

DISTRICT COURT, BOULDER COUNTY, COLORADO 1777 th 6 th Street Boulder, Colorado 80302 303-441-3750	
EVAN HARVIE, KATHARINE ROSENTHAL, and THERESA SCHULTZ, Plaintiffs, v. BOULDER VALLEY SCHOOL DISTRICT BOARD OF EDUCATION, Defendant.	▲ COURT USE ONLY ▲
Attorney for Plaintiff: Eric Maxfield, #29485 ERIC MAXFIELD LAW, LLC 357 S. McCaslin Blvd. Suite 200 Louisville, Colorado 80027 303-502-7849 Eric@ericmaxfieldlaw.com	Case No: Division:
VERIFIED OPEN MEETINGS LAW COMPLAINT	

Plaintiffs Evan Harvie, Katharine Rosenthal, and Theresa Schultz, through attorney Eric Maxfield of Eric Maxfield Law, LLC, allege as follows in support of this Verified Colorado Open Meetings Law Complaint:

INTRODUCTION

1. This Verified Complaint, pursuant to the Colorado Open Meetings Law (COML) at § 24-6-401, *et seq.*, C.R.S., challenges the process by which the Boulder Valley School District Board of Education (“Board”) developed and adopted its 2026 “Resilient Schools” proposal, a.k.a. Resolution 26-27 (the Proposal), including the closure of Birch, Douglass, Flatirons, and Mesa Elementary Schools and other school consolidations and reconfigurations.
2. Plaintiffs do not ask this Court to decide whether declining enrollment requires school closures, whether particular schools should remain open, or what educational policy the Board should adopt.
3. Plaintiffs instead seek enforcement of the COML, §§ 24-6-401 to -402, C.R.S., which provides that “the formation of public policy is public business and may not be conducted in secret.”

Long Range Advisory Committee Engagement Process

4. In 2022 the Board established and later publicly relied upon its Long Range Advisory Committee (“LRAC”) to address long-term facility issues, including declining enrollment
5. Board Policy BDFP provides that the Board “shall appoint” LRAC, which “shall develop recommendations to ensure sound long-term facility decisions consistent with the needs of the School District and in support of the School District’s strategic initiatives.” Ex. 10.
6. The same policy describes LRAC as a mechanism to provide “accountability, engagement, and communication with the Boulder Valley community to ensure stakeholders are engaged and their values and priorities are reflected in Board decisions.”
7. By June 2023, LRAC developed and publicly presented a school-specific framework for identifying schools affected by declining enrollment and engaging affected school communities before major decisions were made.
8. The framework includes an “Advisory Phase” and a “Community Engagement Phase,” with publicly identified objective criteria, identified as metrics, for each phase to assess and make recommendations that may include:
 - Continuing to operate at the established staffing funding formula
 - Focus on specialized programming

- Reallocate grade levels with neighboring school
 - Closure/Consolidation
9. The LRAC process and metrics functions as an early-warning system: rather than members of a school community first learning that their school might close when a closure proposal was announced, the framework identified schools warranting attention and provided for engagement before recommendations affecting those schools were made.
 10. LRAC's two-step process was specifically defined to ensure a public and collaborative decision-making process and to prevent surprise closings based on closed door decision-making.
 11. On September 1 of 2025, an article authored by Superintendent Anderson entitled "*Boulder's Different Direction When Enrollment Drops*" stated that many districts respond to shrinking enrollment "by closing schools." But according to Anderson, BVSD "ha[s] gone a different direction." Anderson noted that twenty years ago, in the face of decreasing enrollment, Boulder had "mov[ed] directly to close a subset of schools with limited community engagement in the decision making," causing ill will in the community. Instead, according to Anderson, Boulder was "piloting a community-focused process that allows the school community to co-design the solution," citing to Heatherwood, where the community developed a plan to create a new Science/Math/Arts focused curriculum to retain and attract students. The Superintendent closed the article stating, "we hope [the community engagement process used at Heatherwood] is a model we can replicate throughout our school district moving forward." Ex. 1.
<https://www.aasa.org/resources/resource/school-portfolio-change-amid-declining-enrollments>.
 12. The Board relied on LRAC's community engagement process to assess Heatherwood Elementary School in 2024, when that school satisfied the criteria.
 13. In April of 2026, the Board created a graphic slide explaining its process for creating a final proposal. That slide promised a that from June to August, "school adjustment options" would be developed, and presented to the Board in August with "opportunity for community input." Then in September, a final plan would be submitted to the Board with a second opportunity for public input.
 14. LRAC continued meeting pursuant to its publicly announced role and framework during the 2025-26 school year.

