

## OML Task Force Item 3

### a. NRS 241.035(3) regarding use of AI notetakers

3. All or part of any meeting of a public body may be recorded *or transcribed including, without limitation, digitally, electronically*, on audiotape or any other means of sound or video reproduction by a member of the general public if it is a public meeting so long as this *does not substantially interact or in no way* interfere[s] with the conduct of the meeting. *This section does not limit a public body's ability to remove a person pursuant to NRS 241.030(4).*

### b. NRS 241.035 regarding substituting audio/video recording for minutes for certain advisory bodies

#### **NRS 241.035 Public meetings: Minutes; aural and visual reproduction; transcripts.**

1. *Except as otherwise provided in subsection 9, e[E]*ach public body shall keep written minutes of each of its meetings, including:

(a) The date, time and place of the meeting.

(b) Those members of the public body who were present, whether in person, by use of a remote technology system or by means of electronic communication, and those who were absent.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.

(e) Any other information which any member of the public body requests to be included or reflected in the minutes.

Ê Unless good cause is shown, a public body shall approve the minutes of a meeting within 45 days after the meeting or at the next meeting of the public body, whichever occurs later.

2. Minutes of public meetings are public records. Minutes or an audio recording of a meeting made in accordance with subsection 4 must be made available for inspection by the public within 30 working days after adjournment of the meeting. A copy of the minutes or audio recording must be made available to a member of the public upon request at no charge. The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with [NRS 239.080](#) to [239.125](#), inclusive. Minutes of meetings closed pursuant to:

(a) Paragraph (a) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was considered has consented to their disclosure. That person is entitled to a copy of the minutes upon request whether or not they become public records.

(b) Paragraph (b) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters discussed no longer require confidentiality.

(c) Paragraph (c) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters considered no longer require confidentiality and the person who appealed the results of the examination has consented to their disclosure, except that the public body shall remove from the minutes any references to the real name of the person who appealed the results of the examination. That person is entitled to a copy of the minutes upon request whether or not they become public records.

3. All or part of any meeting of a public body may be recorded on audiotape or any other means of sound or video reproduction by a member of the general public if it is a public meeting so long as this in no way interferes with the conduct of the meeting.

4. Except as otherwise provided in subsection 8, a public body shall, for each of its meetings, whether public or closed, record the meeting on audiotape or another means of sound reproduction or cause the meeting to be transcribed by a court reporter who is certified pursuant to [chapter 656](#) of NRS. If a public body makes an audio recording of a meeting or causes a meeting to be transcribed pursuant to this subsection, the audio recording or transcript:

(a) Must be retained by the public body for at least 3 years after the adjournment of the meeting at which it was recorded or transcribed;

(b) Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the recording or transcript is retained; and

(c) Must be made available to the Attorney General upon request.

5. The requirement set forth in subsection 2 that a public body make available a copy of the minutes or audio recording of a meeting to a member of the public upon request at no charge does not prohibit a court reporter who is certified pursuant to [chapter 656](#) of NRS from charging a fee to the public body for any services relating to the transcription of a meeting.

6. A court reporter who transcribes a meeting is not required to provide a copy of any transcript, minutes or audio recording of the meeting prepared by the court reporter directly to a member of the public at no charge.

7. Except as otherwise provided in subsection 8, any portion of a public meeting which is closed must also be recorded or transcribed and the recording or transcript must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any recording or transcript made pursuant to this subsection must be made available to the Attorney General upon request.

8. If a public body makes a good faith effort to comply with the provisions of subsections 4 and 7 but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter.

