

**From:** NYS Executive Chamber Records Access Office <governorny@govqa.us>  
**Sent:** Tuesday, March 5, 2024 4:46 PM  
**To:** [elena@judgewatch.org](mailto:elena@judgewatch.org)  
**Subject:** [Records Center] FOIL Records Request :: R000985-020524

--- Please respond above this line ---



STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

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RE: FOIL Records Request of February 05, 2024, Reference # R000985-020524

Dear Elena Sassower,

This letter responds to your request dated February 05, 2024, which pursuant to FOIL, requested:

**Pursuant to FOIL,1 this is to request: (1) records reflecting how Governor Hochul’s five so-called “FY 2024 Article VII Bills”, requiring Senate and Assembly sponsors – and so-posted on her Division of the Budget webpage of “FY2025 Executive Budget Legislation” as proposed bills of the Legislative Bill Drafting Commission, accompanied by supporting memoranda and preceded by a “Summary”, to wit “Summary of Article VII Legislation Required For the Budget” Education, Labor and Family Assistance (ELFA) Bill & Memorandum in Support Health and Mental Hygiene (HMH) Bill & Memorandum in Support Public Protection and General Government (PPGG) Bill & Memorandum in Support Transportation, Economic Development and Environmental Conservation (TED) Bill & Memorandum in Support Revenue (REV) Bill & Memorandum in Support – became five actual bills without Senate and Assembly sponsors, bearing combined Senate-Assembly bill numbers S.8305/A.8805 to S.8309/A.8809, a January 17, 2024 date of introduction, and purporting to be “submitted by the Governor pursuant to article seven of the Constitution”; (2) records reflecting why Governor Hochul’s Division of the Budget website does NOT post these five actual bills, to wit: Public Protection & General Government Budget Bill #S.8305/A.8805 Education, Labor & Family Assistance Budget Bill #S.8306/A.8806 Health & Mental Hygiene Budget Bill #S.8307/A.8807 Transportation, Economic Development & Environmental Conservation Budget Bill #S.8308/A.8808 Revenue Budget Bill #S.8309/A.8809. (3) records reflecting findings of fact and conclusions of law made with respect to CJA’s March 18, 2020 letter to then Governor Cuomo,**

**entitled: “...GOOD NEWS DURING THIS CORONAVIRUS EMERGENCY – You Can Chuck Six of Your Seven ‘Article VII Bills’ Because They are Unconstitutional. Here’s why based on the Court of Appeals’ 2004 plurality, concurring, and dissenting opinions in Pataki v. Assembly/Silver v. Pataki, 4 N.Y.3d 75.” – a letter CJA simultaneously sent to Governor Cuomo’s budget director, the Legislative Bill Drafting Commission, and Senate and Assembly leadership – and to legislators repeatedly thereafter,<sup>2</sup> (2 On June 23, 2022 Governor Hochul, legislative leaders, and the Senate and Assembly were furnished with hard copies of the letter, annexed as Exhibit A-5 to the June 6, 2022 verified petition in the lawsuit CJA v. JCOPE, et. al., to which they are respondents.) most recently as part of CJA’s written testimony for the Legislature’s February 7, 2023 “public protection” budget hearing, linked-to by CJA’s written testimony for the Legislature’s January 25, 2024 “public protection” budget hearing, describing the situation (at p. 4) as “unchanged this year, as well”.**

Please be advised that it has long been established that FOIL does not require responses to specific questions, but instead governs release of government records. See Public Officers Law § 89(3)(a) (indicating that an agency is not required to create a record in response to a request). “There is nothing in the Freedom of Information Law or the Open Meetings Law that requires that government officers or employees respond to questions, supply information in response to questions or offer explanations for their governmental activities. New York State Committee On Open Government Advisory Opinion 16632a (June 18, 2007). Additionally, the New York State Executive Chamber cannot provide any legal advice or analysis to any legal questions presented in your request.

Please be further advised that the portion of your request seeking “all records” is denied pursuant to Public Officers Law § 89(3) which requires a request for records to be “reasonably described.” Whether a request is reasonably described may be dependent upon the nature of an agency’s filing or record keeping system and agency employees are not required to engage in herculean or unreasonable efforts to locate records (see *Konigsberg v. Coughlin*, 68 N.Y.2d 245 (N.Y. 1986) and the NYS Committee on Open Government’s FOIL Advisory Opinions 18949 and 18863).

Your request seeks “all” records without reference to specific individuals or external parties and lacks a specific subject matter or search terms; as such, it does not “reasonably describe” the records requested. See Public Officers Law § 89(3)(a). The Committee on Open Government has explained that “a request for ‘all’ records, without limitation, that include a certain name, for example, might not be found to reasonably describe the records.” (COOG AO-18949 (Aug. 20, 2012)). The Executive Chamber employs over 200 individuals and does not maintain “all records” in a manner that allows all records sent and received by all employees on a given day to be readily accessed, segregated, and reviewed. The broad scope of your request does not sufficiently identify the types of records sought to enable the Executive Chamber to facilitate a search and locate responsive records.

Pursuant to Public Officers Law § 89(4)(a), you have thirty (30) days to take a written appeal of this determination. You may appeal by writing: FOIL Appeals Officer, Executive Chamber, State Capitol, Albany, New York, 12224.

Sincerely,

New York State Executive Chamber Records Access Office

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To monitor the progress or update this request please log into the [Records Access Center](#)

