



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Janice Butler,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0657

Commissioner, State of Connecticut,
Department of Consumer Protection; and
State of Connecticut, Department of
Consumer Protection,
Respondent(s)

January 10, 2017

Transmittal of Proposed Final Decision

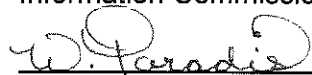
In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

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 8, 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 January 27, 2017**. 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 27, 2017**. **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 January 27, 2017**, 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: Janice Butler
Attorney Julianne Avallone

FIC# 2016-0657/Trans/wrbp/VDH/VRP/2017-01-10

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

Janice Butler,

Complainant

against

Docket #FIC 2016-0657

Commissioner, State of Connecticut,
Department of Consumer Protection;
and State of Connecticut, Department
of Consumer Protection,

Respondents

December 8, 2016

The above-captioned matter was heard as a contested case on November 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. It is found that, by letter dated June 24, 2016, the complainant requested that the respondents provide her with a copy of a complaint that had been filed against her with the respondent agency. It is found that the complaint pertained to the Butler Children Scholarship Fund (the "scholarship fund").
3. It is found that, by email dated June 29, 2016, the respondents acknowledged the request, but denied it on the ground that the requested complaint pertained to an ongoing investigation.
4. By letter dated September 12, 2016 and filed September 13, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying her a copy of the requested complaint.
5. At the hearing, an issue pertaining to this Commission's jurisdiction was raised.

6. Section 1-206, G.S., provides, in relevant part, as follows:

(b)(1) Any person denied the right to inspect or copy records . . . may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial. . . .

7. It is found that there were two separate matters occurring simultaneously: one matter was the respondent agency's investigation into the complaint filed concerning the scholarship fund; the second matter was the complainant's request for a copy of the complaint that initiated such investigation.

8. It is found that, on September 8, 2016, the respondents sent the complainant a "Corrective Action Plan." At the contested case hearing, the complainant contended that, because she had filed her appeal with the Commission within thirty days of the September 8th correspondence, her appeal should be deemed timely filed.

9. It is found, however, that the Corrective Action Plan correspondence pertained only to the respondent agency's investigation into the scholarship fund complaint, not to the complainant's FOI request.


10. It is found that the respondents' final communication with the complainant concerning her FOI request occurred on June 29, 2016, when the respondents both acknowledged and denied the request.

11. It further found that, in accordance with the provisions of §1-206(b)(1), G.S., in order for the Commission to have subject matter jurisdiction over this complainant's appeal, the complainant was required to file such appeal within thirty days of the June 29th correspondence.

12. Because it is found that the complainant did not file her appeal in this case until September 13, 2016, it is concluded that the Commission does not have subject matter jurisdiction over this matter.

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.


Valicia Dee Harmon
as Hearing Officer