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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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David Osuch,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0552

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

April 13, 2017

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 10, 2017**. 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 April 28, 2017**. 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 April 28, 2017**. **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 April 28, 2017**, 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 Osuch
Assistant Attorney General Stephen R. Finucane
cc: Craig Washington

FIC# 2016-0552/Trans/wrbp/LFS/VDH/2017-04-13

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

David Osuch,

Complainant,

against

Docket # FIC 2016-0552

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

Respondents

April 7, 2016

The above-captioned matter was heard as a contested case on March 23, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts 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)(A), G.S.
2. It is found that on July 1, 2016, the complainant asked the respondents to “please provide all emails concerning David Osuch ... from March 21, 2016 to the present.”
3. It is found that on July 11, 2016, the respondents acknowledged the complainant’s request.
4. By letter filed August 2, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with the requested records.
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 (1) inspect such records promptly during regular office or business hours, ... or (3) receive a copy of such records in accordance with 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. It is found that the respondents gathered the requested records, a total of 99 pages. It is found that the respondents then checked the Department of Correction ("DOC")'s list of indigent inmates, and because the complainant was not on such list, informed him that they would send him the copies if he paid the statutory fee of 25 cents per page.

10. The complainant suggested at the hearing in this matter that he should be permitted to receive the copies on credit and an obligation to pay should be established on his inmate's trust account. The complainant testified that he based his suggestion on DOC's Administrative Directive 3.12.

11. The Commission takes administrative notice of DOC Administrative Directive 3.12, entitled "Fees for Programs and Services." <http://www.ct.gov/doc/LIB/doc/PDF/AD/ad0312.pdf>, accessed March 24, 2017.

12. It is found that the stated policy of the Directive 3.12 is to "hold sentenced inmates accountable for costs associated with their incarceration." It is found that the directive applies to fees for: halfway houses, medical care, elective education and vocational education programs, extended family visits, and laboratory testing fees where the result of any such test is positive.


13. It is found that a request for public records is not within the scope of Administrative Directive 3.12; therefore, the directive does not apply to the complainant's request to receive copies of the requested records.

14. At the hearing in this matter, the complainant also stated that he requests in the alternative to inspect the responsive records. It is found, however, that his request was reasonably construed by the respondents as a request to receive copies of records.

15. It is concluded that the respondents did not violate the FOI Act as alleged.

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