

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Rudolph Serra,

FINAL DECISION

Complainant

Docket #FIC83-60

against

March 28, 1984

University of Connecticut
Board of Trustees,

Respondent,

The above captioned complaint was heard as a contested case on July 7, 1983, at which time the complainant and respondent appeared 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. On March 11, 1983 the respondent held a meeting during which it convened in executive session.
3. By letter of complaint filed with the Commission on April 5, 1983, the complainant alleged that his employment with the University of Connecticut had been discussed by the respondent in executive session, that he had not been notified that he would be so discussed, that the respondent had improperly voted in executive session, and that the agenda for the March 11, 1983 meeting did not provide reasonable notice of the business to be transacted at such meeting.
4. It is found that the agenda for the March 11, 1983 meeting of the respondent indicated that an executive session would be held for "consideration of personnel matters and pending litigation," and that there would be a chairman's report on "personnel matters."
5. A list of the proposed personnel actions was distributed to the members of the respondent along with the agenda, but such supplemental list was not otherwise made available.
6. Nothing in the agenda identified the personnel matters in a way which would have provided meaningful notice to the public of the matters to be discussed in executive session.

7. It is therefore concluded that the respondent violated §1-21, G.S. when it failed to provide meaningful notice to the public of the matters to be discussed in executive session at its March 11, 1983 meeting.

8. The only document purporting to notify the complainant of the action to be taken with respect to his employment was a copy of a letter sent by the vice-president for academic affairs to the dean of the school of fine arts which stated as follows:

My own review of the [complainant's] case,...leads me to concur with the decision [of the Faculty Review Board] to recommend a terminal appointment. Through the President, I will present this recommendation to the Board of Trustees at the March 11, 1983 meeting of the Board.

9. Such letter was dated March 3, 1983 and was received by the complainant prior to the March 11, 1983 meeting.

10. It is found that the respondent itself failed to make any attempt to notify the complainant that he would be discussed, possibly in executive session, at the respondent's March 11, 1983 meeting.

11. It is found, however, that the complainant had notice, as a result of the vice-president's letter, that the respondent would be considering a recommendation regarding his employment at its March 11, 1983 meeting and that personnel matters on that date were to be discussed in executive session. The complainant at no time either personally or through a representative requested that all discussions concerning him be held in public session.

12. The Commission, therefore, declines to declare null and void the respondent's actions on March 11, 1983 with respect to the complainant.

13. On March 11, 1983, the respondent voted in executive session to approve a terminal appointment for the complainant.

14. It is found that §1-18a(e)(1), G.S. provides for executive session held for "discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee." (emphasis added).

15. It is therefore concluded that the respondent violated §§1-18a(e)(1) and 1-21, G.S. when, on March 11, 1983 it voted in executive session regarding the termination of the complainant's employment.

16. Later in the meeting, in public session, the respondent voted "to approve a formal list of the actions already taken by the administration on personnel matters," such list to be attached to the file copy of the respondent's minutes.

17. Although not specifically raised by the complainant, the Commission notes that making the list of actions available following the taking of the vote does not satisfy the requirements of §1-21, G.S. regarding access to public meetings. When voting upon documents not read aloud at a public meeting, an agency must make the documents to be voted upon available prior to the taking of the vote.

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

1. Henceforth, the respondent shall act in strict compliance with the requirements of §1-21 and 1-18a(e)(1), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of March 28, 1984.



Mary Jo Jolicœur
Clerk of the Commission