

1 OFFICE OF THE ATTORNEY GENERAL  
2 STATE OF NEVADA

3 In the matter of:

4 GOVERNOR'S ADVISORY COUNCIL  
5 ON EDUCATION RELATING TO THE  
6 HOLOCAUST

OAG FILE NO.: 13897-485

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

7  
8 **BACKGROUND**

9 The Office of the Attorney General ("OAG") received three Complaints alleging  
10 violations of the Nevada Open Meeting Law ("OML") by the Governor's Advisory Council  
11 on Education Relating to the Holocaust ("Council"). The Complaints allege that the Council  
12 violated the OML by taking action on an item that was not listed on the agenda for its June  
13 8, 2023, meeting, and discussing the character of one of the Complainants without  
14 providing notice.

15 The OAG has statutory enforcement powers under the OML and the authority to  
16 investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS  
17 241.040. The OAG's investigation of the Complaints included a review of the Complaints;  
18 the responses from the Council; the agenda and recording of the Council's June 8, 2023,  
19 meeting; and the agenda and minutes of the Council's August 8, 2023, meeting.

20 After investigating the Complaints, the OAG determines that the Council violated  
21 the OML by taking action on an item that was not listed on its June 8, 2023, meeting  
22 agenda and by discussing a person's character without providing notice at the same  
23 meeting.

24 **FINDINGS OF FACT**

- 25 1. The Council held a public meeting on June 8, 2023.
- 26 2. About 15 minutes into the meeting, a Councilmember made a motion for a  
27 vote of no confidence in the Chair of the Council. The public notice agenda for the June 8  
28 meeting did not include an item relating to a discussion of the Chair's performance.

1           3.     The Vice Chair of the Council took over officiating the meeting and the Council  
2 spent just under an hour discussing the reasons for the motion, the Chair’s responses to  
3 issues that had arisen between Councilmembers and what they believed a no confidence  
4 vote would accomplish.

5           4.     The Vice Chair called for a roll call vote on the no confidence motion, which  
6 passed narrowly.

7           5.     Notice was not provided ahead of time to the Chair that her character or  
8 performance would be discussed at the June 8 meeting.

9           6.     Three Complaints were filed with the OAG alleging (1) that the Council  
10 violate the OML by deliberating and taking action during the June 8 meeting on a matter  
11 that was not listed on the agenda; and (2) the Council violated the OML by discussing the  
12 Chair’s character and performance without providing notice to her ahead of time.

13          7.     After receiving notice of the Complaints, the Council held a public meeting on  
14 August 8, 2023. Item #6 on the public notice agenda for the meeting stated:

15           CONSIDERATION OF JUNE 8, 2023 MEETING ACTIONS (*Discussion/For*  
16 *Possible Action*) The Council will consider and take possible action on the  
17 actions taken at its June 8 meeting, which are the subject of an open meeting  
18 law complaint. Possible Actions include but are not limited to vacation, partial  
19 vacation, declaration of item(s) as void pursuant to NRS 241.036 or no action  
20 regarding the June 8, 2023 meeting actions.

21          8.     During the August 8 meeting, the Council moved and voted to vacate and  
22 consider void the actions taken at the June 8 meeting.

### 23                   **LEGAL STANDARDS AND CONCLUSIONS OF LAW**

24           The Council, created by NRS 233G.010, is a public body as defined in NRS 241.015(4)  
25 and is subject to the OML.

26           An agenda for a meeting of a public body must include a “clear and complete  
27 statement of the topics to be considered during the meeting.” NRS 241.020(3)(d)(1). The  
28 “clear and complete statement” requirement of the OML stems from the Legislature’s belief  
that ‘incomplete and poorly written agendas deprive citizens of their right to take part in

1 government' and interferes with the 'press' ability to report the actions of government."  
2 *Sandoval v. Bd. Of Regents of Univ.*, 119 Nev. 148, 154 (2003). Strict adherence to the  
3 "clear and complete" standard for agenda items is required for compliance under the OML.  
4 *Id.* The OML "seeks to give the public clear notice of the topics to be discussed at public  
5 meetings so that the public can attend a meeting when an issue of interest will be  
6 discussed." *Id.* at 155. In addition, a public body may not hold a meeting to consider the  
7 "character, alleged misconduct, professional competence, or physical or mental health of  
8 any person" without first giving written notice to that person of the time and place of the  
9 meeting and receiving proof of service of that notice. NRS 241.033(1).

10       There is no dispute that the agenda for the June 8 meeting did not contain an item  
11 relating to the Chair's performance as Chair of the Council or that the Council might take  
12 action to remove her as Chair. The Council also did not provide prior written notice to the  
13 Chair that such a discussion would take place. It is apparent from the recording of the  
14 meeting that such a discussion did take place and a vote was taken to remove the Chair  
15 from her position as Chair of the Council. Thus, the OAG finds that the Council violated  
16 the OML for failing to include the item on its agenda and provide notice as required by  
17 NRS 241.033.

18       The action of any public body taken in violation of the OML is void. NRS 241.036.  
19 However, if a body takes action to correct an alleged violation of the OML within 30 days  
20 after the alleged violation, the OAG may decide not to commence prosecution of the alleged  
21 violation if it determines that foregoing prosecution would be in the best interests of the  
22 public. NRS 241.0365(1). Any action taken by a public body to correct an alleged violation  
23 of the OML is effective prospectively. NRS 241.0365(5).

24       The OAG notes that prior to the instant Complaints being filed, the Council had not  
25 been provided with administrative or legal support. The Council has since obtained legal  
26 representation and sought training on the OML's requirements. While the Council took  
27 corrective action on August 8 by voiding all actions taken at its June 8 meeting, this  
28 corrective action was not taken within 30 days of the alleged violation. As such, the finding

1 of a violation stands. However, the OAG has determined that pursuing further prosecution  
2 of this matter would not be in the best interests of the public.

3 **SUMMARY**

4 Upon investigating the present Complaints, the OAG makes findings of fact and  
5 conclusions of law that the Council violated the OML. If the Attorney General investigates  
6 a potential OML violation and makes findings of fact and conclusions of law that a public  
7 body has taken action in violation of the OML, “the public body must include an item on  
8 the next agenda posted for a meeting of the public body which acknowledges the findings  
9 of fact and conclusions of law.” NRS 241.0395. The public body must treat the opinion of  
10 the Attorney General as supporting material for the agenda item(s) in question for the  
11 purpose of NRS 241.020. *Id.* Accordingly, the Council must place an item on its next  
12 meeting agenda in which it acknowledges the present Findings of Fact and Conclusions of  
13 Law (“Opinion”) resulting from the OAG’s investigation in this matter. The Council must  
14 also include the OAG Opinion in the supporting materials for its next meeting.

15 Dated: June 18, 2024.

16 AARON FORD  
17 Attorney General

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19 By: /s/ Rosalie Bordelove  
20 ROSALIE BORDELOVE  
21 Chief Deputy Attorney General  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 5th day of June, 2024, I served the foregoing **FINDINGS OF FACT AND CONCLUSIONS OF LAW** by depositing a copy of the same in the United States mail, properly addressed, postage prepaid, **CERTIFIED MAIL** addressed as follows:

Jennifer Mayon-Hoffman

[Redacted]

*Complainant*

**Certified Mail No.:** 7020 2450 0001 1950 7283

Roxann McCoy

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*Complainant*

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/s/ Debra Turman  
An employee of the Office of the  
Nevada Attorney General