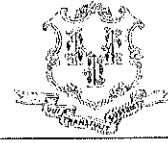




FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

David Godbout,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-184

Executive Director, State of Connecticut, Office
of Legislative Management; and State of
Connecticut, Office of Legislative Management,
Respondent(s)

February 11, 2014

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 12, 2014**. 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 February 28, 2014**. 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 February 28, 2014**. **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 **fourteen (14) copies** be filed **ON OR BEFORE February 28, 2014**, 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: David Godbout
Philip Miller, AAG

2014-02-11/FIC# 2013-184/Trans/wrbp/LFS//CAL

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

David Godbout,

Complainant

against

Docket #FIC 2013-184

Executive Director, State of Connecticut,
Office of Legislative Management; and
State of Connecticut, Office of Legislative
Management,

Respondents

February 11, 2014

The above-captioned matter was heard as a contested case on February 4, 2014, at which time the complainant and the 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 2013-183; David Godbout v. Andres Ayala, Member, State of Connecticut, Connecticut State Senate; and Joan Hartley, Member, State of Connecticut, Connecticut State Senate; and Docket #FIC 2013-194; David Godbout v. Anthony Guglielmo and Kevin Witkos, as Members, State of Connecticut, Connecticut State Senate.

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 March 8, 2013, the complainant requested to inspect all the records, including internet browser histories, of 26 named legislators and staff from February 20, 2013 through March 8, 2013 (except for December 20, 2012 through March 8, 2013, for one legislator and her staff).
3. It is found that on March 18, 2013, the complainant narrowed his request, limiting the search of records to electronic records containing the word "meeting" and "Hartley."¹

¹ At the same time, the complainant expanded the inclusive time period of the request, from February 20, 2013 through March 8, 2013, to January 1, 2013 through March 15, 2013. For purposes of this appeal, the Commission shall consider the inclusive time period to be that stated in the original request of March 8, 2013, as described in paragraph 2, above.

4. By letter filed March 28, 2013, the complainant appealed to this Commission, alleging that the respondent violated the Freedom of Information ("FOI") Act by failing to permit him to inspect the records he requested.

5. 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, ...whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. 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. .

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

8. It is also found that while the complainant narrowed the request on March 18, 2013, he did not relinquish his original request, and seeks all the records he requested in March 8, 2013, as described in paragraph 2, above.

9. It is found that the respondents' search containing the search terms "meeting" and "Hartley" produced 575 e-mails. It is found that the respondents have not yet reviewed such e-mails for permissive exemptions or mandatory exceptions.

10. It is found that since the complainant's request, all but 159 of the 575 e-mails were deleted by mistake, which the respondents acknowledge.


11. At the hearing in this matter, the respondents agreed to review the 159 records that remain and provide them to the complainant within two weeks' time. The respondents also agreed to ask I/T Services about recovery of the deleted e-mails.

12. It is found that the respondents could have produced at least some of the e-mails requested by the complainant. It is found that the respondents did not provide any e-mails in a prompt manner.

13. It is concluded, therefore, that the respondents violated the promptness provisions of §1-210(a), G.S.

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

1. Forthwith, the respondents shall review the e-mails referenced in paragraph 12, above, and provide all non-exempt records to the complainant for his inspection.
2. The respondents shall investigate whether deleted e-mails may be recovered. The respondents shall inform the complainant of the results of such investigation. If the records can be recovered, the respondents shall do so and then shall review such records and provide all non-exempt records to the complainant.
3. The respondents shall continue to provide the records requested by the complainant on March 8, 2013 on an ongoing basis until the request has been fulfilled.


Lisa Fein Siegel
as Hearing Officer