

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Larry Williams,

Complainant

Report of Hearing Officer

against

Dockets #FIC78-248
FIC78-254

Enfield Social Services, Inc.;
and Board of Directors of
Enfield Social Services, Inc.,
Respondents

March 28, 1979

The above captioned matters were heard as contested cases in conjunction with #FIC78-252 because of the similarity of the subject matters. The matters were heard on January 16 and 19, 1979 and on February 16, 1979 at which times the complainant and respondents appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. By letters filed with this Commission on December 13 and December 18, 1978 the complainant alleged that the respondents had violated the Freedom of Information Act by denying access to an employment contract and financial records and by holding an illegal meeting by telephone on or about November 24, 1978.
2. The respondents claimed that the Commission had no jurisdiction over the aforesaid complaints because it is a private entity, not a public agency within the meaning of §1-18a(a), G.S.
3. The respondent organization is a non-profit corporation which receives and administers funds on behalf of the Greater Enfield Mental Health Center, hereinafter referred to as GEMHC.
4. The State of Connecticut Department of Mental Health (hereinafter referred to as DMH) and Department of Children and Youth Services (hereinafter referred to as DCYS) coordinate, plan and regulate a statewide system of mental health services in accordance with statutory mandates set forth at §17-207, et seq. and §17-410, et seq., G.S.
5. Among other functions DMH, through its commissioner, designates mental health service regions which have as their purpose the establishment of a system of regionalized mental health services in part through contracts to be made by the commissioner of mental health for services from providers of mental health services, including private agencies and other state or municipal agencies.

6. The GEMHC has provided some of the services for mental health needs identified in Region 4 Catchment Area 17.

7. The GEMHC has been able to provide mental health services in accordance with the plans and objectives of DMH and DCYS by virtue of grants from the aforesaid departments.

8. In order to receive grants from DMH and DCYS the GEMHC has had to comply with the statutory requirements set forth at §17-226(b), G.S. and §17-424, G.S.

9. If GEMHC does not provide mental health services to meet the needs identified in its region, the state DMH and DCYS will have to find another entity to provide such services because the need to so provide has been identified.

10. Until recently, up to 85% of the funding for GEMHC has come from DMH and DCYS.

11. In the last few months, public attention has focused on certain problems which have affected the ability of GEMHC to serve its clients.

12. Quaterly reports which are a precondition for state funding have not been filed.

13. State funding to GEMHC has been suspended.

14. Officials of DMH and DCYS have requested a program audit and a fiscal audit of the respondents.

15. The program auditors, who are appointed by the citizen advisory boards to DMH and DCYS, developed certain recommendations concerning GEMHC, including recommendations for certain changes in the composition of the board of directors.

16. The DMH and the DCYS have advised the respondents to comply with the recommendations of the program auditors.

17. If none of the aforesaid recommendations are complied with the funding of the GEMHC will be cut off.

18. Certain state agencies are monitoring the respondents to determine whether the funding for GEMHC can be resumed.

19. It is found that under the facts herein that because the respondent entity is so closely regulated by and dependent for funding upon the state system which is mandated to provide mental health services to Connecticut residents, the respondent is a public agency within the meaning of §1-18a(a), G.S.

20. At hearing the respondents furnished this Commission with copies of records which constitute the employment contract requested by the complainant in the letter which is the subject matter of Docket #FIC78-254.

21. §1-19(a), G.S. provides in relevant part that all records maintained or kept on file by a public agency shall be public records except as otherwise provided by state statute.

22. Some of the financial records which are sought by the complainant contain the names of clients and/or patients who have received services from GEMHC.

23. The disclosure of the names of patients who receive treatment at mental health facilities is prohibited by §52-146d and §52-146e, G.S.

24. It is found that GEMHC is a mental health facility and therefore that the names of patients which are contained in the financial records of the respondent Enfield Social Services, Inc. are exempted from disclosure by §52-146d and §52-146e, G.S. read in conjunction with §1-19(a), G.S.

25. The complainant had alleged in the complaint which was the subject of Docket #FIC78-248 that the respondents had held an illegal telephone poll on or before November 24, 1978 in which it was decided to terminate one of its employees.

26. Prior to November 22, 1978 the president of the respondent board of directors polled some of the directors by telephone and obtained their authorization to take whatever action was necessary with respect to the aforesaid employee.


27. It is found that the complainant failed to prove that a quorum of the respondent board of directors was contacted by the president by telephone regarding the action it would take with respect to the aforesaid employee.

28. It is concluded, therefore, that the complainant failed to prove that the respondents violated the meeting requirements of §1-21, G.S.

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

1. The respondents shall forthwith provide the complainant with access to the financial records requested in the letter of complaint which is the subject matter of Docket #FIC78-254. The respondents, however, shall mask or otherwise conceal from the complainant's view the names of patients or other information which is exempted from disclosure by §52-146d and §52-146e, G.S.

2. The complaint which is the subject matter of Docket #FIC 78-248 and which alleged a violation of the Freedom of Information Act with respect to the telephone poll of the respondent board by its president is hereby dismissed.



Commissioner William Clew
as Hearing Officer