***9. Notwithstanding subsection 1, an advisory public body may satisfy the documentation requirements of this section by substituting an audio or video recording of the meeting in lieu of written minutes, if the advisory public body complies with the provisions of this subsection.***

***(a) For purposes of this subsection, "advisory public body" means a public body:***

***(1) Whose membership is not required to include any elected official;***

***(2) That is not authorized to take final action; and***

***(3) That provides advice or recommendations to another public body for final action.***

***(b) An advisory public body that elects to substitute an audio or video recording for written minutes shall:***

***(1) Keep a record of the meeting in compliance with subsections 4 and 7;***

***(2) Post the recording in a publicly accessible online location within 5 business days after adjournment of the meeting; and***

*(3) Retain and make available the recording in accordance with this section.*

*(c) In lieu of written minutes, an advisory public body utilizing this subsection shall make publicly available a record identifying, for each agenda item on which a motion was made, the text of the motion and whether the motion passed or failed.*

*(d) The documentation made available pursuant to paragraph (c) is not required to summarize discussion, debate or public comment and does not constitute written minutes for purposes of this section.*

**10. An advisory public body shall affirmatively elect to utilize the alternative documentation method authorized by subsection 9 in a manner determined by the public body. Absent such election, the public body remains subject to the requirements of subsection 1.**

(Added to NRS by [1977, 1099](#); A [1989, 571](#); [1993, 449, 2638](#); [2005, 978, 1404](#); [2013, 323, 733](#); [2015, 1060](#); [2019, 3625](#); [2023, 1149](#))

**c. NRS 241.015, 241.016 and/or 241.020 regarding the OML’s application to certain advisory bodies**

**241.015(5)** Except as otherwise provided in [NRS 241.016](#), “public body” means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government consisting of at least two persons which expends or disburses, or is supported in whole or in part, by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes a library foundation as defined in [NRS 379.0056](#) and an educational foundation as defined in subsection 3 of [NRS 388.750](#), if the administrative, advisory, executive or legislative body is created by:

(1) The Constitution of this State;

(2) Any statute of this State;

(3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;

(4) The Nevada Administrative Code;

(5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;

(6) An executive order issued by the Governor; or

(7) A resolution or an action by the governing body of a political subdivision of this State;

(b) Any board, commission or committee consisting of at least two persons appointed by:

(1) The Governor or a public officer who is under the direction of the Governor, if the board, commission or committee has at least two members who are not employees of the Executive Department of the State Government;

(2) An entity in the Executive Department of the State Government, if the board, commission or committee otherwise meets the definition of a public body pursuant to this subsection; or

(3) A public officer who is under the direction of an agency or other entity in the Executive Department of the State Government, if the board, commission or committee has at least two members who are not employed by the public officer or entity;

(c) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of [NRS 116.1201](#);

***(d) A university foundation as defined in subsection 3 of NRS 396.405;***

~~(de)~~ A subcommittee or working group consisting of at least two persons who are appointed by a public body described in paragraph (a), (b) or (c) if:

(1) ~~At least one member majority of the membership~~ of the subcommittee or working group ~~is a are~~ members ~~s or staff members~~ of the public body that appointed the subcommittee; ~~and or~~

(2) The subcommittee or working group is authorized by the public body to:

***(a) Expend or disburse tax revenues; or***

***(b) Exercise power delegated to it by the public body; or***

***(c) mMake a recommendation to the public body for the public body to take any action.; and***

~~(e) A university foundation as defined in subsection 3 of NRS 396.405.~~

**d. NRS 241.033 regarding notice requirements to individuals**

**NRS 241.033 Meeting to consider character, misconduct, competence or health of person or to consider appeal of results of examination: Written notice to person required; exception; public body required to allow person whose character, misconduct, competence or health is to be considered to attend with representative and to present evidence; attendance of additional persons; copy of record.**

1. Except as otherwise provided in subsection 7, a public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:

- (a) Given written notice to that person of the time and place of the meeting; and
- (b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be given to the person in one of the following manners:

- (1) Delivered personally to that person at least 7 calendar days before the meeting;
- (2) Sent by certified mail to the last known address of that person at least 14 calendar days before the meeting. *The certified mail option only requires delivery to the last known address and does not require the person to sign receipt of the certified mail;*
- (3) If the person is represented by an attorney in connection with the matter, delivered personally to the attorney of the person at least 7 calendar days before the meeting; or
- (4) If the public body makes decisions directly concerning the employment of the person, delivered personally to the person at his or her place of employment during a time at which the person is required to be present at work that is at least 7 calendar days before the meeting *or by sending an electronic communication at the person's electronic mail address assigned to the person by the public body, provided the person still maintains access to the electronic mail;* or

(b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an

informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

(1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and

(2) A statement of the provisions of subsection 4, if applicable.

