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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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Kristina Talbert-Slagle,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2015-313

Superintendent of Schools, Hartford Public Schools; and  
Hartford Public Schools,  
Respondent(s)

December 8, 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, January 13, 2016**. 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 30, 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 December 30, 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 December 30, 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: Kristina Talbert-Slagle  
Cynthia Lauture, Esq. and Melinda B. Kaufmann, Esq.

2015-12-08/FIC# 2015-313/Trans/wrbp/MS/VB/TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Kristina Talbert-Slagle,

Complainant

against

Docket #FIC 2015-313

Superintendent of Schools, Hartford  
Public Schools; and Hartford Public  
Schools,

Respondents

September 16, 2015

The above-captioned matter was heard as a contested case on August 19, 2015, at which time the complainant and 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, on March 30, 2015, the complainant made a written request to the respondents for certain records related to Hartford Public Schools and the proposed move of the Dr. Joseph S. Renzulli Academy for Gifted and Talented ("Renzulli Academy") to another facility.
3. It is found that, by e-mail dated March 31, 2015, the respondents acknowledged receipt of the complainant's request.
4. It is found that, by e-mail dated April 20, 2015, the complainant clarified her March 30, 2015 request, informed the respondents that certain records that had been provided by the respondents were not responsive and renewed her request for the records identified in paragraph 2, above.
5. By e-mail filed on May 6, 2015, the complainant appealed to this Commission, alleging that the respondents failed to provide copies of certain records referenced in paragraph 2, above, in violation of the Freedom of Information Act.

6. At the hearing in this matter, the complainant indicated that the only records at issue in this appeal were the following:

- a. All emails sent to or from the specific Hartford Public Schools personnel listed below including any emails originating on or stored on the electronic mail system or servers during the time period from July 1, 2013 – present (March 30, 2015) that address ANY of the following: (i) proposed or projected facility usage during the 2014-15 and 2015-16 academic years; (ii) availability of facilities for any Hartford Public Schools' use during the 2015-16 academic year; (iii) budget/funding/ appropriations/ grants and any/all emails related to any/all funding for Hartford Public Schools for 2014-15 and 2015-16; (iv) mention, refer, or in any way relate or allude to Sarah J. Rawson Elementary school; (v) mention, refer, or in any way relate or allude to Renzulli Academy school; (vi) mention, refer, or in any way relate or allude to the building currently inhabited by the Renzulli Academy school at 121 Cornwall Street; (vii) mention, refer, or in any way relate or allude to Hartford pre-K Magnet school; (viii) mention, refer, or in any way relate or allude to Global Communications Academy IB; (ix) mention, refer, or in any way relate or allude to funding/settlement agreement from Sheff v. O'Neill for the 2014-15 and 2015-16 academic year; and (x) related to current and projected enrollments.<sup>1</sup>
- b. All data/evidence on implementation of the policy for identification of gifted/talented students at individual schools in the Hartford Public School system for the years 2012-13, 2013-14, and 2014-15, including numbers, grade levels, and ages of students identified;
- c. Minutes, notes, and/or any records pertaining to any and all meetings related to facility utilization decisions for the 2015-16 school year;
- d. Any information about any study or report that has been proposed, developed, and/or executed regarding capacity at Hartford Public Schools for 2014-15 and 2015-16; Note that a capacity study was mentioned to Renzulli Academy school

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<sup>1</sup>The complainant included the following Hartford Public Schools personnel: Superintendent: Beth Schiavino-Narvaez; Chief of Staff: Gislaine Ngounou; Chief Communications and Public Policy Officer: Kelvin Roldan; Chief Data and Accountability Officer: Jeron T. Campbell; Chief Engagement and Partnership Officer: Deidre Tavera; Chief Financial Officer: Paula Altieri; Chief Operations Officer: Don Slater; Executive Director of Facilities: Claudio Bazzano; Chief Academic Officer: Kathleen England; Executive Director of Research and Program Administration: George Michna; Executive Director of School Choice: Enid Rey; Associate Superintendent for Instructional Leadership: Oliver Barton; Chief School Improvement Officer: Jonathan Swan; and Director of School Design and Programming: Kevin McCaskill.

parents at a School Governance Council meeting on Thursday, March 26, 2015 by Don Slater - we would like to have a copy of that study and any other proposed or executed capacity studies for Hartford Public Schools 2015-16;

