

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Lori Boyko,

Complainant

against

Docket # FIC 2024-0465

Chairman, Library Board of Trustees, Town
of Simsbury; Library Board of Trustees,
Town of Simsbury; and Town of Simsbury,

Respondents

July 23, 2025

The above-captioned matter was heard as a contested case on January 30, 2025, at which time the complainant and the respondents appeared and presented testimony, exhibits, and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. By letter of complaint filed August 8, 2024, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with certain requirements set forth in §§1-225 and 1-225a¹, G.S., among others, with respect to a July 15, 2024 regular meeting (“July 15 Meeting”) and an August 6, 2024 special meeting (“August 6 Meeting”) of the Simsbury Public Library Board of Trustees (“respondent Board”), including, more specifically:²

For its July 15 Meeting:

- a. The respondent Board held such meeting as a hybrid meeting, but did not notice it as such in the agenda nor did it provide instructions for the public to attend, provide comment or otherwise participate in the meeting by means of electronic equipment;

¹ Although not appearing in the FOI Act, the term “hybrid meeting” is commonly used to refer to meetings conducted both in person and remotely that are subject to the requirements of §1-225a(a), G.S. Consistent with such practice, and because both parties used that term throughout the proceedings in this matter, this decision will refer to such meetings as “hybrid meetings.”

² At the hearing on this matter, the complainant withdrew certain claims raised in her complaint, relating to the respondent Board’s regular meetings of June 19, 2024, and March 20, 2024; therefore such claims will not be addressed herein.

- b. The respondent Board's members did not make a good faith effort to identify themselves on each occasion that they participated orally during meetings;
- c. The respondent Board improperly voted to approve minutes of its May 20, 2024 meeting ("May 20 Meeting") without indicating that such meeting was improperly noticed and/or that no agenda was filed 24 hours prior to it (and that the agenda for such meeting may never have been filed);
- d. The respondent Board unanimously voted to approve a new policy and funding for a new program without explaining the substance, time or place of their previous discussions they claimed to have had nor providing the public with copies of the policy(ies)/program(s) being voted on;
- e. The respondent Board improperly convened an executive session without a proper purpose and without providing the reason for entering such executive session; and
- f. During such executive session, the Library Director, who is not a board member, was present throughout without having a reason for attending.

For its August 6 Meeting:

- g. The respondent Board held its August 6 Meeting as a hybrid meeting, but did not notice it as such in the agenda nor did it provide instructions for the public to attend, provide comment or otherwise participate in the meeting by means of electronic equipment; and
- h. The agenda for such meeting was not sufficient to inform the public of the "business to be transacted."

The complainant also requested that the Commission order FOI training, among other remedies.

July 15 Meeting:

3. With respect to the allegation set forth in paragraph 2(a), above, the complainant contends that the respondent Board held the July 15 Meeting as a hybrid meeting, but that the respondent Board did not notice the agenda as such nor did it provide information about how the public could participate electronically.

4. The respondents maintain that the July 15 Meeting agenda did not indicate that the meeting was available to the public via remote or electronic means because the July 15 Meeting was not intended to be, and did not constitute, a hybrid meeting.

5. Section 1-225a(a), G.S., provides in relevant part:

...On and after July 1, 2021, a public agency may hold a public meeting that is accessible to the public by means of electronic equipment or by means of electronic equipment in conjunction with an in-person meeting, in accordance with the provisions of this section. Not less than forty-eight

hours before any public agency, except for the General Assembly, conducts a regular meeting by means of electronic equipment, such agency shall provide direct notification in writing or by electronic transmission to each member of the public agency and post a notice that such agency intends to conduct the meeting solely or in part by means of electronic equipment (1) in the agency's regular office or place of business, (2) in the office and on the Internet web site of the Secretary of the State for any such public agency of the state or quasi-public agency, in the office of the clerk of such subdivision for any public agency of a political subdivision of the state that is not a quasi-public agency, or in the office of the clerk of each municipal member of any multitown district or agency, and (3) if the agency has an Internet web site, on such Internet web site...

6. Section 1-200(12), G.S., defines "electronic equipment" to mean "any technology that facilitates real-time public access to meetings, including, but not limited to, telephonic, video or other conferencing platforms."

