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1 State of Nevada Way, Suite 100
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February 5, 2026

Via U.S. Mail

Isaac Barrón

[REDACTED]
[REDACTED]

**Re: Open Meeting Law Complaint, OAG File No. 13897-532
Clark County School District Board of Trustees**

Dear Mr. Barrón,

The Office of the Attorney General (“OAG”) received and investigated your complaints (“Complaints”) alleging violations of the Open Meeting Law (“OML”) by two prior trustees of the Clark County School District Board of Trustees (“Board”) regarding the Board’s September 12, 2024, meeting.¹

The OAG has statutory enforcement powers under the OML and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040. The OAG investigated the Complaints by reviewing them along with the response received,² including the agenda and

¹ You also filed a complaint alleging counsel for the Board violated the OML, but Deputy District Attorney Nicole Malich is not a member of a public body subject to the OML. *See* NRS 241.015(5) (defining “public body”), NRS 241.020 (requiring that “all meetings of public bodies must be open and public” unless an exception applies), NRS 241.040 (imposing penalties on “each member of a public body” under certain circumstances); *see also* NRS 252.110(4), NRS 386.110, NRS 386.165.

² Deputy District Attorney Scott Davis and General Counsel to the Clark County School District Jon Okazaki responded to your complaints on behalf of Deputy District Attorney Malich and prior Board trustees Evelyn Garcia-Morales and Lola Brooks.

video recording for the Board’s September 12, 2024, meeting and two declarations made under the penalty of perjury. After investigating the Complaints, the OAG determines the OML was not violated as alleged.

FACTUAL BACKGROUND

The Board held a public meeting on September 12, 2024. Prior to this open meeting, the Board held a closed meeting.³ After the closed meeting concluded, and before the open meeting began, all third parties vacated the room, and an attorney-client conference was initiated between the Board and its counsel, Deputy District Attorney Nicole Malich.

The Complaints allege the attorney-client conference commenced when then-president of the Board Evelyn Garcia-Morales, supported by Board counsel and another Board member, “began to discuss issues related to CCSD Board Policy GP-15,” specifically, “pertaining to Trustee participation and appointments to both internal CCSD committees and external deliberative and community committees.”⁴ The Complaints do not contain any other details about the discussion that took place. There was no committee appointment pending before the Board at the time.

Garcia-Morales and Malich provided additional information about this portion of the attorney-client conference when responding to the Complaints. Following the decision of Eighth Judicial District Court Judge Nadia Krall interpreting NRS 386.165(9) in Case No. A-24-889325-W, Garcia-Morales was asked whether nonvoting trustees would be eligible under that statute to serve as appointed members on other committees. She requested that Board counsel research and advise on the issue. Malich researched the legal authority of nonvoting trustees to serve on committees, including potential future litigation on that issue. During the attorney-client conference, Garcia-Morales informed the rest of the Board that counsel had advised nonvoting trustees would be deemed eligible under existing Nevada law to serve on committees, after which another Board member inquired about a specific committee.

The Complaints further allege the attorney-client conference continued when Garcia-Morales turned the meeting over to Malich “for the purpose of

³ The Complaints do not allege any OML violation during these meetings.

⁴ Complainant is a member of the Board who was present during the conference.

‘setting parameters’ and other policies in regard[] to the District B appointment.”⁵ Malich’s response states she intended to present an overview of the appointment process for filling a vacancy in District B so the Board could avoid any procedural missteps that may lead to litigation. There is no dispute that the conference ended based on Complainant’s objections before Malich presented any of this information to the Board. There was no appointment for District B pending before the Board at the time.

LEGAL ANALYSIS

The Board is a governing body of a public school district, NRS 386.110; thus, the Board is a “public body” as defined in NRS 241.015(5), making the Board and its members subject to the OML.

The legislative intent of the OML is that “actions” of public bodies “be taken openly, and that their deliberations be conducted openly.” NRS 241.010(1). “Except as otherwise provided by a specific statute, all meetings of public bodies must be open and public.” NRS 241.020(1). Only certain meetings may be closed to the public. *See* NRS 241.028 (permitting a closed meeting for a public body to engage in certain pre-decisional and deliberative discussions with federal agency), NRS 241.030 (allowing a closed meeting for a public body to “[c]onsider the character, alleged misconduct, professional competence, or physical or mental health of a person,” “[p]repare, revise, administer or grade examinations that are conducted by or on behalf of the public body,” or consider an appeal concerning the results of any such examination).

However, the OML “is not intended to prohibit every private discussion of a public issue.” *Dewey v. Redevelopment Agency of City of Reno*, 119 Nev. 87, 94, 64 P.3d 1070, 1075 (2003). Instead, the OML “only prohibits collective deliberations or actions where a quorum is present.” *Id.*, 119 Nev. at 94-95, 64 P.3d at 1075. The OML defines “meeting” as “[t]he gathering of a public body at which a quorum is present” to either “deliberate toward a decision”⁶ or “take action on any matter over which the public body has supervision, control,

⁵ The day prior, on September 11, 2024, Katie Williams resigned her position as the elected trustee, creating a vacancy in District B.