- e. List of all facilities currently used by, considered for use by, or potentially available for use by Hartford Public Schools, which shall include both those facilities located within the City of Hartford and those facilities available for use by the Hartford Public Schools that are located in other municipalities;
- f. Current capacity percentage in each facility presently in use or available for use by Hartford Public Schools (but not necessarily in current use or proposed for use during 2015-16);
- g. Itemized list of all monies, appropriations, allocations, and funds earmarked for Renzulli Academy for academic years 2014-15 and 2015-16. This includes but is not limited to any grant funding, any statutory appropriations (state or federal), any funds resulting from litigation (including but not limited to *Sheff v O'Neill*), any other federal funds, any other state funds, any municipal funds and any and all other funds earmarked for Renzulli Academy;
- h. List of current (2014-15) and projected (2015-16) enrollment and capacity at all of the facilities in use by or proposed for use by Hartford Public Schools; and
- i. Detailed information about instructional space in all facilities and floor location of that instructional space for 2015-16 (Note that we are requesting all information that has been available to and/or used by Hartford Public Schools personnel to assess availability of first-floor space district-wide for pre-K students during the 2015-16 year; we are not asking for additional research or data gathering).

7. Section 1-200(5), G.S., defines "public records or files" as:

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.

8. 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 . . . (3) receive a copy of such records in accordance with section 1-212.

9. 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.”

10. It is found that, to the extent that the records identified in paragraph 6, above, exist and are maintained by the respondents, such records are public records within the meaning of §§ 1-200(5) and 1-210(a), G.S., and must be disclosed in accordance with §§1-210(a) and 1-212(a), G.S., unless they are exempt from disclosure.

11. At the hearing in this matter, the complainant conceded that certain records were provided to her by the respondents but asserted that the majority of those records were not responsive and that the respondents’ response was incomplete.

12. The respondents did not claim any exemption to disclosure. Rather, the respondents’ witness, a labor relations/information specialist with Hartford Public Schools asserted at the hearing that the records that they provided to the complainant were responsive and that there were no other responsive records in the respondents’ possession.

13. With respect to the complainant’s request, described in paragraph 6(a), above, for certain electronic communication related to Hartford Public Schools and the proposed move of Renzulli Academy, it is found that responsive records were provided to the complainant, including over two hundred electronic communications that were sent to the complainant electronically on July 21, 2015.<sup>2</sup>

14. It is found that records responsive to the complainant’s request, described in paragraph 6(b), above, for data/evidence on implementation of the policy for identification of gifted/talented students, were provided to the complainant, including records sent to the complainant electronically on May 22, 2015.<sup>3</sup>

15. With respect to the complainant’s request, described in paragraph 6(c), above, for minutes, notes, and/or any records pertaining to any and all meetings related to facility utilization decisions, it is found that the respondents provided responsive records. Those responsive records included notes and minutes from two (2) School Choice and Facilities Committee meetings.

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<sup>2</sup>Despite the complainant’s assertion that records described in paragraph 6(a) and (b) were never received, it is found that the records were in fact sent electronically to the complainant. At the request of the hearing officer, the respondents submitted confirmation that such records were sent electronically to the complainant (after-filed). Following the hearing, the respondents re-sent those records to the complainant.

<sup>3</sup>See footnote No. 2

16. It is found that a record responsive to the complainant's request, described in paragraph 6(d), above, for any information about any study or report that has been proposed, developed, and/or executed regarding capacity at Hartford Public Schools for 2014-15 and 2015-16, was provided to the complainant. It is found that the single responsive record provided to the complainant was entitled "HPS Global 2015 Capacity Project," and presented two (2) scenarios regarding facility moves.

17. With respect to the complainant's request, described in paragraph 6(e), above, for a list of all facilities currently used by, considered for use by, or potentially available for use by Hartford Public Schools, which shall include both those facilities located within the City of Hartford and those facilities available for use by the Hartford Public Schools that are located in other municipalities, it is found that the respondents provided a list of facilities currently used by Hartford Public Schools. The respondents' witness testified, and it is found, that the respondents do not maintain a list, described in paragraph 6(e), above, containing facilities "considered for use by, or potentially available for use" by Hartford Public Schools.

