

**Alma d'Arte  
Charter High School  
402 W Court Ave  
Las Cruces, NM 88005  
575 541-014**

# Memo

**To:** Patti Gipson, Public Education Commission (PEC) Chair  
Dr. Brigitte Russell, NMPED Charter School Division (CSD) Deputy Director

**From:** Dr. Adam Amador, Alma d'Arte CHS Chief Academic Officer/Principal

**cc:** Dr. E. Vanessa de León, Counsel

**Date:** March 17, 2025

**Re:** LEA's Response to DOJ Complaints

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The attached responses were submitted by the LEA to Counselor Isabelle Lopez at the Department of Justice /Government Council and Accountability (DOJ/GCA) to address the issues raised in the complaints involving the LEA. The LEA is committed to addressing these concerns and ensuring the LEA's ongoing compliance with OMA/IPRA matters. The LEA has reviewed the GCA's investigation findings and has begun implementing the required corrective action and/or GCA recommendations stemming from these findings.

The LEA's Governance Council and all applicable LEA staff are also planning on attending the DOJ/GCA-sponsored training on the OMA and IPRA when they are scheduled for the Las Cruces area and have requested to be on a contact list when these dates become available from the DOJ/GCA. We look forward to working closely with the DOJ/GCA to ensure these issues get addressed promptly and that the LEA and the LEA's Governance Council modify their practices to ensure ongoing compliance with the OMA and IPRA.

Respectfully submitted,

/s/ Dr. Adam Amador

Enc.: LEA's Response Documents to OMA/IPRA Complaints



March 14, 2025

**VIA ELECTRONIC MAIL ONLY:**

Isabelle Lopez, Honors Attorney [ILopez@nm DOJ.gov](mailto:ILopez@nm DOJ.gov)

New Mexico Department of Justice  
Government Counsel and Accountability  
408 Galisteo Street  
Villagra Building  
Santa Fe, NM 87501  
(505) 490-4060

Re: Alma d'Arte Charter High School Governance Council Response to the Following:

Filing #'s: NMDOJ-ECS-20240711-a044; NMDOJ-ECS-20240823-ec0c;  
NMDOJ-ECS-20240906-c481; NMDOJ-ECS-20241003-8c3a;  
NMDOJ-ECS-20241003-1099; NMDOJ-ECS-20241024-48d0  
Filing Date: July 11, 2024; August 30, 2024; September 9, 2024; October 3, 2024;  
October 6, 2024; October 27, 2024  
Filer: Jana Holguin  
Type: Open Meetings Act Complaint

Dear Ms. Lopez and the Government Counsel and Accountability Division (the "GCA") of the New Mexico Department of Justice (the "NMDOJ"):

As the Respondent to the above Open Meetings Act (the "OMA") Complaint filings, Alma d'Arte Charter High School (the "LEA") completed its review of the OMA NMSA 1978, Sections 10-15-1 to -4 Complaints made against the public body. After a thorough review of the OMA allegations, the GCA's investigation findings, and the guidance provided by the GCA to help ensure ongoing compliance with the law, the LEA wishes to express its fullest intention to abide by the explicit requirement and best practices of the OMA. As such, the LEA is providing the following *responses in italics* below to the GCA as a remedy to cure any deviation from that intention as identified by the agency that may implicate a violation of the OMA:

**I. NMDOJ-ECS-20240711-a044, filed on July 11, 2024**

This OMA complaint alleges the draft copy of the minutes of the Governance Council's June 3, 2024, and June 17, 2024, meetings were not available within ten (10) working days of the meeting, and the approved minutes were not made available for public inspection. The LEA's Governance Council provided the GCA with copies of the June 3, 2024, and June 17, 2024, meeting minutes for inspection and reviewed a screenshot provided by the Complainant.

*LEA Response - Based on a review of the evidence provided, the GCA determined in the Disposition Letter to the LEA dated January 28, 2025, that it **did not find an OMA violation** as the OMA only requires that the approved minutes are available for public inspection.*

II. **NMDOJ-ECS-20240823-ec0c**, filed on August 30, 2024

This OMA complainant alleges that on August 5, 2024,: (1) the meeting notice did not comply with the Governance Council's OMA Resolution, (2) a council member did not comply with telephonic participation as required by Section 10-15-1(C), (3) the public body wanted to limit the public's access to virtual meetings, and (4) the agenda did not comply with Section 10-15-1(F).

