

## FOI Complaint – Dahlheimer v. Town of Durham Ethics Commission

Complainant:

Lindsay Dahlheimer



Respondent:

Durham Ethics Commission

c/o Durham Town Hall

30 Town House Road

Durham, CT 06422

### **I. STATEMENT OF COMPLAINT**

Pursuant to Connecticut General Statutes §§ 1-206(b)(1) and 1-225, the complainant submits this complaint alleging that the Durham Ethics Commission repeatedly violated the Connecticut Freedom of Information Act by failing to properly notice and conduct meetings between August 2025 and January 28, 2026.

### **II. PARTIES**

The complainant, Lindsay Dahlheimer, is a resident of the Town of Durham and was the respondent in Ethics Complaint File No. 2025-01.

The respondent, the Durham Ethics Commission, is a public agency within the meaning of CGS § 1-200(1).

### **III. FACTS AND SUPPORTING EVIDENCE**

#### **A. Incorrect or Missing Meeting Locations (CGS § 1-225(d))**

- August 26, 2025 agenda lists “Town Hall Second Floor,” the meeting minutes state “Town Hall 5th Floor,” which does not exist. Listing a non-existent meeting location is functionally equivalent to listing no location at all, as it prevents the public from attending.
- September 23 and October 7, 2025 special meeting agendas omit the meeting location entirely; the September 23 minutes show the meeting was held at the Durham Community Center.
- September 30, 2025 agenda omits the meeting location and lists a 7:30 p.m. start time,

despite the Commission's publicly posted 2025 meeting schedule stating that meetings begin at 7:00 p.m. in the Town Hall Third Floor Meeting Room.

Although the Commission's annual meeting schedule lists a regular meeting location, FOIC precedent including *Salce v. Branford Board of Ethics* (FIC 2017-040), *Brehm v. Madison Board of Selectmen* (FIC 2008-118), and *Derry v. Stamford Board of Representatives* (FIC 2004-079) makes clear that each meeting agenda must independently state the time and place of the meeting. The omission of location information from the September 30, 2025 agenda therefore constitutes a separate violation of CGS § 1-225(d).

### **B. Unlawful Executive Sessions (CGS §§ 1-200(6), 1-225(f))**

Each agenda and set of minutes cites only Section 5.B. of the Durham Code of Ethics as the basis for executive session. No FOIA-authorized statutory reason was stated prior to entering executive session. The Commission did not state on the record any FOIA-authorized purpose for executive session prior to convening, nor did it limit discussion to a permissible subject once in executive session. Local ordinance language cannot substitute for the statutory requirements of CGS § 1-200(6).

### **C. Improper Probable-Cause Meeting (CGS § 1-225(a))**

At the September 30, 2025 meeting, the Commission entered executive session and voted to find probable cause in Ethics Complaint File No. 2025-01. The meeting agenda did not disclose that a probable-cause determination or vote would occur, and therefore failed to provide sufficient notice of the business to be transacted. A probable-cause determination is a substantive action affecting legal rights and therefore constitutes 'business to be transacted' within the meaning of CGS § 1-225(a).

### **D. Pattern and Practice of FOIA Noncompliance**

Taken together, these repeated failures to properly notice time, place, and business to be conducted—across multiple meetings over several months—demonstrate a pattern and practice of noncompliance with the FOIA, rather than isolated or inadvertent error.

### **E. Failure to Provide Public Access and Improper Recess of Meeting (CGS §§ 1-225(a), 1-225(d))**

On January 27, 2026, the Durham Ethics Commission scheduled a regular meeting to be held in a hybrid format, with in-person attendance at Durham Town Hall and remote access via Zoom, as stated on the posted agenda. At the scheduled meeting time, members of the public, including the complainant and her legal counsel, attempted to access the meeting remotely but were denied access due to an invalid Zoom meeting ID.

Because the public was unable to access the meeting at the time it was scheduled to convene, the meeting did not lawfully convene in public session as required by

CGS § 1-225(a). A public agency may not conduct business or take procedural action when public access to a meeting has been denied.

The Commission subsequently treated the January 27, 2026 meeting as having been recessed and posted a recessed meeting agenda on January 28, 2026, indicating that the meeting would continue that evening. However, because the January 27 meeting never lawfully convened due to the denial of public access, the Commission lacked authority to recess the meeting. Under these circumstances, the January 28, 2026 meeting required independent notice as a new meeting in compliance with the FOIA.

The Commission's failure to cancel the January 27, 2026 meeting and issue proper notice for a new meeting following the denial of public access constituted an additional violation of the open-meeting requirements of the Freedom of Information Act. This violation also occurred in the context of an ongoing ethics proceeding affecting the complainant's legal rights, further underscoring the importance of strict adherence to the open-meeting requirements of the FOIA.

#### **IV. TIMELINESS AND PROCEDURAL CONTEXT**

The complainant became aware of the FOIA violations described above during August through October 2025. At that time, the complainant was the respondent in an active ethics proceeding before the same public agency and subsequent decision of the Durham Board of Selectman.

The complainant reasonably delayed filing this FOIA complaint to avoid the risk of retaliation, procedural prejudice, or interference with a pending quasi-judicial proceeding. Filing a collateral FOIA enforcement action against the adjudicating body during the pendency of that proceeding posed a legitimate risk to due process.

This complaint is being filed promptly following the conclusion of the ethics proceeding and receipt of those findings to the Durham Board of Selectman and is timely under the Freedom of Information Commission's reasonable-time standard.

Exhibits are provided via electronic link.

#### **V. RELIEF REQUESTED**

The complainant respectfully requests that the Freedom of Information Commission:

1. Find that the Durham Ethics Commission violated CGS §§ 1-225(a), 1-225(d), 1-225(f), and 1-200(6);
2. Order the Commission to comply fully with open-meeting requirements;
3. Declare actions taken at the August 26, September 23, September 30, October 7, 2025,

and January 27–28, 2026 meetings null and void, to the extent such meetings were found not to have been lawfully convened under the FOIA, and

4. Consider civil penalties pursuant to CGS § 1-206(b)(2).

## **VI. EXHIBITS**

The following documents are submitted in support of this complaint and/or will be relied upon at hearing:

Exhibit A – Durham Ethics Commission Meeting Agendas dated August 26, September 23, September 30, and October 7, 2025

Exhibit B – Durham Ethics Commission Meeting Minutes dated August 26, September 23, and September 30, 2025

Exhibit C – Durham Ethics Commission 2025 Regular Meeting Schedule

Exhibit D – Durham Code of Ethics (adopted November 9, 2009)

Exhibit E – Ethics Complaint filed August 15, 2025

Exhibit F – Correspondence from the Durham Ethics Commission dated August 27 and October 2, 2025

Exhibit G - January 27, 2026 meeting agenda, Zoom access error screenshots, January 28, 2026 recessed meeting agenda, and correspondence documenting denial of public access

Exhibits are provided via electronic link. Additional exhibits may be submitted or requested as appropriate.

<https://drive.google.com/drive/folders/1n8x29T1fOmAlJAgI3Qh1c9yc35ri9eu6>

## **VII. CERTIFICATION**

I affirm that the foregoing statements are true and accurate to the best of my knowledge and that this complaint is filed within a reasonable time after discovery of the violations for the reasons stated above.



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Lindsay Dahlheimer

Date: 2/13/26