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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

Daniel Lynch,
Complainant(s)

against

Chief Court Administrator, State of Connecticut, Judicial Branch; and State of Connecticut, Judicial Branch,
Respondent(s)

Notice of Rescheduled Commission Meeting

Docket #FIC 2016-0029

September 1, 2016

This will notify you that the Freedom of Information Commission has rescheduled the above-captioned matter, which had been noticed to be heard on Wednesday, September 14, 2016 at 2:00 p.m.

The Commission will consider the case at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, Ist floor, Hartford, Connecticut, at **2:00 p.m.** on **Wednesday, September 28, 2016.**

Any brief, memorandum of law or request for additional time, as referenced in the August 1, 2016 Transmittal of Proposed Final Decision, must be received by the Commission on or before September 20, 2016.

By Order of the Freedom of Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Daniel Lynch
Attorney Martin Libbin

2016-09-01/FIC# 2016-0029/ReschedTrans/wrbp/VDH//CAL

FREEDOM OF INFORMATION COMMISSION
STATE OF CONNECTICUT

18-20 Trinity Street, Suite 100
Hartford, Connecticut 06106

Daniel Lynch
Complainant(s)

against

Chief Court Administrator, State of Connecticut, Judicial Branch; and State of Connecticut, Judicial Branch
Respondent(s)

Notice of Rescheduled Commission Meeting

Docket #FIC 2016-0029

August 9, 2016

This will notify you that the Freedom of Information Commission has rescheduled the above-captioned matter, which had been noticed to be heard on Wednesday, August 24, 2016 at 2 p.m.

The Commission will consider the case at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, lst floor, Hartford, Connecticut, at **2:00 p.m.** on **Wednesday, September 14, 2016.**

Any brief, memorandum of law or request for additional time, as referenced in the August 1, 2016 Transmittal of Proposed Final Decision, should be received by the Commission on or before September 2, 2016.

By Order of the Freedom of Information Commission

W. Paradis,
Acting Clerk of the Commission

Notice to:
Daniel Lynch
Attorney Martin Libbin

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Daniel Lynch,
Complainant(s)
against

Chief Court Administrator, State of Connecticut, Judicial Branch; and State of Connecticut, Judicial Branch,
Respondent(s)

Notice of Meeting

Docket #FIC 2016-0029

August 1, 2016

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, lst floor, Hartford, Connecticut, at **2 p.m. on Wednesday, August 24, 2016.** 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 August 12, 2016***. 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, an **original and fourteen (14) copies** must be filed ***ON OR BEFORE August 12, 2016***. **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 **fifteen (15) copies** be filed ***ON OR BEFORE August 12, 2016***, 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: Daniel Lynch
Attorney Martin Libbin

FIC# 2016-0029/Trans/wrbp/VDH//CAL/2016-08-01

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Daniel Lynch,

Complainant

against

Docket #FIC 2016-0029

Chief Court Administrator,
State of Connecticut,
Judicial Branch; and
State of Connecticut,
Judicial Branch,

Respondents

July 25, 2016

The above-captioned matter was heard as a contested case on May 19, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies only with respect to their administrative functions, within the meaning of §1-200(1), G.S.

2. By letter dated and filed January 13, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") when their Guardian Ad Litem ("GAL") Subcommittee held meetings that were not open to the public.

3. The respondents contend that the allegations made by the complainant do not relate to their administrative functions, and that the Commission therefore lacks subject matter jurisdiction.

4. In Rules Committee of the Superior Court v. FOIC, 192 Conn. 234, 243 (1984), the Supreme Court construed the term "administrative functions" in §1-200(1), G.S., to exclude matters involved in the adjudication of cases, and to refer only to "matters relating to the internal management of the internal institutional machinery of the court system."

5. In Clerk of the Superior Court v. FOIC, 278 Conn. 28, 53 (2006), our Supreme Court more broadly concluded that, for purposes of the FOI Act, "the judicial branch's administrative functions consist of activities relating to its budget, personnel, facilities and physical operations and that records unrelated to those activities are exempt."

6. Finally, in Michael Nowacki v. State of Connecticut, Judicial Branch, Family Commission, Docket #FIC 2010-699 (Aug. 24, 2011), the complainant therein alleged that the Judicial Branch's Family Commission violated the FOI Act when it convened a meeting and considered, inter alia, the following topic: "[the] GAL protocol to bring matters to the court's attention and the duration of the GAL's appointment," and when it failed to disclose related records. The Commission held, as follows: "It is concluded that neither the respondent's October 6, 2010 meeting, nor the records sought by the complainant, pertain to an administrative function, and that the respondent was therefore not a public agency in its conduct of such a meeting or its decision whether to disclose such records."

7. In this case, it is found that GAL subcommittee is a subcommittee of the Judicial Branch's Family Re-engineering Committee. It is found that the Chief Justice of the Connecticut Supreme Court established the GAL Subcommittee "to study and recommend the minimum qualifications necessary to be eligible for appointment as a guardian ad litem and attorney for minor child in family matters, as well as a process by which guardians ad litem and attorneys for the minor child may be removed from the list of those deemed eligible for appointment in family matters."

8. It is found that the GAL Subcommittee met four times in total—three times to develop a Draft Report of the Guardian Ad Litem Subcommittee, which report was posted online and solicited public comment, and a fourth time to review the public comments and determine which comments should be acted upon in turning the draft report into a final report. It is found that the final Report of the Guardian Ad Litem Subcommittee issued on or about January 22, 2016.

9. It is found that, in carrying out its mission, the GAL Subcommittee studied and considered the current practice book rules concerning GALs, and ultimately recommended that certain rules be amended and that a new rule be adopted. It is found that the GAL Subcommittee's recommendations with regard to the practice book rules were presented to the Judicial Branch's Rules Committee.

10. Finally, it is found that the Final Report of the GAL Subcommittee made multiple other substantive recommendations concerning the appointment of, requirements for, review of, and removal of GALs.

11. It is concluded that the four meetings referred to in paragraph 8, above, did not pertain to an administrative function of the judicial branch and that therefore the respondents were not acting as public agencies when they convened those meetings, within the meaning of §1-200(1), G.S. Accordingly, it is further concluded that the Commission lacks jurisdiction to address the allegations in the complaint.

12. The Commission notes that the respondents provided the complainant with many records pertaining to or created by the GAL Subcommittee, including the agenda and the minutes of the Judicial Branch's Rules Committee meeting from February 22, 2016, at which time a public hearing was convened to consider the GAL Subcommittee's final recommendations with regard to creating and amending the practice book rules concerning GALs.

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

1. The complaint is dismissed.

Valicia Dee Harmon

Valicia Dee Harmon
as Hearing Officer