

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Chris Powell, Complainant)	Report of Hearing Officer
)	
against)	Docket #FIC77-148
)	
Stafford Board of Education, Respondent)	September 16, 1977

The above captioned matter was heard as a contested case on August 25, 1977, at which time the complainant and the respondent board appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

The Connecticut Association of Boards of Education, Inc., hereinafter referred to as CABE, moved for leave to intervene. Such motion was granted pursuant to §1-21j-28 of the Regulations of Connecticut State Agencies. However, participation was limited to cross-examination of the Executive Director of CABE, called as a witness hereto, and the presentation of oral argument and the filing of written briefs or memoranda of law.

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

1. The respondent board is a public agency within the meaning of §1-18a(a), G.S.
2. A quorum of the respondent board gathered on July 25, 1977.
3. At some point in the course of such meeting the respondent board voted to go into executive session.
4. The discussion in executive session concerned a presentation to the board, by the executive director of CABE, of recruitment options available to boards of education conducting a superintendent search. A question and answer period followed thereafter, also in executive session, in which members of the respondent board explored in detail some of the suggested options.
5. By letter filed with the Commission on July 28, 1977, the complainant alleged that the aforesaid executive session was illegal and not a proper purpose for excluding the public.
6. The first issue raised at the hearing was the question of whether or not this was a "meeting" of a public agency within the meaning of §1-18a(b), G.S.
7. The respondent board sought ideas from CABE, of which it is a member, concerning how to conduct a superintendent search. The executive director of CABE agreed to go to the town of Stafford to discuss ideas concerning the same with the board.

8. Accordingly, a special meeting was called by the respondent board and notice was given and posted not less than twenty-four hours prior to the time of such meeting. Such notice specified the following business to be transacted;

"Mr. Ronald S. Gister, Executive Director of Connecticut Association of Boards of Education, Inc., (CABE), will offer some ideas on recruitment procedures for the Superintendency."

9. The gathering of July 25, 1977 constituted a hearing or proceeding of the respondent board as distinguished from a proceeding called and conducted by CABE for the benefit of its individual and composite members.

10. The respondent board has supervision, control, jurisdiction or advisory power over the recruitment and hiring of a superintendent.

11. The respondent board expects a vacancy to occur after the expiration of the current superintendent's contract.

12. The aforesaid gathering of the respondent board on July 25, 1977, is found to be a "meeting" within the meaning of §1-18a(b), G.S.

13. Next, construing §1-18a(e)(5), G.S. together with §1-19(b)(5), G.S., it was contended that the discussion in the aforesaid executive session would have resulted in the disclosure of information contained in the trade secrets and confidential commercial information of CABE and thus was a proper purpose for excluding the public as provided thereunder.

14. Most, if not all, of the information provided to the respondent board by the executive director of CABE was drawn from such executive director's own experience in advising other boards on how to conduct such a search.

15. §1-18a(e)(5), G.S. permits discussion of only those matters which would result in the disclosure of information contained in records described under §1-19(b), G.S.

16. It is found that there were many matters discussed in the aforesaid executive session that would not result in the disclosure of information contained in records described under §1-19(b), G.S.

17. It is therefore concluded that the respondent board met in executive session on July 25, 1977, for a purpose that was not permitted under §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 board shall meet in executive session only for those purposes stated in §1-18a(e), G.S.

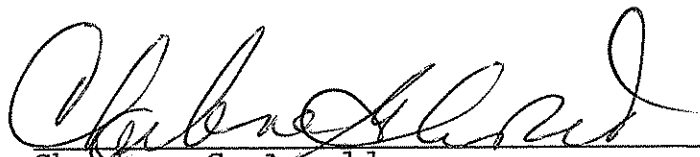
2. The record of the hearing herein shows that the respondent board also proceeded into executive session on the contingency that qualified candidates for the job might be discussed. The respondent board is advised that it can not exclude the public from its discussions on the contingency that something may arise in the course of a discussion that falls within the meaning of the purposes defined under §1-18a(e), G.S. Only when such matters actually do arise may an agency properly hold an executive session. Concomitantly, once the discussion, in an executive session called for a proper purpose, leaves the pale of that purpose, §1-21, G.S. requires that the executive session be adjourned and the meeting be once again opened to the public.



Commissioner Donald W. Friedman

as Hearing Officer

Approved by order of the Freedom of Information Commission on
September 28, 1977.



Charlene G. Arnold
Clerk of the Commission