

STATE OF RHODE ISLAND,
PROVIDENCE, SC.

SUPERIOR COURT

NICOLE SOLAS,

Plaintiff,

vs.

SOUTH KINGSTOWN BIPOC ADVISORY
COMMITTEE; SOUTH KINGSTOWN
SCHOOL COMMITTEE,

Defendants.

C.A. No.

VERIFIED COMPLAINT

1. This is an action for injunctive, declaratory, and other relief under the Open Meetings Act, R.I. Gen. Laws § 42-46-1, *et seq.* (“OMA”), seeking the Court to declare that the meetings of the South Kingstown BIPOC Advisory Committee (“Advisory Committee”) are public meetings under the OMA, declare that meetings of the Advisory Committee and all meetings, minutes, actions, and other activities of the Advisory Committee are subject to the OMA, declare any action taken by the BIPOC Committee in meetings that were closed to the public, or actions taken by the South Kingstown School Committee (“School Committee”) in response to recommendations from the Advisory Committee, to be “null and void,” and enter appropriate injunctive relief to ensure that the Advisory Committee complies with the OMA and its meetings are open to the public.

2. The Plaintiff files this Complaint to ensure that citizens are “advised of and aware of the performance of public officials and deliberations and decisions that go into the making of public policy” in accordance with the OMA. *Id.*

PARTIES AND JURISDICTION

3. Plaintiff Nicole Solas is a citizen of the State of Rhode Island and a resident of South Kingstown.

4. Defendant South Kingstown School Committee (“School Committee”) is the governing body of the South Kingstown School District (“District”) and a political subdivision of the State of Rhode Island. The School Committee is a “public body” within the meaning of R.I. Gen. Laws. § 42-46-2(5).

5. Defendant South Kingstown BIPOC Advisory Committee (“Advisory Committee”) is an entity that receives public funds, is comprised in part of public officials, and has regular and recurring meetings to advise the School Committee on “equity in education” and other matters for students within the District.

6. This Court has jurisdiction over this action pursuant to R.I. Gen. Laws § 9-30-1 *et seq.* and § 42-46-8.

7. Venue is proper in this Court pursuant to R.I. Gen. Laws § 42-46-8.

FACTS

8. On or about June 23, 2020, the School Committee held a formal meeting to discuss creating the Advisory Committee, which at the time was referred to as a “task force.” Ex. 1; *see also* <https://clerkshq.com/southkingstownschools-ri>.

9. Stephanie Canter was the chairperson of the School Committee from 2018-2020 and at the time of the June 23, 2020 meeting.

10. At the June 23, 2020 School Committee meeting, Ms. Canter “suggested that the ‘task force’ be referred to instead as an ‘advisory board.’” Ex. 1.

11. Robin Wildman is affiliated with “Nonviolent Schools Rhode Island.”

12. Ms. Wildman later became the chairperson of the Advisory Committee.

13. Ms. Wildman has stated that she “approached the superintendent [of the District] with an idea to form a BIPOC group that would look at policies and practices and make recommendations to create a more inclusive, antiracist district.” Ex. 2 at Ex. 5, pg. 1.

14. Ms. Wildman attended the June 23, 2020, School Committee meeting and stated that two School Committee Members, Ms. Canter and Sarah Markey, contacted Nonviolent Schools Rhode Island about Nonviolent Schools Rhode Island coordinating meetings of the Advisory Committee. June 23, 2020 Committee Meeting Video, <https://clerkshq.com/southkingstownschools-ri>.

15. According to Ms. Wildman, the “charge of the Advisory Committee is to identify these practices and policies [in South Kingstown School District] based on personal experiences and to devise recommendations for eliminating or changing them.” *Id.*

16. On information and belief, the “Advisory Committee” included individuals affiliated with as “Toward an Antiracist South Kingstown,” or “TASK.”

17. On or about July 14, 2020, Ms. Canter posted on social media a message that described TASK and identified the entity as “[c]ombining the courage of community groups, educators, and the school committee” to “discuss systemic racism” and create “actionable changes for the upcoming school year. Ex. 3 at 1.

18. The stated purpose of TASK is “implementing antiracist policy changes in the South Kingstown school district regarding curriculum, representation, discipline, and accountability.” *Id.* at 2.

19. On July 22, 2020, the School Committee created and approved the Advisory Committee. Ex. 4 ¶ 2.

20. The mission of the Advisory Committee is “to advocate for equity in the education of students who identify as Black, Indigenous, and People of Color (BIPOC) in South Kingstown schools, inspiring a healthier and just community and school system for everyone.” *Id.* ¶ 3.

21. One of the purposes of the Advisory Committee was to “review[] current School Committee policies,” and present “concerns to the School Committee Policy Subcommittee” if School Committee policies do not meet goals of “inclusivity and equity.” *Id.* ¶ 5.

