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Curtis Read,
Complainant(s)
against

Chairman, Board of Education, Regional School District #12; and Board of Education, Regional School District #12,
Respondent(s)

Notice of Meeting

Docket #FIC 2016-0291

November 16, 2016

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, December 7, 2016.** 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 November 22, 2016.*** 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 November 22, 2016.*** **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 November 22, 2016,*** 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: Attorney Dolores R. Schiesel
Atorney Gary R. Brochu

FIC# 2016-0291/Trans/wrbp/MS/KKR/TAH/2016-11-16

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Curtis Read,

Complainant

against

Chairman, Board of Education, Regional School District #12; and Board of Education, Regional School District #12,

Respondents

Report of Hearing Officer

Docket #FIC 2016-0291

July 13, 2016

The above-captioned matter was heard as a contested case on July 6, 2016, at which time the complainant and the respondents appeared 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 email dated and filed April 8, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by convening in executive session for an improper purpose during the respondent board's March 21, 2016 regular meeting ("meeting").

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

> [t]he 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:

> 'Executive sessions' means a meeting of a public agency at which the public is excluded for one or more of the following purposes: (A) Discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting....

5. It is found that item 10 on the agenda for the meeting stated: "Executive Session – For the purpose of discussing the Superintendent's Goals."

6. It is found that Regional School District #12 is made up of the towns of Bridgewater, Roxbury and Washington.

7. It is found that the respondent board is responsible for evaluating the performance of the superintendent of Regional School District #12. It is found that, in August 2015, the respondent board established certain goals for the superintendent for the 2015-2016 school year. It is found that achievement of, or progress toward, the goals is one measure by which the respondent board evaluates the superintendent's performance.

8. It is found that one of the goals for the superintendent for the 2015-2016 school year was "[t]o develop a comprehensive communication program for all stakeholders in the Region 12 communities. To develop a comprehensive plan that incorporates all schools in the Region 12 TV Studio and video production program." At the hearing in this matter, the parties agreed, and it is found, that this goal included improving communication and community relations among the three towns.

9. It is found that a committee was established for the purpose of achieving the goal, described in paragraph 8, above. It is found that the committee members included, at the time of the meeting, the superintendent and the public relations consultant for the town of Bridgewater ("consultant").

10. It is found that, during the meeting, the respondent board convened in executive session under item 10 on the agenda. It is found that, during the executive session, the superintendent and members of the respondent board discussed the superintendent's concern that she had been unable to make progress toward achieving the goal of improving communication and community relations because of the consultant. It is found that, during the discussion, the superintendent cited specific actions taken by the consultant with which the superintendent disagreed and viewed as improper.

11. The complainant, who is the first selectman of the town of Bridgewater, and who was not present during the executive session, claimed that the superintendent was "obsessed with [the consultant] and that the respondents used the executive session to "impugn my wife's reputation, my [consultant's] reputation and by extension, the reputation of Bridgewater and myself." As such, according to the complainant, the executive session was "inappropriate and illegal."

12. Although a member of the respondent board was present and testified at the hearing that the discussion during executive session mainly focused on the superintendent's grievances against the consultant, a second member of the respondent board also was present at the hearing in this matter and testified that such discussion occurred in the context of a discussion regarding the superintendent's inability to achieve progress toward the goal, described in paragraph 8, above.

13. After weighing the credibility of the witnesses and consideration of all the evidence in this case, it is found that the discussion during the executive session concerned the performance of the superintendent, and, accordingly, it is concluded that such discussion was permitted in executive session under §1-200(6)(A), G.S. [1]

14. It is concluded, therefore, 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.

Commissioner Matthew Streeter
as Hearing Officer

FIC 2016-0291/hor/kkr/07132016

[1] Although the agenda item might have been worded differently to better inform the public that the superintendent's performance was to be discussed in executive session, the complainant did not allege that the agenda failed to adequately apprise the public of the business to be conducted.