

TO: Freedom of Information Commission
FROM: Danielle L. McGee
DATE: July 24, 2020
RE: Minutes of the Commission's regular meeting of July 22, 2020

A regular meeting of the Freedom of Information Commission was held on July 22, 2020. Due to public health concerns surrounding the COVID-19 pandemic, the Commission Meeting of July 22, 2020 was conducted telephonically. The meeting convened at 2:07 p.m. with the following Commissioners present:

Commissioner Owen P. Eagan, presiding
Commissioner Jay Shaw
Commissioner Jonathan J. Einhorn
Commissioner Matthew Streeter
Commissioner Christopher P. Hankins
Commissioner Lenny T. Winkler
Commissioner Stephen Fuzesi, Jr.
Commissioner Victoria Chavey

Also present were staff members, Colleen M. Murphy, Mary E. Schwind, Valicia D. Harmon, Kathleen K. Ross, Paula S. Pearlman, Matthew D. Reed, Danielle L. McGee, Thomas A. Hennick, and Cindy Cannata.

The Commissioners voted, 8-0, to approve the Commission's regular meeting minutes of July 8, 2020.

Those in attendance were informed that the July 22, 2020 regular meeting of the Commission was being recorded.

[Docket #FIC 2019-0515](#)

GerJuan Tyus v. Peter Reichard, Chief, Police Department, City of New London; Police Department, City of New London; and City of New London

Attorney Brian K. Estep appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2019-0583](#)

GerJuan Tyus v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2019-0608](#)

GerJuan Tyus v. James Rovella, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2019-0429](#)

Stephen Schafer v. Jeffrey Cossette, Chief, Police Department, City of Meriden; Police Department, City of Meriden; and City of Meriden

Attorney Christopher Clarke appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2019-0474](#)

Joe Wojtas and The Day v. Superintendent of Schools, Stonington Public Schools; and Stonington Public Schools

Joe Wojtas appeared on behalf of the complainants. Attorney Kyle A. McClain appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2019-0493](#)

Joe Wojtas, and the New London Day v. Superintendent of Schools, Stonington Public Schools; and Stonington Public Schools

Joe Wojtas appeared on behalf of the complainants. Attorney Kyle A. McClain appeared on behalf of the respondents. The Commissioners unanimously voted to amend the Hearing Officer's Report.* The Commissioners unanimously voted to adopt the amended Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2019-0521](#)

David Collins, and The Day v. Chairman, Board of Directors, State of Connecticut, Connecticut Port Authority; and Board of Directors, State of Connecticut, Connecticut Port Authority

Attorneys Keisha Palmer and Christopher Hug appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2019-0572](#)

Christopher Peak and New Haven Independent v. Director, Office of Labor Relations, City of New Haven; and City of New Haven

Christopher Peak appeared on behalf of the complainants. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2019-0676](#)

Cynthia Olivero v. Mayor, City of New London; and
the City of New London

Attorney Brian K. Estep appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

[Docket #FIC 2019-0687](#)

Charles Cornelius v. Commissioner, State of
Connecticut, Department of Emergency Services and
Public Protection; and State of Connecticut, Department
of Emergency Services and Public Protection

Charles Cornelius appeared on his own behalf. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were digitally recorded.

Attorney Matthew D. Reed reported on the Superior Court's dismissal in *Conquistador, Jean K. v. Connecticut Freedom of Information Commission*, Docket No. [HHB-CV19-5026660-S](#).

Attorney Matthew D. Reed reported on the Superior Court's dismissal in *Conquistador, Jean K. v. Connecticut Freedom of Information Commission*, Docket No. [HHB-CV19-5026661-S](#).

Attorney Danielle L. McGee reported on the status of *Boster, James v. Connecticut Freedom of Information Commission and University of Connecticut*, Docket No. [HHB-CV19-6052569-S](#).

Executive Director and General Counsel Colleen M. Murphy reported on the status of Commission operations during the COVID-19 pandemic and possible relocation of the Commission's offices.

Attorney Paula S. Pearlman reported that the Commission submitted written testimony in support of LCO. No. 3471, An Act Concerning Police Accountability.

Executive Director Murphy also reported that third round interviews have been conducted for the open HR Generalist position.

The meeting was adjourned at 3:12 p.m.

/s/Danielle L. McGee

Danielle L. McGee

MINREGmeeting 07222020/dlm/07242020

*See attached for amendments.

AMENDMENTS

Docket #FIC 2019-0493

Joe Wojtas, and the New London Day v. Superintendent of Schools, Stonington Public Schools; and Stonington Public Schools

Paragraph 24 of the Hearing Officer's Report is amended as follows:

24. Courts in other jurisdictions, however, have examined the phrase "directly related to a student," and concluded that records of complaints and investigations of misconduct by teachers, administrators or staff, in cases where students are the alleged victims and witnesses and therefore are identified in the records, are not education records protected by FERPA, because they do not contain information "directly related to a student." Rather, such disciplinary records are "directly related" to the subject of the complaint, and only tangentially related to the student. See e.g., [Easton Area School District v. Miller, 191 A.3d 75 (Pa. Commw. Ct. 2018), appeal pending Easton Area School District v. Miller, 201 A.3d 721 (Pa. 2019) (video of teacher who roughly disciplined a student was "directly related" to the teacher and only tangentially related to the student);] Cummerlander v. Patriot Preparatory Academy, 2013 WL 12178140 (S.D. Ohio 2013) (student witness statements are not education records because they do not directly relate to student witnesses but rather to the person who is the subject of the complaint); Briggs v. Board of Trustees Columbus State Community College, 2009 WL 2047899 (S.D. Ohio 2009) (records of student complaints about a teacher are "directly related" to the teacher and not to the students who complained); Young v. Pleasant Valley School District, 2008 WL 11336157 (M.D. Pa. 2008) (emails containing complaints about a teacher are not "directly related to a student," but rather are directly related to the teacher and only tangentially related to the student); Wallace v. Cranbrook Educational Community, 2006 WL 2796135 (E.D. Mich. 2006) (student statements alleging misconduct by a teacher are not "education records" because they are not "directly related to a student"); Baker v. Mitchell-Waters, 160 Ohio App.3d 250 (2005) (record of allegations of abuse of students by teachers do not directly relate to students); Ellis v. Cleveland Municipal School District, 309 F.Supp.2d 1019 (N.D. Ohio 2004) (records of allegations of teacher misconduct directly relate to the activities and behaviors of the teachers and do not directly relate to the students involved). But see Rhea v. District Board of Trustees of Santa Fe College, 109 So.3d 852 (Fla. Dist. Ct. App. 2013) (email written by student complaining about inappropriate classroom behavior of teacher is an "education record" protected by FERPA because the record is "directly related" to the student, even though it may also be "directly related" to the teacher).