

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Lori Boyko,

Complainant

against

Docket # FIC 2024-0519

Holly McGrath, Chair, 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 26, 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 §1-225a, G.S., for “hybrid” in-person/remote meetings with respect to the respondents’ regular meeting of August 19, 2024 (“August 19 Meeting”)¹, including, more specifically, that:
 - a. The Simsbury Public Library Board of Trustees (“respondent Board”) held its August 19 Meeting as a hybrid meeting, but did not notice it as such in the agenda nor 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 by means of electronic equipment 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.”

- b. The minutes of the August 19 Meeting do not reflect which members attended in person and which attended electronically, nor do they indicate that it was a hybrid meeting;²
- c. During the August 19 Meeting, the respondent Board improperly voted to approve minutes of its July 15, 2024 meeting ("July 15 Meeting") to indicate that they did not go into executive session during the July 15 Meeting, despite having done so;
- d. During the August 19 Meeting there were several votes in which various members voted in the affirmative or abstained (i.e., zero "no" votes), however despite some members abstaining, the results of such votes were improperly listed in the minutes as "unanimous"; and
- e. The respondent Board's members regularly do not identify themselves on each occasion that such members participate orally during meetings.

In addition, the complainant requested that the Commission impose civil penalties upon the respondents, as well as to require the respondent Board and its director to undergo FOI Act training from the Commission's staff.

3. With respect to the allegation set forth in paragraph 2(a), above, the complainant contends that the respondent Board held the August 19 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 August 19 Meeting agenda did not indicate that the meeting was available to the public via remote or electronic means because the August 19 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

² The complainant duplicated this allegation toward the end of her complaint, as such the allegation need only be addressed once herein. At the hearing on this matter, the complainant acknowledged the duplication.

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 August 19, 2024, at 7:00 p.m., the respondents held the August 19 Meeting at the Simsbury Public Library – Weatogue Room.

8. It is also found that prior to the August 19 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 by electronic means but rather only via in-person attendance.

9. It is also found that the agenda for the August 19 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 a member of the Board, Mary Anne O’Neil, attended the August 19 Meeting by means of electronic equipment.

11. It is also found that the respondents invited a presenter to present at the August 19 Meeting, Samantha Lee, Co-chair of the Intellectual Freedom Committee of the CT Library Association, and that Ms. Lee gave her presentation by means of electronic equipment.

12. The respondents maintain that the notice requirements set forth in §1-225a(a), G.S., did not apply to the August 19 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 such electronic equipment by member(s) of said agency, such meeting is not subject to the additional notice requirements of §1-225a(a), G.S.

13. 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 by means of electronic equipment, as opposed to the members of the Board and invited presenters, as if they attended in person. See, Docket # FIC 2024-0043, *James Maggio v. First Selectwoman, Board of Selectmen, Town of Weston; Board of Selectmen, Town of Weston; and Town of Weston*.

14. Based on the foregoing, it is found that the respondent Board's August 19 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. It is also found that the respondents' decision to allow an invited presenter to attend by means of electronic equipment did not convert the meeting to a hybrid meeting.³ It is therefore concluded that the respondents did not violate §1-225a(a), G.S., with respect to the August 19 Meeting by failing to provide the additional notice requirements, as alleged in paragraph 2(a), above.

15. With respect to the allegation set forth in paragraph 2(b), above, the complainant maintains that the respondents violated §1-225a(d), G.S., by failing to indicate in the August 19 Meeting minutes which members attended in person and which did so electronically, nor do they indicate that such meeting was hybrid.⁴

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

...The minutes of the meeting shall record a list of members that attended such meeting in person and a list of members that attended such meeting by means of electronic equipment.

17. The respondents concede that, and as found in paragraph 10, above, Ms. O'Neil, a member of the Board, attended the August 19 Meeting by means of electronic equipment, thus triggering the need, within the minutes, to "record a list of members that attended such meeting in person and a list of members that attended such meeting by means of electronic equipment."

18. Although the respondents conceded the issue at the hearing on this matter, it is found that prior to the August 19 Meeting, the respondents were mistaken and/or otherwise unaware of such requirement.

19. It is therefore concluded that the respondents violated §1-225a(d), G.S., by failing to record in the minutes "a list of members that attended such meeting in person and a list of members who attended such meeting by means of electronic equipment", as alleged in paragraph 2(b), above.⁵

20. With respect to the allegation set forth in paragraph 2(c), above, the complainant contends that during the August 19 Meeting, the respondent Board improperly voted to amend and approve the minutes of its July 15 Meeting to state that the Board had not convened in executive session during such meeting.

³ It is unclear from the administrative record whether a member of the public was permitted, as a courtesy, to attend the August 19 Meeting by means of electronic equipment; the Commission notes that such practice is not recommended.

⁴ As addressed above, the Commission concludes that the August 19 Meeting was not held by electronic means and was not a hybrid meeting. Therefore, this issue will not be addressed further herein.

