

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

John Kaminski,

Complainant

against

Docket # FIC 2022-0113

Commissioner, State of Connecticut,
Department of Administrative Services; and
State of Connecticut, Department of
Administrative Services,

Respondents

February 22, 2023

The above-captioned matter was heard as a contested case on September 27, 2022, at which time the complainant and the respondents appeared, and presented testimony, exhibits and argument on the complaint. The complainant was incarcerated at a facility of the Connecticut Department of Correction at the time of the hearing. On November 3, 2022, the Commissioner of the Department of Correction (“DOC”) and the DOC (collectively “department”), whose employees’ records are at issue, filed a Motion to Intervene. On December 1, 2022, the Hearing Officer granted the department’s unopposed Motion to Intervene to permit the DOC to submit evidence and argument in this matter.

In response to the Hearing Officer’s Order, on December 19, 2022, the department submitted the affidavit of Catherine Riberio, DOC Human Resources Director, who is familiar with the employment status of the individuals whose files were requested, and the maintenance of DOC personnel files. Also, in response to the Hearing Officer’s Order, on December 19, 2022, the respondents submitted two after-filed exhibits.¹

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.

¹ The after-filed exhibits consist of a March 8, 2022 cover letter from the respondents to the complainant, and the requested job description, referenced herein at paragraphs 3 and 5 of the findings, and a July 7, 2022 letter from the respondents acknowledging receipt of the complainant’s first request, described herein at paragraph 2 of the findings.

2. It is found that, by letter dated February 17, 2022, the complainant requested that the respondents provide him with the “releasable” files² of the following individuals:

- (1) Dr. Byron Kennedy - DOC Medical Dir
- (2) Dr. Johnny Wright- DOC Reg Med Dir
- (3) Dr. Cory Freston - Assoc Reg Med Dir
- (4) APRN Jean Caplan
- (5) Robert J. Deveau - DOC Dietitian/Nutritionist

(hereinafter “first request”).

3. It is found that, by letter dated February 18, 2022, the complainant further requested that the respondents provide him with the:

[j]job description of DOC Dietitian / Nutritionist ... identified as Robert J. DeVeau R.D., Dept. of Correction, 24 Wolcott Hill Rd., Wethersfield Ct 06109.

(hereinafter “second request”).

4. By letter of complaint, filed with the Commission on March 11, 2022, the complainant appealed, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to disclose records responsive to the first request and second request, as described in paragraphs 2 and 3, above.

5. With respect to the allegation concerning the second request, described in paragraph 3, above, it is found that by cover letter dated March 8, 2022, the respondents provided the complainant with the requested job description, and the complainant acknowledged receipt at the hearing in this matter, and indicated that he did not wish to pursue that portion of the complaint.

6. Consequently, the only remaining issue in this complaint concerns the allegation with respect to the first request, described in paragraph 2, above. With respect to such allegation, it is found that by letter dated July 7, 2022, the respondents acknowledged receipt of the request, and subsequently, by letter dated September 13, 2022, denied the request, claiming that the requested records were exempt from disclosure pursuant to §18-101f, G.S.

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

² At the hearing in this matter, the complainant clarified he was seeking only those personnel file records that constitute records of the qualifications and training of the individuals in question.

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:

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

9. Section 1-212(a), G.S., in relevant part, further provides: “[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 concluded that the requested records, are “public records” within the meaning of §§1-200(5) and 1-210(a), G.S.

11. Section 18-101f, G.S., provides, in relevant part:

[a] personnel ... file concerning a current or former employee of the ... Department of Correction ... shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200, to any individual committed to the custody or supervision of the Commissioner of Correction

12. The complainant contended that because he was not seeking records of a disciplinary nature, and the employees whose records he requested are not “custody staff”, §18-101f, G.S., is not applicable and the requested records should have been provided to him.

13. It is found that the requested records constitute personnel file records of current and one former DOC employee, within the meaning of §18-101f, G.S.

14. It is also found that the complainant is an individual committed to the custody or supervision of the Commissioner of Correction, within the meaning of §18-101f, G.S.

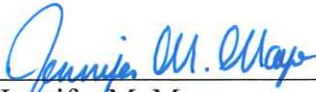
15. Consequently, pursuant to the plain language of §18-101f, G.S., it is concluded that the requested records are exempt from disclosure.

16. It is therefore concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 22, 2023.



Jennifer M. Mayo
Acting Clerk of the Commission

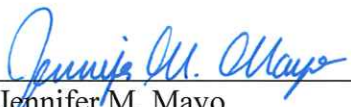
PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

JOHN KAMINSKI #241124, MacDougall-Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF ADMINISTRATIVE SERVICES; AND STATE OF CONNECTICUT, DEPARTMENT OF ADMINISTRATIVE SERVICES, c/o Attorney Michael Barrera, Department of Administrative Services, 450 Columbus Avenue, Suite 1501, Hartford, CT 06103

INTERVENOR: c/o Attorney Jennifer Lepore re: Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Jennifer M. Mayo
Acting Clerk of the Commission