



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

November 6, 2003

Elena Ruth Sassower, Coordinator
Center for Judicial Accountability, Inc.
P.O. Box 69, Gedney Station
White Plains, NY 10605-0069

Dear Ms. Sassower:

This letter is in response to your letters of December 6, 2002, and January 9, 2003, renewing and supplementing FOIL requests from March 30, 1999, and March 30, 2001. These requests encompass a wide range of records, and have been at least partially answered in the past. I will attempt to address each in turn.

At the core of your March 30, 1999, and March 30, 2001, letters are requests for:

1. "Written reports" of the "Governor's judicial appointees to lower state courts": On May 17, 2002, you were granted access to seventy-six pages of records, including all the written reports in question for appointees through March 30, 2001. I have determined that this office possesses another forty-five (45) pages of reports issued through March 30, 2003.
2. The "Uniform Rules" for the Governor's judicial screening committee and the appendix thereto, "consisting of blank questionnaire forms which candidates are required to complete": On May 17, 2001, you were granted access to seventy-six pages of records, including the Uniform Rules in question. You have indicated that you are still seeking blank questionnaire forms. In response, I would point out that Executive Order No. 10 provides that "all communications to . . . the Judicial Screening Committee with respect to a candidate's qualifications shall be held in confidence and shall not be disclosed to anyone other than the Governor, Counsel to the governor or their designees." In any case, FOIL does not require the disclosure of those questionnaires insofar as the committee performs a purely advisory function. See Baumgarten v. Koch, 97 Misc.2d 449 (New York Co., 1978).
3. Records showing "the cost to the taxpayers of the Governor's judicial screening committees", including costs for "paid staff" and "reimbursement of any



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necessary expenses”: I have determined that this office possesses eight-hundred twenty (820) pages of reimbursement records for 2002 alone.

In addition, your March 30, 1999, letter includes requests for:

1. “[T]he ‘financial statement’ of now Court of Appeals Judge Albert Rosenblatt”. After a thorough review of our records, I have determined that this office does not possess any documents responsive to this request.
2. “[W]ritten rules and procedures, if any, of the temporary judiciary screening committee”: After a thorough review of our records, I have determined that this office does not possess any documents responsive to this request.
3. “[A] copy, in blank, of the questionnaire(s) that the temporary judicial screening committee required judicial candidates to complete, if any”: In response, I would point out that Executive Order No. 11 provides that “all communications to . . . the Temporary Judicial Screening Committee with respect to a candidate’s qualifications shall be held in confidence and shall not be disclosed to anyone other than the Governor, Counsel to the governor or their designees.” In any case, FOIL does not require the disclosure of the questionnaire insofar as the committee performs a purely advisory function. See Baumgarten v. Koch, 97 Misc.2d 449 (New York Co., 1978).
4. “[T]he ‘written notification’, pursuant to ¶4 of Executive Order #11, from the chairpersons of the permanent judicial screening committees to the chairman of the temporary judicial screening committee that the permanent committees were ‘fully operational’”: I have determined that this office possesses a one-page document that is responsive to your request.
5. “[R]ecords showing whether and when the county screening committees became ‘operational’, including the names of the persons designated to each of the 62 county judicial screening committees by the chief executive officer of each county, as specified by ¶5 of Executive Order #10”: After a thorough review of our records, I have determined that this office does not possess or maintain any documents responsive to this request.
6. “[A] copy of the Governor’s letter appointing Paul Schechtman to the Ethics Commission, in or about April 1997, and his letter appointing Mr. Schechtman as Chairman of his State Judicial Screening Committee, in or about December 1998”: I have determined that this office possesses a one-page document that is responsive to your request.

Your January 9, 2003 letter includes a request for “all notices during the Governor’s tenure . . . reflecting the . . . solicitation of candidates to fill judicial vacancies [as required by Section VII of the “Uniform Rules for Governor Pataki’s State Judicial Screening Committees”] - including advertisements”. After a thorough review of our records, I have determined that this office does not possess or maintain any documents responsive to this request.

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Under the Public Officers Law, you have the right to inspect and make photocopies of the documents to which access has been granted at a cost of twenty five cents (\$.25) per page. If you would prefer, this office can photocopy the documents and forward them to you, in which case, please indicate which, if any, records you wish copied, and forward a check for the appropriate amount. The cost for the documents other than reimbursement records is eleven dollars and seventy-five cents (\$11.75). The cost for the reimbursement records for 2002 is two hundred five dollars (\$205). If you wish for this office to photocopy any additional reimbursement records, please let me know, and I will be glad to calculate the cost. Any checks should be payable to the Executive Chamber, and forwarded to the address above. Once any checks are received, I will forward the applicable documents to you.

Pursuant to the provisions of Public Officers Law § 89(4), you have thirty (30) days to take a written appeal of this determination. The designated appeals officer is W. Brooks DeBow, Deputy Counsel to the Governor, at the above address.

Sincerely,



Mark R. Ustin
Assistant Counsel to the Governor
Records Access Officer