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December 27, 2011

OML 2011 - 55

Darren Klein
Kopelman and Paige, P.C.
101 Arch Street
Boston, MA 02110

RE: Open Meeting Law Complaint Against Stoughton School Committee

Dear Attorney Klein:

This office received a complaint from Dr. Erdem Ural dated June 30, 2011 alleging a violation of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Dr. Ural filed a complaint with the Stoughton School Committee (the "Committee") on May 23, 2011 alleging that the Committee "failed to create and maintain accurate minutes of its meetings held on March 1, 2011." Your response to the May 23rd complaint, on behalf of the Committee, was received by this office on June 3, 2011.

We find that the Committee's March 1, 2011 open session minutes were sufficiently accurate and detailed. However, we find that the executive session minutes from the same meeting are not sufficiently detailed. In reaching this determination we reviewed the May 23, 2011 complaint filed with the Committee, the Committee's June 3, 2011 response, and the June 30, 2011 complaint filed with our office. Additionally, we reviewed the open and executive session minutes of the Committee's March 1, 2011 meeting, as well as draft minutes with changes proposed by Dr. Ural. Finally, we reviewed a video recording of the open session of the Committee's March 1, 2011 meeting.

FACTS

The Committee's open session minutes for its March 1, 2011 meeting consist of four pages that describe each topic discussed and all votes and actions taken. The final approved minutes do not include language suggested by Dr. Ural, which he believed more clearly reflected his comments on a number of matters.



During the March 1, 2011 meeting, the Committee entered executive session at 9:15 p.m. for the purpose of “a collective bargaining update and grievance update.” The minutes contain a heading for “Contract Negotiations” followed by two brief sentences, and a heading for “Grievance” followed by three brief sentences. The Committee adjourned at 10:40 p.m. Prior to the Committee’s approval of the executive session minutes, Dr. Ural proposed changes that he believed more clearly reflected his comments on the contract negotiations, but the Committee did not approve the suggested changes.

Both the open and executive session minutes were approved at the Committee’s April 26, 2011 meeting. It is our understanding that the executive session minutes have not been publicly released.

DISCUSSION

The Open Meeting Law requires a public body to “create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.” G.L. c. 30A, § 22(a). While our office enforces the law requiring public bodies to create and maintain accurate minutes of all meetings, we generally only review minutes for substantial compliance with the accuracy requirement. By substantial compliance, we mean that the minutes should contain enough detail and accuracy so that a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred.

Although the Committee did not include certain comments from Dr. Ural in the final version of its March 1, 2011 open session minutes, we believe the Committee substantially complied with the requirement that it provide an accurate and sufficiently detailed summary of the discussion. The minutes may not cover every remark and opinion presented at the meeting, but the Committee provided what the law requires. We encourage public bodies to include dissenting or minority opinions, particularly when a request is made to include remarks in the minutes. However, the content of meeting minutes is left to the discretion of the public body so long as it substantially complies with the requirement that the minutes be accurate and provides a summary of the discussion of each topic.

After reviewing the Committee’s executive session minutes, however, we find that the Committee did not include the minimum detail required by the law. The Committee entered executive session at 9:15 p.m. and adjourned at 10:40 p.m. The minutes contain a heading for “Contract Negotiations” followed by two brief sentences, and a heading for “Grievance” followed by three brief sentences. For a discussion of at least two topics that lasted one hour and twenty-five minutes, the level of detail provided by the Committee is not sufficient. We are unable to determine whether Dr. Ural’s

proposed edits to the minutes are accurate as the minutes are sparse and there is no recording of what occurred.

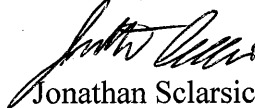
For the reasons stated above, we order the Committee to draft and approve minutes for the March 1, 2011 executive session that contain a summary of each discussion, with sufficient detail and accuracy so that a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred. We encourage the Committee to include both minority and majority opinions in the summary of the discussion reflected in the final minutes. We do not order the Committee to release the executive session minutes at this time, unless it has concluded that publication would no longer defeat the lawful purposes for the executive session.

CONCLUSION

We find that the Committee's March 1, 2011 open session minutes substantially complied with the requirements of the Open Meeting Law. We find that the Committee's March 1, 2011 executive session minutes are not sufficiently detailed to meet the requirements of the law. We order the Committee to draft and approve a new set of executive session minutes within 30 days.

We now consider this matter closed. If you have any questions regarding this letter, please do not hesitate to contact me at the number below.

Sincerely,



Jonathan Sclarsic
Assistant Attorney General
Division of Open Government
Ph: 617-963-2045

cc: Dr. Erdem Ural