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Board of Regents  
New Mexico Institute of Mining and Technology

This letter is to advise you that you have and continue to be in violation of the Open Meetings Act, NMSA 1978, Chapter 10, Article 15 in three respects.

1. Section 10-15-1 part C states:

If otherwise allowed by law or rule of the public body, a member of a public body may participate in a meeting of the public body by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meetings are able to hear any member of the public body who speaks during the meeting.

This article states the only circumstances in which a member may participate by telephone in an open meeting. No provision is made for a meeting of an entire public body to be by telephone, but only for particular members to participate in that way, and then only if it is difficult or impossible for that member to appear in person

At the informational meeting conducted by the Attorney General's office on December 10th in Socorro, we were advised that very little business needing to be done, or the cost of members attending a meeting, or the convenience of members of a public body are not adequate reasons to have a meeting held entirely by telephone only.

Your board has held many meetings entirely by telephone, most recently June 9th, July 3rd, and December 4th of this year. No justification for doing so was given in announcements to the public. Such meetings are in violation of this Act. Section 10-15-3 of the Act states:

No resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be valid unless taken or made at a meeting held in accordance with the requirements of NMSA 1978, Section 10-15-1.

On inquiry at the informational meeting led by the Attorney General's office, we were told that all actions taken by a public body at a meeting not in accord with these requirements must be reconsidered at a later meeting. Can you please notify me when all items on which action was taken at these most recent teleconference meetings will be reconsidered?

continued . . .

2. The minutes of the meeting of August 2nd of this year state:

Regent Armijo entertained a motion to meet in executive session for consideration of legal and personnel matters. Regent Carpenter so moved; Regent Daly seconded and through unanimous affirmative roll-call vote, the Board went into executive session.

After deliberations in executive session, the Board reconvened in open session at 11:00 a.m. and Regent Armijo announced that the Board had considered legal and personnel matters which did not require Board action.

At the informational meeting led by the Attorney General's office we were advised that "Legal and Personnel matters" is not adequate to describe a reason to go into closed session. Nor is such a general description of a motive and record of subjects discussed adequate for the minutes of a meeting. The public must be advised in much greater specificity. Can you please tell me when you will have the minutes of your meeting of August 2 revised to reflect the actual subjects you discussed in closed session?

3. Section 10-15-1 part G states:

The board, commission or other policymaking body shall keep written minutes of all its meetings. . . . All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present.

At the Board meeting on August 2, 2008 minutes for the previous three meetings were considered for approval for the first time. The minutes for the May 16th meeting were not considered at the teleconference meetings of June 9th or July 3rd.

Yours truly,

cc: El Defensor Chieftain  
The Mountain Mail  
Gary King, Attorney General  
Leonard J. DeLayo, Jr., New Mexico Foundation for Open Government