22. The purpose of the Advisory Committee is to advise and offer recommendations to the School Committee.

23. On information and belief, some if not all, of the members of the Advisory Committee were invited to participate on the Advisory Committee by administrators within the School Committee.

24. From on or about February 2021 to August 2021, the Advisory Committee held regular, closed-door meetings every week. Ex. 2 at Ex. 1, pg. 3.

25. From on or about February 2021 to August 2021, the Advisory Committee held at least 25 meetings. *Id.*

26. On information and belief, the Advisory Board met every week from September 2020 to at least August 2021. *Id.*

27. On information and belief, the Advisory Board is still meeting on a regular and recurring basis.

28. Mwangi Gitahi is a voting member of a School Committee subcommittee that is responsible for reviewing and updating school policies. Ex. 2 at Ex. 5, pg. 4

29. Mr. Gitahi is also a member of the Advisory Committee.

30. According to Mr. Gitahi, “As a member of the BIPOC advisory board, I have been closely examining a number of existing school district policies, looking at them line by line through an anti-racist and equity lens. We have now reviewed policies ranging from discipline and suspension to coaching & hiring. We are hard at work crafting a framework for all these policies, which we are calling the Anti-Racism and Anti-Discrimination Policy. This policy will guide the language, process, and the enforcement of all of the changes we make to all of the other policies.” *Id.*

31. Ms. Solas first requested that Advisory Committee meetings be open to the public on or about May 15, 2021. Ex. 2 at Ex. 4, pg. 1.

32. Ms. Wildman, as chairperson of the Advisory Committee, denied that request on or about May 18, 2021. *Id.* pg. 2.

33. Ms. Solas also attempted to send communications to School Committee personnel requesting that the Advisory Committee open its meetings to the public on or about May 20, 2021, but she received no response. *Id.* pg. 4.

34. On or about May 20, 2021, at a formal meeting, the School Committee considered significant revisions to the hiring process and policies within the District. Ex. 2 at Ex. 6.

35. On information and belief, the School Committee considered those changes to the hiring process and policies based in part on recommendations from the Advisory Committee.

36. At a May 20, 2021 meeting, the School Committee voted unanimously to retire the then-existing Nondiscrimination and Anti-Harassment Policy in favor of considering a new, significantly revised “Anti-Racism, Anti-Discrimination and Anti-Harassment Policy.” Ex. 2 at Ex. 7.

37. On information and belief, the changes to the Nondiscrimination and Anti-Harassment Policy were based in part on recommendations from the Advisory Committee.

38. On information and belief, the Advisory Committee has advised and offered recommendations to the School Committee on a wide range of issues, including hiring, discipline, training, and school policies and practices.

39. The issues on which the Advisory Committee has advised and offered recommendations to the School Committee are of significant public interest.

40. At least two members of the Advisory Committee are also voting members of the School Committee’s Policy Subcommittee. Ex. 4 ¶ 6.

41. On or about March 24, 2021, the South Kingstown School District entered into a contract with Nonviolent Schools Rhode Island, represented by Robin Wildman, to provide various “services” to the District. Ex. 2 at Ex. 1.

42. The “services” Ms. Wildman promised to provide the District included “[f]acilitation of the BIPOC Advisory Board, February-August 2021, for 25 meetings.” *Id.*

43. The agreement between the District and Ms. Wildman estimated that the cost for “facilitating” meetings of the Advisory Committee was \$5,000. *Id.* at 3.

44. The Advisory Committee received public funds from the District to pay for its operations.

45. Then-Superintendent of the South Kingstown School District, Linda Savastano, referred to the Advisory Committee as “an advisory committee to the School Committee.” Ex. 5.

46. The School Committee lacks legal authority, including under its own by-laws, to appoint an advisory committee. Ex. 2 at Ex. 8, pg. 3.

47. The School Committee’s by-laws only permit the School Committee to appoint Sub-Committees, not informal boards. *Id.*

48. Some members of the School Committee have expressed concerns that the Advisory Committee was “illegally” formed during the District’s Policy Sub-Committee meeting. <https://www.youtube.com/watch?v=BPDWTy0Pk4U> at 1:37:24–1:39:08.

49. Meetings of School Committee Sub-Committees are open to the public under R.I. Gen. Laws § 42-46-1, *et seq.*

50. The School Committee charged the Advisory Committee with conducting matters of public concern, including Committee policy matters, but evaded its own procedures by funding the Advisory Committee to do this work instead of appointing a Sub-Committee that is subject to the OMA.

The OMA Complaint and Attorney General Review

51. On or about May 20, 2021, Ms. Solas submitted a complaint to the Office of the Attorney General, asserting that the Advisory Committee is a public body within the meaning of R.I. Gen. Laws § 42-46-2(5). Ex. 4 at Ex. A, pgs. 4–6.

