

1 “clear and complete” requirement to mean that it must provide the public with “clear notice
2 of the topics to be discussed at public meetings, so that the public can attend a meeting
3 when an issue of interest will be discussed.” *Sandoval*, 119 Nev. at 155, 67 P.3d at 906.
4 The Court rejected a so-called “germane standard” because it was too lenient and allowed
5 a public body to stray from its agenda. *Id.* at 154, 67 P.3d at 905. NRS 241.033(1) prohibits
6 a public body from holding a meeting to consider the character, alleged misconduct,
7 professional competence, or physical or mental health of any person unless it provided
8 written notice to the person of the time and place of the meeting and received proof of
9 service of that notice.

10 The term “public body” includes any “administrative, advisory, executive or
11 legislative body of the State or a local government which expends or disburses or is
12 supported in whole or in part by tax revenue” NRS 241.015(4)(a).

13 SUMMARY OF ALLEGATION

14 The Complaint alleges the CoOp did not comply with the OML in that the CoOp
15 failed to notify Complainant it would consider the character, misconduct, and/or
16 professional competence of Complainant at its October 12-13, 2017, meeting.

17 FINDINGS OF FACT

18 1. The CoOp is a network of libraries formed pursuant to NRS Chapter 379 to
19 provide services beyond the jurisdiction of any single library. The membership of the CoOp
20 includes the Nevada State Library, Archives and Public Records and a number of public
21 libraries.

22 2. The CoOp is a “public body” as defined in NRS 241.015(4) and is subject to the
23 OML.

24 3. The CoOp included the following item on its October 12-13, 2017, agenda:
25 **“POSSIBLE ACTION ITEM: Discussion and Possible Action of current and**
26 **ongoing expectations of CoOp Coordinator.”** (Emphasis in original).

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1 4. The current CoOp Coordinator and Complainant herein is Amanda Williams.

2 5. The Board has supervision, control, jurisdiction and/or advisory power with
3 regard to Complainant, her duties, and how well she performs those duties.

4 6. Complainant did not receive notice pursuant to NRS 241.033 with regard to
5 the CoOp meeting held October 12-13, 2017.

6 7. Jeffrey Kintop is the Division Administrator for the Nevada State Library,
7 Archives and Public Records and is Complainant's supervisor. Mr. Kintop is also a member
8 of the CoOp.

9 8. During the aforementioned agenda item, the CoOp discussed a number of
10 topics specific to Complainant. Some of these topics included:

11 a. The propriety of Complainant's use of travel for CoOp purposes to offset
12 personal travel costs;

13 b. Complainant's absence from a number of CoOp meetings;

14 c. Complainant's failure to prepare for meetings;

15 d. The ability of Mr. Kintop to have the comments made during the
16 meeting impact Complainant's evaluation, to perform interim evaluations of Complainant,
17 to issue letters of instruction to Complainant, and to receive individual comments outside
18 of a public meeting concerning Complainant's performance;

19 e. CoOp member responses to a survey concerning Complainant, and
20 Complainant's failure to re-submit the survey to various members of the CoOp; and

21 f. Complainant's failure to meet expectations.

22 9. During the meeting of October 12-13, 2017, one CoOp member stated she
23 wished Complainant was present to respond to some of the aforementioned topics.

24 10. Mr. Kintopp commented at one point during the discussion of the
25 aforementioned agenda item that the CoOp should remember to discuss the position and
26 not the person. Mr. Kintopp followed up this comment with a statement that the CoOp
27 members should, in the interest of the OML, individually send him complaints outside of a
28 meeting.

1 11. The CoOp spent in excess of 40 minutes discussing the aforementioned agenda
2 item with much of the discussion specific to Complainant.

3 **LEGAL STANDARDS AND CONCLUSIONS OF LAW**

4 “A public body shall not hold a meeting to consider the character, alleged
5 misconduct, professional competence... of any person... unless it has: (a) Given written
6 notice to that person of the time and place of the meeting; and (b) Received proof of service
7 of the notice.” NRS 463.033(1). Character includes “one’s general reputation. It also might
8 include such personal traits as honesty, loyalty, integrity, reliability, and such other
9 characteristics, good or bad, which make up one’s individual personality.” NEVADA OPEN
10 MEETING LAW MANUAL §8.04 (12th ed. 2016). Competence includes “being duly qualified;
11 answering all requirements; having sufficient ability or authority; possessing the natural
12 or legal qualifications; able; adequate; suitable; sufficient; capable; legally fit.” *Id.* at §8.04
13 (quoting Op. Nev. Att’y Gen. No. 81-A). Misconduct is “A dereliction of duty; unlawful or
14 improper behavior.” BLACK’S LAW DICTIONARY 1013 (7th ed. 1999).

15 The Complaint alleges that the CoOp discussed Complainant’s character,
16 misconduct, and/or professional competence without being noticed pursuant to NRS
17 241.033 and, thus, violated the OML. The CoOp at its meeting of October 12-13, 2017,
18 discussed the propriety of Complainant’s use of travel, Complainant’s absence from
19 meetings, Complainant’s failure to prepare, and Complainant’s failure to meet
20 expectations. In addition, the CoOp discussed its ability to impact certain personnel
21 actions with regard to Complainant. These discussions, without question, concern the
22 character, professional competence, and misconduct of Complainant.

23 As these discussions took place at a meeting of the CoOp and without notice to
24 Complainant pursuant to NRS 241.033, the CoOp violated NRS 241.033.

25 **SUMMARY AND INCLUSION OF AGENDA ITEM**

26 If the Attorney General investigates a potential OML violation and makes findings
27 of fact and conclusions of law that a public body has taken action in violation of the OML,
28 “the public body must include an item on the next agenda posted for a meeting of the public

1 body which acknowledges the findings of fact and conclusions of law.” NRS 241.0395. The
2 public body must treat the opinion of the Attorney General as supporting material for the
3 agenda item in question for the purpose of NRS 241.020. *Id.*

4 Here, upon investigating the present Complaint, the OAG makes findings of fact and
5 conclusions of law that the CoOp committed violations of the OML by failing to properly
6 notice Complainant of the hearing to discuss her character, professional competence, and
7 misconduct. Therefore, the CoOp must place on its next meeting agenda these Findings of
8 Fact and Conclusions of Law and include them in the supporting material for the meeting.
9 The agenda item must acknowledge these Findings of Fact and Conclusions of Law to be
10 the result of the OAG investigation in the matter of Attorney General File No. 13897-252,
11 and that it has been placed there as a requirement of NRS 241.0395.

12 Furthermore, the OAG strongly recommends that the Board members and staff
13 receive training in the OML. The OAG is available to provide OML training upon request.

14 DATED this 4th day of January, 2018.

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