BVSD's Secret Pivot Away from the LRAC Engagement Process and the specific process it presented to the community in April

15. In August and September of 2026, the Board admitted that it had made a decision at the October 21, 2025 meeting to “pivot” away from LRAC’s highly transparent process.
16. Despite having made the decision to abandon LRAC, the Board permitted it to continue its public meetings and school-focused approach while District administrators developed its actual school closure plan outside the public eye.
17. The Board’s secret October 21, 2025 decision to abandon the LRAC process for a process devoid of publicly announced metrics, any early warning, or affected-community engagement was never noticed, discussed, or acted on in public.
18. The Board’s October 21, 2025 meeting minutes reflect no such decision(s). The absence of a **public** decision on this issue is demonstrated by the October 21, 2025 Agenda, the meeting recording, and the minutes. Exhibits 2, 3, and 4.
19. Despite the absence of the development of any clearly stated policy direction at the October 21, 2025 meeting, Superintendent Rob Anderson told the Board, following discussion of declining enrollment, “Your direction has been very clear; I understand.”

LRAC’s Continued Activity

20. LRAC continued to meet publicly after October 21, 2025, and its public proceedings continued to reflect use of the school-specific framework.
21. LRAC’s March 9, 2026 posted draft minutes specifically flagged only two schools—Heatherwood and Flatirons—as then meeting the Community Engagement Phase criteria:

“Two schools—Heatherwood and Flatirons—currently meet the community engagement criteria.” Ex. 5.

BVSD’s Public Engagement

22. Although the “public engagement” label was the same, the “public engagement” the District actually engaged in during the leadup to the presentation of the final Proposal was materially different from the public engagement promised under LRAC.
23. The new-style public engagement asked the public to attend meetings about the broader issue of declining enrollment and to comment and respond to a survey on the abstract issue of declining enrollment before the District disclosed which schools it was considering for closure. In other words, it asked busy parents to engage about generic

declining enrollment before they had any stake in the outcome. Frustrated parents called out exactly this point at the September 8, 2026 public comment session.¹

24. The District permitted LRAC's public process and recommendations to continue, while providing no inkling to the public that it was considering closure of schools completely outside of that process.
25. During an August 31, 2026 publicly broadcast *Let's Talk*, BVSD's Chief Communications Director expressed continuing reliance on LRAC, stating that it was "crucial that we have LRAC." "2026-04-09 Let's Talk Education: Declining Enrollment Impacts - Episode III" District/Board video, minute 26:08. <https://www.youtube.com/live/6eQpEJh6Z58?t=586s>

The "Resilient Schools" Proposal

26. On August 25, 2026, District administration publicly presented a single "Resilient Schools" proposal (the Proposal) providing for, among other actions, closure of four elementary schools: Birch, Douglass, Flatirons, and Mesa.
27. The proposal surprised affected school communities, including Plaintiffs, who are parents of children at Douglass, Flatirons, and Mesa Elementary Schools.

¹ Nick Kerner stated that his child's school "never met the board's own criteria for starting a community engagement process and thus we were not engaged". [Recording, 3:11:27–3:12:12](#). Whitney Adair stated that she relied on the published criteria, which Douglass exceeded, concluding that "the process would follow those criteria" and that the "criteria appear to have changed without meaningful public notice." [Recording, 3:01:31–3:02:08](#). Brian Ziegler stated that Douglass "operated well above established LRAC closure thresholds" but was never "afforded a dedicated engagement session. We simply trusted your published rules." Sept. 8 recording at 2:59:35-2:59:56. Kelly Fry stated that Douglass families understood their school to be outside of the early warning process, stating "Douglas sits at 67% capacity as we've heard over and over, above our own 60% above your own 60% threshold for even an advisory review in past processes." She added "[w]e're missing from every at-risk conversation because we've been thriving." [Recording, 5:15:17–5:15:43](#). Lauren Kelso stated: "There was a multi-year process of engagement with schools that had low enrollment. Your public engagement at best failed to give us a fair warning and at worst left us out of the conversation on purpose." [Recording, 1:59:36–1:59:4](#)

28. The proposal surprised affected communities, in part because only Heatherwood and Flatirons had been publicly identified, via draft meeting minutes, as satisfying LRAC's Community Engagement Phase criteria as recently as March 2026.

