

STATE OF CONNECTICUT  
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Atiya Sample,

Complainant

against

Docket # FIC 2022-0354

Commissioner, State of Connecticut,  
Department of Labor; and State of  
Connecticut, Department of Labor,

Respondents

July 26, 2023

The above-captioned matter was heard as a contested case on March 29, 2023, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint. By order of the hearing officer, the hearing was reopened for the purpose of taking additional evidence. The reopened hearing was held on June 20, 2023, at which time the complainant and respondents again appeared and presented additional 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 by letter dated July 12, 2022, the complainant requested that the respondents provide her with copies of “any and all of [the complainant’s] draft decisions edited by Arnold Perrotta with a hearing date from December 21, 2020 through February 21, 2021.”
3. By letter of complaint filed August 12, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying her request for certain public records.
4. 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.

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

6. 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.”

7. It is found that the records described in paragraph 2, above, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that, at all relevant times, the complainant was a staff attorney in the Waterbury office of the respondents’ Employment Security Appeals Division (“Division”). It is found that the complainant’s responsibilities included hearing appeals from decisions regarding unemployment compensation benefits (“unemployment appeals”) and drafting written decisions in such unemployment appeals.

9. It is found that, at all relevant times, the complainant’s supervisor was Attorney Arnold Perrotta, who was the Principal Appeals Referee in the Division’s Waterbury office. It is found that, prior to finalizing a decision in an unemployment appeal, the complainant was required to submit a draft decision to Attorney Perrotta for review.

10. It is found that, after the complainant completed a draft decision, she would submit such draft decision to Attorney Perrotta by leaving a hard copy in Attorney Perrotta’s inbox. It is found that Attorney Perrotta would review the complainant’s draft decision and make handwritten edits on the original hard copy that was provided by the complainant. It is found that, after completing his review, Attorney Perrotta would return the original hard copy of the draft decision containing his handwritten edits to the complainant by placing such draft decision in the complainant’s inbox. It is found that the complainant would then make final edits to her decision and upload an electronic copy of the final version to a designated drive on the respondents’ computer system.

11. It is found that on July 15, 2022, the respondents provided the complainant with copies of certain records responsive to the request described in paragraph 2, above. It is found that such records included draft decisions with Attorney Perrotta’s handwritten edits from unemployment appeals heard by the complainant between February 8, 2021 and February 23, 2021. It is found that such records did not include any draft decisions from unemployment appeals heard by the complainant prior to February 8, 2021.

12. At the hearing in this matter, the complainant acknowledged that the respondents provided her with copies of the records described in paragraph 11, above. However, the complainant claimed that there should be additional responsive records, namely, draft decisions from unemployment appeals heard by the complainant between December 21, 2020 and February 8, 2021.

13. It is found that the respondents conducted a thorough search for all records responsive to the request described in paragraph 2, above, and that they provided copies of all such records to the complainant. It is found that the respondents do not maintain any draft decisions from unemployment appeals heard by the complainant between December 21, 2020 and February 8, 2021.

14. It is further found that it is not the regular practice for the respondents to make copies of draft decisions containing the Principal Appeals Referee's edits prior to returning such draft decisions to the author. It is found that the respondents' staff attorneys are permitted to retain copies of their own draft decisions, but that the respondents do not regularly retain such copies.

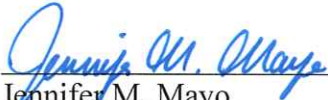
15. It is also found that Attorney Perrotta did not make copies of any draft decisions from unemployment appeals heard by the complainant prior to February 8, 2021. It is found that, on or around such date, Attorney Perrotta started making and retaining copies of the complainant's draft decisions because he anticipated a need for them in connection with the complainant's upcoming performance review.

16. Based on the foregoing, it is found that the respondents provided the complainant with copies of all records that they maintain which are responsive to the request described in paragraph 2, above. 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 July 26, 2023.

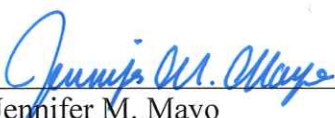
  
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Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**ATIYA SAMPLE**, 380 Hitchcock Road, Waterbury, CT 06705

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF LABOR; AND STATE OF CONNECTICUT, DEPARTMENT OF LABOR**, c/o Assistant Attorney General Krista D. O'Brien, Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106 and Assistant Attorney General Maria C. Rodriguez, Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106

  
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Jennifer M. Mayo  
Acting Clerk of the Commission