

ANALYSIS AND SUMMARY OF CONNECTICUT'S FREEDOM OF INFORMATION ACT

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I. SUMMARY OF FREEDOM OF INFORMATION ACT

Since 1975, Connecticut has had one of the most comprehensive Freedom of Information Acts in the nation. Revised in 1999, the law is enforced and administered by an appointed Freedom of Information Commission (FOIC). Any person claiming that his or her rights under the law were violated may seek redress by filing a written notice of complaint with the Commission within thirty (30) days after the claimed improper act. However, in the case of a "secret" meeting or a meeting which is not properly noticed under the law, the complaint may be filed within thirty (30) days after the complainant actually learned that the improper meeting was held.

To properly understand the Freedom of Information Act (FOIA), it is critical to grasp two (2) basic presumptions underscoring the law which have caused many difficulties for public agencies.

1. All meetings of any public agency in the state subject to the FOIA must be noticed and convened as public meetings. Only after being convened in public can the meeting become an executive session, and then only by motion and vote taken in public to end the public session and enter executive session. C.G.S. Section 1-225(a)&(f).

2. All records or files in the possession of the public agency which relate in any way to the conduct of the agency's business are presumed to be public. On demand, copies of such records must be given to any member of the public, unless the requested materials fall within one or more of the limited exceptions in the Act. C.G.S. Section 1-210(a).

II. MEETINGS UNDER THE FOIA

A. A "meeting" is defined as any hearing or other proceeding of a public agency to discuss or act upon a matter over which the agency has supervision, control, jurisdiction or advisory power. C.G.S. Section 1-200(2). Meetings of committees and subcommittees of the full body are also subject to the provisions of the Act. C.G.S. Section 1-200(1). Any time the agency has a meeting, whether a full meeting or a committee or subcommittee meeting, the presumption is that the gathering constitutes a "meeting" under the provisions of the FOIA, which must be convened as a public meeting. C.G.S. Section 1-200(2). The major exceptions in the statute are as follows:

1. a chance meeting or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business (the so-called "cocktail party" exemption). C.G.S. Section 1-200(2).
2. strategy or negotiations with respect to collective bargaining (collective bargaining sessions and strategy sessions in connection with collective bargaining are not meetings and need not be noticed, posted, or open to the public). C.G.S. Section 1-200(2).

3. a caucus of members of a single political party even though the members may also constitute a quorum of a public agency within the community. C.G.S. Section 1-200(2).
 4. administrative or staff meetings of a single-member agency. C.G.S. Section 1-200(2).
- B. There are three (3) types of meetings under the Freedom of Information Act.
1. Regular meetings - meetings which are scheduled annually. The chairman or secretary of the public agency must file with the town clerk, not later than January 31 of each year, the schedule of all regular meetings of the agency for the ensuing year. Any meetings held within the thirty-day period after the above filing of the annual regular meeting schedule must thus be special meetings or emergency meetings. C.G.S. Section 1-225(b).
 2. Special meetings - meetings which are called in lieu of or between the annually established schedule of regular meetings. There are strict notice and posting requirements for special meetings. (reviewed below) C.G.S. Section 1-225(d).
 3. Emergency special meetings - meetings called on short notice to deal with critical problems when the twenty-four (24) hour minimum notice for a special meeting cannot be given. The specific procedures for valid emergency special meetings are also reviewed below. C.G.S. Section 1-225(d).
- C. There are specific notice and posting requirements for the various types of meetings.
1. Regular Meetings -
 - a. The annual schedule of all regular meetings of the public agency must be filed with the town clerk not later than January 31 of each year. The notice should specify the time, place and date of each anticipated regular meeting. C.G.S. Section 1-225(b).
 - b. A written agenda of items to be discussed at a regular meeting must be available to the public and filed not less than twenty-four (24) hours before the meeting. The written agendas must be available at the regular office or place of business of the public agency or, if there is no office, with the town clerk. The law does not specifically require that the written agendas for regular meetings be posted, or sent to the town clerk, but many public agencies in practice post a copy of the regular meetings agenda

somewhere in or near the business office and routinely send a copy to the town clerk. C.G.S. Section 1-225(c).

- c. If two-thirds of the members of the public agency present and voting at a regular meeting wish to discuss and act on subsequent items not included in the filed agenda for the regular meeting, a non-agenda item may be voted as part of the agenda. Note that this cannot be done at special or emergency meetings. C.G.S. Section 1-225(c).
- d. Independent written notice of the meeting must be sent to all individuals who have filed an appropriate request. (See, F, below, "Advance Notice Requirements") C.G.S. Section 1-227.

2. Special Meetings

- a. Action to be taken at any special meeting is strictly limited to the items stated on the notice of the special meeting. No other items may be addressed. C.G.S. Section 1-225(d).
- b. Notice of each special meeting requires the following steps:
 - (1) Preparation of a written notice setting forth the time, date and place of the special meeting and specifying the business to be transacted. C.G.S. Section 1-225(d).
 - (2) The notice of the special meeting must be given to the town clerk and posted in the town clerk's office at least twenty-four (24) hours prior to the time of the meeting. Although there is no statutory requirement for posting of the special meeting notice at the public agency's own office, it is recommended that this be done in addition to the posting with the town clerk. C.G.S. Section 1-225(d).
 - (3) The written notice of the special meeting must be delivered to the home of each member of the public agency so that it is received prior to the special meeting. The requirement of delivery is dispensed with as to any member of the agency who is actually present at the meeting when it convenes or who files a written or telegraphic waiver of delivery at or prior to the time the special meeting convenes. C.G.S. Section 1-225(d).
 - (4) Independent written notice of all special meetings must be sent to all individuals who have filed an appropriate request. However, if the special meeting is to occur less than seven (7)

days from the date of the notice, such notice as "practical" must be given. This implied that personal or telephone notice will suffice. (See, F, below, "Advance Notice Requirements") C.G.S. Section 1-227.

- c. No other business can be considered at a special meeting which has not been stated on the written notice. C.G.S. Section 1-225(d).

3. Emergency Special Meetings

- a. Emergency special meetings are allowed when critical matters arise on such short notice that the twenty-four (24) hour written posting and delivery requirements of a special meeting cannot be met. C.G.S. Section 1-225(d).
- b. There are no specific legal requirements as to noticing the emergency special meeting, but it is recommended that an attempt be made to reach each member by telephone and that a written notice of the emergency special meeting be immediately posted by the town clerk and in the public agency's office. If possible, it is also recommended that a written notice of the emergency special meeting be delivered immediately to the home of each agency member.
- c. The law requires that a copy of the minutes of every emergency special meeting must be filed with the town clerk within seventy-two (72) hours of the meeting. These minutes must set forth the nature of the emergency which prompted the meeting and the proceedings which occurred at the meeting. C.G.S. Section 1-225(d).

- D. There are also minute-taking requirements for the various types of meetings. Each agency must make, keep and maintain a record of the proceedings of its meetings. C.G.S. Section 1-210(a).

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