

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Diana Waller,

Complainant

against

Docket # FIC 2021-0077

Commissioner, State of Connecticut,
Department of Public Health; and State of
Connecticut, Department of Public Health,

Respondents

March 25, 2026

The above-captioned matter was heard as a contested case on August 27, 2021, 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).

This matter was consolidated for hearing with Docket #FIC 2021-0076, Diana Waller v. Commissioner, State of Connecticut, Department of Public Health; and State of Connecticut, Department of Public Health. The Commission takes administrative notice of the record in Docket #FIC 2021-0076.

On August 26, 2021, the respondents filed a motion to dismiss this matter without a hearing. Such motion was denied by the hearing officer after hearing arguments from the parties on the motion at the August 27, 2021, hearing.

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 December 29, 2020, the complainant requested that the respondents provide her with a copy of the following:
 - (a) Number of vaccine preventable diseases reported in unvaccinated people in the state of Connecticut for the last 20 years broken down by disease and year; and
 - (b) Number of vaccine preventable diseases reported in vaccinated individuals in the state of Connecticut for the last 20 years broken down by disease and year.

3. It is found that on December 31, 2020, the respondents acknowledged the complainant's request.

4. By complaint filed February 18, 2021, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying her request for records responsive to the request described in paragraph 2, above.¹

5. At the time of the request, §1-200(5), G.S., provided:

"[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, printed, photostated, photographed or recorded by any other method.²

6. 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.

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 records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S., and that access to such records must be granted in accordance with §1-210(a), G.S., unless they are exempt from disclosure.

¹ On March 25, 2020, the Governor issued Executive Order 7M (§2(1)), thereby suspending the provisions of §1-206(b)(1), G.S., requiring the filing of an appeal with the Commission not later than thirty days after any alleged denial. Executive Order 7M (§2(1)) applied to an appeal filed prior to April 19, 2021. The Governor also issued Executive Order 7M (§2(2)), thereby suspending the provisions of §1-206(b)(1), G.S., which required the Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M (§2(2)), which was extended by Executive Order 12B, applied to any appeal pending with the Commission on the issuance date and to any appeal filed prior to July 1, 2021. Consequently, the Commission retains jurisdiction over the complaint.

² Section 147 of Public Act 21-2 (June Special Session) amended the definition of "public records or files" to include data or information that is "videotaped." Such amendment was effective on June 23, 2021.

9. It is found that by email dated February 28, 2021, the complainant requested that the respondents provide her with an update regarding the status of her pending request, as described in paragraph 2, above.

10. It is found that by email dated March 2, 2021, the respondents replied and explained that they were gathering responsive records in the midst of “leading a COVID-19 vaccination effort of unprecedented scale.”

11. It is found that, by email dated June 1, 2021, the respondents provided the complainant with an electronic link to information they believed to be responsive to the complainant’s request. It is found that such information consisted of data pertaining to annual disease occurrences for the years 1969 through 2018.

12. It is found that, by email dated June 3, 2021, the complainant replied and expressed dissatisfaction with having received access to such data, writing: “[T]his link does not satisfy my FOI request. DPH is notified if a person contracting a disease has been vaccinated or not. My request did not ask for disease occurrence. My request asked for the ‘[n]umber of vaccine preventable diseases reported in unvaccinated people in the State of Connecticut for the last 20 years broken down by disease and year.’”

13. At the hearing on this matter, the respondents argued that the records that are responsive to the request described in paragraph 2, above, are confidential, pursuant to §§19a-25 and 19a-215, G.S., and therefore, are not subject to the disclosure provisions of the FOI Act. In addition, the respondents argued that they were not required to comply with the complainant’s request because doing so would require research and the creation of a record, neither of which is required by the FOI Act.

14. At the time of the request in this matter, §19a-25, G.S., provided, in relevant part:

All information, records of interviews, written reports, statements, notes, memoranda or other data, including personal data as defined in subdivision (9) of section 4-190³, procured by the Department of Public Health ... in connection with studies of morbidity and mortality⁴ conducted by the Department of Public Health ... or procured by ... the Department of Public Health pursuant

³ Section 4-190(9), G.S., defines “personal data” as any information about a person’s education, finances, medical or emotional condition or history, employment or business history, family or personal relationships, reputation or character which because of name, identifying number, mark or description can be readily associated with a particular person.

⁴ In prior cases pending before the Commission involving §19a-25, G.S., the Commission has relied on the following definitions of the terms “morbidity” and “mortality”: (1) Morbidity: the incidence of disease; and (2) Mortality: the number of deaths in a given time or a given community. *Webster’s Third New International Dictionary, Unabridged* (1993).

to section 19a-215... for the purpose of reducing the morbidity or mortality from any cause or condition, shall be confidential and shall be used solely for the purposes of medical or scientific research and, for information obtained pursuant to section 19a-215, disease prevention and control by the local director of health and the Department of Public Health. Such information, records, reports, statements, notes, memoranda or other data shall not be admissible as evidence in any action of any kind in any court or before any other tribunal, board, agency or person, nor shall it be exhibited or its contents disclosed in any way, in whole or in part, by any officer or representative of the Department of Public Health or of any such facility, by any person participating in such a research project or by any other person, except as may be necessary for the purpose of furthering the research project to which it relates.