Lack of Notice of the Pivot from LRAC

29. No meeting was ever noticed with an agenda item related to supplanting the metric-based LRAC process with an approach devoid of any early warning system. No public discussion or vote to change the early warning or collaborative processes was ever voted on.
30. No notice, discussion or vote was ever taken to open the door to school closures absent affected-community engagement (such as the engagement undertaken with Heatherwood at which the community and the District created a plan to increase enrollment at the school), as required in the LRAC process.
31. On September 14, 2026, Plaintiffs, through counsel, gave the Board detailed written notice of these COML violations and asked the Board not to adopt the August 25, 2026 proposal for school closures developed in a secret process entirely outside of the LRAC process upon which the Board had invited the community to rely.
32. In April of 2026, the Board publicly presented a timeline of the process through which proposals would be developed. See Ex. 6. The slide stated that options would be presented to the Board in August 2026, followed by an "opportunity for community input." Then, in September, the final plan would be presented to the Board, with a second opportunity for public input.
33. Despite the District's Timeline showing a phase where "options would be presented" followed by an opportunity for public comment, this entire phase of the process was eliminated, and on September 22, 2026, a single final Proposal was presented to the Board for an up or down vote.
34. The Board never held a noticed meeting where it discussed and decided to eliminate the "options" phase of the District's published Timeline.
35. Plaintiffs therefore seek a declaration that Defendant violated the Colorado Open Meetings Law (COML) when it decided in secret to change the process through which school closure plans would be assessed. Accordingly, Plaintiffs seek invalidation of the September 22, 2026 formal action adopting Resolution 26-27, injunctive relief requiring future compliance with COML, including specifically full notice for LRAC and Board meetings, and the costs and reasonable attorney fees mandated by § 24-6-402(9)(b), C.R.S.

PARTIES, JURISDICTION, AND VENUE

36. Plaintiff Katharine Rosenthal is a Colorado citizen, resident of Boulder County, and parent of a BVSD student at Flatirons Elementary School.
37. Plaintiff Evan Harvie is a Colorado citizen, resident of Boulder County, and parent of two BVSD students at Douglass Elementary School.
38. Plaintiff Theresa Schultz is a Colorado citizen, resident of Boulder County, and parent of three BVSD students, including two children at Mesa Elementary School and one who just entered 6th grade at Southern Hills Middle School.
39. Collectively, Plaintiffs include parents from Douglass (Harvie), Flatirons (Rosenthal), and Mesa (Schultz) Elementary Schools, each of which the Board voted to close as part of the September 22, 2026 formal action.
40. Plaintiffs followed BVSD's publicly announced processes concerning declining enrollment, LRAC, community engagement, and the Resilient Schools proposal and sought to participate in the public decision-making process affecting their children's schools.
41. Defendant Boulder Valley School District RE-2 Board of Education is the governing board of a Colorado political subdivision and is a "local public body" within the meaning of § 24-6-402(1)(a)(I), C.R.S.
42. Plaintiffs were denied, or threatened with denial of, rights conferred upon the public by COML and therefore have suffered injury in fact and have standing pursuant to § 24-6-402(9)(a), C.R.S.
43. This Court has jurisdiction over this complaint and to issue declaratory and injunctive relief pursuant to §§ 24-6-402(8) and (9)(a) and (b), C.R.S., and C.R.C.P. 57 and 65.
44. Venue is proper in Boulder County pursuant to C.R.C.P. 98(b)(2) because Defendant is located in Boulder County, Plaintiffs live in Boulder County, and the meetings and conduct giving rise to Plaintiffs' claims occurred there.

GENERAL ALLEGATIONS

A. The Board Created LRAC to Conduct Public Long-Range Facility Planning and Make Recommendations. The Board created the Timeline to Set Community Expectations about the Process for Assessing Options for Addressing Declining Enrollment within the District.

45. The Board established LRAC as a standing advisory committee concerning long-range District facilities.

46. Under Board Policy BDFF, LRAC is appointed by the Board and charged with developing recommendations to ensure sound long-term facility decisions consistent with District needs and strategic initiatives.
47. The stated purpose of LRAC includes a high level of accountability, engagement, and communication with the Boulder Valley community so that stakeholders are engaged and are able to participate in Board decisions affecting them.
48. Declining enrollment and its consequences for individual schools became a significant part of LRAC's work.
49. The Board invited the community to rely on its process Timeline by placing it as the first slide in the deck presented at the April 14, 2026 meeting. Ex. 6 at p. 2.

