



David A. Paterson
Governor

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NEW YORK 12243-0001

David A. Hansell
Commissioner

April 10, 2009

Mr. Gene Doyle
P.O.O.R.
102-12 164th Avenue
Hamilton Beach, NY 11414-4010

RE: Appeal of FOIL Requests # 08-392, # 08-417,
08-441 and #09-16

Dear Mr. Doyle:

This letter is in response to your March 28, 2009 appeals under the Freedom of Information Law (Article 6 of the Public Officers Law), hereafter referred to as "FOIL." In each appeal, you allege that the Fair Hearing Decisions that our agency has provided in response to your FOIL requests are excessively redacted.

Your appeals are granted to the extent that:

Office of Administrative Hearings (OAH) Procedures Transmittal #09-06 is rescinded and replaced with the Revised Redaction Procedures, Procedures Transmittal #09-06 (amended), [enclosed]. When redacting third-party requests for decisions, the following items, and only these items, are to be fully redacted from the decision:

- Case number;
- Appellant's name;
- Other unique identifiers such as bank and insurance company names/ account numbers;

and any other information that could identify the appellant or other household member, for example, a name, address, date of birth, telephone number, or other financial account information, usually found in the Fact Findings and Discussion, and Decision and Order;

- Appellant's representative's name;
- Appellant's witness' name; and
- Hearing location.

When redacting third-party requests for decisions, the following items will not be redacted:

- Center number;
- Local social services district name;
- Hearing Officer's Name;
- Agency's representative's name;

"providing temporary assistance for permanent change"

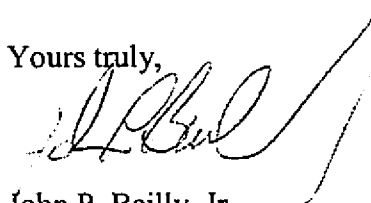
- Agency's witness' name;
- Request date;
- Fair hearing number;
- Hearing date; and
- Decision date.

The thirty-one fair Hearing decisions redacted in accordance with OAH Procedures Transmittal #09-06 and disclosed in response to the subject FOIL requests will be redacted pursuant to this revised redaction policy and disclosed to you electronically within twenty business days from the date of this letter.

As noted in your appeals, fair hearing decisions are subject to disclosure, provided that such documents have been redacted in accordance with applicable Federal and State statutes designed to preserve the confidentiality of public assistance records, including Social Services Law §136(2). It is necessary to redact in full the items listed above in the Revised Procedures Transmittal to preserve the confidentiality of public assistance records as well as the personal privacy of fair hearing appellants. I agree with your assertion that the Fair Hearing number should be left intact, since this is a unique, unduplicated index number for the OAH Information System (FHIS). As you appropriately note, the Fair Hearing number allows OAH to identify and, if necessary, retrieve the record of that Decision in order to review its relevance to the circumstances of the Fair Hearing at which it is offered into evidence. At the same time, since no one outside of OAH has access to FHIS, having the index number does not cause any risk of unauthorized disclosure of confidential information. Although appellant information, including names, will be redacted to preserve the confidentiality of public assistance records, given that the fair hearing number will not be redacted, courts will continue to be able to cite fair hearing decisions as precedent. In addition, fair hearing decisions will continue to be identifiable and usable by appellants, hearing officers and other interested third parties. Moreover, we are developing an Internet database of fair hearing decisions, with appropriate redactions, that will be available to the public. Lastly, as you are aware, this Office routinely discloses unredacted fair hearing decisions to attorney(s) representatives and to other client representatives, upon receipt of proper authorization from the client to release public assistance information to their representative.

This decision constitutes the final action by this Office pursuant to §89.4(b) of the Public Officers Law with regard to your request for information under the FOIL. If you are dissatisfied with my decision, you may bring a proceeding for court review of this denial pursuant to Article 78 of the Civil Practice Law and Rules (CPLR). Pursuant to §217 of the CPLR, an Article 78 proceeding must be commenced within four months of the date that you receive this letter.

Yours truly,



John P. Bailly, Jr.
General Counsel

Enclosures

cc: Robert Freeman,
Committee on Open Government

Office of Administrative Hearings (OAH) Procedures Transmittal		Transmittal Number: 09-06 (Amended)
		Date: April 10, 2009
		Page: 1 of 1
Distribution:		Subject:
ALB OAH Staff <input checked="" type="checkbox"/>	UPS ALJs <input checked="" type="checkbox"/>	Revised Redaction Procedures
	Upstate LDSS <input type="checkbox"/>	
	SUP ALJs <input checked="" type="checkbox"/>	
NYC OAH Staff <input checked="" type="checkbox"/>	NYC ALJs <input checked="" type="checkbox"/>	
	NYC Agencies <input type="checkbox"/>	
	SUP ALJs <input checked="" type="checkbox"/>	

This transmittal, OAH Transmittal 09-06, originally issued on March 13, 2009 has been amended to take into consideration the outcome of litigation which addressed the identification of the agency as set forth in Legal Aid Society of Northeastern New York v. NYS Department of Social Services, 195 AD2d 150, 605 N.Y.S.2d 785 (3d Dept. 1993).

This transmittal is intended to clarify and standardize the process for redacting fair hearing decisions distributed to persons other than appellants and/or their authorized representatives. Effective immediately, the following standards will be applied when redacting decisions in response to requests for decisions after hearing from third-party sources. Requests from the appellant, the appellant's representative, or the agency should continue to be provided without redaction.

When redacting third-party requests for decisions, the following items, and only these items, are to be fully redacted from the decision:

- Case number
- Appellant's name
- Hearing location
- Appellant's representative's name
- Appellant's witness' name
- Other unique identifiers such as bank and insurance company names/ account numbers; and any other information that could identify the appellant or other household member, for example, a name, address, date of birth, telephone number, or other financial account information, usually found in the Fact Findings and Discussion, and Decision and Order.

The request date, fair hearing number, hearing date, center number, local social services district's name, hearing officer's name, agency's representative's name, agency's witness' name, and decision date must not be redacted.

If there are any questions with respect to this transmittal, you may contact your supervisor or Susan Fiehl at (518) 473-4779 or via email susan.fiehl@otda.state.ny.us.



Mark Lacivita, Director of Administration
Office of Administrative Hearings