

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Paula Paolino,

Complainant

against

Docket #FIC 2018-0094

Chairman, Board of Education, Regional
School District #14; and Board of
Education, Regional School District #14,

Respondents

November 14, 2018

The above-captioned matter was heard as a contested case on September 14, 2018, at which time the complainant 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 23, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by discussing a matter at their special meeting of February 12, 2018 that was not listed on the meeting's agenda.

3. Section 1-225 G.S., provides:

(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.

...

(d) Notice of each special meeting of every public agency ... shall be posted not less than twenty-four hours before the meeting to which such notice refers ... The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by such public agency.

4. Section 1-200(6), G.S., provides:

“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 the respondents’ notice of special meeting provided in relevant part:

AGENDA

...

[A] Discussion of / possible action on performance/evaluation of superintendent of schools (executive session anticipated)

[B] Discussion of written attorney client privileged communication on parental/citizen complaint and response thereto (executive session anticipated).

6. It is found that, on or about January 31, 2018, the complainant posted on her Facebook page a letter entitled “Petition”¹ alleging that the superintendent of schools’ hiring of a director of human resources violated certain policies.

7. It is found that when the respondent Chair learned of the complainant’s post, she decided to discuss the allegations at a special meeting.

8. It is found that the Chair asked the respondent Board’s counsel to draw up an agenda for the special meeting, which resulted in Item [A]: “discussion of/possible action on performance/evaluation of superintendent of schools (executive session anticipated).” It is found that counsel included “evaluation” on the agenda in the event that the Board decided that the superintendent’s conduct required possible formal disciplinary action. It is found that the Board gave the superintendent proper notice of her right to require the discussion to be held at an open meeting.

9. It is found that, at the special meeting on February 12, 2018, the Board properly voted to move into executive session, in which it discussed both Agenda Item [A]: the superintendent’s performance with respect to the allegations in the complainant’s Facebook post, and Item [B]: written attorney client privileged communication on parental/citizen complaint.

10. It is found that §1-200(6)(A), G.S., permitted the respondents to convene in executive session to discuss the performance/evaluation of the superintendent, who is a public official.

¹ The Commission takes no position as to whether such Facebook post was a “petition” within the meaning of §10-238, G.S., as such matters are beyond the scope of the Commission’s jurisdiction.

11. It is found that upon moving out of executive session, the Board authorized the chair “to respond to a petition being circulated by a citizen pending further legal review.” It is found that, although perhaps awkwardly worded, the Board authorized the chair to prepare a response, have counsel review it, and then issue the response in an appropriate manner.

12. It is found that the chair complied with the authorization described in paragraph 11, above, and submitted the response for the Board’s consideration and vote at its meeting of March 12, 2018.

13. It is found that Item [B]: “discussion of written attorney client privileged communication on parental/citizen complaint” did not concern the complainant’s Facebook petition and the Board took no action on such item either in or out of executive session during the February 12, 2018 meeting.


14. It is found that the respondents did not discuss other business than what was itemized on the agenda. In addition, the agenda for the respondents’ special meeting of February 12, 2018 fairly apprised the public of the topics of discussion.

15. It is concluded that the respondents did not violate §1-225(d), G.S., as alleged.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of November 14, 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:

PAULA PAOLINO, 22 Indian Lane, Woodbury, CT 06798

**CHAIRMAN, BOARD OF EDUCATION, REGIONAL SCHOOL DISTRICT #14;
AND BOARD OF EDUCATION, REGIONAL SCHOOL DISTRICT # 14**, c/o Attorney Mark J. Sommaruga and Attorney Zachary Schurin Pullman & Comley, LLC, 90 State House Square, Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission