

OFFICE OF THE ATTORNEY GENERAL
STATE OF NEVADA

In the matter of:
STATE PUBLIC CHARTER SCHOOL
AUTHORITY

OAG FILE NO.: 13897-264
FINDINGS OF FACT AND
CONCLUSIONS OF LAW

BACKGROUND

Ronald Tetirick filed a Complaint (Complaint) with the Office of the Attorney General (OAG) alleging violations of the Nevada Open Meeting Law (OML) by the State Public Charter School Authority (SPCSA). The Complaint alleges that the SPCSA violated the OML as follows:

ALLEGATION NO. 1: The SPCSA failed to inform Mr. Tetirick of the public board meeting held on January 26, 2018, after Mr. Tetirick made a written request on September 29, 2017, to be notified of any SPCSA board meetings.

ALLEGATION NO. 2: The SPCSA failed to inform Mr. Tetirick of the public board meeting held on February 16, 2018, after Mr. Tetirick made a written request on September 29, 2017, to be notified of any SPCSA board meetings.

ALLEGATION NO. 3: The SPCSA failed to notify Mr. Tetirick that his request for written notice of SPCSA meetings automatically lapses after six (6) months by including such notification in the first notice sent to Mr. Tetirick by the SPCSA.

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 OAG's investigation of the Complaint included a review of the following: email communications between Mr. Tetirick and SPCSA Executive Director, Patrick Gavin; email communications to Mr. Tetirick generated by SPCSAinfo Listserv, which is an electronic mailing list software application utilized by SPCSA to send out mass email communications; email communications from SPCSA Board Secretary, Danny Peltier, to

1 SPCSAinfo Listserv providing public notice and agendas for SPCSA board meetings on
2 September 29, October 10, October 23-25, November 8, and December 8, 2017, and
3 February 16, 2018; email communication from SPCSA Board Secretary, Danny Peltier,
4 providing public notice and agenda for the January 26, 2018 SPCSA board meeting, which
5 did not include SPCSAinfo Listserv as a recipient; the agenda and minutes of the January
6 26, 2018 SPCSA board meeting; and the agenda and minutes of the May 14, 2018 SPCSA
7 board meeting.

8 After investigating the Complaint, the OAG determines that the SPCSA violated the
9 OML by failing to inform Mr. Tetirick of the January 26, 2018 SPCSA board meeting by
10 sending an email communication with the same to the SPCSAinfo Listserv. The OAG also
11 determines that the SPCSA violated the OML by failing to notify Mr. Tetirick that his
12 written request for notice of SPCSA meetings automatically lapses after six (6) months by
13 including such notification in the first notice sent to Mr. Tetirick by the SPCSA. The OAG
14 finds that the SPCSA did not violate the OML concerning notice to Mr. Tetirick of the
15 February 16, 2018 SPCSA board meeting.

16 FINDINGS OF FACT

17 1. The SPCSA is a “public body” as defined in NRS 241.015(4) and is subject to
18 the OML.

19 2. On September 29, 2017, Mr. Tetirick sent an email communication to the
20 SPCSA requesting to receive notification of all future SPCSA board meetings. That same
21 day, SPCSA Executive Director, Patrick Gavin, sent an email communication to Mr.
22 Tetirick informing him that he had been added as a recipient to the SPCSAinfo Listserv,
23 and that he should receive a notification from SPCSAinfo Listserv. Mr. Gavin did not
24 inform Mr. Tetirick that notice of SPCSA meetings automatically lapses six (6) months
25 after Mr. Tetirick’s request.

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1 3. SPCSAinfo Listserv is an electronic mailing list software application utilized
2 by SPCSA to send out mass emails related to the SPCSA, including public notice and
3 agendas for SPCSA board meetings. Once an email address is added to the SPCSAinfo
4 Listserv mailing list, the recipient will receive email notifications of board meetings.

5 4. Also on September 29, 2017, SPCSAinfo Listserv generated an email
6 communication to Mr. Tetirick informing him that he had been added to the SPCSAinfo
7 Listserv mailing list. This email communication did not inform Mr. Tetirick that his notice
8 of SPCSA meetings automatically lapses after six (6) months.

