



New Jersey Libertarian Party

Open Government Advocacy Project

John Paff, Chairman

P.O. Box 5424

Somerset, NJ 08875-5424

Phone: 732-873-1251- Fax: 908-325-0129

Email: lpsmc@pobox.com

August 24, 2007

Kim C. Belin, Esq., Manager
Investigation Unit, Office of Compliance Investigation
Department of Education
P.O. Box 500
Trenton, NJ 08625-0500 *(via PDF attachment kim.belin@doe.state.nj.us)*

Dear Ms. Belin:

I write, both individually and in my capacity as Chairman of the New Jersey Libertarian Party's Open Government Advocacy Project, to complain about the manner in which the Ewing Township Board of Education resolves to exclude the public from its meetings (i.e. goes into executive or closed session).

Attached are one page each from the Ewing Board's October 30, 2006, May 21, 2007 and June 25, 2007 public meeting minutes. These minutes were downloaded from the Board's Internet site at <http://www.ewing.k12.nj.us/home/boe/minutes/index.htm>

Each page from the minutes shows that the Board resolved to exclude the public from its meetings "for the purpose of discussing: Minutes, Personnel Items, Residency Legal Matters and Contracts."¹ From looking at some of the other minutes posted on the Board's Internet site, this appears to be the form of resolution that the Board typically uses to go into closed or executive session.

This form of resolutions is deficient because it does not inform the public, with any degree of specificity, of which matters the Board will discuss during closed session. In Council of New Jersey State College Locals, NJSFT, AFT/AFL-CIO, Local 2364 v. Trenton State College Bd. of Trustees, 284 N.J. Super. 108 (L.1995), the Court found that the defendant Board's practice of passing a very general resolution whenever it desired to go into closed session did not comply with Open Public Meetings Act in that it did not "afford the public any real knowledge of the Board's executive-session proceedings." The Court further stated:

The Board's notice is framed so broadly that it does no more than tell the public that there will be a meeting in executive session. The

¹ The wording varies slightly in each resolution, but is substantially the same.

notice merely recites the litany of exceptions which would allow it to proceed in closed session. No attempt is made to indicate which one or ones of these exceptions are relevant to a particular closed-session proceeding. This complete failure to delineate which subject or subjects will be discussed in closed session does not comply with the statutory mandate that the public know the general nature of the agenda.

Recently, I had occasion to sue the Monroe Township (Middlesex County) Board of Education on this precise issue. To support my position that the Ewing Board's form of resolution violates N.J.S.A. 10:4-13, I have attached a copy of the January 22, 2007 written opinion of Hon. Alexander P. Waugh, J.S.C. Note that on page 9 of his opinion, Judge Waugh agrees with Judge Carchman's holding in Council of New Jersey State College Locals "that closed session resolutions should contain as much information as is consistent with full public knowledge without doing any harm to the public interest."

I ask that your office please investigate this matter, and require the Ewing Board of Education to pass more specific resolutions consistent with Council of New Jersey State College Locals and my case against Monroe.

We greatly appreciate your time in reviewing this matter and forward to learning the results of your investigation.

Sincerely,

A handwritten signature in black ink, appearing to read "John Paff", with a stylized flourish at the end.

John Paff

The following minutes do not include all materials and data that are important to these minutes. Minutes can be viewed in the Official Minute Book located at the Ryan Administration Building, 1331 Lower Ferry Road, Ewing, NJ 08618.

Monday, October 30, 2006

A public meeting of the Ewing Township Board of Education was called to order by Mr. Savage, Board President, at 7:02 pm in the Ryan Administration Building on the above-mentioned date.

Mr. Savage read the following statement:

The New Jersey Open Public Meetings Law was enacted to ensure the right of the public to have advance notice of and to attend the meetings of public bodies at which any business affecting their interests is discussed or acted upon. In accordance with the provisions of this Act, the Ewing Township Board of Education has caused notice of this meeting to be given by having the date, time and place thereof posted with the Clerk of the Municipality; advertised in *The Times* newspaper on October 5, 2006 and posted on the Administration Building bulletin board.

