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# FREEDOM OF INFORMATION



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Bradshaw Smith,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-832

Darlene Klase, Paul Panos and Christina Santos, as  
members, Executive Committee, Board of Education,  
Windsor Public Schools; and Board of Education,  
Windsor Public Schools,  
Respondent(s)

July 28, 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, August 12, 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 August 4, 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 August 4, 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 August 4, 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: Bradshaw Smith  
Gary R. Brochu, Esq.

2015-07-28/FIC# 2014-832/Trans/wrbp/KKR/LFS

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Bradshaw Smith,

Complainant

against

Docket #FIC 2014-832

Darlene Klase, Paul Panos, and  
Christina Santos, as Members,  
Executive Committee, Board  
of Education, Windsor Public  
Schools; and Board of Education,  
Windsor Public Schools,

Respondents

July 28, 2015

The above-captioned matter was heard as a contested case on May 20, 2015, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. For purposes of hearing, this matter was consolidated with Docket #FIC 2014-831, Bradshaw Smith v. Christina Santos, President, Board of Education, Windsor Public Schools; and Board of Education, Windsor Public Schools.

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 dated and filed November 14, 2014, the complainant appealed to this Commission, alleging that the agenda for the respondents' November 3, 2014 meeting included an "improper agenda item," because it does not "meet the test" set forth in Zoning Board of Appeals of the Town of Plainfield v. FOIC, Superior Court, Docket No. CV 99-0497917-S, Judicial District of New Britain, Memorandum of Decision dated May 3, 2000 (Satter, J.), reversed on other grounds, 66 Conn. App. 279 (2001). The complainant also requested the imposition of a civil penalty.

3. Section 1-225(c), G.S., provides, in relevant part:

[t]he agenda of the regular meetings of every public agency...shall be available to the public and shall be filed, not less than twenty-four hours before the meetings to which they refer....Upon the affirmative vote of two-thirds

of the members of a public agency present and voting, any subsequent business not included in such filed agendas may be considered and acted upon at such meetings.

4. In Zoning Board of Appeals of the Town of Plainfield, et al. v. FOIC, the court observed that one purpose of a meeting agenda "is that the public and interested parties be apprised of matters to be taken up at the meeting in order to properly prepare and be present to express their views," and that "[a] notice is proper only if it fairly and sufficiently apprises the public of the action proposed, making possible intelligent preparation for participation in the hearing."

5. It is found that, on November 3, 2014, the members of the respondent executive committee held a regular meeting ("meeting"). The agenda for such meeting stated:

1. Call to order
2. Set the agenda for the regular board meeting on November 18, 2014
3. Miscellaneous
4. Adjournment

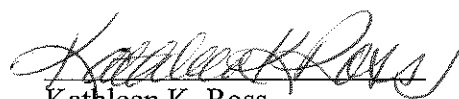
6. It is found that the complainant was present at the meeting, but testified, at the hearing in this matter, that he could not recall what, if anything, was discussed under "miscellaneous." The complainant contended that, regardless of what was discussed, the term "miscellaneous," failed to fairly apprise the public of the business to be discussed under that "agenda item."

7. It is concluded that the term "miscellaneous" is not, in and of itself, an "agenda item." Rather, it is more akin to a placeholder, which provides notice to the public that another issue may arise for consideration at the meeting of the public agency. In fact, the agenda for a regular meeting need not include any term such as "miscellaneous" or "new business," and a public agency could properly discuss any new item of business, upon a two-thirds vote of members present and voting to add such item to the agenda. Accordingly, the complainant's allegation that the term "miscellaneous" failed to apprise the public of the business to be discussed is without merit.

8. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act, as alleged.

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.

A handwritten signature in black ink, appearing to read 'Kathleen K. Ross', written in a cursive style.

Kathleen K. Ross  
as Hearing Officer

FIC2014-832/hor/kkr/07282015