

**State of Connecticut
Regulation of
Freedom of Information Commission
Concerning
Organization and Rules of Practice**

Section 1. Section 1-21j-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 1-21j-1 1-205-1. General definitions

(a) As used in section 1-21j-1 1-205-1 to section 1-21j-57 1-205-57, inclusive, of the regulations of Connecticut state agencies Regulations of Connecticut State Agencies, the following words and phrases [shall] have the same definitions as those contained in the Uniform Administrative Procedure Act, chapter 54 of the general statutes, except where any such word or phrase is used in a context which clearly indicates the contrary: “agency,” “contested case,” “final decision,” “hearing officer,” “intervenor,” “license,” “licensing,” “party,” “person,” “presiding officer,” “proposed final decision,” “proposed regulation,” “regulation,” and “regulation-making.” If a conflict arises between any of the above definitions contained in chapter 54 the Uniform Administrative Procedure Act and any definition of the same word or phrase contained in the Freedom of Information Act, [as defined in subdivision (7) of subsection (b) of this section,] the definition contained in the Freedom of Information Act shall prevail.

(b) In addition, as used in section 1-21j-1 1-205-1 to section 1-21j-57 1-205-57, inclusive, of the regulations of Connecticut state agencies, Regulations of Connecticut State Agencies, the following words and phrases [shall] have the following meanings, except where any such word or phrase is used in a context which clearly indicates the contrary:

(1) “Advisory opinion” means a “declaratory ruling” as used in chapter 54 of the general statutes the Uniform Administrative Procedure Act. [The term “advisory opinion” in any commission record shall refer to a “declaratory ruling,” as herein defined.]

(2) “Commission” means the Freedom of Information Commission of the state of Connecticut.

(3) “Commissioner” means an individual appointed to serve as a member of the commission when acting in such capacity.

(4) “Complaint” means an appeal to the commission under section 1-21i 1-206 of the general statutes.

(5) “Complainant” means a person who brings a complaint to the commission.

(6) “Executive director” means the commission’s executive director and general counsel.

(7) “Freedom of information act Information Act” means that portion of chapter 3 14 of the general statutes dealing with access to the records and meetings of public agencies, as defined in that chapter, and which establishes and empowers the Freedom of Information Commission.

(8) “Freedom of Information Commission” means the state agency established and empowered under sections 1-21i 1-205 and 1-21j 1-206 of the general statutes.

(9) “Hearing” means that portion of the commission’s proceedings in the disposition of matters delegated to its jurisdiction by law wherein an opportunity for the presentation of evidence and

argument occurs. Any such hearing shall be a public hearing.

(10) "In camera inspection" means a review by the commission or a presiding officer of records received as evidence, or a proceeding during which such records are reviewed, in which unauthorized persons are not permitted to inspect, copy or otherwise learn of the contents of such records, except as provided in [these regulations] sections 1-205-1 to 1-205-57, inclusive, of the Regulations of Connecticut State Agencies.

(11) "Managing director" means the commission's managing director and associate general counsel.

(12) "Petitioner" or "applicant" means any person that has filed a petition or application respectively.

(13) "Respondent" means the person or agency against which a complaint is brought to the commission.

Sec. 2. Section 1-21j-2 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-2] 1-205-2. Description

The Freedom of Information Commission is empowered and described in sections [1-21i] 1-205 and [1-21j] 1-206 of the general statutes.

Sec. 3. Section 1-21j-4 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-4] 1-205-4. Official address and principal office

The official address and principal office of the commission shall be [18-20 Trinity Street] 165 Capitol Avenue, Suite 1100, Hartford, Connecticut 06106. The commission shall provide notice in the Connecticut Law Journal and on the commission's website if its official address or principal office is changed, in which case the official address or principal office published in such notice shall be deemed to be the commission's official address or principal office, as the case may be, until this [regulation] section of the Regulations of Connecticut State Agencies is amended. Unless otherwise provided, the principal office of the commission shall be open from 8:30 a.m. to 5:00 p.m. each weekday, except [saturdays] Saturdays, [sundays] Sundays and legal holidays.

Sec. 4. Section 1-21j-5 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-5] 1-205-5. [Public information] Access to commission records

[The public may inspect the public records of the commission] The commission's records shall be kept and maintained at its principal office in Hartford. There is no prescribed form for requests for [information] commission records. Written requests should be submitted to the commission at its official address or electronic mail address: foi@ct.gov.

Sec. 5. Section 1-21j-6 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-6] 1-205-6. Administration

(a) The commission shall designate an executive director and general counsel who shall be the chief executive, administrative and legal officer of the commission. The duly authorized and official documents of the commission of every description shall be signed on behalf of the commission by the chairman, executive director or such director's designee. The signature of the chairman, executive director or such director's designee shall be presumed to be duly authorized by the commission unless and until the contrary is demonstrated in any commission proceeding or hearing. **[The executive director shall keep and maintain in an accessible place all the public records of the commission.]**

(b) The executive director shall designate a managing director and associate general counsel, and such other staff **[personnel]** of the commission as from time to time the executive director deems necessary. The managing director is authorized to exercise the powers of the executive director in the absence or disability of the executive director.

Sec. 6. Section 1-21j-8 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-8] 1-205-8. Hearing officers

(a) The commission, by its executive director or his or her designee, may designate a member of the commission or any other person authorized by statute to be a hearing officer for the purpose of conducting any contested case or other proceeding the commission **[shall conduct] conducts** under the **[freedom of information act] Freedom of Information Act.**

(b) By such designation the hearing officer shall be empowered to exercise on behalf of the commission all of the authority to conduct a contested case, **[hearing,]** including **the** reopening **of** a hearing, investigation, or other proceeding delegated to the commission under the Freedom of Information Act and **[chapter 54 of the general statutes] the Uniform Administrative Procedure Act.**

(1) The hearing officer shall convene and conduct all public hearings required by law within the scope of the commission's designation. No oral testimony or argument shall become a part of the record or form a basis for any finding of the hearing officer unless the hearing officer is present in the place where the hearing is being conducted and personally hears or receives the testimony and argument there offered.

(2) The hearing officer shall administer oaths, examine witnesses, receive oral and written evidence, rule on the admissibility of evidence, rule on the order in which the hearing is conducted and on all other aspects of the hearing on behalf of the commission. Upon conclusion of the hearing, the hearing officer shall submit a proposed final decision to the commission which proposed final decision shall contain the hearing officer's findings of fact, conclusions of law and recommended order.