9 5. On September 25, 2017, SPCSA Board Secretary, Danny Peltier, sent an
10 email communication providing public notice of the September 29, 2017 SPCSA board
11 meeting to SPCSAinfo Listserv. An agenda for the board meeting was also attached and
12 distributed via the SPCSAinfo Listserv.

13 6. On October 5, 2017, SPCSA Board Secretary, Danny Peltier, sent an email
14 communication providing public notice of the October 10, 2017 SPCSA board meeting to
15 SPCSAinfo Listserv. An agenda for the board meeting was also attached and distributed
16 via the SPCSAinfo Listserv.

17 7. On October 17, 2017, SPCSA Board Secretary, Danny Peltier, sent an email
18 communication providing public notice of the October 23-25, 2017 SPCSA board meetings
19 to SPCSAinfo Listserv. Agendas for the board meetings were also attached and distributed
20 via the SPCSAinfo Listserv.

21 8. On November 1, 2017, SPCSA Board Secretary, Danny Peltier, sent an email
22 communication providing public notice of the November 8, 2017 SPCSA board meeting to
23 SPCSAinfo Listserv. An agenda for the board meeting was also attached and distributed
24 via the SPCSAinfo Listserv.

25 9. On December 4, 2017, SPCSA Board Secretary, Danny Peltier, sent an email
26 communication providing public notice of the December 8, 2017 SPCSA board meeting to
27 SPCSAinfo Listserv. A link to access the agenda for the board meeting was also included
28 in the email communication via the SPCSAinfo Listserv.

1 10. On January 19, 2018, SPCSA Board Secretary, Danny Peltier, sent an email
2 communication providing public notice and an attached agenda for the January 26, 2018
3 SPCSA board meeting to various recipients; however, SPCSAinfo Listserv was not included
4 as a recipient. As a result, email addresses included on the SPCSAinfo Listserv mailing list
5 did not receive Mr. Peltier's email communication with notice of the January 26, 2018
6 SPCSA board meeting.

7 11. On February 9, 2018, SPCSA Board Secretary, Danny Peltier, sent an email
8 communication providing public notice of the February 16, 2018 SPCSA board meeting to
9 SPCSAinfo Listserv. An agenda for the board meeting was also attached and distributed
10 via the SPCSAinfo Listserv.

11 12. On May 14, 2018, the SPCSA held a board meeting.

12 13. The SPCSA's agenda for its May 14, 2018 meeting included "Action items from
13 the January 26, 2018 SPCSA Board meeting."

14 14. During the SPCSA's board meeting on May 14, 2018, the SPCSA board
15 acknowledged the OML Complaint, and reheard and re-voted on all action items from the
16 January 26, 2018 meeting.

17 LEGAL STANDARDS AND CONCLUSIONS OF LAW

18 1. **The SPCSA failed to provide Mr. Tetirick with notice of the January 26,**
19 **2018 SPCSA board meeting, but it did provide Mr. Tetirick with notice of**
20 **the February 16, 2018 SPCSA board meeting.**

21 Nevada Revised Statute (NRS) 241.020 governs the notice of public body meetings,
22 requiring the public body to provide notice to any person who has made a request to receive
23 such notice. NRS 241.020(3)(c).

24 Here, after making a request to receive notice of SPCSA board meetings, Mr.
25 Tetirick's email address was added to the SPCSAinfo Listserv mailing list on September
26 29, 2017. Public notice and agenda information were sent via email communication by
27 SPCSA Board Secretary, Danny Peltier, to SPCSAinfo Listserv for the SPCSA board
28 meetings on September 29, October 10, October 23-25, November 8, and December 8, 2017,
and February 16, 2018. By sending this information to the SPCSAinfo Listserv, email

1 addresses contained on the SPCSAinfo Listserv mailing list also received the notices and
2 agendas for the SPCSA board meetings. Therefore, the SPCSA complied with NRS
3 241.020(3)(c) by notifying Mr. Tetirick of the aforementioned SPCSA board meetings via
4 the SPCSAinfo Listserv.