Regarding allegation (1) of this Complaint, **the GCA found no violation of the OMA**. The LEA's Governance Council was found by the GCA to be compliant with Section 10-15-1(F) and determined that it provided notice of the meeting that included information on where to locate the agenda as required by the OMA. The GCA did find that the agenda did not include the ADA disclaimer notice, as required by the Governance Council's OMA Resolution.

*LEA Response - Upon the urging of the GCA, the LEA has initiated a practice of reviewing all future meeting notices to ensure compliance with its OMA Resolution of including the presence of the ADA disclaimer notice.*

Regarding allegation (2) of this Complaint, the GCA reviewed the evidence and found that GC member Mr. Swafford's virtual participation and his voting via text message constituted a violation of the OMA as Mr. Swafford could not be identified or heard during the meeting and his text message voting did not allow public business to be conducted openly and in full public view. The GCA concluded that these actions were invalid per Section 10-15-3(A).

*LEA Response - In response to the GCA's provided remedy, the LEA's Governance Council will repeat all of Mr. Swafford's August 5, 2024, meeting votes at the next properly noticed public meeting on March 24, 2025, and will place the ratification of votes as an agenda item that explains such ratification. The LEA further acknowledges that if a council member has to participate virtually in a future meeting, their participation will comply with the OMA.*

Regarding allegation (3) of this Complaint, **the GCA found no violation of the OMA**. The GCA stated that the OMA is silent regarding a public body providing virtual meeting access and further acknowledged that the GCA did not have the authority to enforce a complaint involving Section 22-8B-5.5 (2024). As such, the GCA determined that there was insufficient evidence to find that the public body took action based on the allegation.

*LEA Response - Should the LEA further consider holding its Governance Council meetings virtually, it will do so in a manner that meets all the OMA meeting and public participation requirements.*

Regarding allegation (4) of this Complaint, the GCA determined that the August 5, 2024, agenda item listed as "14. New Business (a) Approval of PO's - Action" did not meet the reasonably specific standard, as required by Section 10-15-1(F), and as a result, that any actions taken on this item were invalid pursuant to Section 10-15-3(A).

*LEA Response - To remedy this action per the GCA's guidance, the LEA's Governance Council will ratify the action by discussing the matter as a properly termed agenda item and will hold a valid vote at its next properly noticed public meeting on March 24, 2025. Further, to comply with this requirement in the future, the LEA will avoid describing agenda items in general, broad, or vague terms and list "PO" in the agenda as "purchase order" and provide additional detail regarding the scope, context, or specific purchase orders to be acted upon by the Governance Council to ensure reasonable notice is provided to interested members of*

*the public.*

III. **NMDOJ-ECS-20240906-c481**, filed on September 9, 2024 and **NMDOJ-ECS-20241003-8c3a**, filed on October 3, 2024

These OMA complaints allege that the meeting notice for the Governance Council's September 16, 2024, meeting did not comply with the deadlines or procedures for meeting notices adopted by the public body. Based on the GCA's review of the evidence, the allegation that the September 16, 2024, regular meeting was not posted within ten (10) days of the meeting was supported and that when the meeting notice was ultimately posted on the LEA's website, it did not include the (1) meeting agenda or how to obtain the meeting agenda and (2) the ADA disclaimer notice, as required by its OMA resolution. As a result, the LEA's Governance Council violated the OMA by failing to adhere to its definition of reasonable notice as determined within its OMA Resolution, and the GCA concluded that all actions taken at that meeting were invalid pursuant to Section 10-15-3(A).

