

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

David Cummings,

Complainant

Against

Docket # FIC 2018-0303

Elizabeth Graham, Executive Director, State
of Connecticut, Judicial Branch; and State of
Connecticut, Judicial Branch,

Respondents

April 24, 2019

The above-captioned matter was heard as a contested case on March 22, 2019, at which time the complainant and the respondents appeared, presented testimony, exhibits and argument on the complaint. For the purposes of hearing, this matter was consolidated with Docket # FIC 2018-0208; David Cummings v. Elizabeth Graham, Executive Director, Administrative Services, State of Connecticut, Judicial Branch; and State of Connecticut, Judicial Branch. It should be noted that this matter was originally scheduled to be heard on August 23, 2018, but was subsequently continued or postponed a total of five times.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies with respect to their administrative functions within the meaning of §1-200(1), G.S.
2. It is found that on May 10, 2018, the complainant sent by first class mail and email a letter requesting, “a date, time and place to inspect and copy” certain records. The complainant defined records, “to include memos, pictures, emails, notes, tape recordings, videos, photographs, computer stored data, records sent to and received from anyone and prepared or obtained from anyone regarding the subject items listed individually in the following paragraphs.”
3. The complainant’s letter then enumerated seven paragraphs describing the subject matter of the records he was seeking, including, among other records no longer at issue: “The Connecticut Superior Court records retention policies, which includes when there sexual harassment [sic] complaints filed against employees of the Judicial Branch.”
4. It is found that the respondents acknowledged the request and engaged in a series of email exchanges with the complainant in attempts to clarify the complainant’s original request.

5. On June 11, 2018, the complainant filed this complaint stating that he had not been given a date, time and place to inspect all of the requested records.

6. Section 1-200(5), G.S., provides that:

"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 that:

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.

8. Section 1-212(a), G.S., provides in relevant part that "[a]ny person applying in writing shall receive promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

9. It is found that, to the extent that the respondents maintain responsive records related to the administrative functions of the Judicial Branch, such records are public records, within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. It is found that on June 21, 2018, the respondents provided the complainant with records responsive to his request as specified in paragraph 3, above; it is further found that such records detailed only the retention policies related to sexual harassment complaints.

11. At the hearing in this matter, the complainant contended that only the records specified in paragraph 3, above, were still at issue, and that he was seeking the entire records retention policy, not just the policy as it relates to sexual harassment complaints.

12. At the hearing, the respondents readily stated that they would provide the complainant with a copy of the entire records retention policy.

13. Based on all of the foregoing, it is concluded that the respondents have complied with the complainant's request and therefore did not violate the disclosure provisions of §§1-210 and 1-212, G.S., in this matter.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 24, 2019.

Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

DAVID CUMMINGS, P.O. Box 84, Ellington, CT 06029

ELIZABETH GRAHAM, EXECUTIVE DIRECTOR, STATE OF CONNECTICUT, JUDICIAL BRANCH; AND STATE OF CONNECTICUT, JUDICIAL BRANCH, c/o Attorney Martin R. Libbin, Judicial Branch, Legal Services, 100 Washington Street, 3rd Floor, Hartford, CT 06106

Cynthia A. Cannata
Acting Clerk of the Commission