

Attorney General's Office
100 N. Carson Street
Carson City, Nevada 89701-4717

1 Upon any request, a public body shall provide, at no charge, at
2 least one copy of:

- 3 (a) An agenda for a public meeting;
- 4 (b) A proposed ordinance or regulation which will be
discussed at the public meeting; and
- 5 (c) Subject to the provisions of subsection 7 or 8, as
applicable, any other supporting material provided to the
members of the public body for an item on the agenda,
except materials:

- 6 (1) Submitted to the public body pursuant to a
nondisclosure or confidentiality agreement which relates
to proprietary information;
- 7 (2) Pertaining to the closed portion of such a meeting of
the public body; or
- 8 (3) Declared confidential by law, unless otherwise agreed
to by each person whose interest is being protected under
the order of confidentiality.

9 The public body shall make *at least* one copy of the documents
10 described in paragraphs (a), (b) and (c) available to the public at
the meeting to which the documents pertain. As used in this
11 subsection, "proprietary information" has the meaning ascribed
to it in NRS 332.025. [Emphasis supplied.]

12 NRS 241.020(7) further states:

13 7. A copy of supporting material required to be provided upon
request pursuant to paragraph (c) of subsection 6 must be:

- 14 (a) If the supporting material is provided to the members of
the public body before the meeting, made available to the
15 requester at the time the material is provided to the
members of the public body; or
- 16 (b) If the supporting material is provided to the members of
the public body at the meeting, made available at the
17 meeting to the requester at the same time the material is
provided to the members of the public body.

18 "As a minimum, [public bodies] must make agenda supporting material
19 immediately available for pick up at the counter at the time it is sent out to the Board
20 members, and copies should also be made available at the meeting." OMLO 98-01
21 (January 21, 1998).

22 NRS 241.020(2)(d)(3) requires that meetings include periods devoted to public
23 comment, which at a minimum must be taken at the beginning and again before the
24 adjournment of the meeting; or, alternatively, after each item on the agenda on which
25 action may be taken is discussed, but before any is taken on the item.

26 **FINDINGS OF FACT**

- 27 1. The Board was created by NRS 641B.100.
- 28 2. The Board is a "public body" as defined in NRS 241.015(4), and is subject to

1 the OML.

2 3. The Board's October 21, 2016, meeting was held in the office complex where
3 the Board's offices are located, at 4600 Kietzke Lane in Reno, Nevada.

4 4. The supporting material for the Board's October 21, 2016, meeting was not
5 available to the public prior to the date of the meeting.

6 5. Only one copy of the supporting material was made available to the public at
7 the Board's October 21, 2016, meeting.

8 6. The Complainant, a member of the public, requested a copy of the supporting
9 material on October 21, 2016, in advance of the start of the Board meeting, and was told
10 by the Board's Executive Director, Kim Frakes, that the only public copy had already
11 been provided to another member of the public, but that the Complainant could share a
12 Board member's copy of the supporting material.

13 7. The agenda for the Board's October 21, 2016, meeting reflects periods
14 devoted to public comment at the beginning under agenda item no. 2, and again before
15 the adjournment of the meeting under agenda item no. 10.

16 8. The audio recording of the October 21, 2016, meeting establishes that the
17 Board President invited public comment at the beginning of the meeting under agenda
18 item no. 2 and again before adjournment of the meeting under agenda item 10.

19 CONCLUSIONS OF LAW

20 1. The Board violated NRS 241.020(6)(c) and NRS 241.020(7) by not providing
21 the supporting material for the Board's October 21, 2016, meeting to Complainant upon
22 request.

23 2. NRS 241.020(6)(c) sets forth a minimum requirement that "at least" one copy
24 of the supporting material be made available to the public at a meeting; the responsibility
25 of a public body to provide additional copies if requested by members of the public at a
26 meeting turns upon 1) the extent to which the supporting material was made available
27 prior to the meeting, 2) the extent to which it was foreseeable that members of the public
28

1 would request supporting material at the meeting, and 3) the extent to which providing
2 additional copies will disrupt the meeting.

3 3. The supporting material was not made available to the public prior to the
4 October 21, 2016, meeting. Therefore, the only opportunity for the public to obtain a copy
5 of the supporting material was at the meeting.

6 4. Because the supporting material was not made available to the public prior
7 to the October 21, 2016, meeting, it was foreseeable that members of the public would
8 request supporting material at the meeting.

9 5. Even if the supporting material had been made available to the public prior
10 to the meeting, the Board's denial of the Complainant's request would have been a
11 violation under the circumstances, because there is no evidence that providing the
12 Complainant a copy of the supporting material would have unreasonably disrupted the
13 meeting.¹ The Complainant's request necessitated making only one additional copy of the
14 supporting material, and the meeting was being held in the same office complex where
15 the Board's offices are located, where a copier was presumably available.

16 6. The Board complied with NRS 241.020(2)(d)(3)(I) by taking public comment
17 at the beginning and again before the adjournment of the October 21, 2016, meeting.

18 SUMMARY

19 Because the OAG finds that the Board has committed a violation of the OML, the
20 Board must place on its next meeting agenda these Findings of Fact and Conclusions of
21 Law and include them in the supporting material for the meeting. The agenda item must
22 acknowledge these Findings of Fact and Conclusions of Law to be the result of the OAG
23

24 ¹ In OMLO 2000-36 (October 3, 2000), the OAG opined:

25 To mitigate the potential for unreasonable disruption of a meeting, it is the position
26 of this office that if supporting material is made available at the time the agenda
27 must be posted for the upcoming meeting, a public body can satisfy the Open
28 Meeting Law requirement of providing the supporting materials "upon any request"
by having one "public" copy of the supporting materials available for review at the
meeting.

To the extent OMLO 2000-36 conflicts with this opinion, OMLO 2000-36 is overruled.


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investigation in the matter of Attorney General File No. General File No. 13897-212, and that they have been placed on the agenda as a requirement of NRS 241.0395.

DATED this 6th day of January, 2017.

ADAM PAUL LAXALT
Attorney General

By: 
PETER K. KEEGAN
Deputy Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
Telephone: (775) 684-1153
Email: PKeeagan@ag.nv.gov

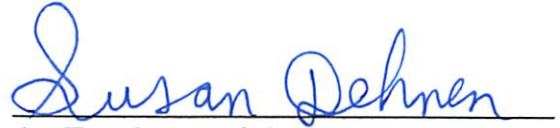
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CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 6th day of January, 2017, I served a copy of the *FINDINGS OF FACT AND CONCLUSIONS OF LAW* by depositing for mailing at Carson City, Nevada, a true and correct copy in U.S. First Class Mail, postage prepaid, addressed as follows:

Ms. Joelle H. Gutman
250 Gramercy Lane
Reno, Nevada 89509

State of Nevada Board of
Examiners for Social Workers
Kim Frakes, Executive Director
4600 Kietzke Lane – C121
Reno, Nevada 89502


An Employee of the State of Nevada
Office of the Attorney General

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