notices, agendas and minutes of the committee's meetings. The complainant, however, does not allege in the complaint when the complainant received actual or constructive notice that such meeting or meetings were held.
3. Section 1-206(b)(1), G.S., provides, in relevant part, that:

Any person . . . wrongfully denied the right to attend any meeting of a public agency . . . may appeal therefrom to the [FOI] 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 actual or constructive notice that such meeting was held. . . . (emphasis added).

4. Section 1-200(2)(A), G.S., defines a “meeting,” in relevant part, as:

[a]ny hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power. “Meeting” does not include . . . an administrative or staff meeting of a single-member public agency. . . .

5. Section 1-225(a), G.S., provides, in relevant part, that the meetings of all public agencies be open to the public and that the minutes of such meetings be available for public inspection within seven days. Section 1-225(d), G.S., provides, in relevant part, that notice of a special meeting a public agency must be posted not less than 24 hours prior to such meeting.

6. The complainant, who is a former New Canaan Board of Education member, alleges that the respondent New Canaan Board of Education unlawfully delegated its obligation, pursuant to state statute¹, to develop curriculum to the respondent New Canaan Public Schools and Superintendent. The complainant further contends that the New Canaan Public Schools, by its Superintendent, formed the Curriculum Leadership Committee (“CLC”), which is comprised of school administrators and staff, and that it is tasked with identifying instructional needs in the schools, and “recommends, develops, reviews and approves all district curriculum, programs and assessments.” The complainant further alleges that the CLC is subject to the FOI Act and for several years has convened unnoticed or “secret” meetings in violation of the FOI Act. Essentially, the complainant seeks a decision from the Commission which declares that the CLC is subject to the FOI Act and that it must convene its meetings in compliance with the Act.

7. The respondents contend that the meetings of the CLC are not subject to the FOI Act because they are “administrative or staff meetings” of the Superintendent, and such meetings are excluded from the definition of a meeting under the FOI Act.

¹ Section 10-220(e), G.S. provides, in relevant part, that “[e]ach local and regional board of education shall establish a school district curriculum committee. The committee shall recommend, develop, review and approve all curriculum for the local or regional school district.”

8. While the parties presented evidence and argument on whether the CLC is a public agency subject to the FOI Act, in order for the FOIC to obtain jurisdiction, the complainant must allege and prove that she filed the instant appeal no later than thirty days after she received actual or constructive notice that the CLC convened an unnoticed meeting in violation of the FOI Act.

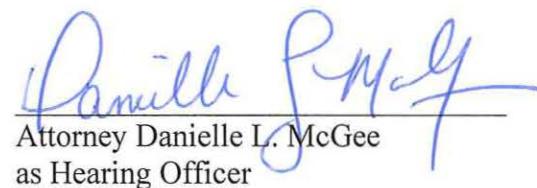
9. At the hearing, the complainant testified extensively that, as a member of the public and as a member of the New Canaan Board of Education, she had actual notice that the CLC convened "in secret" multiple times over the course of several years, and as early as 2017. The plaintiff failed to plead and failed to present evidence that she had actual or constructive notice of an unnoticed or secret meeting of the CLC convening within thirty days of the date she filed her appeal to the FOIC on October 30, 2019.

10. In an effort to resolve this jurisdictional issue, the hearing officer ordered the complainant to submit additional evidence in the form of an affidavit which identifies the meeting or meetings she alleges convened in violation of the FOI Act and when she had notice of such meetings. However, the proposed affidavit was not properly executed and therefore was not admitted. However, even if the document were taken into evidence, it is devoid of sufficient facts to support a finding that the Commission has jurisdiction over the instant complaint.

11. Consequently, the Commission must necessarily dismiss the complaint for lack of jurisdiction.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed.



Attorney Danielle L. McGee
as Hearing Officer