

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Edward R. Purcell,

FINAL DECISION

Complainant

Docket #FIC83-62

against

January 9, 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 the 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. The complainant is the executive director of the American Association of University Professors (hereinafter AAUP).
3. On or about October 1, 1981 arbitration hearings were instituted regarding the employment by the University of Connecticut of one Angelo Rossi.
4. The arbitrator's award, issued on or about August 27, 1982 included the following remedy:

The University Administration shall recommend to the Board of Trustees at its March 1983 meeting that Professor Rossi be granted tenure on account of his longevity.
5. On March 11, 1983, the respondent held a regular meeting during which it convened in executive session.
6. By letter of complaint filed with the Commission on April 7, 1983, the complainant alleged as follows:

a) That the issue of Angelo Rossi's employment and the arbitrator's award had been discussed in executive session on March 11, 1983 and that neither the AAUP nor Mr. Rossi had been notified that he would be so discussed.

b) That the agenda for the March 11, 1983 meeting did not provide reasonable notice of the business to be transacted at such meeting, and that a decision regarding Mr. Rossi's employment was reached in executive session, in violation of §1-21, G.S.

c) That a March 9, 1983 written request for records from the University administration relating to the Rossi case was not complied with until March 17, 1983, and that the respondent had failed to provide complete agenda information, in violation of §1-21, G.S.

7. On or about March 4, 1983, the assistant vice president for academic affairs, Joan Geetter, mailed to the complainant a copy of the academic tenure list which was to be considered at the March meeting of the respondent. Angelo Rossi's name was on such list.

8. By telephone on March 8, 1983 and by letter dated March 9, 1983 the complainant made a request of Ms. Geetter for a summary of the Rossi case and for copies of any supplemental written material provided to the respondent with respect to the other candidates whose names had appeared on the tenure list.

9. By letter dated March 17, 1983, Ms. Geetter informed the complainant that she had presented the respondent with an oral summary only, and enclosed the material which had been before the respondent during discussion of Mr. Rossi's tenure recommendation. She further informed the complainant that she was not aware of any supplemental written material provided to the respondent with respect to the other candidates recommended for tenure.

10. 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."

11. 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.

12. 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.

13. On March 11, 1983, a representative of the AAUP appeared at the meeting of the respondent and caused to be distributed a document signed by the complainant and dated March 9, 1983 informing the members of the respondent of the AAUP'S position regarding Mr. Rossi. Contained in such document was a note that

"there is some indication that the Board will be orally informed in secret executive session that the Administration actually prefers that Professor Rossi be denied tenure at this time."

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

15. It is found, however, that the complainant and Mr. Rossi had notice that the respondent would be considering a recommendation regarding Mr. Rossi's employment at its March 11, 1983 meeting, and that personnel matters on that date were to be discussed in executive session. Mr. Rossi at no time either personally or through the AAUP requested that all discussions concerning him be held in public session.

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

17. On March 11, 1983, the respondent voted in executive session to deny tenure on the basis of longevity to Mr. Rossi, with the stipulation that the respondent shall receive and consider a recommendation concerning the award of tenure to him on the basis of merit during the 1983-84 academic year.

18. §1-18a(e)(1), G.S. provides for executive sessions held for "discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee."

19. 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 Mr. Rossi's tenure.

20. Later in the respondent's March 11, 1983 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.

21. 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 a vote.

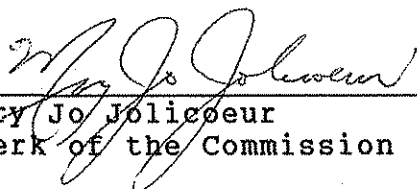
22. It is found that the complainant's March 9, 1983 request for information was received by the respondent on March 11, 1983. The documents forwarded to the complainant in response to his request consisted of two single-page letters and one two-page document.

23. It is found that under the circumstances, the respondent's response to the complainant on March 17, 1983 was not prompt within the meaning of §§1-15 and 1-19(a), 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 shall act in strict compliance with the requirements of §§1-18a(e)(1) and 1-21, G.S., and §§1-15 and 1-19(a), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of December 28, 1983.



Mary Jo Jolicœur
Clerk of the Commission