

OFFICE OF THE ATTORNEY GENERAL
STATE OF NEVADA

In the Matter of:

DOUGLAS COUNTY SCHOOL
DISTRICT BOARD OF TRUSTEES.

A.G. FILE NO.:13897-472

**FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Richie McGuffin filed a Complaint with the Office of the Attorney General (“OAG”) pursuant to Nevada Revised Statutes (“NRS”) 241.039 alleging violations of the Nevada Open Meeting Law (“OML”) by the Douglas County School District Board of Trustees (“Board”) regarding communications between Board members leading up to its January 10, 2023, meeting. The Complaint alleges that serial communications reaching a quorum of Board members regarding officer elections occurred in the weeks leading up to the elections taking place at the Board’s January 10, 2023, meeting.

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’s investigation of the Complaint included a review of the Complaint and attachments; the Response on behalf of the Board and attachments, including signed declarations from Board members Englekirk, Burns, Jansen and Dickerson; and the agenda, minutes and recording for the Board’s January 10, 2023, meeting. The OAG finds that the Board violated the OML by deliberating via serial communications outside of a public meeting prior to the Board’s January 10 public meeting.

FINDINGS OF FACT

1. The Board held a public meeting on January 10, 2023. At the meeting, the Board conducted elections for Board officer positions.

1 2. At the time of the meeting, and in the weeks leading up to the meeting, the
2 Board consisted of seven elected trustees: David Burns, Katherine Dickerson, Doug
3 Englekirk, Linda Gilkerson, Susan Jansen, Carey Kangas, and Tony Magnotta.

4 3. On or about November 17, 2022, Trustees Jansen, Burns and Englekirk had
5 lunch together. Interest in Board officer positions was discussed.

6 4. On or about this time, Trustee Englekirk expressed possible interest in
7 becoming Board President.

8 5. Oral and/or electronic communications occurring between the November 17,
9 2022, lunch and January 9, 2023, indicate that Trustee Englekirk's interest in becoming
10 Board President had been communicated to Trustee Dickerson, who expressed reservations
11 regarding the idea.

12 6. Another gathering was planned between at least Trustees Jansen and
13 Englekirk regarding officer elections but did not ultimately occur.

14 7. Trustees Jansen, Burns and Dickerson communicated with each other
15 regarding Board officer positions between the November 17, 2022, lunch and the January 10,
16 2023, meeting. However, it is not clear if any of these discussions occurred collectively
17 between the three of them on any single occasion.

18 8. During the election of officers agenda item at the January 10 meeting, Trustee
19 Dickerson nominated Trustee Jansen for President and Trustee Kangas nominated himself.
20 Trustee Jansen was elected President with Trustees Burns, Englekirk, Jansen and Dickerson
21 voting for Jansen and Trustees Magnotta and Kangas voting for Trustee Kangas. Trustee
22 Gilkerson did not vote.

23 9. Trustee Dickerson then nominated Trustee Englekirk for Vice President and
24 Trustee Gilkerson nominated Trustee Kangas for Vice President. Trustee Englekirk was
25 elected Vice President after Trustee Kangas' nomination went without a second.

26 10. Trustee Dickerson then nominated Trustee Burns for Clerk. Trustee Burns
27 was elected unanimously.
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LEGAL STANDARDS AND CONCLUSION OF LAW

The Douglas County School District Board of Trustees, as the governing body of a public school district in Nevada, is a “public body” as defined in NRS 241.015(5) and is 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); see also *McKay v. Board of Supervisors*, 102 Nev. 644, 651, 730 P.2d 438, 443 (1986) (“the spirit and policy behind NRS chapter 241 favors open meetings”). 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 (2003). Instead, the OML only prohibits collective deliberations or actions where a quorum is present. *Id.* at 94-95.

The OML defines a “meeting” as:

- (1) The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.
- (2) Any series of gatherings of members of a public body at which:
 - (I) Less than a quorum is present, whether in person or by means of electronic communication, at any individual gathering;
 - (II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and
 - (III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

NRS 241.015(4)(a). Thus, a quorum is a bright line standard necessary to apply the OML to a given situation. *Dewey* at 95, 98. However, a quorum gathered by serial communications, whether physical or electronic, together with deliberation or action meets the definition of a meeting. *Del Papa v. Board of Regents of University and Community College System of Nevada*, 114 Nev. 388, 400 (1998). For purposes of the communications at issue, a quorum of the Board was four members. NRS 241.015(7).

