

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Fred Radford,

Complainant

Report of Hearing Officer

against

Docket #FIC79-246

Town of Trumbull; and Board of
Education of the Town of
Trumbull,

May 20, 1980

Respondents

The above captioned matter was scheduled for hearing with Docket #FIC79-189 because of the similarity of the issues and the identity of the parties. The hearing was held on February 19, 1980, at which time both parties appeared and presented evidence on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.
2. By letter filed with the Commission December 27, 1980, the complainant alleged violation of the Freedom of Information Act by both the negotiator for the Trumbull Board of Education and the negotiator for the Trumbull Education Association.
3. Inasmuch as only the Trumbull Board of Education is a named respondent, the findings herein relate only to the requests made of the negotiator for the Trumbull Board of Education.
4. The complainant requested a copy of the last best offer submitted by the negotiator for the Board of Education on December 19, 1979.
5. A copy of the last best offer was not furnished to the complainant until after the conclusion of the arbitration procedure.
6. The respondent board alleged that the record requested by the complainant was exempt from disclosure under §1-19(b)(9), G.S.
7. §1-19(b)(9), G.S. exempts from disclosure records, reports and statements of strategy and negotiations with respect to collective bargaining.
8. P.A. 79-405, entitled "An Act Concerning Last Best Offer Binding Arbitration," requires that a "last best offer" be submitted by each of the parties during the course of the binding arbitration procedure.

9. P.A. 79-405 defines the "last best offer" as the "respective positions on each individual issue in dispute between [the parties]." P.A. 79-405 Section 1(c)(4).

10. P.A. 79-405 requires that the arbitrator or arbitrators must resolve separately each individual disputed issue by accepting the last best offer thereon of either of the parties and that each such accepted individual last best offer must be included in the decision of the arbitrator(s). P.A. 79-405 Section 1(c)(4).

11. P.A. 79-405 further requires that the arbitrator or arbitrators file one copy of the decision with the commissioner of education of each town clerk in the school district involved, and the board of education and organization which are parties to the dispute. P.A. 79-405 Section 1(c)(4).

12. P.A. 79-405 permits the collective bargaining process to continue during the arbitration procedure and after the submission of the last best offers of the parties to the arbitrators. It provides in relevant part:

At any time prior to the issuance of a single decision by the arbitrators of the single arbitrator, the parties may jointly file with the arbitrators or the single arbitrator, any stipulations setting forth contract provisions which both parties agree to accept.

P.A. 79-405 Sec. 1(c)(4).


13. It is found that despite the seeming finality of its name, the last best offer which is submitted during the binding arbitration is part of the continuing negotiations with respect to collective bargaining.

14. It is concluded therefore that the requested record is exempt from disclosure under §1-19(b)(9), G.S. as a record or statement of strategy or negotiations with respect to collective bargaining.

15. It is found that the respondent board did not violate the Freedom of Information Act when it failed to promptly provide the complainant with a copy of the last best offer.

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.



Commissioner Helen M. Loy
as Hearing Officer