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January 27, 2017

via U.S. Mail

Susan L. Lacey
Douglas County Professional Education Association
1281 Bodie Court
Gardnerville, NV 89460

Re: Open Meeting Law Complaint, O.A.G. File No. 13897-215
Douglas County School District Board of Trustees

Dear Ms. Lacey:

The Office of the Attorney General (OAG) is in receipt of your complaint alleging a violation of the Open Meeting Law (OML) by the Douglas County School District Board of Trustees (Board) at a public meeting held on November 15, 2016. The substance of the complaint concerns whether sufficient notice was provided for the discussion and action taken under agenda item no. 12 to make revisions to the District's Self-Insured Health Insurance Plan.

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 complaint, the OAG reviewed the public notice, agenda and supporting material, written minutes and audio recording of the meeting, together with a response to the complaint from Mike Malloy, Esq., legal counsel for the Board.

FACTUAL BACKGROUND

The Board is created pursuant to NRS Chapter 386, and is a “public body” as defined in NRS 241.015(4), subject to the OML. Agenda item no. 12 for the Board’s November 15, 2016 meeting was identified “for possible action” and read as follows:

DCSD Self-Insured Health Insurance Plan – Proposed Revisions
to Plan for Calendar Year 2016
(Discussion and For Possible Action)

The Board will be provided with information about the Health Insurance plan and discuss any recommendations made by the Health Insurance Advisory Committee for changes to the plan coverage in the upcoming year.

RECOMMENDATION: It is recommended that the Board consider all recommendations and make any changes necessary to assure that the plan and its benefits are sound moving into the next plan year.

The supporting material for agenda item no. 12 included recommendations from the Health Insurance Advisory Committee and recommendations from District staff. At the meeting, the Health Insurance Advisory Committee recommendations were presented by Keith Lewis, the District’s Director of Human Resources and Mike Ashton, Douglas County Professional Education Association representative on the Committee. Staff recommendations were presented by the District’s Chief Financial Officer, Holly Luna. In the course of deliberating and taking action under agenda item no. 12, the Board voted on eight separate motions with extensive discussion and public comment, and passed four motions enacting revisions to the Self-Insured Health Insurance Plan.

DISCUSSION AND LEGAL ANALYSIS

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. *Sandoval v. Board of Regents*, 119 Nev. 148, 67 P.3d 902 (2003). NRS 241.020(2) requires a public body to post notice of any meeting together with an agenda consisting of a “clear and complete statement of the topics scheduled to be considered during the meeting.” In *Sandoval*, the Nevada Supreme Court interpreted the “clear and complete” requirement to mean that it must provide the public with “clear notice of the topics to be discussed at public meetings, so that the public can attend a meeting when an issue of interest will be discussed.” *Sandoval*, 119 Nev. at 154-55, 67 P.3d at 906. Additionally, the Court noted that “[a] higher degree of specificity is needed when the subject to be debated is of special or significant interest to the public.” *Id.*

Agenda item no. 12 is clear and complete on its face. The agenda item complied with the statutory mandate to provide the public clear notice that the Board would deliberate and potentially take action to make revisions to the District’s Self-Insured Health Insurance Plan. The complaint asserts that agenda item no. 12 did not specify that the Board might consider and act upon recommendations from the District’s Chief Financial Officer. However, a plain reading of the agenda item establishes that the Board, in the course of deliberation, might take into account recommendations from District staff and take action based upon those recommendations.

Susan L. Lacey, DCPEA
January 27, 2017
Page 4

CONCLUSION

The Board was permitted to deliberate and take action on recommendations from the District's Chief Financial Officer when making revisions to the District's Self-Insured Health Insurance Plan under agenda item no. 12. Agenda item no. 12 presented a clear and complete statement of the topic to be considered and the potential action to be taken, in compliance with NRS 241.020(2)(d)(1) and (2). No violation of NRS 241.020 occurred; the OAG will be closing its file on this matter.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By: 

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Chief Deputy Attorney General
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WBK/klr

cc: Michael E. Malloy, Esq.