(3) In the event the hearing officer finds it necessary to subpoena witnesses to compel their

attendance or the production of any evidence for examination, the executive director or other commission counsel is authorized to order on behalf of the commission the issuance of such subpoena as is required for the purposes of the hearing, investigation or other proceeding. In the case of failure to comply with the subpoena or to testify with respect to any matter at the hearing, investigation or other proceeding, the hearing officer shall report to the commission the need to seek enforcement of the commission's authority under section [1-21j(d)] 1-205(d) of the general statutes. Upon the concurrence of a quorum of the commission, the executive director or the managing director shall be empowered to take such actions to enforce the subpoena or to compel testimony as may be provided by law.

Sec. 7. Section 1-21j-11 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-11] 1-205-11. Procedure governed

Sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies govern practice and procedure before the Freedom of Information Commission except where otherwise provided by law.

Sec. 8. Section 1-21j-13 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-13] 1-205-13. Waiver of regulations

Where good cause appears, the commission or any presiding officer may permit deviation from sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, except where precluded by statute.

Sec. 9. Section 1-21j-14 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-14] 1-205-14. Construction and amendment

Sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies shall be so construed by the commission and any presiding officer as to secure just, speedy and inexpensive determination of the issues presented [hereunder].

Sec. 10. Section 1-21j-15 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-15] 1-205-15. Computation of time

Computation of any period of time referred to in sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies begins by first counting the day after the day on which the precipitating event occurs, and ends on the last day of the period so computed. The last day of the period is to be included unless it is a day on which the principal office of the commission is closed, in which event the period shall run until the end of the next following business day. If the period of time, including the intervening Saturdays, Sundays and legal holidays, is five (5) days or less, such Saturdays, Sundays and legal holidays shall be excluded from the computation; otherwise such days shall be included in the computation.

Sec. 11. Section 1-21j-16 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-16] 1-205-16. Extensions of time

Except as [may hereinafter be] provided in sections 1-205-1 to 1-205-57, inclusive, of the Regulations of Connecticut State Agencies, in the discretion of the commission or the presiding officer, for good cause shown any time limit prescribed or allowed by sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies may be extended. All requests for extensions shall be made before the expiration of the period originally prescribed or as previously extended.

Sec. 12. Section 1-21j-17 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-17] 1-205-17. Effect of filing, public records

The filing with the commission of any complaint, petition for declaratory ruling, or any other petition, application, motion or request shall not relieve any person of the obligation to comply with any statute, or with any regulation or order of the commission. Any complaint, petition, motion, application or request filed for the purpose of securing from the commission relief authorized by the [freedom of information act] Freedom of Information Act shall be part of the public records of the commission.

Sec. 13. Section 1-21j-20 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-20] 1-205-20. Ex parte communication

(a) Unless required for the disposition ex parte of matters authorized by law, no commissioner or hearing officer who, in a contested case, is to render a final decision or to make a proposed final decision shall communicate, directly or indirectly, in connection with any issue of fact [with any person or party, or in connection with any issue of] or law, with any person who has a direct or indirect interest in the outcome of the case, intervenor, party or [the party's] representative of any such person, intervenor or party, without notice and opportunity for [all parties] each such person, intervenor, party or representative to participate in the communication.

(b) [Notwithstanding the provisions of subsection (a) of this section, a] A commissioner, in conformity with the Freedom of Information Act, may communicate with other commissioners regarding a matter pending before the commission, and commissioners or a hearing officer may receive the aid and advice of employees or agents of the commission if those employees or agents have not received communications prohibited by subsection (a) of this section. In a contested case, this [regulation] shall not be construed to preclude such routine communications as are necessary to permit the commission staff, not assigned to render a decision or to make findings of fact and conclusions of law in a contested case, to investigate facts and to conduct the informal conferences that may be held pursuant to sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies at any time before, during and after the hearing thereof.

(c) Unless required for the disposition of ex parte matters authorized by law, no party [or] , intervenor, or representative of a party or intervenor in a contested case, no other agency or its representative, and no person who has a direct or indirect interest in the outcome of the case, or such person's representative, shall communicate, directly or indirectly, in connection with any issue of fact or law in that case, with a hearing officer or commissioner, or with any employee or agent of the commission assigned to assist the hearing officer or commissioners in such case, without notice and opportunity for all parties to participate in the communication.

(d) The provisions of this section shall apply from the date the matter pending before the commission commences as a contested case, as set forth in section [1-21j-27] 1-205-27 of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, to and including the effective date of the final decision.

Sec. 14. Section 1-21j-22 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-22] 1-205-22. Date and mode of filing

All papers and other recorded information governed by sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57 of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, shall be deemed to have been filed on the date they are recorded as having been received by the commission at its principal office. The commission shall accept papers and other recorded information transmitted by electronic mail or fax to the same extent permitted by the rules of the [superior court] Superior Court in civil actions.

Sec. 15. Section 1-21j-23 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-23] 1-205-23. Signatures

Every complaint, application, notice, motion, petition, brief and memorandum shall be signed by or on behalf of the person filing the same.

Sec. 16. Section 1-21j-24 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-24] 1-205-24. Identification of communications to the commission

Communications shall contain the name [and], address, electronic mail address, and telephone and fax number, if any, of the sender and an appropriate [file] reference to the subject of the communication. When the subject matter pertains to a proceeding pending before the commission, the title of the proceeding and the commission docket number shall be given.

Sec. 17. Section 1-21j-25 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-25] 1-205-25. Number of documents to be filed in commission proceedings

Except [as provided in the next sentence] when the commission or the presiding officer shall otherwise direct, each person submitting a document to the commission in a commission proceeding shall submit an original and two copies. [In a contested case, after] After the issuance of the [transmittal of proposed final decision] Transmittal of Proposed Final Decision, each person submitting a document shall submit an original and the number of copies thereof indicated in the [transmittal of proposed final decision] Transmittal of Proposed Final Decision.

Sec. 18. Section 1-21j-26 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-26] 1-205-26. Service

(a) **General rule.** Service of all documents [filed in all proceedings] shall be in the same manner as permitted by the [superior court] Superior Court in civil actions.

(b) **On whom served.** [Service of all] All documents in commission proceedings shall be served by the person filing the same on every party and intervenor in the proceeding and on all such additional persons as the commission or presiding officer shall direct.

(c) **Service by the commission.** A copy of any document served by the commission, showing the name and address of the person served, and the date, shall be placed in the commission's records and shall be *prima facie* evidence of such service and the date thereof.

(d) **Service of briefs, memoranda, exceptions or written argument.** Unless otherwise provided by [these regulations] sections 1-205-1 to 1-205-57, inclusive, of the Regulations of Connecticut State Agencies, the commission or the presiding officer, all briefs, memoranda of law, exceptions or other written argument shall be served upon the commission on or before the [Wednesday of the week immediately prior to the proceeding at which the subject matter of such documents is scheduled to be discussed or acted upon by the commission] date indicated in the Transmittal of Proposed Final Decision. For good cause shown, the commission or the presiding officer may extend the time for [serving] any [of the aforesaid documents] such service.

