

Since 1975



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission · 18-20 Trinity Street, Suite 100 · Hartford, CT 06106  
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Michael Aronow,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-157

Executive Vice President, State of Connecticut, University  
of Connecticut Health Center; and State of Connecticut,  
University of Connecticut Health Center,  
Respondent(s)

January 2, 2015

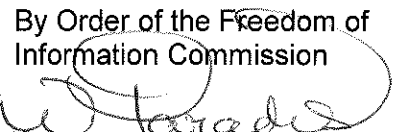
### Transmittal of Proposed Final Decision

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, January 28, 2015**. 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 January 14, 2015**. 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 January 14, 2015**. **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 January 14, 2015**, 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: Michael Aronow  
Jeffrey M. Blumenthal, Assistant Attorney General

2015-01-02/FIC# 2014-157/Trans/wrbp/CAL/TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Michael Aronow,

Complainant

against

Docket #FIC 2014-157

Executive Vice President, State of Connecticut,  
University of Connecticut Health Center; and  
State of Connecticut, University of Connecticut  
Health Center,

Respondents

December 29, 2014

The above-captioned matter was consolidated for hearing with Docket #FIC 2014-156; also captioned Michael Aronow v. Executive Vice President, State of Connecticut, University of Connecticut Health Center; and State of Connecticut, University of Connecticut Health Center. Both matters were heard as contested cases on December 16, 2014, at which time the complainant and the respondents herein 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 email dated December 23, 2013, the complainant made a voluminous, nine part request to the respondents to inspect many records. The complainant also requested a list of records that were excluded from disclosure.
2. It is found that, by email dated December 24, 2013, the respondents acknowledged the complainant's request.
3. The complainant testified and it is found that, following this email exchange in December 2013, there was no further activity concerning the complainant's December 23, 2013 records request and the December 24, 2013 acknowledgement until the complainant filed his complaint.

4. By notice of appeal dated and filed March 17, 2014, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act by denying his request for the records. Consistent with the finding in paragraph 3, above, the complaint included a sentence stating: "Since [December 24, 2013], I have not received any of the documents or any correspondence related to my request."

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

(a) Any denial of the right to inspect or copy records ... shall be made to the person requesting such right ... 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 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act 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... (emphasis added)

6. By letter dated June 19, 2014, the Commission notified the complainant that his correspondence received on March 17, 2014, described in paragraph 4, above, would not be scheduled for a hearing because the complainant had not filed his complaint within thirty days of the alleged violation pursuant to §1-206, G.S. The Commission also informed the complainant that no further action would be taken on the complaint at that time. However, if he nevertheless wished to pursue his complaint, the Commission requested that the complainant provide a written response within two weeks' time.

7. Subsequently, by email dated June 24, 2014, the complainant submitted a response to the Commission's June 19, 2014 correspondence, described in paragraph 6, above. The June 24, 2014 email contains several statements that indicate that the complainant did not comprehend the operation of denial deemed by statute pursuant to §1-206(a), G.S. One example of such statements is the sentence: "There was no alleged violation of the FOI Act with respect to my December 23, 2013 FOI Act request to the University of Connecticut Health Center prior to March 17, 2014, let alone greater than 30 days before then."

8. The Commission has consistently held over many years that a complaint must be filed within thirty days of a denial deemed by statute. Docket #FIC 2012-538, Lee Smith v. Superintendent of Schools, Middletown Public Schools; and Middletown Public Schools; Docket #FIC 2012-538, Ismael Hernandez III v. Chief, Fire Department, City of Bridgeport. See also, in the context of an alleged meetings violation, Docket #FIC

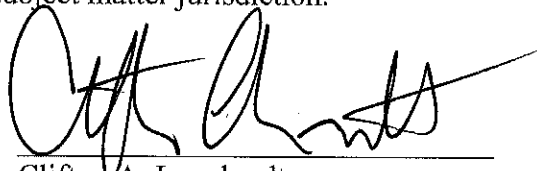
1995-416, Gwen Fremlin v. Kathy Neth, Ellen Berk, John Lavagnino, Francine Leniston, Jerry Ryan, Edward Asvazadourian, Robert Maloney, Don Torre, Cindy Taylor, Linda Shine-Wise, and Candlewood Isle Tax District Board of Directors. Moreover, the Courts have recognized the importance of statutory denial. Sedensky v Freedom of Information Commission, HHB 136022849S, Superior Court, Judicial District of New Britain, November 25, 2013, p. 8; Gallagher v. Freedom of Information Commission, CV 93 053 15 14, December 5, 1994, p. 6.

9. It is concluded that the filing of the complaint on March 17, 2014 was more than sixty days past the denial of the complainant's request that is deemed to have occurred on January 2, 2014, four business days following the respondents' December 24, 2013 acknowledgement of the records request.

10. It is therefore concluded that the complaint was not timely filed within the time required to confer jurisdiction on the Commission pursuant to §1-206, 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 for lack of subject matter jurisdiction.



Clifton A. Leonhardt  
as Hearing Officer