15. At the time of the request, §19a-215, G.S., provided, in relevant part:

(a) For the purposes of this section ...

(2) “Commissioner's list of reportable diseases, emergency illnesses and health conditions” and “commissioner's list of reportable laboratory findings” means the lists developed pursuant to section 19a-2a.⁵

(3) “Confidential” means confidentiality of information pursuant to section 19a-25.

(4) “Health care provider” means a person who has direct or supervisory responsibility for the delivery of health care or medical services, including licensed physicians, nurse practitioners, nurse midwives, physician assistants, nurses, dentists, medical examiners and administrators, superintendents and managers of health care facilities.

(5) “Reportable diseases, emergency illnesses and health conditions” means the diseases, illnesses, conditions or syndromes designated by the Commissioner of Public

⁵ Section 19a-2a(9), G.S., provides, in relevant part, that “[t]he Commissioner of Public Health ... shall have the power and duty to ... annually issue a list of reportable diseases, emergency illnesses and health conditions and a list of reportable laboratory findings and amend such lists as the commissioner deems necessary and distribute such lists as well as any necessary forms to each licensed physician, licensed physician assistant, licensed advanced practice registered nurse and clinical laboratory in this state....”

Health on the list required pursuant to section 19a–2a.

(b) A health care provider shall report each case occurring in such provider's practice, of any disease on the commissioner's list of reportable diseases ... to the Department of Public Health ... Such reports of disease shall be confidential and not open to public inspection except as provided for in section 19a–25.

(c) A clinical laboratory shall report each finding identified by such laboratory of any disease identified on the commissioner's list of reportable laboratory findings to the Department of Public Health ... All such reports shall be confidential and not open to public inspection except as provided for in section 19a–25...

(d) When ... the Department of Public Health receives a report of a disease or laboratory finding on the commissioner's lists of reportable diseases, emergency illnesses and health conditions and laboratory findings ... the Department of Public Health may contact first the reporting health care provider and then the person with the reportable finding to obtain such information as may be necessary to lead to the effective control of further spread of such disease. In the case of reportable communicable diseases and laboratory findings, this information may include obtaining the identification of persons who may be the source or subsequent contacts of such infection.

(e) All personal information obtained from disease prevention and control investigations ... shall be held strictly confidential pursuant to section 19a-25...

(f) Any person who violates any reporting or confidentiality provision of this section shall be fined not more than five hundred dollars....

16. It is found that the respondents' infectious disease section encompasses programs for emerging infections and communicable diseases, outbreak detection and investigation, planning for public health responses, and for the prevention of various diseases, including vaccine-preventable diseases, and infections. It is found that the respondents' immunization program aims to prevent disease, disability, and death from vaccine-preventable diseases by actively engaging in surveillance, case investigation and control, monitoring immunization levels, provision of vaccines, and education on the benefits of vaccines.

17. It is found that the respondents acquire information regarding vaccine preventable disease occurrences in the community from health care providers and laboratories. It is found

that, upon receipt of such information, the respondents conduct an epidemiological investigation, which includes gathering additional information from these sources and from the person infected with disease. It is found that the information gathered by the respondents may include the vaccination status of the person who has acquired the reportable disease.

18. It is found that the information requested by the complainant, referenced in paragraph 2, above, is procured by the respondents pursuant to §19a-215, G.S. Such information, therefore, is confidential under §§19a-215 and 19a-25, G.S. It is therefore concluded that such provisions prohibit the disclosure of the records described in paragraph 2, above.

19. Accordingly, it is concluded that the respondents did not violate the FOI Act when they declined to provide the complainant with a copy of the information requested.⁶

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 March 25, 2026.


Jennifer M. Mayo
Acting Clerk of the Commission

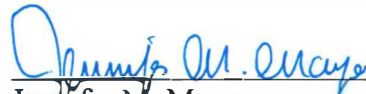
⁶ Because the Commission concludes that the records that are responsive to the request described in paragraph 2, above, are not subject to the disclosure provisions of the FOI Act, the Commission need not address the respondents' remaining arguments referenced in paragraph 13, above.

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:

DIANA WALLER, 10 Urban Street, Apt. 1, Stamford, CT 06840

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF PUBLIC HEALTH; AND STATE OF CONNECTICUT, DEPARTMENT OF PUBLIC HEALTH, c/o Assistant Attorney General Shawn Rutchick, Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106 and Attorney Lisa Kessler, Department of Public Health, 410 Capital Avenue, Hartford, CT 06134



Jennifer M. Mayo
Acting Clerk of the Commission