Sec. 19. Section 1-21j-28 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-28] 1-205-28. Form of complaint

All complaints shall be in writing and shall include the following components:

(a) The complainant's name, address, electronic mail address, and telephone and fax [numbers] number, if any; or that of the complainant's attorney, agent, or other duly authorized representative, if the complainant is a partnership, corporation or limited liability company.

(b) A concise statement of the relevant facts, including, but not limited to, the following items: [that follow:]

(1) The date of the alleged violation of the Freedom of Information Act.

(2) The name, title, address, electronic mail address, and telephone and fax [numbers] number, if known, of the public agency and any public agency official alleged to have denied the complainant a right conferred by the Freedom of Information Act.

(3) If the complaint concerns the denial of access to public records, a description of, or reference to, the requested records; if the complaint concerns the denial of access to a meeting of a public agency, the date of such meeting; and if a complaint seeks an expedited hearing under subsection (b) of section [1-21j-29] 1-205-29 of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, a brief statement setting forth the reasons why the hearing should be expedited pursuant to that section.

(4) A copy of any pertinent correspondence or other documents.

(5) An explanation of any unusual circumstances involved in the complaint, [to which the commission shall be expected to direct its particular attention,] including the existence of emergency conditions or any request for the granting of interlocutory relief by way of an interim order.

Sec. 20. Section 1-21j-29 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-29] 1-205-29. Procedure in response to complaint

(a) The executive director or his or her designee shall order a hearing at a designated time and place for the purpose of conducting an investigation of the complaint as a contested case. The executive director or his or her designee may issue an order requiring the attendance of the complainant and all other parties at an informal conference at a designated time and place prior

to the hearing. As a matter of policy, the commission shall strive to hear each contested case within thirty (30) days after the commencement of the contested case and to decide each such case within sixty (60) days after the conclusion of the hearing therein, but in no event later than one (1) year after the filing of the complaint. The commission shall give notice of the hearing in the form and manner provided in section [1-21j-34] 1-205-34 of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies. Such notice shall be sent to the public agency and public agency official against whom the complaint is asserted, together with a copy of the complaint. The notice shall advise all parties that the commission may provide the opportunity for an informal conference prior to the formal hearing.

(b) Except as provided in subsection (b) of section [1-21i] 1-206 of the general statutes, this section or section [1-21j-34a] 1-205-34a of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, the executive director or his or her designee, to the extent possible, shall schedule each contested case for hearing in the order in which it is received. To the extent possible, the executive director or his or her designee shall accord priority in the assignment for hearing of any contested case for which there is a timely written request setting forth the reasons necessitating a hearing by a date certain after which available remedies would no longer be adequate. The executive director or his or her designee shall immediately review such request together with the complaint and any other associated materials. The executive director or his or her designee shall cause the complaint to be scheduled on a priority basis if he or she believes: (1) the materials reviewed demonstrate that the complaint requires expedited treatment because of an event or circumstance on a date certain after which date available remedies would no longer be adequate; and (2) the commission is able to render a final decision by that date. A decision not to grant a priority assignment for hearing may be appealed to the commission which shall consider the matter at its next regular meeting. A decision to grant priority assignment may be appealed to either the presiding officer, who shall consider the matter at the hearing, or to the commission, which shall consider the matter at its next regular meeting. Where such priority is granted, the executive director or his or her designee shall assign the case for hearing at the earliest possible date consistent with due process of law, but in no event later than thirty (30) days after commencement of the contested case. Where such priority is granted, the executive director or his or her designee also shall assign the case for final decision at the earliest possible date consistent with due process of law, but in no event later than sixty (60) days after the conclusion of the hearing therein.

(c) When the executive director or his or her designee does not schedule a complaint pursuant to subdivision (2) of subsection (b) of section [1-21i] 1-206 of the general statutes because he or she has reason to believe that a complaint: (1) presents a claim beyond the commission's jurisdiction; (2) would perpetrate an injustice; or (3) would constitute an abuse of the commission's administrative process; and the matter is referred to the commission for summary disposition, no oral argument shall be permitted.

(d) Upon the commencement of a contested case, the executive director or his or her designee may appoint an ombudsman for that case. The ombudsman shall attempt to settle the case in whole or in part; and if the case is not settled, to limit the issues of fact and law necessary to be determined at the hearing, and to encourage stipulations which would expedite the proceedings at the hearing. In furtherance of these duties, the ombudsman may communicate ex parte with the parties or their representatives and conduct informal

conferences in person or otherwise. Neither the ombudsman nor any party in a contested case shall communicate the contents of any communication made or received in the course of the ombudsman process without the express consent of all parties.

Sec. 21. Section 1-21j-30 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-30] 1-205-30. Designation of parties

(a) In issuing the notice of hearing described in section [1-21j-34] 1-205-34 of the regulations of Connecticut state agencies Regulations of Connecticut State Agencies, the executive director or his or her designee shall designate as a party any person known to the commission whose legal rights, duties or privileges are required by statute to be determined by a commission proceeding and who is required by law to be a party in a commission proceeding, and any person whose participation as a party is then deemed to be necessary to the proper disposition of such proceeding. Subsequent to the issuance of the notice of hearing no other person before the commission shall have standing as a party, and no party having been designated as such shall be removed as a party, except upon the express order of the commission or the presiding officer.

(b) Subsequent to the issuance of the notice of hearing, the commission or the presiding officer shall grant a person status as a party in a contested case if the commission or the presiding officer finds that: (1) such person has submitted a written petition to the commission and served copies on all parties, at least five (5) days before the date of hearing; and (2) the petition states facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the commission's decision in the contested case. The five-day requirement in this subsection may be waived at any time before or after commencement of the hearing by the commission or the presiding officer on a showing of good cause.

(c) The commission or the presiding officer may remove as a party any person whose rights, duties or privileges are determined not to be at issue in the contested case.

(d) The conferring of party status by the commission or the presiding officer shall not be deemed to be an admission by the commission that such party may be aggrieved by any decision, order or ruling of the commission.

Sec. 22. Section 1-21j-32 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-32] 1-205-32. Representation of parties and intervenors

Each person authorized to participate in a contested case as a party or as an intervenor

shall file a written notice of appearance with the clerk. Such appearance may be filed on behalf of parties and intervenors by an attorney, an agent, or other duly authorized representative [subject to the rules hereinabove stated]. The filing of a written appearance may be excused by the presiding officer.

Sec. 23. Section 1-21j-33 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-33] 1-205-33. Place of hearings

Unless otherwise provided by the commission or the presiding officer, all hearings of the commission shall be held [at] in Hartford at the principal office of the commission.

