

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
David M. Razler and Howard S.
Drescher (Willimantic Chronicle),

Report of Hearing Officer

Complainants

Docket #FIC81-196

against

April 15, 1982

Board of Trustees of the
University of Connecticut,

Respondent

The above captioned matter was heard as a contested case on April 1, 1982, at which time the complainants and the respondent 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:

1. The respondent is a public agency as defined by § 1-18a(a), G.S.

2. By letter dated November 24, 1981 and filed with the Commission on November 30, 1981, the complainants alleged that the respondent violated the Freedom of Information Act in the conduct of its November 13, 1981 meeting, and in its failure to provide a record of votes and minutes in the prescribed manner.

3. At the hearing on this complaint, the complainants agreed to limit their complaint to the conduct of an executive session held as part of the meeting in question.

4. It is found that on November 13, 1981, the respondent held a regular meeting, part of which was convened in executive session for the purported purpose of "considering matters of personnel, litigation, and collective bargaining."

5. During this executive session, the respondent discussed, and voted to approve, a certain collective bargaining agreement.

6. One of the consequences of respondent's vote to approve the collective bargaining agreement was to have the agreement presented to the General Assembly for its ultimate approval.

7. Prior to November 13, 1981, the complainants had received a copy of the tentative collective bargaining agreement considered by the respondent at its November 13, 1981 executive session and, in fact, the principle terms and conditions of that agreement had generally been reported in the news media.

8. The complainants contend that it was a violation of §§ 1-21 and 1-18a(e), G.S., for the respondent to discuss and vote upon this collective bargaining agreement in executive session.

9. It is found that the respondent failed to prove by any credible evidence that the executive session discussion would result in the disclosure of public records, or the information contained therein, that are exempt from disclosure under §1-19(b), G.S.

10. Consequently, it is concluded that the portion of the respondent's executive session of November 13, 1981 that consisted of discussing and voting upon the collective bargaining agreement in question was not for a purpose permitted under § 1-18a(e), G.S.

11. It is also found, however, that the respondent's discussion and vote on this collective bargaining agreement conceivably constituted part of the strategy or negotiation process for that agreement, at least until the respondent's vote thereupon was concluded in the affirmative.

12. It is therefore concluded that such discussion and vote fall within the exclusion from the definition of "meeting" under § 1-18a(b), G.S., and, as a result, are not subject to the open meetings requirements of § 1-21, G.S., et seq.

13. During the executive session of November 13, 1981, the respondent approved a resolution relating to salaries and benefits of University of Connecticut employees not covered by collective bargaining agreements.

14. This resolution expressed a policy position that was contingent upon (a) submission to, and presumably approval by, the General Assembly of the collective bargaining agreements relating to university bargaining units, and (b) the availability of necessary funding.

15. The complainants contend that it was a violation of §§ 1-21 and 1-18a(e), G.S., for the respondent to consider and vote upon this policy in executive session.

16. The respondent contends that the discussion and vote upon this policy constituted strategy or negotiations with respect to collective bargaining.

17. It is found that the approval of the policy resolution in question concerned employees not subject to collective bargaining.

18. Consequently, it is concluded that the respondent's discussion and vote upon the policy resolution in question was neither a proper purpose for an executive session under §§ 1-18a(e)(5) and 1-19(b)(9), G.S., nor excluded from the definition of "meeting," as set forth in § 1-18a(b), G.S.

19. It is further found that the respondent failed to prove by any credible evidence that the policy in question related either to strategy or negotiations with respect to any collective bargaining.

20. It is therefore concluded that the portion of the respondent's executive session of November 13, 1981 that consisted of discussing and voting upon the policy resolution related to salaries and benefits of University of Connecticut employees not covered by collective bargaining agreements, was held in violation of § 1-21, G.S.

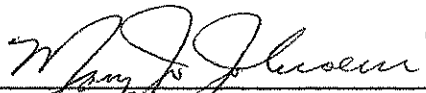
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. Henceforth, the respondent may convene in executive session only for one or more of the specific purposes set forth in §1-18a(e), G.S.



Commissioner Curtis McKinley Cofield II
as Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of May 12, 1982.



Mary Jo Jolicœur
Clerk of the Commission