B. LRAC Established and Used a Public School-Specific Early-Warning and Community-Engagement Process

50. On June 13, 2023, LRAC presented to the Board a two-tier framework for responding to enrollment concerns.
51. Under the framework, a school entered an "Advisory Phase" when it had fewer than two classes per grade and enrollment below 60 percent of capacity.
52. A school entered the "Community Engagement Phase" when it had fewer than 1.5 classes per grade, enrollment below 50 percent of capacity, and was projected to remain at that level for at least five years.
53. The framework was designed to provide transparency, predictability, advance warning, and meaningful community participation before significant decisions affecting neighborhood schools were made.
54. The framework established a publicly visible progression through which affected communities could know that their schools had reached identified thresholds and that additional engagement concerning the school's future was warranted.
55. The framework was utilized by LRAC in relation to Heatherwood Elementary School in 2024.

C. If, as the District now Claims, it "pivoted" to shift away from LRAC at the October 21, 2025 meeting, it violated COML since no such topic was noticed in the Agenda.

56. On October 21, 2025, the Board held a "work session" addressing LRAC-provided data related to declining enrollment.
57. The District now claims that it decided, at that meeting, to "pivot" away from LRAC's metrics, early warning and affected-community engagement processes.

58. Although the meeting records reflect no such decision, the District now admits that it decided to abandon² LRAC and embrace an undisclosed process for assessing declining enrollment options at the October 21, 2025 meeting.
59. If the District had discussed and decided this issue at the October 21 meeting, the Agenda noticed no such topic. Thus, accepting as true, *arguendo*, the District's claim that it decided at this meeting to abandon LRAC, the District violated COML's notice provisions.

D. Additionally, the Evidence Supports an Inference that Public Business was Discussed and Developed Outside a Properly Noticed Public Meeting.

60. At the October 21, 2025 meeting, the Board discussed the scope, pace, and structure of BVSD's response to declining enrollment, all of which were public business under *Costilla. Board of County Commissioners v. Costilla County Conservancy District*, 88 P.3d 1188, 1194 (Colo. 2004). However, the meeting agenda and recording reflect that no discussion took place regarding abandoning LRAC's metrics, early warning, or affected-community engagement processes.

² On September 15, 2026 at the Board's work session on the Proposal Board Member Unger stated:

"...but something did shift in the last few years that caused us as a Board to move from LRAC which as others have said is really just an advisory committee and not dictating direction, uh to this regional approach and I really I think it's important that we make this connection between the projections, the enrollment numbers, over the last two or three years which have from what I remember.... And make the connection between that data the actual enrollment and why we had to shift in October of last year."

And see BVSD FAQ posted after 8/25/26:

["Why is the district moving straight to closures instead of identifying schools for the community engagement phase as outlined in the Long Range Advisory Committee metrics?"](#)

At the [Oct. 21, 2025 worksession](#), it became clear that too many schools would be approaching the engagement phase identified in the metrics at the same time to be able to conduct individual community engagement processes and that it would make more sense to take a regional approach toward taking action. The [LRAC metrics](#) call for taking a regional approach when appropriate." Ex. 9.

61. Despite the absence of any clear Board directive to eliminate LRAC's metrics-based advance identification or its opportunity for affected communities to develop solutions after identification and before a closure recommendation, during the meeting, Superintendent Anderson told the Board: "Your direction has been very clear; I understand."
62. BVSD officials have subsequently identified October 21, 2025 as moment the District "moved from" LRAC to instead apply an unidentified process for assessing declining enrollment options.
63. The Superintendent's statement that the direction to him had been "very clear" (despite the absence of a clear policy direction at the meeting) coupled with the District's admission that its policy change was made on October 21, 2025, gives rise to an inference that the Board discussed public business in private. The Board made this decision on October 21, 2025, Anderson understood it, but it didn't occur on record. Thus, the related discussion and action must have occurred off record.
64. Plaintiffs presently lack access to facts exclusively or primarily within Defendant's possession concerning communications among Board members and between Board members and District administration that preceded the October 21 meeting.
65. Plaintiffs therefore allege, upon information and belief, including the admissions of the party opponent at the August 31, 2026 YouTube *Let's Talk* Livestream (Rajpal) and September 15, 2026 Work Session (Unger), that discovery may establish that three or more Board members, or a quorum, discussed, developed, or communicated policy direction concerning abandonment or material modification of the LRAC framework or development of a regional closure and consolidation process outside a meeting complying with the notice, publicly held meeting open to the public, and minutes provisions of § 24-6-402(2), C.R.S.

