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FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2013-446

Executive Director, State of Connecticut,
University of Connecticut Health Center,
Connecticut Managed Health Care; and State
of Connecticut, University of Connecticut Health
Center, Connecticut Managed Health Care,
Respondent(s)

May 8, 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, May 28, 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 May 14, 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 May 14, 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 May 14, 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: Omar Miller
Stephen J. Courtney, Esq.
cc: Kristine Barone

2014-05-08/FIC# 2013-446/Trans/wrbp/LFS//TCB

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FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Omar Miller,

Complainant

against

Docket #FIC 2013-446

Executive Director, State of Connecticut,
University of Connecticut Health Center,
Correctional Managed Health Care; and
State of Connecticut, University of Health
Center, Correctional Managed Health
Care,

Respondents

May 8, 2014

The above-captioned matter was heard as a contested case on May 7, 2014, at which time the complainant and respondents appeared and presented testimony, exhibits and argument on the complaint. 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 May 31, 2013, the complainant requested copies of a surgical “report” concerning a medical procedure that he underwent, and some other related records.
3. It is found that on July 3, 2013, the complainant requested a copy of an incident report concerning a car accident he was involved in that occurred while he was en route back to his correctional facility from the respondents’ hospital.
4. By letter of complaint dated July 18, 2013, and filed July 22, 2013, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with the records he requested.
5. Section 1-200(5), G.S., defines “public records” as follows:

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 ... receive a copy of such records in accordance with the provisions of section 1-212.

7. 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."

8. 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.

9. Section 1-206, G.S., provides in relevant part:

(a) Any denial of the right to inspect or copy records provided for under section 1-210 shall be made to the person requesting such right by the public agency official who has custody or control of the public record, in writing, within four business days of such request ... Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed to be a denial.

(b)(1) Any person denied the right to inspect or copy records under section 1-210 ... 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[.]

10. It is found that four business days after the complainant's May 31, 2013 request was June 6, 2013. It is found that the respondents did not reply to the complainant's May 31, 2013 request by June 6, 2013.

11. It is found, therefore, that the respondents were deemed to have denied the complainant's request on June 6, 2013.

12. It is found that thirty days from the denial of the complainant's request was July 5, 2013.

13. It is found, therefore, that the complainant filed his appeal of his May 31, 2013 request beyond the 30-day limit set forth in §1-206(b)(1), G.S. (See paragraph 4, above.)

14. It is concluded, therefore, that the Commission lacks jurisdiction to consider the appeal of the respondents' alleged denial of the complainant's May 31, 2013 request.

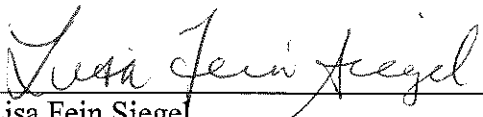
15. Nevertheless, it is found that the respondents did provide the complainant with the surgical "report" he requested, but the complainant actually sought the "notes." At the hearing in this matter, the respondents agreed to provide the complainant with such surgical "notes."

16. The Commission appreciates the respondents' aid to the complainant.

17. With respect to the complainant's request of July 3, 2013, it is found that the respondents do not maintain such records. Accordingly, it is concluded that the respondents did not violate the FOI Act with respect to such request.

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.



Lisa Fein Siegel
as Hearing Officer