



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903
(401) 274-4400 - TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

May 12, 2014
OM 14-16

Ms. Cynthia Boss

Re: Boss v. Woonsocket School Committee

Dear Ms. Boss:

The investigation into your Open Meetings Act (“OMA”) complaint against the Woonsocket School Committee (“School Committee”) is complete. By correspondence dated December 30, 2013, you allege the School Committee violated the OMA when it failed to keep minutes for its November 13, 2013 executive session.¹

In response to your complaint, we received a substantive affidavit from legal counsel for the Woonsocket School Committee, Richard R. Ackerman, Esquire. In his affidavit, Attorney Ackerman states, in pertinent part:

2. ***the Rhode Island Open Meetings Act mandates, with the respect to the taking of ‘minutes,’ only the following:
 - a. public bodies shall keep written minutes of meetings.
 - b. the minutes shall include the date, time and place of meetings; the members, present or absent; a record by individual members of any vote taken; and any other relevant information that any member requests be included in the minutes. RIGL 42-46-7.

¹ Your December 30, 2013 OMA complaint was filed as an amendment to your December 18, 2013 Access to Public Records Act (“APRA”) complaint against the Woonsocket Superintendent’s Office to include this allegation. We will address your December 18, 2013 APRA complaint in a separate finding.

3. The information that is required by the OMA to be included in the minutes of the Woonsocket School Committee's closed meeting of November 13, 2013 is set forth within the minutes.

6. The method or manner in which the minutes are taken and recorded is not described in the OMA. Accordingly, this response does not discuss whether or not there is a preferred procedure for taking the minutes. Rather, this response addresses only whether or not the specific requirements of the OMA regarding the taking of minutes was followed.

In further response to your complaint, we received a substantive affidavit from Superintendent Giovanna M. Donoyan, which states, in pertinent part:

2. ***I was in attendance continuously throughout the entire closed meeting of the Woonsocket School Committee on November 13, 2013.

3. The posted minutes of said meeting reflect the votes of individual members of the committee on the votes taken during said executive session.

4. No individual member or members requested that any information be included or reflected in the minutes.

We acknowledge receipt and review of your reply.

At the outset, we note that in examining whether a violation of the OMA has occurred, we are mindful that our mandate is not to substitute this Department's independent judgment concerning whether an infraction has occurred, but instead, to interpret and enforce the OMA as the General Assembly has written this law and as the Rhode Island Supreme Court has interpreted its provisions. Furthermore, our statutory mandate is limited to determining whether the School Committee violated the OMA. See R.I. Gen. Laws § 42-46-8. In other words, we do not write on a blank slate.

The OMA requires public bodies "to keep written minutes of all their meetings." See R.I. Gen. Laws § 42-46-7(a). The OMA states, in pertinent part:

The minutes shall include, but need not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the public body recorded as either present or absent;
- (3) A record by individual members of any vote taken; and
- (4) Any other information relevant to the business of the public body that any member of the public body requests be included or reflected in the minutes. See id.

Here, your allegation is based upon certain statements “made in Open Session regarding the November 13, 2013 Closed Session meeting” that executive session minutes do not exist. Attached to your OMA complaint, however, is one page entitled “Closed Session Minutes” dated November 13, 2013. In fact, you highlight certain portions of these “Closed Session Minutes.”

To be sure, you contend that certain comments were made in open session that executive session minutes were not created; nonetheless, our review finds that executive session minutes were maintained. Accordingly, based upon the evidence you provided this Department, namely the November 13, 2013 executive session minutes, we find that the School Committee did in fact create and maintain minutes for its executive session held on November 13, 2013.

Moreover, our review finds that the categories set forth in R.I. Gen. Laws § 42-46-7(a)(1)-(3) were all contained within the executive session minutes, and no evidence has been produced to show that any member of the School Committee requested that additional information be recorded in the executive session minutes. See R.I. Gen. Laws § 42-46-7(a)(4). While the executive session minutes do contain a notation under a particular heading that “[n]o minutes were taken,” we interpret this notation to mean that no substantive minutes were recorded concerning the specific nature of the discussion undertaken. Because executive session minutes do exist, and because the OMA does not require that the nature of the substantive discussion be recorded – except as set forth in R.I. Gen. Laws § 42-46-7(a) – there is no violation.

Although the Attorney General has found no violation, nothing in the OMA precludes an individual from pursuing an OMA complaint in the Superior Court. You may do so 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. R.I. Gen. Laws § 42-46-8. Please be advised that we are closing our file as of the date of this letter.

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

Very truly yours,



Maria R. Corvese
Special Assistant Attorney General
Extension 2225

MC/pl

Cc: Richard R. Ackerman, Esquire
William J. Connell, Esquire