F. LRAC Continued Publicly Applying Its School-Specific Framework After the Asserted Pivot.

66. The Board and District did not publicly treat LRAC as having ceased to exist after October 21, 2025.
67. Despite the Board's admission that it had moved away from LRAC almost a year before it presented its final Proposal, LRAC continued to hold its regular meetings during the 2025-26 school year.
68. On March 9, 2026, LRAC met.

69. LRAC members reported that members of the public were asking which schools would close, that communities feared closure decisions had already been made, and that staff and families were anxious about possible closures. March 9, 2026 draft meeting minutes, Ex.5.
70. Specific schools, including Flatirons and Heatherwood, were discussed at the March 9, 2026 LRAC meeting.
71. Most significantly, LRAC continued applying its established school-specific framework.
72. Its draft minutes, posted on the BVSD web site state: “Two schools—Heatherwood and Flatirons—currently meet the community engagement criteria.”
73. Also at the March 9, 2026 meeting, LRAC’s continued application of the established framework reinforced the public appearance that the school-specific process remained operative although the Board admitted at the August 31, 2026 *Let’s Talk* and September 15, 2026 Work Session that, by March 9, 2026, it had already pivoted to a materially different, yet undisclosed approach months before (October 2025).

G. BVSD Conducted Broad Community Engagement Without Disclosing Specific Closure Recommendations.

74. While the District touts its “community engagement” meetings held in the leadup to the release of the final Proposal, if they weren’t designed to minimize engagement, their substance promised just that.
75. Plaintiffs do not contend that these events did not occur or that BVSD failed to solicit substantial public input generally on declining enrollment. The problem is that asking for generalized public engagement before announcing which schools are being considered for closure is not a reasonable ask for busy parents managing work lives and families.
76. And the District knew this; its own board members and Superintendent had already told it so.
77. Absent notice Birch, Douglass, Flatirons, or Mesa were being considered for closure, those communities had no reason to rearrange their lives to attend a generic meeting on declining enrollment that, as far as they knew, was completely unrelated to their lives.
78. Board Vice President Alex Medler told the Board as much. In an email dated April 8, 2026, reflecting on the first community engagement session, Medler stated to Superintendent Anderson:

...On balance, I think the discussions went as hoped and people were super engaged in what we wanted them to discuss, and not what would have otherwise happened if we just asked for public input on a “district school closure plan”... In all these cases, it would help to say: “close one of the schools, and consolidate or redistribute the students”, it seems like we are sugar coating that by not starting with, “close a school, and then...” it makes more

sense. And just use the figures right away to explain these concisely and use examples of real schools to help focus people. By not using the close word, and staying so conceptual, we lose a lot of concrete thinkers... The audience is sophisticated to see through the effort to not emphasize the closure and focus on the what we do after a closure. Ex. 7.

79. The District and Board did not change their approach to community engagement sessions on “declining enrollment” to ask for public input on “district school closure plan” or of closure of an identified school, following Medler’s request.
80. Superintendent Anderson also understood the problem well. He had stated, “How do I see unproductive community engagement around school closures? Looks something like this. District cooks up a bunch of solutions in the background, considers some things, rolls it out to community, gives them little bit of time to how do you feel about it? and then plans to press forward, right? I haven’t seen that go well at all.” See Oct. 21, 2025 Board meeting <https://www.youtube.com/watch?v=LnZcXZHRw5g>; Minute 2:29:17–2:29:42.

]H. District Administration Presented the Resilient Schools Proposal on August 25, 2026.

81. On August 25, 2026, Superintendent Anderson and District administration publicly presented the Resilient Schools proposal to the Board.
82. The proposal recommended closure of four elementary schools—Birch, Douglass, Flatirons, and Mesa—along with additional consolidations and reconfigurations
83. Birch, Douglass, and Mesa Elementary Schools, slated in the Resolution 26-27 for closure, were never publicly identified as meeting those criteria or being at risk of closure.
84. The August 25, 2026 proposal therefore represented a result that would have been impossible under the LRAC approach, and thus, could not have been anticipated by the community.
85. Parents and community members subsequently repeatedly told the Board that they had been surprised by the proposal and did not understand how the specific recommendations had been developed. See footnote 1 above. They told the Board to “show its work.”
86. Yet on September 22, the Board voted to adopt the Proposal.

