FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Georgette Ravenberg,

Complainant

against Docket #FIC 2024-0219

Adjutant General, State of Connecticut, Military Department; and State of Connecticut, Military Department,

Respondents April 9, 2025

The above-captioned matter was heard as a contested case on November 6, 2024, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The Commission takes administrative notice of the facts, evidence and testimony in Docket #FIC 2024-0220, Dana Ravenberg v. Adjutant General, State of Connecticut, Military Department; and State of Connecticut, Military Department (decision pending).

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. By letter dated and filed April 18, 2024, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by:

(a) conducting a public meeting that was closed to the public; and

(b) denying the complainant's right to inspect or receive copies of public records.[1]

3. Section 1-225(a), G.S., provides, in relevant part that "[t]he 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(2), G.S., provides, in relevant part:

[1] At the contested case hearing on this matter, the complainant acknowledged that she had not made a public records request prior to filing her complaint and withdrew her complaint described in paragraph 2(b), above. Consequently, such allegation will not be further addressed herein.

> '[m]eeting' means any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power. 'Meeting' does not include: ... an administrative or staff meeting of a single-member public agency .... (Emphasis added.)

5. It is found that certain allegations were made against the complainant while she served as Quartermaster of the First Company Governor's Horse Guard.

6. It is found that, by letter dated July 5, 2022, the respondent Adjutant General informed the complainant that he was referring the complainant's case to an "efficiency board" for a hearing ("efficiency board proceedings"), pursuant to §27-52, G.S., regarding the allegations made against the complainant. It is also found that, by the same letter, the respondent Adjutant General informed the complainant that the efficiency board is "an administrative board appointed by the Adjutant General to consider relevant and material evidence about cases involving officers of the organized militia who are subject to an involuntary administrative separation" from the armed services of the state, and that the efficiency board proceedings would be closed to the public.

7. It is found that, by letter dated February 9, 2024, the respondent Adjutant General appointed Lieutenant ("LTC") Eric Roy, LTC Elizabeth Turner and Major ("MAJ") James Marrinan to the efficiency board, in accordance with §27-52, G.S., to preside over the efficiency board proceedings. It is also found that MAJ James Marrinan was subsequently removed from the efficiency board and replaced by Colonel Richard Leydon.

8. It is found that on March 23, 2024, the efficiency board convened, pursuant to §27-52, G.S., for the purpose of reviewing and investigating the allegations made against the complainant and determining whether to recommend to the Adjutant General that the complainant be discharged from the armed forces of the state.

9. It is found that, by letter dated April 1, 2024, the efficiency board recommended to the Adjutant General that the complainant be discharged with an "other than honorable" characterization of service. It is also found that on April 15, 2024, the Adjutant General then approved the efficiency board's findings and recommendations and sent such findings and recommendations to the Governor for his approval. It is further found that the Governor approved the efficiency board's findings and recommendations on May 1, 2024, and, by letter signed by the Adjutant General on May 1, 2024, the complainant was informed that she had been discharged from the armed forces of the State of Connecticut.

10. At the hearing on this matter, and in her post-hearing brief, the complainant argued that the efficiency board proceedings, described in paragraphs 2(a), 6 and 8, above, were a public meeting that should have been open to the public. The complainant also argued that because of

this alleged violation of the FOI Act, the Commission should declare "null and void" the findings and recommendations that resulted from the efficiency board proceedings, pursuant to §1-206(b)(2), G.S.

11. The respondents argued, inter alia, that the efficiency board proceedings, conducted pursuant to §27-52, G.S., were not a public meeting within the meaning of §1-200(2), G.S., because it was an administrative or staff meeting of a single-member public agency.[2]

12. Section 27-52, G.S., provides that:

> [a]t any time the moral character, or capacity or general fitness for service, of any officer of the armed forces of the state may be determined by an efficiency board, consisting of three commissioned officers, senior in rank to the officer whose fitness for service is under investigation, and, if the findings of such board are unfavorable to such officer and are approved by the Governor, he shall be discharged. Commissions of officers may be vacated upon resignation, upon absence without leave for three months, upon the recommendation of an efficiency board or pursuant to sentence of a court-martial or, for officers of the National Guard and naval militia, for any other reason specified by laws or regulations of the United States pertaining thereto.

13. The respondents' witness, Major Erich Heinonen, testified that §27-52, G.S., is an archaic statute that, to his knowledge, had only been used once in the past 15-20 years.[3] Major Heinonen also testified that although §27-52, G.S., refers to the efficiency board as a "board", it has no power to make binding decisions on the respondent Military Department and is but one step in a multi-step administrative personnel process.

14. The respondents testified, and it is found, that the respondent Military Department is not run by a commission, board or committee. It is also found that the respondent Adjutant General is an official of the State of Connecticut and is the sole military head of the respondent Military Department. It is therefore found that the respondent Adjutant General, as the head of the respondent Military Department, is a single-member public agency within the meaning of §1-200(2), G.S.

15. It is found that the respondent Adjutant General appointed the members of the efficiency board for the sole purpose of investigating allegations made against the complainant, making findings related to those allegations, and recommending to the Adjutant General and the Governor whether the complainant should be discharged from the armed forces of the state. It is also found that at the conclusion of such duties and responsibilities, the efficiency board ceased

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[2] Due to the conclusions in paragraphs 19 and 20, below, the respondents' additional arguments need not be further addressed herein.

