



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Ethan Fry and the Valley Independent Sentinel,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0561

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

April 19, 2017

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, May 10, 2017**. 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 April 28, 2017**. 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 April 28, 2017**. **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 April 28, 2017**, 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: Ethan Fry and the Valley Independent Sentinel
Attorney Frederick L. Dorsey

FIC# 2016-0561/Trans/wrbp/VDH//TAH/2017-04-19

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Ethan Fry and the Valley
Independent Sentinel,

Complainants

against

Docket #FIC 2016-0561

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

Respondents

April 18, 2017

The above-captioned matter was heard as a contested case on October 18, 2016, at which time the complainants and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

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 dated and filed August 5, 2016, the complainants appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") by entering into an executive session for an improper purpose.
3. Section 1-225(a), G.S., provides, in relevant part, as follows: "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., provides, in relevant part, as follows:

"Executive sessions" means 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 Ansonia Board of Education (“BOE”) held a regular meeting on July 6, 2016. It is further found that one of the items on the July 6th agenda stated the following: “Executive Session. . . B. School Donation Form/BOAT Meeting.”

7. It is found that the School Donation Form was a form mailed to Ansonia taxpayers, explaining how they could contribute financially to the BOE if they desired to do so.

8. It is found that, after a motion was made to move the meeting into executive session, a member of the BOE objected to the motion on the grounds that the forms had already been distributed to the public and that the forms were an inappropriate topic for executive session. However, it is further found that, at such time, counsel for the BOE clarified that the purpose of the executive session was not to discuss the actual forms, but rather to discuss a legal opinion concerning the use of the forms. It is found that, after counsel’s clarification, the motion to move into executive session was seconded, and the meeting adjourned to an executive session.

9. It is found that, during the executive session, counsel for the BOE handed out a legal opinion to the members of the BOE concerning the use of the School Donation Form. It is further found that, after the executive session, the BOE reconvened in public, and then, after voting, the meeting was adjourned.

10. It is further found that the legal opinion referred to in paragraph 9, above, contained confidential legal advice for the respondents concerning the School Donation Form from their attorney.

11. It is found that, while the agenda item described in paragraph 4, above, would have been clearer had it stated that the purpose of the executive session was to discuss counsel’s written legal opinion concerning use the School Donation Form, the complainants in this case did not allege that the agenda item was insufficient to apprise the public of the business to be transacted during the executive session; rather the complainants alleged that the executive session was for an improper purpose.

12. It is found, however, that, because the discussion of an attorney’s written legal opinion is a permissible purpose for an executive session pursuant to §1-200(6)(E), G.S., and because the respondents did discuss a written communication that was privileged by the attorney-client relationship within the meaning of §1-210(b)(10), G.S., it is concluded that the respondents did not violate the FOI Act as alleged in the complaint

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.



Valicia Dee Harmon
as Hearing Officer