*LEA Response - To remedy this violation, the LEA's Governance Council will ratify any actions taken during the September 16, 2024, meeting at its properly noticed subsequent public meeting to be held on March 24, 2025 through an agenda item that explains such ratification. Additionally, at the GCA's urging, the LEA will post its meeting notices according to its deadline requirements and include the meeting agenda or how to obtain the agenda, location, date, time, ADA disclaimer, and all requirements required by the OMA and/or its OMA resolution to ensure future meeting compliance. Lastly, per the Governance Council's OMA Resolution within its reasonable notice methods and at the GCA's urging, the LEA will provide meeting notices via email to a person if that person has requested to be placed on an email list.*

IV. **NMDOJ-ECS-20241003-1099**, filed on October 6, 2024

The allegations in this complaint concern the Governance Council's meeting on September 27, 2024. Specifically, the complainant alleges: (1) noncompliance with meeting notice requirements, (2) failure to post the meeting agenda at the office entrance per the Governance Council's OMA Resolution, and (3) the Governance Council "gatekeeping" virtual public attendance.

Regarding allegations (1) and (2), the complainant's allegations of noncompliance refer to notification practices and requirements within the Governance Council's OMA Resolution, which have already been addressed by the LEA's Governance Council in Sections II and III. **The GCA found no violation of the OMA**, but urges the Governance Council to comply with its OMA Resolution.

*LEA Response - As part of a comprehensive review of its OMA Resolution requirements, the LEA has already instituted practices to ensure transparency to the public. Per its OMA Resolution, the LEA will provide reasonable notice of its meetings via all methods the public body has considered itself bound to, including that the meeting agenda is posted no less than seventy-two (72) hours prior to the meeting via its website, that it is emailed to those who request it, and that the meeting agenda is posted at the LEA's office entrance.*

Regarding allegation (3), the LEA's Governance Council acknowledges the GCA's belief that when a public body provides virtual access to the public for its public meetings, it must follow the spirit and intent of the OMA law and allow all persons desiring to attend and listen whether or not their attendance is anonymous.

*LEA Response - The LEA supports the intent of the OMA to protect the public and ensure their access to meetings in person and virtually. The Governance Council has begun following the GCA's interpretation of Section 10-15-1(A) NMSA 1978. The Governance Council no longer requires that individuals identify themselves when requesting to virtually attend a meeting or risk getting removed from the meeting. These practices have been instituted in an effort to refrain from creating any standards or limitations towards the public's access to public meetings and allow entrance to all persons desiring to attend and listen whether or not their attendance is anonymous.*

V. **NMDOJ-ECS-20241024-48d0**, filed on October 27, 2024

The allegations in this complaint concern the Governance Council's October 21, 2024, meeting. Specifically, the complainant alleges that: (1) the meeting notice did not comply with the Governance Council's OMA Resolution, (2) the motion made to enter into executive session was made improperly, and (3) the LEA's Governance Council took an improper final action.

Regarding allegation (1), the GCA stated that complainant's allegations of noncompliance with meeting notice requirements is similar to those already discussed in Section II and III.

*LEA Response - The LEA's Governance Council has already instituted practices outlined above to ensure compliance with its OMA Resolution and will continue to follow them.*

Regarding allegation (2), **the GCA found no violation of the OMA.** The GCA reviewed the evidence and determined that the LEA's Governance Council followed proper OMA procedures as required by Section 10-15-1(I) and entered properly into an executive closed session with "reasonable specificity" and provided sufficient information to give the public a general idea about what will be discussed without compromising the confidentiality conferred by the exception.

*LEA Response - The LEA's Governance Council will continue to follow its proper OMA procedures when entering into an executive closed session.*

Regarding allegation (3), **the GCA found no violation of the OMA.** The GCA found this final action to be appropriate, as it fell within the scope of the "CAO Compensation" discussion listed in the agenda.

*LEA Response - The LEA will continue to adhere to properly listing agenda items to be discussed in open session as "Unfinished/Recurring Business" after reconvening from a closed session as the GCA found these actions to be appropriate. The LEA has also taken note of its improper citation and will be using the correct citation of NMSA 1978, Section 10-15-1(H)(2) when addressing and discussing limited personnel matters in the future. However, upon the GCA's urging, the LEA will include the required statement of "see Section 10-15-1(J)" (stating that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting) in the LEA's Governing Council future meeting minutes to ensure further compliance with the OMA.*

### **Acceptance of the GCA's Corrective Action Guidance by the LEA**

The LEA is appreciative that the GCA will not be taking enforcement action at this time. Per the GCA's request, the public body has already begun addressing some of the corrective action matters

that it can do outside of an upcoming properly noticed scheduled public meeting. The remaining corrective action measures stemming from a violation will be addressed by the LEA's Governing Council at an upcoming properly noticed public meeting. Lastly, within several sections where the GCA found no OMA violations, the GCA urged the LEA's Governance Council to act to ensure compliance with its OMA Resolution or to take steps in the best interest of its public community. The LEA accepts the guidance outlined by the GCA in these important matters and will work to address the corrective actions expeditiously.