On roll call, the following members were present: Dr. Ball, Dr. Vickner, Dr. Palmer, Mr. Hood, Mr. White, Mr. Bradley, Mrs. Kramli and Mr. Savage

Member Absent: Mr. Young

Also Present: Mr. Broach, Mr. Nettleton, Mr. Nitti, Ms. Berenwick and Mr. Belz, Board Attorney

On motion by Mrs. Kramli, seconded by Mr. White, the Board approved the following resolution:

RESOLVED, that the Ewing Township Board of Education shall meet in Executive Session on October 30, 2006, immediate, for the purpose of discussing: Minutes, Personnel Items, Residency and Legal Matters.

FURTHER RESOLVED, that the discussion of such subject matter in Executive Session will be disclosed to the public when the matter has been resolved, unless such is otherwise prohibited by law. The items to be discussed are: Minutes, Personnel Items, Residency and Legal Matters.

The above resolution was unanimously approved by voice vote.

The Board went into Executive Session at 7:04 pm.

The Board returned to Public Session at 8:00 pm.

Mr. Savage led the Board and public in the salute to the flag.

On motion by Mr. Hood, seconded by Dr. Vickner, the Board approved the minutes of September 25, 2006 and October 9, 2006.

The above motion was unanimously approved by voice vote.

The following minutes do not include all materials and data that are important to these minutes. Minutes can be viewed in the Official Minute Book located at the Ryan Administration Building, 1331 Lower Ferry Road, Ewing, NJ 08618.

Monday, May 21, 2007

A public meeting of the Ewing Township Board of Education was called to order by Mr. Bradley, Board Vice President, at 7:00 pm in the Ewing High School Senior Café on the above-mentioned date.

Mr. Bradley read the following statement:

The New Jersey Open Public Meetings Law was enacted to ensure the right of the public to have advance notice of and to attend the meetings of public bodies at which any business affecting their interests is discussed or acted upon. In accordance with the provisions of this Act, the Ewing Township Board of Education has caused notice of this meeting to be given by having the date, time and place thereof posted with the Clerk of the Municipality; advertised in *The Times* newspaper on May 4, 2007 and posted on the Administration Building bulletin board.

On roll call, the following members were present: Dr. Vickner, Mr. Savage, Dr. Palmer, Mr. Hood, Mr. White, Mr. Mack and Mr. Bradley. Ms. Rose and Ms. Racine, student representatives, joined the meeting at 8:05 pm.

Members Absent: Ms. Benedetti and Mrs. Kramli

Also Present: Mr. Nitti, Mr. Nettleton, Ms. Berenwick and Mr. Belz, Board Attorney

On motion by Mr. White, seconded by Mr. Savage, the Board approved the following resolution:

RESOLVED, that the Ewing Township Board of Education shall meet in Executive Session on May 21, 2007 immediate, for the purpose of discussing: Minutes, Personnel Items, Residency, Legal Matters and Contracts.

FURTHER RESOLVED, that the discussion of such subject matter in Executive Session will be disclosed to the public when the matter has been resolved, unless such is otherwise prohibited by law. The items to be discussed are: Minutes, Personnel Items, Residency, Legal Matters and Contracts.

The above resolution was unanimously approved by voice vote.

The Board went into Executive Session at 7:02 pm.

The Board returned to Public Session at 8:05 pm.

Mr. Bradley led the Board and public in the salute to the flag.

On motion by Mr. White, seconded by Dr. Palmer, the Board approved the minutes of April 23, 2007.

The above motion was unanimously approved by voice vote.

SUPERINTENDENT'S REPORT

1. Dr. Logan presented the Ewing High School awards and certificates.

The following minutes do not include all materials and data that are important to these minutes. Minutes can be viewed in the Official Minute Book located at the Ryan Administration Building, 1331 Lower Ferry Road, Ewing, NJ 08618.

Monday, June 25, 2007

A public meeting of the Ewing Township Board of Education was called to order by Mrs. Kramli, Board President, at 7:00 pm in Ryan Administration Building on the above-mentioned date.

