

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

February 3, 2020

VIA ELECTRONIC MAIL ONLY

Dr. Colleen K. Aycock
1743 Soplo Rd. SE
Albuquerque, NM 87123
Email: cka13705@aol.com

Re: Open Meetings Act Complaint – Albuquerque City Council

Dear Dr. Aycock:

The Office of the Attorney General, Open Government Division (“OGD”) has received your complaint alleging violations of the Open Meetings Act (“OMA”), NMSA 1978, Sections 10-15-1 to -4 (2013) by the Albuquerque City Council (“the Council”). The OGD is charged with enforcement of the OMA and in that capacity has reviewed the facts and allegations in your complaint. *See* NMSA 1978, § 10-15-3(B).

In New Mexico, the public is entitled to “the *greatest possible information* regarding the affairs of government and the official acts of those officers and employees who represent them.” Section 10-15-1(A) (emphasis added). This public policy provides the basis for the Open Meetings Act, which provides generally that all meetings of a public body must be open to the public. *See* § 10-15-1(A) (declaring that, “All meetings of any public body except the legislature and the courts shall be public meetings, and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings.”). OMA sets forth a variety of procedural and substantive requirements that public bodies must satisfy in connection with their meetings, including providing reasonable notice, posting an agenda at least seventy-two hours in advance of any meeting, and maintaining minutes. *See generally* § 10-15-1.

This is the second complaint you have submitted to our Office against the Albuquerque City Council in recent months. In response to your first complaint, we explained that the OMA does not contain any provisions mandating that public bodies accept public comment at their meetings. Your second complaint now alleges that the Council violated the OMA by playing music over your public comment when the meeting was aired on television. Although we understand your

Dr. Colleen K. Aycock

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frustration, once again we cannot find a violation of the OMA because the statute does not contain requirements governing the broadcasting of a meeting on television.¹ (Similarly, the OMA also does not limit or otherwise govern a public body's decision to permit public comment only on particular subjects.) Thus, we again conclude that your complaint has not identified a violation of the OMA, and we consider this matter closed.

The Office of the Attorney General appreciates you bringing possible violations to this office and will welcome any further complaints you may submit. If you have any concerns in the future, please do not hesitate to contact us. Additionally, the OMA Guide is available on the website of the Office of the Attorney General at www.nmag.gov.

Sincerely,

A handwritten signature in blue ink that reads "John Kreienkamp". The signature is stylized and cursive.

John Kreienkamp
Assistant Attorney General

¹ As our review is limited to the OMA, we cannot address your arguments with respect to the Council's alleged violations of your free speech rights.

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HECTOR H. BALDERAS
ATTORNEY GENERAL

Electronic Complaint Submission

Submission Detail

ECS Reference Number	NMOAG-ECS-20191008-d9d9
Final Submit Date	10/8/2019 8:00:50 PM

Disclosure of your complaint: This complaint is a public record, thus available under provisions of the NM Inspection of Public Records Act.

Disclosure to other entities: This complaint, its content, and other information may be disclosed to other law enforcement and regulatory agencies.

I understand this complaint and any submitted documents are public record and may be shared with other law enforcement and regulatory agencies.

DECLARATION: By submitting this form, I attest that the information in this complaint is true and accurate to the best of my knowledge. I further understand that by submitting this form I may be called to testify as a witness in this matter.

I understand declaration statement.

The New Mexico Office of the Attorney General cannot give legal advice regarding this complaint and will not act as your personal attorney. If you have questions regarding your rights please contact a private attorney.

Submission of this complaint is not confirmation that an investigation will be initiated.

Complaint Detail

Complaint Type Open Meetings (OMA) Complaint

Retained Attorney

Parties

Complainant

Dr. COLLEEN K. AYCOCK CactusCrowNM@Yahoo.com

Person

Address

1743 SOPLO RD SE
ALBUQUERQUE, New Mexico 87123

Contact information

cka13705@aol.com
(505) 554-2846

Complaint against

Albuquerque City Council

Public Body (Government Entity)

Address

One Civic Plaza

Contact information

Complaint Specifics

Specific date(s) of OMA violation(s)

