



STATE OF NEBRASKA  
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December 12, 2022

Via email at [REDACTED]  
Adam Keske

RE: *File No. 22-M-156; Gretna School Board; Adam Keske, Complainant*

Dear Mr. Keske:

This letter is in response to the complaint you submitted on October 4, 2022. In your complaint, you allege violations of the Nebraska Open Meetings Act (“Act”), Neb. Rev. Stat. §§ 84-1407 to 84-1414 (2014, Cum. Supp. 2022), by the Gretna Board of Education (“Board”). We have completed our review of the complaint, and our findings and conclusions are set out below.

### **ALLEGED VIOLATIONS**

Your complaint alleges two violations by the Board, restated as follows:

1. The Board did not list in its minutes how it gave advanced public notice of the time and location of its September 26, 2022 meeting.
2. The Board’s president violated the First Amendment rights of the members of the public attending the September 26, 2022 meeting.

### **DISCUSSION**

Under the Act, “[e]ach public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.” Neb. Rev. Stat. § 84-1411(1)(a) (Cum. Supp. 2022). Additionally, “[e]ach public body shall record the methods and dates of such notice in its minutes.” Neb. Rev. Stat. § 84-1411(1)(d) (Cum. Supp. 2022).

In your complaint concerning the Board's September 26, 2022 meeting, you allege that "the Board does not have listed in their minutes how they notified the public about when or where the meeting would be held." Without more information, it is unclear to us what supports your allegation. Under "SECTION I – Opening Procedures," the Board's minutes from the September 26, 2022, meeting, which are publicly available on the Board's website,<sup>1</sup> state:

Notice of the meeting was given in advance by the publication and/or posting in accordance with the Board approved method for giving notice of meetings. Notice of this meeting was published in the public notices section of the September 21, 2022 edition of the Gretna Guide and News and on their website as well as on the district website.<sup>2</sup>

Consequently, as the method and date of advance notice is recorded in the Board's minutes, we find no violation for lack of notice under the Act.

Also, we confirmed that publicized notice was given on September 21, 2022 in the "Public Notices" section of the Gretna Guide and News, as reflected in the minutes.<sup>3</sup> Furthermore, notice for the September 26, 2022 meeting was posted on the Board's website when the Board posted the meeting's upcoming agenda on September 21, 2022.<sup>4</sup> We find that published notice given five days in advance of the scheduled meeting was a reasonable amount of notice to reach a substantial part of the public in compliance with Neb. Rev. Stat. § 84-1411(1)(a). See *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 879, 725 N.W.2d 792, 805 (2007) (notice will be deemed sufficient when the notice likely "reached a substantial part of the public before the scheduled meeting").

Finally, you have also alleged that the conduct of the Board's president during the September 26, 2022 meeting violated the First Amendment right of free speech of the public guests in attendance. Regarding the management of public meetings, Neb. Rev. Stat. § 84-1412(2) allows public bodies the right "to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing." This office only has authority to enforce the Act, and First Amendment claims are not redressable under the Act. Further, this office does not have

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<sup>1</sup> [https://www.gpsne.org/district\\_office/board\\_of\\_education/minutes](https://www.gpsne.org/district_office/board_of_education/minutes).

<sup>2</sup> [https://drive.google.com/drive/folders/1r6meTA1i1-QTwVyiTcF7MwD\\_mRpWRq7v](https://drive.google.com/drive/folders/1r6meTA1i1-QTwVyiTcF7MwD_mRpWRq7v).

<sup>3</sup> See *Public Notices*, GRETNAGUIDE & NEWS, Sept. 21, 2022, at 6A, [https://www.gretnaguide.com/pageview/viewer/Sept\\_21\\_Notices#page=2](https://www.gretnaguide.com/pageview/viewer/Sept_21_Notices#page=2) ("The Board of Education of the Gretna Public Schools, Gretna, Nebraska, will hold a regular meeting on September 26, 2022, at 7:00 p.m. at the Gretna Public Schools – Administration Building located at 11717 South 216th Street, Gretna, Nebraska, in the Board of Education Meeting Room. An agenda for the meeting, which shall be kept continually current, is readily available for public inspection at the Superintendent's office during normal business hours.").

<sup>4</sup> [https://www.gpsne.org/district\\_office/board\\_of\\_education/upcoming\\_agenda](https://www.gpsne.org/district_office/board_of_education/upcoming_agenda).

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authority to investigate individual First Amendment claims, or to litigate First Amendment claims on behalf of private citizens. Thus, we are unable to address the alleged First Amendment violations raised in your complaint.

### CONCLUSION

For the reasons stated, we find no violation of the Open Meetings Act relating to the matters raised in your complaint. Since no action will be taken by this office with respect to your complaint, we are closing our file. If you disagree with the analysis set forth above, you may wish to consult with your private attorney to see what additional remedies, if any, may be available to you under the Open Meetings Act.

Sincerely,

DOUGLAS J. PETERSON  
Attorney General



Darrin Schultz  
Assistant Attorney General

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