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# FREEDOM OF INFORMATION

Connecticut Freedom of Information Commission • 165 Capitol Avenue, Suite 1100 • Hartford, CT 06106  
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Josiah Schlee

Complainant(s)

against

Kathleen Holt, Healthcare Advocate, State of Connecticut,  
Office of the Healthcare Advocate; and State of  
Connecticut, Office of the Healthcare Advocate

Respondent(s)

Notice of Meeting

Docket #FIC 2025-0991

October 1, 2026

## 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 person** at the Freedom of Information Commission's Hearing Room, Conference Room H, located on the ground floor at 165 Capitol Avenue, Hartford, Connecticut, at **2:00 p.m. on Wednesday, October 14, 2026.**

At that time and place, you will be allowed to offer oral argument concerning this proposed finding and order in person. 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 October 9, 2026.** 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 October 9, 2026.** 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 October 9, 2026** 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



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Molly Steffes  
Acting Clerk of the Commission

Notice to: Josiah Schlee  
Assistant Attorney General John Langmaid  
Assistant Attorney General Joshua Britt

FIC# 2025-0991/IIRA/CZH/RB/MES/2026-10-1

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Josiah Schlee,

Complainant

against

Docket #FIC 2025-0991

Healthcare Advocate, State of Connecticut,  
Office of the Healthcare Advocate; and  
State of Connecticut, Office of the  
Healthcare Advocate,

Respondents

October 1, 2026

The above-captioned matter was heard as a contested case on July 1, 2026 and August 19, 2026, at which times 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 within the meaning of §1-200(1), G.S.
2. It is found that, by email dated August 26, 2025, the complainant requested electronic copies of certain emails between January 1, 2024 through the date of the request (August 26, 2025). Specifically, the complainant requested the following records:

“[a]ll incoming and outgoing email communications sent to or from the official state email account of the Connecticut Cannabis Ombudsman, Erin Gorman (formerly Erin Kirk), including all attachments.”
3. It is found that, by email dated August 26, 2025, the respondents acknowledged the complainant’s records request.
4. It is found that, by email dated September 2, 2025, the complainant requested a status update on his records request.
5. It is found that, by email dated September 3, 2025, the respondents informed the complainant that he had requested a “substantial volume of records”, that it would take time to gather and disclose all such records, and invited the complainant to narrow his records request.

6. It is found that, by email dated September 16, 2025, the complainant declined to narrow his records request and suggested that the respondents provide records on a rolling basis.

7. It is found that, by separate email also dated October 16, 2025, the complainant demanded an update on the status of such request.<sup>1</sup>

8. It is found that, by email dated October 16, 2025, the respondents informed the complainant that they had located approximately 14,859 responsive emails and that they would be charging the complainant a fee for reviewing and redacting the responsive electronic records, which they argued constitutes “programming or formatting” within the meaning of §1-212(b), G.S. It is also found that the respondents informed the complainant that they estimated the fee would, ultimately, be greater than ten dollars, and therefore, were requiring the complainant to submit prepayment in accordance with §1-212(c), G.S. It is further found that the respondents informed the complainant that he could apply for a fee waiver, pursuant to §1-212(d), G.S., and asked the complainant how he would like to proceed.

9. By complaint, dated and filed October 22, 2025, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records described in paragraph 2, above.<sup>2</sup>

10. Section 1-200(5), G.S., provides:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

11. Section 1-210(a), G.S., provides, in relevant part:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to ... (3) receive a copy of such records in accordance with section 1-212.

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<sup>1</sup> The Commission notes that the complainant sent four separate emails to the respondents on October 16, 2025.

<sup>2</sup> By email dated February 4, 2025, the complainant also requested the imposition of a civil penalty against the respondents. It is found, however, that by email dated August 17, 2026, the complainant withdrew his request for a civil penalty against the respondents, and therefore, such request will not be further addressed herein.

12. Section 1-212(a), G.S., provides, in relevant part: “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

13. It is concluded that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

14. It is found that, by email dated October 30, 2025, the respondents informed the complainant that they had reviewed 2,886 responsive emails, made certain redactions to copies of such emails, and that they would provide the redacted emails to the complainant upon payment of \$947.47. It is also found that the respondents attached an invoice to such October 30<sup>th</sup> email, which stated that the requisite payment was calculated by applying the hourly rate of the respondents’ General Counsel, Attorney Sean King (“Attorney King”), at a rate of \$65.98 per hour, for 14.36 hours spent “Formatting ... 29 Batches of Records (Approximately 2800 E-mails) to remove exempt data.”

15. With regard to the fee described in paragraph 14, above, the respondents claim that they properly charged such fee to the complainant pursuant to §1-212(b)(1), G.S.

16. Section 1-211(a), G.S, provides as follows:

[a]ny public agency which maintains public records in a computer storage system shall provide, to any person making a request pursuant to the Freedom of Information Act, a copy of any nonexempt data contained in such records, properly identified, on paper, disk, tape, or any other electronic storage device or medium requested by the person, including an electronic copy sent to the electronic mail address of the person making such request, if the agency can reasonably make any such copy or have any such copy made. Except as otherwise provided by state statute, the cost for providing a copy of such data shall be in accordance with the provisions of section 1-212.

