

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Janice Butler,

Complainant

against

Docket #FIC 2016-0657

Commissioner, State of Connecticut,  
Department of Consumer Protection;  
and State of Connecticut, Department  
of Consumer Protection,

Respondents

February 8, 2017

The above-captioned matter was heard as a contested case on November 22, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

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 letter dated June 24, 2016, the complainant requested that the respondents provide her with a copy of a complaint that had been filed against her with the respondent agency. It is found that the complaint pertained to the Butler Children Scholarship Fund (the "scholarship fund").
3. It is found that, by email dated June 29, 2016, the respondents acknowledged the request, but denied it on the ground that the requested complaint pertained to an ongoing investigation.
4. By letter dated September 12, 2016 and filed September 13, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying her a copy of the requested complaint.
5. At the hearing, an issue pertaining to this Commission's jurisdiction was raised.

6. Section 1-206, G.S., provides, in relevant part, as follows:

(b)(1) Any person denied the right to inspect or copy records . . . may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial. . . .

7. It is found that there were two separate matters occurring simultaneously: one matter was the respondent agency's investigation into the complaint filed concerning the scholarship fund; the second matter was the complainant's request for a copy of the complaint that initiated such investigation.

8. It is found that, on September 8, 2016, the respondents sent the complainant a "Corrective Action Plan." At the contested case hearing, the complainant contended that, because she had filed her appeal with the Commission within thirty days of the September 8<sup>th</sup> correspondence, her appeal should be deemed timely filed.

9. It is found, however, that the Corrective Action Plan correspondence pertained only to the respondent agency's investigation into the scholarship fund complaint, not to the complainant's FOI request.

10. It is found that the respondents' final communication with the complainant concerning her FOI request occurred on June 29, 2016, when the respondents both acknowledged and denied the request.

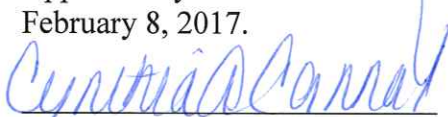
11. It further found that, in accordance with the provisions of §1-206(b)(1), G.S., in order for the Commission to have subject matter jurisdiction over this complainant's appeal, the complainant was required to file such appeal within 30 days of the June 29<sup>th</sup> correspondence.

12. Because it is found that the complainant did not file her appeal in this case until September 13, 2016, it is concluded that the Commission does not have subject matter jurisdiction over this matter.

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 February 8, 2017.



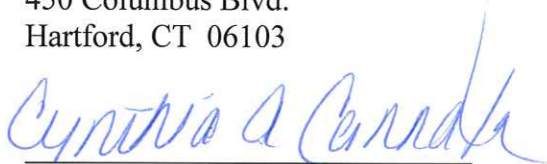
Cynthia A. Cannata  
Acting Clerk of the Commission

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:

Janice Butler  
31 Rock Ridge Road  
Newtown, CT 06470

Commissioner, State of Connecticut, Department  
of Consumer Protection; and State of Connecticut,  
Department of Consumer Protection  
c/o Julianne Avallone, Esq.  
450 Columbus Blvd.  
Hartford, CT 06103



Cynthia A. Cannata  
Acting Clerk of the Commission