Sec. 24. Section 1-21j-34 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-34] 1-205-34. Notice of hearings

(a) **Persons notified.** Except when the commission or the presiding officer shall otherwise direct, the commission shall give written notice of a hearing in any pending matter to all parties, to all persons who have been permitted to participate as intervenors, to all persons otherwise required by statute to be notified, and to such other persons as have filed with the commission their written request for notice of hearing in a particular matter. Written notice shall be given to such additional persons as the commission shall direct. [The commission or the presiding officer may give such public notice of the hearing as the commission or the presiding officer, as the case may be, shall deem appropriate within the provisions of the Freedom of Information Act.]

(b) **Contents of notice.** Notice of a hearing shall include, but shall not be limited to, the following:

(1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and regulations involved; and (4) a short and plain statement of the matters asserted or, in lieu thereof, a copy of the complaint.

Sec. 25. Section 1-21j-34a of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-34a] 1-205-34a. Continuances or postponements of hearings

(a) Prior to the issuance of the order and notice of hearing set forth in sections [1-21j-29] 1-205-29 and [1-21j-34] 1-205-34 of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, any party to a contested case may request in writing that such case be heard at a designated time and date. The executive director or his or her designee shall give due consideration to such request subject to the requirements set forth in section [1-21i(b)] 1-206(b) of the general statutes and the convenience of the commission or presiding officer.

(b) After the order and notice of hearing set forth in sections [1-21j-29] 1-205-29 and [1-21j-34] 1-205-34 of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies have been issued, no request for continuance or postponement of hearing shall be granted or permitted unless such request: (1) is in writing [signed by each party to the contested case, or by each such party's attorney, agent or other duly authorized representative] ; [and] (2) indicates whether all counsel of record and self-represented parties have been notified of the intention to seek a continuance or postponement and whether they have consented to such continuance or postponement; and (3) states as the reason for the continuance or postponement (A) that the parties are in the process of negotiating a settlement or other resolution of the case and that a continuance or postponement of the hearing is necessary to facilitate the successful completion of such settlement or resolution, or (B) a reason that, at the discretion of the hearing officer, constitutes good cause and can reasonably be accommodated. Any request for continuance or postponement of hearing should be submitted to the commission at its official address or electronic mail address: foi@ct.gov.

Sec. 26. Section 1-21j-36 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-36] 1-205-36. Witnesses, subpoenas, and production of records

(a) The commission, or any commissioner or presiding officer authorized by the commission to conduct any inquiry, investigation or hearing, shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation.

(b) At any hearing, the commission or the presiding officer may subpoena witnesses and require the production of records, documents and other evidence pertinent to such inquiry. Any party may request that such process be issued. The request shall be in writing and contain the following: the name and address of each person upon whom such process is to be served; an adequate description of any records, documents and evidence sought to be produced; and a short explanation of the testimony or evidence to be offered at the hearing and its materiality to the subject thereof. It shall be the sole responsibility of the party requesting such process to cause it to be served in accordance with law.

(c) If any person disobeys such process or, having appeared in obedience thereto, refuses to

answer any pertinent question put to him or her by the commission or by the presiding officer or to produce any records, documents or evidence pursuant thereto, the commission may apply to the superior court for the Judicial District of Hartford [New Britain] for an order requiring such person to comply with such subpoena or to testify as provided by section [1-21j] 1-205 of the general statutes.

Sec. 27. Section 1-21j-37 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-37] 1-205-37. Rules of evidence

The following rules of evidence shall be followed with respect to the admission of evidence in all hearings held under the Freedom of Information Act and [chapter 54 of the general statutes] the Uniform Administrative Procedure Act:

(a) **General.** Any oral, documentary or other evidence may be received; but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. The commission or presiding officer shall give effect to the rules of privilege recognized by law in Connecticut where appropriate to the conduct of the hearing. Subject to these requirements and subject to the right of any party to cross examine, any testimony may be received in written form as [herein] provided in sections 1-205-33 to 1-205-38, inclusive, of the Regulations of Connecticut State Agencies.

(b) **Documentary evidence, copies.** Documentary evidence may be received at the discretion of the commission or presiding officer in the form of copies or excerpts, if the original is not found readily available. Upon request by any party an opportunity shall be granted to compare the copy with the original, which shall be subject to production by the person offering such copies, within the provisions of section 52-180 of the general statutes.

(c) **Cross examination.** Cross examination may be conducted as the presiding officer shall find to be required for a full and true disclosure of the facts.

(d) **Facts noticed, scope and procedure, commission records.** The commission may take administrative notice of judicially cognizable facts, including generally recognized technical or scientific facts within the commission's specialized knowledge and the records, decisions and orders in other commission cases. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in preliminary reports, proposed final decisions or otherwise of the material noticed. The commission shall nevertheless employ the commission's experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making its finding of facts and arriving at a final decision.

(e) Any testimony or exhibit admitted in evidence in another commission case may be offered as evidence in a subsequent hearing and admitted as an exhibit therein.

[f] In camera inspection. The procedure for an in camera inspection of records shall be as follows:

(1) Any party or intervenor may request an in camera inspection of the records claimed to be exempt from disclosure in a contested case; and the presiding officer or the commission may order such an inspection on request, on such presiding officer's or the commission's own initiative, or on remand by a court.

(2) If an in camera inspection is ordered, the party having custody of the records claimed to be exempt from disclosure shall be required to submit a copy of the records together with an in camera inspection index referencing each record, and each item within each record, claimed to be exempt from disclosure. All parties shall be informed of their rights and obligations under these procedures.

(3) In each case in which an in camera inspection is ordered, the presiding officer, a commissioner or an authorized staff member, shall verify that each record submitted for such inspection has been identified by the party having custody of the record by reference to an individual reference number or numbers prescribed by the commission and included in an accompanying in camera inspection index.

(4) In each case in which an in camera inspection is ordered, an in camera inspection index shall be prepared in triplicate by the party having custody of the records submitted for such inspection on forms which shall be provided or approved by the commission. One part of the form shall be given to the party submitting the records as a receipt, indicating the records and date received and the name of the person authorized to receive and sign for such records on behalf of the commission. The receipt shall also certify that neither the records received for in camera inspection, nor their contents, shall be disclosed to any unauthorized person, except as provided by commission or court order and as provided below. The second part of the form shall be retained by the commission and kept for both inventory and decision-making purposes as part of the secure file in which the subject records themselves are kept. The third part of the form shall be retained by the commission as a public record and kept as part of the public file of the contested case. A copy of the completed index form shall be given to all other parties to the proceedings.

(5) It shall be the responsibility of the party submitting records for in camera inspection to certify that the copies of the records so submitted are true copies of the records at issue in the contested case. It shall also be the responsibility of such party to make available for examination and cross- examination at a commission hearing on the matter the official who issued the certification.

(6) After receiving records submitted for in camera inspection, the authorized person who signed the receipt for them on the index on behalf of the commission shall personally deliver the records for storage in a secure commission file.

