

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jeffrey Scott,

Complainant

against

Docket #FIC 2021-0427

Human Resources, State of  
Connecticut, Department of Mental  
Health and Addiction Services; and State  
of Connecticut, Department of Mental  
Health and Addiction Services,

Respondents

July 13, 2022

The above-captioned matter was heard as a contested case on January 21, 2022 at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session).

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 the complainant is a former employee of the respondents and has previously made Freedom of Information ("FOI") requests for his personnel file to the FOI Officer at the respondent department.
3. It is found that, by email dated July 16, 2021, the complainant made a request to the Human Resources Department, rather than the FOI Officer at the respondent department, for a copy of his personnel file. The complainant testified that he made such request pursuant to §31-128b, G.S., because he had a particular need to receive the copy quickly. It is found that such request does not specify that it is made pursuant to such statute, nor does it state the complainant's particular need for a speedy turnaround.
4. Section 31-128b, G.S., provides in relevant part that: "Each employer shall, not more than seven business days after receipt of a written request from an employee, permit such

employee to inspect, and if requested, copy his or her personnel file if such a file exists....” Pursuant to §31-128a, G.S., “employer” is defined as an individual, corporation, partnership, or unincorporated association.

5. It is found that the complainant sent two follow-up requests to the respondents on July 25, 2021. It is also found that by email dated July 26, 2021, the respondents acknowledged the complainant’s requests.

6. By complaint filed with the Commission on July 26, 2021, the complainant appealed to the Commission and alleged that the respondent Human Resources department violated the FOI Act by failing to provide him with a copy of his personnel file.

7. 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, videotaped, printed, photostated, photographed or recorded by any other method.

8. 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 ... 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 the requested personnel file is a public record within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

11. It is found that, in September 2021, the complainant requested a copy of his personnel file from the respondents’ FOI Officer, and shortly thereafter received such copy upon payment of a copying fee.

12. At the hearing on this matter, the complainant testified a number of times that he was satisfied with the respondents’ compliance with the FOI Act but believed that the respondents violated §31-128b, G.S., since he received the requested records more than seven business days after his request, and beyond the timeframe he needed them for his particular purpose. The Commission notes that such allegation was not specifically raised in the complaint.

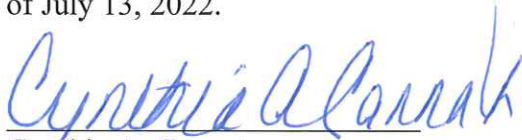
13. The Commission understands the complainant's dismay at receiving his records too late for his intended purpose. However, the Commission has no authority to enforce §31-128b, G.S., and thus cannot find the respondents in violation of such statute.<sup>1</sup>

14. Based on the entirety of the record and the specific facts and circumstances of this case, it is concluded that the respondents did not violate §§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. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 13, 2022.



Cynthia A. Cannata  
Acting Clerk of the Commission

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<sup>1</sup> The Commission notes that the respondent department is not an individual, corporation, partnership, or unincorporated association.

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**JEFFREY SCOTT**, 59 Old Post Rd., Unit i-1, Clinton, CT. 06413

**HUMAN RESOURCES, STATE OF CONNECTICUT, DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES, WHITING FORENSIC HOSPITAL; AND STATE OF CONNECTICUT, DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES**, c/o Attorney Deborah L. Moore, State of Connecticut, Department of Mental Health & Addiction Services, 410 Capitol Avenue, Hartford, CT 06134



Cynthia A. Cannata  
Acting Clerk of the Commission