I. Plaintiffs Gave the Board Notice of the COML Violations Before the September 22, 2026 Vote on Resolution 26-27.

87. On September 14, 2026, Plaintiffs, through undersigned counsel, sent a detailed written demand to the Board and District leadership.
88. The letter specifically identified COML §24-6-401, et seq. C.R.S. including 1) adequacy of public notice provided for discussions of school-related closure issues, 2) unexplained

abandonment of LRAC's previously established framework, and 3) the lack of transparency surrounding the development of the Proposal. See Ex. 8.

89. Plaintiffs expressly requested that the Board vote against adoption of the proposal and instead return the matter to a transparent process complying with COML.
90. Plaintiffs' request was directed at process rather than outcome: they did not demand that the Board permanently preserve any particular school or adopt any particular approach to declining enrollment, but instead requested that the policy be formed and considered through a lawful public process, with full notice.

J. The Board Nevertheless Adopted the Proposal on September 22, 2026.

91. On September 22, 2026, after receiving Plaintiffs' notice of the asserted COML violations, the Board voted to adopt the August 25, 2026 Resilient Schools proposal.
92. The Board voted in favor of the Proposal 5-2, with the two against being the two Board Members who were elected after the October 21, 2025 meeting (in November).
93. The September 22, 2026 formal action approved the product of the closed-door policy-development process described above, effectively rubber-stamping a decision made previously in meetings held outside the public eye.
94. The Board did not, before adopting the proposal, inform the public about its prior secret decision to abandon or modify LRAC's school-specific framework and process for developing closure and consolidation recommendations.
95. The Board did not identify that it was eliminating from the timeline process presented in slide two at the April 14, 2026 meeting, the Phase that included "Present[ing] school adjustment options to the Board," and community input on those options.
96. The Board did not identify in its September 22, 2026 agenda, that it was considering Resolution 26-27 as a reconsideration intended to cure the earlier COML violations described in Plaintiffs' September 14 notice.

FIRST CLAIM FOR RELIEF

Violation of the Colorado Open Meetings Law—Failure to Provide Full Notice for the October 21, 2025 Board Meeting

§§ 24-6-401 and 24-6-402(2)(c), C.R.S.

97. Plaintiffs incorporate paragraphs 1 through 96.
98. The COML declares that "the formation of public policy is public business and may not be conducted in secret." § 24-6-401, C.R.S.
99. Meetings of a local public body at which a quorum or majority is present or expected to be present must occur only after full and timely notice to the public. § 24-6-402(2)(c)(I), C.R.S.
100. The COML further requires the posting to include "specific agenda information where possible." *Id.*
101. The notice requirement is intended to provide fair notice to an ordinary member of the community of the public business that will be conducted. See *Town of Marble v. Darien*, 181 P.3d 1148, 1152–53 (Colo. 2008).
102. The Board's October 21, 2025 agenda did not provide full notice that the Board would consider abandoning or modifying LRAC's established process or direct District administration to develop a regional school-closure and consolidation proposal outside that framework. Thus, if the Board discussed and/or decided this issue at that meeting, it violated COML's notice requirements.

SECOND CLAIM FOR RELIEF. DISCUSSION OF PUBLIC BUSINESS OUTSIDE A NOTICED PUBLIC MEETING

Invalidation of Formal action

103. Plaintiffs incorporate paragraphs 1 through 102.
104. The Board admits that it decided, on October 21, 2025, to abandon the LRAC process. Yet no discussion of this specific issue or action on it is reflected in the meeting recording or minutes.
105. Yet, at the October 21, 2025 meeting, Anderson stated "Your direction has been very clear; I understand."
106. Taken together, these facts give rise to an inference that discussion of policy, decision-making and policy directives to staff were done off record in violation of COML. *Costilla Board of County Commissioners*, 88 P.3d at 1194.

THIRD CLAIM FOR RELIEF

Invalidity of Formal Action

§ 24-6-402(8), C.R.S.