(7) Ordinarily only commissioners, the presiding officer, the executive director, the managing director and staff counsel are authorized access to inspect records submitted for in camera inspection. In any particular case, however, the presiding officer or the commission may authorize greater or lesser access to such records and the executive director and managing director may authorize greater or lesser access by commission personnel to such records. All persons having access to the records submitted for in camera inspection shall be identified on the related in camera inspection index.

(8) The copying of records submitted to the commission for in camera inspection shall not be permitted. Likewise, no person authorized access to such records may take any notes making reference to specific information contained in such records and claimed to be exempt from disclosure. References to specific records submitted for in camera inspection, or the contents of such records, in proposed final decisions or final decisions shall be by the assigned reference numbers as endorsed on the records themselves or by reference to generic descriptions or characterizations as set forth in the related in camera inspection index or in other public records.

(9) At commission meetings open to the public, all mention of the specific contents of records submitted for in camera inspection shall be avoided. Mention of specific records submitted for in camera inspection, however, may be made by use of the assigned reference numbers as endorsed on the records themselves or by reference to generic descriptions or characterizations as set forth in the related in camera inspection index or in other public records.

(10) If it proves necessary for the commission to discuss the specific contents of records submitted for in camera inspection at one of its meetings, it shall first convene in executive session, as provided by law. Only commissioners and persons authorized access to the subject records and invited by the commission to present testimony or opinion shall attend the executive session, as provided by law.

(11) Unless a court appeal is filed in a particular contested case, the commission shall disclose on request those records in its possession submitted for in camera inspection and ordered disclosed by the commission in that case (A) after the expiration of forty-five (45) days from the mailing of the notice of final decision, or (B) if a request for reconsideration is received by the commission within such 45-day period, after the expiration of forty-five (45) days from the mailing of the notice denying that request or after the expiration of forty-five (45) days from the mailing of the notice of the final decision issued after reconsideration has been granted, as the case may be. If no court appeal is filed, the records submitted for in camera inspection and ordered disclosed shall be transferred from their secure file to the commission's corresponding public file after the expiration of the applicable time period.

(12) Unless a court appeal is filed, after issuing its final decision in a particular contested case, the commission shall notify the party that submitted records for in camera inspection in writing that it may make appropriate arrangements with the commission staff to take possession of such records after the expiration of the operative time periods set forth in subdivision (11) of this subsection. The party taking possession shall be required to sign a receipt for the records returned. If no arrangements are made for the return of such records, the commission shall cause the records to be destroyed any time after the expiration of the time periods for the retention of contested case evidence in the commission's current schedule for the retention and destruction of records, as approved by the state public records administrator.

(13) If a court appeal is filed in a particular contested case, the commission shall notify in writing all known parties to the appeal that, as part of the commission's record to be delivered to the court, the commission intends to deliver the records submitted for in camera inspection. The notice shall also advise the parties that the commission shall not move the court to seal such records, but that other parties may do so if they desire; and that any party seeking to seal the records should notify the commission of its intent to do so before the date by which the commission must certify the record of its proceedings into court. If notified that a motion to seal shall be made, the commission shall not transfer such records until the court makes its determination on the motion.

(14) Records submitted for in camera inspection which form part of a commission record on appeal shall, until delivered to the reviewing court, continue to be kept in their secure file and separately from the remainder of the record on appeal. When the record on appeal is to be delivered to court, a person authorized access to such records on behalf of the commission shall personally deliver such records to the clerk of the applicable court. If the court has ordered such records sealed, such authorized person shall so notify the clerk on delivery.

(15) Records submitted for in camera inspection, returned to the commission by a court and which records were held by the court to be exempt from disclosure shall be returned to their secure file immediately by a person authorized access to such records on behalf of the commission. Any records submitted for in camera inspection, returned to the commission by a court and held by the court to be disclosable shall be placed in the commission's public files. In either case, the commission shall notify the party that submitted such records for in camera inspection in writing that such party may make appropriate arrangements with the commission staff to take possession of those records or they shall be destroyed as provided in subdivision (12) of this subsection.]

Sec. 28. The Regulations of Connecticut State Agencies are amended by adding section 1-205-37a as follows:

(NEW) Sec. 1-205-37a. In camera inspection

The procedure for an in camera inspection of records shall be as follows:

(1) Any party or intervenor may request an in camera inspection of the records claimed to be exempt from disclosure in a contested case; and the presiding officer or the commission may order such an inspection on request, on such presiding officer's or the commission's own initiative, or on remand by a court.

(2) If an in camera inspection is ordered, the party having custody of the records claimed to be exempt from disclosure shall be required to submit a copy of the records together with an in camera inspection index form referencing each record, and each item within each record, claimed to be exempt from disclosure. All parties shall be informed of their rights and obligations under these procedures.

(3) In each case in which an in camera inspection is ordered, the presiding officer, a commissioner or an authorized staff member, shall verify that each record submitted for such inspection has been identified by the party having custody of the record by reference to an individual reference number or numbers prescribed by the commission and included in an accompanying in camera inspection index form.

(4) In each case in which an in camera inspection is ordered, an in camera inspection index shall be prepared by the party having custody of the records submitted for such inspection on a form which shall be provided or approved by the commission. A copy of the completed and accepted index form shall be given to the party submitting the records as a receipt, indicating the records and date received and the name of the person authorized to receive and sign for such records on behalf of the commission. The receipt shall also certify that neither the records received for in camera inspection, nor their contents, shall be disclosed to any unauthorized person, except as provided by commission or court order and as provided below. The party submitting the records shall provide a copy of the completed and accepted index form to all other parties to the proceedings. A second copy of the completed and accepted index form shall be retained by the commission as a public record and kept as part of the public file of the contested case. The original completed and accepted index form shall be kept for both inventory and decision-making purposes as part of the secure file in which the subject records themselves are kept.

(5) It shall be the responsibility of the party submitting records for in camera inspection

to certify that the copies of the records so submitted are true copies of the records at issue in the contested case. It shall also be the responsibility of such party to make available for examination and cross-examination at a commission hearing on the matter the official who issued the certification.

(6) After receiving records submitted for in camera inspection, the authorized person who signed the receipt for them on the in camera inspection index form on behalf of the commission shall personally deliver the records for storage in a secure commission file.

(7) Ordinarily only commissioners, the presiding officer, the executive director, the managing director and staff counsel are authorized access to inspect records submitted for in camera inspection. In any particular case, however, the presiding officer or the commission may authorize greater or lesser access to such records and the executive director and managing director may authorize greater or lesser access by commission staff to such records. All persons having access to the records submitted for in camera inspection shall be identified on the related in camera inspection index form.