5 The email communication from SPCSA Board Secretary, Danny Peltier, providing
6 public notice and the agenda for the January 26, 2018 SPCSA board meeting, however, did
7 not include SPCSAinfo Listserv as a recipient. Consequently, persons on the SPCSAinfo
8 Listserv mailing list, including Mr. Tetirick, were not notified of the January 26, 2018
9 SPCSA board meeting via the SPCSAinfo Listserv. The SPCSA violated the OML's
10 requirement to notify persons who have requested notice of SPCSA board meetings by
11 failing to notify those persons listed on the SPCSAinfo Listserv mailing list of the January
12 26, 2018 SPCSA board meeting. However, the OAG does not find a violation of the OML
13 related to notification of the February 16, 2018 SPCSA board meeting, as an email
14 communication with the notice and agenda for that meeting were sent via the SPCSAinfo
15 Listserv.

16 **2. The SPCSA failed to inform Mr. Tetirick that his request for written notice**
17 **of SPCSA meetings automatically lapses after six (6) months by notation**
18 **within the first notice sent to Mr. Tetirick by the SPCSA.**

19 NRS 241.020(3)(c), which governs notice of public body meetings, also requires the
20 public body to inform any person who has requested written notice of meetings that such
21 request lapses six (6) months after the request by including such notation in the first notice
22 sent to the requester. NRS 241.020(3)(c).

23 Here, neither the email communication from Mr. Gavin nor the first SPCSAinfo
24 Listserv generated email communication, both sent to Mr. Tetirick on September 29, 2017,
25 notified Mr. Tetirick that his notice of SPCSA meetings automatically lapses after six (6)
26 months. Failing to provide such notification in the first notice to Mr. Tetirick violates the
27 OML.

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SUMMARY AND INCLUSION OF AGENDA ITEM

If the Attorney General investigates a potential OML violation and makes findings of fact and conclusions of law that a public body has taken action in violation of the OML, “the public body must include an item on the next agenda posted for a meeting of the public body which acknowledges the findings of fact and conclusions of law.” NRS 241.0395. The public body must treat the opinion of the Attorney General as supporting material for the agenda item(s) in question for the purpose of NRS 241.020. *Id.*

Additionally, the Attorney General may decide not to commence prosecution of an alleged OML violation if the public body takes action to correct the alleged violation *within 30 days*, and the Attorney General determines that foregoing prosecution is in the best interest of the public. NRS 241.0365(1).

Upon investigating the present Complaint, the OAG makes a findings of fact and conclusions of law that the SPCSA committed OML violations by failing to notify Mr. Tetirick of the SPCSA board meeting held on January 26, 2018, and by failing to notify Mr. Tetirick that his request for written notice of SPCSA meetings automatically lapses six (6) months after his request. While at the May 14, 2018 SPCSA board meeting, the SPCSA acknowledged the OML Complaint, and reheard and re-voted on all action items from the January 26, 2018 board meeting, such corrective action was not taken within 30 days of the alleged OML violations. However, foregoing prosecution in this matter is in the best interest of the public, and therefore, the OAG requires acknowledgement of the findings of fact and conclusions of law on the agenda of the next SPCSA board meeting in conformity with NRS 241.0395.

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1 CERTIFICATE OF SERVICE

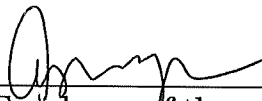
2 I hereby certify that on the 3 day of January 2019, I served the **FINDINGS OF**
3 **FACT AND CONCLUSIONS OF LAW** by depositing a copy of the same in the United
4 States mail, properly addressed, postage prepaid, **CERTIFIED MAIL** addressed as follows:

5
6 State Public Charter School Authority
Patrick Gavin, Executive Director
7 1749 North Stewart Street Suite 40
Carson City, Nevada 89706

8 **Certified Mail No.** 7009 2250 0001 8859 8860

9 Ronald Tetirick
10 4432 Socrates Street
North Las Vegas, Nevada 89301

11 **Certified Mail No.** 7006 2760 0000 0870 9075

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An Employee of the
15 Office of the Attorney General
State of Nevada