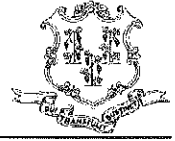


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FREEDOM OF INFORMATION



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Torrey Townsend,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-246

Manager of Human Resources and Benefits, Department of Human Resources, City of New Haven; Department of Human Resources, City of New Haven; and City of New Haven,

Respondent(s)

January 28, 2016

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 24, 2016**. 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 11, 2016**. 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 February 11, 2016**. **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 **fifteen (15) copies** be filed **ON OR BEFORE February 11, 2016**, 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: Torrey Townsend
Kathleen Foster, Esq.

2016-01-28/FIC# 2015-246/Trans/wrbp/VRP//KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Torrey Townsend,

Complainant

against

Docket #FIC 2015-246

Manager of Human Resources and Benefits,
Department of Human Resources, City of
New Haven; and Department of Human
Resources, City of New Haven

Respondents

January 28, 2016

The above-captioned matter was heard as a contested case on September 16, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. This matter was consolidated for hearing with Docket #FIC 2015-255, *Torrey Townsend v. Manager of Human Resources and Benefits, Department of Human Resources, City of New Haven et al.*

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 of complaint filed March 30, 2015, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with her requests for public records.
3. 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.
4. 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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212. (Emphasis supplied).

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

6. It is found that the complainant made a March 19, 2015 request for the "*passing percentage* needed to pass the reading comprehension separated portion of the basic educational part of the [2013 New Haven Fire Department entry level firefighter's exam]." [Emphasis in original.]

7. It is found that there was a cut-off score for the reading comprehension portion of the test that the complainant took, and that the complainant did not meet it. However, it is also found that the respondents did not establish, nor is there any public record within the meaning of §§ 1-200(5) and 1-210(a), G.S., reflecting, the "passing percentage" needed to pass that portion of the exam. In essence, the complainant's inquiry reflected her belief that since she had answered 70% of the reading comprehension questions correctly, and 70% was the passing percentage for the *entire examination*, she should have received a passing score on the reading comprehension portion of the test.

8. It is found that the complainant's March 19, 2015 request for the "passing percentage" was not a request for a record that exists, but either a request to convert her raw score into a percentage, or a challenge to the accuracy of the respondents' scoring of the examination.

9. It is found that the respondents attempted to answer the complainant's March 19, 2015 question.

10. It is concluded that, although the respondents' answer was unsatisfactory to the complainant, it was not a violation of the FOI Act.

11. It is found that the complainant also made a March 15, 2015 request to the respondents for "the Personal Director Summary for Firefighter and Firefighter Paramedic breakdown for the physical agility portion of the test which should be found in the Civil Service agenda and minutes."

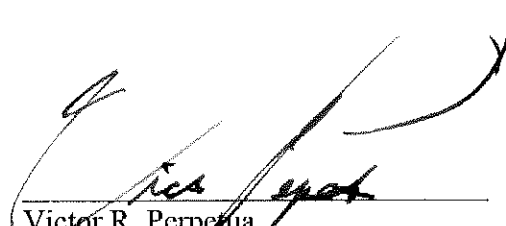
12. The complainant believes that the document referenced in paragraph 11, above, must exist because a similar document exists for a police department examination.

13. However, it is found that the document referenced in paragraph 11, above, does not exist.

14. It is concluded that the respondents did not violate the FOI Act 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.



Victor R. Perpetua
as Hearing Officer