

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Rita M. Kondracky,

Report of Hearing Officer

Complainant

Docket #FIC81-15

against

July 22, 1981

City and Town of Cromwell and
the Board of Education of the
City and Town of Cromwell

Respondents

The above captioned matter was heard as a contested case on May 22, 1981, 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 respondent is a public agency as defined by § 1-18a(a), G.S.
2. By letter filed with the Commission on January 20, 1981, the complainant alleged that in the course of an executive session held in the course of regular meetings of the board conducted on December 9, 1980, and on January 12, 1981, the respondent board violated the Freedom of Information Act by convening in executive sessions for an improper purpose, and by failing to provide advance notice of an executive session to an individual who was discussed pursuant to § 1-18a(e)(1), G.S., thereby depriving that person of the right to require the board to conduct its discussion in public.
3. It is concluded that the Commission has no jurisdiction to consider the allegations concerning the December 9 meeting because the complainant failed to file her complaint within the time limits imposed by § 1-21i(b), G.S.
4. The meeting alleged to have occurred on January 12, 1981 actually occurred on January 13, 1981.
5. In the course of said meeting the respondent board convened in executive session for the stated purposes of discussing "Board/Superintendent Relations" and "Personnel Matters."
6. During the executive session, the board discussed the format to be used for the board's evaluation of the local superintendent.

7. The respondents contend that the board's discussion concerned the evaluation of the superintendent, and was therefore properly conducted in executive session, pursuant to § 1-18a(e)(1), G.S.

8. It is concluded that although the respondent's position is entirely reasonable, the word "evaluation," in the context of § 1-18a(e)(1), G.S., refers to discussions of public agencies which actually constitute evaluations, not discussions which pertain to the format or procedures for the abstract evaluation process.

9. It is therefore concluded that the respondent board violated § 1-21, G.S., by convening in executive session for a purpose not authorized by § 1-18(a)(e), G.S.

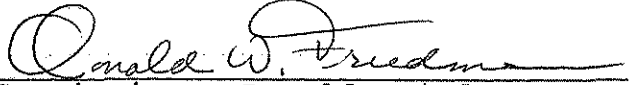
10. The so-called "personnel matter" discussed by the board was a discussion involving the performance or evaluation of a teacher, a proper purpose for an executive session pursuant to § 1-18a(e)(1), G.S.

11. The board did not notify the teacher of the executive session in advance, thereby depriving the teacher of the right, provided by § 1-18a(e)(1), to require the board to conduct its discussion in public.

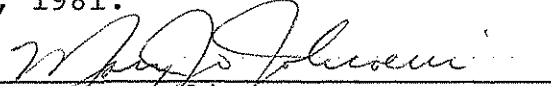
12. The respondent board admits that it unwittingly violated the Act by failing to notify the teacher of the executive session and has stated that it will provide advance notice of executive sessions to all employees it discusses pursuant to § 1-18a(e)(1), G.S., in the future.

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

1. Henceforth the respondent board shall comply with § 1-21, G.S., by limiting its executive sessions to the purposes permitted by § 1-18a(e), G.S., and by providing advance notice of its executive sessions to all persons discussed pursuant to § 1-18a(e)(1), G.S.


Commissioner Donald Friedman
as Hearing Officer

Adopted by order of the Freedom of Information Commission
at its special meeting of August 24, 1981.


Mary Jo Jolicœur
Acting Clerk of the Commission