(8) The copying of records submitted to the commission for in camera inspection shall not be permitted. Likewise, no person authorized access to such records may take any notes making reference to specific information contained in such records and claimed to be exempt from disclosure. References to specific records submitted for in camera inspection, or the contents of such records, in proposed final decisions or final decisions shall be by the assigned reference numbers as endorsed on the records themselves or by reference to generic descriptions or characterizations as set forth in the related in camera inspection index form or in other public records.

(9) At commission meetings open to the public, all mention of the specific contents of records submitted for in camera inspection shall be avoided. Mention of specific records submitted for in camera inspection, however, may be made by use of the assigned reference numbers as endorsed on the records themselves or by reference to generic descriptions or characterizations as set forth in the related in camera inspection index form or in other public records.

(10) If it proves necessary for the commission to discuss the specific contents of records submitted for in camera inspection at one of its meetings, it shall first convene in executive session, as provided by law. Only commissioners and persons authorized access to the subject records and invited by the commission to present testimony or opinion shall attend the executive session, as provided by law.

(11) Unless a court appeal is filed in a particular contested case, the commission shall disclose upon request those records in its possession submitted for in camera inspection and ordered disclosed by the commission in that case (A) after the expiration of forty-five (45) days from the mailing of the notice of final decision, or (B) if a request for reconsideration is received by the commission within such forty-five (45)-day period, after the expiration of forty-five (45) days from the mailing of the notice denying that request or after the expiration of forty-five (45) days from the mailing of the notice of the final decision issued after reconsideration has been granted, as the case may be. If no court appeal is filed, the records submitted for in camera inspection and ordered disclosed shall be transferred from their secure file to the commission's corresponding public file after the expiration of the applicable time period.

(12) Unless a court appeal is filed, after issuing its final decision in a particular contested

case, the commission shall notify, in writing, the party that submitted records for in camera inspection that it may make appropriate arrangements with the commission staff to take possession of such records after the expiration of the operative time periods set forth in subdivision (11) of this section. The party taking possession shall be required to sign a receipt for the records returned. If no arrangements are made for the return of such records, the commission shall cause the records to be destroyed any time after the expiration of the time periods for the retention of contested case evidence in the commission's current schedule for the retention and destruction of records, as approved by the state public records administrator.

(13) If a court appeal is filed in a particular contested case, and unless the court otherwise directs, the commission shall notify in writing all known parties to the appeal that the commission intends to request permission to lodge the in camera records with the court for in camera inspection. Records lodged with the court for in camera inspection which form part of a commission record on appeal shall, until lodged with the reviewing court, continue to be kept in their secure file and separately from the remainder of the record on appeal. A person authorized access to such records on behalf of the commission shall personally lodge such records with the clerk of the applicable court.

(14) Records submitted for in camera inspection, returned to the commission by a court and which records were held by the court to be exempt from disclosure shall be returned to their secure file immediately by a person authorized access to such records on behalf of the commission. Any records submitted for in camera inspection, returned to the commission by a court and held by the court to be disclosable shall be placed in the commission's public files. In either case, the commission shall notify the party that submitted such records for in camera inspection in writing that such party may make appropriate arrangements with the commission staff to take possession of those records or they shall be destroyed as provided in subdivision (12) of this section.

Sec. 29. Section 1-21j-40 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-40] 1-205-40. Proposed final decision in a contested case

(a) The commission shall proceed in the following manner in contested cases where a majority of the commission has not heard the case or read the record. A final decision shall not be adopted by the commission until a proposed final decision is served upon all of the parties, and until an opportunity has been afforded to each party adversely affected by the proposed final decision to file exceptions, to present briefs, and to make oral argument before the commission at a commission meeting. Compliance with this requirement concerning the proposed final decision may be waived by a written stipulation of the parties.

(b) In no event shall new evidence, not admitted into evidence under sections [1-21j-35] 1-205-35 to [1-21j-38] 1-205-38, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, be submitted to, or considered by, the commission at the commission meeting at which the proposed final decision is considered. In addition, no party or intervenor shall present any argument at the commission meeting at which the proposed final decision is considered unless such argument has been raised (1) at the hearing in

the contested case; or (2) in a bill of exceptions or brief filed with the commission on or before the [wednesday] Wednesday of the week immediately prior to the meeting at which the proposed final decision is scheduled to be discussed and/or acted upon by the commission; or (3) in the proposed final decision itself. The commission may limit the period of time for argument by serving notice of such limitation upon all of the parties simultaneously with the proposed final decision. For good cause shown, the commission may enlarge the period of time for argument, if the request is made in writing, stating the reasons therefor, and filed with the commission on or before the Wednesday of the week immediately prior to the proceeding at which such proposed final decision is scheduled to be discussed or acted upon by the commission. Upon the request of a party or intervenor, the commission shall [tape] audio record that portion of its meeting, open to the public, concerning the proposed final decision concerning such party or intervenor.

(c) In the proposed final decision to be served upon the parties, the commission or presiding officer shall set forth such commission's or [such] presiding officer's summary of each issue of fact and law that such commission or [such] presiding officer finds necessary to reach the conclusions contained in the proposed final decision.

Sec. 30. Section 1-21j-41 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-41] 1-205-41. Contents of the record in a contested case

The record in a contested case shall include: (1) written notices related to the case; (2) all petitions, pleadings, motions and intermediate rulings; (3) evidence received or considered; (4) questions and offers of proof, objections and rulings thereon; (5) the official transcript, if any, of proceedings relating to the case, or, if not transcribed, any recording [or stenographic record] of the proceedings; (6) proposed final decisions and exceptions thereto; and (7) the final decision. The commission or presiding officer may designate other documents or portions of the commission's proceedings as part of the record in a contested case. Requests to so designate other material as part of the record shall be made to the commission or presiding officer at the time the final decision is adopted.

Sec. 31. Section 1-21j-42 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-42] 1-205-42. Final decision in a contested case

All final decisions and orders of the commission concluding a contested case shall be in writing or orally stated and shall be made a part of the record of such case. The commission shall serve a copy of its final decision on each party and intervenor in the manner required by sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies and by [chapter 54 of the general statutes] the Uniform Administrative Procedure Act.

Sec. 32. Section 1-21j-43 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-43] 1-205-43. General rule

Sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies set forth the procedure to be followed by the commission in the disposition of a petition concerning the promulgation, amendment, or repeal of regulations.

Sec. 33. Section 1-21j-44 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-44] 1-205-44. Form of petition

Any person may petition the commission, or the commission may on its own motion initiate a proceeding, to promulgate, amend, or repeal any regulation. The petition shall conform to sections [1-21j-1] 1-205-1 to [1-21j-43] 1-205-43, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, where applicable, and shall set forth clearly and concisely the text of the proposed regulation, amendment, or repeal. The petition shall contain the name and address of the petitioner. Such petition shall also state the facts and arguments that favor the action it proposes by including such data, facts, and arguments in the petition or in a brief annexed thereto. The petition shall be addressed to the commission and delivered to it at its principal office.