18. With respect to records described in paragraph 6(a) thorough (e), above, that the respondents provided to the complainant, the complainant asserts that the response was incomplete and that additional responsive records exist.

19. The complainant testified, and it is found, that on several occasions certain plans related to budgetary and facilities decisions concerning Renzulli Academy and related topics were communicated publically by the respondents, including references to meetings, a capacity study/report and a "list of over 20 properties for Hartford Public Schools to consider . . . for a school setting." It is also found, however, that such public communications alone, do not support the conclusion that additional records exist beyond those provided to the complainant, or that the respondents are in possession of any such additional records.

20. The respondents' witness testified and submitted documentary evidence, and it is found, that she contacted individuals in specific departments with direct knowledge of this matter to obtain responsive records described in paragraph 6(a) thorough (e), above, and provided those records to the complainant. It is further found that there is no credible evidence in the record to support the complainant's assertion that the respondents' response to those records requested in paragraph 6(a) through (e), above, was incomplete.

21. It is found that records responsive to the complainant's request, described in paragraph 6(f), above, for current capacity percentage in each facility presently in use or available for use by Hartford Public Schools, were provided to the complainant, which included a two-page chart labeled 2013. The complainant contends that the chart does not reflect the current capacity percentage due solely to the date on the chart. However, the respondents' witness testified, and it is found that while the chart is dated 2013, it was a "working draft" and continuously updated and did in fact reflect the current capacity percentage, which the Commission notes is not an uncommon practice for some municipal public agencies.<sup>4</sup>

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<sup>4</sup>The complainant's request at the hearing to have the respondents create a new record to reflect the 2015 date warrants little discussion. The Freedom of Information Act imposes no obligation on a public agency to modify a responsive record.

22. It is found that records responsive to the complainant's request, described in paragraph 6(g), above, for an itemized list of all monies, appropriations, allocations, and funds earmarked for Renzulli Academy for academic years 2014-2015 and 2015-2016, including any grant funding, were provided to the complainant. While the initial response did not contain information concerning certain grants for 2015-2016, the witness testified, and it is found, that no other records existed at that time. It is also found that respondents later directed the complainant to the Hartford Public School website as soon as the 2015-2016 recommended budget was publically available sometime in May of 2015, which budget included information relating to grants.<sup>5</sup>

23. With respect to records described in paragraph 6(h), above, for a list of current (2014-15) and projected (2015-16) enrollment and capacity at all of the facilities in use by or proposed for use by Hartford Public Schools, it is found that the respondents provided records responsive to the complainant's request for records of current enrollment and capacity. However, it is found that the respondents did not provide responsive records for projected enrollment and capacity. The respondents' witness testified, and it is found, that the respondents do not maintain a list, described in paragraph 6(h), above, containing the projected enrollment and capacity information sought by the complainant.

24. With respect to records described in paragraph 6(i), above, for detailed information about instructional space in *all facilities* and floor location of that instructional space for 2015-16, it is found that the respondents did not fully comply with this particular request. The respondents' witness testified, and it is found, that the respondents misunderstood that particular portion of the complainant's request to pertain only to the Sarah J. Rawson Elementary School, which was the proposed location for Renzulli Academy.<sup>6</sup>

25. It is found that the respondents inadvertently failed to comply fully with the complainant's records request in violation of §§1-210(a) and 1-212(a), G.S., with respect to the records described in paragraph 6(i).

26. Based on the facts and circumstances of this case, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Henceforth, the respondents shall strictly comply with the provisions of §§1-210(a) and 1-212(a).

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<sup>5</sup>The Commission takes administrative notice of the Hartford Public Schools Superintendent's Recommended Operating Budget FY 2015-16 Submitted by Dr. Beth Schiavino-Narvaez April 7, 2015 available on-line at [http://www.hartfordschools.org/files/Finance/FY15\\_16\\_Budget\\_Book\\_WEB\\_reduced.pdf](http://www.hartfordschools.org/files/Finance/FY15_16_Budget_Book_WEB_reduced.pdf).

<sup>6</sup>While the respondents agreed to provide the remaining records responsive to this particular request similar to those records provided, the complainant indicated at the hearing that she was no longer interested in receiving such records.

A handwritten signature in black ink, appearing to read "Matthew Streeter". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Commissioner Matthew Streeter  
as Hearing Officer

FIC2015-313/HOR/MS/vb/09162015