



STATE OF NEVADA  
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April 15, 2014

**Via First Class Mail**

Gary Schmidt  
9000 Mt Rose Highway  
Reno, Nevada 89511

Re: Open Meeting Law Complaint, A.G. File No. 14-010  
Nevada State Board of Education

Dear Mr. Schmidt:

We have reviewed three open meeting law claims filed with our office concerning the State Board of Education's (Board) public meeting on January 30, 2014. Following our investigation of the allegations in the complaint, we did not find any wrong doing by the Board under any of the three alleged violations.

**FACTS**

**First Claim** alleges the Board's Chairperson, Elaine Wynn (Chairperson) violated the OML when she prohibited Ms. Neva Harold (Ms. Harold) from reading a letter into the record during public comment. The complaint characterizes the prohibition as an infringement on Ms. Harold's right to read the letter into the record. The complaint also states Chairperson Wynn said, "Reading documents into the record is not allowed regardless of whether the documents are on subject." The Complaint contends this restriction was not stated on the agenda.

We located Ms. Neva Harold's public comment referred to in the Complaint on the audio recording provided by the Board. The audio recording provided facts altogether different from the Complaint's allegations. At the beginning of her public comments, Ms. Harold disclosed that she had a letter from someone else who could not be at the meeting which she had been asked to read to the Board, then she said she

had some comments of her own. Chairperson Wynn interrupted stating the Board would prefer Ms. Harold's testimony be from her and her only, but that the Board would receive the letter she intended to read into the record, and then Ms. Harold continued with her public comment.

We also reviewed many other public comments; almost an hour and a half was devoted to public comment. We found other individuals who used quoted statements from educators and from documents and letters about the "common core" curriculum; however, use of these other sources was part of their individual testimony and therefore was allowed.

Members of the public do not have a statutory right to read other people's testimony to a public body, otherwise that right would exist in statute. The legislature took the time to define "public comment" in statute. It is clear that an unrestricted right was not granted. NRS 241.035(1)(d) defines public comment as follows:

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.

The statute implicitly defines public comment as personal comment, not someone else's comment.

It is also settled law that reasonable rules and regulations during public meetings ensure orderly conduct of a public meeting and orderly behavior on the part of those persons attending the meeting. Public bodies may adopt reasonable restrictions, including time limits on individual comment, but NRS 241.020(2)(d)(7) requires that time, place, and manner restrictions on public comment be clearly expressed on each agenda. But reading another person's letter aloud to a public body is not within the meaning of "time, place, or manner" restrictions. Chairperson Wynn's explanation to Ms. Harold, as to why the act of reading someone else's letter comment into the record was improper was not a restriction related to ensuring the orderly conduct or behavior of those persons attending the meeting. It was not a restriction that must be published on the agenda.

Chairperson Wynn's request that Ms. Harold speak only for herself and not for third persons complied with the statutory definition of "public comment."

**The second Claim** alleges the Board has not complied with legislative direction regarding public comment. It also alleges that the Board's first public comment period, which limits comment to agenda items, is unreasonable and not "permitted by the clear fact and legislative intent of the law."

The Complainant does not supply legal authority for the assertion or explain why the plain language of NRS 241.020 is not expressive of legislative intent. We find that the Board's handling of public comment at the beginning of meeting and again at the end of the meeting complies with the OML. This claim is without support and has no basis in law or fact.

**The third Claim** alleges that the Board does not comply with legislative direction regarding the scope of public comment. Specifically, the complainant alleges the Board misinterprets NRS 241.020(2)(d)(3)(II), which states in pertinent part "the public body must allow the general public to comment on any matter that is not specifically included on the agenda as an action item at some time before adjournment of the meeting." It is also claimed that the Legislature's intent underlying "any matter" meaning even matters that are not within the jurisdiction and control of the public body must be subject to comment.

We disagree. Isolating the words "any matter" to determine legislative intent of the statute is error. Reading in its entirety the statutory clause in which the words "any matter" appears requires that the public must be able to comment on **any matter that is not specifically included on the agenda as an action item at some time before adjournment of the meeting.** If an action matter appears on an agenda it must be within the jurisdiction and control of the public body, otherwise no action by the public body would be possible; therefore, the words "any matter" mean only those matters or items within the Board's jurisdiction and control, and excludes matters not within its jurisdiction and control. The words of a statute must be read together with all other words in the statute to determine its meaning. *In re Petition of Phillip A.C.*, 122 Nev. 149 P.3d 51, 57-58 (2006) ("When construing a specific portion of a statute, the statute should be read as a whole, and, where possible, the statute should be read to give meaning to all of its parts.") (footnote omitted; quoting *Building and Constr. Trades Council v. State ex rel. Public Works Bd.*, 108 Nev. 605, 610, 836 P.2d 633 (1992)).

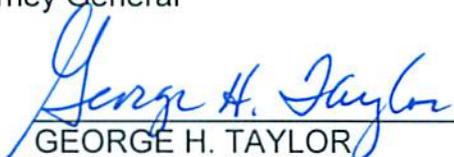
Gary Schmidt  
Page 4  
April 15, 2014

The Nevada State Board of Education did not violation the OML based on the facts alleged in these complaints.

We are closing our file on this matter.

Sincerely,

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Attorney General

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