107. Plaintiffs incorporate paragraphs 1 through 106.
108. Section 24-6-402(8), C.R.S., provides that no resolution, rule, regulation, ordinance, or formal action of a local public body shall be valid unless taken or made at a meeting that complies with the requirements of § 24-6-402(2).
109. The statute protects the process by which public policy is formed, not only the public ceremony of casting a final vote.
110. Consideration of the final Proposal improperly proceeded as if the abandonment of both the LRAC process, and the process presented in the Timeline presented at the April 14, 2026 meeting on Slide 2 were settled, despite the absence of a noticed public meeting at which the abandonment of these policies were discussed or acted on. Although parents called out these discrepancies, the Board never debated, at the September 15, 2026 work session, the actual governing question, i.e.: the abandonment of the LRAC and Timeline processes. Thus, the process deprived the public of the opportunity to participate in the actual decision-making process.
111. Plaintiffs gave the Board written notice of the challenged process before the September 22 vote and requested that Defendant refrain from adopting the proposal through that process.
112. Defendant nevertheless proceeded to formal action without course correcting or otherwise curing the violations.
113. Further, the absence of any discussion at the September 15 work session on the issue of whether to abandon LRAC's metrics, early-warning, and affected-community engagement and/or the April Timeline supports a claim that discussion of public business was undertaken in private in violation of the COML. The Board's presentation, at the April 14, 2026 meeting, promised *two* Board discussions, one relating to the presentation of options, and one relating to the proposal selected to the final one selected for an up or down vote by the Board, and *two* opportunities for public comment, one in August in connection with the presentation of the options, and one in September in connection with Board evaluation of the final plan
114. The Board's complete removal of the entirety of the "options" phase of the process promised on Slide 2 creates an inference that the Board engaged in discussion and decisionmaking off record.
115. For this reason too, the September 22, 2026 Proposal must be invalidated pursuant to § 24-6-402(8), C.R.S.
116. The Board's decision to eliminate the promised August presentation of "School Adjustment Options to the Board" with "opportunity for community input during public

comment" supports an inference that the Board privately discussed public business in violation of COML .

117. The Board's publicly announced decision-making sequence, presented in the Board's Timeline Slide presented at the April 2026 Board Meeting and posted on BVSD's site, committed to an August presentation of "school adjustment options to the Board," followed by the "Board's opportunity to discuss options" and an "[o]ppportunity for community input during public comment." Only afterward would the District "[p]resent [a] final plan for study to the Board" in September and a "final plan for action" in October. This sequence represented a Board decision to publicly consider alternatives before the District advanced a final plan. Instead, however, the District presented a single Resilient Schools Proposal, and the Board proceeded toward action on that proposal without the promised public comparison of alternatives.
118. Members of the public expressly called out this switch at the September 8, 2026 meeting. Parent David Quigley emphasized the published timeline's plural wording: "Develop school adjustment options. Options with an S," and "Staff to develop facility planning options June to August. Again, options with an S." He then observed, "***So, it seems like between June and August, suddenly the plan changed and we were all thrown by this.***" Recording, 5:16:46–5:17:22. (emphasis added) Another parent, Craig Dreer, stated the consequence directly: "You are being handed one. You cannot evaluate a recommendation when you're only given one option." Id., 1:50:38–1:50:44.
119. At the September 15 work session, the Board and administration defended regional planning and general community engagement, but it did not identify a noticed Board discussion or decision to eliminate either LRAC's opportunity for affected communities to develop solutions after particular schools were identified for closure, or the Board's subsequently announced process providing *two* opportunities to hear Board discussion, one on options, and one on the final plan, and *two* opportunities for public input, one in August in the context of the Board's discussion of adjustment options, and one in September after the final plan was presented.
120. The choice to dispense with these steps in the Board's publicly announced processes was itself public business under *Board of County Commissioners v. Costilla County Conservancy District*, 88 P.3d 1188, 1194 (Colo. 2004). *Costilla* requires "a demonstrated link between the meeting and the policy-making powers of the government entity holding or attending the meeting." Here, the connection is direct: the disputed procedural choices determined how the Board would develop and evaluate school-closure policy, which alternatives it would consider, and when affected communities could participate. Those choices concerned the formation of Board policy and were therefore subject to COML's requirements for open discussion and properly noticed Board action. C.R.S. § 24-6-402(2)(b), (c).
121. The announced process, the Board's subsequent departure from it, and the Board's treatment of the replacement process as settled all support the inference that the Board resolved these procedural choices in private. This undisclosed shift violated COML and

denied the public access to the Board's formation of the process through which schools closures would be assessed.

FOURTH CLAIM FOR RELIEF

Injunctive Relief

§ 24-6-402(9)(b), C.R.S.