Mrs. Kramli read the following statement:

The New Jersey Open Public Meetings Law was enacted to ensure the right of the public to have advance notice of and to attend the meetings of public bodies at which any business affecting their interests is discussed or acted upon. In accordance with the provisions of this Act, the Ewing Township Board of Education has caused notice of this meeting to be given by having the date, time and place thereof posted with the Clerk of the Municipality; advertised in *The Times* newspaper on May 4, 2007 and posted on the Administration Building bulletin board.

On roll call, the following members were present: Dr. Vickner, Mr. Savage, Mr. Hood, Ms. Benedetti, Mr. White, Mr. Mack and Mrs. Kramli.

Members Absent: Mr. Bradley and Dr. Palmer

Also Present: Mr. Broach, Mr. Nettleton, Mr. Nitti, Ms. Berenwick and Mr. Belz, Board Attorney (7:09 pm)

On motion by Mr. White, seconded by Ms. Benedetti, the Board approved the following resolution:

RESOLVED, that the Ewing Township Board of Education shall meet in Executive Session on June 25, 2007 immediate, for the purpose of discussing: Minutes, Personnel Items, Contracts, Residency and Legal Matters.

FURTHER RESOLVED, that the discussion of such subject matter in Executive Session will be disclosed to the public when the matter has been resolved, unless such is otherwise prohibited by law. The items to be discussed are: Minutes, Personnel Items, Residency, Legal Matters and Contracts.

The above resolution was unanimously approved by voice vote.

The Board went into Executive Session at 7:02 pm.

The Board returned to Public Session at 8:00 pm.

Mrs. Kramli led the Board and public in the salute to the flag.

On motion by Mr. White, seconded by Ms. Benedetti, the Board approved the minutes of May 21, 2007 and June 4, 2007.

The above motion was approved by voice votes. All YEAS with two ABSTENTIONS.

LETTER OPINION – NOT FOR PUBLICATION

January 22, 2007

John Paff
P.O. Box 5424
Somerset, NJ 08875-5424

James F. Schwerin, Esquire
Parker McCay P.A.
Suite 102A
Bldg. 4 East
1009 Lenox Drive
Lawrenceville, NJ 08648

Re: Paff v. Monroe Township Board of Education
Docket No. L-7770-06

Dear Counsel:

This matter is before the Court on cross-motions for summary judgment. Oral argument took place on January 19, 2007, following which I reserved decision.

Plaintiff John Paff (Paff) is a resident of Franklin Township, Somerset County, New Jersey. According to his complaint, he is the Chairman of the Open Government Task Force of the Libertarian Party of Central New Jersey. Defendant Monroe Township Board of Education (Board) is a municipal corporation of the State of New Jersey.

Paff filed his Complaint on September 26, 2006, seeking a declaration that the Board fails to comply with the terms of the Open Public Meetings Act (N.J.S.A. 10:4-6 to 21) (Act) with respect to closed session resolutions. Specifically, Paff contends that the Board's regular practice of adopting a closed session resolution that allows it to "discuss personnel, negotiations, legal and student matters" and "to convene into closed session as the need may arise at any time during the public session, immediately after adjournment or at any time prior to the next public meeting" fails to comply with the requirements of N.J.S.A. 10:4-13. The Board filed its Answer on November 13, 2007, taking the position that its actions comply with the statute. There being no material facts at issue, the parties have filed motions for summary judgment.

The general legislative purpose of the Open Public Meetings Act is set forth in N.J.S.A. 10:4-7, in pertinent part, as follows:

The Legislature finds and declares that the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation, and decision making of public bodies, is vital to the enhancement and proper functioning of the democratic process; that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society, and hereby declares it to be the public policy of this State to insure the right of its citizens to have adequate advance notice of and the right to attend all meetings of public bodies at which any business affecting the public is discussed or acted upon in any way except only in those circumstances where otherwise the public interest would be clearly endangered or the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion.

The Legislature further declares it to be the public policy of this State to insure that the aforesaid rights are implemented pursuant to

the provisions of this act so that no confusion, misconstructions or misinterpretations may thwart the purposes hereof.

(Emphasis added). Pursuant to N.J.S.A. 10:4-21, the Act is to “be liberally construed in order to accomplish its purpose and the public policy of this State as set forth in [N.J.S.A. 10:4-7].”

