



STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL  
100 North Carson Street  
Carson City, Nevada 89701-4717

ADAM PAUL LAXALT  
*Attorney General*

WESLEY K. DUNCAN  
*Assistant Attorney General*

NICHOLAS A. TRUTANICH  
*Chief of Staff*

December 14, 2015

**Via First Class Mail**

Troy E. Driver  
612 Holiday Drive  
Elko, Nevada 89801

Re: Open Meeting Law complaints AG File No's 13897-148 and 149

Dear Ms. Olmstead;

This opinion reviews two Open Meeting Law (OML) complaints that allege the Trustees for the Elko Institute for Academic Achievement (EIAA), a public school, violated the OML on several occasions and at different public meetings.

The Office of the Attorney General has jurisdiction to investigate Open Meeting Law complaints, issue findings of fact and conclusions of law in an opinion or sue a public body to void action, sue for injunctive relief, and for other civil remedies including monetary fines. NRS 241.037 and NRS 241.040.

In preparation for this letter, we reviewed agendas, minutes and statements from school employees. Counsel for EIAA submitted a detailed response to each of the allegations in both complaints.

**ALLEGATIONS**

Allegations of OML violations from the April 16, 2015 public Trustee meeting are that: (1) Trustees notice of meeting was inadequate due to late emailing of agenda in accordance with NRS 241.020(3)(c); (2) Trustees improperly closed a meeting to

deliberate over the qualifications of potential members of the Board; (3) Trustees conducted an improper closed meeting concerning EIAA's Administrator—Connie Zeller. Mr. Driver's second complaint (A.G. File No. 13897-149) alleges that Trustees failed to properly post the agenda for the May 20, 2015 public meeting.<sup>1</sup>

### **ANALYSIS AND CONCLUSION**

EIAA decided to take corrective action upon each alleged violation as a matter of right and within the time required by statute in cooperation with the guidance of its counsel. We agree that EIAA has completed its review of the alleged violations and with the guidance of its counsel has successfully "cured" its entanglement with the OML as alleged in the complaints. NRS 241.0365<sup>2</sup>

EIAA acknowledged its need to review the OML, so that notice of meetings, agendas, and the posting requirements are corrected (NRS 241.020). Furthermore EIAA admitted that it needed to improve its description of agenda items so that the public understands items that are written in a clear and complete manner; EIAA further

---

<sup>1</sup> Both complaints allege additional violations based on facts which are characterized as "flagrant violations" but which upon our review does not state a claim within the meaning of the OML. Our review and discussion is based on facts which constitute an OML violation; however, we have omitted discussion of facts not pertinent to our investigation.

<sup>2</sup> **NRS 241.0365 Action taken by public body to correct violation of chapter; timeliness of corrective action; effect.**

1. Except as otherwise provided in subsection 4, if a public body, after providing the notice described in subsection 2, takes action in conformity with this chapter to correct an alleged violation of this chapter within 30 days after the alleged violation, the Attorney General may decide not to commence prosecution of the alleged violation if the Attorney General determines foregoing prosecution would be in the best interests of the public.

2. Except as otherwise provided in subsection 4, before taking any action to correct an alleged violation of this chapter, the public body must include an item on the agenda posted for the meeting at which the public body intends to take the corrective action in conformity with this chapter. The inclusion of an item on the agenda for a meeting of a public body pursuant to this subsection is not an admission of wrongdoing for the purposes of civil action, criminal prosecution or injunctive relief.

3. For purposes of subsection 1, the period of limitations set forth in subsection 3 of NRS 241.037 by which the Attorney General may bring suit is tolled for 30 days.

4. The provisions of this section do not prohibit a public body from taking action in conformity with this chapter to correct an alleged violation of the provisions of this chapter before the adjournment of the meeting at which the alleged violation occurs.

5. Any action taken by a public body to correct an alleged violation of this chapter by the public body is effective prospectively.

(Added to NRS by 2013, 727);

understands what can and can't be acted upon, based on the language of the agenda item.

EIAA affirms its intent to follow the OML including NRS 241.030 (closed session parameters), the identification of action items, handling public comment, the naming of persons where necessary, providing additional notices, and the requirement of proper preparation of minutes (NRS 241.035).


As evidence of its intent to take immediate corrective action, EIAA submitted to this office its Notice of Regular Board Meeting Agenda for June 18, 2015, in which each item from prior meetings for which corrective action were necessary are set forth.<sup>3</sup> Each agenda item calling for corrective action explains to the public that corrective action is necessary, and the reason(s) for the corrective action.

The Attorney General's Office is confident EIAA has corrected its violations in accordance with the law. Corrective action is a matter of right for public bodies under NRS 241.0365. Our review of the proposed agenda for June 18, 2015 indicates that future agendas will follow the OML.

Sincerely,

ADAM PAUL LAXALT  
Attorney General

By:

  
GEORGE TAYLOR  
Senior Deputy Attorney General  
Open Meeting Law Deputy  
(775) 684-1230

CC: Leslie Olmstead, President  
Board Members  
Lauren Landa, Esq.  
530 Idaho Street  
Elko, Nev. 89801

---

<sup>3</sup> The agenda is set forth herein in full as an attachment.