



AARON D. FORD
Attorney General

KYLE GEORGE
First Assistant Attorney General

CHRISTINE JONES BRADY
Second Assistant Attorney General

JESSICA L. ADAIR
Chief of Staff

RACHEL J. ANDERSON
General Counsel

HEIDI PARRY STERN
Solicitor General

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

3014 West Charleston Boulevard, Suite 150
Carson City, Nevada 89102

December 8, 2020

Via Certified Mail

Ernest Mackey
[REDACTED]
[REDACTED]

**Re: Open Meeting Law Complaint – Nye County School
District Board of Trustees, OAG File No. 13897-367**

Dear Mr. Mackey:

The Office of the Attorney General (OAG) is in receipt of your complaint (Complaint) alleging violations of the Nevada Open Meeting Law (OML) by the Nye County School District Board of Trustees (Board). This letter will address all allegations in this Complaint related to the OML.¹

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. Nevada Revised Statutes (NRS) 241.037; NRS 241.039; NRS 241.040. The OAG's investigation of the Complaint included a review of the Complaint and attachments, the Response from the Board's legal counsel and attachments, and interviews with witnesses listed in the Complaint.

FACTUAL BACKGROUND

The Board is the governing body of Nye County School District, is a "public body" as defined in NRS 241.015(4) and is subject to the OML.

The Complaint alleges that a meeting of more than a quorum of Board members and several Board staff occurred on February 19, 2020, at the Salvation Army Building in Pahrump, Nevada. The Complaint further alleges that this meeting was not noticed in accordance with the OML and was not open to the public. The Board denies that such a meeting occurred.

¹ To the extent that the Complaint makes allegations of unethical or improper conduct by individual Board Trustees outside of Board meetings, those allegations do not fall within the OML and will not be addressed in this opinion.

The Complaint did not list any evidence of the alleged private meeting, but did list three individuals with the Salvation Army as witnesses. The OAG was able to contact two of the three witnesses, both of whom stated that no meeting of the Board or members of the Board occurred on or around February 19, 2020 at the Salvation Army Building.

The Board held a public meeting on February 26, 2020 at its Southern District Office. The meeting was open to the public and Complainant attended and spoke during the first public comment period.

DISCUSSION AND LEGAL ANALYSIS

The legislative intent of the OML is that actions of public bodies “be taken openly, and that their deliberations be conducted openly.” NRS 241.010(1); *see also McKay v. Board of Supervisors*, 102 Nev. 644, 651, 730 P.2d 438, 443 (1986) (“the spirit and policy behind NRS chapter 241 favors open meetings”). Public bodies working on behalf of Nevada citizens must conform to statutory requirements in open meetings under an agenda that provides full notice and disclosure of discussion topics and any possible action. NRS 241.020(3)(d); *Sandoval v. Board of Regents*, 119 Nev. 148, 67 P.3d 902 (2003).

The OAG does not possess any evidence that a meeting of the Board occurred on or around February 19, 2020 at the Salvation Army Building. The OAG does not possess any evidence that the February 26, 2020 meeting at the Board’s Southern District Office was closed to the public. Thus, the OAG does not find a violation of the OML.

CONCLUSION

Upon review of the Complaint and available evidence the OAG does not find a violation of the OML. The OAG will close the file regarding this matter.

Sincerely,

AARON D. FORD
Attorney General

/s/ Rosalie Bordelove
ROSALIE BORDELOVE
Chief Deputy Attorney General

cc: Paul J. Anderson, Esq., counsel to Nye County School District Board of Trustees

Ernest Mackey
Page 3
December 8, 2020

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of December, 2020, I served the foregoing by depositing a copy of the same in the United States mail, properly addressed, postage prepaid, CERTIFIED MAIL addressed as follows:

Ernest Mackey
[REDACTED]
[REDACTED]

Certified Mail No.: [REDACTED] _____

Paul J. Anderson, Esq.
Maupin, Cox & LeGoy
4785 Coughlin Parkway
Reno, Nevada 89519

Certified Mail No.: _____ **7020 0640 0000 7651 9890** _____

/s/ Debra Turman
An employee of the Office of the
Nevada Attorney General