



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Umar Shahid,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-465

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

Respondent(s)

March 3, 2016

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, March 23, 2016**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE March 11, 2016**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE March 11, 2016**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE March 11, 2016**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Umar Shahid
James Neil, Esq.
cc: Craig Washington

2016-03-03/FIC# 2015-465/Trans/wrbp/PSP//VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Umar Shahid,

Complainant

Docket # FIC 2015-465

against

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

Respondents

March 2, 2016

The above-captioned matter was heard as a contested case on November 4, 2015, at which time the complainant and respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the above-captioned matter was consolidated with Docket # FIC 2015-355, Umar Shahid v. Department of Legal Affairs, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, Anthony Sinchak v. FOIC, et al., Superior Court, J.D., of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

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 on or about April 8, 2015, the complainant made a written request to the former Director of the respondents' Maloney Center for Training and Staff Development ("the Center") for copies of the following:

[a] Human Resource complaint process/procedure [;]

[b] Federal Grievance Procedure Certification since 2010 [;]

[c] Admin. Remedy Coordinator training module [;]

- [d] All Admin. Remedy coordinators since 2012[;]
- [e] Disciplinary Coordinator training module [;]
- [f] All D.R. coordinators since 2012[;]
- [g] Disciplinary Investigator training module [;]
- [h] All D.R. investigators since 2012[;]
- [i] Disciplinary Hearing Officer training module [;]
- [j] All DHO since 2012 [; and]
- [k] Table of contents of all training and staff development programs.

It is found that the complainant resubmitted such request on or about July 2, 2015.

3. By letter of complaint, dated July 10, 2015, and received on July 16, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with copies of the records, described in paragraph 2, above. The complainant also requested the imposition of civil penalties.

4. Section 1-200(5), G.S., defines “public records or files” as:

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.

5. 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 (1) inspect such records promptly during regular office or business hours . . . (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 requested by the complainant, to the extent that they exist, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. It is found that the respondents first learned of the complainant's request when they received notice from the Commission on or about September 2, 2015. It is found that such notice informed the respondents of the complainant's appeal and provided them with a copy of his complaint to the Commission and a copy of his records request described in paragraph 2, above.

9. It is found that when the respondents received the complainant's request, Counselor Supervisor Washington, the respondents' FOI Administrator, contacted the new Director for the Center, Counselor Supervisor Griswold at the Center, and the respondents' Human Resources Unit and inquired as to whether they had any records responsive to the complainant's request.

10. It is found that the document referred to as a "Human Resource complaint process/procedure" in paragraph 2[a], above, and the various training modules requested in paragraphs 2[c], [e], [g] and [i], above, do not exist. Rather, as testified to by Counselor Supervisor Washington, the respondents follow certain administrative directives (*i.e.*, Administrative Directives 6.6 and 9.6) which are available to the complainant in the library at the correctional facility.

11. With respect to the request described in paragraph 2[k], above, it is found that a "table of contents" does not exist which is responsive to such request.

12. With respect to the requests described in paragraphs 2[d], [f], [h] and [j], above, Counselor Supervisor Washington testified that he did not believe that there are lists responsive to such requests, but was waiting for official confirmation.

13. It is found that no evidence was offered at the hearing as to whether or not the respondents maintain a document that is responsive to the request described in paragraph 2[b], above.

14. Based upon the facts and circumstances of this case, it is found that the respondents failed to provide the complainant with records responsive to his requests described in paragraphs 2[b], [d], [f], [h] and [j], above. It is therefore concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S.

15. The Commission in its discretion declines to impose civil penalties on the respondents.

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

1. The respondents shall forthwith undertake a search for the documents described in paragraphs 2[b], [d], [f], [h] and [j], above, and provide copies of any responsive records to the complainant, free of charge. If the respondents do not locate any responsive records, the

respondents shall provide the complainant with an affidavit detailing the results of their search.


Paula S. Pearlman
as Hearing Officer