

**OPEN RECORDS AND MEETINGS OPINION  
2003-O-16**

DATE ISSUED: October 22, 2003

ISSUED TO: Dave Ystebo, Chairman  
Workforce Safety and Insurance Board

**CITIZEN'S REQUEST FOR OPINION**

On October 17, 2003, this office received a request for an opinion under N.D.C.C. § 44-04-21.1 from Janell Cole of the Fargo Forum asking whether the Workforce Safety and Insurance Board violated N.D.C.C. § 44-04-20 by holding a special meeting that was improperly noticed.

**FACTS PRESENTED**

Late in the morning on October 8, 2003, the Chairman of the Workforce Safety and Insurance Board, Dave Ystebo, informed the office of Workforce Safety and Insurance (WSI) that he would like to call a special meeting of the Board that day. The executive secretary e-mailed the other Board members to see if they would be available for a meeting that day by conference call. Shortly thereafter, Ystebo confirmed that he was calling a special meeting and instructed the secretary to post notice. Early in the afternoon, notice of the special meeting was faxed to the WSI Board members, the Secretary of State's office, the Governor's office, Facility Management, and the Bismarck Tribune.<sup>1</sup> The notice was also posted outside the conference room at the WSI building. No other members of the media were given notice of the meeting. WSI did not have any requests from the media to give notice of meetings.

**ISSUE**

Whether the Workforce Safety and Insurance Board properly noticed its October 8, 2003, special meeting consistent with N.D.C.C. § 44-04-20.

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<sup>1</sup> Workforce Safety and Insurance provided this office with the transmittal sheet that indicates that the fax was sent to the Bismarck Tribune on October 8 at 13:28 (or 1:28 p.m.)

### ANALYSIS

Required notices “must be given in advance of all meetings of a public entity.” N.D.C.C. § 44-04-20(1). The time, place, date and topics to be considered at a special or emergency meeting must be stated in the meeting notice of such a meeting. N.D.C.C. § 44-04-20(6). The notice must be filed with the Secretary of State for state level bodies, posted at the public entity’s main office if one exists, and posted at the location of the meeting on the day of the meeting. N.D.C.C. § 44-04-20(4). In the event of special or emergency meetings, the public entity must give notice to its official newspaper, if any, and to representatives of the news media who have requested to be notified of special or emergency meetings at the same time it notifies the governing body’s members. N.D.C.C. § 44-04-20(6). There is no requirement for state entities to select an official newspaper. Therefore, there is no statutory requirement for a state entity to send the notice to any newspaper, unless of course, the newspaper requested to receive notice.

Ms. Cole alleges that the meeting was illegally noticed because the media, including herself, was not given notice of the meeting. However, according to WSI, although it was not required to, it did give notice to the Bismarck Tribune, which it traditionally has provided with written notices of its meetings. In addition, prior to October 8, 2003, Ms. Cole had not asked WSI to provide her with notice of any of its meetings. In any opinion issued under N.D.C.C. § 44-04-21.1 the attorney general shall base the opinion on the facts given by the public entity. N.D.C.C. § 44-04-21.1(1). Because Ms. Cole had not requested notice of WSI’s meeting prior to October 8, 2003, WSI was not legally required under N.D.C.C. § 44-04-20(6) to give her notice of the October 8 meeting.

### CONCLUSION

Workforce Safety and Insurance Board properly noticed its October 8, 2003, special meeting consistent with N.D.C.C. § 44-04-20.

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