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Paul Kadri,
Complainant(s)
against

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

Notice of Meeting

Docket #FIC 2013-317

February 11, 2014

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, lst floor, Hartford, Connecticut, at **2 p.m. on Wednesday, February 26, 2014.** 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 February 19, 2014.*** 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 February 19, 2014.*** **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 **fourteen (14) copies** be filed ***ON OR BEFORE February 19, 2014,*** 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

W. Paradis
Acting Clerk of the Commission

Notice to: Norman A. Pattis, Esq.
Kevin Smith, Esq.
Floyd J. Dugas, Esq.

2/11/14/FIC# 2013-317/Trans/wrbp/LFS//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Paul Kadri,

Complainant

against

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

Respondents

Report of Hearing Officer

Docket #FIC 2013-317

February 11, 2014

The above-captioned matter was scheduled to be heard as a contested case on February 6, 2014, at which time the complainant and the respondents appeared. Prior to the hearing, on January 31, 2014, the respondents filed a motion to dismiss for lack of subject matter jurisdiction. Although the hearing was opened on February 6, 2014, no evidence was taken and the matter was continued to March 12, 2014, for hearing on the motion to dismiss. However, upon review of the respondents' motion and the complaint in this matter, the Commission hereby grants the respondents' motion for the following reasons.

1. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.

2. By letter filed May 24, 2013, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by:

> [a.] Holding an illegal meeting...;
>
> [b.] Acting in a fraudulent manner in conducting the investigation ... thereby piercing the attorney-client protections allowing for the full disclosure of related documents;
>
> [c.] Inappropriately barring me from attending public meetings related to the Board of Education; [and]
>
> [d.] Prohibiting me to enter my office to gather my personal files and belongings.

3. With respect to the complainant's allegations described in paragraphs 2.a and 2.c, above, §1-206(b)(1), G.S., provides in relevant part:

> Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information 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 notice in fact that such meeting was held.

4. In the present case, the complainant alleges that the respondents held an improperly noticed meeting on May 7, 2012, in which they discussed his performance as superintendent. The complainant claims that he received actual notice of the discussion at such meeting one year later, on May 1, 2013.

5. Based on the complainant's notice of appeal to the Commission, it is found that the agenda for the May 7, 2012 special meeting was posted on May 4, 2012. It is found, based on the complainant's notice of appeal, that the notice for such meeting stated, "there may be discussion concerning superintendent performance."

6. Based on the complainant's notice of appeal to the Commission, it is also found that the complainant attended the May 7, 2012 meeting, and was invited into the meeting's executive session.

7. Based on the complainant's notice of appeal to the Commission, it is found that following the May 7, 2012 meeting, the complainant was placed on paid administrative leave.

8. It is found, therefore, that the May 7, 2012 meeting was neither unnoticed nor secret, and §1-206(b)(1), G.S., required the complainant to file his notice of appeal within thirty days of May 7, 2012.

9. It is found that the complainant did not file his notice of appeal within thirty days of May 7, 2012.

10. It is concluded, therefore, that the Commission is without jurisdiction to hear the complainant's allegation described in paragraph 2.a, above.

11. With respect to the complainant's allegation in paragraph 2.c, above, the complainant claims that the respondents prohibited him from attending their public meetings "until further notice." The complainant alleged that the respondents prohibited him from attending a meeting on September 24, 2012, and that the respondents' counsel reiterated that ban to the complainant's attorney on October 1, 2012.

12. It is found that the complainant did not file his notice of appeal with respect to the allegation described in paragraph 2.c, above, within thirty days of October 1, 2012.

13. It is concluded, therefore, that the Commission is without jurisdiction to hear the allegation described in paragraph 2.c, above.

14. With respect to the complainant's allegations described in paragraph 2.b and 2.d, §1-206(b)(4), G.S., provides:

> Notwithstanding any provision of this subsection to the contrary, in the case of an appeal to the commission of a denial by a public agency, the commission may, upon motion of such agency, confirm the action of the agency and dismiss the appeal without a hearing if it finds, after examining the notice of appeal and construing all allegations most favorably to the appellant, that the agency has not violated the Freedom of Information Act.

15. With respect to the complainant's allegation in paragraph 2.b, above, it is found that the Commission already adjudicated this matter between the complainant and the respondents in Docket #FIC2012-642, Paul Kadri v. Chairman, Board of Education, Groton Public School; and Board of Education, Groton Public Schools. The Commission takes administrative notice of the administrative record and final decision in that matter. It is found, moreover, that the complainant's notice of appeal to the Commission fails to allege that the complainant requested records or that the agency denied such request.

16. It is concluded pursuant to §1-206(b)(4), G.S., that the respondents have not violated the FOI Act with respect to the complainant's allegation described in paragraph 2.b, above.

17. With respect to the complainant's allegation in paragraph 2.d, above, it is concluded that the complainant's allegation does not constitute a denial of any right conferred by the FOI Act.

18. It is concluded, therefore, that the respondents did not violate the FOI Act as alleged by the complainant in this matter.

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.

Lisa Fein Siegel
as Hearing Officer

2013-317/MD/LFS/021114