



Maricopa County Attorney

RACHEL H. MITCHELL

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VIA CERTIFIED MAIL & EMAIL

Jennifer MacLennan
Gust Rosenfeld
One E. Washington St. Suite 1600
Phoenix, Arizona 85004
macleannan@gustlaw.com

**RE: Alleged Open Meeting Law violations by Scottsdale Unified School District
Phase II Design Advisory Team**

Ms. MacLennan:

Thank you for your written response dated September 10, 2026. We are aware of the economic and demographic challenges school districts face each year, and we commend Scottsdale Unified School District's ("SUSD") commitment to inclusivity. Respectfully, however, this office strongly advises SUSD to reconsider its current use of superintendent appointed advisory committees. Although the creation of SUSD's Phase II Design Advisory Team ("Phase II Team") does not—as a purely technical matter—fall under the statutory definition of an “advisory committee or subcommittee,” the purpose and subsequent operation of the Phase II Team does.

SUSD has already been warned by the Arizona Attorney General's Office that the “Open Meeting Law does not permit a governing board to evade the public meeting requirements by ‘informally’ forming or establishing, or by directing a superintendent to establish, a committee to perform work that would otherwise need to be conducted in public.” *See* Ariz. Att’y Gen. Op. 24-004. The takeaway from the Attorney General's Opinion 24-004 (“AGO 24-004”) should not be to focus on how an advisory board is created, but rather the type of work the advisory board is performing, and for whom the work is being done.



Here, the idea of creating an advisory board related to school repurposing, consolidating, and closing was discussed numerous times by the Governing Board in open meetings in 2025 and voted on during the January 6, 2026 meeting. Even though the Governing Board ultimately decided not to amend its policy to create a standing advisory board, the superintendent created the Phase II Team shortly thereafter and tasked it with making recommendations to the Governing Board related to the repurposing, consolidating and closing of schools in the district. The timing of these events suggests the Governing Board's implicit direction to the superintendent to create an advisory board for the purpose of advising the Governing Board.

SUSD was directly cautioned in AGO 24-0004 that a public body's involvement in the creation of an advisory board is not the singular determinative factor in when an advisory board must comply with the Open Meeting Law. (*Id.* at 2.) Instead, AGO 24-004 provided a hypothetical of an advisory board, created by a superintendent, tasked with providing policy recommendations to the public body for its consideration as being obligated to adhere to the Open Meeting Law. (*Id.* at 3-4.) The use of the Phase II Team in the present instance mirrors this hypothetical fact pattern. Although it was created by the superintendent, and the Governing Board did not appoint the committee members, the Phase II Team is still the brainchild of the Governing Board, dating back to 2025, and will be making recommendations for the Governing Board to vote on, rather than recommendations for the superintendent to implement.

We understand that the work of the Phase II Team has concluded, and that its final recommendations will be presented to the public at the end of the month and voted on by the Governing Board in October. It is therefore too late to take corrective action. It is our recommendation that, going forward, SUSD avoid an overly narrow reading of the law when determining whether an advisory board is subject to Open Meeting Law. Advisory boards created by the superintendent, for the benefit of the superintendent, are not subject to Open Meeting Law. However, advisory boards that are created to provide recommendations to the public body, regardless of how they are created, should conduct their meetings in accordance with Open Meeting Law because the law favors transparency whenever in doubt. *See* A.R.S. § 38-431.09 (instructing those in charge of interpreting the Open Meeting Law to err on the side of open and public meetings); *see also* AGO 24-0004 at 3-4.

It is also advisable that the Governing Board acknowledge this investigation at the next public meeting and take steps to assure the constituents of SUSD that the intent of forming the Phase II Team was not to bar the public from the policy creating process.



Thank you again for your cooperation in this matter.

Sincerely,

RACHEL H. MITCHELL
MARICOPA COUNTY
ATTORNEY

/s/ Caitlyn Mitchell

Caitlyn Mitchell
Rosa Aguilar Dhakal
Deputy County Attorneys