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555 E. Washington Ave. Suite 3900
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January 16, 2024

Via U.S Mail and Email

Joe McFadden



**Re: Open Meeting Law Complaint, OAG File No. 13897-460
Churchill County School District Board of Trustees**

Dear Mr. McFadden:

The Office of the Attorney General (“OAG”) is in receipt of your complaint (“Complaint”) alleging violations of the Open Meeting Law (“OML”) by the Churchill County School District Board of Trustees (“Board”) regarding the Board’s June 13, 2022, meeting.

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. The OAG’s investigation of the Complaint included a review of the Complaint; the Response on behalf of the Board; and the agenda and minutes for the Board’s June 13, 2022, meeting. After investigating the Complaint, the OAG determines that the Board did not violate the OML as alleged in the Complaint.

FACTUAL BACKGROUND

The Board held a public meeting on June 13, 2022. On the same date, the Board President’s personal social media count posted a comment that stated it was against the law for a Board member to respond to public comment. During the June 13 meeting, the Superintendent of the School District stated that during public comment the Board does not respond but offered to reach out to a commenter outside of the meeting regarding their comments.

The Complaint alleges that the Board violated the OML by informing the public that it cannot comment or engage with them during public comment periods.

LEGAL ANALYSIS

The Churchill County School District Board of Trustees, created under the provisions of NRS Chapter 386, is a public body as defined in NRS 241.015(4) and is subject to the OML.

The OML requires public bodies to include in their meetings “[p]eriods devoted to comments by the general public, if any, and discussion of those comments.” NRS 241.020(3)(d)(3). The OAG has previously opined that informing the public, as part of the body’s public comment admonitions, that the body is legally prohibited from discussing comments with the public is a violation of the OML. *In re Clark County School District Board of Trustees*, OMLO 2010-07 at 8-9 (Oct. 19, 2010), available at https://ag.nv.gov/uploadedFiles/agnv.gov/Content/About/Governmental_Affairs/2010_OML_Opinions.pdf (beginning on p60).

Here, the statement that the Board was legally prohibited from discussing comments with the public occurred as a comment on a social media platform and not during the meeting. The Board has indicated that its members have since received further training on the OML and its provisions. Because it did not occur during the meeting, the OAG does not find a violation of the OML with respect to the social media statement but cautions the Board to ensure its members are aware of the OML’s permission for discussion when forming their statements to the public.

The statement by the Superintendent was made during a public comment period at the meeting. However, the Superintendent did not state that the Board was legally prohibited from discussing public comments, only that it chose not to. In its response, the Board asserted that the Superintendent was simply stating Board policy. The OAG discourages such policies as they run afoul of the intent of the law, but bodies are not required to discuss public comment. *Id.* at 10-11 (“the Legislature stopped short of mandating discussion or even requiring a standing informational statement on all agendas alerting the public that public body members were able to discuss matter with them”). As such, the OAG does not find a violation of the OML with respect to the Superintendent’s statement.

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CONCLUSION

Upon review of your Complaint and available evidence, the OAG has determined that no violation of the OML has occurred. The OAG will close its file regarding this matter.

Sincerely,

AARON D. FORD
Attorney General

By: /s/ Rosalie Bordelove
ROSALIE BORDELOVE
Chief Deputy Attorney General

cc: Sharla Hales, Esq.
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