

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Daniel Lynch,

Complainant

against

Docket #FIC 2016-0029

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

Respondents

September 28, 2016

The above-captioned matter was heard as a contested case on June 10, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

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

1. The respondents are public agencies only with respect to their administrative functions, within the meaning of §1-200(1), G.S.
2. By letter dated and filed January 13, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") when their Guardian Ad Litem ("GAL") Subcommittee held meetings that were not open to the public.
3. The respondents contended that the subcommittee meetings at issue do not relate to their administrative functions, and that the Commission therefore lacks subject matter jurisdiction.
4. In Rules Committee of the Superior Court v. FOIC, 192 Conn. 234, 243 (1984), the Supreme Court construed the term "administrative functions" in §1-200(1), G.S., to exclude matters involved in the adjudication of cases, and to refer only to "matters relating to the internal management of the internal institutional machinery of the court system."

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

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

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

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

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

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

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

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

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 28, 2016.

Cynthia A. Cannata
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:

Daniel Lynch
P.O. Box 40
Trumbull, CT 06611-0040

Chief Court Administrator, State of Connecticut,
Judicial Branch; and State of Connecticut, Judicial Branch
c/o Martin R. Libbin, Esq.
100 Washington Street
Hartford, CT 06106

Cynthia A. Cannata
Acting Clerk of the Commission

FIC/2016-0029/FD/cac/9/28/2016