122. Plaintiffs incorporate paragraphs 1 through 121.
123. Section 24-6-402(9)(b), C.R.S., grants Colorado courts jurisdiction to issue injunctions enforcing COML upon application by a Colorado citizen.
124. Plaintiffs are Colorado citizens whose rights under COML have been denied or threatened with denial.
125. The Board has adopted a policy, resulting from the closed-door process challenged here and, absent injunctive relief, may implement school closures, consolidations, student reassignments, staffing changes, facility changes, and other consequential actions implementing that policy.
126. Once implementation substantially proceeds, recreating the public decision-making opportunity COML protects will become increasingly difficult.
127. Plaintiffs therefore seek a preliminary injunction (a motion for preliminary injunction is filed simultaneously with this Verified Complaint) prohibiting implementation of the September 22, 2026 formal action.
128. Plaintiffs seek a permanent injunction requiring the Board to provide full notice prior to taking action, and to take action only in a public meeting, open to members of the public.
129. Plaintiffs do not seek an injunction requiring the Board to reach any particular substantive policy result.
130. Plaintiffs aver that the Board remains free, after complying with COML, to adopt whatever lawful policy it determines appropriate.

ATTORNEY FEES AND COSTS

131. Section 24-6-402(9)(b), C.R.S., provides that when a court finds a COML violation it shall award the prevailing citizen costs and reasonable attorney fees.

132. Plaintiffs request their reasonable attorney fees and costs as provided by § 24-6-402(9)(b), C.R.S.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and by its ORDER:

- A. Declare that the Board violated § 24-6-402(2), C.R.S., by developing or adopting material policy direction concerning abandonment or modification of the LRAC framework and implementation of a regional closure/consolidation process without full notice at the October 21, 2025 meeting or, alternatively, outside a properly noticed public meeting;
- B. Declare that the Board's September 22, 2026 adoption of the Resilient Schools proposal, a.k.a. Resolution 26-27, was illegally based on closed-door and secret policy making in that it was contrary to LRAC's early warning and affected-community engagement processes and contrary to the Board's April 14, 2026 Timeline providing that options would be provided to the Board for analysis in public and public comment prior to selection of a final option for later consideration and a vote. Declare that abandoning LRAC and the Timeline in private with no notice to the public and proceeding to vote on Resolution 26-27, without addressing the governing question of the process through which the proposal would be generated was in violation of the requirements for openness, in violation of COML's requirements of full notice and to conduct public business, including discussion and decision-making, in public meetings, open to the public.
- C. Invalidate, pursuant to § 24-6-402(8), C.R.S., the Board's October 21, 2025 abandonment of the LRAC metrics and processes and the Board's September 22, 2026 formal action adopting the Resilient Schools proposal;
- D. Preliminarily Enjoin the Board from implementing the September 22, 2026 formal action and permanently enjoin the Board from taking action without full notice and to require Board action to be taken in public meetings, open to the public to attend, pursuant to § 24-6-402(9)(b);
- E. Award Plaintiffs their reasonable attorney fees and costs pursuant to § 24-6-402(9)(b), C.R.S.; and
- F. Grant such other and further relief as the Court deems just and proper.

VERIFICATION

I, Katharine Rosenthal, declare under penalty of perjury under the law of Colorado that I have read the foregoing Verified Complaint; that the allegations within my personal knowledge are true and correct; and that the remaining factual allegations are true and correct to the best of my knowledge, information, and belief based upon my review of the identified public records and proceedings.

Executed on September 30, 2026, at Boulder County, Colorado.

/s/ Katharine Rosenthal

Katharine Rosenthal

I, Evan Harvie, declare under penalty of perjury under the law of Colorado that I have read the foregoing Verified Complaint; that the allegations within my personal knowledge are true and correct; and that the remaining factual allegations are true and correct to the best of my knowledge, information, and belief based upon my review of the identified public records and proceedings.

Executed on September 30, 2026, at Boulder County, Colorado.

/s/ Evan Harvie

Evan Harvie

I, Theresa Schultz, declare under penalty of perjury under the law of Colorado that I have read the foregoing Verified Complaint; that the allegations within my personal knowledge are true and correct; and that the remaining factual allegations are true and correct to the best of my knowledge, information, and belief based upon my review of the identified public records and proceedings.

Executed on September 30, 2026, at Boulder County, Colorado.

/s/ Theresa Schultz

Theresa Schultz

Respectfully submitted this 30th day of September, 2026.

/s/Eric Maxfield

ERIC MAXFIELD, #29485

ERIC MAXFIELD LAW, LLC

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CERTIFICATE OF SERVICE

This is to certify that I have duly served this **VERIFIED OPEN MEETINGS LAW COMPLAINT** upon all parties herein by email, this 30th day of September, 2026:

Kristin C. Edgar

Caplan and Earnest LLC

kedgar@celaw.com

Attorney for Defendant Boulder Valley School District Board of Education

/s/ Eric Maxfield