The OAG does not possess evidence that a quorum of members of the Board gathered together outside of a meeting in any single gathering, whether in person or electronic. In fact,

1 Trustee Jansen stated in her declaration that she was careful not to meet as a quorum
2 because she was aware it would violate the OML. The issue in the present matter is whether
3 the collective communications, both in person and electronic, reached a constructive quorum
4 with the intent to avoid the provisions of the OML in violation of NRS 241.015(3)(a)(2). We
5 find that it did.

6 The available evidence contains numerous group text messages and email threads
7 involving more than one Board member between the period of November 2022 and January
8 2023 in which Board business was openly discussed. While it is possible, if not probable, that
9 constructive quorums were formed at times during that period by some combination of text,
10 email and in-person discussions between a quorum of Board members, especially amongst the
11 quartet of Trustees Burns, Englekirk, Jansen and Dickerson discussing multiple Board
12 issues, there is not sufficient evidence at this time to support such a finding.

13 However, when it comes to the specific matter of Board officer elections, there is
14 evidence to support a constructive quorum. Three trustees attended a lunch on November
15 17, 2022, where officer elections, including who may have interest in serving, were discussed.
16 There is evidence to support that facts and opinions expressed at the November 17 lunch were
17 later discussed and communicated between Trustees Jansen and Dickerson, a fourth
18 member, creating a quorum. Specifically, there was a text message between Trustee Jansen
19 and Trustee Dickinson dated January 9, 2023, in which Trustee Dickerson communicated
20 having reservations and concerns about Trustee Englekirk potentially becoming Board
21 President. Trustee Dickerson was also part of an email thread that included Trustee Jansen
22 in which a non-Board member expressed that she was uncomfortable with her
23 “understanding” that Trustee Englekirk was going to be voted in as Board President. Trustee
24 Jansen, however, denied that anything as far as officer elections had been already decided.
25 The confluence of these communications supports the creation of a constructive quorum, based
26 on the fact that at least some of the facts and opinions regarding who should serve in officer
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positions discussed during the November 17 lunch were also later shared with Trustee Dickerson.¹

Lastly, the OAG finds that the purpose of the gatherings was held with the intent to avoid the provisions of the OML. All four trustees at issue in this matter acknowledged little knowledge of the OML's requirements and stated that they had no intent to violate the OML. However, the trustees' lack of knowledge that serial communications could violate the OML does not negate their intent to deliberate upon the sensitive topic of officer elections outside of the OML's requirements. The evidence indicates the trustees believed so long as they did not gather as a quorum at once, they could discuss Board business outside of a meeting—*avoiding* the OML's requirements. Thus, the OAG finds that the communications between Trustees Englekirk, Burns, Jansen and Dickerson in the weeks leading up to the January 10, 2023, meeting created a constructive quorum under NRS 241.015(4)(a)(2) in violation of the OML.

SUMMARY

Upon investigating the present Complaint, the OAG makes findings of fact and conclusions of law that the Douglas County School District Board of Trustees violated the OML as described above. If the Attorney General investigates a potential OML violation and makes findings of fact and conclusions of law that a public body has taken action in violation of the OML, "the public body must include an item on the next agenda posted for a meeting of the public body which acknowledges the findings of fact and conclusions of law." NRS 241.0395. The public body must treat the opinion of the Attorney General as supporting material for the agenda item(s) in question for the purpose of NRS 241.020. *Id.* Accordingly, the Board must place an item on its next meeting agenda in which is acknowledges the present Findings of Fact and Conclusions of Law ("Opinion") resulting

¹ Complainant points to the fact that it appeared pre-planned during the meeting when Trustee Dickerson make the three nominations and very little discussion, if any, was had prior to the votes. While the OML does not require any amount of discussion by members prior to voting on any item and lack of discussion is not in and of itself evidence of prior non-public communications, the OAG does agree that the conduct of the Board Trustees during the meeting supports the argument that there were prior communications outside of the public eye.

1 from the OAG's investigation in this matter. The Board must also include the OAG Opinion
2 in the supporting materials for its next meeting.

3 Dated: July 23, 2025.

4 AARON FORD
5 Attorney General

6 By: /s/ Rosalie Bordelove
7 ROSALIE BORDELOVE
8 Chief Deputy Attorney General
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