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May 12, 2011

President Thomas Tafoya  
Taos Municipal Schools Board of Education  
4744 NCDBU  
Taos, NM 87571

Dear Mr. Tafoya,

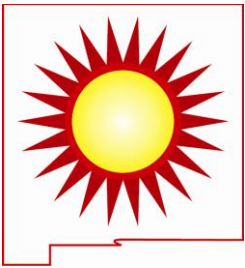
I am writing because it has come to my attention that the Board of Education appears to have been out of compliance with the Open Meetings Act on several occasions. I have outlined below the specific compliance issues, which center on executive sessions held at the 4/13, 4/20, 4/27 and 5/4 meetings. I urge you to correct these violations as soon as possible, either by amending the minutes or considering the items again.

1. **Reasonable Specificity.** Under the Open Meetings Act, “the authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting.”

Several of the items listed on the Board’s recent agendas fail the ‘reasonable specificity’ test. Items such as “Specific personnel issues,” “Negotiations,” “Bus Contracts” and “Land Acquisitions” do not give the public reasonable notice of what will be discussed by the Board. When the correct section of law is cited, we already know that limited personnel matters or real property will be the general topic. The Act requires additional information about the subject in front of the Board that day. Enclosed is an Attorney General Determination Letter which addresses this issue in greater detail.

2. **Authority for Closure.** The authority cited for the executive session at each meeting, 10-15-1.H(2), relates to limited personnel matters. Under that section of law, the Board may discuss the “hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual employee.”

It is unclear how discussions of the School Based Health Centers and Bus Contracts fall under this personnel exception, and it seems unlikely that either Land Acquisitions or Negotiations Planning with Mr. John Martinez fall under the exception at all. It is important to cite the correct legal authority, if one exists.



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- 3. Statement Following Closure.** The Open Meetings Act requires that following completion of a closed meeting, the minutes “shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure.”

There is no such statement in any of the enclosed minutes. Please note that a statement that “no decisions were made” is proper but inadequate. We can assume no decisions were made since any action taken in closed session would be invalid; the Act requires an additional pledge to the public that the Board’s entire discussion was limited to the announced topic.

Although violations like these are commonly seen as mere “technical” violations, failure to adequately notify the public about the substance of what is being discussed is a serious matter. It can be detrimental to members of the public who might wish to submit comments on these matters, and it can provoke a backlash if and when action is taken seemingly ‘out of the blue.’

Finally, the Open Meetings Act states that “at a minimum,” the minutes must include the date, time, place, names of members present and absent, the substance of proposals considered and a record of any decisions and votes. The Board’s minutes are indeed recording only that information and no more. Although more is not required by law, it’s helpful to the public to have a more thorough record of the discussion and/or access to audio or video recordings of the meetings. If the Board is not already making these available, I hope it will consider doing so.

Thank you for your prompt attention to this matter, and please don’t hesitate to contact me to discuss it further.

Sincerely,

Sarah Welsh  
Executive Director

Cc: Superintendent Dr. Rod Weston