

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Clayton Tiffany,

Report of Hearing Officer

Complainant

Docket #FIC81-56

against

November 5, 1981

The Town of East Hampton and
the Board of Education of the
Town of East Hampton,

Respondents,

The above captioned matter was heard as a contested case on September 24, 1981, 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:

1. The respondent board is a public agency as defined by § 1-18a(a), G.S.,
2. The complainant, prior to February 26, 1981, was employed as a teacher by the respondent board.
3. By letter dated February 26, 1981, the respondent board informed the complainant that his employment was terminated as of that date.
4. By complaint filed with the Commission on April 10, 1981, the complainant alleged that the respondent board wrongfully denied his rights under §§ 1-18(a)(e)(1) and 1-21, G.S., to attend a meeting at which there was "discussion concerning his employment, performance, and dismissal as a public employee of the Board."
5. Specifically, the complainant alleged that on March 23, 1981, the respondent board convened in executive session to discuss his employment, performance and dismissal as a public employee and that his attorney was denied the opportunity to address the members of the respondent board during such executive session.
6. It is found that on February 25, 1981, the respondent board held a special meeting during which it convened in executive session to discuss the complainant's employment.
7. It is found that the complainant was present at the executive session referred to in paragraph 6, above.

8. After adjourning the executive session portion of the special meeting referred to in paragraph 6, above, the respondent board voted in public session to endorse the decision of the school administration to terminate the complainant's employment.

9. By letter dated March 6, 1981, addressed to the Superintendent of Schools of the Town of East Hampton, the complainant requested that the respondent board hold an appeal hearing at its next meeting, to be held March 9, 1981.

10. A letter dated March 20, 1981, signed by the Superintendent of Schools and addressed to the complainant stated that the complainant's request for an appeal hearing would be discussed "in executive session" on March 23, 1981, at a meeting of the respondent board.

11. It is found that neither the complainant nor the respondent board presented evidence as to when the complainant received the letter referred to in paragraph 10, above.

12. It is found, however, that the complainant was aware of and was present at the place of the meeting held by the respondent board on March 23, 1981.

13. It is found that at its March 23, 1981 meeting, the respondent board convened in executive session to discuss the complainant's employment.

14. It is found that during the executive session referred to in paragraph 12, above, the complainant's attorney requested permission to attend such executive session and address the respondent board.

15. It is found that the complainant's attorney received no response to her request to address the executive session referred to in paragraph 12, above, and that she consequently did not address the respondent board during such executive session.

16. It is found that neither the complainant nor his attorney specifically requested that discussion of the complainant's appointment, employment, performance, evaluation, health or dismissal at the March 23, 1981 meeting of the respondent board be conducted at an open session.

17. It is therefore concluded that there was no violation of §§ 1-21 or 1-18(a)(e)(1), G.S., in the conduct of the respondent board's March 23, 1981 meeting.

18. By motion dated September 25, 1981, the complainant moved to strike the appearance of respondent's counsel.

19. The complainant alleged that the appearance of the respondent's counsel as a witness during the hearing on this complaint constituted a violation of Disciplinary Rule 5-102(A) of the A.B.A. Code of Professional Responsibility.

20. It is found that the complainant failed to object to the appearance of respondent's counsel as a witness at the time of the hearing on this complaint.

21. It is also found that the complainant made no attempt to cross-examine respondent's counsel following his testimony.

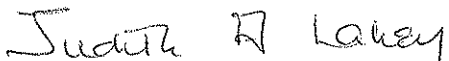
22. It is also found that the complainant failed to show that any harm was caused by the respondent's counsel's appearance as a witness in this case.

23. It is further found that even if the conduct of the respondent's counsel constituted a violation of the code of professional responsibility, such a matter is not within the jurisdiction of the Commission.

24. The complainant's motion to strike the appearance of respondent's counsel is therefore denied.


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

1. The complaint is hereby dismissed.



Commissioner Judith Lahey
as Hearing Officer

Approved by order of the Freedom of Information Commission
at its regular meeting of May 26, 1982.



Mary Jo Jolicoeur
Clerk of the Commission