October 7, 2019

Other Violation

Albuquerque City Council destroyed the record of public testimony at the City Council meeting Oct. 7, 2019 by putting loud music over the testimony of two individuals; Last night I read a letter to Pres. Klarissa Pena at the ABQ City Council meeting (Oct. 7, 2019). The letter was from a group of constituents requesting that since Councilor Don Harris has been unresponsive to many citizens in Dist 9, not answering questions since 2017 or taking appointments, cancelling meetings with groups such as the East Gateway Coalition of Neighborhood Associations (Dec. 2018) --- that we needed representation since Don Harris was not available. Tonight, I j got a call from a citizen who told me to turn on the TV, Channel 16, government channel. Someone at City Council had put music to the video of last night's meeting during public comment. That music was not playing during any public testimony I have ever heard before on any taped meeting. The music was turned up so loud when I read my letter to Council and when Judy Young spoke, that our voices were completely drowned out and could not be heard. That was NOT the case for others providing public testimony. This is unbelievable. Please take whatever action you can to: 1) remove the music from the ABQ City Council meeting asap and replace it with the original tape so our voices can be heard; and 2) please identify who did this, or who ordered this egregious action and proceed with action such that this obstruction of public records will never happen again. Sincerely, Colleen Aycock 505.554.2846 cka13705@aol.com

Transaction

Documents

*** END OF COMPLAINT ***



Salazar, Patricia <psalazar@nmag.gov>

Re: Open Meetings Act Complaint – City of Albuquerque

Colleen Aycock <cka13705@aol.com>

Thu, Oct 17, 2019 at 1:11 PM

To: PSalazar@nmag.gov

I think my complaint stated the problem, but I will repeat below:

Please provide an Agenda, Notice of Meeting, Meeting Minutes, a detailed narrative and specific actions that you feel are violations as outlined in the Open Meetings Act.

At the ABQ City Council meeting of Oct 7, 2019 at One Civic Plaza, during public comments, I read a letter to President Klarissa Pena from constituents in Don Harris' Dist 9. The next day, on the Govt TV Channel, 16, I was called by a friend Michael Brasher who told me to turn on the govt tv channel because my testimony was being obscured by music played OVER the video taped City Council meeting. I turned on the tv on Oct 8, to discover that music was indeed being played over the audio of the City Council meeting. This quite unusual that aNY music would be played over a previously recorded audio and videoed meeting, especially when it is to going out to the public. Sure enough, my testimony and that of Judy Young's after me was inaudible to the public.

This music played over our testimony violates my right to free speech and accessible speech to the public. You may not consider this a violation of the Open Meetings Act, but it is a violation of public trust, and this is the second time I have gone to the AG with a complaint that I have been singled out to prevent my testimony at the City Council during the Open, Public Comments.

The last violation you said that the City Council was not obligated to take public comments, but you never addressed why they would not allow me to talk about a public building project, but WOULD allow me to talk about Boxing which makes no sense.

Colleen Aycock

-----Original Message-----

From: Salazar, Patricia <PSalazar@nmag.gov>

To: Colleen Aycock <cka13705@aol.com>

Sent: Tue, Oct 15, 2019 1:55 pm

Subject: Open Meetings Act Complaint – City of Albuquerque

VIA ELECTRONIC MAIL ONLY

Dr. Colleen K. Aycock

1743 Soplo Rd SE

Albuquerque, NM 87123

Email: cka13705@aol.com

Re: Open Meetings Act Complaint – City of Albuquerque

Dear Dr. Aycock:

The Office of the Attorney General (“OAG”), Open Government Division (“OGD”), has received your complaint alleging violations of the Open Meetings Act (“OMA”), NMSA 1978, Sections 10-15-1 to -4 (2013) by the City of Albuquerque on October 7, 2019.

We are currently in the process of reviewing your complaint. Please provide an Agenda, Notice of Meeting, Meeting Minutes, a detailed narrative and specific actions that you feel are violations as outlined in the Open Meetings Act. Our office may further contact you to clarify issues or concerns raised in your complaint. In the meantime, if you may have any questions or concerns, please feel free to contact me.

Sincerely,

Patricia M. Salazar

Patricia M. Salazar
Open Government Division

Patricia M. Salazar

Office of the New Mexico Attorney General

P.O. Drawer 1508

Santa Fe, NM 87504

Office Number (505) 490-4863 **Fax Number** (505) 717-3600

Email: PSalazar@nmag.gov

“Sometimes the questions are complicated and the answers are simple.” – **Dr. Seuss**