

1 OFFICE OF THE ATTORNEY GENERAL
2 STATE OF NEVADA

3 In the matter of:

4 DOUGLAS COUNTY SCHOOL
5 DISTRICT BOARD OF TRUSTEES

OAG FILE NO.: 13897-514

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

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8 **BACKGROUND**

9 The Office of the Attorney General (“OAG”) has received your March 14, 2024, and
10 March 19, 2024, complaints (individually, the “March 14th Complaint” and the “March
11 19th Complaint,” respectively) alleging that the Douglas County School District Board of
12 Trustees (“Board”) violated Nevada’s Open Meeting Law (“OML”) at its March 12, 2024,
13 open meeting (the “March Meeting”). Your March 14th Complaint alleges two violations:
14 First, it alleges that the Board failed to properly agendize a motion made by Trustee
15 Yvonne Wagstaff (“Trustee Wagstaff”) during the meeting by making a motion to appoint
16 acting district superintendent Jeannette Dwyer (“Ms. Dwyer”) to the permanent position
17 of district superintendent of the Douglas County School District. Second, the Complaint
18 alleges that Agenda Item No. 6, agendized as “Search Process for Superintendent” was
19 not discussed at the meeting. The OAG has statutory enforcement powers under the
20 OML, and the authority to investigate and prosecute violations of the OML NRS 241.037;
21 NRS 241.039; NRS 241.040. To investigate the complaint, the OAG reviewed the March
22 14th Complaint, the March 19th Complaint, the response from the Board, and the agenda,
minutes and recording of the March 12 Meeting.

23 After investigating the March 14th Complaint and the March 19th Complaint, the
24 OAG determines that the Board did violate the OML as alleged in the March 14th
25 Complaint by deliberating and taking action on a matter not properly described on the
26 public agenda for the March Meeting. However, the Board did not violate the OML as
27 alleged in the March 19th Complaint by failing to discuss Agenda Item No. 6 on the public
28 notice agenda for the March Meeting.

FINDINGS OF FACT

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3 1. The Board held a public meeting on March 12, 2024. Agenda Item No. 6 on the
4 public notice agenda read as follows:

5 **6. Search Process for Superintendent SG-G (Discussion and For**
6 **Possible Action):** The Board will deliberate and make decisions regarding
7 procedure for selecting a new District Superintendent. Consideration may be
8 given to the option of engaging a national search firm. The Board will
9 explore and define steps and a timeline they will follow in the process.

10 2. During the Agenda Item No. 6 discussion, the Board discussed, deliberated on and
11 appointed a permanent district superintendent instead of discussing the selection
12 procedures to be used by the Board to make such an appointment as described in the
13 agenda.

14 3. After Board President, Trustee Dave Burns (“Trustee Burns”) read the description
15 of the item, Trustee Wagstaff immediately moved to appoint the acting district
16 superintendent, Ms. Dwyer, to the permanent position of district superintendent.

17 4. The Board then engaged in a discussion regarding this motion and ultimately
18 approved the motion appointing Ms. Dwyer as the permanent district superintendent

19 5. When the Board resumed the March Meeting after taking a break, it immediately
20 acknowledged that it may have violated the OML by appointing Ms. Dwyer as permanent
21 district superintendent without properly providing notice to the public that there would
22 be a discussion and deliberations regarding taking that action at that meeting.

23 6. The Board then voted to void the action appointing Ms. Dwyer as the permanent
24 district superintendent.

25 7. Subsequently, the Board conducted a special meeting on March 21, 2024, in which
26 they discussed the following agenda item:

27 **3. Appointment of Acting Superintendent to Superintendent of**
28 **Schools (Information Only) Description:** At the March 12, 2024, Regular
Board Meeting, the board took action and voted on appointing Acting
Superintendent, Jeannie Dwyer, to the permanent position of Superintendent
on Agenda Item 6. This action was in violation of open meeting law, and
therefore the action/vote is null and void, as a matter of law.

1 8. The Board’s discussion of Agenda Item No. 6 did not include any discussion on a
2 search process for the next Superintendent.

3 **LEGAL STANDARDS AND CONCLUSIONS OF LAW**

4 The Douglas County School District Board of Trustees is a “public body” as defined
5 in NRS 241.015(4); therefore, the Board is subject to the OML. An agenda for a meeting
6 of a public body must include a “clear and complete statement of the topics to be
7 considered during the meeting.” NRS 241.020(3)(d)(1). The clear and complete statement
8 requirement of the OML stems from the legislature’s belief that “incomplete and poorly
9 written agendas deprive citizens of their right to take part in government” and interferes
10 with the ‘press’ ability to report the actions of government.” *Sandoval v. Board of Regents*
11 *of University*, 119 Nev. 148, 154 (2003). Strict adherence to the clear and complete
12 standard for agenda items is required for compliance under the OML. *Id.* The OML
13 “seeks to give the public clear notice of the topics to be discussed at public meetings so
14 that the public can attend a meeting when an issue of interest will be discussed.” *Id.* at
15 155. Further, “a higher degree of specificity is needed when the subject to be debated is of
16 special or significant interest to the public.” *Id.* at 155-56 (quoting *Gardner v. Herring*, 21
17 S.W.3rd 767, 733 (Tex. App. 2000)).

