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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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Al Sylvestre and the Administrative and  
Residual Employees Union,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-409

President, State of Connecticut, Board of Regents for  
Higher Education; and State of Connecticut, Board of  
Regents for Higher Education,  
Respondent(s)

April 30, 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, May 27, 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 May 15, 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 May 15, 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 **fifteen (15) copies** be filed **ON OR BEFORE May 15, 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: Al Sylvestre  
Paul Kulesa  
Mary K. Lenehan, Esq.

2015-04-30/FIC# 2014-409/Trans/wrbp/MES//TCB

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Al Sylvestre, Paul Kulesa and  
Administrative and Residual  
Employees Union,

Complainants

against

Docket #FIC 2014-409

President, State of Connecticut,  
Board of Regents for Higher  
Education; and State of Connecticut,  
Board of Regents for Higher Education,

Respondents

April 29, 2015

The above-captioned matter was heard as a contested case on March 26, 2015, at which time the complainants and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.<sup>1</sup>

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)(A), G.S.
2. It is found that, by letter dated May 19, 2014, to the respondents, the complainants asked to inspect a large volume of records concerning an incident that occurred on May 8, 2014 on the campus of Middlesex Community College, and other security issues at the college. It is further found that the complainants sought emails, reports, videos, notes, claims, and various other records related to security issues, and that in some instances, the complainants sought years' worth of records.
3. It is found that, by letter dated May 28, 2014, the respondents acknowledged the complainants' request, and informed the complainants that some requested records did not exist and that some specific records requests needed clarification. The respondents further stated that they would "make the requested items available to [the

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<sup>1</sup>At the hearing, it was stipulated to by the parties that Paul Kulesa be added to the case caption as a named party, since the initial request for records was made by the union which he represents, and since he signed the complaint in this matter.

complainants] as soon as reasonably possible,” and would contact the complainants “as batches of documents or images can be made available for your review.”

4. It is found that the complainants did not provide the requested clarification to the respondents.

5. By letter dated June 26, 2014 and filed June 27, 2014, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the requested records for inspection.

6. 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, 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.

7. 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 . . .

8. It is found that, to the extent that the respondents maintain the records referenced in paragraph 2, above, such records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that, on July 16, 2014, the respondents sent another letter to the complainants that informed them that some of the requested records were available for their inspection. The respondents asked that the complainants contact them “so that we may arrange a mutually convenient time for you to review them.” It is further found that such letter was duly mailed to the only address provided by the complainants to the respondents, that of the union headquarters. At the hearing in this matter, the complainants testified that they did not receive such letter, and further testified that the union would not normally forward such a letter to them.

10. It is found that the respondents did not hear from the complainants for several months but nevertheless continued to compile the requested records for the complainants’ review. It is also found that, ultimately, the respondents compiled over four thousand

responsive records for the complainants' review, and organized them into over a dozen binders. At the hearing, the respondents did not claim that any responsive records are exempt from disclosure.

11. It is found that on February 19, 2015, seven months after the respondents duly notified the complainants that records were available for inspection, the complainants requested by email that they be permitted to come to the respondents' office and inspect the requested records on a designated date.

12. It is found that on February 26, 2015, during a two (2) hour period of time in a conference room at Middlesex Community College, all of the requested records, in binders, were available for the complainants' review. It is further found that, during such time, the complainants inspected approximately one hundred records compiled by the respondents and viewed a security video. However, the complainants contend that, due to the time constraints, a large number of records could not be inspected.

13. It is found that, at the conclusion of the February 26, 2015 inspection, the respondents informed the complainants that that they could return to inspect records at another time; however, the complainants did not contact the respondents to request another time in which to inspect the remaining records. At the hearing, the complainants contended that they were expecting the respondents to contact them to facilitate another time to inspect the remaining documents, however, the respondents did not do so.

14. At the hearing, the complainants contended that they could not be sure that all records were provided but also conceded that they did not review all the records. Additionally, the complainants contended that the respondents were not prompt and not responsive with respect to the request, specifically taking issue with the fact that they had not heard from the respondents after the May 26, 2014, acknowledgement letter described in paragraph 3, above, the fact that they were only allowed 2 hours to review records on February 26, 2015, and the fact that the respondents did not contact them to set up a follow-up appointment after February 26, 2015.

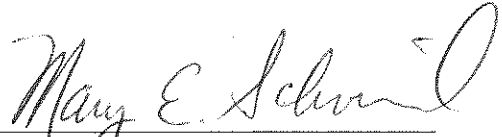
15. However, it is found that the respondents did contact the complainants after the acknowledgement letter, as described in paragraph 9, above, and that the respondents cannot be faulted for the apparent failure of the complainant union to forward mail to the individual complainants. It is also found that the respondents' actions with respect to the February 26, 2015 inspection were reasonable, and that they did suggest that the complainants schedule another time to review the remainder of the records.

16. Based on the facts and circumstances of this case, it is found that the respondents did not deny the complainants' request to review and inspect records, and that they offered all responsive records for the complainants' review and inspection in a prompt manner.

17. It is concluded that the respondents did not violate the FOI Act as alleged by the complainants.

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.



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Mary E. Schwind  
as Hearing Officer

FIC2014-409/HOR/MES/04292015