The LEA, through its Legal Counsel, has already reached out to the NMDOJ to be added to a notification list once the NMDOJ publishes its training schedule so that all the members of the public body, including applicable staff, attend training on the OMA and IPRA to be provided by the agency. The LEA will update the NMDOJ when all Governance Council members and appropriate LEA staff complete the required trainings.

Respectfully,

/s/ Richelle Peugh-Swafford  
Alma d'Arte Charter High School Governance Council President



March 14, 2025

**VIA ELECTRONIC MAIL ONLY:**

Isabelle Lopez, Honors Attorney [ILopez@nmdoj.gov](mailto:ILopez@nmdoj.gov)

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Government Counsel and Accountability  
408 Galisteo Street  
Villagra Building  
Santa Fe, NM 87501  
(505) 490-4060

Re: Alma d'Arte Charter High School Governance Council Response to the Following:

Filing #'s: NMDOJ-ECS-20240928-6b61  
Filing Date: September 28, 2024  
Filer: Michelle Griego-Trujillo  
Type: Open Meetings Act Complaint

Dear Ms. Lopez and the Government Counsel and Accountability Division (the "GCA") of the New Mexico Department of Justice (the "NMDOJ"):

As the Respondent to the above Open Meetings Act (the "OMA") Complaint filing, Alma d'Arte Charter High School (the "LEA") completed its review of the OMA NMSA 1978, Sections 10-15-1 to -4 Complaints made against the public body. The allegations in this complaint concern the LEA's Governance Council's regular meeting on September 27, 2024. Specifically, the complainant alleges: (1) noncompliance with meeting notice requirements, (2) the September 27, 2024, meeting minutes were not approved at the next public meeting, (3) the public body did not follow the required closing procedures to close the meeting, (4) a quorum of members discussed business outside of an open meeting, and (5) the Governance Council did not allow the complainant into the meeting for its September 27, 2024, meeting.

After a thorough review of the OMA allegations, the GCA's investigation findings, and the guidance provided by the GCA to help ensure ongoing compliance with the law, the LEA wishes to express its fullest intention to abide by the explicit requirement and best practices of the OMA. As such, the LEA is providing the following *responses to the allegations in italics* below to the GCA as a remedy to cure any deviation from that intention as identified by the agency that may implicate a violation of the OMA:

- I. **Allegation 1** – The September 27, 2024 agenda was not posted at the front door of Alma d'Arte, as required by the Governance Council's OMA Resolution.

While **the GCA did not find a violation of the OMA per se**, the public body did not comply with its OMA Resolution. As such, the GCA urges the Governance Council to comply fully with its OMA Resolution in efforts to ensure transparency to the public and provide reasonable notice of its meetings via all methods the public body has considered itself bound to.

*LEA Response - As part of a comprehensive review of its OMA Resolution requirements, the LEA has already instituted practices to ensure transparency to the public. Per its OMA Resolution, the LEA will provide reasonable notice of its meetings via all methods the public body has considered itself bound to, including that the meeting agenda is posted no less than seventy-two (72) hours prior to the meeting via its website, that it is emailed to those who request it, and that the meeting agenda is posted at the LEA's office entrance.*

- II. **Allegation 2** – The September 27, 2024 meeting minutes were not approved at the next public meeting.

The GCA reviewed the meeting minutes of the Governance Council's October 21, 2024, which was the next meeting where a quorum was present. According to the October 21, 2024 meeting minutes, the Governance Council approved the September 27, 2024 meeting minutes. As such, **the GCA did not find a violation of the OMA.**

*LEA Response – The LEA's Governance Council will continue to adhere to this OMA practice to continue to ensure OMA compliance.*

- III. **Allegation 3** – At the September 27, 2024 meeting, the public body did not follow the required closing procedures to close the meeting.

