

Since 1975



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Steven DeBow,  
Complainant(s)

against

Human Resources Officer, Hartford Public  
Schools; Chief Information Officer, Hartford  
Public Schools; and Hartford Public Schools,  
Respondent(s)

Notice of Rescheduled  
Commission Meeting

Docket #FIC 2012-310

February 14, 2013

This will notify you that the Freedom of Information Commission has rescheduled the above-captioned matter, which had been noticed to be heard on Wednesday, February 13, 2013 at 2 p.m.

The Commission will consider the case at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2:00 p.m. on Wednesday, March 13, 2013.**

Any brief, memorandum of law or request for additional time, as referenced in the January 15, 2013 Transmittal of Proposed Final Decision, should be received by the Commission on or before March 1, 2013.

By Order of the Freedom of  
Information Commission

W. Paradis  
Acting Clerk of the Commission

Notice to: Steven DeBow  
Alexandra Deeb, Esq.

2013-02-14/FIC# 2012-310/ReschedTrans/wrbp/SDL/GFD/LFS

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Steven DeBow,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2012-310

Human Resources Officer, Hartford Public  
Schools; Chief Information Officer, Hartford  
Public Schools; and Hartford Public Schools,  
Respondent(s)

January 15, 2013

## 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, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, February 13, 2013**. 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 February 1, 2013**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE February 1, 2013**. **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 **fourteen (14) copies** be filed **ON OR BEFORE February 1, 2013**, 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: Steven DeBow  
Alexandra Deeb, Esq.

2013-01-15/FIC# 2012-310/Trans/wrbp/SDL/GFD/LFS

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Steven DeBow,

Complainant

against

Docket #FIC 2012-310

Human Resources Officer, Hartford  
Public Schools; Chief Information  
Officer, Hartford Public Schools; and  
Hartford Public Schools,

Respondents

January 9, 2013

The above-captioned matter was heard as a contested case on November 26, 2012, 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 email dated and filed June 11, 2012, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request to access all emails between Oscar Padua and Diane Georgantis from the date of their hire to the present.
3. At the hearing on this matter, the respondents moved for a dismissal of the complainant's appeal contending that because the complainant failed to file his appeal within thirty days of the alleged violations, this Commission lacks jurisdiction over the appeal.
4. With respect to the filing of the complaint in this matter and the Commission's jurisdiction over the appeal, §1-206(b)(1), G.S., provides in relevant part that:

[a]ny person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the F[OI] Act may appeal therefrom to the F[OI] Commission, by filing a notice of appeal with said

commission. A notice of appeal shall be filed within thirty days after such denial. For purposes of this subsection, such notice of appeal shall be deemed to be filed on the date it is received by said commission or on the date it is postmarked, if received more than thirty days after the date of the denial from which such appeal is taken. (Emphasis added.)

5. It is found by email dated January 17, 2012, the complainant requested that the respondents provide him with all email correspondence and text messages between Oscar Padua and Diane Georgantas.

6. It is found that on March 6, 2012, the respondents provided the complainant with records, including emails related to Oscar Padua and Diane Georgantas from 2007 through June 2011, at no cost.

7. It is found that by email dated March 27, 2012, the complainant informed the respondents that he received emails of Diane Georgantas dating back to 2002, but did not receive all of Diane Georgantas' emails dating back to her hire date of September 3, 1996.

8. It is found that by email dated April 2, 2012, the respondents informed the complainant that Metro Hartford Information Services Department ("MHIS") informed them that they could only retrieve Diane Georgantas' emails dating back to 2002.

9. It is found that by email dated May 29, 2012, the complainant requested that the respondents provide him with all emails of Oscar Padua and Diane Georgantis that are on the "Metro Hartford Information Services servers, Exchange Servers, backup tapes, or backup servers."

10. It is found that the complainant's email dated May 29, 2012 constituted a renewal of his original request dated January 17, 2012. Therefore, it is concluded that the Commission has jurisdiction over the June 11, 2012 complaint, which was filed within thirty days of the denial of an FOI Act right, as required by §1-206(b)(1), G.S.

11. Section 1-200(5), G.S., provides:

"Public records or files" means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

12. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours . . . (3) receive a copy of such records in accordance with section 1-212.

13. Section 1-212(a), G.S., provides in relevant part that “any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

14. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

15. At the hearing on this matter, the complainant stated that the respondents did not provide him with all of Diane Georgantas' emails dating back to her hire date of September 3, 1996. The complainant specifically stated that more emails exist that should have been provided to him by the respondents on March 6, 2012 since he had seen such emails when he was previously employed with the respondents.

16. The respondents contended that on March 6, 2012, they had provided the complainant with all responsive email records that were restored by MHIS from the current email archiving systems.

17. It is found that the respondents do not maintain their computer-storage email system, and must rely on MHIS for the restoration of email accounts not readily retrievable at their offices from an electronic or hard copy file.

18. It is found that prior to 2002, MHIS archived emails on an email system no longer used by the City of Hartford and therefore such archived emails from that period are no longer available for restoration.

19. It is found that from 2002 through spring 2007, MHIS archived all emails of City of Hartford employees to backup tapes on a monthly basis. It is also found that the process of archiving emails on a monthly basis may result in loss of emails deleted by an employee prior to the next monthly tape backup.

20. It is found that from spring 2007 through January 2011, MHIS purchased and deployed a new email archiving system capable of capturing all emails that originated from or were sent to City of Hartford employee email accounts. It is also found that MHIS purchased 400 licenses under the license agreement for the new email archiving system, which limited email archiving coverage to 400 email accounts of designated

Hartford City Hall and central office employees. It is further found that during such period, MHIS continued to archive emails of all other City of Hartford employees to backup tapes on a monthly basis.

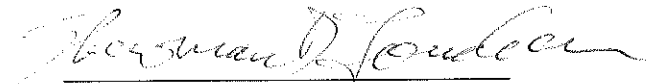
21. It is found that from January 2011 through the present, MHIS archived all emails that originated from or were sent to the City of Hartford's email system. It is also found that the MHIS migrated emails archived in prior email archiving systems, dating back to 2002, into the current email archiving system, including emails that were archived on a monthly basis to backup tapes.

22. It is found that on March 6, 2012, the respondents provided the complainant with all responsive records that exist on the respondents' current email system.

23. It is concluded that the respondents did not violate §§1-210(a) or 1-212(a), G.S., by providing the complainant with the only copies of responsive emails in the respondents' possession.

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 Sherman D. London  
as Hearing Officer