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October 1, 2014

Via First Class Mail

Kellie J. Grahmann
613 Aja Place
Dayton, Nevada 89403

Re: Open Meeting Law Complaint, AG File No. 14-015 and 14-022;
Silver State Charter School Governing Board

Dear Ms. Grahmann:

An investigation of your Open Meeting Law (OML) complaints have been completed. We reviewed the materials you sent us and the relevant portions of audio recordings of three open public meetings of the Silver State Charter School Governing Board (Governing Board) for meetings on April 15, 2014, May 20, 2014, and July 15, 2014. We also reviewed the audio recording of the Governing Board's closed meeting on April 15, 2014. The May 20, 2014 open meeting agenda item #10 indicated that a closed meeting had been scheduled, but after listening to the audio we found that item #10 was withdrawn during the meeting along with item #11.

The first allegation in the OML Complaint A.G. File No. 14-015, is that recordings and minutes of closed meetings during board meetings for April 15, 2014 and May 20, 2014, were not kept as required by NRS 241.035(4). Counsel provided the closed meeting recording and minutes for April 15th closed Board Meeting. There was no closed meeting in May.

The second allegation in the complaint is that the minutes of May 20, 2014 are not representative of what was stated and what actually happened. You have raised a question regarding member Jon Steele's comments made on January 28, 2014, in

which he made the observation that financial reports should be provided monthly, and if not so provided, such failure may raise suspicion of Kellie and Steve. When the minutes of this meeting were discussed and voted on for approval, Member Steele indicated he wished to correct his public statement that suggested the Board had found something definitive about Ms. Grahmann's monthly financial reports. There was much discussion among the Board and Ms. Grahmann regarding the meaning of original statements made by member Steele. The Board finally voted to correct the minutes by stating that the absence of monthly financials raises "suspicion."

NRS 241.035(1) requires that public body's minutes record the "substance of all matters proposed, discussed, or decided" and any other information which a member of the public body requests to be included. Our review of the audio compared to the relevant portion of the corresponding minutes convinces us that the change to the minutes is within the OML's requirements.

We were not able to substantiate a violation of the Open Meeting Law as alleged in the Complaint.

Our investigation also encompassed another Complaint, A.G. File No. 14-022, also filed by Ms. Grahmann. She alleges in this complaint that the Governing Board impermissibly discussed her character, professional competence, and alleged misconduct in violation of NRS 241.033(1). NRS 241.033(1) requires that notice of a public body's intent to discuss one or more of the four statutory issues concerning a person, must be given to the person at least 5 days prior to meeting.

We reviewed an audio recording, and minutes of the July 15, 2014 Governing Board public meeting and the minutes of the Governing Board's June 24, 2014 public meeting.

Ms. Grahmann's complaint alleges that members of the Governing Board have routinely discussed "her job performance, and thrown out words like embezzlement and hiding money." She also alleges that when a Board member said, "they [the Governing Board] talk about Kellie [Ms. Grahmann] all the time," this too, violated the provisions of NRS 241.033(1).

The Complaint also alleges that Governing Board member Jon Steele said during the public meeting that if "she [Ms. Grahmann] was doing her job correctly, she should be able to give us a financial report that is true and accurate with all of those things [July and August teachers' wages from last year's money] accounted for."

We reviewed each allegation in its context in the audio recordings and meeting minutes to ensure we were reviewing the whole picture. Analyzing phrases or

sentences without understanding the utterance of certain words in context, is not helpful and could lead to the wrong conclusion.

We could not find any Governing Board discussion which used the words "embezzlement" or "hiding money" and certainly these words were not used in the context of an accusation, directly or indirectly, against Ms. Grahmann. The fact that board members talk about her is not indicative of improper discussions of her character or professional competence. These words lacked underlying context that could supply further meaning whether good or bad.

Member Jon Steele said that if "...she [Ms. Grahmann] was doing her job correctly, she should be able to give us a financial report that is true and accurate with all of those things [July and August teacher's wages from last year's money] accounted for." This sentence can be interpreted in at least two ways. First, it can be interpreted as a comment on Ms. Grahmann's professional competence. There was no reply or discussion of Mr. Steele's comment from the Governing Board members. Secondly, when Mr. Steele's comment is analyzed in the context of the overall discussion, the meaning appears to us to be indicative of a board discussion of what documents the Board needed to see in each month's packet but not indicative of her professional competence.

Further Governing Board discussion was what "should" be in the board packet to give the Board a more up-to-date view of the financial condition of the school. This had been discussed during the previous month's meeting, but no action had been taken.

Part of the Governing Board discussion was about the hiring of a C.P.A. firm. Further discussion concerned the responsibility of the Administrator over the position of that Ms. Grahmann holds.

Member Steele's comment implied Ms. Grahmann had not been doing her job, but further discussion by the Governing Board revealed that the school's administrator had determined, at least up until this point, what documents and information needed to be provided to the Board. It is possible Ms. Grahmann may have been following instruction from the Administrator. The Governing Board was trying to agree to a minimum standard of mandatory financial documents not previously supplied every month.

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CONCLUSION

After review of the audio recordings and the minutes, we do not find a violation of the Open meeting Law, but the determination of whether Ms. Grahmann's professional competence as the financial officer for the school had been infringed based on member Steele's comment was a close issue, especially given the earlier discussion among the Board and member Steele's comment then, that we have considered in A.G. File No. 14-015 in this opinion. Because no one else on the Governing Board engaged Mr. Steele's comment with more comments, we will view member Steele's comment this time as a casual or tangential comment and not as a Governing Board discussion of her professional competence. NRS 241.033(7)(b). However, we will not hesitate to take further action if similar comments about Ms. Grahmann reoccur.

NRS 241.033 prohibits discussion of any person's character, alleged misconduct, and professional competence without giving notice.

We are closing our file on this matter.

Sincerely,

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