

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Miriam Sapiro,

FINAL DECISION

Complainant

Docket #FIC80-81

against

May 21, 1981

Board of Education of the Town of
North Branford; and Chairman of the
Board of Education of the Town of
North Branford,

Respondents

The above captioned matter was heard as a contested case on November 25, 1980, at which time the complainant and the respondents 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 respondents are public agencies as defined by § 1-18a(a), G.S.
2. The complainant is a member of the respondent board, which board is composed of a total of six members.
3. By letter of complaint filed with this Commission on March 24, 1980, the complainant alleged that on March 14, 1980, she was denied the right to attend an emergency meeting of the respondent board, in violation of § 1-21i(b).
4. The complainant further alleged that the minutes of the March 14, 1980 executive session incorrectly state that she voted to delete certain language from a resolution the respondent board had adopted at a previous meeting.
5. By motion to dismiss, the respondents contend, citing § 1-21i(b), G.S., that this Commission lacks jurisdiction to consider the above captioned complaint because it failed to mail copies of said complaint to the respondents forthwith upon receipt of same, and also because the Commission did not hear the matter within twenty days.
6. It is found that the respondents' ability to defend themselves in the above captioned matter was not harmed by the Commission's failure to promptly mail them a copy of the complaint.
7. It is concluded, therefore, that the Commission's failure

promptly to mail a copy of the complaint to the respondents does not deprive the Commission of jurisdiction over the matter.

8. The respondent board conducted what was purported to be an emergency meeting by telephone on March 14, 1980, for the purpose of voting on the deletion of certain language from a resolution adopted by the board at a previous meeting.

9. The respondent chairman obtained the board members' votes by voting himself, telephoning three board members to obtain their votes, and directing the superintendent of schools to telephone and obtain the votes of the remaining two members, one of whom was the complainant.

10. When the respondent chairman called each of the three board members he contacted, he explained that the telephone conversation constituted part of an emergency board meeting and that he was obtaining the members' votes on an issue then before the board.

11. The superintendent called the complainant.

12. The superintendent asked the complainant how she would vote if, at its next regular meeting, the board raised the issue of deleting language from the resolution at issue.

13. It is therefore determined that the complainant neither participated in the respondent board's telephone meeting nor voted on the language deletion issue.

14. Immediately after all board members were contacted, the respondent chairman prepared minutes of the meeting in the form of a letter to the town clerk stating that the respondent board voted 6-0 to delete certain language from a previously adopted board resolution.

15. Said minutes fail to state the nature of the emergency which occasioned the respondent board to conduct an emergency meeting, as required by § 1-21, G.S.

16. Because the complainant neither participated in nor voted at the respondent board's telephone meeting, the minutes of said meeting are found to record the vote of the board's members inaccurately.

17. It is concluded that § 1-21, G.S., which requires public agencies to record the votes of their members, implicitly requires that such recording be accurate.

18. It is therefore concluded that because of the inaccuracy described above in paragraph 17, the minutes of the respondent board's March 14, 1980 telephone meeting fail to comply with § 1-21, G.S.

19. It is further concluded that although § 1-21, G.S., permits public agencies to conduct emergency meetings without providing their members with the notice required for special meetings, § 1-21, G.S., implicitly requires that when public agencies conduct emergency meetings, they must obtain, to the greatest extent practicable under the circumstances, the participation of all of their members.

20. It is therefore concluded that the respondent board violated § 1-21, G.S., by failing to obtain the participation of the complainant in its March 14, 1980 telephone meeting when it was reasonably practicable under the circumstances for it to do so.

21. It is found that the superintendent's telephone conversation with the complainant and the violations of § 1-21, G.S., occasioned thereby resulted from a misunderstanding between the superintendent and the respondent chairman and not from any bad faith on the part of the superintendent or the respondents.

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

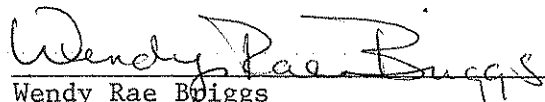
1. The respondent board shall forthwith amend the minutes of its March 14, 1980 meeting to reflect the fact that the complainant did not vote on the matter at issue and to state the nature of the emergency which occasioned said meeting.

2. Henceforth the respondent board shall endeavor, to the best of its ability, to avoid the type of misunderstanding which led to the filing of the above captioned complaint.

3. Nothing herein shall be construed as commenting upon the question of whether the purported emergency which occasioned the respondent board to conduct an emergency meeting on March 14, 1980 was of sufficient magnitude to necessitate an emergency meeting pursuant to § 1-21, G.S.

4. Nothing herein shall be construed as commenting upon the propriety of the method by which the respondent board used its telephone facilities in the course of its March 14, 1980 emergency meeting; the parties are hereby referred to Freedom of Information Commission Advisory Opinion No. 41 for guidance on that issue.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 22, 1981.


Wendy Rae Boiggs
Clerk of the Commission