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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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Torrey Townsend,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2016-0335

Manager, 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)

November 17, 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, January 11, 2017**. 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 December 29, 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 December 29, 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 December 29, 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  
Attorney Kathleen Foster

FIC# 2016-0335/Trans/wrbp/VRP//TCB/2016-11-17

An Affirmative Action/Equal Opportunity Employer

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 2016-0335

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

Respondents

July 25, 2016

The above-captioned matter was heard as a contested case on July 22, 2016, 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 of complaint filed May 23, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with her May 16, 2016 request for public records.
3. It is found that the complainant made a May 16, 2016 request for a copy of all scoring records for the reading comprehension test for the 2013 New Haven firefighter test.
4. It is found that the respondents provided all the records responsive to the complainant's request. It is further found that although the respondents did not have the scoring records in their possession, they obtained them for the complainant from their test consultant.
5. 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.

6. 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.

7. 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.”

8. It is concluded that the requested records are public records within the meaning of §§1-205, 1-210(a), and 1-212(a), G.S.

9. The complainant contends that the scoring records provided to her are not the true scoring records, which she contends should show percentage scores for the applicants on the reading comprehension test. In support of her claim, the complainant offered into evidence scoring records for a different examination, which showed percentage scores for its oral and written portions, together with a composite score, but not a reading comprehension percentage score, which is what the complainant seeks.

10. It is found that the 2013 New Haven Firefighters examination consisted of three parts. The first two parts, called the writing score, consisted of a reading comprehension test, and a written test concerning firefighting knowledge. The third part was an oral examination.

11. It is found that there were 44 questions on the reading comprehension portion of the written test, and that an applicant had to answer 34 questions correctly in order to pass that portion of the examination. A passing score on the reading comprehension test was considered by the respondents to be a “hurdle” that the applicants must clear before they are eligible to have the remainder of the written test scored and continue in the examination process. The complainant, regrettably, did not pass that hurdle, although she answered approximately 73% of the questions correctly, which in other examinations might often be a passing score.

12. It is found that the reading comprehension records provided to the complainant show the names of the applicants that passed the reading comprehension portion of the examination, the number of reading comprehension questions answered correctly by each applicant, the “race” and gender of each applicant, and whether the applicant passed or failed.

13. The Commission takes administrative notice of its record and decision in Docket #FIC 2015-246, Townsend v. Manager of Human Resources and Benefits, Department of Human Resources, City of New Haven et al. In that case the complainant sought the “passing

percentage” needed on the reading comprehension portion of the same examination. The Commission found that the respondents did not establish, nor was there any public record reflecting, the “passing percentage” needed for that portion of the exam. The Commission found that the complainant’s inquiry in that case reflected her belief that since she had answered more than 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.

14. It is found that records offered into evidence by the complainant show an oral score, a written score, and a composite score for each applicant on a different examination. It is also found that the “Eligible List Roster” (also provided to the complainant) for the 2013 examination shows only the rank and composite score for each applicant. Neither record shows a percentage score for the reading comprehension portion of the written test, which is the percentage score the complainant seeks.

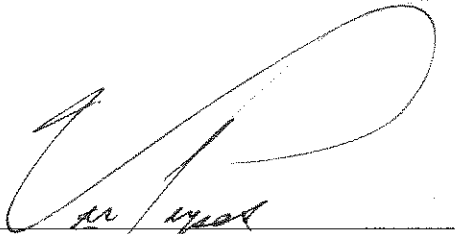
15. It is found that there is no record that converts the passing score on the reading comprehension test into a percentage of the questions answered correctly (although such a percentage can be easily calculated, and the complainant has apparently done so).

16. It is therefore concluded that the respondents did not violate the FOI Act as alleged.

17. At the conclusion of the hearing, the complainant graciously expressed her thanks to the Commission, and indicated her intention to bring no further complaints under the FOI Act. The Commission commends the complainant for accepting the decisions of the Commission, and wishes her well in her future endeavors.

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