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April 17, 2019

OML 2019 – 33

Timothy Luff
Assistant Superintendent
Natick Public Schools
13 East Central Street
Natick, MA 01760

RE: Open Meeting Law Complaints

Dear Assistant Superintendent Luff:

This determination addresses three complaints that Ronald Alexander filed with this office on December 31 alleging that the Natick School Committee (the “Committee”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25.¹ Between March and October, Mr. Alexander filed approximately 600 separate open meeting law complaints with the Committee. This determination addresses complaints #402, #403, and #601. Two complaints were originally filed with the Committee on October 2 and one complaint was originally filed with the Committee on October 12. You responded, on behalf of the Committee, to all three complaints by letter dated November 29, following mediation and then an extension of time granted by our office. The complaints allege that the Committee failed to properly respond to Open Meeting Law complaints within 14 business days.

Following our review, we find that the Committee did not violate the Open Meeting Law in the way alleged. In reaching this determination, we reviewed the original complaints, the Committee’s response to the complaints, and the complaints filed with our office requesting further review.

FACTS

We find the facts as follows. On or about March 8, the complainant began filing Open Meeting Law complaints with the Committee. By October 12, he had filed over 600 complaints with the Committee. The three complaints at issue here are #402, #403, and #601.

¹ Unless otherwise indicated, all dates in this letter refer to the year 2018.



Between March and October, the Committee requested, and this office granted, several extensions of time pursuant to 940 CMR 29.05(5)(b) in order to respond to the numerous complaints. Specifically, on March 29, this office granted the Committee an extension of time until April 23 to respond to approximately 23 complaints that had been filed between March 8 and March 27. On April 23, the Committee requested mediation to resolve approximately 46 complaints that had then been filed by the complainant. By letter dated May 2, this office granted an extension of time to the Committee "to respond to all Open Meeting Law complaints until such time as the mediation process will conclude."

On June 19, the Committee and the complainant agreed to enter into a mediated negotiation for the purpose of resolving the numerous complaints. At the time mediation was underway, the complainant had filed approximately 200 complaints. By e-mail and letter dated August 17, this office advised the complainant that mediation had not "yet concluded for purposes of triggering the timeline for the Committee to respond to your complaints." The mediation concluded unsuccessfully on August 28, by which time the complainant had filed an additional 200 complaints alleging the Committee had failed to timely respond to the first 200 complaints.

By letter dated August 30, this office advised both the complainant and the Committee that the last joint meeting with the mediator occurred on August 28, and therefore the Committee had until September 12, which was ten business days from the last joint meeting, to respond to the approximate 400 complaints that had by then been filed. We also advised that the Committee could request a further extension of time to respond to the complaints.

On September 7, the Committee requested an extension of time to respond to the 400 complaints. On September 17, this office granted a further extension of time until November 30 for the Committee to respond to the complaints. Between October 3 and October 12, the complainant filed approximately 200 more complaints (bringing the total to approximately 600 complaints), for which the Committee requested additional extensions.

The complainant filed complaint # 402 and complaint # 403 on October 2, alleging that the Committee failed to timely respond to complaint #1 and complaint #2, which were originally filed with the Committee on March 7. On October 12, the complainant filed complaint #601, alleging that the Committee failed to timely respond to complaint #200, which was originally filed with the Committee on August 14.

On October 12, this office granted the Committee an extension of time until December 21 to respond to complaints #401 through #588. On October 29, this office granted the Committee a final extension of time until January 18, 2019 to respond to complaints #589 through #603. The Committee responded to all 603 complaints by letter dated November 29.

DISCUSSION

The complaints concern the Committee's failure to respond to three Open Meeting Law complaints in the timeframe required by the law. Specifically, the complaints allege that the Committee failed to respond to his complaints (#1, #2, and #200) by September 12, which was ten business days after the last joint meeting with the mediator.

Typically, a public body must respond to an Open Meeting Law complaint within 14 business days of receipt, unless during that period of time it requests from the Attorney General an extension of time for responding and demonstrates good cause. G.L. c. 30A, § 23(b); 940 CMR 29.05(5)(b). However, the Open Meeting Law regulations also provide that a public body engaging in mediation has ten business days from the last joint meeting with the mediator to respond to the complaints. 940 CMR 29.05(9)(b). In other words, while mediation is underway, the usual time periods for responding to complaints are stayed. Reading the provisions of the Open Meeting Law and the corresponding regulations in concert, as we must, we conclude that a public body that has engaged in mediation pursuant to 940 CMR 29.05(9) may request an extension of time to respond to the complaints up through the date that its response would otherwise be due, i.e., no later than ten business days after the last joint meeting of the mediator.

Here, the last joint meeting with the mediator occurred on August 28. The Committee's responses to the complaints would therefore have been due on September 12. However, on September 7, the Committee requested an extension of time to respond to the 400 complaints it had received and this office granted a further extension of time until November 30 for the Committee to respond to those complaints. The Committee timely requested, and received, an extension of time to respond to additional complaints that were filed later. The Committee responded to all of the complaints by letter dated November 29, within the time that was authorized in response to the Committee's extension requests. As such, we find that the Committee timely responded to the complaints and therefore did not violate the Open Meeting Law.

Given that our office expressly informed the complainant that the Committee could request a further extension of time and where the complainant was aware that an extension had been granted to November 30 for a response, it should have been clear to the complainant that the Committee had not violated the Open Meeting Law when it did not respond to the Open Meeting Law complaints by September 12. Filing complaints containing frivolous allegations wastes both municipal and Commonwealth resources, and complainants should refrain from filing complaints with our office unnecessarily. See OML 2018-86; OML 2017-172.²

CONCLUSION

For the reasons stated above, we find that the Committee did not violate the Open Meeting Law. We now consider the complaints addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Committee. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

² Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.

Sincerely,



KerryAnne Kilcoyne
Assistant Attorney General
Division of Open Government

cc: Ronald Alexander
Natick School Committee

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.