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555 E. Washington Ave. Suite 3900
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May 16, 2019

Via U.S. Mail

Joe Hart

Stephanie Rice, Esq.

**Re: Open Meeting Law Complaint, O.A.G. File No. 13897-320
Washoe County School District Board of Trustees**

Dear Mr. Hart and Ms. Rice:

The Office of the Attorney General (OAG) received two complaints (Complaints) alleging violations of the Nevada Open Meeting Law (OML) by the Washoe County School District (District) Board of Trustees (Board). The Complaints allege that the Board violated the OML by taking action during a public comment period on a matter that was not on the agenda.¹

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 investigation of the Complaints included OAG review of the Complaints and supporting materials, response to the Complaints, relevant District policies, and video recording of the Board's March 12, 2019, meeting.

FACTUAL BACKGROUND

During the first public comment period of the Board's March 12, 2019, meeting, the District's Area 4 Superintendent, Lauren Ford, asked that District Superintendent Davis investigate certain allegations that had been made against Ford and to issue a public investigation report in order to clear Ford's name. District Superintendent Davis asked the Board's General Counsel if there was a process to initiate an investigation. The General Counsel responded that District staff had the ability to initiate an investigation under

¹ To the extent one of the Complaints makes allegations regarding the confidentiality of an investigation, those allegations do not fall within the purview of the OML and will not be addressed in this opinion.

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existing District policies and that he would take action under those policies. None of the Board Trustees commented on the matter except for one Trustee who raised an OML concern.

DISCUSSION AND LEGAL ANALYSIS

The Board is a "public body" as defined in NRS 241.015(4) 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). No action may be taken by a public body on a matter raised during public comment until that matter itself has been specifically included on an agenda as an item upon which action may be taken. NRS 241.020(2)(d)(3). "Action" means a decision made by a majority of the members present during a meeting of a public body. NRS 241.015(1).

Here, District Superintendent Davis requested an investigation based on Area Superintendent Ford's request during public comment. The Board's General Counsel stated his intent to take certain actions, pursuant to the Board's policies, based upon Davis's request. Actions by the District Superintendent are not subject to the OML as the District Superintendent is not a public body. None of the Board Trustees discussed or deliberated on the matter. Additionally, the Board did not take a motion on the matter and did not entertain a vote regarding the matter. It follows that the Board did not take "action" as defined in NRS 241.015(1) and did not commit a violation of the OML.

CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred. The OAG will close its file regarding this matter.

Sincerely,

AARON D. FORD
Attorney General



ROSALIE BORDELOVE
Chief Deputy Attorney General

cc: Neil Rombardo, Chief General Counsel, Washoe County School District