17. Section 1-212, G.S., provides in relevant part, as follows:

(b) The fee for any copy provided in accordance with subsection (a) of section 1-211 shall not exceed the cost thereof to the public agency. In determining such costs for a copy, other than for a printout which exists at the time the agency responds to the request for such copy, an agency may include only:

(1) An amount equal to the hourly salary attributed to all agency employees engaged in providing the requested computer-stored public record, including their time performing the formatting or programming function necessary to provide the copy as requested, but not including search or retrieval costs except as provided in subdivision (4) of this subsection;

- (2) An amount equal to the cost to the agency of engaging an outside professional electronic copying service to provide such copying services, if such service is necessary to provide the copying as requested;
- (3) The actual cost of the storage device or media provided to the person making the request in complying with such request; and
- (4) The computer time charges incurred by the agency in providing the requested computer-stored public record where another agency or contractor provides the agency with computer storage and retrieval services. . . .

18. As noted by counsel for the respondents in his post-hearing brief, the Commission has expressly rejected the respondents' argument that reviewing and redacting electronic records constitutes "formatting" within the meaning of §1-212(b)(1), G.S. Nathaniel Clark v. William Tong, Attorney General, State of Connecticut, Office of the Attorney General et al., Docket #FIC 2025-0042 (January 14, 2026); Adam Osmond v. Attorney General, State of Connecticut, Office of the Attorney General et al., Docket #FIC 2024-0756 (November 20, 2025); and Adam Osmond v. Daniel O'Keefe, Commissioner, State of Connecticut, Department of Economic Community Development et al., Docket #FIC 2024-0517 (August 13, 2025).<sup>3</sup>

19. The Commission's interpretation and analysis of §1-212(b)(1), G.S., as set forth in each of the aforementioned matters, remains unchanged. It is therefore concluded that the respondents violated the provisions of §1-212, G.S.<sup>4</sup>

20. It is also found that, because the complainant did not pay the fee described in paragraph 14, above, the respondents did not provide the complainant with any records responsive to his request. At the hearings, the respondents refused to provide testimony or other evidence to establish that any of the redactions made to the 2,886 responsive emails, described in paragraph 14, above, were proper under the FOI Act.<sup>5</sup> Upon questioning by the hearing officer, Attorney King was not able to testify as to the exemptions being claimed by the respondents nor their applicability to the records withheld; Attorney King testified, only, that "to the best of [his] recollection", §1-210(b)(2), G.S., was one of the exemptions that he applied to such responsive emails.

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<sup>3</sup> The Commission notes that the final decisions in the three matters referenced in paragraph 18, above, have been appealed. At the time of the Commission's consideration of the instant matter, those appeals are still pending.

<sup>4</sup> The Commission notes that because the respondents' request for payment in this matter violated the fee provisions of §1-212, G.S., the Commission need not address their arguments with respect to the complainant's alleged failure to apply for a "fee waiver" under §1-212(d)(3), G.S., herein.

<sup>5</sup> The Commission notes that the respondents' counsel declined to call Attorney King to testify as a witness, instead relying on his affidavit, which was admitted into evidence over the objection of the complainant. Attorney King only attended the August 19<sup>th</sup> contested case hearing at the order of the hearing officer, to allow for cross-examination by the complainant.

21. Accordingly, it is found that the respondents failed to prove that the redacted portions of the records described in paragraph 14, above, were properly withheld from disclosure pursuant to the FOI Act.

22. Based upon all of the foregoing, it is concluded that the respondents also violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S.

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

1. Within forty-five (45) days of the Notice of Final Decision in this matter, the respondents shall provide the complainant with copies of the responsive records described in paragraph 14 of the findings, above, free of charge.

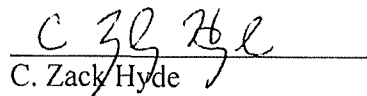
2. Within thirty (30) days from the date of the production of records described in paragraph 1 of the order, above, and every thirty (30) days thereafter, the respondents shall provide the complainant with copies of the 2,800 additional responsive emails, free of charge, until the respondents have provided all records responsive to the complainant's request, described in paragraph 2 of the findings, above.

3. In complying with paragraphs 1 and 2 of the order, above, the respondents may withhold or redact such records, or portions thereof, to the extent such records are the subject of a mandatory exemption, including the attorney-client privilege, set forth in §52-146r, G.S., as incorporated in §1-210(b)(10), G.S.

4. If any records, or portions thereof, are withheld pursuant to paragraph 3 of the order, above, the respondents shall submit an affidavit sworn or attested to by a person with the requisite knowledge to identify and briefly describe the withheld record, or portion thereof, and the statutory basis for withholding such information. Such affidavit shall be submitted together with the production of records to which it refers, as described in paragraphs 1 and 2 of the order, above.

5. If the respondents fail to comply with any order set forth in paragraphs 1 through 4, above, the complainant may file an appeal with the Commission, and such appeal may be afforded expedited treatment. The respondents are cautioned that if, after a hearing, the Commission concludes that they have violated any order herein, the Commission may consider the imposition of a civil penalty for such violation(s).

6. Henceforth, the respondents shall strictly comply with the disclosure provisions of §§1-210(a) and 1-212(a), G.S., and the fee provisions of §1-212(a), G.S.

  
C. Zack Hyde  
as Hearing Officer