7. It is found that on July 15, 2024, at 7:00 p.m., the respondents held the July 15 Meeting at the Simsbury Public Library – Weatogue Room.

8. It is also found that prior to the July 15 Meeting, the respondents duly prepared, drafted and noticed the agenda for such meeting with the intention that the public would not be able to attend by electronic means but rather only via in-person attendance.

9. It is also found that the agenda for the July 15 Meeting indicated that the meeting would be held in-person; neither the heading nor any other part of the agenda invited the public to join the meeting in any remote or electronic manner.

10. It is also found that some members of the respondent Board attended the July 15 Meeting electronically.

11. The respondents maintain that the notice requirements set forth in §1-225a(a), G.S., did not apply to the July 15 Meeting because such meeting was not a hybrid meeting, "accessible to the public by means of electronic equipment," within the meaning of such provision. The respondents contend that when a public agency holds an in-person meeting while providing the ability for participation through electronic equipment by only member(s) of said agency, such meeting is not subject to the additional notice requirements of §1-225a(a), G.S.

12. First, although §1-225a(a), G.S., does not expressly state that a meeting is "accessible by means of electronic equipment" only if members of the public are allowed to fully participate in such meeting to the same extent as if they attended in person, it does require the notice and agenda for such meetings to include "instructions for the public, to attend and provide comment or otherwise participate in the meeting, by means of electronic equipment or in person,

as applicable and permitted by law.” This implies that the legislature intended the remote meeting provisions to apply when the public was allowed to participate remotely, as opposed to the members of the Board and invited presenters. *See, James Maggio v. First Selectwoman, Board of Selectmen, Town of Weston, et al.*, Docket # FIC 2024-0043 (Oct. 9, 2024).

13. Based on the foregoing, it is found that the respondent Board’s July 15 Meeting was not a hybrid meeting as it was not “*accessible to the public* by means of electronic equipment,” within the meaning of §1-225a(a), G.S. (Emphasis added.) It is therefore concluded that the respondents did not violate §1-225a(a), G.S., with respect to the July 15 Meeting by failing to provide the additional notice requirements, as alleged in paragraph 2(a), above.

14. With respect to the allegation in paragraph 2(b), above, the complainant maintains generally that members at respondent Board meeting(s) do not regularly identify themselves on each occasion that such member participates orally during meetings, as required under §1-225a(e), G.S.

15. Section 1-225a(e), G.S., provides:

Any member of a public agency or the public who participates orally in a meeting of a public agency conducted by means of electronic equipment shall make a good faith effort to state such member's name and title, if applicable, at the outset of each occasion that such member participates orally during an uninterrupted dialogue or series of questions and answers.

16. Although they concede that in the past at Board meetings generally, not specific to the July 15 Meeting at issue herein, some members failed to identify themselves for the record, the respondents testified and it is found that they have made good faith efforts to ensure that all members are now aware of the requirements of §1-225a(e), G.S.

17. With respect to the July 15 Meeting, it is further found that there is no evidence that the respondents violated the good faith standard set forth in §1-225a(e), G.S.; and it is therefore concluded that the respondents did not violate such provision, as alleged in paragraph 2(b), above.

18. With respect to the allegation set forth in paragraph 2(c), above, the complainant contends that during the July 15 Meeting, the respondent Board improperly voted to approve the minutes of its May 20 Meeting without indicating, either orally or in the May 20 Meeting minutes, that such meeting was not properly noticed at least twenty-four hours prior thereto.

19. It is found that the complainant’s allegation in paragraph 2(c), above, pertains to the accuracy of the May 20 Meeting minutes (i.e., the approval passed at the July 15 Meeting did not acknowledge or otherwise reflect that the May 20 Meeting was not properly noticed). The complainant maintains that the respondents were required to acknowledge that the May 20 Meeting was improperly held in violation of the FOI Act because it was not properly noticed.

20. At the hearing on this matter, the respondents maintained that the Commission lacks jurisdiction over this issue because the complainant was or should have been aware of the May 20 Meeting within a week of said meeting due to the respondents' publication of the minutes thereof and the complaint was filed on August 8, 2024, well beyond thirty days after the minutes were published.³ At the hearing on this matter, the respondents conceded that the May 20 Meeting was not properly noticed, in part, due to staffing changes/shortages.

