

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Joseph Bibisi,

FINAL DECISION

Complainant

Docket #FIC85-144

against

October 23, 1985

Judicial Department; State of  
Connecticut

Respondent

The above captioned matter was heard as a contested case on August 23, 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 May 23, 1985 the complainant, an unsuccessful candidate for the position of housing specialist with the respondent, made a request for certified copies of the letters of recommendation written on his behalf and on behalf of the successful applicant for the position.

3. By letter dated June 4, 1985 the complainant was informed that his request had been forwarded to the director of personnel. By letter dated June 7, 1985 counsel for the respondent informed the complainant that his request was being reviewed.

4. By letter dated June 12, 1985 counsel for the respondent denied the complainant's request, citing a collective bargaining agreement, approved pursuant to §5-278(e), G.S., which prohibited disclosure of "pre-employment information" without the consent of the employee involved.

5. By letter dated June 26, 1985 the complainant renewed his request for records, indicating his belief that the collective bargaining agreement had no applicability to him and that the collective bargaining agreement referred to by the respondent did not supersede the Freedom of Information Act.

6. By letter dated July 2, 1985 the respondent notified the complainant that his June 26, 1985 letter was being considered and that a response would be forthcoming.

7. By letter of complaint filed with the Commission on July 8, 1985 the complainant appealed the respondent's failure to provide the requested records. By letter dated July 15, 1985 the complainant requested the imposition of a civil penalty against the respondent pursuant to §1-21i(b), G.S.

8. The documents requested by the complainant were provided by the respondent on August 21, 1985. The respondent claims that the release of the records was prompted by the issuance of the Connecticut Supreme Court's decision in Connecticut State College American Association of University Professors v. Connecticut State Board of Labor Relations, et al, 197 Conn. 91 (1985).

9. At hearing, the complainant indicated that he did not believe that the respondent had disclosed all of the requested documents.

10. It is found that the provisions of the collective bargaining agreement cited by the respondent do not supersede the mandatory disclosure provisions of §§1-15 and 1-19(a), G.S.

11. The respondent failed to prove that the records in question were exempted from disclosure by the Freedom of Information Act, other state statute or federal law.

12. It is concluded that the respondent violated §§1-15 and 1-19(a), G.S., when it denied the complainant access to letters of recommendation written for him and for the successful applicant for the position of housing specialist.

13. As an indication of the existence of reasonable grounds for withholding the records the respondent cites the filing by the Attorney General, on May 10, 1985, of a petition for a declaratory ruling on potential conflicts between provisions in collective bargaining agreements and state statutes, among them the Freedom of Information Act.

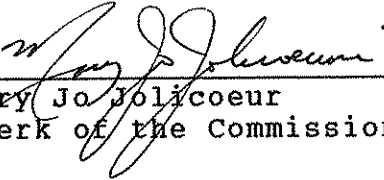
14. It is found that the circumstances of the Respondent's denial of access do not indicate lack of reasonable grounds within the meaning of §1-21i(b), G.S. The Commission does not, therefore, deem appropriate the imposition of a civil penalty.

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

1. The respondent shall, within one week of the final decision in this matter, provide the complainant with an affidavit stating that the respondent has conducted a diligent

search of its files and that all of the records requested by the complainant have been provided.

Approved by order of the Freedom of Information Commission at its regular meeting of October 23, 1985.

  
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Mary Jo Jolicoeur  
Clerk of the Commission