As part of its investigation, the GCA determined that the complainant submitted insufficient evidence to ascertain whether there are violations of the OMA or not. As such, **no violation of the OMA was issued to the LEA's Governance Council regarding this allegation.**

*LEA Response – The LEA's Governance Council will continue to adhere to this OMA practice to continue to ensure OMA compliance.*

- IV. **Allegation 4** – A quorum of members discussed business outside of an open meeting.

As part of its investigation, the GCA determined that the complainant submitted insufficient evidence to ascertain whether there are violations of the OMA or not. As such, **no violation of the OMA was issued to the LEA's Governance Council regarding this allegation.**

*LEA Response – The LEA's Governance Council will continue to adhere to this OMA practice to continue to ensure OMA compliance.*

- V. **Allegation 5** – The Governance Council did not allow the complainant into the meeting for its September 27, 2024, meeting.

The GCA advised the LEA's Governance Council that it believes that when a public body does make virtual access available to the public for its public meetings, it must follow the spirit and intent of the OMA law and allow all persons desiring to attend and listen whether or not their attendance is anonymous.

*LEA Response - The LEA supports the intent of the OMA to protect the public and ensure their access to meetings in person and virtually. The LEA's Governance Council has begun following the GCA's interpretation of Section 10-15-1(A) NMSA 1978. The LEA's Governance Council no longer requires that individuals identify themselves when requesting to virtually attend a meeting or risk getting removed from the meeting. These practices have been instituted in an effort to refrain from creating any standards or limitations towards the public's*



*access to public meetings and allow entrance to all persons desiring to attend and listen whether or not their attendance is anonymous.*

### **Acceptance of the GCA's Corrective Action Guidance by the LEA**

The LEA is appreciative that the GCA will not be taking enforcement action at this time. Per the GCA's request, the public body has already and will continue to institute practices that ensure compliance with its OMA Resolution and with the OMA law. The LEA accepts the guidance outlined by the GCA in these important matters and will work to address the above corrective actions expeditiously.

The LEA, through its Legal Counsel, has already reached out to the NMDOJ to be added to a notification list once the NMDOJ publishes its training schedule so that all the members of the public body, including applicable staff, attend training on the OMA and IPRA to be provided by the agency. The LEA will update the NMDOJ when all Governance Council members and appropriate LEA staff complete the required trainings.

Respectfully,

/s/ Richelle Peugh-Swafford  
Alma d'Arte Charter High School Governance Council President



March 14, 2025

**VIA ELECTRONIC MAIL ONLY:**

Isabelle Lopez, Honors Attorney [ILopez@nmdoj.gov](mailto:ILopez@nmdoj.gov)

New Mexico Department of Justice  
Government Counsel and Accountability  
408 Galisteo Street  
Villagra Building  
Santa Fe, NM 87501  
(505) 490-4060

Re: Alma d'Arte Charter High School Governance Council Response to the Following:

Filing #'s: NMDOJ-ECS-20241121-daa2  
Filing Date: November 21, 2024  
Filer: Jana Holguin  
Type: Inspection of Public Records Act Complaint

Dear Ms. Lopez and the Government Counsel and Accountability Division (the "GCA") of the New Mexico Department of Justice (the "NMDOJ"):

As the Respondent to the above Inspection of Public Records Act ("IPRA") Complaint filing, Alma d'Arte Charter High School (the "LEA") completed its review of the IPRA NMSA 1978, Section 14-2-1 to -12 Complaints made against the public body. The allegations raised in the complaint regard the complainant's written records request to Alma d'Arte Charter High School ("Alma d'Arte") on October 13, 2024, which requested "all photographs, video, and audio recordings involving my [complainant] image and likeness taken by the Alma d'Arte administration and/or governing board members from 2:30 PM to 5:00 PM on September 27, 2024, including any photos or videos taken before the official start of the Governing Council meeting." Specifically, the complaint alleges:

1. Alma d'Arte did not timely send a written "three-day letter" to the requester explaining when the records would be available or when the public body would respond to the request;
2. Alma d'Arte provided some but not all of the records responsive to the request;
3. Alma d'Arte did not include a written explanation for denying the production of exempt records or for redacting confidential information from records; and
4. Alma d'Arte did not post in a conspicuous location at its administrative office, or website, a notice setting forth the rights any person to inspect its public records.

