

MEMORANDUM OF UNDERSTANDING
BETWEEN THE COBB COUNTY SCHOOL DISTRICT, THE COBB COUNTY BOARD OF
EDUCATION, AND THE OFFICE OF THE ATTORNEY GENERAL TO ASSURE FUTURE
COMPLIANCE WITH THE OPEN RECORDS AND OPEN MEETINGS ACTS

This ____ day of December
County of Cobb, Georgia

COME NOW the COBB COUNTY SCHOOL DISTRICT (“the District”) and the COBB COUNTY BOARD OF EDUCATION (“the Board”), on the one part, and the OFFICE OF ATTORNEY GENERAL, on the other, and, as attested by the underlying signatures and pursuant to a resolution passed by the Board approving this Memorandum of Understanding, hereby agree as follows:

WHEREAS the Cobb County School District is a school system created and operating under Georgia law and, among other things, is responsible for providing kindergarten through twelfth grade education to children within the limits of the Cobb County, Georgia; and

WHEREAS the Cobb County Board of Education establishes and approves the policies that govern the Cobb County School District; and

WHEREAS Alison Bartlett currently serves as chair of the Board, and Lynnda Eagle, Tim Stultz, David Morgan, Kathleen Angelucci, David Banks, and Scott Sweeney currently serve as members of the Board; and

WHEREAS the Cobb County Board of Education, the Cobb County School District, the chair and members of the Board, and the subunits, divisions, committees, and schools of the Board and District are each an “agency” within the meaning of Georgia law, O.C.G.A. §§ 50-14-1, 50-18-1, and are subject to the requirements of Georgia’s Open Meeting Act and Georgia’s Open Records Act, O.C.G.A. § 50-14-1 *et seq.* and O.C.G.A. § 50-18-1 *et seq.*; and

WHEREAS the Cobb County Board of Education, the Cobb County School District, the chair and members of the Board, and the subunits, divisions, committees, officers, members, and local schools of the District and the Board endeavor on a forward going basis to be in full compliance with Georgia's Open Meeting Act and Georgia's Open Records Act; and

WHEREAS the Attorney General has received complaints alleging that the Cobb County Board of Education, some of its members, and the Cobb County School District have in the past violated the Open Meetings and Open Records Acts by engaging in the following:

- 1.) failing to fully, completely, and timely produce records in compliance with the Open Records Act by allegedly failing to produce in a timely and legally compliant manner emails in response to requests for such record by Tricia Knor, Mike Sansone, and Thomas Gray; and
- 2.) failing to comply with the requirements of the Open Meetings Act that meetings of a quorum of the Board be conducted in public and not through private meetings and communications among members of the Board. In this respect, some members of the Board allegedly conducted public business through private emails and discussions which ultimately involved a quorum of the Board and took place at definite times and places; and

WHEREAS there are Cobb County School Board members who deny these allegations; and

WHEREAS the Attorney General has the civil and criminal authority and standing to enforce Georgia's Open Meeting Act and Georgia's Open Records Act, O.C.G.A. §§ 50-14-5, 50-18-73; and

WHEREAS the Attorney General stands prepared to exercise his civil or criminal authority to prosecute such violations; and

WHEREAS the parties wish to resolve all disputed claims amongst them and agree that the Cobb County Board of Education, its members and chair, the Cobb County School District, and subunits, divisions, schools, and employees should henceforth fully comply with Georgia's Open Meeting Act and Georgia's Open Records Act; and

WHEREAS the Cobb County Board of Education believes that the board and the school system will greatly benefit from additional training on compliance with Georgia's Open Meeting and Open Records Act that can be uniquely provided by the Office of the Attorney General,

NOW THEREFORE the parties agree and stipulate as follows:

1. the Cobb County Board of Education, the Chair and members of the Board, and the Cobb County School District attest and pledge that they will take all necessary and proper steps to assure compliance with each and all of the requirements of Georgia's Open Meeting Act and Georgia's Open Records Act; and
2. the Cobb County Board of Education attests and pledges that it will conduct all of its meetings in open session except as permitted by Georgia law and the members thereof will not communicate in a private fashion such that a quorum of the Board may have discussed and resolved issues before the Board privately and not in a public meeting;
3. the Cobb County Board of Education attests and pledges that it will conduct executive or closed sessions limited only on the matters to which the meeting

is permitted to be closed, *see* O.C.G.A. §§ 50-14-2, 50-14-3, and not conduct other business in such a closed session; and

4. the Cobb County Board of Education and its chair attest and pledge that affidavits for executive session will be executed by the Chair and approved by the Board with sufficient detail to know that the meeting was properly closed;
5. the Cobb County Board of Education wishes to receive and will receive additional training in the requirements of the Open Meetings and Open Records Acts from the Office of the Attorney General at a time and place to be agreed upon with the Office of the Attorney General;
6. the Cobb County School District agrees to submit its supervisors or other staff as agreed upon with the Office of the Attorney General to training in the requirements of the Open Meetings and Open Records Acts at such times and places as agreed upon with the Office of the Attorney General; and
7. the Attorney General agrees that no prosecution will be brought by the Georgia Department of Law (or any other persons or entities under the direction of the Attorney General or Department of Law) regarding the above alleged violations of the Open Records and Open Meetings Acts; provided, however, that the Attorney General reserves and does not waive all right and authority to prosecute the above alleged violations of the Open Records and Open Meetings Acts should evidence of new violations not alleged within this Memorandum of Understanding come to his attention within the next twelve months or the Cobb County Board of Education, its chair or members, or the Cobb County School District fail to abide by their obligations in this

agreement provided, however, that inadvertent violations will not be considered a breach of this agreement.

8. Nothing in this agreement shall be construed as an admission on the part of any party to this agreement.

SO AGREED,

This ____ day of December, 2011,

Alison Bartlett
Chair
Cobb County Board of Education

Samuel S. Olens
Attorney General