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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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Tara Battistoni,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0549

Director of Human Resources, Torrington Public Schools;
and Torrington Public Schools,
Respondent(s)

February 23, 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, March 22, 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 March 10, 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 March 10, 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 March 10, 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: Tara Battistoni
Attorney Jessica L. Ritter

FIC# 2016-0549/Trans/wrbp/KKR/PSP/2017-02-23

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Tara Battistoni,

Complainant

against

Docket #FIC 2016-0549

Director, Human Resources, Torrington
Public Schools; and
and Torrington Public Schools,

Respondents

February 8, 2017

The above-captioned matter was heard as a contested case on December 1, 2016, at which time the complainant and the respondents appeared 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 email dated May 22, 2016, the complainant requested from the respondents, a copy of, or an opportunity to inspect, the minutes of a December 2011 meeting of the school capacity committee, as well as the “actual presentation that was made.”
3. It is found that, by email dated May 24, 2016, the respondents acknowledged the request, described in paragraph 2, above, and informed the complainant that they would conduct a search for responsive records.
4. It is found that, by email dated June 2, 2016, the respondents provided to the complainant a copy of the minutes of the December 14, 2011 regular meeting of the board of education, and informed the complainant that “per the minutes, no presentation is noted as having been made by the Capacity Committee.”
5. It is found that, by email dated June 30, 2016, the complainant also requested, from the respondents, “any and all reports from May 2011 – March 2012 regarding the possible closure and/or repurposing of Southwest School.”

6. It is found that, after additional correspondence between the complainant and the respondents regarding the two requests, the respondents informed the complainant, by email dated July 5, 2016, that they did not locate any records responsive to her requests.

7. By email dated and filed August 1, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying the requests, described in paragraphs 2 and 5, above.

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

“[p]ublic 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.

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

[e]xcept 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 . . . (3) receive a copy of such records in accordance with section 1-212.

10. 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.”

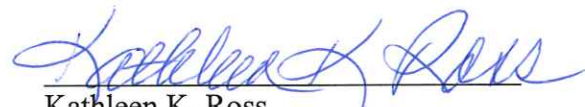
11. At the hearing in this matter, the complainant testified that the respondents should have minutes from a December 14, 2011 meeting of the school capacity committee, as well as other written reports from that committee. As evidence that a meeting of the school capacity committee occurred on December 14, 2011, the complainant cited to an entry on the board of education’s electronic calendar to a “school capacity presentation workshop,” on that date. She also noted that she had seen written references to “reports” of the school capacity committee made to the board of education.

12. However, the respondents’ witness testified, credibly, that he and two other individuals conducted a thorough search for the requested records and were unable to locate any such records. Based upon such testimony, it is found that the respondents do not maintain records responsive to the requests, described in paragraph 2 and 5, above.

13. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., 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.



Kathleen K. Ross
as Hearing Officer