



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

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September 12, 2012

Michael Rebaleati
P.O. Box 321
Eureka, Nevada 89316

Re: Open Meeting Law Complaint / AG File No. 12-022
Eureka County School Board of Trustees

Dear Mr. Rebaleati:

This office has reviewed your Open Meeting Law (OML) complaint against the Eureka County School District (ECSD). You have alleged that two items on ECSD's June 25, 2012 agenda were not clear and complete.¹ See NRS 241.020(2)(c)(1)(stating the "clear and complete" rule)²

The items gave notice to the public that ECSD would consider two employment contracts. Item 3 described the consideration of a contract for the position of county school superintendent and item 4 described the consideration for a contract for the

¹ **ECSD agenda for June 25, 2012 listed these two items:**

3. Discuss, approve, or deny the renewal of the Independent Contract between Ben Zunino, Superintendent and Crescent Valley and Eureka Elementary School Principal, and Eureka County School District for FY 2012-13. **FOR POSSIBLE ACTION.**

4. Discuss, approve, or deny the renewal of the Independent Contract between Ken Fujii, High School Principal, and Eureka County School District for FY 2012-13. **FOR POSSIBLE ACTION.**

² **NRS 241.020 Meetings to be open and public; limitations on closure of meetings; notice of meetings; copy of materials; exceptions.**

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

(a) The time, place and location of the meeting.

(b) A list of the locations where the notice has been posted.

(c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items by placing the term "for possible action" next to the appropriate item.

position of high school principal. The OML issue is whether the items gave sufficient notice to the public to be clear and complete under NRS 241.020(2)(c)(1).

There were multiple allegations in the complaint. First it is alleged that the items misidentify the parties to the contracts. Secondly, it is alleged the terms of the contracts are not specifically stated, and lastly it is alleged the contracts provided to the complainant as supporting material for the meeting differed from the contract that was approved by the Board on June 25, 2012. Altogether these allegations constitute the complainant's claim that the agenda items were in violation of the "clear and complete" rule in the OML.

After opening an investigation we were informed by counsel for ECSD, in ECSD's reply to the complaint's allegations, that the Board has voluntarily taken corrective action to cure any ambiguity in the wording of the two items. At its next meeting on July 24, 2012, the Board re-agendized consideration of the two employment contracts. ECSD's response indicated this was to cure the alleged ambiguity underlying the claim that these two contracts of employment were not "clear and complete." Revised items were placed on ECSD's next agenda for consideration and/or action.³

In our view, these revised agenda items corrected each of the claims in the complaint. We reviewed the revised agenda items in light of the allegations in the complaint. We believe the steps taken by ECSD effectively cured any entanglement with the "clear and complete" rule in NRS 241.020(2)(c)(1); OPEN MEETING LAW MANUAL, §§ 11.01 – 11.04 (11th ed. 2012)(corrective action or "cure" of OML violations is recommended action).

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³ **Revised Discussion/Information/Action Items (July 24, 2012 ECSD public meeting)**

1. Discuss, approve, or deny an extension of the Agreement for Services of Independent Contractor between the Eureka County School District and Benary Ltd. (Ben Zunino, President), for services as Superintendent and Crescent Valley and Eureka Elementary School Principal, for one additional year, through school year 2014-15. The current contract extends through and includes school years 2012-2013 and 2013-2014. **FOR POSSIBLE ACTION.**

2. Discuss, approve, or deny an extension of the Agreement for Services of Independent Contractor between the Eureka County School District and SueKen, Inc. (Ken Fujii, President), for services as Eureka County High School Principal, for one additional year, through school year 2012-13. **FOR POSSIBLE ACTION.**

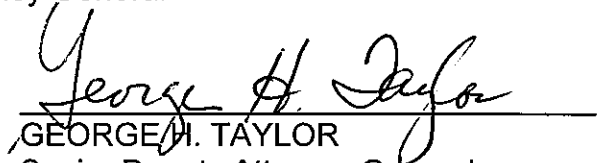
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We are closing our file on this matter.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:


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Senior Deputy Attorney General
(775) 684-1230

GHT/CG

cc: Mike Pavlakis, Esq.
Ben Zunino, Superintendent
Board of School Trustees:
Bob Burnham, President
John Brown, Clerk
Darla Baumann, Member
Pete Edera, Member
Benita Jones, Member