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STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900  
Las Vegas, Nevada 89101

August 5, 2020

Via U.S. Mail

Dr. Sylvester Rogers



**Re: Open Meeting Law Complaint, OAG File No. 13897-352, Clark County School District Board of Trustees**

Dr. Rogers:

The Office of the Attorney General (“OAG”) has received your Complaint alleging the Clark County School District Board of Trustees (hereafter “the Board of Trustees”) violated Nevada’s Open Meeting Law on or about August 21, 2019. Pursuant to Nevada statute, the OAG is authorized to investigate and prosecute violations of Open Meeting Law (“OML”). *See* Nevada Revised Statutes (“NRS”) 241.037, 241.039, and 241.040.

Following review of your Complaint and attached documentation, the Board of Trustees’ Response and attached documentation, and relevant legal authorities, the OAG concludes the Board did not violate the OML.

**FACTUAL BACKGROUND**

The Nevada Interscholastic Activities Association Board of Control (the “NIAA Control Board”) is a non-profit organization of Nevada secondary schools recognized by the Nevada Legislature and governing high school athletics in the state. The Clark County School District is allotted five members on the NIAA Control Board.

To constitute a quorum, at least four members of the Clark County School District Board of Trustees must participate in a deliberation or action.

At a public meeting held on September 4, 2019, the Board of Trustees appointed two new members to the NIAA Control Board.

### **DISCUSSION AND LEGAL ANALYSIS**

In the Complaint, you argue the Board of Trustees violated the OML by failing to announce vacancies to the NIAA Control Board. However, the OML does not require the Board of Trustees to announce vacancies to the NIAA Control Board. Instead, the OML requires public bodies to provide notice of public meetings, which must include an agenda and a list describing the items on which action may be taken. NRS 241.020(3)(d).

A review of the documentation concerning the challenged appointment confirms that the Board of Trustees complied with the notice requirement. An agenda item appeared on the September 4, 2019 agenda of the Board of Trustees entitled “Appointment of Members to the Nevada Interscholastic Activities Association Board of Control” and designated as Item 4.02, part of the “business” section of the agenda. The item provided the following information about the topic:

Discussion and possible action to appoint Amy Wagner and Joe Petrie to the Nevada Interscholastic Activities Board of Control for a three-year term, is recommended (For Possible Action) . . . .

Thus, while it is possible that a prior announcement of vacancies to the NIAA Control Board might have served to promote good public policy in this instance, the OML does not speak to this issue and evidence confirms that the Board of Trustees complied with the OML’s notice requirement. The OAG therefore concludes the Board of Trustees’ actions to provide public notice of the appointments did not violate the OML.

You also argue the Board of Trustees violated Open Meeting Law by engaging in a serial communication regarding the appointments among a quorum of the Board prior to the September 4, 2019 meeting. More specifically, you complain that Trustee Brooks communicated with Trustees Cavazos and Cepeda about the appointments, and that Trustee Cavazos then discussed the issue with Trustee Young.

Review of an email chain between Trustee Brooks and Trustee Young; attached to the Complaint and dated August 21, 2019, and August 22, 2019;

indicates that these two trustees communicated about the upcoming appointments. Further, counsel for the Board of Trustees acknowledges that Trustee Cavazos spoke with Trustee Young about the appointments prior to the September 4 meeting.

However, no evidence confirms that Trustee Cepeda or another member of the Board of Trustees communicated about the appointments. Therefore, the OAG determines the evidence demonstrates there were insufficient participants to constitute a serial communication of a quorum of the Board of Trustees, and does not address whether the communications that did occur involved public “deliberations” or “actions” for the purposes of the OML.

The OAG determines your remaining arguments fall outside the scope of the OML and thus are not addressed in this opinion.

### **CONCLUSION**

The OAG has reviewed the available evidence and determined that the Board of Trustees did not violate Nevada’s Open Meeting Law. The OAG will close the file regarding this matter.

Sincerely,

AARON D. FORD  
Attorney General

By: /s/ Jared M. Frost  
JARED M. FROST  
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on the 24<sup>th</sup> day of August, 2020, I mailed the foregoing letter by depositing a copy of the same in the U.S. mail, properly addressed, postage prepared, first place mail, to the following:

Dr. Sylvester Rogers

[REDACTED]  
[REDACTED]  
[REDACTED]

Mary-Anne Miller, County Counsel  
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/s/ Debra Turman  
An employee of the State of Nevada  
Office of the Attorney General