



STATE OF NEVADA  
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April 26, 2016

**Via First Class Mail**

Alma L. Guzman  
205 East Third Street  
Battle Mountain, Nevada 89820

and

David A. Marz  
690 Walnut Ct.  
Battle Mountain, Nevada 89820

Re: Open Meeting Law Complaint, A.G. File No. 13897-165  
Board of Trustees for the Lander County School District

Dear Ms. Guzman and Mr. Marz:

Alma Guzman (Ms. Guzman) and David Marz (Mr. Marz), both residents of Lander County, attended the Lander County Board of Trustees School Board (Board) public meeting on September 2, 2015. Both individuals filed separate Open Meeting Law (OML) complaints.<sup>1</sup>

Mr. Marz alleged the Board illegally limited public comment when Anna Penola, Board President moved agenda *Informational Item #1* regarding the Battle Mountain High School (BMHS) air conditioning issues into the agenda's first period of public comment. Public comment was closed after several speakers who had filled out public

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<sup>1</sup> We combined the investigation of these two complaints for purposes of this letter.

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comment cards were heard. Ms. Guzman spoke during this period of public comment—she had submitted a speaker card. Her complaint generally alleged that the Board does not let the public speak when time is short; she did not specify a violation on another date.

Agenda Item D. *Information Items* listed four matters for discussion. The first matter Item D. #1 reprised the earlier discussion with the public of the BMHS air conditioning issues. Even though the agenda notes that this period was limited to 20 minutes, members of the public were allowed to speak once again.

Mr. Marz made a public comment, although he did not make any statement during the initial public comment period. The Board heard public comment for 40 minutes. No one was prevented from speaking. President Anna Penola, in a statement submitted to the Office of the Attorney General (OAG) said she, “allowed everyone to speak even though allotted time was expired.”

Mr. Marz did not fill out a public comment card for the first period of public comment, but Trustee Mark Lake, who also submitted a statement to the OAG, recalls Mr. Marz spoke during the *Informational Items* comment period on the BMHS air conditioning issue. One person spoke at the end of the meeting before adjournment; the speaker was not Mr. Marz or Ms. Guzman.

The Attorney General has jurisdiction to investigate allegations of violations of Nevada Revised Statute (NRS) Chapter 241, the Open Meeting Law. NRS 241.037; NRS 241.040.

### **ANALYSIS**

We have considered Ms. Guzman and Mr. Marz’s complaint in this analysis. Mr. Marz alleged that the Board illegally limited public comment when the Board President moved an agenda item into the agenda’s first period of public comment. The BMHS air conditioning issue consumed that public comment period. The Board fielded questions from an irate public about the failure of the BMHS air conditioning system. The Board only had time to answer inquiries from parents of children in the school.

Both complaints alleged the first period of public comment, with only eight persons signed in to speak, was artificially limited. It is also alleged the public members preparing to speak were not allowed to speak on the *Information Items* segment because the subject was officially closed to further discussion. But there is no evidence to support this allegation in the audio recording, nor was the public led to believe there

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would be no other public comment later in the agenda. The meeting agenda had an item for a second period of public comment. The public could have engaged the Board once again before adjournment.

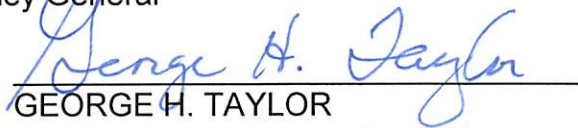
The audio evidence and statements from the Board members confirmed the President's statement that no one who wished to comment on the air conditioning issue was prevented from speaking. Consequently, the Board gave the public a fair hearing on the BMHS air conditioning issue. Everyone who wished to comment was allowed to speak, including Ms. Guzman and Mr. Marz. Therefore, no open meeting violation occurred during this meeting.

We are closing our file on this matter

Sincerely,

ADAM PAUL LAXALT  
Attorney General

By:

  
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Senior Deputy Attorney General  
Bureau of Government Affairs  
Boards and Open Government Division  
Open Meeting Law

Cc: Anna Penola, Board President  
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