



Wayland Public Schools
Wayland, Massachusetts 01778

SCHOOL COMMITTEE
Chris Ryan, Chair
Ellen Grieco, Vice Chair
Jeanne Downs
Erin Gibbons
Jessica Polizzotti

March 16, 2023

Via FIRST CLASS MAIL and email

Ms. Carrie Benedon, Director
Division of Open Government
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
openmeeting@state.ma.us

Re: Response to Open Meeting Law Complaint against the Wayland School Committee filed by Mr. George Harris on February 14, 2023

Dear Ms. Benedon:

On February 14, 2023, the Wayland School Committee (“the Committee”) received an Open Meeting Law Complaint (“the Complaint”) from Mr. George Harris alleging that the School Committee violated the Open Meeting Law at its January 18, 25 and February 8, 2023 meetings. Pursuant to M.G.L. c. 30A, § 23(b), a copy of the Complaint is attached hereto as Exhibit A.

The Complaint alleges that the Committee violated the Open Meeting Law at its January 18, 25 and February 8, 2023 meetings by not identifying the specific purpose of its executive sessions. The Complaint further alleges that the meeting notices for the meetings incorrectly listed M.G.L. c. 30A, § 21(a)(3) as the purpose for the executive session, when in fact the Committee should have listed § 21(a)(1). The Committee denies that it violated the Open Meeting Law as alleged in the Complaint.

FACTUAL BACKGROUND

- On December 14, 2022, the Superintendent of Schools (“Superintendent”) filed a Demand for Arbitration pursuant to his employment contract. The demand alleged that the Committee violated the Superintendent’s employment contract in relation to its handling of complaints received concerning the Superintendent. Those complaints were discussed at the Committee’s October 26, 2022 meeting in executive session.
- The Committee convened in executive session on January 18, 2023 to discuss the Demand for Arbitration with its legal counsel pursuant to M.G.L. c. 30A, § 21(a)(3), relative to the allegations in the demand and litigation strategy related to the filing. At no point during the January 18, 2023

executive session did the Committee discuss any personnel actions to be taken with the Superintendent.

- Subsequent to January 18, 2023, the Superintendent, through his legal counsel, sent a communication to the Committee's legal counsel which contained a draft of a complaint to the Massachusetts Commission Against Discrimination ("MCAD") against the Committee and the Town.
- The Committee convened again in executive session on January 25, 2023, pursuant to M.G.L. c. 30A, § 21(a)(3), to further with its legal counsel issues and matters related to the Superintendent's Demand for Arbitration, as well as the litigation imminently threatened in the draft MCAD complaint provided by the Superintendent's counsel, and the Committee's strategy in relation thereto. At no point during the January 25, 2023 executive session did the Committee discuss any personnel actions to be taken with the Superintendent.
- The Committee convened once again in executive session on February 8, 2023, pursuant to M.G.L. c. 30A, § 21(a)(3) to continue its discussions with legal counsel regarding its strategy relative to issues and matters involving both the Superintendent's Demand for Arbitration, as well as the litigation imminently threatened in the draft MCAD complaint provided by the Superintendent's counsel. The Committee discussed litigation strategy which ultimately included placing the Superintendent on paid administrative leave effective immediately.

ANALYSIS

The complaint alleges that the primary purpose of the January 18, 25 and February 8, 2023 executive sessions was "to discuss the discipline of, or complaints or charges brought against a public officer, employee, staff member or individual" pursuant to M.G.L. c. 21(a)(1). Indeed this was not the case. In all three executive sessions the Committee convened to discuss litigation strategy in response to the Superintendent's filing of the Demand for Arbitration, and, with respect to the January 25 and February 8 meetings, the additional litigation threatened by the Superintendent in the draft MCAD complaint provided by the Superintendent's counsel.

The complaint incorrectly alleges that the three executive sessions cited were "in effect continuations of the Committee's meetings held on October 26, 2022 and November 10, 2022 that dealt with charges brought against Dr. Easy and whether to place him on administrative leave while a formal investigation was underway" and that "there is no question that the Committee knew prior to its January 18, 25 and February 8, 2023 executive sessions that it would discuss whether to put Dr. Easy on administrative leave...". Again, this was not the case. The School Committee submits that the complaints against the Superintendent were not discussed in any of the three executive sessions, and that the primary purpose of its discussions in each of the executive sessions was strategy with respect to litigation in relation to the Superintendent's demand for arbitration and, later, the litigation threatened by the Superintendent's draft MCAD complaint. The Committee's placement of the Superintendent on leave was not discussed during either of the January 18 or 25 executive sessions, and was only discussed in the February 8, 2023 executive session during the Committee's discussion of strategy with respect to litigation.

The Committee acknowledges that its meeting notices for January 25 and February 8 should have included additional information regarding the purpose for the Committee's executive sessions. While the notices for all three meetings correctly identified M.G.L. c. 30A, § 21(a)(3) and a discussion of strategy with respect to

litigation as the purpose for the executive sessions, when identifying the specific litigation to be discussed, the notices for January 25 and February 8 should have identified the litigation threatened by the Superintendent through his draft MCAD complaint, in addition to the arbitration which was identified. Both pieces of litigation (actual and threatened) were discussed by the Committee on January 25 and February 8, and in retrospect the Committee should have separately identified both matters. The Committee will ensure that, in the future, its meeting notices for executive sessions under purpose 3 for discussion of litigation strategy adequately identify each potential piece of litigation to be discussed. The Committee has already implemented this change; the notice for the Committee's March 15, 2023 meeting includes the following information regarding the Committee's planned discussion of litigation under purpose 3:

9.7 Discuss strategy with respect to litigation where an open meeting may have a detrimental effect on the litigating position of the committee, pursuant to M.G.L. c. 30A § 21(a)(3). (Easy v. Wayland School Committee, et al. MCAD Complaint).

CONCLUSION

For all of the reasons set forth above, the Committee maintains that it did not violate the Open Meeting Law in the manner alleged in the Complaint and maintains that the remedies requested in the Complaint are not appropriate. The Committee acknowledges that its meeting notices for January 25 and February 8 should have included more information regarding the specific litigation matters to be discussed and will ensure that its notices contain adequate information identifying all such litigation matters in the future.

Thank you for your attention to this matter.

Sincerely,

Chris Ryan
Chair, Wayland School Committee

cc: Mr. George Harris
Wayland School Committee