

JOHN KAVANAGH
1700 WEST WASHINGTON,
PHOENIX, ARIZONA 85007-2844
CAPITOL PHONE: (602) 926-5170
jkavanagh@azleg.gov



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Arizona State Senate

DISTRICT 3

September 10, 2024

Via Email

Arizona Attorney General Kris Mayes
Office of the Attorney General
2005 N. Central Ave.
Phoenix, AZ 85004
AGOpinionRequests@azag.gov

Re: Request for 1487 Investigation – Surprise, AZ

Dear Attorney General Mayes,

Recent public events have brought to light a policy of the Surprise City Council that prohibits members of the public from "lodg[ing] charges or complaints against any employee of the City or members of the body" during City Council meetings. The policy is found in the City of Surprise Policies & Procedures Manual.¹ Under the heading "Rules for the Public at Council Meetings," item 2(e) ("the Complaint Policy") reads in full as follows:

Oral communications during the City Council meeting may not be used to lodge charges or complaints against any employee of the City or members of the body, regardless of whether such person is identified in the presentation by name or by any other reference that tends to identify him/her. Any such charges or complaints should be submitted during normal business hours to the City Manager for appropriate action.

Pursuant to A.R.S. § 41-194.01, I ask you to investigate whether the Complaint Policy violates the Arizona Constitution or state law. Specifically, I ask whether the Complaint Policy violates (1) the Arizona Constitution's Freedom of Speech provision (Ariz. Const. art. 2 § 6) or (2) A.R.S. § 38-431.01(I), which states in part that "[a] public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body." (emphasis added). For your convenience, I have attached an opinion provided by Legislative Council analyzing whether the Complaint Policy violates A.R.S. § 38-431.01(I).

Per A.R.S. § 41-194.01, "[t]he attorney general shall make a written report of findings and conclusions as a result of the investigation within thirty days after receipt of the request." If I can be of further assistance, please contact my office.

Respectfully,

A handwritten signature in black ink, appearing to read "John Kavanagh".

Senator John Kavanagh, LD3

¹ <https://content.civicplus.com/api/assets/0ccec016-2ee3-445f-8006-12b00a4a7892>.