



STATE OF NEBRASKA
Office of the Attorney General

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NATALEE J. HART
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June 29, 2017

Randy Stueven
Matthew Hudnall
[REDACTED]

Re: *File No. 17-M-125; Northwest Public Schools Board of Education;
Complainants Randy Stueven and Matthew Hudnall*

Dear Messrs. Stueven and Hudnall:

This letter is in response to correspondence from you in which you request that this office investigate alleged violations by the Northwest Public Schools Board of Education ("Board") of the Nebraska Open Meetings Act, Neb. Rev. Stat. §§ 84-1407 through 84-1414 (Reissue 2014, Cum. Supp. 2016). In accordance with our normal procedures, we requested a response from the Board after we received your complaint; we subsequently received a response from the Superintendent of the Northwest Public Schools, Matthew Fisher, on behalf of the Board. We have now had an opportunity to review your allegations and the Board's response, and our conclusions are set out below.

ALLEGED VIOLATIONS AND RELEVANT FACTS

Our understanding of the facts in this matter is based upon your correspondence and the Board's response. Your Open Meetings Act complaint is a follow-up to a previous complaint filed by you and a number of others, to which this office responded on March 30, 2017 in file 17-M-103. That prior disposition letter was sent to you and may also be found on our office's website. Your current complaint concerns the February 13, 2017 meeting of the Board at which a vote was taken to repurpose the Chapman School building as a K-5 elementary attendance site and pursue an alternative education site. This meeting was also addressed in our March letter. We believe your Open Meetings Act complaint to be that the agenda for the meeting held on February 13, 2017 was not sufficiently descriptive to allow the public notice of the vote to be taken by the Board as to Chapman School. The agenda for the February 13, 2017 meeting contains item 4.1 "[c]onsider repurposing the Chapman building as a K-5 elementary attendance site and an alternative education site." The action taken at that

meeting, as reflected in the minutes, was to “[r]epurpose the Chapman building as a K-5 elementary attendance site and pursue an alternative education site.” You also complain that the district Special Education Director has taken additional action that was not discussed and approved by the Board at this meeting and has exceeded the authority granted by the Board as to the repurposing of Chapman School. The Board has responded, denying any violation of the Open Meetings Act.

In addition to these complaints, the remainder of your complaint contains additional grievances which do not implicate the Open Meetings Act. This office has no general supervisory authority over governmental subdivisions in Nebraska. Consequently, all of these other matters are outside the enforcement authority of this office and will not be addressed herein.

ANALYSIS

Agenda

Your complaint relates to the agenda of the February 13, 2017 Board meeting and whether it provided proper notice to the public that the Board would vote to repurpose Chapman School. The Open Meetings Act requires that “[a]genda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting.” Neb. Rev. Stat. § 84-1411 (2014). The agenda item at issue at the February 13 meeting, concerning the repurposing of the Chapman School, is nearly identical to the motion introduced and passed by the Board. On its face, the agenda item was sufficiently descriptive to allow the public notice as to what would be discussed and voted on by the Board. There is no violation of the Open Meetings Act as to this portion of your complaint.

As to whether the Special Education Director has exceeded the authority granted by the Board as to repurposing Chapman School, this is an internal governance issue that is outside the purview of this office. The Special Education Director is not a member of the public body (the Board) and is not subject to the requirements of the Open Meetings Act. If the Board believes that the director has exceeded any authority granted by it, this is a matter for the Board and not this office.

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CONCLUSION

For the reasons stated above, we do not believe the Board has violated the Open Meetings Act as to your complaint regarding the sufficiency of the agenda item on February 13, 2017. If you disagree with the analysis we have set out above, you may wish to contact your private attorney to determine what additional remedies, if any, are available to you under the Open Meetings Act.

Sincerely,

DOUGLAS J. PETERSON
Attorney General

A handwritten signature in blue ink that reads "Natalee J. Hart". The signature is fluid and cursive, with the first name being the most prominent.

Natalee J. Hart
Assistant Attorney General

cc: Matt Fisher, Superintendent

02-663-29