

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

January 25, 2021

VIA ELECTRONIC MAIL ONLY

Mr. Luther Light, Chair
Ruidoso Municipal Schools Board of Education
200 Horton Circle
Ruidoso, New Mexico 88345
Email: lightl@ruidososchools.org

Re: Self-reported Violations of the Open Meetings Act – Ruidoso Municipal Schools Board of Education

Dear Mr. Light:

We are issuing this determination as part of an internal audit of unresolved OMA complaints. Thank you for informing the Office of the Attorney General of the violations of the Open Meetings Act, NMSA 1978, Sections 10-15-1 to -4 (1974, as amended through 2013) (hereinafter the “OMA”), committed by the Ruidoso Municipal Schools Board of Education (the “Board”) in connection with its informal meeting held on September 17, 2019. Our Office appreciates the Board’s willingness to admit its error and self-report this violation not only to us but to the general public. We are issuing this determination to you, on behalf of the Board, in the interest of clearly setting out IPRA’s requirements and memorializing these issues for final closure.

As outlined in the Board’s own report to our Office, a quorum of the Board met on September 17, 2019, “to discuss Board Goals for the 2019-20 school year.” Four of the five members of the Board were in attendance at this meeting at which public business was discussed. The Board did not, however, provide the public with notice of or an agenda for this meeting, nor did it maintain meeting minutes, although it did mention at its previous meeting that it might hold a “workshop” to discuss Board goals. The Board took no action at the meeting on September 17, 2019. Approximately one week afterwards, in recognition of its error, the Board self-reported its conduct to our Office and published a notice of the meeting in local media outlets.

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.”). In accordance with the public policy behind the statute, OMA is broadly construed in favor of transparency. *See* Attorney General’s Open Meetings Act Compliance Guide, p. 7 (8th ed. 2015) (“OMA Guide”) (noting that “doubt as to the proper course of action should be resolved in favor of openness whenever possible”).

We agree with the Board that its meeting on September 17, 2019, was in violation of OMA. Most importantly, the Board failed to provide notice to the public, which is critical in order to both inform the public of the activities of its government and to allow the public to attend the meeting and observe its proceedings. *See* § 10-15-1(D) (providing that meetings of a public body “shall be held only after reasonable notice to the public”). The Board also did not provide the public with an agenda for the meeting, see Section 10-15-1(F), or “keep written minutes” of the meeting. Section 10-15-1(G). As the Board acknowledges that it discussed public business, there is no doubt that its meeting on September 17, 2019, was not held in compliance with OMA’s requirements.

However, as our Office consistently recognizes, OMA permits public bodies to rectify their violations after they have occurred. *See* § 10-15-3(B) (providing public bodies fifteen days within which to “address a claimed violation of the Open Meetings Act”). To that end, New Mexico’s Court of Appeals has previously explained that public bodies must take “prompt, appropriate and effective” action in order to remedy an OMA violation. *Kleinberg v. Bd. of Educ. of Albuquerque Pub. Sch.*, 1988-NMCA-014, ¶ 30. Proper remedial action will necessarily vary from violation to violation, but in general we think that it must be evaluated in the light of OMA’s objective of providing the public with access to “the greatest possible information” about governmental affairs. Section 10-15-1(A).

In this case, it appears that the Board took “prompt, appropriate and effective” steps to remedy its September 17, 2019 OMA violation. *Kleinberg*, 1988-NMCA-014, ¶ 30. Although it is arguable that the Board was not legally obligated to take remedial action because it took no action at the meeting in question,¹ the steps it took to both acknowledge its error and inform the public of what transpired were, we think, commendable. By bringing its statutory noncompliance to the attention of our Office and, more importantly, the public, the Board clearly took remedial action consistent with the spirit of OMA.

Going forward, we encourage the Board to thoroughly familiarize itself with the Open Meetings Act and continue to act in the interests of transparency and openness. If you have any questions,

¹ OMA’s provision regarding remedial action pertains specifically to correcting *actions* that may be deemed invalid. *See* § 10-15-3(A) (providing that “[n]o resolution, rule, regulation, ordinance or action” of a public body is valid “unless taken or made” in accordance with OMA).

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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 fluid and cursive, with the first name being particularly prominent.

John Kreienkamp
Assistant Attorney General

Enclosure

cc: Jacque Archuleta-Staehlin, Esq.
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