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June 30, 2023

Jeffrey Ventrella
Office of the Attorney General
700 W. Jefferson Street, Suite 210
P.O. Box 83720
Boise, Idaho 83720-0010

RE: *Labrador v. Idaho State Board of Education*, CV01-23-09996

Dear Mr. Ventrella,

On June 27, 2023, the Office of Attorney General Raul Labrador served me with a copy of the above-referenced lawsuit. From my initial review of the complaint, I understand Attorney General Labrador is suing the Idaho State Board of Education (Board) for allegedly violating Idaho's open meetings law at its executive session on May 15, 2023.

In my capacity as Executive Director of the Board, I will work with the Board to ensure a timely and formal response to the complaint is filed. As a preliminary matter, I must note the Board's demonstrated commitment to following Idaho law and conducting the people's business both transparently and in accordance with legislative intent. In advance of the May 15 meeting, the Board consulted with and relied upon the legal advice of the Office of Attorney General Labrador to ensure the meeting was noticed and conducted legally. Additionally, the Deputy Attorney General your office assigned to the Board was present for the entirety of the May 15 meeting and no concerns with its legality were ever raised to the Board.

To adequately respond to the lawsuit, the Board now requires legal counsel who is both experienced in litigation and acting independent of Attorney General Labrador. Under different circumstances and absent a legal conflict, the Board would request the Attorney General provide litigation counsel pursuant to Idaho Code § 67-1401. However, given it is Attorney General Labrador who filed this adverse action against the Board, it would be inappropriate for the Board to be represented in the lawsuit by any attorney employed by or acting at the direction of Attorney General Labrador.

Accordingly, please be advised that, with the Governor's authorization, the Board will retain private litigation counsel for purposes of analyzing the lawsuit, advising the Board as to the merits of the legal claims and defenses, and representing the Board in court. I understand this approach is consistent with direction previously given by Solicitor General Wold to the Office of the Governor regarding the Department of Health and Welfare's retention of outside legal counsel to defend against the Attorney General's civil investigative demands which are the subject of *In the Matter of the Idaho Attorney General's Investigation of the Community Partner Grant Program – Civil Investigative Demands for Dave Jeppesen, Jennifer Palagi, and Shane Leach* (Case No. CV01-23-04832).

Finally, because of a conflict in representation by the Office of Attorney General Labrador, to ensure the Board complies with Idaho Code § 67-1406(5), Board staff will promptly forward litigation counsel's invoices to the Office of Attorney General Labrador for payment from the funds appropriated to your office.

Sincerely,



Matt Freeman
Executive Director