

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

November 9, 2018

VIA ELECTRONIC MAIL ONLY

Rustin Mock
501 Walnut St.
Clayton, NM 88415
Email: jennann0201@live.com

Re: Open Meetings Act Complaint – Clayton Public Schools

Dear Mr. Mock:

The Office of the Attorney General, Open Government Division (“OGD”) has received a complaint alleging violations of the Open Meetings Act (“OMA”), NMSA 1978, Sections 10-15-1 to -4 (2013) by the Clayton Public Schools (“Clayton”). The OGD’s jurisdiction is strictly limited to a review of the Inspection of Public Records Act (“IPRA”) and OMA. After reviewing the complaint, it appears that you have not identified a violation of a specific section of the OMA or the IPRA. As a result, the OGD cannot further review this matter, and we consider this matter closed.

The OGD 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.

Sincerely,


John Kreienkamp
Assistant Attorney General

cc: Clayton Public Schools

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OPEN MEETING ACT COMPLAINT FORM

Under the Open Meetings Act (“OMA”), the Office of the Attorney General (“OAG”) has the discretion and authority to enforce the OMA’s provisions. NMSA 1978, § 10-15-3(B). Generally, the OAG reviews and issues determinations regarding whether public agencies have violated the OMA. All OMA complaints submitted to the OAG, including any attached materials and any correspondence regarding those complaints, are public records subject to public inspection. Additionally, OMA complaints and determinations from the OAG may be posted on our website.

All complaints submitted to the Office of the Attorney General will be reviewed for potential OMA violations. The OAG may dismiss those complaints that fall outside OMA’s purview and those for which no remedy is available under OMA, or forward OMA complaints to another appropriate agency for resolution. Please note that the OAG does not represent complainants in suits against public bodies.

OPEN MEETING ACT ("OMA") COMPLAINT FORM

New Mexico Office of the Attorney General

Open Government Division

Your Contact Information:

First Name: Rustin Last Name: Mock

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code [REDACTED]

Phone Number: [REDACTED]

Email: [REDACTED]

Name of Public Body that is the Subject of this Complaint (including city/town, district, county or region, if applicable):

Stacy Diller, Superintendent of Clayton Public Schools

Specific date(s) of OMA violation(s): _____

May 10, June 13, July 11, August 8, September 12, October 10, November 14, December 11, 2017 and January 17, 2018

ALLEGED VIOLATIONS OF THE OMA BY THE PUBLIC BODY: Please select from the following list the violations you allege the public body committed. Check all that apply.

DEFICIENCIES IN NOTICE OF THE MEETING

Notice did not comply with the deadlines or procedures for meeting notices adopted by the public body, or with the reasonable notice requirement in the OMA

Notice did not include date, time, and/or location of the meeting

Notice was not published or posted in a place and manner accessible to the public

Notice did not include an agenda or information on how the public may obtain a copy of the agenda

A meeting was reconvened by the public body, but notice of the date, time, and place of the reconvened meeting was not placed on or near the door of the place where the original meeting was held or in at least one other location appropriate to provide public notice

AGENDA

Agenda was not available seventy-two (72) hours prior to the meeting

- ___ Agenda did not include a list of specific items the public body intended to discuss or transact at the meeting or the items listed and acted upon were not listed with reasonable specificity
- ___ Public body took action on items that were not listed on the agenda

- ___ In a reconvened meeting, the public body discussed or took action on items not appearing on the agenda of the original meeting

MINUTES

- ___ The minutes did not contain the date, time, and/or place of meeting, the name of all members of the public body attending the meeting and those absent
- ___ The minutes did not contain a description of the substance of all proposals considered during the meeting or a record of any decisions made and votes taken
- ___ A draft copy of the minutes was not available within ten (10) working days of the meeting
- ___ The minutes were not approved, amended, or disapproved at the next meeting where a quorum of the public body was present

CLOSED MEETINGS

- ___ The public body did not follow the required closing procedures to close a meeting (*e.g.*, did not list the items they were going to discuss in the motion to close, or the motion to close did not contain the provision of law permitting the closing of the meeting)

- ___ The public body closed the meeting to discuss an issue not covered by one of OMA's exceptions

- ___ Matters not stated in the motion to close were discussed in the closed session.
- ___ Final action was taken by the public body in the closed meeting