21. It is found that the minutes for the May 20 Meeting appear to have been published for public inspection within a week of said meeting in accordance with §1-225(a), G.S.⁴

22. It is further found that the agenda for the July 15 Meeting listed as item number 3 "Approval of Minutes for Regular Meeting – May 20, 2024" and that during its July 15 Meeting, the respondent Board properly voted to approve the minutes of its May 20 meeting.

23. It is concluded, pursuant to §1-206(b)(1), G.S., that to the extent the allegation in paragraph 2(c) raises an issue with respect to the actual vote itself that was taken at the respondent Board's July 15 Meeting (i.e., to approve the May 20 Meeting minutes), as opposed to the substance of the May 20 Meeting minutes themselves, the Commission has jurisdiction over such issue as such issue falls within the thirty-day jurisdictional window referenced in paragraph 20, above; however, the Commission agrees with the respondents that it lacks jurisdiction in this case over allegations regarding the accuracy of the May 20 Meeting minutes.

24. It is further concluded, based on the evidence in this case, that the respondents did not violate the FOI Act with respect to the vote taken to approve the May 20 Meeting minutes at the July 15 Meeting, as alleged in paragraph 2(c), above.

25. With respect to the allegation set forth in paragraph 2(d), above, the complainant maintains that during the July 15 Meeting, the respondent Board voted to approve a new policy and funding for a new program,⁵ but that prior to such votes, the respondent Board indicated its vote was being conducted "as per their previous discussion" at the May 20 Meeting, without explaining such previous discussions nor providing the public with copies of the policy or descriptions of the program being voted on.

26. The respondents maintain that the votes taken at the July 15 Meeting relating to the policy(ies) and program(s) noted in paragraph 25, above, were properly voted upon and recorded in conformance with the respondent Board's practice. The respondents contend that all of the

³ See §1-206(b)(1), G.S., which provides in relevant part: "Any person ... wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the [FOI Act] may appeal therefrom to [the Commission], by filing a notice of appeal A notice of appeal shall be filed not later than thirty days after such denial, except in the case of an unnoticed or secret meeting, in which case the appeal shall be filed not later than thirty days after the person filing the appeal receives actual or constructive notice that such meeting was held."

⁴ The exact date of publication of these minutes is not established in the administrative record; however, the Library Director testified that the minutes were likely published within a week of the May 20 Meeting. The Commission also notes that the complainant withdrew her claims related to the May 20 Meeting and essentially conceded that any claims related to such meeting would be untimely.

⁵ It is found that the Library Director requested certain funds for a program called "Coffee Buddies" and the respondent Board needed to vote to approve such funding in conformance with the respondent Board's practice.

Simsbury Public Library policy materials, including those voted on at the May 20 Meeting and July 15 Meeting,⁶ are posted and available to the public on the respondents' internet site.

27. It is concluded, pursuant to §1-206(b)(1), G.S., and based on the evidence in this case, that the respondents did not violate the FOI Act with respect to the vote(s) taken at the July 15 Meeting, as alleged in paragraph 2(d), above. It is further concluded that the remainder of the allegations set forth in paragraph 2(d), above, do not allege a violation under the FOI Act and therefore the Commission lacks jurisdiction over such claims.

28. With respect to the allegation in paragraph 2(e), above, the complainant maintains that during the July 15 Meeting the respondent Board improperly entered executive session without providing the reason(s) for doing so and convened such executive session for an improper purpose.

29. Section 1-225(f), G.S., provides:

(f) A public agency may hold an executive session as defined in subdivision (6) of section 1-200, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and stating the reasons for such executive session, as defined in section 1-200.

30. Section 1-200(6), G.S., provides in relevant part:

(6) 'Executive sessions' means a meeting of a public agency at which the public is excluded for one or more of the following purposes: (A) Discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting...

