

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Richard Kosinski,

Complainant

against

Docket # FIC 2024-0399

Director, State of Connecticut, Connecticut
State Board of Mediation & Arbitration; and
State of Connecticut, Connecticut State
Board of Mediation & Arbitration,

Respondents

June 25, 2025

The above-captioned matter was heard as a contested case on November 21, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

By oral motion at the beginning of the hearing on this matter, the complainant moved the undersigned hearing officer to allow him to “voir dire” her about her “relationship” with the hearing officer in Docket #FIC 2023-0021, *Richard Kosinski v. Chairman, Connecticut State Board of Mediation and Arbitration et al.*, which at the time of the hearing on this matter was pending, on appeal, in court. The undersigned hearing officer denied such motion.

At the end of the hearing on this matter, the complainant moved for the undersigned hearing officer to recuse herself and for a “mistrial” because the hearing officer denied his earlier motion to voir dire her. The undersigned hearing officer likewise denied such motions.

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 email dated July 1, 2024 and addressed to the respondent Director, Connecticut State Board of Mediation and Arbitration (“Director”), the complainant requested that the respondents provide him with copies of the following records:

all print and electronic documents of every type ever in your possession or control during the period April 16, 2024-present by, to or from you related in any way, *directly or indirectly*, to the following: the 4/16/24 document request from Richard H. Kosinski (Kosinski) to the Labor Arbitrator Selection Committee, c/o you;

the 4/24/24 Notice of Appeal from Kosinski to the Freedom of Information Commission (FOIC); and the 6/7/24 Motion for Service from Kosinski to the FOIC; also possibly known under various combinations of or abbreviations of all said prior names. Please include any and all attachments or enclosures to all of said documents.

(Emphasis added.)

3. It is found that, by email dated July 2, 2024, the respondent Director acknowledged the complainant's request.

4. By letter of complaint, filed and received July 9, 2024, the complainant appealed to the Commission, alleging that the respondents violated the FOI Act by failing to provide him with copies of the records described in paragraph 2, above.

5. 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, 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.

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

7. 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."

8. It is concluded that the requested records, to the extent that they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that, on August 16, 2024, the respondents provided the complainant with 103¹ pages of records in response to the complainant's July 1, 2024 request, and withheld certain

¹ It is found that the respondents provided the complainant with 110 pages of records; however, seven pages were completely blank.

records, which the respondents claimed to be protected by the attorney-client privilege.²

10. At the hearing on this matter, the complainant contended that he was seeking records by, to or from the respondent Director, between April 16, 2024 and July 1, 2024, related to a Notice of Appeal he had previously filed with the Commission, in the matter of *Richard Kosinski v. State of Connecticut, Neutral Arbitrator Selection Committee; Douglas Cho, Director, State of Connecticut, Connecticut Board of Mediation and Arbitration; and State of Connecticut, Connecticut Board of Mediation and Arbitration*, Docket #FIC 2024-0231. The complainant explained that, in that case, the Commission failed to include the Neutral Arbitrator Selection Commission as a respondent. The complainant also explained that the hearing officer in #FIC 2024-0231 ultimately added the Neutral Arbitrator Selection Committee as a respondent. The complainant stated at the hearing on this matter that he did not understand how the Neutral Arbitration Selection Committee was initially excluded as a respondent in #FIC 2024-0231, and that he wanted the respondent Director's communications with the Commission because he believed such communications likely caused the error.

11. In addition, the complainant contended that, of the over 100 pages of records the respondents provided to him in response to his July 1, 2024 request, only a few pages were actually responsive. Thus, he claimed that the forty-six days that it took for the respondents to provide the records to him was not prompt.

12. The respondents contended that they provided all records that were possibly responsive to the complainant's July 1, 2024 request, that they were prompt in doing so, and they did not intend to purposefully delay their response.

13. At the hearing on this matter, the respondent Director testified, and it is found, that he did not have any communications with the Commission after April 16, 2024 other than attending a hearing on the matter of #FIC 2024-0231. The Director further testified, and it is found, that, aside from one other staff person at the State Board of Mediation and Arbitration, the Director is the only person who would have records responsive to the complainant's July 1, 2024 request and that he searched his own paper, computer and email files.

14. The respondent Director testified, and it is found, that he also requested that the staff member referenced in paragraph 13, above, search her own records for responsive records and that she provided the respondent Director with all such records.

15. Based upon the respondent Director's credible testimony, it is found that he provided the respondents' counsel with all of the potentially responsive records and that counsel provided the complainant with all of the responsive records on August 16, 2024, with the exception of the attorney-client privileged communications.