17 **A. The Board Failed to Notice The Appointment of a Superintendent**

18 Here, given that the Board failed to include in the agenda notice that there may be
19 a decision made to appoint the acting superintendent, Jeannie Dwyer, to the permanent
20 position of district superintendent, the clear and complete standard was not met in
21 violation of NRS 241.020(3)(d)(1). Public bodies should apply a reasonableness standard
22 in determining whether an agenda item is clear and complete. See *In re Nevada State*
23 *Board of Veterinary Medical Examiners*, OMLO No. 13897-363 at 5 (Jan. 8, 2021). The
24 agenda item at issue did not give the public notice that the Board would discuss and
25 appoint Ms. Dwyer to the district superintendent position. By stating that the Board
26 would discuss the only procedure to be used during its selection process, it is
27 unreasonable to assume that the public would be made aware that the Board intended to
28 make its selection of a permanent district superintendent. Thus, the discussion of
Agenda Item No. 6 at the March 12 meeting exceeded the scope of the description of the
matter included on the public agenda. The vote to appoint Ms. Dwyer was taken in

1 violation of NRS 241.020(3)(d)(1) as it acted upon a matter which was not clearly and
2 completely described on its public agenda. This action was in violation of the OML and
3 therefore void under NRS 241.036.

4 In this case, as discussed above, the Board subsequently remedied the OML
5 violation by first immediately voiding its original vote and then at its regular meeting on
6 April 9, 2024, by properly providing notice to the public of its intent to discuss, deliberate
7 and to make the appointment of the district superintendent on its agenda for that public
8 meeting.

8 **B. The Board Was Not Required to Discuss Item #6**

9 As to the second allegation, while the Board clearly failed to discuss the search
10 process for its next Superintendent, the Board's failure to discuss an item on a public
11 agenda for its meeting is not a violation of the OML. Pursuant to NRS 241.020 (3) (d)
12 (6)(III), the Board is permitted to remove an item from an agenda or delay discussion
13 relating to an item. The fact that the Board subsequently took the necessary correction
14 actions relating to this agenda item, alleviates the need to further address the concerns
15 raised in the March 19th Complaint.

16 **SUMMARY**

17 Upon investigating the March 14th Complaint, the OAG makes findings of fact and
18 conclusions of law that the Board violated the OML by its failure to meet the clear and
19 complete requirement by not providing a proper description in its March 12th Meeting
20 agenda of its intention to discuss, deliberate and appoint Ms. Dwyer as the permanent
21 district superintendent. However, there was no violation found by the OAG in connection
22 with the March 19th Complaint relating to the failure to discuss Agenda Item No. 6 on the
23 March Meeting agenda for the public meeting.

24 If the Attorney General investigates a potential OML violation and makes findings
25 of fact and conclusions of law that a public body has taken action in violation of the OML,
26 "the public body must include an item on the next agenda posted for a meeting of the
27 public body which acknowledges the findings of fact and conclusions of law." NRS
28 241.0395. The public body must treat the opinion of the Attorney General as supporting
material for the agenda item in question for the purpose of NRS 241.020. *Id.* However,
here given that the Board voided this action at the March Meeting, notified the public by

1 its disclosure at a special meeting held on March 21, 2024, and then subsequently
2 properly discussed the matter at its regular meeting held on April 9, 2024, no further
3 corrective action needs to be taken by the Board.

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5 Dated: November 19, 2024

6 AARON FORD
7 Attorney General

8 By: /s/ Cris Maher
9 Cris Maher
10 Deputy Attorney General
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 6th day of January 2025, I served the foregoing
3 **FINDINGS OF FACT AND CONCLUSIONS OF LAW** by depositing a copy of the
4 same in the United States mail, properly addressed, postage prepaid, **CERTIFIED MAIL**
5 addressed as follows:
6

7
8 Ms. Casey Rodgers
9 [REDACTED]

10 *Complainant*

11 **Certified Mail No.:** [REDACTED] **7651 9074**

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14 405 Marsh Avenue
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Counsel to the Douglas County School District Board of Trustees

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17
18 /s/ Debra Turman
19 An employee of the Office of the
20 Nevada Attorney General
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