

## Before The Iowa Public Information Board

In re the Matter of: Tim Beck, Complainant And Concerning: Pleasant Valley School District, Respondent	Case Number: 22FC:0036  Probable Cause Report
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COMES NOW Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and respectfully submits this probable cause report for formal complaint 22FC:0036.

### Background

On May 5, 2022, Tim Beck filed formal complaint 22FC:0036, alleging that the Pleasant Valley School District (District) violated Iowa Code chapters 21 and 22 on April 29, 2022.

Mr. Beck stated that on April 30, 2022, a group known as the Pleasant Valley School District Reconsideration Committee (PVSDRC) went into closed session without stating a reason. He added that while they were in closed session, the public was told there would be no formal vote when they returned.

In addition, Mr. Beck alleged that he had requested a copy of the minutes from the April 29, 2022, meeting, which he had not yet received. He added that the PVSDRC policy required that all meetings observe open meetings laws.

Legal counsel for the District responded to the complaint on May 23, 2022. Counsel stated that the PVSDRC is a group formed by District policy to review instructional materials and is not a governmental/government body required to follow Iowa Code chapters 21 and 22.

Counsel added that the group is not formally and directly established by the District. The group is chosen by the superintendent, meets at the direction of the superintendent, and recommends action only to the superintendent, who can choose whether to adopt the group's recommendation.

The PVSDRC can appeal the superintendent's decision to the school board.

In reply, Mr. Beck provided copies of District school board minutes from July and August of 2016 that show that the District did formally and directly approve the District policies, including Policy 603.8R2 establishing the PVSDRC and requiring that this committee follow the open meetings law.

The IPIB accepted this complaint on September 15, 2022. Pursuant to Iowa Code section 23.9, IPIB staff proposed an Informal Resolution with the following terms:

1. The school board will acknowledge at a public meeting that the PVSDRC did not post a notice for an open meeting on April 29, 2022 that provided an agenda in a manner reasonably calculated to apprise the public of action that it would be taking at that meeting. This acknowledgement shall be recorded in the minutes of said meeting.
2. The Superintendent will fulfill any outstanding public record requests as part of this complaint from Mr. Beck pursuant to Iowa Code chapter 22. Confirmation shall be provided to the IPIB.
3. The District shall conduct training during an open meeting for all Board members and District Committee members, on Iowa Code chapters 21 and 22 (Sunshine Laws). The District may utilize the power point training available on the IPIB website. The District shall work with the Iowa School Board Association to provide the training to the District and officials.
4. The School Board shall approve this resolution during an open meeting and include the full text in the minutes of said meeting. Said minutes shall be provided to the IPIB.

The terms of the informal resolution were to be completed within 60 days of acceptance by all parties. Upon showing proof of compliance, the IPIB would then dismiss this complaint as successfully resolved.

### **Legal Analysis**

Iowa Code section 21.2(1) defines a governmental body for the purposes of open meetings laws. Subsections 1(c) and 1(h) state that certain advisory groups can be considered a governmental body:

*c. A multimembered body formally and directly created by one or more boards, councils, commissions, or other governing bodies subject to paragraphs "a" and "b" of this subsection.*

*h. An advisory board, advisory commission, advisory committee, task force, or other body created by statute or executive order of this state or created by an executive order of a political subdivision of this state to develop and make recommendations on public policy issues.*

Both subsections describe the PVSDRC. The District formally and directly created the PVSDRC at the August 8, 2016, school board meeting. The group does "*develop and make recommendations on public policy issues*" to the District.

The information provided by the parties indicates that Iowa Code chapters 21 and 22 were not properly followed by the PVSDRC.

### **Summary**

On September 15, 2022, the Iowa Public Information Board accepted this complaint. IPIB Staff attempted to negotiate an informal resolution with all parties. The complainant, Mr. Beck, signed the agreement on November 24, 2022. The Pleasant Valley School District was not agreeable to the term in the informal resolution acknowledging the alleged violation of provisions within Iowa Code chapter 22.

The terms within the draft informal resolution were adjusted to address the comments from the school district. This version was then rejected by Mr. Beck. One final draft was provided to both parties but an agreement on the wording of the resolution could not be agreed to.

The Pleasant Valley School District scheduled and held a training on June 26, 2023. This satisfied the main term within the draft resolution which calls for training during an open meeting for all Board members and District Committee members, on Iowa Code chapters 21 and 22 (Sunshine Laws). This training was provided by the Iowa Association of School Boards. The District provided the IPIB with the training materials that were used.

The District has voluntarily completed the recommended remediation terms and provided documentation to IPIB staff. Staff is satisfied that an acceptable resolution has been reached for this complaint without having an informal resolution agreed to.

### **IPIB Action**

The IPIB has several options upon receipt of a probable cause report. According to Iowa Administrative Rule 497 - 2.2(4):

“Board action. Upon receipt and review of the staff investigative report and any recommendations, the board may:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding”.

### **Recommendation**

Based upon investigation of the complaint, I recommend that the IPIB determine probable cause does exist to believe the Pleasant Valley School District did violate Iowa Code chapter 21 by failing to properly notice the PVSDRC meeting on April 29, 2022.

I further recommend that this complaint be dismissed in its entirety as an exercise of administrative discretion pursuant to Iowa Administrative Code Rule 497 - 2.2(4)(c), as the Council has completed appropriate remediation pursuant to the request of IPIB staff.

Respectfully submitted this 20th day of July, 2023.

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Erika Eckley, J.D.  
Executive Director

CERTIFICATE OF MAILING

This document was sent by electronic mail on July 12, 2023, to:

Tim Beck

Mikkie Schiltz, legal counsel for the Pleasant Valley School District