

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Michael Aronow,

Complainant

against

Docket #FIC 2016-0820

Executive Director,
State of Connecticut, University of
Connecticut Health Center; and
State of Connecticut, University of
Connecticut Health Center,

Respondents

September 27, 2017

The above-captioned matter was heard as a contested case on February 17, 2017, 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. By letter of complaint filed November 11, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with his request for certain public records.
3. It is found that the complainant made a September 19, 2016 request to the respondents for “[a] copy of all faculty grievances filed with or heard by the Health Center Appeals Committee (HCAC), including appeals of Health Center Faculty Review Board grievances, subsequent to July 1, 2005 [and]
 - a. A copy of the HCAC’s report and recommendations for the above HCAC grievances.
 - b. A copy of the Provost’s, the Provost’s delegate such as the Executive Vice President for Health Affairs or president, or other formal response to the HCAC’s report and recommendations for the above HCAC grievances.

- c. A copy of any appeal to the Board of Directors for the above HCAC grievances.
 - d. A copy of the Board of Directors' or its delegate's response to any appeal of the above HCAC grievances."
4. It is found that the respondents acknowledged this request on September 19, 2016.
5. It is found that the respondents delivered four responsive pages to the complainant on November 10, 2016, acknowledging that the search was taking a long time.
6. It is found that the respondents delivered a second batch of records containing about 180 pages on February 16, 2017, the day before the hearing on this matter.
7. It is found that the respondents conducted a diligent search for the requested records, and provided all the records in their custody.
8. Section 1-200(5), G.S., provides:

"Public 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.
9. Section 1-210(a), G.S., provides in relevant part:

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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.
10. Section 1-212(a), G.S., provides in relevant part: "Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

11. It is concluded that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

12. The complainant contended that the records were not provided promptly.

13. With respect to the general question of promptness, the meaning of the word “promptly” is a particularly fact-based question that has been previously addressed by the FOI Commission. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982) the Commission advised that the word “promptly” as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. The Commission also gave the following guidance:

The Commission believes that timely access to public records by persons seeking them is a fundamental right conferred by the Freedom of Information Act. Providing such access is therefore as much a part of their mission as their other major functions. Although each agency must determine its own set of priorities in dealing with its responsibilities within its limited resources, providing access to public records should be considered as one such priority. Thus, it should take precedence over routine work that has no immediate or pressing deadline.

14. The advisory opinion goes on to describe some of the factors that should be considered in weighing a request for records against other priorities: the volume of records requested; the time and personnel required to comply with a request; the time by which the person requesting records needs them; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request.

15. It is found that about 185 pages of paper records were requested, which could not be searched electronically, and which had to be retrieved from a warehouse of Faculty Affairs and culled from other non-responsive records.

16. It is found that the requested records were important to the complainant, but that he did not convey the urgency of his request until at least January 23, 2017, about three weeks before the records were ultimately provided to him.

17. It is found that the respondents had other FOI Act requests to respond to, including some by the complainant, and other time-sensitive matters such as patient issues and probate court commitment hearings.

18. It is found that producing the requested records involved some legal research to determine what redactions might be required.

19. Taking into consideration all of the facts and circumstances of this case, it is concluded that the records were provide promptly, and that the respondents did not violate the provisions of §1-212(a), G.S.

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 September 27, 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:

MICHAEL ARONOW, Orthopedic Associates of Hartford, PC, 31 Seymour Street, Suite 100, Hartford, CT 06106

EXECUTIVE DIRECTOR, STATE OF CONNECTICUT, UNIVERSITY OF CONNECTICUT HEALTH CENTER; AND STATE OF CONNECTICUT, UNIVERSITY OF CONNECTICUT HEALTH CENTER, c/o Assistant Attorney General Jeffrey M. Blumenthal, University of Connecticut Health Center, 263 Farmington Avenue, AG093, Farmington, CT 06030-1093



Cynthia A. Cannata
Acting Clerk of the Commission