



STATE OF NEBRASKA  
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October 28, 2021

RE: *File No. 21-M-127; Grand Island Public Schools Board of Education;  
Multiple Complainants*

Following the August 12, 2021, meeting of the Grand Island Public Schools Board of Education ("Board"), multiple complaints were registered with this office alleging violations of the Open Meetings Act ("Act"), Neb. Rev. Stat. §§ 84-1407 through 84-1414 (2014, Cum. Supp. 2020, 2021 Neb. Laws LB 83, §§ 11-14), by members of the Grand Island Public Schools ("GIPS") Board. We followed our normal practice and sent notice of all complaints received to the Board through the Board President, Bonnie Hinkle, and requested a response. We subsequently received a response on August 25, 2021 from the Board's attorney, Roger Steele. We have now completed our review of the complaints and the response we received from Mr. Steele. Our findings and conclusion in this matter are set out below.

### **ALLEGED VIOLATIONS**

Upon review of the complaints, we have identified two alleged violations of the Open Meetings Act, as follows:

1. The Board denied members of the public the right to speak at its meeting on August 12, 2021; and
2. The Board selected speakers during the public comment period on August 12, 2021 based on content, specifically, speakers who were in favor of masking students.

### **ANALYSIS**

Our understanding of the facts in this matter is based upon the complaints received and the Board's response. Three individuals filed complaints with our office regarding the Board's August 12, 2021 meeting. Complainants first allege they were denied their right

to speak at the August 12, 2021 meeting. In its response, the Board states that members of the public wishing to speak at meetings must fill out a form titled "Request to Address the GIPS Board of Education." The form states that the Board will allow thirty (30) minutes or less for public comment and each speaker will be allowed five minutes to speak. The form further provides the Board has the prerogative to limit speaking to three minutes when there are three or more persons wishing to speak. In its response, the Board confirms it stopped public comment at thirty (30) minutes at its August 12, 2021 meeting because it had numerous items on its agenda to consider. The Board confirms not all persons wishing to speak were allowed to do so.

While Neb. Rev. Stat. § 84-1412(2) provides "the public has the right to attend and speak at meetings of public bodies . . .," it also allows public bodies 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 conference. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings." The Board states it cut off public comment at thirty (30) minutes to address all agenda items, and the meeting lasted approximately three hours. It was reasonable for the Board to allow a public comment period of thirty (30) minutes. There is nothing in the Act which requires a public body to allow all persons wishing to speak the opportunity to do so. The Board did not violate the Act regarding this portion of your complaint.

Complainants next allege the Board selected speakers based on content. Specifically, complainants allege the Board intentionally selected speakers that were in favor of masking students. Complainants also allege the Board encouraged persons in favor of masking to attend and speak at the meeting. The Board denies it selected speakers based on content. Complainants appear to believe speakers were selected because they observed two stacks of "Request to Address the GIPS Board of Education" forms. The Board explained there were two stacks due to confusion rather than any deliberate plan to treat anyone unfairly. Two GIPS staff members collected forms instead of the usual one due to a misunderstanding. Additionally, the Board invited all persons unable to speak at the August 10, 2021 meeting to speak at its next meeting on September 9, 2021. The Board represented to us that it would allow additional time for all speakers, if necessary. While we believe the Board has provided a reasonable response to these claims, we also point out that the claims do not involve any violation of the Act.

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## CONCLUSION

For the reasons discussed above, we plan no further action with respect to these complaints, and we are closing this file. Any complainant who disagrees with our analysis may wish to discuss this matter with a private attorney to determine what additional remedies, if any, are available under the Open Meetings Act.

Sincerely,

DOUGLAS J. PETERSON  
Attorney General

  
Laura A. Nigro  
Assistant Attorney General

cc: Roger Steele

35-261-29