CONDUCTING/DISCUSSING BUSINESS OUTSIDE OF AN OPEN MEETING

- ___ A quorum of the public body formulated policy, discussed public business, or took action outside of an open meeting

- ___ A "rolling quorum" was used to discuss public business (*i.e.*, a quorum may exist even when the members are not physically present at the same place, such as discussing public business in a series of telephone or email conversations)

- ___ A committee was created by the public body that constitutes a policymaking body that formulated recommendations that were binding on the public body or otherwise established policy for the public body, outside of an open meeting

To whom it may concern;

My name is Rustin Mock, I live in Clayton, NM. Both my wife and I are born and raised in our community and we own a local business. I am writing this today because of my huge frustration with our current Clayton Municipal School System Administration.

In April of 2017, in between baseball games, my wife and I were concerned why our son was not playing and in street clothes on the bench we tried to confront the coach and ask him why He was not playing. Immediately, Richard Hidalgo, the head baseball coach at the time, was confrontational and would not talk to us which frustrated us. Richard told us to leave the dugout as we were trying to get information. We left and about 20 minutes later a local police officer, Mr. Mann, came to our home inquiring about the incident. We gave our statement and he left. My wife tried to call the High School Principal at the time, Don Worth, to complain about how disrespectful the coach was and he stated to come in for a meeting the next day. The next day we went to meet with Don Worth and upon our arrival we see Richard Hidalgo already waiting for us in the Principal's office. My wife sat down, Richard was smirking and glaring at me as we were walking in, I stood beside my wife. Mr. Worth stood at his desk and demanded that I sit down or that the meeting was canceled. I refused, they canceled the meeting, Richard left the office as we were trying to understand why they were canceling. I became frustrated and went to exit the office. As I was exiting, Mr. Worth darted towards the door and we both arrived in the door frame together, which resulted in us bumping up against each other. This then resulted in Mr. Worth yelling at me to leave the premises or he was going to call the cops. I exited the building.

My wife stayed to figure out why our son was not playing and on the bench. My wife was told in the meeting that our son had some discipline issues and was benched for those reasons. There is one in particular incident on the bus involving saying a "bad word" a phrase "deez nuts". Our son was the only kid punished for saying it and the Coach told my wife that the girls sponsor, Rosanna Cloud, named him as the one saying it. So my wife and I asked her about it and she stated that it was not just our son saying it and that she never singled anyone out to Coach Hidalgo. Our son had also ditched practice to go to a girls softball game and was benched. Not one time did the coach or any other school employee contact us about any discipline issues, even if Parental Contact is the first action in the School handbook for all his offenses. My wife asked why policies were not followed and the response that Coach Hidalgo gave was that he was too busy and hardly even sees his wife. After this meeting my wife made an appointment to talk to the Superintendent, Stacy Diller, about how we were being treated and the lack of communication from her staff. She was out of town during when the incidents occurred. Later that week we received a No trespass order in the mail with a very exaggerated version of the incidents, signed by Stacy Diller.

During this whole situation our son had decided that he was not comfortable playing baseball under Richard Hidalgo because of the whole situation, we talked to him about it and a week later he decided that he loves baseball too much to quit because of this. My wife called the Superintendent to discuss how to get him back on the team. She stated that she had to run it by the coach. Coach Hidalgo stated he could join but we needed to have a meeting. By the time all of this had occurred I had contacted a lawyer because of the No trespass order that I felt was inappropriate. He suggested that my wife take another person to meet with the Coach. She brought her friend Lorri Montoya. When my wife shows up to the meeting with the Coach and Mr. Worth She asked if my lawyer could listen to the meeting on the phone. Right after she asked that, Mr. Worth stated he had to talk to Mrs. Diller. Both Mr. Worth and Richard Hidalgo left the building. I was not allowed on school property but I was driving around by the school waiting for my wife to get out of the meeting. As I was driving by the School administrative building I see Stacy Diller, Don Worth, Richard Hidalgo, Richard Sandoval (School Board

President) and another woman standing outside the admin building. I immediately called my wife and asked her what was going on. She stated that everyone got up and left to go talk to Mrs. Diller about letting the lawyer listen. Then I see a police officer pull up to the group. I drove past and went home to wait for my wife. When Mr. Worth and the Coach come back accompanied by Stacy Diller they told my wife that if my lawyer was going to listen then they had to have their lawyer and that the meeting would have to be rescheduled for that to happen. So she did not have the lawyer on the phone and continued the meeting in which both my wife and son had to sign an agreement with certain issues involving our son's conduct. Other players on the team have the same discipline issues such as throwing equipment in a fit but our son is the only one who had to sign the agreement. Our son returned to the team and did very well for the rest of the season. I did not get to attend the rest of the games due to the No trespass order.

