



# 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 2014-521

Director, Department of Human Resources, City of New Haven; Department of Human Resources, City of New Haven; and City of New Haven,  
Respondent(s)

May 15, 2015

## 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, June 10, 2015**. 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 May 29, 2015**. 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 May 29, 2015**. **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 May 29, 2015**, 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.

2015-05-15/FIC# 2014-521/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 2014-521

Director, Department of Human Resources,  
City of New Haven; Department of Human  
Resources, City of New Haven; and  
City of New Haven,

Respondents

May 14, 2015

The above-captioned matter was heard as a contested case on February 23, 2015, 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 August 6, 2014, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with her August 1, 2014 request for public records.
3. It is found that the complainant made an August 1, 2014 request for a copy of her test results for the position of firefighter with the City of New Haven.
4. It is found that the respondents provided some information approximately two weeks later.
5. It is found that the complainant then narrowed her request to "a copy of the test answer grid I filled out with my social security number, name, date, etc."
6. The "test answer grid" is the only document at issue in this case.
7. The Commission takes administrative notice of the fact that the "test answer grid" is a "bubble sheet." An optical answer sheet or "bubble sheet" is a special type of form used in multiple choice question examinations. Optical mark recognition is used to detect answers.

8. 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.

9. 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).

10. 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.”

11. The respondents maintain that the bubble sheet is not a public record because it was part of a written test administered by a third-party hired by the city to develop, administer, score and report on the results of an entry level admission exam. The respondents represented that the bubble sheet was never in the possession of the respondents.

12. The complainant maintains that New Haven civil service rules provide that the city owns all testing materials, and that therefore the bubble sheet is a public record.

13. At the conclusion of the hearing, the parties requested, and were granted, two weeks to brief the issue of whether the bubble sheets are public records. However, no briefs were filed, and only the complainant testified at the hearing.

14. In the absence of an adequate record, the Commission is reluctant to reach a conclusion, which might have precedential effect, about whether the bubble sheets are public records.


15. However, the Commission notes that even if the bubble sheets are public records that the respondents have an obligation to obtain from the third-party test administrator, they fall within the ambit of §1-210(b)(6), G.S., which provides that disclosure is not required of “[t]est questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examinations.”

16. It is found that the “bubble sheet” is “examination data used to administer ... [an] examination for employment.

17. It is therefore concluded that the respondents did not violate the provisions of §§ 1-210(a) and 1-212(a), G.S., by failing to provide the bubble sheet to the complainant.

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