

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
The Torrington Citizens')
Education League, Inc.,)
 Complainant)
) Final Decision
) Docket #FIC78-55
) July 26, 1978
)
Board of Education of the City of)
Torrington, Respondent)

The above captioned matter was heard as a contested case on May 15, 1978, at which time the complainant and the respondent board appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondent board is a public agency as defined by §1-18a(a), G.S.

2. By letter of complaint filed with the Commission on March 27, 1978, the complainant alleged that written notice of the board's February 27, 1978 emergency meeting had not been given to those members of the board who were not present therein, in violation of §1-21, G.S.

3. By same letter, the complainant further alleged that the minutes of emergency meetings of the board held on February 27, 1978 and March 2, 1978 do not adequately set forth the nature of the emergency as required by §1-21, G.S.

4. By same letter, the complainant also alleged that the board's emergency meeting of March 2, 1978 should not have been held without first complying with the requirements of posting notice of special meeting provided under §1-21, G.S.

5. By same letter, the complainant alleged that various matters discussed at the board's executive sessions of March 1, and March 8, 1978 were not proper purposes for holding an executive session under §1-18a(e), G.S.

6. By same letter, the complainant alleged that certain persons whose performance was the subject of the board's March 8, 1978 executive session discussions, were not given notice thereof for purposes of affording them the opportunity to request an open meeting on such discussion.

7. By same letter, the complainant alleged that the notice of the board's special meeting held on March 8, 1978 was deficient in its failure to specify certain business to be discussed at such meeting.

8. With respect to the issue described in paragraph 2 above, the complainant is not a member of the board. The complainant is therefore found not have been denied the right to delivery of notice conferred for the benefit of public agency members under §1-21, G.S.

9. With respect to the issue described in paragraph 3 above, it is found that neither the minutes of the board's meetings of February 27, 1978 or March 2, 1978 adequately set forth the nature of the emergency, in violation of §1-21, G.S.

10. With respect to the issue described in paragraph 4 above, the board did not prove that the budgetary items discussed at its emergency meeting of March 2, 1978 could not have been discussed at some other time by first complying with the twenty-four hour requirement for posting notice of special meeting required under §1-21, G.S.

11. In this regard, the borad had many months in which to prepare its proposed budget. The board also held many meetings between March 2, 1978 and its deadline date for budget submission.

12. It is therefore found that the board violation §1-21, G.S. when it held its March 2, 1978 meeting without first complying with the requirement for the posting of notice of special meeting.

13. At its March 1, 1978 executive session, the board discussed the proposed withdrawal of a certain administrative appeal in which the board was a party.

14. Such matter did not relate to a law suit filed in court.

15. Such discussion is therefore found not to constitute strategy or negotiations with respect to pending claims and litigation within the meaning of §1-18a(e)(2), G.S.

16. It is further found that such discussions did not consist of communications given in confidence by a client to an attorney, retained in a professional capacity as such, within the meaning of the law relating to communications privileged by the attorney-client relationship.

17. It is therefore concluded that the board violated §1-21, G.S., required open meetings, when it closed such discussion to the public for a purpose not permitted under §1-18a(e), G.S.

18. The board's March 8, 1978 executive session discussions did not only concern an evaluation of the job performance of specific individuals in Torrington's school system.

19. Such discussions did not include school transportation negotiations.

20. It is therefore found that the board held a portion of its discussions in executive session on March 8, 1978 for a purpose not permitted under §1-18a(e), G.S.

21. It is further found that all individuals who were the subject of the board's March 8, 1978 executive session discussions were subject of the board's March 8, 1978 executive session discussions were provided with notice thereof as required by §1-18a(e)(1), G.S.

22. The last issue raised concerns the sufficiency of the notice of the board's March 8, 1978 special meeting. Such notice read, in pertinent part, as follows "...to discuss... negotiations."

23. §1-21, G.S. requires that the notice of special meeting shall specify the business to be transacted.

24. The aforesaid special notice was intended by the board to include a discussion of a report on its negotiations for transportation.

25. An ordinary person could not interpret such notice as relating to the board's current negotiations for transportation.

26. Such notice is therefore found not to include such business to be transacted at the board's March 8, 1978 meeting, as required by §1-21, 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 minutes of any emergency special meeting held by the board shall adequately set forth the nature of the emergency as required by §1-21, G.S. In this regard, the minutes are required to reflect the board's reasoning why it could not discuss or act upon the business taken up therein at some later time so as to afford the public the notice required under §1-21, G.S.

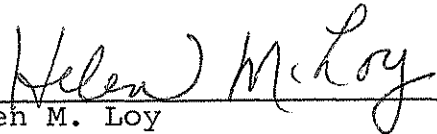
2. Henceforth, the board may hold an emergency special meeting only when it is not possible to discuss or act upon the business therein by posting, twenty-four hours in advance thereof, the notice to a special meeting required under §1-21, G.S.

3. Henceforth, the board may exclude the public from its meetings only when it meets in executive session for a purpose permitted under §1-18a(e), G.S., as outlined in paragraphs 13-17 of the findings above.

4. Henceforth, the board shall specify in its notice of special meeting, each item of business to be transacted therein as required by §1-21, G.S., and as further outlined in paragraphs 22-26 of the findings above.

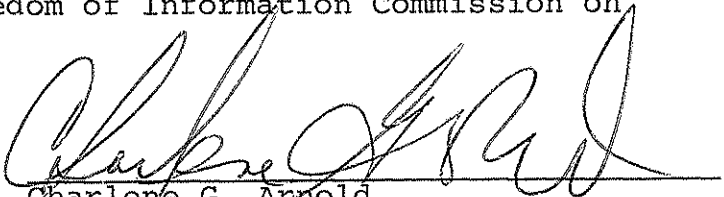
5. The respondent shall forthwith amend the minutes of its February 27, 1978 meeting to set forth the nature of the emergency under which such meeting was convened as an emergency meeting and the nature of such proceedings.

6. Further violation of the Freedom of Information Act by the respondent board will subject it to the full penalties provided by the Act.



Helen M. Loy
Chairman

Approved by order of the Freedom of Information Commission on
July 26, 1978.



Charlene G. Arnold
Clerk of the Commission