Consistent with its stated public purpose, N.J.S.A. 10:4-12a requires meetings of public bodies to be open to the public at all times, unless the subject matter of the meeting falls into one of the statutory exceptions. Those exceptions are articulated as follows:

A public body may exclude the public only from that portion of a meeting at which the public body discusses:

- (1) Any matter which, by express provision of Federal law or State statute or rule of court shall be rendered confidential or excluded from the provisions of subsection a. of this section.
- (2) Any matter in which the release of information would impair a right to receive funds from the Government of the United States.
- (3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.

(4) Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.

(5) Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.

(6) Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.

(7) Any pending or anticipated litigation or contract negotiation other than in subsection b. (4) herein in which the public body is, or may become a party.

Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

(8) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

(9) Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit

belonging to the responding party as a result of an act or omission for which the responding party bears responsibility.

N.J.S.A. 10:4-12b.

If an entity subject to the Act intends to hold a closed session, it must comply with the provisions of N.J.S.A. 10:4-13, which provides:

No public body shall exclude the public from any meeting to discuss any matter described in subsection 7. b. until the public body shall first adopt a resolution, at a meeting to which the public shall be admitted:

a. Stating the general nature of the subject to be discussed; and

b. Stating as precisely as possible, the time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public.

The underlined provision is the one at issue in this case.

It is my understanding that the Board typically meets at 8 p.m. for a public session. One of the first items of business is a resolution to go into closed session to discuss “personnel, negotiations, legal and student matters”. The motion also provides as follows:

The discussion conducted in closed session can be disclosed to the public at such time as the matters have been resolved. This resolution authorizes the Board to convene into closed session as the need may arise at any time during the public session, immediately after adjournment or at any time prior to the next public meeting.

Typically, however, the Board does not then go into closed session, but instead continues the public session. Again typically, the Board holds a regular closed session meeting as early as 5 p.m. on the day of its next public meeting on the basis

of the resolution passed at the preceding public meeting. (Holliday Certification, Paragraph 5).

Paff argues that the Board is not complying with N.J.S.A. 10:4-13 because (1) it is merely listing topics that are permissible for closed session discussion without disclosing what will actually be discussed and (2) it appears to be noticing, at least potentially, multiple closed session meetings that could take place on different days. The Board contends that it is complying with the statute because it is giving the “general” subjects that may be discussed. The Board also argues that it does not always know at the time the resolution is offered what topics might need to be discussed in the future. However, counsel for the Board acknowledged at oral argument that the Board could not meet in closed session between noticed public meetings without giving separate notice of such a meeting.

There does not appear to be an Appellate Division decision that addresses the issue squarely. Then Mercer County Assignment Judge Carchman addressed the issue at some length in a reported case - Council of New Jersey State College Locals v. Trenton State College, 284 N.J. Super. 108 (Law Div. 1995). That case is mentioned in Loigman v. Committee of Middletown, 308 N.J. Super. 500, 502 (App. Div. 1998), as having been relied upon by the court below. The issue in Loigman, however, was the manner of enforcement of the order below, and apparently not the merits of the decision. Nevertheless, there is nothing in the Loigman opinion that suggests the Appellate Division questions the correctness of the approach taken by Judge Carchman in the Trenton State case.

In Trenton State, the Board of Trustees utilized the type of broad closed session resolution at issue in this case, one that listed a variety of permitted closed session topics. Judge Carchman concluded that the resolution did not comply with

the statutory requirement.

* * * The Act mandates that the public be informed of "the general nature of the subject to be discussed." The Board, like many other public bodies, must tread a fine line--informing the public about its executive-session activities while not compromising the privacy interests of those whose business is being discussed. Nevertheless, the Board has struck a balance which does not afford the public any real knowledge of the Board's executive-session proceedings. The Board's notice is framed so broadly that it does no more than tell the public that there will be a meeting in executive session. The notice merely recites the litany of exceptions which would allow it to proceed in closed session. No attempt is made to indicate which one or ones of these exceptions are relevant to a particular closed-session proceeding. This complete failure to delineate which subject or subjects will be discussed in closed session does not comply with the statutory mandate that the public know the general nature of the agenda.

