

DL&G DOUGLAS, LEONARD & GARVEY, P.C.

A T T O R N E Y S

Charles G. Douglas, III*
C. Kevin Leonard
Carolyn S. Garvey
Benjamin T. King**
Richard J. Lehmann
Jason R. L. Major
Theresa M. Spearing*
Sean R. List

14 SOUTH STREET, SUITE 5
CONCORD, NEW HAMPSHIRE 03301

Telephone: 603-224-1988
Facsimile: 603-229-1988
Email: mail@nhlawoffice.com
www.nhlawoffice.com

* also admitted in MA

** also admitted in ME

September 22, 2016

VIA E-MAIL & US MAIL

earl.metzler@timberlane.net

pbealo@comcast.net

Earl Metzler, Superintendent
SAU 55
30 Greenough Rd.
Plaistow, NH 03865

Peter Bealo, Chairman
Timberlane Regional School Board
SAU 55
30 Greenough Rd.
Plaistow, NH 03865

Re: Donna Green - Request for Information

Gentlemen:

I am writing to alert you to a violation of RSA 91-A, the New Hampshire Right to Know law, being perpetrated by you or those under your control and supervision. On September 21, 2016, my client, Donna Green, requested notice of the time and place of a meeting of the "Transportation Advisory Committee." In email correspondence, my client asked Dr. Metzler, "whether the TAC meeting is being held in public." In response, Dr. Metzler wrote, "See School Board policy CE. The membership, composition and responsibilities of this committee is [sic] at my discretion. Thank you for expressing interest in participating but we are all set at this time." This answer was

not responsive to my client's question. Mr. Bealo then wrote that Dr. Metzler's continued participation in the email thread was "a waste of time."

You are mistaken. Advisory committees are expressly included within the New Hampshire Right to Know law. Pursuant to RSA 91-A:1-a, I, an "Advisory committee" means any committee, council, commission, or other like body whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendations concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority." This is entirely consistent with the definition of an advisory committee authorized by School Board Rules. See CE. Pursuant to RSA 91-A:1, VI (d), a "public body" is defined as "[a]ny legislative body, governing body, board, commission, committee, agency, or authority of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision, or any committee, subcommittee, or subordinate body thereof, or advisory committee thereto." Accordingly, it is clear that any advisory committee established pursuant to district policy CE is a public body subject to the Right to Know law.

Under the New Hampshire Right to Know law, at least two things are true about meetings of these advisory committees. First, such meetings are open to the public. RSA 91-A:2, I. Second, pursuant to RSA 91-A:2, II, "Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places...." To the extent that advisory committees have been closed to the public or not properly noticed, the District is acting illegally.

My client has authorized me to seek a temporary and permanent injunction against you in order to prevent you from continuing to conduct illegal, closed meetings. However, she insisted that I first give you the opportunity to spare the financial expense of paying my legal fees and the waste of personnel resources that will be necessary should I be required to file a Right to Know lawsuit in court.

I urge you in the strongest terms possible to come into compliance with the Right to Know law and cease holding illegal secret advisory committee meetings. In particular, I fully expect that before the Transportation Advisory Committee meets again that my client will be advised of the date, time and place of the meeting, and be permitted to attend if she so chooses.

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I look forward to your response.

Very truly yours,



Richard J. Lehmann

RJL:jg

Cc: Donna Green (donnagre@gmail.com)