After a thorough review of the IPRA allegations, the GCA's investigation findings, and the guidance provided by the GCA to help ensure ongoing compliance with the law, the LEA wishes to express its fullest intention to abide by the explicit requirement and best practices for IPRA compliance. As

such, the LEA is providing the following *responses to the allegations in italics* below to the GCA as a remedy to cure any deviation from that intention as identified by the agency that may implicate an IPRA violation:

- I. **Allegation 1** – Alma d’Arte did not timely send a written “three-day letter” to the requester explaining when the records would be available or when the public body would respond to the request.

Upon the GCA’s review of the evidence provided, the GCA determined that although the LEA’s email correspondence on October 16, 2024, was sent the complainant within three (3) business day, the response acknowledging the request failed to provide proper inspection.

*LEA Response* – Upon the GCA’s urging, the LEA has reviewed its practices for compliance with three-day notices, as outlined by Section 14-2-8(D). The LEA will either permit inspection within this allotted timeframe or provide a date to which the public body will respond to the request. Further, per the GCA’s guidance, the LEA will work to properly respond to requests and maintain open lines of communication with all requestors, whether that be what is commonly referred to as the three (3) day letter, letters deeming the request excessively burdensome or broad, or denial letters.

- II. **Allegation 2** – Alma d’Arte provided some but not all of the records responsive to the October 13, 2024, records request.

The GCA reviewed the email communications between the complainant and the LEA’s legal Counsel. Counsel reiterated that no additional records existed in relation to the complainant’s IPRA request and this was confirmed upon further follow up by the GCA. As such, **the GCA did not find an IPRA violation for this allegation.**

*LEA Response* – The LEA will continue to provide all records in the LEA’s possession that relate to an IPRA request and appropriately advise to the requestor in writing and within the proper timeframe when no further records exist to ensure IPRA compliance.

- III. **Allegation 3** – Alma d’Arte did not include a written explanation for denying the production of exempt records or for redacting confidential information from records.

The GCA reviewed the email communications between the complainant and the LEA’s legal Counsel. Counsel reiterated that no additional records existed in relation to the complainant’s IPRA request and this was confirmed upon further follow up by the GCA. As such, **the GCA did not find an IPRA violation for this allegation.**

*LEA Response* – The LEA will continue to provide all records in the LEA’s possession that relate to an IPRA request and appropriately advise to the requestor in writing and within the proper timeframe when no further records exist to ensure IPRA compliance.

- IV. **Allegation 4** – Alma d’Arte did not post in a conspicuous location at its administrative office, or website, a notice setting forth the rights any person to inspect its public records.

Upon inquiry by the GCA, the LEA provided a link to its website that supported that proper notice is posted pursuant to Section 14-2-7(E) and submitted a photo as evidence that notice is posted in its front office. The GCA finds the postings, and the contents within the postings,

in compliance with Section 14-2-7(E). As such, **no IPRA violation was issued by the GCA regarding this allegation.**

*LEA Response – The LEA will continue to adhere to properly posting IPRA rights, procedures, and responsibilities for public review at the LEA's front office and on its website in compliance with the Act and NMSA 1978 Section 14-2-7(E).*

#### **Acceptance of the GCA's Corrective Action Guidance by the LEA**

The LEA's Governance Council is appreciative that the GCA has closed this matter. Per the GCA's request, the public body has already and will continue to institute practices that ensure continued IPRA compliance. The LEA accepts the guidance outlined by the GCA in these important matters and will work to address the above corrective action expeditiously.

The LEA's Governance Council, through its Legal Counsel, has already reached out to the NMDOJ to be added to a notification list once the NMDOJ publishes its training schedule so that all the members of the public body, including applicable staff including the LEA's record custodian, attend training on the OMA and IPRA to be provided by the agency. The LEA's Governance Council will update the NMDOJ when all members and staff complete the training.

Respectfully,

/s/ Richelle Peugh-Swafford  
Alma d'Arte Charter High School Governance Council President