



**STATE OF RHODE ISLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

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*Peter F. Neronha*  
*Attorney General*

**VIA EMAIL ONLY**

September 16, 2020  
OM 20-45

Mr. Richard Finnegan

David M. D'Agostino, Esquire  
Legal Counsel, Scituate School Committee

**RE: Finnegan v. Scituate School Committee**

Dear Mr. Finnegan and Attorney D'Agostino:

We have completed an investigation into the Open Meetings Act (“OMA”) complaint filed by Mr. Richard Finnegan (“Complainant”) against the Scituate School Committee (“School Committee”). For the reasons set forth herein, we find that the School Committee violated the OMA but there is no need for injunctive relief and no evidence of a willful or knowing violation.

**Background**

The Complainant contends that the School Committee violated the OMA when it failed to timely post minutes for its July 7, 2020 meeting on the Secretary of State’s website.

The School Committee submitted a substantive response through counsel, David M. D’Agostino, Esquire, which included an affidavit from School Committee Recording Secretary, Ms. Jennifer Carnevale. The School Committee concedes “that the meeting minutes for the July 7, 2020 Committee meeting were not posted to the RI Secretary of State’s website within the thirty-five (35) day period set forth in R.I. Gen. Laws § 42-46-7(d)[.]” The School Committee maintains that “the failure to post the minutes to the Secretary of State’s office was merely an oversight, given the increased work-load and meeting (agendas, minutes, etc.) responsibilities that have increased as a direct result of the COVID-19 pandemic, and remote working conditions, coupled with a Superintendent transition and school reopening matters.” This assertion was supported by Ms. Carnevale’s affidavit.

Based on this Office's independent search, the School Committee's July 7, 2020 minutes were posted on the Secretary of State's website on August 26, 2020, shortly after this Complaint was filed.

The Complainant did not submit a rebuttal.

Relevant Law & Findings

When we examine an OMA complaint, our authority is to determine whether a violation of the OMA has occurred. *See* R.I. Gen. Laws § 42-46-8. In doing so, we must begin with the plain language of the OMA and relevant caselaw interpreting this statute.

The OMA provides that:

“All public bodies shall keep official and/or approved minutes of all meetings of the body and shall file a copy of the minutes of all open meetings with the secretary of state for inspection by the public within thirty-five days of the meeting[.]” R.I. Gen. Laws § 42-46-7(d).

Pursuant to this provision of the OMA, the School Committee was required to file its July 7, 2020 minutes no later than August 11, 2020. The School Committee concedes that it did not timely file meeting minutes for its July 7, 2020 meeting. As such, the School Committee violated the OMA.

Conclusion

The OMA provides that the Office of the Attorney General may institute an action in Superior Court for violations of the OMA on behalf of a complainant or the public interest. *See* R.I. Gen. Laws § 42-46-8(a), (e). The Superior Court may issue injunctive relief and declare null and void any actions of the public body found to be in violation of the OMA. *See* R.I. Gen. Laws § 42-46-8(d). Additionally, the Superior Court may impose fines up to \$5,000 against a public body found to have committed a willful or knowing violation of the OMA. *Id.*

Injunctive relief is not appropriate here because the meeting minutes have already been posted on the Secretary of State's website. Nor do we find sufficient evidence of a willful or knowing violation of the OMA. We observe that there are no recent similar violations found against the School Committee. Nonetheless, the School Committee must take measures to avoid future similar violations. This finding serves as notice that the conduct discussed herein violates the OMA and may serve as evidence of a willful or a knowing violation in any similar future situation.

Although the Office of the Attorney General will not file suit in this matter, please be advised that nothing within the OMA prohibits an individual from instituting an action for injunctive or declaratory relief in Superior Court. *See* R.I. Gen. Laws § 42-46-8(c). The OMA allows the Complainant to file a complaint within ninety (90) days from the date of the Attorney General's closing of the complaint or within one hundred eighty (180) days of the alleged violation,

whichever occurs later. *See id.* Please be advised that we are closing this Complaint as of the date of this letter.

We thank you for your interest in keeping government open and accountable to the public.

Sincerely,

PETER F. NERONHA  
ATTORNEY GENERAL

By: /s/ Kayla E. O'Rourke  
Kayla E. O'Rourke  
Special Assistant Attorney General