

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Christopher Peak and the New Haven  
Independent,

Complainants

against

Docket #FIC 2018-0077

Chairman, Finance and Operations  
Committee, Board of Education, New  
Haven Public Schools; Finance and  
Operations Committee, Board of  
Education, New Haven Public Schools;  
and Board of Education, New Haven  
Public Schools,

Respondents

July 25, 2018

The above-captioned matter was heard as a contested case on May 29, 2018, at which time the complainants and the respondents appeared, stipulated to certain facts 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 letter filed February 15, 2018, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act with respect to their regular meetings held on January 16, 2018 and February 5, 2018.
3. Section 1-225, G.S., provides in relevant part:
  - (a) The meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public.  
...
  - (c) The 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, (1) in such agency's regular office or place of business, and (2) ... in the

office of the clerk of such subdivision for any public agency of a political subdivision of the state ... 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. With respect to the respondents' January 16, 2018 meeting, the complainants alleged that the respondents posted an addendum to the agenda on the morning of the meeting that was scheduled to begin at 4:00 p.m., and that the respondents took up and discussed items on the addendum without voting to add such items to the agenda.

5. The respondents concede that the addendum was posted less than 24 hours before the meeting. It is found that the respondents customarily have additions to the agenda available for review as soon as possible, and always at the beginning of the meeting. It is found that the respondents take an "informal" vote, and that if there is opposition to considering an item on the addendum, the respondents do not take up the item. The respondents concede that they did not take a formal vote and that the minutes of the meeting do not reflect a formal vote to amend the agenda.

6. It is concluded, therefore, that the respondents violated §1-225(c), G.S., as alleged.

7. With respect to the respondents' meeting of February 5, 2018, the complainants alleged that the agenda was posted less than 24 hours before the meeting. The complainants also alleged that the respondents met in an unnoticed conference out of earshot of the public before the meeting convened, and that members of the respondents spoke inaudibly during the meeting.

8. The respondents concede that the agenda was posted late by one hour and eight minutes.

9. It is found that before the meeting began one of the committee members called the CFO, who is a staff member of the respondents, out into the hall to express some concerns about the budget and to ask some questions of the CFO. It is found that other committee members subsequently joined them, but that the conversation was to get answers from the CFO about the nature of the funding of the items on the agenda. It is found that the committee members did not discuss matters among themselves during that conversation.

10. It is found that the complainants submitted evidence to support their claim that some committee members spoke in low tones among themselves during the meeting. It is found that the respondents failed to prove that such discussions did not concern agency business. See Docket #FIC2013-221, Richard Saluga v. Chairman, Board of Assessment Appeals, Town of Brookfield (January 8, 2014).

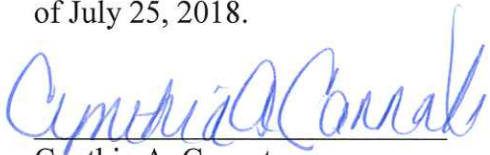
11. It is concluded that the respondents violated §1-225, G.S., by failing to post the agenda in a timely manner and by discussing agency business inaudibly during the meeting of February 16, 2018.

12. The complainants did not dispute the respondents' claim at the hearing in this matter that the respondent committee underwent turnover in membership and that they have made changes since the complainants' appeal to the Commission in order to bring their meetings into compliance with the requirements of the FOI Act.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Henceforth, the respondents shall strictly comply with the requirements of §1-225 (a) and (c), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 25, 2018.



Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**CHRISTOPHER PEAK AND NEW HAVEN INDEPENDENT**, 191 Wooster Street, Apt. 1C, New Haven, CT 06511

**CHAIRMAN, FINANCE AND OPERATIONS COMMITTEE, BOARD OF EDUCATION, NEW HAVEN PUBLIC SCHOOLS; FINANCE AND OPERATIONS COMMITTEE, BOARD OF EDUCATION, NEW HAVEN PUBLIC SCHOOLS; AND BOARD OF EDUCATION, NEW HAVEN PUBLIC SCHOOLS**, c/o Attorney Kathleen Foster, Assistant Corporation Counsel, City of New Haven, 165 Church Street, New Haven, CT 06510



Cynthia A. Cannata  
Acting Clerk of the Commission