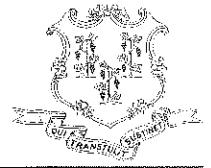


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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Marissa Lowthert

Complainant(s)

against

Superintendent of Schools, Wilton Public
Schools; and Wilton Public Schools

Respondent(s)

Notice of Rescheduled
Commission Meeting

Docket #FIC 2014-147

February 3, 2015

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 11, 2015 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, February 25, 2015.**

Any brief, memorandum of law or request for additional time, as referenced in the January 15, 2015 Transmittal of Proposed Final Decision, should be received by the Commission on or before February 13, 2015.

By Order of the
Freedom of Information Commission

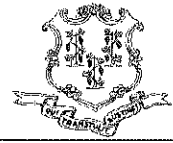
W. Paradis,
Acting Clerk of the Commission

Notice to:
Marissa Lowthert
Anne H. Littlefield, Esq.

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Marissa Lowthert,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-147

Superintendent of Schools, Wilton Public Schools; and
Wilton Public Schools,
Respondent(s)

January 15, 2015

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 11, 2015**. 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 January 30, 2015**. 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, an **original and fourteen (14) copies** must be filed **ON OR BEFORE January 30, 2015**. **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 January 30, 2015**, 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: Marissa Lowthert
Anne H. Littlefield, Esq.

2015-01-15/FIC# 2014-147/Trans/wrbp/KKR/CAL

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Marissa Lowthert,

Complainant

against

Docket #FIC 2014-147

Superintendent of Schools, Wilton
Public Schools; and Winton
Public Schools,

Respondents

January 14, 2015

The above-captioned matter was heard as a contested case on November 24, 2014, and January 7, 2015, at which times the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. For purposes of hearing, this matter was consolidated with Docket #FIC 2014-148, Marissa Lowthert v. Superintendent of Schools, Wilton Public Schools; and Winton Public Schools and Docket #FIC 2014-160, Marissa Lowthert v. Superintendent of Schools, Wilton Public Schools; and Winton Public Schools.

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. It is found that, by email dated February 11, 2014, the complainant requested from the respondents a copy of a state statute¹ and a written policy of the Wilton Public Schools².
3. It is found that, by email dated February 28, 2014, the complainant followed up on her request, stating that she had not yet received the records she requested.
4. It is found that, by letter dated March 7, 2014, the respondents provided the complainant with a copy of a state regulation and informed her that they did not maintain any other records responsive to her request.

¹ The complainant requested a “copy of Connecticut Statute (or statute citation) WPS staff claim require the completion of the ‘Transfer of Confidential Information’ (ie full HIPPA Release).”

² The complainant requested a “copy of WPS Policy requiring completion of ‘Transfer of Confidential Information’ (ie full HIPPA Release).”

5. By email dated March 12, 2014 and filed March 13, 2014, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with the request for records, described in paragraph 2, above.

6. 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.

7. 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 or . . . (3) receive a copy of such records in accordance with section 1-212.

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

9. It is found that the records responsive to the requests, described in paragraph 2, above, to the extent they are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. It is also found, however, that the respondents do not maintain the records described in paragraph 2, above.

11. At the hearing in this matter, the complainant argued that the respondents did not respond to her promptly. However, the FOI Act requires that public agencies provide copies of public records promptly. Because the respondents do not maintain records responsive to the complainant’s request, they were not obligated to respond. Bradshaw Smith v. Freedom of Information Commission, docket no. HHB-CV-11-5015510S (August 30, 2012), N.B. Superior Court, Cohn, J.³ Thus, the complainant’s argument is misplaced.

³ A copy of this decision is available on the Commission’s website.

12. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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.

A handwritten signature in cursive script, appearing to read "Kathleen K. Ross", written over a horizontal line.

Kathleen K. Ross
as Hearing Officer