



March 13, 2026

Via Email:

Elena Sassower (elena@judgewatch.org)

RE: FOIL no. R001900-020526

Dear Elena Sassower:

This letter responds to the appeal you requested dated February 28, 2026, challenging the Executive Chamber's (the "Chamber") determination regarding FOIL request no. R001900-020526.

1. Background

On or about February 5, 2026, you submitted FOIL request no. R001900-020526 to the Chamber, which sought:

The November 14, 2024 Report of the Commission on Legislative, Judicial and Executive Compensation (at pp. 11-13) recommended, effective January 1, 2025, salary increases for "Executive Law §169 Commissioners", with a chart indicating the number as 52, which is plainly incorrect, as it does not include the numbers of members of commissions and boards within the ambit of Executive Law §169.

Calculating them, the number appears to be 85, assuming that the chart (at p. 13) "2024 Compensation Commission Proposal -- Executive Law §169 Positions" is not, by its use of the word "Positions" expanding the number to give subordinate personnel, such as deputy commissioners, the benefit of salary increases.

Pursuant to FOIL (Public Information Law Article VI), this is to request records as to: (1) the number of positions/persons covered by the chart – and receiving increases, effective January 1, 2025; (2) the cost of the salary increases for these positions/persons; (3) the cost of the concomitant salary-based "other compensation and non-salary benefits" for these positions/persons.

By correspondence dated February 9, 2026, the Records Access Officer of the Chamber ("RAO") notified you of its determination denying the request on the basis that it was not a request for records, which may be made pursuant to the Freedom of Information Law. Public Officer's Law ("POL") 89(3)(a).



By letter dated February 28, 2026, you submitted an appeal challenging the determination.¹

2. Determination

Based on my review, I agree with the RAO that your request falls outside of the scope of the Freedom of Information Law. FOIL permits members of the public to request records from agencies, subject to certain exemptions. POL 89(3) makes clear that agencies need not create new records or compile information from documents in their possession in response to a FOIL request. See *Empire Center for Public Policy v. New York City Office of Payroll Administration*, 187 A.D.3d 435 (1st Dept. 2020); New York State Committee On Open Government Advisory Opinion 16632a (June 18, 2007). Your request appears to seek a refutation of a position, analyses or answers to questions regarding a document prepared by another body. Although the request, as submitted, purports to be a request for records, it is more appropriately described as a request for analyses, opinions or answers to questions. The Chamber is not required to create new records or provide such analyses, opinions or answers in response to a FOIL request. POL 89(3)(a); *Empire Center for Public Policy*, 187 A.D. 3d; COOG Advisory Opinion 16632a. In the alternative and to the extent the request may be understood as a request for records, I find that the request is not reasonably described, as required by POL 89(3)(a). The request does not identify, with sufficient particularity, the records sought and would require for example, reference to and analysis of another document. Because the request, as drafted, would not enable the RAO to locate existing, responsive records, using reasonable records, I do not find that it is reasonably described. *Reclaim the Records v. New York State Department of Health*, 185 A.D.3d 1268 (3rd Dept. 2020).

The appeal dated February 28, 2026, is denied. This decision may be appealed in accordance with Article 78 of the Civil Practice Law and Rules.

Very truly yours,

Bella S. Satra
Senior Counsel to the Governor
FOIL Appeals Officer

cc:

NYS Committee on Open Government (coog@dos.ny.gov)
NYS Executive Chamber Records Access Office (records.access@exec.ny.gov)

¹ A copy of the appeal is enclosed for reference.