

January 19, 2018

Ms. Sandra Cook
Assistant Attorney General, Public Access Bureau
Office of the Attorney General
500 South Street
Springfield, Illinois 60601
SCook@atg.state.il.us

Re: OMA Request for Review - 2017 PAC 51019

Ms. Cook:

Please consider this as my response to Jasper County Community Unit School District No.1's response to the Request for Review of an alleged Open Meetings Act violation on December 18, 2017. While the District's response was quite a colorful and entertaining piece of fiction, I will try and respond to each point made by the JCCU1, in the same fashion and tone in which they made their points.

Yes. My allegations refer to what happened after the school board meeting was over, while a police officer was in the board room, and without that police officer requesting anyone to close the door. As discussed further below, I will establish that a "meeting" occurred and that there was an OMA violation.

Background:

First, some background: We do not "selectively post" videos, we post nearly every video we take at various meetings across this state, and do provide written information along with public records to support our written information. We sometimes include video responses, which are as complete as we can get them with whatever information the public body provides under the FOIA. We do not offer any legal advice and a statement is clearly indicated on the left-hand side of each and every page of our website. We are also a nonprofit corporation. Contrary to Mr. Richart's false claim that we did not post the public comment portion of the Board meeting, it was uploaded and available for viewing (for those with the URL) on our YouTube page since December 25, 2017 at 7:45 p.m. and runs 57 minutes and 34 seconds in length (<https://youtu.be/z2KkC79s8pk>). Even though there is no dispute about the regular meeting contained in this

Request for Review, yesterday, I made the video available for anyone who might search for it on YouTube.

Additionally, I believe one of these Board members works in a Jasper County office that has used police powers in the recent past to intimidate, bully, and cause the wrongful arrest of a citizen who chose to take a picture of a public record with his cell phone, and dared to question being ordered to pay the Clerk 25 cents for each photograph of a public record he took with his own electronic device. He ended up being cuffed, stuffed, and dragged down to the Sheriff's office because he refused to pay 25 cents for each photograph he took of a public document. I have no reason to believe that this Board would act any different and would also try to use police powers in any way they could use them, no matter how wrong or how many civil rights are violated in the process. This meeting reinforced my belief that this board, and two members in particular, have no problems using whatever is at their disposal, legal or illegal, to obtain the immediate results they are after. It is not about the children for them, it is about their perceived power over citizens.

After the Meeting:

After the meeting, I approached the Board's table, knowing I did not need to ask permission since I am an adult, and the meeting, or "lawful assembly," was over. As I slowly, quietly, and calmly stated when I approached the Board's table, purposely staying at least four feet away from the table so as not alarm: *"I realize your meeting is over, but I have something I am going to ask you guys while you are packing up. At some point, you are going to have to ask yourself..."* A video of this portion (after Executive Session) of the open meeting is posted online (https://youtu.be/ZrKQXY24t_g) and available for review. It was at this point that Board member Holly Farley rudely, loudly, and without permission, interrupted my question, while making wild, swinging hand gestures and picking things up from the table with the appearance that she might throw something at me. I slightly raised the volume of my voice to compensate for Farley's screaming and yelling at me and at another Board member. It continued with Farley screaming louder, causing me to calmly raise the volume of my voice again. Board member Melissa Stanley joined in by yelling and screaming and wildly flinging her arms around, which once again caused me to calmly elevate the volume

of my voice to compensate for two Board members screaming and flailing at me. Then, the Board Secretary joined in by talking really loud and gesturing at me the likes a person would see with dart throwers lining up a target. The Secretary did have something in her right hand that could have been used in a similar fashion as a dart, which alarmed me and again caused me to calmly elevate the volume of my voice to compensate for two Board members and the Board Secretary all screaming at me at the same time.