Sec. 34. Section 1-21j-46 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-46] 1-205-46. General rule

(a) Sections [1-21j-46] 1-205-46 to [1-21j-48] 1-205-48, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies set forth the procedure to be followed by the commission in the disposition of a petition for declaratory ruling as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the commission's jurisdiction.

(b) Any advisory opinion issued by the commission prior to January 1, 2001, shall be deemed a declaratory ruling, as used in the Uniform Administrative Procedure Act. Any reference made to "advisory opinion" within any commission record refers to a declaratory ruling, as used in the Uniform Administrative Procedure Act.

Sec. 35. Section 1-21j-47 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-47] 1-205-47. Form of petition for declaratory ruling

Any person may petition the commission, or the commission may on its own motion initiate a proceeding, for a declaratory ruling as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the commission's jurisdiction. The petition shall conform to sections [1-21j-1] 1-205-1 to [1-21j-46] 1-205-46, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, where applicable. Such petition shall be addressed to the commission at its principal office. The petition shall contain the name and address of the petitioner. The petition shall (1) state clearly and concisely the substance and nature of the petition; (2) identify the statute, regulation or order concerning which the petition is made; and (3) identify the particular aspect thereof to which the petition is directed. The petition for a declaratory ruling shall be accompanied by a statement of any supporting data, facts and arguments that support the position of the petitioner.

Sec. 36. Section 1-21j-48 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-48] 1-205-48. Procedure after petition for declaratory ruling filed

(a) **Notice.** Within thirty (30) days after receipt of a petition for a declaratory ruling, the commission shall give notice of the petition to all persons to whom notice is required by any provision of law and to all persons who have requested notice of the declaratory ruling petitions on the subject matter of the petition.

(b) **Parties and intervenors.** If the commission finds that a timely petition to become a party or to intervene has been filed according to sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, the commission may grant a person: (1) status as a party if the commission finds that the petition states facts demonstrating that the petitioner's legal rights, duties or privileges shall be specifically affected by the commission proceeding; or (2) status as an intervenor if the commission finds that the petition states facts demonstrating that the petitioner's participation is in the interests of justice and shall not impair the orderly conduct of the proceedings. The commission or presiding officer may define an intervenor's participation in the manner set forth in subsection (d) of section 4-177a of the general statutes.

(c) **Commission action.** Within sixty (60) days after receipt of a petition for a declaratory ruling, the commission in writing shall: (1) issue a ruling declaring the validity of a regulation or the applicability of the provision of the general statutes, the regulation, or the final decision in question to the specified circumstances; (2) order the matter set for specified proceedings; (3) agree to issue a declaratory ruling by a specified date; (4) decide not to issue a declaratory ruling and initiate regulation-making proceedings, under section 4-168 of the general statutes, on the subject; or (5) decide not to issue a declaratory ruling, stating the reasons for its action.

(d) **Provision for hearing.** If the commission deems a hearing necessary or helpful in

determining any issue concerning a petition for declaratory ruling, the commission shall schedule such hearing and give such notice thereof as shall be appropriate. The provisions of [of] sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies concerning contested cases govern the practice and procedure of the commission in any hearing concerning a declaratory ruling.

Sec. 37. Section 1-21j-49 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-49] 1-205-49. Generally

The commission may at any time institute investigations for such purposes as may be authorized by law, including those purposes set forth in subsection (d) of section [1-21j] 1-205 of the general statutes.

Sec. 38. Section 1-21j-50 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-50] 1-205-50. Procedure

The rules of practice and procedure set forth in sections [1-21j-1] 1-205-1 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies concerning contested cases govern any hearing held in the course of such an investigation.

Sec. 39. Section 1-21j-51 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-51] 1-205-51. Definitions

When used in sections [1-21j-51] 1-205-51 to [1-21j-57] 1-205-57, inclusive, of the [regulations of Connecticut state agencies] Regulations of Connecticut State Agencies, the following terms shall have the meanings herein specified, unless the context otherwise indicates.

[(a)] (1) “Agency” means each state or municipal board, commission, department or officer, other than the legislature, courts, governor, lieutenant governor, attorney general or town or regional boards of education, which maintains a personal data system.

[(b)] (2) “Attorney” means an attorney at law empowered by a person to assert the confidentiality of or right of access to personal data under the Personal Data Act, chapter 55 of the general statutes.

[(c)] (3) “Authorized representative” means a parent, or a guardian or conservator, other than an attorney, appointed to act on behalf of a person and empowered by such person to assert the confidentiality of or right of access to personal data under [chapter 55 of the general statutes] the Personal Data Act.

[(d)] (4) “Automated personal data system” means a personal data system in which data are stored, in whole or part, in a computer or in computer accessible files.

[(e)] (5) “Case file” means that compilation of personal data, in either manual or automated form, relating to a specific commission investigation, contested case, declaratory ruling or court case.

[(f)] (6) “Computer accessible files” means any personal data which are stored on-line or off-line, which can be identified by use of electronic means, including but not limited to microfilm and microfilm devices, which includes but is not limited to magnetic tape, magnetic film, magnetic disks, magnetic drums, internal memory utilized by any processing device, including computers or telecommunications control units, punched cards, optically scanable paper or film.

[(g)] (7) “Employment record” means that compilation of personal data, in either manual or automated form, which relates to the qualifications of employment applicants.

[(h)] (8) “Maintain” means collect, maintain, use or disseminate.

[(i)] (9) “Manual personal data system” means a personal data system other than an automated personal data system.

[(j)] (10) “Person” means an individual of any age concerning whom personal data are maintained in a personal data system, or a person’s attorney or authorized representative.

[(k)] (11) “Personal data” means any information about a person’s education, finances, medical or emotional condition or history, employment or business history, family or personal relationships, reputation or character which because of name, identifying number, mark or description can be readily associated with a particular person. “Personal data” shall not be construed to make available to a person any record described in subdivision (3) of subsection (b) of section [1-19] 1-210 of the general statutes.

[(l)] (12) “Personal data system” means a collection of records containing personal data.

[(m)] (13) “Personnel file” means that compilation of personal data, in either manual or automated form, relating to a commission employee’s employment and personnel activities, including, but not limited to, his or her performance, evaluation and payroll and other employment-related record- keeping which is necessary for the conduct of the commission’s business and which is kept and maintained by the commission’s business office commission.

[(n)] (14) “Record” means any collection of personal data which is collected, maintained or disseminated.

[(o)] (15) “Categories of personal data” means the classifications of personal information set forth in subdivision (9) of Section section 4-190 of the general statutes.

[(p)] (16) “Other data” means any information which because of name, identifying number, mark or description can be readily associated with a particular person.

