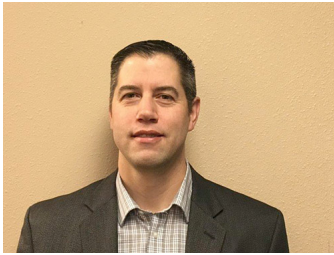


GMCS newspaper lawsuit settled

Written by By Bernie Dotson Sun Correspondent
Friday, 19 May 2017 00:14



Vote limits public comment

The Gallup-McKinley County Schools Board of Education put into place a time limit on how long members of the public can speak at school board meetings. The act took place at the May 15 regular Board of Education meeting at school district headquarters on Boardman Drive.

The vote to go to the change was 4-1. Kevin Mitchell, school board vice president, was opposed to the change, suggesting the move challenged openness and free dialogue.

“I would like to stick to the five minutes that we are allowing our community members and students to voice their concerns to the board,” Mitchell said. “We need to be able to hear from everyone in the community and three minutes doesn’t seem like enough time for community members to voice their concerns.”

The change in time comes about a month after board members approved a limit of five minutes during public comment sessions.

THE IPRA CHALLENGE

A lawsuit brought by the Gallup Independent has been settled in favor of Gallup-McKinley County Schools, interim superintendent Mike Hyatt said after the meeting. The suit was about access to information and documents pertaining to former school superintendent Frank

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Chiapetti who remains on the GMCS payroll at \$132,500 until the end of June. The Board of Education placed Chiapetti on paid administrative leave toward the end of 2016.

Eleventh Judicial District Court judge Lyndy Bennett ruled on the lawsuit along personnel lines, at one point stating, "This document is exempt pursuant to IPRA, Section 14-2-1(A)(3) in that it is rife with matters of opinion regarding the employer/employee relationship and performance assessments."

Bennett's ruling was the result of a motion for summary judgment against (plaintiffs) the Gallup Independent and (Reporter) Kyle Chancellor. The lawsuit accused the school district of violating the New Mexico Inspection of Public Records Act by not handing over a copy of an investigation done by GMCS on former superintendent Frank Chiapetti. GMCS argued that the investigation was part of Chiapetti's personnel file and, therefore, off limits to the public.

Under IPRA, the recipient has 15 days to respond to a formal records request. Denying such requests includes paying a fine up to, in some cases, \$100 per diem.

Bennett ruled that Independent reporter Kyle Chancellor was at all times an employee and agent of the Gallup Independent on business on behalf of the newspaper and therefore couldn't maintain a separate cause of action against the defendants. Chancellor at the time covered education for the newspaper and had reportedly submitted four individual IPRA requests to GMCS regarding the Chiapetti investigation.

Of Hyatt and school district secretary Joan Nez, Bennett wrote, "... Hyatt, as the designated decision-maker for IPRA requests for the defendant Gallup-McKinley School District and Joan Nez, Custodian of Records for the School District, acted within the scope of their duties of the public entity and therefore no private cause of action lies against the two individual defendants."

Hyatt did not elaborate on the ruling which is dated May 17. The lawsuit matter was part of the school board's executive session agenda at the May 15 meeting.

The lawsuit was set to go to trial at the end of May.

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