All of the yelling and screaming by three members of the school district, into my right ear, inadvertently aggravated my documented medical hearing disability; I have assisted listening devices in each ear with a separate device connecting my smartphone to the listening devices, and additional attachments used for my home television, computer, and one to place on a podium for listening to lecturers. These medical assisted listening devices communicate with each other to provide a better listening environment by transferring sounds equally to each ear causing me to hear all three of them screaming at me in each ear as if it were a triple tirade in stereo. These medical assisted listening devices were prescribed to me by the Veteran's Administration (Danville VA Hospital) due to my more than two decades of active military service, including service in combat zones and combat simulated training environments which ultimately caused this service-connected hearing disability.

At that point in the discussion, Board member Stanley exited the room to call 9-1-1. During that call, she greatly and recklessly exaggerated the situation in the room, telling the 9-1-1 operator that we were "causing a disturbance in the board meeting" and that we were "very violent" - which in turn caused an elevated response from the Newton Police and Jasper County Sheriff's Departments. She even admitted, at approximately 9:10 in the video, that she has made several false 9-1-1 calls.

I can understand the impression a rather small person the likes of Mr. Steven M. Richart might have, but these Board members are used to, and make a habit of, pushing others around, as can be witnessed in the video of the first part of the December meeting with their treatment of a fellow elected Board member. At no time did any Board members, female or otherwise, even appear to be slightly threatened. None of them were "clutching" their belongings, but instead voluntarily chose to continue harassing,

bullying, and wildly flailing about at me as I was attempting to ask a simple question. Board member Farley was holding her laptop as any person would ordinarily hold a laptop when they were about to stand up. Board member Farley did provide a false statement, during the alleged improper executive session, to the Police Officer by telling him I was "leaning over the table and pointing my finger in her face" which is false and greatly exaggerated.

While waiting on the police to arrive, Board members Farley and Stanley continued to make wild claims while continuing their badgering, attacking, harassing, and bullying of a fellow elected member of the board. This does not reflect any feeling of being threatened on their part, but rather shows they know what they are doing and are fully comfortable badgering and bullying anyone that may cross paths with them - to include being comfortable enough to make exaggerated 9-1-1 calls, and laugh about it later.

As if to follow the lead of Board members Farley and Stanley in their wild exaggerations at what transpired, and in an attempt at making their exaggerations more believable, Mr. Richart made a false claim that I was "difficult and argumentative" when asked to show my media badge and driver's license. For the record, and as can be seen in the video, no officer asked me for a media badge or a driver's license. As the Officer was talking to us, Board member Stanley continued interrupting us, while raising her voice, and making threats and false accusations. She even went back into the board room and started screaming at us from behind the Board table. Her screaming was so loud it was hard for me to concentrate on what the officer was wanting. Officer Riddle asked for an "ID" - I gave him a photo Media ID from Disclosure News Magazine. He then asked for a "State ID" - I gave him a photo Media ID from the Illinois Secretary of State. There was confusion as to which ID he was asking for, I then provided him a copy of my Federal Retired Military Identification Card, which he accepted. He never asked for my driver's license. Stanley even came back out of the board room to scream at us some more while we were talking to the police officer. Officer Riddle ended his written narrative with "**Both subjects were polite and respectful.**"

The Improper Closed Session:

Mr. Richart's claims that I made an effort to bate the Board into situations I can characterize as OMA violations are false. All the Board had to do was listen to my question while they were getting ready to leave the room - no response needed on their part, which they obviously had no problems doing after the January meeting when several people approached the Board table, myself included, without "asking permission," and to leave the door open when the police officer was in the Board room.

After the officer went into the board room, and without him asking anyone to close the door, Board member Stanley violently approached me, while swinging her arm in a wild fashion, and loudly slammed the door in my face causing me to fear for my safety. I was within inches of getting hit in the face by her slamming the door, which had it connected, might have caused the dis-lodging of the five oral devices that were surgically implanted into my mouth while on active military duty in a combat zone.

My Allegations of the Improper Closed Session:

There is no minimum time limit on improper closed sessions. Five seconds, or five hours, if the closed meeting was improper, it was improper.

I alleged that the Board failed to vote to enter into closed session. It is undisputed there was never a vote for this alleged closed session.

I alleged they failed to disclose the reason for entering into closed session. It is undisputed there was never a disclosure of the reason for the closed session.

