

**OPEN RECORDS AND MEETINGS OPINION
2021-O-10**

DATE ISSUED: September 23, 2021

ISSUED TO: Mandan Public School Board

CITIZEN'S REQUEST FOR OPINION

This office received a request for an opinion under N.D.C.C. § 44-04-21.1 from Mathias Gieser asking whether the Mandan Public School Board violated N.D.C.C. § 44-04-20 by failing to properly notice a special meeting.

FACTS PRESENTED

The Mandan Public School Board (School Board) held a special meeting at 5:30 P.M. in the Brave Center¹ on June 8, 2021.² The special meeting notice was e-mailed with an agenda at 4:05 p.m. on June 7, 2021, to the School Board members, the county auditor, the Mandan News, the Bismarck Tribune, Dakota Media Access, and all persons who had previously requested notification.³ The notice was posted on June 8, 2021, at approximately 10:00 A.M., on the front door of the Brave Center and at the entrance of the meeting room.⁴

ISSUE

Whether the Mandan Public School Board posted noticed of its June 8, 2021, special meeting in compliance with N.D.C.C. § 44-04-20.

¹ The Brave Center is the location of the central office for the Mandan Sch. Dist. Letter from Mike Bitz, Supt., Mandan Pub. Schs., to Att'y Gen.'s Office (Jun. 28, 2021).

² Letter from Mike Bitz, Supt., Mandan Pub. Schs., to Att'y Gen.'s Office (Jun. 28, 2021); Notice, Spec. Meeting, Sch. Bd. (Jun. 8, 2021).

³ Letter from Mike Bitz, Supt., Mandan Pub. Schs., to Att'y Gen.'s Office (Jun. 28, 2021).

⁴ *Id.*

ANALYSIS

Unless otherwise provided by law, public notice must be given in advance of all meetings of a public entity in substantial compliance with N.D.C.C. § 44-04-20.⁵ Meeting notices must include the date, time, and location of the meeting, and, if practicable, the topics to be discussed.⁶ The notice must be posted at the principal office⁷ of the governing body holding the meeting, if one exists, at the location of the meeting on the day of the meeting, given to anyone who asks to receive notice of upcoming meetings, and, for school boards, filed in the office of the county auditor,⁸ or posted on the public entity's website.⁹ For special meetings, notice must be provided to the public entity's official newspaper and to any representatives of the news media asking to be notified of the special meeting.¹⁰

Here, the School Board held a special meeting on June 8, 2021.¹¹ The notice included the date, time, and location of the meeting.¹² An agenda listing the topics anticipated to be discussed was included with the e-mail notice.¹³ According to the School Board, the notice was provided to the county auditor, the county newspaper, and persons who had previously requested notification on June 7, 2021.¹⁴ On June 8, 2021, the morning of the meeting, the notice was posted on the front door of the Brave Center – the central office for the Mandan School District – and at the entrance of the meeting room. This office is required to base its opinions on the facts provided by the public entity.¹⁵ Therefore, it is my opinion that the School Board provided proper notice of its June 8, 2021, special meeting.

⁵ N.D.C.C. § 44-04-20(1).

⁶ N.D.C.C. § 44-04-20(2).

⁷ A past opinion stated school board meetings should be posted at the “school’s principal office” N.D.A.G. 2020-O-04. This Opinion clarifies that the statute plainly requires the notice be posted at “the principal office of the governing body holding the meeting.” Section 44-04-20(4), N.D.C.C., refers to the main location of a governing body’s office and not specifically the “school’s principal office.”

⁸ A school board is considered under “all other bodies” in N.D.C.C. § 44-04-20(4). *See also* N.D.A.G. 2020-O-04; N.D.A.G. 2012-O-06.

⁹ N.D.C.C. § 44-04-20(4); N.D.A.G. 2018-O-28; N.D.A.G. 2018-O-04.

¹⁰ N.D.C.C. § 44-04-20(6), N.D.A.G. 2018-O-28.

¹¹ Letter from Mike Bitz, Supt., Mandan Pub. Schs., to Att’y Gen.’s Office (Jun. 28, 2021).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ N.D.C.C. § 44-04-21.1(1).

CONCLUSION

The Mandan School Board provided proper notice of its June 8, 2021, special meeting in substantial compliance with N.D.C.C. § 44-04-20.

Wayne Stenehjem
Attorney General

aml
cc: Mathias Gieser (via email only)