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December 21, 2017

Via U.S. Mail

Ron Tetirick



**Re: Discovery Charter School Receiver - Open Meeting Law Complaint  
O.A.G. File No. 13897-246**

Dear Mr. Tetirick:

The Office of the Attorney General (OAG) is in receipt of your complaints alleging violations of the Open Meeting Law (OML) by the Receiver of Discovery Charter School, John Haynal (Receiver), and the Discovery Charter School Board (Board). The first Complaint alleges that the Receiver conducted an online mail poll that was not subject to public attendance. The second Complaint alleges that the Board held a meeting behind closed doors on June 7, 2017.

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. In response to the Complaints, the OAG reviewed the Complaints and attachments, and the responses to the Complaints from the Board's counsel, Africa Sanchez.

As a preliminary matter, the OAG will not consider the potential violation alleged in the second complaint due to timeliness. It is current OAG procedure not to consider OML complaints filed beyond 120 days from the complained activity.

**FACTUAL BACKGROUND**

The Board is a "public body" as defined in NRS 241.015(4), subject to the OML. John Haynal was appointed Receiver for Discovery Charter School on July 7, 2017, by the Eighth Judicial District Court. After that point, the Board ceased to exist. The Receiver is not a

“public body” as defined in NRS 241.015(4) as he is only one person. However, the Court, in its order, required that “at least quarterly, the Receiver shall hold a public meeting consistent with the requirements of the Open Meeting Law (NRS Chapter 241) to discuss issues related to the exercise of his or her duties and receive public comment regarding the same to allow parents, students, staff and the community to participate.” Thus, public meetings held by the Receiver are subject to the OML.

In or around August, 2017, the Receiver conducted an online survey of the parents of students who attend Discovery Charter School concerning the school’s calendar. The school distributed a letter to parents from the Receiver on August 7, 2017, describing his analysis of that survey.

### DISCUSSION AND LEGAL ANALYSIS

The Nevada Legislature intends that the actions of public bodies “be taken openly and that their deliberations be conducted openly.” NRS 241.010(1); *see McKay v. Bd. Of Supervisors*, 102 Nev. 644, 651 (1986). Electronic communications must not be used to circumvent the spirit or letter of the OML. NRS 241.016(4).

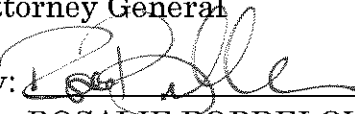
The Receiver is not a public body as defined in the OML and thus an action taken by the receiver outside of a public meeting does not violate the OML. Moreover, the poll conducted was of parents, not of members of a public body. Thus, even if the Receiver were a public body, this poll would not have violated the OML.

### CONCLUSION

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

Sincerely,

ADAM PAUL LAXALT  
Attorney General

By:   
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ROSALIE BORDELOVE  
Deputy Attorney General

cc: Africa Sanchez, Counsel to the Receiver of Discovery Charter School