[3] The Commission notes that, according to the Connecticut General Assembly's website, the most recent revision made to §27-52, G.S., was in 1957. See https://cga.ct.gov/current/pub/chap_504.htm#sec_27-52.

to exist. It is further found that the efficiency board did not have the power or authority to discharge the complainant from the armed forces but could merely make findings and non-binding recommendations to the Adjutant General.

16. In Dortenzio v. FOI, 48 Conn. App. 424 (1998), the Appellate Court reversed a Final Decision of the Commission and concluded that a predisciplinary conference, under similar circumstances, was not a hearing or other proceeding within the meaning §1-200(2), G.S. There, the court stated that "[i]t does not necessarily follow ... that the predisciplinary conference ... was also required to be open to the public under the [FOI Act]." Id. at 433. The court went on to note that:

> [t]he formalities typically associated with a hearing or proceeding were notably absent from the predisciplinary conference. No witnesses testified at the conference, and neither [the complainant] nor [his representatives] chose to comment on the investigation and charges, although they had the opportunity to do so. ... The predisciplinary conference at issue here lacked the characteristic elements of a hearing for purposes of qualifying for the open meeting requirements of the [FOI Act]. Id. at 434-35.

17. It is found that here, like in Dortenzio, the complainant did not have witnesses testify on her behalf.[4] It is also found that neither the complainant nor her attorney commented on the investigation and charges, although they had the opportunity to do so. Rather, the complainant made an opening statement, in which she declined to address the substance or the merits of the allegations against her. It is further found that §27-52, G.S., does not provide any right to a hearing, open or closed, and at no time prior to, or during the efficiency board proceedings, did either the complainant or her attorney object to the efficiency board proceedings being closed to the public.

18. It is found that, although referred to as a "hearing", the proceedings conducted by the efficiency board in this case lacked the elements typically associated with a hearing, as in Dortenzio, and was more akin to a predisciplinary investigation related to the management and administration of internal affairs of the respondent Military Department. See Dortenzio, at 435-36 ("the discipline and supervision of employees is an administrative function of the chief of police as conferred by the Wallingford city charter. ... [T]he conference at issue here related to the management and administration of internal police affairs and thus was exempt from the requirement of public disclosure under the [FOI Act]."). See also Docket #FIC 2000-309, Johanna Georgia v. Deputy Chief Executive Officer, Fire Department, City of Bridgeport; Fire Chief, Fire Department, City of Bridgeport; and Office of Labor Relations, City of Bridgeport (October 11, 2000) (holding that interviews conducted by an investigation team appointed by the

[4] The complainant testified that witnesses were prepared to testify and were waiting in an ancillary room outside of the efficiency board proceedings. The complainant also argued that such witnesses felt intimidated and were not invited in to speak at the efficiency board proceedings. The Commission notes, however, that the complainant's attorney was present and did not attempt to argue the merits of the complainant's case or to call any witnesses to testify before the efficiency board. See paragraph 16, above.

fire chief, likewise, "related to the management and administration of internal affairs of the fire department…. and are not subject to the open meeting requirements of §1-225(a), G.S….").

19. It is therefore concluded that the efficiency board hearing constituted an "administrative or staff meeting" within the meaning of §1-200(2), G.S., and is not subject to the open meeting requirements of §1-225(a), G.S.

20. Based on all of the foregoing, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

21. The Commission notes that, while there is little Connecticut caselaw or decisions of this Commission to provide guidance in reviewing military decision-making, courts have generally given great deference to the internal decisions and proceedings of the military, where such matters comport with military regulations. See Crane v. Secretary of Army, 92 F. Supp. 2d 155, 163 (W.D.N.Y. 2000) ("[t]here is no question that due deference to military decision-making is part of American Jurisprudence. … [T]he Second Circuit Court of Appeals has determined that judicial review of military decisions is permissible when the actions of the armed services are in violation of the military's own regulations or beyond their powers, and do not involve matters reasonably relevant and necessary to furtherance of our national defense.") (citations omitted) (internal quotation marks omitted). See also Chappell v. Wallace, 462 U.S. 296, 303-05 (1983) ("[t]he special status of the military has required, the Constitution contemplated, Congress has created and this Court has long recognized two systems of justice, to some extent parallel: one for civilians and one for military personnel … [T]he special relationships that define military life have supported the military establishment's power to deal with its own personnel.") (citations omitted) (internal quotation marks omitted). As described in paragraph 17, above, §27-52, G.S., provides no right to a public hearing. Moreover, the respondents' July 5, 2022 notice provided to the complainant, informed the complainant that the efficiency board would be "analogous" to the efficiency and physical fitness boards provided to National Guard Officers, pursuant to National Guard Regulation ("NGR") No. 635-101, which make findings and recommendations regarding a potential Withdrawal of Federal Recognition ("WOFR"). The Commission further notes that NGR No. 635-101, like §27-52, G.S., provides no right to have the proceedings of WOFR boards open to the public.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 9, 2025.

Jennifer M. Mayo
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**GEORGETTE RAVENBERG**, c/o Attorney Stephen E. Nevas, Nevas Law Group, LLC, 237 Post Road West, Westport, CT 06880

**ADJUTANT GENERAL, STATE OF CONNECTICUT, MILITARY DEPARTMENT**; **AND STATE OF CONNECTICUT, MILITARY DEPARTMENT**, c/o State Judge Advocate Timothy J. Tomcho, Military Department, Governor William A. O'Neill State Armory, 360 Broad Street, Hartford, CT 06105 and Associate Attorney General Colleen B. Valentine, Office of the Attorney General, 55 Elm Street, P.O. Box 120, Hartford, CT 06141-0120

Jennifer M. Mayo
Acting Clerk of the Commission

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