

BOISE, THURSDAY, JUNE 13, 2024, AT 8:50A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**RAUL R. LABRADOR, in his official)
capacity as Attorney General of the State of)
Idaho,)**

Plaintiff-Appellant,)

v.)

**IDAHO STATE BOARD OF EDUCATION,)
an agency of the State of Idaho, in its capacity)
as the Board of Regents of the University of)
Idaho,)**

Defendant-Respondent.)

Docket No. 51580

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Jason D. Scott, District Judge.

Idaho Attorney General’s Office, Boise, for Appellant.

Gjording Fouser, PLLC, Boise, for Respondent.

This case concerns the Idaho Open Meetings law and its exceptions permitting a governing body to go into an executive session. Idaho Code sections 74-201 through 208 require that meetings of governing bodies “be open to the public and all persons[,]” unless one of the specifically enumerated exceptions applies.

On May 18, 2023, the governing body known under Idaho law as “the state board of education and board of regents of the University of Idaho” (the “Board”) unanimously approved terms for the University of Idaho to acquire the University of Phoenix. The proposed acquisition was to be made through a newly created University of Idaho owned non-profit corporation for \$550 million, funded by a total bond of \$685 million. Prior to this May 18, 2023, public meeting, there were three executive sessions that were closed to the public.

Pursuant to enforcement and violation provisions of the Idaho Open Meetings Law, Raúl Labrador, in his capacity as the Attorney General for the State of Idaho, brought suit seeking to nullify and void the Board’s approval of the proposed acquisition of the University of Phoenix.

After granting partial summary judgment, the district court dismissed Attorney General Labrador’s claims on all issues except the issue of competition. After a bench trial on competition, the district court found that Attorney General Labrador had not shown grounds for

declaring the May 18, 2023, action of the Board null and void. Thereafter, the district court dismissed the action with prejudice. Attorney General Labrador timely appeals to the Idaho Supreme Court, arguing that the district court erred in its conclusions on summary judgment, at trial, and in the issuance of attorney fees.