



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 17, 2015

Alexander Jones  
539 Scenic Terra Drive  
Henderson, Nevada 89015

Re: Open Meeting Law Complaint, A.G. File No. 13897-170  
Nevada Deferred Compensation Committee

Dear Mr. Jones:

This letter provides the results of the Attorney General's Office (AGO) investigation and review of the Open Meeting Law (OML) complaint filed in this office alleging the Nevada Deferred Compensation Committee (NDCC) failed to post minutes and audio recordings from its August 13, 2015 within 30 working days as required by NRS 241.035. NDCC responded to the complaint with an explanation that technical problems causing an unresolvable problem prevented it from "producing the minutes" of the August 13, 2015 meeting. We were also informed that these minutes have been posted on NDCC website, but that the audio from the meeting has been lost.

Another issue raised in the complaint is the minutes from the September 13, 2015 meeting; they are indeed from the correct meeting and were not posted in error. Agendas and minutes from both meetings were provided to this office.

Minutes of the August 13, 2015 meeting were published later. Correspondence to this office dated October 18, 2015 acknowledges you reviewed minutes of this meeting that had been recently posted. You state that the meeting minutes appear to be heavily edited and that key parts of the meeting were omitted; however, explanation for these allegations were not provided.

Please note that minutes do not need to be verbatim, they need only to include the substance of all matters discussed or decided.<sup>1</sup>

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<sup>1</sup> **NRS 241.035 Public meetings: Minutes; aural and visual reproduction; transcripts.**

1. Each public body shall keep written minutes of each of its meetings, including:  
(a) The date, time and place of the meeting.

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The OML excuses a public body's failure to post minutes within 30 days if the public body has made a good faith effort to comply with the OML.<sup>2</sup> We believe that NDCC made a good faith effort to produce minutes and an audio recording, but technical problems prevented them from compliance.

We find that technical problems prevented timely compliance with NRS 241.035. The Minutes were posted as of October 15, 2015 according to recent correspondence from you.

There was no OML violation based on the allegations in your complaint, but we encourage the NDCC to make contingency plans for producing minutes and recordings of its public meetings.

Sincerely,  
ADAM PAUL LAXALT  
Attorney General

By:   
GEORGE H. TAYLOR  
Senior Deputy Attorney General  
Bureau of Government Affairs

Cc: Shane Chesney, Senior DAG  
Robert Boehmer, NDC, Executive Director  
Karen Oliver, Chairman  
Mark Stevens  
Scott Sisco  
Steven Woodbury

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(b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.

(e) Any other information which any member of the public body requests to be included or reflected in the minutes.

<sup>2</sup> **NRS 241.035 Public meetings: Minutes; aural and visual reproduction; transcripts.**

7. If a public body makes a good faith effort to comply with the provisions of subsections 4 and 6 but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter.

(Added to NRS by 1977, 1099; A 1989, 571; 1993, 449, 2638; 2005, 978, 1404; 2013, 323, 733)