3. The ***following are exempt from the notice requirements of paragraph (a) of subsection 2:***

(a) ***The Nevada Athletic Commission is exempt from the requirements of paragraph (a) of subsection 2,*** but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held;

(b) ***A public body that provides documentation of at least four unsuccessful attempts to accomplish the notice requirements of paragraph (a) of subsection 2. Such documentation must show that the notice attempts were performed within the required time periods, at least two different notice options were attempted, and the person failed to respond but had the ability to receive the notice.***

4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, the public body must allow that person to:

(a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;

(b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and

(c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

5. Except as otherwise provided in subsection 4, with regard to the attendance of persons other than members of the public body and the person whose character, alleged

misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered, the chair of the public body may at any time before or during a closed meeting:

**e. NRS 241.039 regarding confidentiality of Attorney General’s investigative records**

*8. Information and records related to closed meetings or documenting privileged communications that are transmitted to the Office of the Attorney General as part of an investigation conducted pursuant to this section are confidential and not public records. Disclosing information to the Office of the Attorney General as part of an investigation conducted pursuant to this section does not constitute a waiver of any legal privilege or confidential status.*

**g. NRS 241.035(1) regarding contents and attachments to minutes**

**NRS 241.035 Public meetings: Minutes; aural and visual reproduction; transcripts.**

1. Each public body shall keep written minutes of each of its meetings, including:

(a) The date, time and place of the meeting.

(b) Those members of the public body who were present, whether in person, by use of a remote technology system or by means of electronic communication, and those who were absent.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member’s vote on any matter decided by vote.

(d) The substance of **comments** ~~remarks~~ made by any member of the general public who addresses the public body.

*(e) A copy of the prepared comments of a if a member of the general public if the requests prepared written comments that the minutes reflect those concern a matter over which the public body has supervision, control, jurisdiction, or advisory power remarks. or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.*

(fe) Any other information which any member of the public body requests to be included or reflected in the minutes.

Ê Unless good cause is shown, a public body shall approve the minutes of a meeting within 45 days after the meeting or at the next meeting of the public body, whichever occurs later.

#### **h. NRS 241.031 regarding closed sessions for public safety concerns**

**NRS 241.030 Holding closed meeting to consider character, misconduct, competence or health of person, to prepare, revise, administer or grade examinations or to consider appeal of results of examination; waiver of closure of meeting by certain persons.**

1. Except as otherwise provided in this section and [NRS 241.031](#) and [241.033](#), a public body may hold a closed meeting to:

(a) Consider the character, alleged misconduct, professional competence, or physical or mental health of a person.

(b) Prepare, revise, administer or grade examinations that are conducted by or on behalf of the public body.

(c) Consider an appeal by a person of the results of an examination that was conducted by or on behalf of the public body, except that any action on the appeal must be taken in an open meeting and the identity of the appellant must remain confidential.

**(d) Consider matters within the public body's jurisdiction and control relating to critical infrastructure or public safety where the public body determines disclosure of the information to be discussed may pose a risk to public health and welfare.**

**NRS 241.035(2)** 2. Minutes of public meetings are public records. Minutes or an audio recording of a meeting made in accordance with subsection 4 must be made available for inspection by the public within 30 working days after adjournment of the meeting. A copy of the minutes or audio recording must be made available to a member of the public upon request at no charge. The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with [NRS 239.080](#) to [239.125](#), inclusive. Minutes of meetings closed pursuant to:

(a) Paragraph (a) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was considered has consented to their disclosure. That person is entitled to a copy of the minutes upon request whether or not they become public records.

(b) Paragraph (b) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters discussed no longer require confidentiality.

(c) Paragraph (c) of subsection 1 of [NRS 241.030](#) become public records when the public body determines that the matters considered no longer require confidentiality and the person who appealed the results of the examination has consented to their disclosure, except that the public body shall remove from the minutes any references to the real name of the person who appealed the results of the examination. That person is entitled to a copy of the minutes upon request whether or not they become public records.

**(d) Paragraph (d) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality.**