

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Lawrence G. Woodward, Pres.,
East Windsor Volunteer
Ambulance Association

Docket #FIC83-100

Complainant(s)

vs.

10/12/83

North Central Connecticut
Emergency Medical Services
(NCCEMS)

The above captioned matter was scheduled for hearing August 1, 1983 at which time the parties appeared and presented evidence and argument on the complaint. Thereafter both parties submitted in writing additional evidence and argument.

After consideration of the entire record the following facts are found:

1. By complaint filed with the Commission May 18, 1983 the complainant alleged the respondent violated the open meetings requirement of §1-21, G.S. by holding an illegal meeting on May 9, 1983.
2. The respondent claimed that while it conducted the proceedings in compliance with the spirit of the Freedom of Information Law that because it was not a public agency it was not bound to comply with the open meetings provisions in all respects.
3. The primary issue between the parties is whether the respondent is a public agency within the meaning of §1-18a(a), G.S.
4. In regard to its determination of this issue the Commission is guided by the reasoning of the Connecticut Supreme Court in Board of Trustees of Woodstock Academy et al v. Freedom of Information Commission et al., 181 Conn 544 (1980).
5. In Woodstock the Supreme Court announced four criteria which it adopted as a test to determine whether hybrid public/private entities are public agencies which are the functional equivalent of a public agency which falls within the definition of agency set forth at §1-18a(a), G.S.

6. The criteria utilized by the court are:
 - a. whether the entity performs a governmental function;
 - b. the level of government funding;
 - c. the extent of government involvement or regulation;
 - d. whether the entity was created by the government

7. In order to apply the criteria and to determine whether the respondent is the functional equivalent of a public agency the findings of fact and law herein will be organized under headings corresponding to each of the standards set forth in the Woodstock decision.

I. Whether the Entity Performs a Governmental Function

8. The respondent herein is the emergency medical service (EMS) council for the North Central Connecticut area.

9. The respondent was created by the legislature pursuant to §19a-183 and §19a-184, G.S. to further the policy of establishing a coordinated statewide emergency medical service system.

10. The respondent consists of approximately thirty-two members and meets about six times a year.

11. Various concerns and projects of the respondent council are treated by committees i.e., the training committee, the strategic planning committee, the CMED committee (which concerns itself with a regional radio system for ambulance services), the communications committee, the medical advisory committee, the nominating committee, the nursing advisory committee and the executive committee.

12. The respondent council is required by §19a-184, G.S. to:
 - a. review and comment upon the emergency medical service plan submitted by the health systems agency (HSA hereinafter) within its region
 - b. advise the HSA on policies and priorities regarding emergency medical services
 - c. review and make recommendations concerning grant and contract applications for federal and state funds pertaining to emergency medical services from units of local government, certain public entities or non-profit private agencies.

13. Under §19-73w-407 of the regulations of the state department of health regional EMS councils are designated to hear complaints concerning the application of the regulations governing emergency medical services and to advise the commissioner of health and his advisory council whether such complaint shall be heard by him.

14. It is concluded on the basis of the foregoing facts, statutes and regulations that the respondent council performs a governmental function.

II. The level of government funding

15. The respondent receives funds from a variety of governmental entities.

16. Local towns provide 35% of the respondents budget in the form of a per-capita share of the cost of the CMED (radio communications) operations.

17. State funds provide 27% of the respondent's budget.

18. Federal block grant funds provide 6% of the respondent's budget.

19. Space for the CMED facilities is provided at no direct cost to the respondent by the University of Connecticut Health Center.

20. The existing transmitters for the CMED facility were partially funded by the federal government (45%).

21. Plans for expansion of the CMED facilities include funding from state and local government.

22. Based upon the facts herein it is found that government funding and in kind support received by the respondent is substantial.

III. The extent of government involvement or regulation

23. The respondent exists to further a government policy of establishing a coordinated statewide emergency medical system.

24. Section 19a-184, G.S. sets forth the requirements for the composition of the membership of regional emergency medical service councils.

25. §19a-184, G.S. specifies the powers and duties for the regional emergency medical service councils and their chairmen.

26. §19a-187, G.S. requires the cooperation of all state agencies with regional EMS councils.

27. The role which has been created for the respondent by statute and by regulations of the state department of health operate to give CMED a regional monopoly of radio transmission for local ambulance services.

28. It is found that the respondent has a substantial governmental involvement.

IV. Whether the respondent was created by government

29. The respondent would not exist except for its creation by statute as a regional emergency medical service council.

V. The respondent is a public agency

30. It is found because the respondent was created by government, because of its substantial governmental involvement and funding and other support, and because it performs a governmental function that the respondent is a public agency within the meaning of §1-18a(a), G.S.

VI. The complaint

31. The complainant alleged that the executive committee of the respondent held a meeting with selected members of the CMED committee on May 9, 1983 at 3 p.m. at Pratt Whitney Aircraft in private offices, without posting notice as required by §1-21, G.S.

32. The respondent admits that the meeting was held and that no notice was posted.

33. It is found that the meeting of the executive committee along with selected members of the CMED committee was a meeting within the meaning of §1-18a(b), G.S.

34. It is found that the meeting was held in violation of the notice provisions of §1-21, G.S.

35. It is further found that the location of the meeting at a private office within Pratt Whitney also constituted a violation of the open meetings requirement of §1-21, G.S. because it was inaccessible to the public.

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

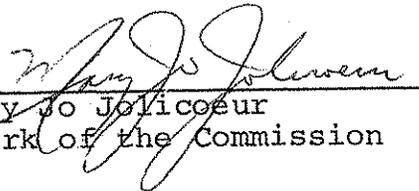
1. The respondent shall henceforth comply with the requirements of §1-21, G.S.

2. Nothing herein should be read to imply bad faith on the part of the respondent agency. The respondent has at all times acted in accordance with its understanding of the spirit of the Freedom of Information Act and with the intention to communicate fully with all persons who have an interest in emergency medical services.



Donald W. Friedman as Hearing Officer

Approved by order of the Freedom of Information Commission
at its regular meeting of December 14, 1983.



Mary Jo Jolicœur
Clerk of the Commission