



# New Jersey Libertarian Party

Open Government Advocacy Project

*John Paff, Chairman*

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April 29, 2008

Viola A. Yosifon, Secretary  
Upper Freehold Regional Board of Education  
27 High Street  
Allentown, NJ 08501

*(via email to [yosifov@ufrsd.net](mailto:yosifov@ufrsd.net))*

Dear Ms. Yosifon:

I write, both individually and in my capacity as Chairman of the New Jersey Libertarian Party's Open Government Advocacy Project. I ask that you please distribute copies of this letter to the president and members of the Board of Education<sup>1</sup>.

As an initial matter, I can't find the Board's official records request form anywhere on the Board's Internet site. If it is there, would you please direct me to the appropriate link? If it is not there, would you consider putting a link to the form on your site to make it easier for members of the public who wish to request public records?

My main reason for writing is to request the Board, at an upcoming meeting, to consider amending the form of resolution used to go into nonpublic (i.e. executive or closed session). The Board's present form of resolution is typified by the motions passed at the February 20, 2008 and March 19, 2008 which, respectively, state:

*The motion was made by Mrs. Hogan and seconded by Mr. Shaw to move into closed session at 11:10 p.m. for the purpose of Legal and Contractual matters.*

*The motion was made by Mr. Anthony and seconded by Mrs. Hogan to move into closed session to discuss legal matters at 11:45 p.m.*

These motions are deficient in two main ways. First, they completely ignore the requirement set forth in N.J.S.A. 10:4-13b that closed session resolutions state "as precisely as possible, the time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public."

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<sup>1</sup> For your convenience, I have uploaded placed a copy of this letter on-line at <http://www.lpcnj.org/OGTF/UFRBOE.pdf>

Second, the motions don't give the public much information on what topics are being privately discussed. For example, instead of just listing "Legal Matters" and "Contractual Matters," could you perhaps be a bit more descriptive and list something like "Litigation – Smith v. Board, Docket No. MON-L-1234-07" and "Contract Negotiations – XYZ Company, regarding the provision of drug testing services"? This way, the public is better informed of the topics being discussed, but the Board's negotiation position or litigation strategy is still preserved.

I litigated this issue last year in Middlesex County and the judge there held<sup>2</sup> that that "Judge Carchman's decision clearly articulates the public policy behind the Act, i.e., **that closed session resolutions should contain as much information as is consistent with full public knowledge without doing any harm to the public interest.**" (Emphasis supplied.)

Even though this unpublished decision from Middlesex County is not binding on courts in Monmouth County, would the Board be willing to abide by it, in order to provide more transparency to the members of the public who attend your meetings? If so, I recommend the form of closed session resolution used by Delanco Township in Burlington County, which is available at <http://www.lpcnj.org/OGTF/DelancoResolution.pdf>

I appreciate your time and look forward to receiving your response.

Sincerely,

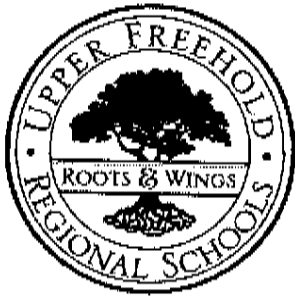
A handwritten signature in black ink, appearing to read "John Paff", with a large, stylized flourish at the end.

John Paff

P.S. Would you be so kind as to email or fax me a copy of the Board's records request form?

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<sup>2</sup> My complaint and court's unpublished decision are on-line at <http://www.lpcnj.org/OGTF/Monroe.pdf>



## UPPER FREEHOLD REGIONAL SCHOOL DISTRICT

27 High Street • Allentown, New Jersey 08501 • central office: 609.259.7292 • fax: 609.259.0881

RICHARD M. FITZPATRICK, ED.D.  
*Superintendent of Schools*  
ext. 201

May 1, 2008

STEPHEN C. COCHRANE, MA  
*Assistant Superintendent for  
Curriculum and Instruction*  
ext. 212

Mr. John Paff  
New Jersey Libertarian Party  
Open Government Advocacy Project  
P.O. Box 5424  
Somerset, NN 08875

VIOLA A. YOSIFON, RSBO  
*Business Administrator  
Board Secretary*  
ext. 222

Dear Mr. Paff:

JUDITH C. CHEVALIER, M. ED., MSW  
*Director of Special Services*  
ext. 357

Thank you for your letter of April 29, 2008 regarding our executive session motions. I shared it with the Board of Education and we found it very helpful.

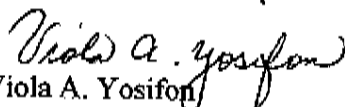
MANISH K. CHADHA, M.COM  
*Director of Technology and  
Information Services*  
ext. 406

Beginning with last night's meeting the Upper Freehold Board of Education intends to use the executive session resolution used by Delanco Township as part of our regular agenda.

I am enclosing a copy of our public records request form.

Again, thank you for your assistance with this matter.

Sincerely,

  
Viola A. Yosifon  
Business Administrator/  
Board Secretary

ROOTS  
& WINGS 