31. The Commission has consistently held that in order for the public to be fairly apprised of the reason for an executive session, the agency must give some indication of the specific topic to be addressed. See, e.g., *Effros v. Chairman, Planning and Zoning Commission, Town of Greenwich, et al.*, Docket #FIC 2020-0352 (October 13, 2021)(agenda item "executive session to discuss pending litigation" did not fairly apprise the public); *Smith v. Craig Cook, Superintendent of Schools, Windsor Public Schools, et al.*, Docket #FIC 2014-833 (September 24, 2015) (agenda item "Potential Executive Session to Review Attorney/Client Privileged Communication Regarding Personnel Matter" did not fairly apprise the public); *Schultz, et al. v. Board of Education, Woodstock Public Schools*, Docket #FIC 2008-236 (February 25, 2009) (agenda item "discussion of attorney/client privilege documents and pending litigation," did not fairly apprise the public).

⁶ It is found that both of the policies/programs referenced in paragraph 25, above, were originally voted on and approved at the May 20 Meeting and then re-voted upon at the July 15 Meeting as a corrective measure.

32. The respondents concede, and it is found, that the July 15 Meeting agenda did not state a reason for entering executive session and that the respondent Board failed to state the reasons for such executive session at the meeting when it voted to convene in executive session.

33. Initially the respondent Board members believed that they entered executive session for a proper purpose but, subsequent to the filing of the complaint in this matter, determined the reason for which they entered such session was not a proper purpose for an executive session under the FOI Act.⁷ The complainant maintained that the respondent Board should be compelled to produce minutes of the July 15 executive session, in which the respondent Board should detail the reason(s) for entering such session.⁸

34. It is concluded that the respondents violated §1-225(f), G.S., by not “stating the reasons for such executive session” and §1-200(6), G.S., by convening in executive session for an improper purpose, all as alleged in paragraph 2(e), above.

35. With respect to the allegation in paragraph 2(f), above, the complainant maintains that the Library Director improperly attended the July 15 executive session, in violation of §1-231, G.S.

36. Section 1-231, G.S., provides in relevant part:

(a) At an executive session of a public agency, attendance shall be limited to members of said body and persons invited by said body to present testimony or opinion pertinent to matters before said body provided that such persons' attendance shall be limited to the period for which their presence is necessary to present such testimony or opinion and, provided further, that the minutes of such executive session shall disclose all persons who are in attendance except job applicants who attend for the purpose of being interviewed by such agency.

37. It is found that the Library Director for the Simsbury Public Library is not a member of the respondent Board, and that she attended the July 15 executive session in its entirety but did not present “testimony or opinion”, as required pursuant to §1-231(a), G.S.

38. It is therefore concluded that the respondents violated §1-231, G.S., as alleged in paragraph 2(f), above.

⁷ Based upon the Administrative Record, it appears that one of the members of the respondent Board requested the executive session to share a personal matter with the other respondent Board members.

⁸ At the hearing on this matter, the respondents indicated that they have taken corrective action, including distributing to all members of the respondent Board the five reasons for entering executive session and the need to state the reason(s) for such executive session (as set forth in §1-200(6), G.S.) and re-emphasized the requirement that such reason must be stated in the agenda and on the record at such meeting, all to assure that executive session shall be handled correctly going forward.

August 6 Meeting:

39. With respect to the allegation set forth in paragraph 2(g), above, the complainant contends that the respondent Board held the August 6 Meeting as a hybrid meeting, but that the respondent Board did not notice the agenda as such nor did it provide information about how the public may participate electronically. The respondents maintain a similar stance to that taken with respect to the allegations set forth in paragraph 2(a), above.

40. It is found that on August 6, 2024, at 8:30 a.m., the respondents held a special meeting at the Simsbury Public Library – Weatogue Room.

41. It is found that prior to the August 6 Meeting, the respondents duly prepared, drafted and noticed the agenda for that meeting with the intention that the public would not be able to attend electronically but rather only via in-person attendance.

42. It is also found that the agenda for the August 6 Meeting indicated that the meeting would be held in-person; neither the heading nor any other part of the agenda invited the public to attend the meeting in any remote or electronic manner.

43. As previously similarly determined with respect to the July 15 Meeting, it is found that the respondent Board's August 6 Meeting was not "accessible to the public by means of electronic equipment," within the meaning of §1-225a(c), G.S.⁹ It is therefore concluded that the respondents did not violate §1-225a(c), G.S., with respect to the August 6 Meeting, as alleged in paragraph 2(g), above.