52. On or about July 1, 2021, the School Committee responded to Ms. Solas’s OMA Complaint. Ex. 4.

53. On or about July 28, 2021, Ms. Solas submitted a rebuttal to the School Committee’s Response. Ex. 2.

54. On or about May 10, 2022, the Rhode Island Attorney General issued its decision on Ms. Solas’s OMA Complaint, finding that the Advisory Committee “is not a ‘public body’ under the OMA.” Ex. 6, pg. 1.

55. The Rhode Island Attorney General closed Ms. Solas’s Complaint on May 10, 2022. *Id.* pg. 8.

56. This Complaint was timely filed within 90 days of the Attorney General closing Ms. Solas’s complaint under R.I. Gen. Laws. § 42-46-8I.

COUNT I

57. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully restated herein.

58. Rhode Island General Laws § 42-46-1, *et seq.* Open Meetings sets forth the public policy of the State of Rhode Island as follows:

It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy.

R.I.G.L. § 42-46-1

59. The OMA “should be construed broadly and interpreted in a light favorable to public access.” *Solas v. Emergency Hiring Council*, 774 A.2d 820, 824 (R.I. 2001).

60. Under the OMA, a “public body” is “any department, agency, commission, committee, board, council, bureau, or authority, or any subdivision thereof, of state or municipal government.” R.I. Gen. Laws § 42-46-2(5).

61. A public body that exercises “advisory power” is subject to the OMA whether or not it also possesses decision-making power. *Solas*, 774 A.2d at 825.

62. A “meeting” is “the convening of a public body to discuss and/or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.” R.I. Gen. Laws § 42-46-2(1).

63. Because the Advisory Committee: (1) has “advisory power” (2) over a subject of significant public interest (3) discussed during regular and recurring meetings that (4) include public officials, and (5) it receives public funds, the Advisory Committee is a “public body” within the meaning of R.I. Gen. Laws. § 42-46-2(5).

64. As a “public body” under the OMA, the meetings of the Advisory Committee should have been and should be open to the public.

65. By closing the Advisory Committee meetings to the public, the School Committee and the Advisory Committee violated the OMA.

66. Plaintiff has a right to attend all public meetings under the OMA.

67. By closing the Advisory Committee meetings to the public, the School Committee and the Advisory Committee violated Plaintiff's right to attend public meetings under the OMA.

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Advance this matter on the calendar pursuant to R.I. Gen. Law § 42-46-8.
- B. Declare that the Advisory Committee is a "public body" within the meaning of R.I. Gen. Laws § 42-46-2(5).
- C. Declare that meetings of the Advisory Committee and all meetings, minutes, actions, and other activities of the Advisory Committee are subject to the OMA.
- D. Order the Advisory Committee and the School Committee to open meetings of the Advisory Committee to the public pursuant to the OMA and produce all minutes and records of the Advisory Committee's meetings for public inspection pursuant to the OMA.
- E. Declare null and void any actions of the Advisory Committee that were promulgated by the Advisory Committee during meetings that were closed to the public pursuant to R.I. Gen. Laws § 42-46-8(d).
- F. Declare null and void any actions of the School Committee that were taken pursuant to recommendations made by the Advisory Committee that were promulgated

by the Advisory Committee during meetings that were closed to the public pursuant to R.I. Gen. Laws § 42-46-8(d).

G. Order the School Committee to rescind any and all actions that were taken pursuant to recommendations made by the Advisory Committee that were promulgated by the Advisory Committee during meetings that were closed to the public pursuant to R.I. Gen. Laws § 42-46-8(d).

H. Award Plaintiff reasonable attorney fees and costs pursuant to R.I. Gen. Laws § 42-46-8(d).


I. Impose a civil fine of \$5,000 against the School Committee and each of the School Committee's members for willful or knowing violation of the OMA pursuant to R.I. Gen. Laws § 42-46-8(d).

J. Impose a civil fine of \$5,000 against the Advisory Committee and each of the Advisory Committee's members for willful or knowing violation of the OMA pursuant to R.I. Gen. Laws § 42-46-8(d).

K. Enter judgment in favor of Plaintiff.

L. Order such other relief as the Court deems just and proper.

Plaintiff,
Nicole Solas by her Attorneys



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VERIFICATION

STATE OF RHODE ISLAND)
) ss.
COUNTY OF WASHINGTON)

I, Nicole Solas, being duly sworn upon my oath, state that I am familiar with the allegations in the foregoing complaint and verify that the allegations contained therein are true and correct, except for those counts alleged upon information and belief, which I reasonably believe to be true.

Dated this 29 day of July, 2022

By: *Nicole Solas*
Nicole Solas

Subscribed and sworn to before me this 29 day of July 2022.

M. Mageau
Notary Public
My Commission expires 3/29/2026
MOLLY D. MAGEAU
Notary Public
State of Rhode Island