

Since 1975



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
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Guy R. Sullivan,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2012-380

Chairman, State of Connecticut, Council on  
Developmental Disabilities; and State of  
Connecticut, Council on Developmental  
Disabilities,

Respondent(s)

April 29, 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, May 22, 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 May 10, 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE May 10, 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 May 10, 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: Guy R. Sullivan  
Emily Melendez, Esq.

4/29/13/FIC# 2012-380/Trans/wrbp/LFS//CAL

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Guy R. Sullivan,

Complainant

against

Docket #FIC 2012-380

Chairman, State of Connecticut,  
Council on Developmental Disabilities,  
and State of Connecticut,  
Council on Developmental Disabilities,

Respondents

April 26, 2013

The above-captioned matter was heard as a contested case on April 11, 2013, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony and argument on the complaint. The case was consolidated for hearing with Docket #FIC2012-514; Guy R. Sullivan v. Anita Tremarche and Frank Reed, Transition Committee, State of Connecticut, Council of Developmental Disabilities, and Transition Committee, State of Connecticut, Council on Developmental Disabilities.

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)(A), G.S.
2. By letter filed July 16, 2012, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by meeting in executive session to discuss his performance without first providing him the opportunity to require such discussion be held at an open meeting.
3. Section 1-225(a), G.S., provides:

The meetings of all public agencies except executive sessions as defined in subdivision (6) of section 1-200 shall be open to the public.
4. Section 1-200(6), G.S., defines “executive session” to include:

...a meeting of a public agency at which the public is excluded for one or more of the following purposes: (A) Discussion

concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting.

5. The respondents concede that they did discuss the complainant's performance in executive session at their regular meeting of June 12, 2013. It is found that the complainant did not attend the meeting.

6. The respondents also concede that they failed to provide formal notice of such executive session to the complainant.

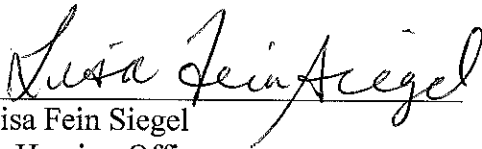
7. It is concluded that the respondents violated the FOI Act.

8. It is found that the purpose of the executive session was to discuss whether to apply to the complainant the Council's by-laws providing a member who has three unexcused absences is deemed to have resigned. It is found that the Council returned from executive session and voted to notify the complainant that pursuant to the Council by-laws, he was deemed to have resigned.

9. It is found that the complainant's term ended some time after the meeting of June 12, 2013, and he was not reappointed by the Governor.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Henceforth, the respondents shall comply with the notice requirements for holding an executive session pursuant to §§1-200(6)(A) and 1-225(a), G.S.

  
Lisa Fein Siegel  
as Hearing Officer