⁶ The term “deliberate” means “collectively to examine, weigh and reflect upon the reasons for or against the action,” which “includes, without limitation, the collective discussion or exchange of facts preliminary to the ultimate decision.” NRS 241.015(3).

jurisdiction or advisory power.”⁷ NRS 241.015(4)(a)(1). No “meeting” occurs when a quorum of members gathers but “do[es] not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.” NRS 241.015(4)(b).

Under the OML, a quorum of members may gather to “receive legal advice from the attorney employed or retained by the public body regarding a matter over which the public body has supervision, control, jurisdiction or advisory power” and to “deliberate on the matter, provided such deliberation is limited to the legal advice” received, without any “meeting” taking place. NRS 241.015(4)(c).⁸ The OML does not apply to an attorney-client conference that falls within the scope of this statutory exception.

A quorum of members gathered with Board counsel on September 12, 2024, prior to the open meeting that took place that day. The Complainant and the individuals against which the Complaints were made dispute whether these events constitute a “meeting” under the OML.

⁷ Pursuant to NRS 241.015(1), the term “action” refers only to the following:

- (a) A decision made by a majority of the voting members present . . . during a meeting of a public body;
- (b) A commitment or promise made by a majority of the voting members present . . . during a meeting of a public body;
- (c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the voting members present . . . during a meeting of the public body; or
- (d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

⁸ This provision was amended in 2025. When the attorney-client conference at issue here occurred in September 2024, this provision excluded from the definition of “meeting” any gathering at which a quorum of members is present to “receive *information . . . regarding potential or existing litigation involving* a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate *toward a decision* on the matter, *or both*.” The passage of A.B. 64 broadened “the exception for attorney-client conferences with public bodies to include all legal advice and deliberations regarding that legal advice, not just advice regarding potential or existing litigation.” Nevada Assembly Committee Minutes, Feb. 25, 2026. This change “allow[ed] the attorney-client exception to extend to all legal advice that would otherwise be protected by the attorney-client privilege.” *Id.* This provision applies retroactively when the Legislature’s intent as to application of the OML cannot otherwise be met. *See Frudden v. Pilling*, 130 Nev. 1178 (2014) (unpublished).

The Complaints do not identify any “action” taken during the first or second portion of the attorney-client conference, and because there was no appointment pending before the Board, the available evidence indicates that no “action” was taken. Unless the Board “deliberate[d] toward a decision,” no “meeting” took place under the OML. *See* NRS 241.015(4)(a)-(b).

Complainant asserts the first portion of the attorney-client conference violated the OML because “appointments to these boards and Trustee service on these boards are often subject to action posted on agendas,” and thus according to the Complainant, “this discussion does not lie within the appropriate subject of an attorney-client meeting.” However, the OML does not require that all discussion related to a public issue take place during an open meeting. *Dewey*, 119 Nev. at 94-95, 64 P.3d at 1075. Complainant alleges only that certain Board members discussed issues related to a specific Board policy that concerns Board committees with Board counsel’s support. The Complaints do not identify any conduct that would constitute deliberation under the OML or any decision toward which the Board deliberated.

As shown by the order entered on June 25, 2024, in Case No. A-24-889325-W, a Nevada court had determined in the preceding months that the Board could not properly prohibit nonvoting members from making motions. This litigation was initiated by the City of Henderson and the City of North Las Vegas—both of which had appointed nonvoting members to the Board, including Complainant. Garcia-Morales declares she received inquiries about nonvoting members serving on committees based on the June 2024 order. The declarations of Garcia-Morales and Malich both state that Malich had, at the request of Garcia-Morales, researched the legal implication of the Court’s ruling for nonvoting members being appointed to and serving on committees. This is consistent with the June 2024 order as well as Complaints’ brief description of the issues discussed and reference to Board Policy GP-15. Garcia-Morales maintains she “informed the Board of the conclusion from Board counsel that nonvoting trustees would be eligible to serve on committees.” This advice had been sought in the shadow of related litigation and against the backdrop of possible litigation, and communication between the Board and its counsel about the legal impact of the Court’s ruling on existing Board policies would be exempt from the OML. Regardless, there is no evidence to suggest the Board “deliberate[d] toward a decision” here. The Board received legal advice; nothing indicates the Board considered a decision about its written policies or any specific appointment.

The Complaints also contend the second portion of the attorney-client conference proceeded in violation of the OML. This discussion most likely would have addressed the legal requirements for properly filling a vacant position on the Board. The Complaints assert that because “[a]ll relevant statutes and policies regarding vacancies on the school board are clearly outlined [in statute and under CCDSD’s Governance Policies],” any discussion about these policies and procedures should have occurred during an open meeting. That position is not consistent with the OML as explained above. Malich could have briefed the Board concerning this legal process during an attorney-client conference so long as the Board took no action and any deliberation was limited to the legal advice received. However, because the Complainant interjected and ended the attorney-client conference, no further conversation took place. No grounds exist for any OML violation.⁹

CONCLUSION

Based on review of your Complaints and the available evidence, the OAG has determined that no violation of the OML occurred. The OAG will accordingly close the file regarding this matter.

Respectfully,



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⁹ Because the OAG finds no violation of the OML, discussion of any penalties against individual Board members is not necessary.