⁵ At the hearing on this matter, the respondents indicated that they have taken corrective action to assure that in all such cases where any member attends a meeting by means of electronic equipment, the minutes thereof shall properly reflect those members that attended such meeting in person and those attending by means of electronic equipment.

21. It is found that the crux of the complainant's allegation in paragraph 2(c), above, pertains to the accuracy of the substance of the amendment to the July 15 Meeting minutes (i.e., the amendment passed at the August 19 Meeting modified the July 15 Meeting minutes in such a way as to render the July 15 Meeting minutes inaccurate). The complainant maintains that the respondents did in fact, convene in executive session at the July 15 Meeting, which she knows to be true because she was present during such meeting.

22. At the hearing on this matter, the respondents maintained that the Commission lacks jurisdiction over this issue because the complainant was present at the July 15 Meeting and therefore, was eleven days beyond the thirty-day window⁶ in which to file a complaint over issues relating to such meeting when she filed her complaint on August 26, 2024.

23. It is found that the agenda for the August 19 Meeting listed as item number 3 "Approval of Minutes for Regular Meeting – April 15, 2024 Meeting [and] July 15, 2024 Meeting" and that during its August 19 Meeting, the respondent Board voted to amend and approve the minutes of its July 15 meeting.

24. 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 August 19 Meeting (i.e., to amend the July 15 Meeting minutes), as opposed to the substance of the July 15 Meeting minutes themselves, the Commission has jurisdiction over such issue as such issue falls within the thirty-day jurisdictional window referenced in paragraph 22, above; however, the Commission agrees with the respondents that it lacks jurisdiction in this case over allegations regarding the accuracy of the July 15 Meeting minutes.⁷

25. 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 amend the July 15 Meeting minutes at the August 19 Meeting, as alleged in paragraph 2(c), above.

26. With respect to the allegation set forth in paragraph 2(d), above, the complainant maintains that during the respondent Board's August 19 Meeting there were several votes in which various members voted in the affirmative or abstained, however the results of the votes were improperly listed in the minutes as passing "unanimously". The complainant contends that a roll call vote was required.

27. The respondents maintain that the votes taken were properly recorded in conformance with the respondent Board's practice, and that the seven motions that were passed at the August 19 Meeting, were in fact passed unanimously in accordance therewith.

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

⁶ See §1-206(b)(1), G.S., provides in relevant part: "Any person denied ... any other right conferred by the Freedom of Information Act may appeal therefrom to the [Commission], by filing a notice of appeal with said commission.... not later than thirty days after such denial..."

⁷ The complainant has two other pending FOI complaints against the respondents relating to the allegations of the accuracy of the minutes of the July 15 Meeting, see Docket #s FIC 2024-0465 and FIC 2024-0468.

Any vote taken at a meeting during which any member participates by means of electronic equipment shall be taken by roll call, unless the vote is unanimous.

29. It is found that the August 19 Meeting minutes reflect the “vote[s] taken at a meeting during which [certain] members participated by means of electronic equipment”, at which no member at said meeting of the respondent Board voted in the negative on any such votes.

30. It is found that the August 19 Meeting minutes are accurate since the use of the word “unanimous” followed by a reference to those who abstained, reflects that the “vote [was] unanimous” among those members present and voting.

31. It is therefore found that a roll call vote was not required at the August 19 Meeting; and it is concluded that the respondents did not violate §1-225a(d) G.S., as alleged in paragraph 2(d), above.

32. With respect to the allegation in paragraph 2(e), above, the complainant maintains generally that members at respondent Board meeting(s)⁸ do not regularly identify themselves on each occasion that such member participates orally during meetings, as required under §1-225a(e), G.S.

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

(e) 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.

34. Although they concede that in the past at Board meetings generally, not specific to the August 19 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.

35. 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., specifically with respect to the August 19 Meeting; and it is therefore concluded that the respondents did not violate such provision, as alleged in paragraph 2(e), above.

36. In its discretion, the Commission declines to consider the complainant's request for the imposition of a civil penalty on the respondents under the facts and circumstances of this case.

⁸ The complainant makes reference to this occurring at other unnamed meetings within the Town of Simsbury; for purposes here, the Commission only has jurisdiction over the respondent Board's meeting(s).

37. With respect to the complainant's request that the respondents undergo training, the Commission takes administrative notice of the fact 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.


38. 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.

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 §§1-225a(d) and (e), G.S.

2. Within fifteen (15) days of the date of the Notice of Final Decision in this matter, if they have not already so done, the respondents shall revise the August 19 Meeting minutes in accordance with paragraph 19 of the findings, above, make them available for public inspection, and post them on the respondent Board's internet web site.⁹

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


Molly Steffes
Acting Clerk of the Commission

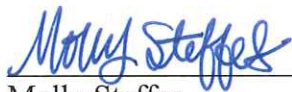
⁹ It is unclear from the administrative record whether the respondents published a revised set of minutes for the August 19 Meeting.

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

HOLLY MCGRATH, CHAIR, 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