Also during this time my wife and I decided to take our two younger children out of Clayton School System. We decided this because I took the children to school every morning, signed them in, made sure they got to the cafeteria or the playground and I picked them up everyday. My wife and I own a local business and my wife has to be at the business during school drop off and pick up times and I was not allowed on school property due to the no trespass. They now attend another school system in the area.

A few weeks after the incident I received a notice that I had been charged with battery on a school official. While talking with a local police officer he told us that the day I saw him at the admin office with the group of them, while I was driving around the school, was when Stacy Diller said to press charges on me for battery on Mr. Worth for "shoving him" in his office a week earlier. He stated the he was called over there because Stacy Diller wanted me pulled over and told not to drive around the school because of the no trespass and he stated that he could not pull me over for legally driving on a public road and that is when she said to press the charges. We went to court in July 2017 and after several hours of witness interrogation, all charges were dismissed.

Since getting the no trespass order I have complied. My wife has talked with Stacy Diller many times about getting the no trespass order revoked but she states that she is going to continue to enforce it, even after the charges were dismissed. My wife asked Stacy Diller to be on the agenda of the School Board to revoke the order. She told my wife that we could not be on the agenda and she was the only one to revoke it and that we would revisit it at the beginning of the new school year.

After the new school year started we again asked Stacy Diller to revoke the order. She again refused. My lawyer attended several board meetings and during public forum of one meetings Richard Sandoval swiftly interrupted him and did not let him finish speaking. Since we were getting no where with the Superintendent or the board, my wife began researching policies and found a Clayton School System Board Policy that stated that if a no trespass is ordered we can petition the board to get it revoked. My wife then contacted Stacy Diller about this policy. Stacy Diller stated to my wife that she, my wife, could not be on the agenda to petition the board and I could not go to the meeting because I have the no trespass order so I had to write a letter petitioning the board to revoke the no trespass order. My wife recently read my letter during public forum of the last board meeting. Today January 23, 2018 my wife called Stacy Diller again to ask if the no trespass order had been revoked yet and she stated it was still in effect.

During this whole situation my wife and I have done a large amount of research and I believe that Stacy Diller has violated my Constitutional rights. First, a person has a First Amendment right to attend meetings open to the public, including school board meetings. The right to attend a school board meeting has been revoked from me since April of 2017 due to the no trespass order signed by Stacy Diller. Second, since a notice against trespass may implicate constitutional rights, the school must provide the person with due process (Fourteenth Amendment) meaning it must provide notice of the reason for the restriction and an opportunity to challenge the restriction. We were told by Stacy Diller

that we could not petition the board to revoke the no trespass because it was not in their scope of authority. Then, back tracking when my wife found the Policy but still has not let me actually voice my side and has denied me due process. I believe that Stacy Diller over stepped her authority in enforcing this no trespass without a formal and impartial hearing by the school board. Lastly, the charges of battery against a school official were dismissed in court in July 2017.

I ask that these violations be taken seriously as the whole situation has been emotionally traumatic to my family. Our oldest child still attends Clayton High School. He struggles to get along with Richard Hidalgo and has requested again this year to switch from seventh hour athletics to another class because of this. I cannot attend his basketball games, baseball games, art displays or band concerts that he participates in. He is a Junior in high school. Our other two children had a hard time last year when we had to take them out of the school they had known all year and leave their friends and teachers to go to a new, scary beginning at another school. They are both greatly enjoy their school this year and for now will continue their education in that school system. We have no faith in the Clayton Municipal School System and feel that there are many ethics violations by administration and staff. My family is not the only family that has been treated this way by the school system and it is not right to have our children and community members disrespected.

Sincerely,

A handwritten signature in black ink, appearing to read "R. J. Mock". The signature is written in a cursive, flowing style with a large initial "R" and "J".

Rustin and Jennifer Mock