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January 23, 2023

Via U.S. Mail and Email

Kevin D. Lords



Re: Open Meeting Law Complaints, AG File No. 13897-394 Churchill County Board of School Trustees

Dear Mr. Lords,

The Office of the Attorney General (“OAG”) investigated your complaint alleging violation of the Open Meeting Law (“OML”) by the Churchill County Board of School Trustees (“Board”). Your complaint alleges that the Board violated NRS 241.033 at its February 24, 2021 meeting by failing to provide you timely personal notice that your professional competence would be considered.

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. To investigate your Complaint, the OAG reviewed the following: the Complaint, the Response from the Board, the agenda, and transcript and audio of the meeting held on February 24, 2021.

FACTUAL BACKGROUND

The agenda for the February 24, 2021 meeting of the Churchill County Board of School Trustees included the following item:

13. NEW BUSINESS

B. For Discussion and Possible Action: Approval of applications for the Early Retirement Incentive Program-Policy 4811.0

Presenter: Mr. Kevin Lords, Director of Administrative Services and Operations

During the February 24 meeting, Item #13B on the Board's public notice agenda was to receive information on the applications for the Early Retirement program. As part of the discussion, you informed the Board that the Churchill County School District was not realizing any savings under the policy as the District had to hire four retired teachers under critical needs and did not replace those individuals with newly hired teachers. You informed the board of your position that the intended savings are not actualized under the policy.

When inquired by Trustee Carmen Schank if these findings were a result of the shortage of teachers, you replied that it is possible and that efforts are being made to find new teachers. You added that you were presenting these findings to bring to the Board's attention what to do in the future when the policy will cost more money. Echoing your sentiments, District Legal Counsel Sharla Hales suggested that the Board wait and see if the teachers are replaced with new teachers at a lower cost. Ms. Hales further stated that if there are no financial savings, then to discuss with each association next year before the cycle begins.

Trustee Fred Buckmaster replied, "I have a problem with that. Go talk with the association about how it's not going to benefit the district. This isn't an association problem this is a district problem. If we have a human resources manager that can't find us teachers cheaper than the ones we are buying out, he's not doing his job. I think they're out there; you just need to go find them."

Trustee Schank further inquired about what it would entail to find more teachers. In response, you updated the Board on the recruitment efforts, difficulties with current job fairs and future advertising attempts to increase recruitment. Vice President Hyde further added that the Board could see a cost savings so long as Mr. Lords is proactive in recruitment efforts.

Your complaint alleges that the Board violated NRS 241.033 by failing to provide you timely personal notice that your professional competence would be considered.

DISCUSSION AND LEGAL ANALYSIS

The Churchill County Board of School Trustees is a “public body” as defined in NRS 241.015(4), and subject to the OML.

The Open Meeting Law as comprised by Chapter 241 of the NRS, applies to meetings of public bodies and requires that the actions of public bodies “be taken openly and that their deliberations be conducted openly.” NRS 241.010(1); *see McKay v. Bd. Of Supervisors*, 102 Nev. 644, 651 (1986). Public bodies working on behalf of Nevada citizens must conform to the statutory requirements for open meetings under an agenda that provides full notice and disclosure of discussion topics and any possible action. *Sandoval v. Board of Regents*, 119 Nev. 148, 67 P.3d 902 (2003).

The OML requires written personal notice when a public body “consider[s] the character, alleged misconduct professional competence or physical or mental health of any person. NRS 241.033(1). The written notice must include the time and place of the meeting, and the public body must receive proof of service of the notice. *Id.*

The Churchill County Board of School Trustees did not violate NRS 241.033(1). In order for a public body to violate NRS 241.033(1), it must as a whole, without notice, consider and deliberate with regard to a person’s character, alleged misconduct, professional competence, or physical or mental health. *See OMLO 2005-08 (May 2005).*

Here, the Board did not entertain discussion concerning your professional competence following Mr. Buckmaster’s statement during the February 24 meeting. During Item #13B, the Board actively engaged in discussions and asked you about efforts you made to recruit more teachers. Also, the Board suggested being proactive and provided alternative options for recruitment. While Mr. Buckmaster did mention you by reference as you were the Human Resources Director at the time of this meeting, this reference was casual and tangential and did not rise to the level of considering your professional competence. *See NRS 241.033(7)(b).* Thus, the OAG does not find a violation of the OML.

CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred on which formal findings should be made. The OAG will close the file regarding this matter.

Sincerely,

/s/ Chricy E. Harris _____

CHRICY E. HARRIS

Deputy Attorney General

cc: Sharla Hales, General Counsel
Churchill County School District