

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

Electronic Complaint Submission

Submission Detail

ECS Reference Number	NMOAG-ECS-20221005-2d30
Final Submit Date	10/5/2022 1:25:20 PM

Disclosure of your complaint: A copy of this complaint may be sent to the business/entity/agency against whom I am filing this 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 disclosure statements.

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

Mr Robert Karl Wagner

Person

Address

400 Peacock Rd
Estancia, New Mexico 87016-9747

Contact information

iiak@proton.me
(505) 510-1580

Complaint against

Estancia School District Board of Education - Randol Riley

Public Body (Government Entity)

Address

300 N. 9th St.
Estancia, New Mexico 87016

Contact information

randol.riley@emsdbears.us
(505) 384-3125
<https://www.emsdbears.us/board-of-education>

Complaint Specifics

Specific date(s) of OMA violation(s)

26 September 2022

Agenda

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

Other Violation

Violations 1. The agenda did not include specific items to be addressed, but merely read: 2. NEW BUSINESS - ACTION ITEM A. Board Position #3 That is a vague description, not a specific item. Agenda is provided in attached documents. 2. Holding the meeting virtually was both unnecessary and was inaudible for the public. Virtual meetings are for cases of emergency, not convenience. When I called the district for clarification as to why this was held virtually, however, I was told that because the meeting was going to be so short, they didn't want to make everyone drive in for it. Apart from that, there was no call-in number provided and the live stream for the public via the district website was muted. I logged into Zoom for the start of the meeting, only to be held in the waiting room until two minutes prior to adjournment. The replay of the meeting on the district website also has no audio. (replay video can be found at <https://www.emsdbears.us/school-board-live>) If they are holding a meeting virtually, however, the following provisions given in "Open Government Division Advisory During COVID-19 State of Public Health Emergency" were not followed: -At the start of the meeting, the chair should announce the names of those members of the public body participating remotely. (This did not appear to occur on the livestream, but as the livestream audio was unavailable via the website, I can't verify that this occurred) -All members of the public body participating remotely must identify themselves whenever they speak and must be clearly audible to the other members of the public body and to the public. (No members of the public body were audible, as the livestream video was muted) -Members of the public should be afforded remote access, via livestream or other similar technology, if possible, or call-in number for listening by phone. (No call-in number was provided to the public) -Chair should suspend discussion if the audio or video is interrupted. (Chair allowed the meeting to take place without audio) 3. The Special Session was scheduled, according to the district website and the agenda, for 26 Sept, 2022, beginning at 7:45 AM. When I logged into the meeting at 7:45 AM, it was already in session. Upon reviewing the livestream playback, the meeting looks to have started at around 7:40 AM. This is especially egregious, given that this was a virtual meeting with one agenda item, which was seemingly already acted on before the stated start-time of the meeting. 4. The least of my concerns among these complaints is that, when I was finally allowed into the Zoom meeting and could then hear the audio, the discussion was about an upcoming open house, a topic that was not covered on the agenda.

Transaction

Documents



9-26-school-board-agenda.pdf

Agenda provided by EMSD for the special session held on 26 Sept 2022

Comments

*** END OF COMPLAINT ***