16. It is found, under the facts and circumstances of this case, that the respondents conducted a reasonable and thorough search for the requested emails.

² At the hearing on this matter, the complainant stated that he was not contesting the records withheld based upon the attorney-client privilege. Accordingly, such claimed exemption will not be considered further herein.

17. It is further found that the respondents provided the complainant with all records responsive to the request described in paragraph 2, above.

18. Based on the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S.

19. With regard to the complainant's claim that the respondents failed to provide the records to him promptly, the Commission has previously opined 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 account all of the factors presented by a particular request." The advisory opinion goes on to describe some of the factors that should be considered, including: 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.

20. It is found that the complainant did not indicate a specific time within which he needed the requested records, nor the importance of such records to the complainant.

21. Based upon the respondent Director's testimony, it is found that he was the only staff person to respond to the complainant's records request and that, between July 9, 2024 until August 9, 2024, he needed to take time to decipher which records the complainant was requesting³ and to conduct a search for responsive records. It is also found that, during that same time frame, the respondent Director: oversaw a staff of seven individuals and forty-three arbitrators; conducted one full day of training; conducted an all day mediation session; prepared for a Neutral Arbitrator Selection Committee meeting, which meeting involved several interviews; conducted two additional mediations that were offsite; and was out of the office for two doctors' appointments. It is further found that, on August 9, 2024, the respondent Director provided the responsive records to the respondents' counsel to conduct a legal review and, on August 16, 2024, the respondents' counsel emailed the records to the complainant.

22. Additionally, it is found that the respondent Director included a packet of records that was sent by the Commission addressed to "Chair, State of Connecticut, Board of Mediation and Arbitration, Neutral Arbitrator Selection Committee" and received on August 9, 2024, which was after the time period specified in the complainant's July 1, 2024 request, because he believed it to be responsive and he was attempting to respond fully and fairly to the complainant's request.

³ The complainant faulted the Director for claiming that the July 1, 2024 records request was perplexing; however, the Commission notes that the complainant did not include the Commission's docket number for the case about which he was inquiring and his request sought records that were "directly and indirectly" related to such case. In addition, his July 1, 2024 request stated that his prior records request was made to the "Labor Arbitrator Selection Committee," but it was actually made to the "Neutral Arbitrator Selection Committee."

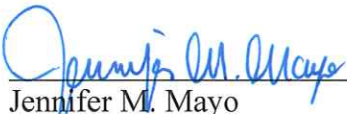
23. It is found that the records provided to the complainant were either directly or indirectly related to the subject matter of the request described in paragraph 2, above, and that the respondents did not purposefully add records to delay their disclosure. It is further found that the bulk of the responsive records were comprised of one large packet of records, described in paragraph 22, above. It is found that, although such packet was mailed outside the time frame outlined in the complainant's request, it was fair for the respondents to provide such packet to the complainant because it was addressed, at least in part, to the Board of Mediation and Arbitration, it was directly related to #FIC 2024-0231, and the Director believed it was better to include it rather than exclude it given that all of the records therein related to #FIC 2024-0231.⁴

24. Taking into consideration all of the factors presented by the July 1, 2024 request, it is concluded that the respondents did not violate the promptness provisions in §§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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 25, 2025.


Jennifer M. Mayo
Acting Clerk of the Commission

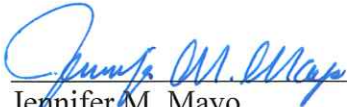
⁴ Based upon Administrative Notice of the record in #FIC 2024-0231, it is found that, on August 6, 2024, the Commission provided the Neutral Arbitrator Selection Committee with a copy of the administrative record in #FIC 2024-0231 and that the packet described in paragraphs 22 and 23, above, likely was a copy of such administrative record meant for the Neutral Arbitrator Selection Committee.

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:

RICHARD KOSINSKI, 40 Manitoos Drive, Oxford, CT 06478

DIRECTOR, STATE OF CONNECTICUT, CONNECTICUT STATE BOARD OF MEDIATION & ARBITRATION; AND STATE OF CONNECTICUT, CONNECTICUT STATE BOARD OF MEDIATION & ARBITRATION, c/o Assistant Attorney General Ksenya C. Hentisz and Assistant Attorney General Richard T. Sponzo, Office of the Attorney General, 165 Capitol Avenue, 4th Floor, Hartford, CT 06106



Jennifer M. Mayo
Acting Clerk of the Commission