



STATE OF NEBRASKA  
**Office of the Attorney General**

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**MIKE HILGERS**  
ATTORNEY GENERAL

**RYAN D. BAKER**  
ASSISTANT ATTORNEY GENERAL

September 10, 2024

Via email: [REDACTED]

Loan Eby  
[REDACTED]

RE: *Open Meetings Matters Involving Papillion LaVista Community Schools Board of Education*  
Our File No. 23-M-113

Dear Ms. Eby:

This letter is in response to your complaints received by our office on April 10 and 12, 2023, in which you allege violations of the Open Meetings Act ("Act"), Neb. Rev. Stat. §§ 84-1407 to 84-1414 (2014, Cum. Supp. 2022)<sup>1</sup>, against the Papillion LaVista Community Schools Board of Education ("Board"). Your claims relate to events described in your correspondence with Board members and other school staff. After our initial review of the submitted documents, we determined that your complaints did not require an immediate response from this office because we identified neither a clear violation of the Act nor any action by the Board which could be voided through a lawsuit by this office. As a result, we set your complaints aside until we could respond to you amid the other demands on our time. We have now completed our review, and our findings are set out below.

### FACTS

In your email received by this office on April 10, 2023, you outline a series of email exchanges with then Board President, Skip Bailey, and Vice President, Marcus Madler, concerning an anonymous letter you received. In an email initially sent to all Board members on April 7, 2023, you "informed the Board . . . that [you] will no longer state your

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<sup>1</sup> Amended 2024 Neb. Laws LBs 43, 287, 399 and 1370.

name when making public comments” out of concern for your safety because of the letter. Mr. Bailey responded to your email and stated that “like all other speakers who wish to address the board, we’ll continue to require your name and address for the record.” You thereafter indicated that you would “provide [your] address on the ‘Public Comment Form’” but would not state your physical address when addressing the Board. In a subsequent email, Mr. Madler provided his interpretation of § 84-1412(3) and reiterated that the Board would continue to require any member of the public speaking at a meeting to provide his or her address unless the Board waived that requirement. All Board members were copied on these emails.

In your April 12, 2023, email to this office, you describe an email received from Annette Eyman, Director of Communications for Papillion La Vista Community Schools, stating that you had been suspended for 30 days from the “Let’s Talk PLCS Bond Facebook Group” (“Facebook Group”) that was “created as a limited forum for the purpose of asking questions about and sharing comments on the PLCS bond issue only.” Ms. Eyman’s email also indicated that several warnings were given to you prior to the suspension.

## **DISCUSSION**

Section 84-1408 of the Act provides as follows:

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

The Act reflects a “statutory commitment to openness in government.” See *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 418,648 N.W.2d 756, 768 (2002). Moreover, the intent of the Act is to “ensure that the formation of public policy is public business [and] not conducted in secret.” See *Schauer v. Grooms*, 280 Neb. 426, 442, 786 N.W.2d 909, 923 (2010). The Act imposes certain requirements on public bodies when holding meetings. See *generally* §§ 84-1410 through 84-1413.

### **Address Requirement**

The requirement for a member of the public to provide a physical address when speaking before a public body is set forth in § 84-1412(3), which reads:

No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name

of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. **The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.**

(Emphasis supplied). You assert that (1) the Board violated the Act by indicating that it would continue to require you to provide your physical address at the podium notwithstanding the inclusion of the information on a “Public Comment Form” and (2) the Board is not the entity authorized by Nebraska law to waive the address requirement in § 84-1412(3).

In Nebraska, statutory language is to be given its plain and ordinary meaning; an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous. *Farmers Cooperative v. State*, 296 Neb. 347, 893 N.W.2d 728 (2017). The plain language in § 84-1412(3) requires anyone wishing to address a public body during an open meeting to provide their name and address unless the address requirement is waived. We believe that the Board’s position in this respect is consistent with the statute. As a result, the Board did not violate the Act by declining to accept your refusal to state your address on the record at future meetings.

Turning to the question of whether the authority to waive the address requirement in § 84-1412(3) lies with the public body or a member of the public, we have previously stated that such authority resides with the public body. *See, e.g., File No. 21-M-126; Omaha Public Schools Board of Education; Multiple Complainants* (January 6, 2022).<sup>2</sup> In the absence of authority to the contrary, we see no reason to depart from our position that authority to waive the statutory address requirement lies solely with the public body.

### **Email Exchanges Copied to Full Board**

The Act defines a “meeting” as “all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body.” *See* § 84-1409(2). You claim that the Board violated the Act when Mr. Bailey and Mr. Madler copied all Board members on your email exchanges. However, you initiated the exchange to inform the Board you would no longer state your address at the podium. Notwithstanding that you sent your first email to all Board members and the school superintendent, there was no “briefing, discussion of public business, formation of tentative policy, or the taking of any action” by the Board during this email exchange. Therefore, no “meeting” as contemplated by Nebraska law occurred, and the Board did not violate the Act.

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<sup>2</sup> Copies of the Attorney General’s disposition letters issued in response to open meetings complaints and public records petitions may be accessed at <https://ago.nebraska.gov/disposition-letters>.

### **Suspension from Facebook Group**

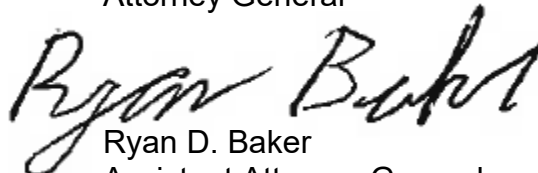
Our understanding of the circumstances described in your April 12, 2023, email indicates that the Facebook Group is a forum in which members of the public were able to post comments regarding the "PLCS bond issue." The Facebook Group does not constitute a "meeting" contemplated by the Act, and we therefore do not address this claim further.

### **CONCLUSION**

For the reasons set forth above, we conclude that the Board did not violate any provision of the Open Meetings Act. Consequently, no further action by this office is warranted, and we are closing this file.

Sincerely,

MIKE HILGERS  
Attorney General



Ryan D. Baker  
Assistant Attorney General