

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by )  
Stephen J. Papa, C Complainant ) Report of Hearing Officer  
against ) Docket #FIC76-92  
Town and City of New Haven, and ) August 3, 1976  
the New Haven Board of Education, )  
Respondents )

The above captioned matter was heard as a contested case on July 13, 1976, at which time the complainant and the respondent board appeared and presented testimony and argument on the complaint.

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

1. The respondents are public agencies.
2. By letter of complaint filed with this Commission on May 26, 1976, the complainant alleged that he learned on May 11, 1976 that there was a meeting, either in person or by telephone, of five members of the eight-member respondent board concerning the renewal of the contract of the superintendent of schools. The complainant further alleged that this meeting was in violation of P.A. 75-342.
3. Prior to the May 10, 1976 regular meeting of the respondent board, the secretary thereof communicated with four other members of the board by telephone.
4. The secretary of the respondent board stated that these communications were limited to informing certain board members of the superintendent's reaction to the possibility that his employment contract might not be renewed.
5. It was not proved that any discussion took place, or that any action was taken, during these telephonic communications. Nevertheless the secretary of the respondent board did introduce a motion to bring to the agenda the renewal of the superintendent's contract at the May 10, 1976 meeting. This motion was supported by those members with whom he had communicated by telephone and who were present at the May 10, 1976 meeting.
6. It is therefore found that the telephonic communications between the secretary of the respondent board and four other board members, to the extent that they were for the sole purpose, and with the sole result, of conveying information to such board members, do not constitute a meeting within the meaning of P.A. 75-342.

7. It is impossible for the public to monitor telephonic communications of public agencies to determine whether such agencies are in fact complying with the Freedom of Information Act. Such communications are subject to abuse, and as such are suspect as denying public access to public business. It is for this reason that P.A. 75-342 includes "any convening or assembly of a quorum . . . whether in person or by means of electronic equipment" in its definition of a meeting.

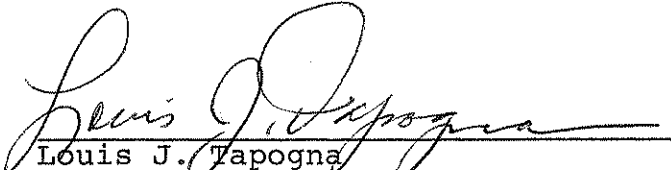
On the basis of the record concerning the above-captioned complaint I hereby recommend the following order by the Commission:

1. The complaint is hereby dismissed.
2. The Commission strongly recommends that henceforth the respondent board avoid telephonic communications among its members concerning matters over which it has supervision, control, jurisdiction, or advisory power.
3. The Commission believes that a contested case involving a telephonic meeting among members of a public agency requires an affirmative showing by the public agency that there was no discussion or action concerning the subject of such communication.

  
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Commissioner Herbert Brucker

as Hearing Officer

Approved by order of the Freedom of Information Commission  
on August 11, 1976.

  
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Louis J. Tapogna  
Clerk of the Commission