

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Paul Parker,

FINAL DECISION

Complainant

Docket #FIC85-120

against

October 9, 1985

Undergraduate Student Government,  
University of Connecticut

Respondent

The above captioned matter was heard as a contested case on August 1, 1985 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint.

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

1. By letter of complaint filed with the Commission on May 24, 1985 the complainant alleged that on April 25, 1985 the respondent improperly convened in executive session and that while so convened the respondent voted on the "Employee Notice Act, 1985," in violation of §1-18a(e)(1), G.S. The complainant indicated that he was prepared to show that the respondent is a public agency within the meaning of §1-18a(a), G.S., despite this Commission's contrary finding in FIC 84-92, Paul Parker v. Associated Student Government, University of Connecticut, Waterbury Campus.

2. The respondent claimed that it is not a public agency within the meaning of §1-18a(a), G.S., and moved to dismiss the complaint on that ground. The respondent also asked for the imposition of sanctions against the complainant for bringing a second complaint to this Commission.

3. The four elements to examine when determining whether a respondent is the functional equivalent of a public agency are stated in Board of Trustees of Woodstock Academy v. Freedom of Information Commission, 181 Conn. 554 (1980) as:

- 1) whether the entity performs a governmental function;
- 2) the level of government funding;
- 3) the extent of government involvement or regulation; and
- 4) whether the entity was created by the government.

4. The respondent, the primary function of which is to fund student activities, operates under the provisions of §§4-52 through 4-55, G.S., relating to state institutional activity funds.

5. Under the provisions of a constitution approved by the Board of Trustees of the University of Connecticut on January 8, 1982, the Student Assembly is the governing body of the respondent. The membership of the Student Assembly is elected annually.

6. The Student Assembly is charged with the responsibility of executing and supervising all business of the respondent, although the control of activity funds is under the administrative head of the University. Under §4-54(b), G.S., upon approval of at least 40% of all students, the "duly constituted student government" may become responsible for the control and administration of the student activity fund.

7. The respondent's revenues are derived mainly from fees collected by the University of Connecticut from each undergraduate student. Other funds are derived from programs run by student organizations within the respondent.

8. The respondent is audited by the Auditors of Public Accounts of the State of Connecticut pursuant to §2-90, G.S.

9. Documents offered at hearing indicated that for the fiscal years 1981 through 1984, University of Connecticut students having possession of property or funds in connection with student activities were deemed "employees" for purposes of surety bond coverage for all state employees.

10. Also for the fiscal years 1981 through 1984, furniture and equipment owned by the respondent were covered under insurance purchased by the State of Connecticut. For the fiscal years 1983 and 1984 state insurance coverage was provided for the loss of cash by theft.

11. For the fiscal years 1983 and 1984 other insurance coverage was purchased directly by the respondent from a source other than the agent of record designated by the state insurance purchasing board. The audit report for those years states: "procedures . . . should be discussed with the State Insurance Purchasing Board to ensure compliance with Section 4-37b of the General Statutes, which provides that the purchase of certain types of insurance is to be negotiated by that agency."

12. Reports by state auditors indicate that unpaid student leader loans could be cancelled in accordance with §3-7, G.S., which provides for the cancellation by the governor of uncollectible claims on the books of any state department or agency.

13. The respondent was represented at hearing by an attorney from the office of the Attorney General of the State of Connecticut, which, pursuant to §3-125, G.S. protects the interests of the State of Connecticut, its employees, agencies and elected officials.

14. For the fiscal years 1981, 1982, 1983 and 1984 the respondent received from 65% to 83% of its revenues from the University of Connecticut, the remainder generated by other sources.

15. It is found that the respondent was created by the University of Connecticut, that the University supports the respondent financially by collecting student activity fees and making them available to the respondent and that the University monitors and regulates the activities of the respondent.

16. It is also found that inasmuch as the respondent administers funds collected by the University it performs a governmental function.

17. The respondent claims that the failure of the Connecticut General Assembly to pass a bill introduced during its 1985 session to amend §1-18a(a), G.S. to include student governments at public institutions in the definition of "public agency" indicates a legislative intention to exclude such organizations from the Freedom of Information Act.

18. It is concluded that the mere failure of the Connecticut General Assembly to pass the bill in question does not indicate a legislative intention to exclude student governments at public institutions from the Freedom of Information Act.

19. It is concluded that the respondent is a public agency within the meaning of §1-18a(a), G.S.

20. On April 25, 1985, the respondent held a meeting during which it convened in executive session to discuss a "personnel matter."

21. It is found that the minutes of the respondent's April 25, 1985 meeting do not reflect a vote to convene in executive session or the statement of a purpose for such session, as required by §1-21(a), G.S.

22. It is found that while convened in executive session the respondent discussed an "Employee Notice Act," dealing with procedures for notifying employees of their termination.

23. It is found that discussion of the Employee Notice Act was not a proper purpose for an executive session, except to the extent that discussion of the Employee Notice Act led to discussion of the individual employment of one or more of the respondent's employees within the meaning of §1-18a(e)(1), G.S.

24. The complainant claims that the respondent voted to adopt the Employee Notice Act while convened in executive session, in violation of §1-18a(e)(1), G.S., which permits "discussion" only.

25. The respondent claims that its members did not vote in executive session.

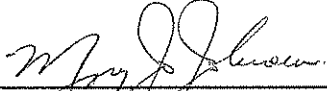
26. It is found that the respondent was still in executive session when it voted.

27. Therefore, it is concluded that the respondent's April 25, 1985 meeting was not held in compliance with §§1-21 and 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. The respondent shall henceforth conduct itself in compliance with the requirements of the Freedom of Information Act, §1-15, et seq. G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of October 9, 1985.

  
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Mary Jo Jolicoeur  
Clerk of the Commission