

Attorney General Findings on Open Meeting Law Complaints

Susan P. Segal

Complaint No. 1

Allegation:

“That a quorum of Board members improperly discussed Board business outside of a public meeting. Specifically it is alleged that Board members Adelita Grijalva, Kristel Foster and Dr. Mark Stegeman discussed Board business when members Grijalva and Foster confronted member Stegeman at a law office on February 16, 2017.”

Complaint No. 1

Abbreviated Facts:

1. In January of 2017, Dr. Stegeman had a meeting with attorney Bill Brammer to discuss possible termination of Dr. Sanchez.
2. There was to be an executive session on February 14, 2017, which was cancelled.
3. Dr. Sanchez requested a meeting with Mr. Hicks. Mr. Hicks relayed the message and a meeting was arranged at Mr. Brammer's office. On February 16, 2017.
4. Ms. Grijalva and Ms. Foster found out about the meeting. They each were concerned that Dr. Stegeman did not have the authority to meet with Mr. Brammer.
5. They went to Mr. Brammer's office. There was a confrontation in the parking lot that carried over inside the office building.

Complaint No. 1

Conclusion (from the AAG letter):

- A quorum of the Board's members was present.
- The evidence does not support a conclusion that they discussed any matter likely to come before the Board.
- The majority of the confrontation consisted of Board members Grijalva and Foster asking Dr. Stegeman why he was at the law office and what authority he had to be there. The Board members were not discussing the merits of any issue likely to come before the Board.
- While Dr. Stegeman was there in relation to seeking advice on the possible removal of then Superintendent Sanchez, the Board members were not discussing his potential removal. In fact, there was no real dialogue between the three members.
- It is quite apparent from the evidence that Dr. Stegeman did not want to discuss anything with the other two Board members and was in fact trying to terminate the interaction and get away from them.
- Upon realizing the potential for a violation under the circumstances, Ms. Grijalva wisely left. Once she left, a quorum no longer existed.

Complaint No. 1-Lessons Learned

Not every instance when a quorum is present is a violation of the law.

BUT

You must be vigilant and avoid such a situation. This could easily have devolved into a discussion of something that would have come before the Board.

Complaint No. 1: Lessons Learned

Situations come up all the time when Board members suddenly realize that an OML violation may be occurring and they stop. That is what happened here.

- In this instance, as the Assistant Attorney General observed, Ms. Grijalva is to be commended for recognizing that fact and leaving.
- Dr. Stegeman was also alarmed about a potential OML violation, because he knew, but Ms. Grijalva and Ms. Foster did not know, that Ms. Sedgwick and he had previously met with Mr. Brammer. He wisely refused to meet with Ms. Foster and Mr. Brammer. He was concerned about a chain conversation in violation of

Board member self regulation should be encouraged.

Complaint No. 2

Allegation:

“That a quorum of Board members improperly discussed Board business outside of a public meeting. Specifically it is alleged that Board members Dr. Mark Stegeman, Rachel Sedgwick, and Board President Michael Hicks discussed, serially or as a group, the termination or resignation of School District Superintendent H.T. Sanchez, and other matters, outside of a properly noticed meeting.”

Complaint No. 2

Abbreviated Facts:

- Dr. Stegeman and Ms. Sedgwick had been communicating about the removal of Superintendent Sanchez, including meeting at attorney William Brammer's office together on January 20, 2017, to discuss a Statement of Charges against Dr. Sanchez that could lead to termination.
- Mr. Hicks did meet with Mr. Brammer but he stated that Mr. Brammer did not communicate what was said to him by Dr. Stegeman and Ms. Sedgwick. Mr. Brammer confirmed this as well.

Complaint No. 2

Abbreviated Facts:

- However, there were discussions on other topics between Dr. Stegeman, Mr. Hicks and Ms. Sedgwick after she was elected and before she took office.
- For example, they discussed a protocol for scheduling visits to schools via e-mail. Another example of such discussions is Dr. Stegeman's e-mail of December 28, 2016 to Mr. Hicks and Ms. Sedgwick discussing proposed changes to the Board's BEDB and BEDBA policies.
 - In this e-mail Dr. Stegeman states "I think it is legally okay to discuss these collectively before 1/1."

Complaint No. 2

Conclusion:

Meetings with Mr. Brammer to discuss a Statement of Charges and termination of Dr. Sanchez—not a violation because not a quorum and no evidence of chain communication.

Meetings between Dr. Stegeman, Mr. Hicks and Ms. Sedgwick after she was elected and before she took office not a violation as no “meeting” occurred.

But the latter was “concerning.”

Complaint No. 2

Conclusion:

“by meeting as they did, without any kind of public notice prior to Ms. Sedgwick taking office, Dr. Stegeman, Mr. Hicks, and Ms. Sedgwick clearly frustrated the spirit and purpose of the Open Meeting Laws which is to allow for public and open deliberations of public bodies. “

“They may not have violated the letter of the law, but they did violate it's intent. “

“Though it may not be required under the current law, our Office recommends as a best practice, that any time current members of public body meet with members-elect to discuss the business of the public body and the number present would constitute a quorum of the public body, that meeting should be noticed and conducted in the same manner as a regular public meeting.”

Complaint No. 2-Lessons Learned

- Beware of serial communications. Also called “daisy chain” and “hub and spoke.”
- Adopt best practices.
- Law could change or courts, such as the Washington court in *Wood*, could construe member to include member-elect.