



AARON D. FORD
Attorney General

CRAIG A. NEWBY
First Assistant Attorney General

CHRISTINE JONES BRADY
Second Assistant Attorney General

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

1 State of Nevada Way, Suite 100
Las Vegas, Nevada 89119

TERESA BENITEZ-
THOMPSON
Chief of Staff

LESLIE NINO PIRO
General Counsel

HEIDI PARRY STERN
Solicitor General

May 23, 2025

Via U.S. Mail

Virginia Starrett
[REDACTED]
[REDACTED]

David Seat
[REDACTED]
[REDACTED]

Re: Open Meeting Law Complaints, OAG File No. 13897-513

Dear Ms. Starrett and Mr. Seat:

The Office of the Attorney General (“OAG”) has received your complaints alleging that the Douglas County School District Board of Trustees (“Board”) violated Nevada’s Open Meeting Law (“OML”) at its April 9, 2024, open meeting. The substance of your complaints allege that the Board violated the OML by recessing the meeting in order to allow Trustees Kangas, Gilkerson and Wagstaff to consult with legal counsel privately during consideration of agenda item 12.

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, the OAG reviewed your complaints, the response from the Board, and the agenda, minutes and recording of the April 9, 2024, meeting.

FACTUAL BACKGROUND

Agenda item No. 12 for the Board's April 9, 2024, meeting (the "April Meeting") was identified for discussion and possible action and read as follows:

12. Writ of Mandamus Settlement Agreement (Discussion and For Possible Action)

Description: The Board of Trustees will discuss and vote on whether to accept, reject or amend the settlement agreement.

Prior to the April Meeting, four Trustees entered into a writ of mandamus settlement agreement in the Ninth Judicial District Court, pending Board approval ("Writ Matter"). During discussion of agenda item No. 12, Trustees Kangas, Gilkerson and Wagstaff excused themselves from the meeting stating that they would take "five to ten minutes" to consult with their counsel, Sharla Hales ("Ms. Hales"), prior to voting on the Writ Matter. The three Trustees then excused themselves from the meeting and convened in a private room to call Ms. Hale. Upon return of the three Trustees, the four Trustees who had a conflict relating to the Writ matter abstained from voting to approve the settlement agreement. Trustee Wagstaff then made a Motion stating, "I vote we not approve this settlement, but that we have the attorneys go back and negotiate a more favorable term for the district." Trustee Kangas seconded the motion. The motion passed 3-0.

Between the April Meeting and the May 21, 2024, Board meeting (the "May Meeting") the Writ Matter moved forward as the settlement agreement had not been approved. In an effort to correct any alleged OML violation, agenda item No. 12 was re-agendized as agenda item No. 18 in the agenda for the May Meeting which read as follows:

18. Writ of Mandamus Settlement Agreement (Discussion and For Possible Action)

Description: This item is being revisited based on an OML complaint alleging at the April 9, 2024 Regular Board Meeting regarding Agenda Item 12, Trustees Gilkerson, Kangas and Wagstaff entered a closed meeting, had a discussion, and a vote followed against the settlement agreement. The Board of Trustees will discuss and vote on whether to accept, reject, or amend the settlement agreement.

LEGAL ANALYSIS

The Board is a “public body” as defined in NRS 241.015(4), subject to the OML. The Nevada Legislature intends that actions of public bodies be taken openly and that their deliberations be conducted openly. NRS 241.010; *see also McKay v. Board of Supervisors*, 102 Nev.644 (1986). The narrow construction of exceptions to the OML stems from the Legislature’s use of the term ‘specific’ in NRS 241.020(1) and that such exceptions must be explicit and definite. Exceptions to the OML extend only to the portions of a proceeding specifically, explicitly, and definitely excepted by statute. *See Chanos v. Nevada Tax Commission*, 124 Nev. 232 (2008).

NRS 241.015(4)(c) provides an exception to the public meeting requirement for conferences between public bodies and their attorneys to receive information regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power. This exception permits a public body to receive information from the attorney and to deliberate toward a decision on the matter, or both. *Id.* The Supreme Court of Nevada has held that meetings of public bodies should be open “whenever possible” to comply with the spirit of the OML, and exceptions to this law must be construed narrowly. *See Chanos v. Nevada Tax Commission*, 124 Nev. 232 (2008).

Specifically, the Nevada Supreme Court has ruled that public bodies cannot conduct public business in closed gatherings with their attorneys unless there is a specific statutory exception. *See Del Papa v. Board of Regents of University and Community College System of Nevada*, 114 Nev. 388 (1998). NRS 241.015(4)(c) provides an exception that allows a public body to gather to receive information from its attorney regarding potential or existing litigation and to deliberate toward a decision on the matter, but this exception does not permit the public body to take any action during such a closed gathering. Therefore, while a board may interrupt a public meeting to gather privately with their lawyer to receive information and deliberate, they cannot make any decisions or take any actions during the closed gathering. *See OMLO 2002-21* (May 20, 2002).

A gathering held for the purpose of having an attorney-client discussion of potential or existing litigation pursuant to NRS 241.015(4)(c) is not a meeting for purposes of the OML and does not have to be open to the public. The Attorney General advises that if the public body expects to interrupt its open meeting to confer with its legal counsel pursuant to NRS 241.015(4)(c), then the public body may place this interruption of the open meeting on the agenda to avoid any confusion.

Here, when three Trustees met with their attorney to discuss possible settlement of the Writ Matter, it was not a meeting for purposes of the OML, as the purpose of the gathering was to have an attorney-client privileged discussion regarding existing litigation. Thus, the OAG does not find a violation of the OML.

CONCLUSION

Upon review of your Complaints and available evidence, the OAG has determined that no violation of the OML has occurred. The OAG will close its file in this matter.

Sincerely,
AARON D. FORD
Attorney General

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

cc: Ryan Russell, Esq.
Allison MacKenzie
P.O. Box 646
Carson City, NV 89702
Counsel for Douglas County School District Board of Trustees