

Attorney: District violated FOI law

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HUNTSVILLE — The Huntsville School District erred when it failed to notify the press about a school board meeting in May that resulted in the expulsion of two students for sexual harassment, the school district's lawyer said in a filing in Madison County Circuit Court.

Because the meeting concerned disciplinary matters, "the Defendants were mistaken in believing that no notice was required," Charles L. Harwell,

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an attorney for the school district, wrote in Wednesday's filing.

The press wouldn't have been able to attend the May 3 disciplinary hearings because they were held in two executive sessions, according to Harwell.

"The discipline hearings were held in executive session pursuant to Ark. Code Ann. 6-18-507(d)(2)(A), during which the board of education discussed disciplinary sanctions to be imposed on students involved in a Title IX investigation which included sexual assaults that occurred while the students

were members of Huntsville Junior High boys' basketball team," wrote Harwell.

But notification that a meeting was going to take place is required under Arkansas Code Annotated 25-19-106(b)(2), according to the lawsuit, which was filed by Fort Smith attorney Joey McCutchen on behalf of Benjamin Rightsell of Witter.

Disciplinary matters can be discussed in executive session, but no decision made in executive session is legal unless the public body reconvenes and votes in public, according to state law.

The school board reconvened after the executive sessions and voted in public, wrote Harwell.

McCutchen filed the law-

suit on July 28, saying the Huntsville School District had violated the Arkansas Freedom of Information Act by failing to notify the press of the meeting and not recording it.

The public portions of the meetings were recorded, but the camera "has since automatically recorded over the meeting," according to Harwell's filing.

"The Defendants admit that they no longer have the recording as it was recorded over," wrote Harwell. "There are minutes from the meeting."

Two junior high school boys basketball players were expelled after administrators conducted an investigation into allegations of sexual ha-

arrassment among the players.

According to a "Title IX Sexual Harassment Determination of Responsibility" report completed after the internal investigation, the accused players had placed their "genitals in the faces" of several eighth- and ninth-grade boys who were being restrained by other boys in the locker room after games. The practice — called "baptism" and/or "bean dipping" — occurred several times during the basketball season, as well as the previous year, according to the report.

The two boys admitted to "baptizing" other players, according to the report. One of the accused boys said he was "baptized" when he was in the eighth grade by a boy

who is now on the senior high basketball team.

Other boys were cited in the report for helping restrain the victims while they were being "baptized." Because they are underage and students, none of the boys' names were used in the report.

On May 3, the school board met and upheld the punishment recommended by school administrators. After an appeal, the board met again on May 19 and reduced that punishment for both boys from a one-year expulsion to one semester, according to McCutchen's filing.

Rightsell and McCutchen want the court to declare that the school board violated the Freedom of Information Act

and that future meetings will be held in compliance with the act. They also requested attorney's fees and expenses.

The junior high boys basketball coach, Kaleb Houston, resigned on Aug. 2. In his resignation letter, Houston wrote that he was going to "pursue an opportunity of employment in real estate."

He was replaced by River Gosvener, who was the seventh-grade basketball coach.

Madison County Sheriff Rick Evans has said his department is conducting a criminal investigation into the allegations regarding the basketball players.

Evans couldn't be reached on Friday to confirm whether that investigation is still underway.