Sec. 40. Section 1-21j-53 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 1-21j-53 1-205-53. General nature and purpose of personal data system

(a) The commission has a single designated personal data system consisting of three parts and whose nature and purpose is to maintain accurate and current information

regarding:

- (1) commission case files in fulfillment of its statutory duties under the Freedom of Information Act and [chapter 54 of the general statutes] the Uniform Administrative Procedure Act;
- (2) the qualifications of employment applicants; and
- (3) employees' employment and personnel activities necessary for the conduct of the commission's business.
- (b) The commission's personal data system is both manual and automated and is located at the commission's principal office[]. The commission is responsible for maintaining the system and requests for disclosure of, or amendment to, information should be made in care of the commission's executive director or managing director. The commission's routine sources of personal data are witnesses, public records, parties, employment applications, personal resumes and department of administrative services and state comptroller forms.

Sec. 41. Section 1-21j-54 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-54] 1-205-54. Maintenance of personal data

- (a) The commission shall strive to collect and maintain all personal data with accuracy and completeness. Any personal data not relevant and necessary to accomplish the lawful purpose of the commission shall be disposed of in accordance with the commission's record retention schedule, or upon permission from the public records administrator to dispose of said records under section 11-8a of the general statutes.
- (b) The commission shall, when practical and consistent with its needs and purpose, collect personal data directly from the person to whom a record pertains.
- (c) All employees who function as custodians for the commission's personal data system, or are involved in the operation thereof, shall be given a copy of the provisions of the [personal data act] Personal Data Act; these regulations; and a copy of the Freedom of Information Act.
- (d) All such commission employees shall take reasonable precautions to protect personal data under their control or custody from the danger of fire, theft, flood, natural disaster and other physical threats.
- (e) The commission shall incorporate by reference the provisions of the [personal data act] Personal Data Act and these regulations in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the commission or on its behalf.
- (f) When the commission requests personal data from any other state agency, it shall have an independent obligation to ensure that the personal data are properly maintained, unless otherwise provided by law.
- (g) Access to the commission's personal data system is available to commission employees who require such information in the performance of their official and lawful duties and to such other persons who are entitled to access under law. The commission shall keep an up-to-date roster of commission employees entitled to access to the commission's personal data system.

(h) The commission shall ensure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records shall be sent in envelopes or boxes sealed and marked "confidential," where such records are required by law to be kept confidential.

(i) The commission shall ensure that all records in its manual personal data system are kept under lock and key, and, to the greatest extent practical, are kept in controlled access areas.

(j) The commission shall, to the greatest extent practical, locate automated equipment and records in a limited access area.

(k) Where required by law, to the greatest extent practical, the commission shall require visitors to such area to sign a visitor's log and permit access to said area on a bona fide need-to-enter basis only.

(l) The commission, to the greatest extent practical, shall ensure that regular access to automated equipment is limited to operations personnel and other authorized persons.

(m) The commission shall use appropriate access control mechanisms to prevent disclosure to unauthorized individuals of personal data required to be kept confidential by law.

Sec. 42. Section 1-21j-55 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-55] 1-205-55. Disclosure of personal data

(a) Any individual may request from the commission whether it maintains personal data on that individual, the category and location of the personal data maintained on that individual, and procedures available to review said information. The commission promptly shall mail or deliver to the requesting individual a written response in plain language.

(b) Except where prohibited by law, the commission shall disclose to any person upon request all personal data concerning that person which are maintained by the commission. Where required by law, such disclosure shall be conducted so as not to disclose any personal data concerning persons other than the individual requesting such information.

(c) Where required by law, commission personnel shall verify the identity of any person requesting access to his or her own personal data.

(d) The commission may refuse to disclose to a person medical, psychiatric or psychological data regarding that person if it is determined by the commission that such disclosure would be detrimental to the person, or if such nondisclosure is otherwise permitted or required by law. If the commission refuses to disclose medical, psychiatric or psychological data to a person, it must inform the person of his or her right to seek judicial relief pursuant to the [personal data act] Personal Data Act.

(e) If the commission refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and the nondisclosure is not mandated by law, the commission shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If nondisclosure is recommended by such person's medical doctor, the commission shall not disclose the personal data and shall inform such person of the judicial relief provided under the [personal data act] Personal Data

Act.

(f) Where required by law, a record shall be maintained of each person, individual, agency or organization that has obtained access to or to which disclosure has been made of personal data in accordance with subsection (c) of section 4-193 of the general statutes, together with a reason for each such disclosure or access. This log shall be maintained for not less than five (5) years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

Sec. 43. Section 1-21j-57 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. [1-21j-57] 1-205-57. Uses to be made of the personal data

(a) Case files are routinely used in the performance of the commission's statutory mandate to administer and enforce the Freedom of Information Act.

(b) Employment records are routinely used for evaluating the qualifications of employment applicants.

(c) Personnel files are routinely used for recording and evaluating the work performance of commission employees. Personnel files are used also for payroll and other employment-related record-keeping, as required by the department of administrative services, the office of the comptroller, the office of policy and management and other legal authorities.

(d) Records contained in the commission's personal data system shall be retained for the period indicated for such records in the commission's retention and destruction of records schedule, as amended from time to time, approved by the state **public** records administrator pursuant to section 11-8a of the general statutes.

(e) When an individual is asked by the commission to supply personal data, the commission, upon request, shall disclose to that individual:

(1) The name of the commission;

(2) The legal authority under which the commission is empowered to collect and maintain the personal data;

(3) The individual's rights pertaining to such records under the **[personal data act]**

Personal Data Act, and commission regulations;

(4) The known consequences arising from supplying or refusing to supply the requested personal data; **and**

(5) The proposed use to be made of the requested personal data.

Sec. 44. Sections 1-21j-3, 1-21j-7, 1-21j-9, 1-21j-10, 1-21j-12, 1-21j-18, 1-21j-19, 1-21j-21, 1-21j-27, 1-21j-31, 1-21j-35, 1-21j-38, 1-21j-39, 1-21j-45, 1-21j-52 and 1-21j-56 are transferred as follows:

Correlated Table

<u>Former Section Number</u>	<u>New Section Number</u>
1-21j-3	1-205-3
1-21j-7	1-205-7
1-21j-9	1-205-9
1-21j-10	1-205-10
1-21j-12	1-205-12
1-21j-18	1-205-18
1-21j-19	1-205-19
1-21j-21	1-205-21
1-21j-27	1-205-27
1-21j-31	1-205-31
1-21j-35	1-205-35
1-21j-38	1-205-38
1-21j-39	1-205-39
1-21j-45	1-205-45
1-21j-52	1-205-52
1-21j-56	1-205-56

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Statement of Purpose

The purpose of this proposal is to make technical changes, remove obsolete language, and to conform the regulations to current agency practice.