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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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Troy Artis,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2012-287

Michael Bibens, Director of Nutrition and Food Services, State of Connecticut, York Correctional Institution, Department of Correction; and State of Connecticut, York Correctional Institution, Department of Correction,

Respondent(s)

March 25, 2013

### 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 24, 2013**. 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 12, 2013**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE April 12, 2013**. **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 12, 2013**, 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: Troy Artis  
James Neil, Esq.

2013-03-25/FIC# 2012-287/Trans/wrbp/VRP/VDH

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FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Troy Artis,

Complainant

against

Docket #FIC 2012-287

Michael Bibens, Director of Nutrition and Food Services, State of Connecticut, York Correctional Institution, Department of Correction; and State of Connecticut, York Correctional Institution, Department of Correction,

Respondents

March 25, 2013

The above-captioned matter was heard as a contested case on November 13, 2012, 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), G.S.
2. By letter of complaint filed May 30, 2012, the complainant appealed to the Commission, alleging that the respondents denied his May 6, 2012 request for certain public records relating to diet and nutrition, and requesting the imposition of a civil penalty against the respondent Director of Nutrition and Food Services.
3. It is found that the complainant by letter dated May 7, 2012 requested that the respondent Director of Nutritional Services provide him with the following:
  - a. The calories per day given to inmates housed in the Department of Correction ("DOC");

- b. Records detailing the recommended daily food allowance used by the DOC;
- c. The number of inmates housed in the DOC who are approved for "religious diet," as well as their religious affiliation.

4. It is found that the respondents acknowledged the complainant's request on May 18, 2012, and replied on May 22, 2012 by answering that the DOC master menu provides an average of 2700-2800 calories per day; that there are no records detailing the recommended daily food allowance used by the DOC; that there is no "religious diet," only a master menu, common fare, and medically-ordered therapeutic diets; and that inmate religious affiliation was considered confidential and was not available for public information.

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:

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.

7. Section 1-212(a)(1), 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 found that the requested records, to the extent they exist, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that the complainant requested a low salt diet for high blood pressure, and also requested a vegetarian diet based on his religious beliefs when he found the low-salt meal he was offered unacceptable. The complainant subsequently filed a grievance or grievances concerning the sufficiency of the meals he was given and the respondents' accommodation to his dietary needs.

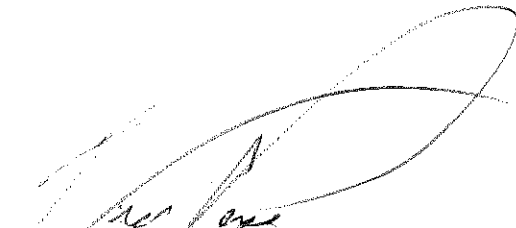
10. It is found that the respondents do not use the kinds of records requested by the complainant, that is, nutritional records "detailing the recommended daily food allowance" to construct menus. New menus are variations on old menus, which are updating by swapping, for example, a veal patty for chicken-fried steak, or by similar food substitutions. Menus are submitted to an outside dietician for approval, but are not reviewed by the respondents using nutritional records as a guideline.

11. It is found that the respondents provided all the records in their custody or control that were reasonably responsive to the complainant's request. While the complainant maintains that the result of the grievance process demonstrates that the respondents failed to accommodate his dietary needs, the evidence of that process does not indicate that the complainant was denied any existing records that he requested.

14. It is therefore 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.



Victor R. Perpetua  
as Hearing Officer