44. With respect to the allegation in paragraph 2(h), above, the complainant maintains that the agenda of the August 6 Meeting was not sufficient to inform the public about the subject of the meeting or the "business to be transacted".

45. Section 1-225(d), G.S., provides in relevant part:

Notice of each special meeting of every public agency, ...
shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by such public agency. (emphasis added)

46. It is well settled that a meeting agenda must fairly apprise the public of the action proposed and of the "matters to be taken up at the meeting in order to [permit the public] to properly prepare and be present to express their views." *Zoning Bd. of Appeals of the Town of Plainfield v. Freedom of Info. Comm'n*, No. CV 990497917S, 2000 WL 765186, at *4 (Conn. Super. Ct. May 3, 2000), reversed on other grounds, 66 Conn. App. 279 (2001). In *Durham Middlefield Interlocal Agreement Advisory Bd. v. Freedom of Info. Comm'n*, No. CV

⁹ Section 1-225a(c), G.S. is statutorily identical to Section 1-225a(a), G.S., except that the former is specific as to special meetings.

960080435, 1997 WL 491574, at *4 (Conn. Super. Ct. Aug. 12, 1997), the court concluded that it was reasonable for the Commission to require an agenda be more detailed than “Executive Session Re: Possible Litigation.”

47. It is found that the August 6 Meeting agenda specified the proper time and place of the meeting, and under item 4 of the agenda, listed discussion of an “Art Exhibit”.

48. The respondents contend that the agenda properly put any member of the public on notice of what was to be discussed in relation to item 4 of the August 6 Meeting agenda. The respondents further contend that the notice specified the time and place of the special meeting and the business to be transacted, and that the respondent Board discussed only such business as was stated. The complainant maintains that proper notice should have provided that the discussion would be of the removal or reinstallment of a specifically named art exhibit and issues related thereto. The respondents maintain, however, that when noticing the meeting they did not know what action would be taken by the respondent Board and thus could not include such in the description.

49. It is found that there is only one room in which art exhibits are displayed at the Simsbury Public Library; however, art is exhibited in various spaces throughout the library as well. It is further found that at the time of the August 6 Meeting, an art exhibit that had been recently installed had been taken down based upon instruction by the Library Director.

50. It is also found that during the August 6 Meeting the respondent Board, with respect to item 4 of the August 6 Meeting agenda, discussed the Art Exhibit that had recently been installed and then removed and also discussed the reinstallment of such Art Exhibit.

51. It is found that item 4 of the agenda failed to identify the specific Art Exhibit to which it was referring; nor did it identify the specific business to be discussed with respect to “Art Exhibit,” if any.

52. It is found further that item 4 of the agenda was overly broad and did not fairly apprise the public of the matter to be considered and acted upon at the August 6 Meeting.

53. It is concluded that the respondents violated §1-225(d), G.S., with respect to the August 6 Meeting agenda, as alleged in paragraph 2(h), above.

54. The Commission takes administrative notice that the Town of Simsbury underwent voluntary FOI Act training led by Russell Blair, Director of Education & Communications for the Commission, on January 8, 2025, after the complaint was filed in this matter.

55. Because the Town of Simsbury underwent such training and the respondents represented that every member of the respondent Board attended such training, the Commission declines to order additional training at this time as requested by the complainant.

56. Additionally, based on the facts and circumstances of this case, the Commission, in its discretion, declines to consider the other forms of relief requested by the complainant.

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

1. Henceforth, the respondents shall strictly comply with the requirements of §§1-225(f), 1-225(d) and 1-231(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 23, 2025.



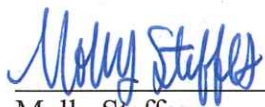
Molly Steffes
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

LORI BOYKO, 15 Oakhurst Road, Simsbury, CT 06070

CHAIRMAN, LIBRARY BOARD OF TRUSTEES, TOWN OF SIMSBURY; LIBRARY BOARD OF TRUSTEES, TOWN OF SIMSBURY; AND TOWN OF SIMSBURY, c/o Attorney Robert M. DeCrescenzo, Updike, Kelly & Spellacy, P.C., Goodwin Square, 225 Asylum Street, 20th Floor, Hartford, CT 06103



Molly Steffes
Acting Clerk of the Commission