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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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Earle Walker,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-003

Milagros Ramos, Labor Relations Specialist, Board of Education, City of Hartford; Jill Cutler-Hodgman, Chief Labor and Legal Officer, Board of Education, City of Hartford; Elaine Bonfigilio, Insurance Specialist, Board of Education, City of Hartford; and Board of Education, City of Hartford,

Respondent(s)

September 28, 2012

Transmittal of Proposed Final Decision Dated September 27, 2012

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 dated September 27, 2012, 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, October 24, 2012**. 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 October 12, 2012*. 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, the Commission requests that an **original and fourteen (14) copies** be filed *on or before October 12, 2012*. **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 October 12, 2012* 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: Earle Walker
Melinda Kaufmann, Esq.

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Earle Walker,

Complainant

against

Docket #FIC 2012-003

Milagros Ramos, Labor Relations Specialist,
Board of Education, City of Hartford;
Jill Cutler-Hodgman, Chief Labor and Legal Officer,
Board of Education, City of Hartford;
Elaine Bonfigilio, Insurance Specialist,
Board of Education, City of Hartford; and
Board of Education, City of Hartford,

Respondents

September 27, 2012

The case caption above was modified by order of the Commission dated August 28, 2012. The matter was scheduled to be heard as a contested case on May 22 and September 25, 2012. On May 22, 2012, the complainant did not appear, but on July 25, 2012, the Commission remanded the matter to the hearing officer for a continued hearing. On September 25, 2012, 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 December 20, 2011, the complainant made a request to the respondent Board of Education for records in twelve numbered categories.
3. By letter dated December 31, 2011 and filed with the Commission on January 3, 2012, the complainant appealed to the Commission, alleging that the respondents' failure to comply with his request violated the Freedom of Information Act.
4. Section 1-200(5), G.S., states:

"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.

5. Sections 1-210(a) and 1-212(a), G.S., state, respectively, in relevant parts:

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.

...

Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.

6. At the September 25, 2012 hearing, all twelve numbered categories of the request were individually reviewed and the complainant agreed that the only requests that remained to be adjudicated were items 7, 8, 11, and 12 of his December 20, 2011 request (the "requested records"). These items are:

a) "7. All documents that Jill Cutler-Hodgman and Elaine Bonfiglio received from Anthem Blue Cross during the period August-October 2005, instructing them to reinstate Charles Brown's health insurance under policy # 000675154";

b) "8. All documents that Jill Cutler-Hodgman and Elaine Bonfiglio sent to Charles Brown during the period August-October 2005, informing Charles Brown that his insurance was being reinstated under HFST health insurance policy # 000675154";

c) "11. All documents that support the testimony of Jill Cutler-Hodgman and Elaine Bonfiglio before CHRO on October 25, 2011, that they were told by Anthem Blue Cross, to reinstate the health insurance coverage of Charles Brown HFST, policy # 000675154"; and

d) "12. All documents in Charles Brown's HFST insurance file which indicates he was informed that in accordance with the provisions of policy # 000675154, he was required to remit the portion of his insurance premium, as if he were still a full-time employee".

7. It is concluded that the requested records, if they exist, are "public records" within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. The sworn, credible testimony of Jill Cutler-Hodgman, who is an attorney, was that she was on maternity leave from August 2005 through October 2005 and that she does not have a role as a labor attorney placing persons on and off health insurance policies. The sworn, credible testimony of Elaine Bonfiglio was that the health insurance policy of Charles Brown was initially discontinued because, as a substitute teacher, he did not work the required 115 days per year. Mr. Brown was sent a letter of termination. Subsequently, Ms. Bonfiglio received a telephone call from someone in the legal department of Anthem explaining that because Mr. Bown was in a convalescent home, the law did not permit his health insurance to be terminated for a year. Based upon this advice, respondent Bonfiglio gave a verbal approval and restored the health insurance policy of Mr. Brown.


9. It is found, with reference to paragraph 7a), that Jill Cutler-Hodgman and Elaine Bonfiglio did not receive any records from Anthem at any time instructing them to reinstate the health insurance policy of Charles Brown. Nor, with reference to paragraph 7b), did Jill Cutler-Hodgman and Elaine Bonfiglio send any records to Charles Brown at any time informing him that his health insurance policy was being reinstated.

10. It is further found, with reference to paragraph 7c), that the respondents do not maintain any records that support any testimony that Anthem ordered them to reinstate the health insurance coverage of Charles Brown. Nor, with reference to paragraph 7d), do the respondents maintain any records that indicate Charles Brown was required to remit a portion of his insurance premium, as if he were still a full-time employee.

11. It is concluded that, because the requested records were never created and are not maintained by the respondents, 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 hereby dismissed.



Clifton A. Leonhardt
as Hearing Officer