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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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Alireza Jamalipour,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-064

Commissioner, State of Connecticut,
Department of Transportation; and State of
Connecticut, Department of Transportation,
Respondent(s)

September 4, 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, September 25, 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 September 13, 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, an **original and fourteen (14) copies** must be filed **ON OR BEFORE September 13, 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 September 13, 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: Alireza Jamalipour
Alice M. Sexton, Esq.

9/4/13/FIC# 2013-064/Trans/wrbp/VRP//LFS

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by
Alireza Jamalipour,

Complainant

against

Commissioner, State of Connecticut,
Department of Transportation; and
State of Connecticut,
Department of Transportation,

Respondents

Report of Hearing Officer

Docket #FIC 2013-064

August 23, 2013

The above-captioned matter was heard as a contested case on August 13, 2013, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The respondents submitted unredacted copies of the records at issue for an in camera inspection.

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. It is found that the respondents posted a position for Transportation Supervising Engineer in the Bridge and Safety Evaluation Unit of the Connecticut Department of Transportation. It is found that the respondents received applications and conducted interviews for the position, including an interview of the complainant.
3. It is found that at the conclusion of the respondents' interview process for the position, an Interview Selection Report [the "ISR"] was prepared.
4. It is found that by email dated June 6, 2013, the complainant requested, with respect to the advertised position, the "interview panel recommendation/recommendations, candidate pool result" and the "participated personnel name list."
5. It is found that the ISR is the document that is responsive to the complainant's request.
6. It is found that the respondents on June 10, 2013 provided the complainant with a copy of the ISR showing the name, race and gender of each candidate, but not the

recommendations for selection, or the explanation for the selection or non-selection of the candidates, other than for the complainant himself.

7. 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.

8. 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.

9. 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.”

10. It is found that the ISR is a public record within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

11. The respondents maintain that the redacted portions of the requested ISR are exempt from disclosure pursuant to §1-210(b)(6), G.S., which provides that disclosure is not required of “test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examinations”

12. In Washington v. FOIC, 25 Conn. L. Rptr. 334 (1999), the Superior Court concluded that, “[b]ased on the testimony at the FOIC hearing,” oral board panelists’ scoring sheets were “the equivalent of a scoring key” which is specifically exempted from disclosure under §1-210(b) (6), G.S.

13. The Commission has interpreted Washington to mean that certain oral examination data are exempt from disclosure pursuant to §1-210(b) (6), G.S. See Docket

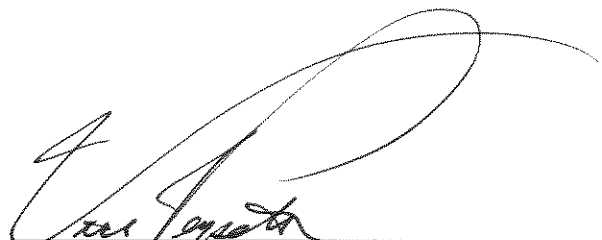
#FIC 2000-501, Randal Edgar et al. v. Waterbury Superintendent of Schools (scores assigned by interviewers to each candidate for the position of superintendent of schools constitute examination data used to administer an examination for employment within the meaning of §1-210(b)(6), G.S.); Docket #FIC 2003-377, Casey v. Department of Correction (forms containing questions asked by the interview panel, candidates' responses, ratings given by the interview panel members and any comments made by such members constituted test questions, scoring keys and other examination data used to administer an examination for employment within the meaning of §1-210(b)(6), G.S.); Docket #FIC 2001-006, Murray v. Hartford Personnel Director (scoring sheets of each of oral board panelist for each candidate constitute examination data within the meaning of §1-210(b)(6), G.S.); Docket #FIC 2000-649, Scharf v. Ridgefield Police Commission (the numerical score given to each candidate by each panelist for every question asked constitutes examination data used to administer an examination for employment within the meaning of §1-210(b)(6), G.S.); Docket #FIC 2009-123, Malley v. Department of Environmental Protection (DEP interviewer's report and recommendations for hiring or promotion constitutes examination data used to administer an examination for employment within the meaning of §1-210(b)(6), G.S.).

14. Based on a careful review of the in camera records, it is concluded that the redacted portions of the requested ISR are permissibly exempt from disclosure pursuant to §1-210(b)(6), G.S.

15. 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.



Attorney Victor R. Perpetua
as Hearing Officer