I alleged they failed to record the votes of each member voting to enter into closed session. It is undisputed there was never a record the votes of each member voting to enter into closed session.

I alleged they entered into this closed session for a reason outside those provided under the OMA. That is my allegation, and the District has not stated otherwise. Talking with a police

officer is not a legitimate reason, under the OMA, to close a meeting to the public.

I alleged the Board failed to record this closed session. It is undisputed the Board failed to record this closed session.

In the District's lettered response:

A. I agree with the District.

B. I disagree with the District.

This Board was gathered in their board room for the purpose of discussing public business. It just happens to be that the public business they were still gathered to discuss pertained to what happened after the meeting, but it was still public business of that public body. Nobody demanded the board remain in that room. It was their deliberate choice to remain there, and to do so for the express purpose of discussing public business with the police officer. This portion of the evening was not a social gathering and was not an incidental discussion of public business, it was deliberate.

In this case, and after the Board adjourned its meeting for the night, I slowly and calmly approached the Board's table to simply ask a question. Almost immediately, two board members and the Board Secretary began harassing and bullying another Board member and myself. After one of the Board members made a false and greatly exaggerated 9-1-1 call because I simply tried to ask a question after the meeting was over, a police officer entered the Board room.

The District claims there was no weighing or reasoning for or against a course of action to be taken by the board. The Board's policy prohibits individual members from taking action on their own. In this situation, it is clear that more than one board member was discussing the business of the District. In the video, you can clearly see and hear at least three board members talking about public business (what happened after the board meeting on school property). That is when the door was slammed shut in my face. After the door was opened up again, you can see on the video where a 4th Board member was discussing something with the officer. What the District claims is humanly impossible, I say is extremely possible, based on the written police reports after the incident.

There was plenty of time to discuss District business, examples could include:

- Should we ban him from school property?
- Should all of us lie about what actually happened?
- Should we thank him for bringing this to our attention?
- Should we provide written statements?
- Should we invite both of them to the next meeting and give them more time to talk?

As you can see, there are lots of scenarios where public business of the public body could have been discussed, and its merits deliberated on, all within the 29 seconds the door was closed to the public. I believe public business was discussed, because anything that happens on school district property is public business, and they were definitely discussing what happened on school district property.

As for a future excuse that a police officer needed to talk to them - that should have happened with the door opened, or better yet, one on one with the officer, just like it was when that police officer was talking to us and Board member Stanley continually and rudely kept interrupting with her shouting and false accusations.

This School Board, similar to the Board members in *People ex rel. Difanis v. Barr*, 414 NE 2d 731 - Ill: Supreme Court 1980, took deliberative action on the part of the majority of a quorum of the Board to remain assembled after adjourning the regular meeting. This was a pre-arranged meeting (albeit within a short timeframe), this closed meeting was for the express purpose of discussing the public business of the Board, it was not a caucus of a political party, and it was not a casual non-prearranged meeting similar to a coffee shop encounter. A majority of a quorum, gathered (or stayed gathered) for the purpose of discussing public business (the events of the evening), and chose to enter into closed session improperly.

The events of this evening could most certainly come up for discussion before the full body of the District for potential action. The subject matter discussed falls directly under the exclusive control and authority of the Board of Trustees of this school district.

Mr. Richart's interpretation of what actually happened clearly goes against the definition of a "meeting" as found in Section 1.02 of the OMA.

Conclusion:

For the reasons stated above, this Board of Trustees committed violations of the Open Meetings Act by deliberately remaining in the Board room for the sole purpose of discussion of the public business of the Board of Trustees, and doing so without properly voting to enter into closed session, without revealing the exception, without recording the vote, without audio recording the closed meeting, and entering into a closed session of the Board for reasons outside the statutory exceptions to an open meeting.

I request a finding to this effect and direction to this Board to adhere to the requirements of the Open Meetings Act, especially when entering into a closed session.

Feel free to contact me for further information.

Thanks,
John Kraft
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cc: Board of Trustees of the JCCUD1
Superintendent of JCCUD1
Counsel for JCCUD1