

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Michael Winkler,

FINAL DECISION

Complainant

Docket #FIC84-230

against

April 24, 1985

Director of Personnel of the
State of Connecticut

Respondent

The above captioned matter was heard as a contested case on February 14, 1985 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record the following facts are found:

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.
2. By letter dated October 1, 1984 the complainant made a request of the respondent for copies of the conversion table for the last-held senior eligibility technician examination, the ratings sheets which summarized his scores on each of the factors of the examination and the evaluation score sheet completed by Ken Derrick as part of the examination.
3. By letter dated October 9, 1984 the chief of personnel services advised the complainant that because the records requested were the subject of an administrative appeal before the Superior Court and because a stay of a prior Freedom of Information Commission order disclosing such records had been obtained, the records would not be released.
4. By letter of complaint filed with the Commission on October 30, 1984 the complainant appealed the denial of his request for records.
5. In FIC #83-134, Michael Winkler v. Department of Administrative Services, Personnel Division of the State of Connecticut the Commission ordered disclosure of certain records, among them the same documents requested by the complainant in his October 1, 1984 letter to the respondent.
6. The respondent's sole claim at hearing was that because FIC #83-134 is currently on appeal and the records in question are the subject of a court-ordered stay, the complainant's complaint should be dismissed.

7. It is found that the reason offered to the complainant for denying his original request for copies was that §5-225-1(b)(3) of the Regulations of Connecticut State Agencies prohibited the copying of material related to promotional examinations.

8. P.A. No. 84-112, which became effective October 1, 1984, amended §1-19(a), G.S. to provide that "[a]ny agency rule or regulation or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void."

9. It is found that the stay of an order of disclosure based upon the law as it existed at the time of the complainant's original request does not foreclose the Commission from considering the same request for records in light of a significant change in the law.

10. The respondent's motion to dismiss on the ground that an appeal of FIC #83-134 is pending is therefore denied.

11. It is found that the complainant has viewed all of the documents requested but has been denied copies.

12. It is found that the requested records are recorded data used to determine promotions of state employees and, therefore, relate to the conduct of the public's business.

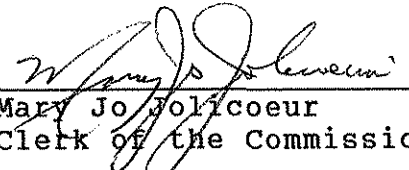
13. It is concluded that the requested records are public records or files within the meaning of §1-18a(d), G.S.

14. It is also found that the requested records are not exempted from disclosure by any provision of the Freedom of Information Act.

The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint.

1. The respondent shall forthwith provide the complainant with copies of the records referred to at paragraph 2 of the findings, above.

Approved by order of the Freedom of Information Commission at its regular meeting of April 24, 1985.



Mary Jo Jolicoeur
Clerk of the Commission