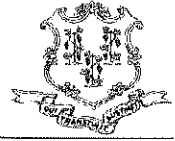


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FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2016-0504

Chairman, Juvenile Review Board,
City of Middletown; Juvenile Review Board,
City of Middletown; and City of Middletown,
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: Valeka Clarke
Attorney Christopher Smedick

FIC# 2016-0504/Trans/wrbp/LFS//TCB/2017-01-10

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Valeka Clarke,

Complainant

against

Docket #FIC 2016-0504

Chairman, Juvenile Review Board, City
of Middletown; Juvenile Review Board,
City of Middletown; and City of
Middletown,

Respondents

December 12, 2016

The above-captioned matter was heard as a contested case on November 4, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The matter was consolidated for hearing with Docket #FIC 2016-0505, Valeka Clarke v. Superintendent of Schools, Middletown Public Schools; and Middletown Public Schools; and Docket #FIC 2016-0507, Valeka Clarke v. Chief, Police Department, City of Middletown; and Police Department, City of Middletown; and City of Middletown.

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 14, 2016, the complainant sent a 12-part request for copies of records concerning the Juvenile Review Board to the mayor of the City of Middletown.
3. It is found that counsel for the mayor acknowledged the complainant's request by email sent on June 14, 2016. It is found that the counsel also forwarded the request to the respondent Juvenile Review Board.
4. It is found that on Friday, July 8, 2016, the complainant emailed counsel for the mayor and asked when the requested records would be provided to her.
5. It is found that on Tuesday, July 12, 2016, the attorney responded to the complainant's email. It is found that the attorney apparently confused the complainant's request for records of the Juvenile Review Board with another request from the complainant to the police

chief. It is found that the attorney advised the complainant that he was still reviewing the records and that a lieutenant would contact the complainant shortly.

6. By letter filed July 12, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records she requested.

7. 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, ...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:

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

9. 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.

10. It is found that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

11. It is found that on September 15, 2016, the respondents’ Youth Service Coordinator wrote to the complainant to inform her that he had compiled the records she requested. It is found that the letter informed the complainant that there were 95 pages of records available for her review at the Youth Services Bureau. It is found that the letter also explained why it took nearly three months to comply with the complainant’s request, and also provided an outline of what was collected.

12. The complainant alleges that the respondents were not prompt in providing the requested records.

13. With regard to the question of promptness, the Commission has held that the meaning of the word “promptly” is a particularly fact-based question. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982), the Commission advised

that the word "promptly," as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request.

14. The advisory opinion goes on to describe some of the factors that should be considered in weighing a request for records against other priorities: the volume of records requested; the time and personnel required to comply with a request; the time by which the person requesting records needs them; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request.

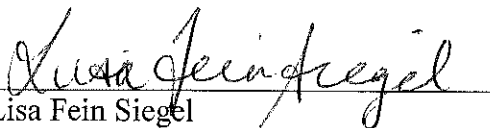
15. It is found that the letter stated, and the Coordinator testified, that the delay was due to the breadth of the complainant's request and the time span for which she sought records, to the fact that the Bureau consisted of only one full-time and one part-time employee, and that the request came at an extraordinarily busy time for the Bureau, with the end of the school year, the launch of summer programs, and impending deadlines for reports and grant submissions.

16. It is found, under the circumstances, that the respondents complied with the complainant's request in a prompt manner, based on the Coordinator's testimony at the hearing in this matter.

17. It is concluded that the respondents did not violate the FOI Act 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.


Lisa Fein Siegel
as Hearing Officer