The statutory requirement is not an onerous one--only the general nature of subject need be disclosed; specificity is not required. For example, a resolution authorizing a closed session meeting to "Review the performance of individual personnel" comports with N.J.S.A. 10:4-13. Cole v. Woodcliff Lake Bd. Of Educ., 155 N.J. Super. 398, 407 (Law Div. 1978); see also Houman v. Mayor of Pompton Lakes, 155 N.J. Super. 129, 149-50 (Law Div. 1977) ("[T]he statement that personnel matters would be considered, without specific disclosure that the personnel question involved the retention of legal counsel, is arguably sufficient. However, the resolution made no mention of the fact that the closed meeting would also involve the discussion of whether, in the first instance, to pursue the appeals. Therefore, this resolution is not in conformity with the mandatory requirements of N.J.S.A. 10:4-13.").

[A]lthough there is no case law on the subject good practice would dictate that resolutions be as specific as possible, *e.g.*, the 'general nature of the subject to be discussed' should not be set forth as 'litigation' but, rather,

as 'litigation-A vs. B.' Resolutions should contain as much information as is consistent with full public knowledge without doing any harm to the public interest.

[34 *New Jersey Practice, Local Government Law* § 141, at 174 (Michael A. Pane) (2d ed. 1993).]

The Board has made no effort to provide the public with as much knowledge as possible. It has merely recited the provisions of the statute, not made an attempt to comply with it. N.J.S.A. 10:4-13, which requires a public body to state the general nature of the subject or subjects to be discussed in closed session, would be devoid of all substantive meaning if mere reiteration of all potential reasons for moving into closed session were sufficient for compliance. The Legislature, in enacting N.J.S.A. 10:4-13, certainly did not intend that result. The Board's resolution, which simply parrots the statutory language and encompasses all possible justifications for proceeding in closed session, is improper.

The Board argues that the scheduling of the closed meeting precedes the public meeting and precludes the publication of notice more specific than the language presently utilized. Plaintiff suggests a practical solution--rather than have the closed meeting precede the public meeting, reverse the order and issue appropriate notice. Not only is there no statutory impediment to this proposal, the statute appears to contemplate this procedure. The Board's argument is illusory; the problem is easily remedied.

This court holds that the statutory reference to general notice mandates more than a restatement of the statutory language and requires that the public be informed of the matters to be discussed, albeit in general terms rather than with the specificity required by the notice requirements for a public meeting.

284 N.J. Super. 114-16 (emphasis in original). See also Houman v. Pompton Lakes, 155 N.J. Super. 129 (Law Div. 1977).

Judge Carchman's decision clearly articulates the public policy behind the Act, i.e., that closed session resolutions should contain as much information as is consistent with full public knowledge without doing any harm to the public interest. This requires some balancing by the public entity and its counsel. Obviously, the Board discusses issues, such as student discipline, that are very confidential and it would be inappropriate even to identify the student involved. Other issues, such as labor negotiations, generally need to be discussed in closed session, but not necessarily without giving the public notice that the topic is being discussed.

Litigation against public entities is frequently settled, subject to approval by the entity. In most cases, there is no reason why the Board cannot announce that the specific litigation is being discussed in closed session, during which the arguments in favor and against a proposed settlement can be fully and freely discussed with counsel. If, in a specific case, the mere fact of an entity's discussion of specific litigation could adversely affect its litigation strategy or disclose confidential information, it might well be appropriate not to identify the litigation being discussed.

The Board's argument that it cannot know at the time of one meeting what will be discussed at the closed session held before its next public meeting is, in my view, as "illusory" as Trenton State's similar argument before Judge Carchman. There is no reason why the Board cannot notice its public meeting to start whenever it intends to hold the closed meeting, go into public session and then immediately into closed session after passing the appropriate resolution. At that time, the Board should be in a position to know what matters need to be discussed in closed session. It can certainly advise members of the public that, although the

public meeting will be convened at, for example 5 p.m., the Board will immediately go into closed session and not discuss public business until, for example, 8 p.m.

