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June 26, 2018

**Via First Class Mail**

**Re: Open Meeting Law Complaint, O.A.G. File No. 13897-272  
Nevada Department of Education**

Dear Complainants:

The Office of the Attorney General (OAG) has received 98 complaints regarding potential violations of the Open Meeting Law (OML) by the Nevada Department of Education (NDE). The Complaints allege that the NDE violated the OML by scheduling its March 30, 2018, regulation hearing on a date and at a time when much of the interested public would not be able to attend and by holding the meeting in a location that was not large enough.

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040. In response to the Complaints, the OAG reviewed the Complaints and attachments, the agenda and audio recording for the March 30, 2018, meeting, and the response to the Complaints from the Nevada Department of Education.

After investigating this matter, the OAG determines that the NDE did not violate the OML by holding its regulation hearing on March 30, 2018 in the three venues described in the facts that follow.

**FACTUAL BACKGROUND**

The NDE is a "public body" as defined in NRS 241.015(4), subject to the OML.

The NDE scheduled a public hearing for Friday, March 30, 2018, (Meeting) to consider and possibly adopt amendments to NAC Chapter 388

regarding a gender diversity policy for use by all school districts, public schools, and charter schools. The Meeting was scheduled for 11:00 a.m. at three locations, video conferenced together. The locations included NDE Board rooms in Carson City and Las Vegas and the auditorium of Silverado High School in Las Vegas.

March 30, 2018, fell on Good Friday, a religious holiday, and was during the spring break vacation for some school districts in Nevada, including the Clark County and Washoe County School Districts. March 30, 2018, was not a Nevada public holiday as established by the Nevada Legislature in NRS 236.015(1).

At the time of the Meeting, more people attended at the Las Vegas board room location than the location could accommodate and those individuals were directed to the Silverado High School location. The chair of the Meeting delayed start of the Meeting to allow individuals to travel from the NDE Las Vegas board room to the Silverado High School location. The OAG did not receive evidence that any individuals were prevented from attending the Meeting due to the size of the venues chosen. Over 4 hours of public comment was received from individuals at all three locations.

### DISCUSSION AND LEGAL ANALYSIS

The Nevada Legislature intends that the actions of public bodies “be taken openly and that their deliberations be conducted openly.” NRS 241.010(1); *see McKay v. Bd. Of Supervisors*, 102 Nev. 644, 651 (1986). The OML includes no prohibitions regarding dates and times for holding public meetings. As a result, the NDE did not violate the OML by scheduling the Meeting on Friday, March 30, 2018, at 11:00 a.m.

The spirit and policy behind the OML favors open meetings. *McKay* at 651. The OML should be liberally construed and broadly interpreted to promote openness in government. *Dewey v. Redevelopment Agency of City of Reno*, 119 Nev. 87, 94 (2003). Public meetings should be held in facilities that are reasonably large enough to accommodate anticipated attendance by members of the public in order to comply with the spirit and policy behind the OML. The NDE provided three locations where the public could attend, listen,

and make public comment to the NDE during the Meeting. The OAG has not received evidence that any member of the public was prevented from attending or participating in the Meeting due to the venues chosen. Thus, the NDE did not violate the OML by holding the Meeting in the three venues chosen.

**CONCLUSION**

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Bordelove', written over a horizontal line.

Rosalie Bordelove  
Deputy Attorney General

cc: Gregory Ott, Esq., counsel to Nevada Department of Education