



ATTORNEY GENERAL OF MISSOURI

ERIC SCHMITT

March 10, 2022

EdCounsel LLC  
Rachel Meystedt  
2401 Bernadette Drive, Suite 117  
Columbia, Missouri 65203

***Re: Sunshine Law Complaint – Closing Response***

Dear Ms. Meystedt,

This letter concerns complaints filed by Ethan Gabel and Ryan Miller with the Attorney General’s Office (“AGO”) against the Kirksville R-III School Board. We understand that you serve as the Board’s attorney for these matters.

Generally speaking, the complaints allege that the District’s Superintendent and the School Board improperly sent certain email communications in 2021 that constitute a “public meeting” under the Sunshine Law without posting notice of a meeting. We have thoroughly reviewed the allegations in the complaints, your responses on behalf of the Board, and relevant laws and court decisions.

Of the documents we reviewed, it appears that only one email was sent to a majority of Board members—a February 15, 2021 email from the Superintendent to the Board and one Board member’s subsequent “reply all” message. Upon close review, those communications likely do not constitute a “public meeting” as that term is defined in § 610.010(5) and how courts have interpreted it. *See, e.g., Colombo v. Buford*, 935 S.W.2d 690, 696 (Mo. App. W.D. 1996) (considering whether the “trappings of an official meeting were present,” including an agenda, gaveling a session to order, voting, and individuals taking turns communicating).

All other messages we reviewed did not contain a majority of Board members, and the Attorney General’s Office did not receive sufficient evidence to conclude that either those emails or the February 15, 2021 communication were sent in order with “intent to avoid the purposes of [the Sunshine Law],” § 610.010(5), or that any individual acted with intent to “thwart or preclude compliance with the statute.” *Anderson v. Vill. of Jacksonville*, 103 S.W.3d 190, 198–99 (Mo. App. W.D. 2003). To that point, all communications we reviewed appear to have been made public.


Absent additional evidence showing that the email communications were sent to circumvent the purpose of the Sunshine Law, the Attorney General's Office has decided to close these complaints.

We urge the Board and District staff to avoid any email communications that could result in a majority of the Board discussing items of public business that are traditionally discussed in a public meeting. The Sunshine Law is Missouri's key law promoting openness and transparency in government. This Office will not hesitate to take appropriate enforcement action upon reviewing evidence that supports likely violations of the text or spirit of the Sunshine Law.

As a reminder, § 610.025 requires that, when a member of a public body transmits a message relating to public business so that, when counting the sender, a majority of members are copied, the sender must also ensure that the message is copied to the body's custodian of records or the member's public office computer. For many public bodies, the member sending the message will not have a public office computer or a government-provided email address, and so they will need to ensure that the message is sent to the custodian of records. In this case, it appears that the District did retain the emails, as evidenced by the public disclosure of the emails and most of the individuals on the correspondence receiving them at a District-provided email account.

The purpose of this correspondence is to summarize our office's conclusions following our review of the complaints. This correspondence does not constitute an official opinion of the Missouri Attorney General and the Attorney General's Office is not providing any legal advice to any individual or entity through this letter. Please contact me if you have further questions.

Sincerely,



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