

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Clark Judge, Jr., Complainant)	Report of Hearing Officer
)	
against)	Docket #FIC77-228
)	
The Board of Education of Regional School District No. 4,)	January //, 1978
Respondent)	
)	

The above captioned matter was heard as a contested case on January 6, 1978, at which time the complainant and the respondent appeared, stipulated to certain facts 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 within the meaning of §1-18a(a), G.S.
2. The respondent held a meeting on December 8, 1977.
3. By letter of complaint filed with the Commission on December 12, 1977, the complainant alleged that as part of the aforesaid meeting, the respondent convened in executive session without a proper vote to so convene. He also alleged that impermissible matters were discussed at the executive session and that no minutes were kept of such session.
4. Although it is not known when the minutes of the meeting in question were available to the public, it is found that minutes of that meeting, including minutes of the executive session, were indeed kept.
5. Furthermore, the complainant did not prove that the minutes were unavailable to the public within the time period prescribed in §1-21, G.S.
6. Although the minutes of the December 8, 1977 meeting indicate that the respondent board voted unanimously to convene in executive session to discuss personnel matters, the complainant testified from his personal knowledge that there was no such public vote.
7. It is therefore found that the respondent failed to prove that a public vote to convene in executive session was taken at the meeting in question in accordance with §§1-18a(e) and 1-21, G.S.

8. Although one of the purposes of the executive session was to discuss personnel matters in the context of the high school football program, the football program was actually discussed at that session without reference to personnel matters.

9. This is in conformity with the practice of the respondent to conduct executive sessions when the possibility of personalities might be discussed.

10. It is therefore found that the executive session in question was held for purposes other than those specified in §1-18a(e), G.S.

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

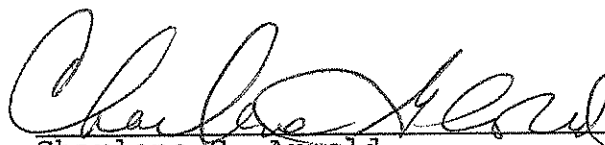
1. Henceforth, the respondent shall comply strictly with the requirements for convening in executive session as stated in §§1-18a(e) and 1-21, G.S.

2. Nothing herein shall be construed as implying bad faith on the part of the respondent. To the contrary, the respondent appears to have attempted to comply with the requirements of the Freedom of Information Act. If anything, the case demonstrates a failure of communication and a misunderstanding of when an executive session may be convened. In this regard, the Commission suggests that the respondent convene in executive session only when a discussion of personnel matters, as defined in §1-18a(e) (1), will occur. If the members of the respondent are informed of this requirement, they undoubtedly would understand the limited scope of executive sessions. In this way, both the privacy of individual employees and the public's right to know will be protected adequately.


Commissioner Donald W. Friedman

as Hearing Officer

Approved by order of the Freedom of Information Commission on
January 25, 1978.


Charlene G. Arnold
Clerk of the Commission