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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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Julie Sprengelmeyer and the  
Manchester Journal Inquirer,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2013-364

Office of the Governor, State of Connecticut,  
Respondent(s)

April 4, 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, April 23, 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 April 11, 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 April 11, 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 April 11, 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: Julie Sprengelmeyer  
Philip Miller, AAG

2014-04-04/FIC# 2013-364/Trans/wrbp/KKR/TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Julie Sprengelmeyer and the  
Manchester Journal Inquirer,

Complainants

against

Docket #FIC 2013-364

Office of the Governor,  
State of Connecticut,

Respondent

April 3, 2014

The above-captioned matter was heard as a contested case on January 2, 2014, at which time the complainants and the respondent appeared 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 respondent is a public agency, within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated May 16, 2013, the complainant requested to inspect “the names, disciplinary records, and any other documents concerning state of Connecticut employees who were disciplined and/or terminated between December 15, 2011 and today in connection with the Disaster Supplemental Nutrition Assistance Program [(DSNAP)]” including, but not limited to “internal investigations, disciplinary actions and recommendations, and any written narratives or reports.”
3. It is found that, by email dated May 20, 2013, counsel for the respondent denied the request, described in paragraph 2, above, on the ground that such records are exempt from disclosure pursuant to §17b-90(b), G.S.
4. By letter dated and filed June 14, 2013, the complainant appealed to this Commission, alleging that the respondent violated the Freedom of Information (FOI) Act by failing to comply with the request for records, described in paragraph 2, above.
5. Section 1-200(5), G.S., provides:

“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.

6. 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 . . . (3) receive a copy of such records in accordance with section 1-212. (Emphasis added).

7. 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.”

8. It is found that, upon receipt of the request, described in paragraph 2, above, counsel for the respondent conducted a search for records responsive to such request, by emailing staff members, informing them of the request, and asking them to search their files for responsive records.

9. It is found that the search, described in paragraph 8, above, revealed two documents deemed by counsel to be responsive to the request, described in paragraph 2, above, consisting of: (a) a letter from a legislator to the governor identifying by name, an individual state employee who had been disciplined, a description of the discipline, and a request that this individual be reinstated; and (b) an email from a commissioner to the governor identifying, by name, an individual state employee who had been disciplined and describing the nature of the discipline.

10. It is further found that such search did not turn up any list of names of individuals who had been disciplined or any disciplinary records of state employees in connection with DSNAP.

11. It is found that the letter and the email, described in paragraph 9, above, are public records, within the meaning of §§1-200(5) and 1-210(a), G.S.

12. Section 17b-90, G.S., provides, in relevant part:

(b) No person shall, except for purposes directly connected with the administration of programs of the Department of Social Services and in accordance with the regulations of

the commissioner, solicit, disclose, receive or make use of, or authorize, knowingly permit, participate in or acquiesce in the use of, any list of the names of, or any information concerning persons applying for or receiving assistance from the Department of Social Services or persons participating in a program administered by said department, directly or indirectly derived from the records, papers, files or communications of the state or its subdivisions or agencies, or acquired in the course of the performance of official duties. (Emphasis added).

21. The statute goes on to require disclosure by the Commissioner of Social Services (DSS) of certain information to certain state agency commissioners or their authorized representatives for certain purposes.<sup>1</sup> The statute also states that no representative who receives such information from the Commissioner may, in turn, disclose such information.

22. It is found that the information contained in the records at issue is “information concerning persons applying for...assistance from [DSS]” that was “acquired” by the respondent “in the course of the performance of official duties.” Whether the records in this case are exempt from disclosure then, depends upon whether the language “no person shall...disclose...” applies, literally, to all persons who acquire this information in the course of the performance of official duties, or whether that language applies only to persons employed by DSS who acquire this information in the course of official duties. The respondent argues that the statute should be interpreted literally, and that, under such interpretation, the prohibition on disclosure applies to all persons who acquire such information in the course of the performance of official duties.

23. According to our Supreme Court, under the “plain meaning rule,” (§1-2z, G.S.), the text of the statute itself and its relationship to other statutes must be examined first in determining the meaning of statutory language. If, after such examination, the meaning of the text is “plain and unambiguous, and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered.” Chairperson, Connecticut Medical Examining Board, et al., v. Freedom of Information Commission, 310 Conn. 276, 283 (2013), citing Commissioner of Public Safety v. Freedom of Information Commission, 301 Conn. 323, 338 (2011).

24. Upon application of the plain meaning rule to this case, it is concluded that the language “no person shall...disclose...” is plain and unambiguous and does not yield absurd or unworkable results. It is therefore concluded that this language must be interpreted literally, to include all persons, without limitation. This finding is supported by fact that the legislature, in disclosure portion of this same statute, described in paragraph 21, above, specifically identified the Commissioner of DSS and required the Commissioner to disclose certain information to

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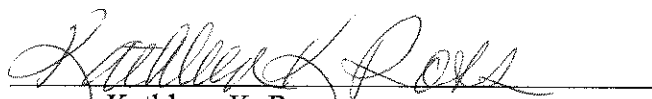
<sup>1</sup> For example, §17b-90(b) requires the Commission of DSS to disclose ...”(2) to any authorized representative of the Commissioner of Mental Health and Addiction Services any information necessary for the implementation and operation of the basic needs supplement program or the Medicaid program for low-income adults, established pursuant to section 17b-261n...”

certain individuals. It seems logical, then, that had the legislature intended the non-disclosure provision in §17b-90, G.S., to apply only to certain persons, it would have done so.

25. Based upon the foregoing, it is concluded that §17b-90, G.S., is a statute that otherwise provides that the records at issue herein are not subject to disclosure pursuant to §1-210(a), G.S. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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.



Kathleen K. Ross  
as Hearing Officer