The paramount public policy here is not the convenience of the public entity, but rather the right of New Jersey “citizens to have adequate advance notice of and the right to attend all meetings of public bodies at which any business affecting the public is discussed or acted upon in any way except only in those circumstances where otherwise the public interest would be clearly endangered or the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion.” (N.J.S.A. 10:4-7). In order to vindicate that right, the Board must make a good faith effort to provide the public with as much knowledge as possible without endangering the “public interest” or the rights of others.

For the reasons expressed above, I will grant Mr. Paff’s motion for summary judgment and deny the Board’s cross-motion. As the prevailing party, Mr. Paff will be entitled to taxed costs pursuant to R. 4:42-8.

Sincerely yours,

Alexander P. Waugh, Jr.
Judge of the Superior Court



State of New Jersey

DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

JON S. CORZINE
Governor

LUCILLE E. DAVY
Commissioner

October 22, 2007

Mr. John Paff, Chairman
Open Government Advocacy Project
PO Box 5424
Somerset, NJ 08875-5424

Dear Mr. Paff:

SUBJECT: Open Public Meetings Act Compliance Review - OFAC Case #1351

The Office of Fiscal Accountability and Compliance (OFAC) has completed a review of the Ewing Township School District's compliance with the Open Public Meetings Act (the Act) requirements for public meetings. The review was conducted to address concerns raised in your letter to Kim C. Belin, Manager of the Investigation Unit that the district failed to properly inform the public as to the basis for conducting business in executive session. Following department procedure, your identity was not disclosed to the district.

The completed review of meetings held between September 2006 and August 2007 failed to disclose any issues of material non-compliance with the provisions of the Act. This finding is based upon decisions issued in two court cases: Houman v. Mayor and Council, Borough of Pompton Lakes, 155 N.J. Super. at 148-1550 and Cole v. Woodcliff Lake Board of Education, 155 N.J. Super. at 407. In the Houman case, the court indicated that an executive session resolution indicating the subject descriptions, "personnel matters and negotiations" is adequate. In the Cole case, the court found sufficient a closed session resolution to discuss "personnel and negotiations."

The cases referenced in your letter addressed issues that are not applicable to the Ewing Township Board of Education since the applicable issue in the Trenton State College and the Monroe Township Board cases involved listing all exempted topics. The Ewing Township Board's executive session resolution includes only those topics that actually will be discussed. Our examiner reviewed the executive session resolutions and compared them to the topics memorialized in the executive session minutes. Each of the topics referenced in the resolutions were memorialized in the executive session minutes. Additionally, the executive session minutes do not include topics that were not listed in the resolution.

www.nj.gov/education

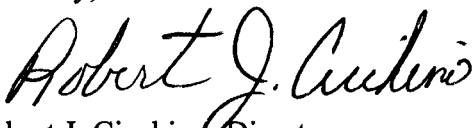
New Jersey Is An Equal Opportunity Employer • Printed on Recycled and Recyclable Paper

Mr. John Paff
Page 2
October 22, 2007

Although the resolutions meet the requirements of the Act, the OFAC has recommended and the District has agreed to amend the verbiage for the resolution and agenda for executive sessions so that it is more descriptive of the items that will be discussed. This action will afford the general public a better understanding of the topics that will be considered. The OFAC also directed that the board secretary move the acceptance/approval of the executive session minutes into the public portion of the meeting since the enabling statute does not include "executive session minutes" as one of the topics that are eligible for discussion in executive session. Should discussion of any executive session topic from the minutes be necessary, that discussion would then be conducted in a subsequent executive session.

This should address your concern that the prior resolutions lack sufficient specificity. Should you or your staff seek additional clarification as to the representations made in this letter, contact Kim C. Belin, Manager of the Investigations Unit, at (609) 633-9615. Thank you for your interest in matters affecting education in New Jersey schools.

Sincerely,



Robert J. Cicchino, Director
Office of Fiscal Accountability and Compliance

RJC/I:\kfeltes\Ewing Township\Letter to Complainant.doc

c: John Hart
Kim C. Belin
Mercer County Superintendent's Office
Karl T. Feltes