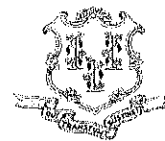




FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Guy Sullivan,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-514

Anita Tremarche and Frank Reed,
Transition Committee, State of Connecticut,
Council on Developmental Disabilities;
and Transition Committee, 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 Sullivan
Emily V. Melendez, Esq.

2013-04-29/FIC# 2012-514/Trans/wrbp/LFS//GFD

An Affirmative Action/Equal Opportunity Employer

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 2012-514

Anita Tremarche and Frank Reed,
Transition Committee, State of Connecticut,
Council on Developmental Disabilities,
and Transition Committee, 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, exhibits and argument on the complaint. The case was consolidated for hearing with Docket #FIC2012-380; Guy R. Sullivan v. Chairman, State of Connecticut, Council on Developmental Disabilities, and 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 September 20, 2012, the complainant appealed to this Commission, alleging that the respondent violated the Freedom of Information ("FOI") Act by failing to comply with the Commission's Order in Docket #FIC 2011-227; Guy R. Sullivan v. Anita Tremarche and Frank Reed, Transition Committee, State of Connecticut, Council on Developmental Disabilities, and Transition Committee, State of Connecticut, Council on Developmental Disabilities (March 14, 2012) (hereinafter "Docket #FIC2011-227").
3. The Commission takes administrative notice of the Record and Final Decision in Docket #FIC 2011-227.
4. In Docket #FIC2011-227, the Commission made the following order:

Forthwith, to the extent possible, the respondents shall create minutes for every meeting of the Transition Committee, except those for which minutes already exist. Such minutes shall contain,

at least, the names of all in attendance, items discussed, any motions, and a record of all votes. All minutes of the Transition Committee shall be available to the public as required by §1-225, G.S. (Emphasis added.)

5. It is found that the respondents diligently undertook an effort to recreate years of minutes for all the meetings for which they believed no minutes were created contemporaneously.

6. It is found that the respondents made such minutes available at its office and on its website on May 7, 2012.

7. It is found that through a separate request for records to another agency with representation on the respondent Council, the complainant in August 2012 received minutes contemporaneous with some of the respondents' meetings for which the respondents believed no minutes had been created.

8. It is found that there are discrepancies between the minutes that the respondents recreated in response to the Commission's order in Docket #FIC 2011-227 and those that were contemporaneously created.

9. The complainant contends that the respondents intentionally destroyed their copies of the pre-existing minutes in an effort to conceal what actually occurred at such meetings. The complainant alleges that the respondents violated §1-240, G.S., which provides in relevant part:

Any person who wilfully, knowingly and with intent to do so, destroys, mutilates or otherwise disposes of any public record without the approval required under section 1-18 or unless pursuant to chapter 47 or 87I, or who alters any public record, shall be guilty of a class A misdemeanor and each such occurrence shall constitute a separate offense.

10. The commission lacks jurisdiction to enforce the criminal sanctions set forth in §1-240, G.S.; jurisdiction over the destruction of public records rests with the State Public Records Administrator and criminal enforcement powers under §1-240, G.S., resides in the applicable State's Attorney. Andy Thibault v. Jerry R. Zinn, First Selectman, Town of Litchfield; Docket #FIC 2002-012 (September 25, 2002).

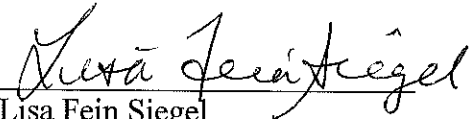
11. The complainant also contends that the respondents are in violation of the Commission's order because the respondents created minutes for every meeting, including those for which minutes already existed.

12. It is found, however, that the respondents complied with the order diligently and to the best of their ability.

13. The Commission urges the respondents to reconcile conflicting minutes of the same meeting, if they have not done so already.

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

1. The complaint is hereby dismissed.


Lisa Fein Siegel
as Hearing Officer