



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**STATE OF NEVADA
BEFORE THE NEVADA COMMISSION ON ETHICS**

**In the Matter of the Request for Opinion
Concerning the Conduct of DEANNA WRIGHT,
Member, Clark County School Board of
Trustees, Clark County School District,
State of Nevada,**

Request for Opinion No.: 10-60C

Subject. /

INVESTIGATOR'S REPORT (Tab A)

Introduction

1. Request for Opinion No. 10-60C (Ethics Complaint). (Tab B):

On July 22, 2010, Requester Ken Small filed a Request for Opinion regarding public officer Deanna Wright, member of the Clark County School District (CCSD) Board of Trustees, alleging that Wright violated various provisions of the Ethics in Government Law set forth in NRS 281A including: 1) NRS 281A.020 when she failed to separate her public and private interests by participating and voting on matters related to Martin Harris Construction, a former employer of her mother, 2) NRS 281A.400(1) when she sought an economic opportunity for her mother which would tend to improperly influence her from the impartial discharge of her public duties by participating in discussions and voting on matters related to Martin Harris Construction, 3) NRS 281A.420(1) when she failed to disclose a commitment in a private capacity to the interest of her mother and her mother's former employer Martin Harris Construction, 4) NRS 281A.420(3) when she failed to abstain from voting on matters related to Martin Harris Construction.

2. Jurisdiction:

The Nevada Commission on Ethics has jurisdiction over public officers and

1 public employees pursuant to NRS 281A.280. As a member of the CCSD Board of
2 Trustees, Wright is a public officer as defined in NRS 281A.160. Therefore, the Nevada
3 Commission on Ethics has jurisdiction to investigate and take appropriate action in this
4 matter pursuant NRS 281A.280 and NRS 281A.440.

5
6 **3. Issues:**

7 The issues are whether Wright violated:

- 8
- 9 I. NRS 281A.020 when she failed to separate her public and private interests,
10 by participating and voting on matters related to Marin Harris Construction,
11 a former employer of her mother.
 - 12 II. NRS 281A.400(1) when she sought an economic opportunity for her
13 mother which would tend to improperly influence her from the impartial
14 discharge of her public duties by participating in discussions and voting on
15 matters related to Martin Harris Construction.
 - 16 III. NRS 281A.420(1) when she failed to disclose a commitment in a private
17 capacity to the interest of her mother and her mother's former employer
18 Martin Harris Construction.
 - 19 IV. NRS 281A.420(3) when she failed to abstain from voting on matters related
20 to Martin Harris Construction.
- 21

22 **4. Notices to Subject: (Tab C):**

23 The Commission issued a Notice to Subject of RFO 10-60C to Wright on July 30,
24 2010. A postal service record indicates that Wright received the Notice on August 4,
25 2010. (Tab C).

26

27 **5. Response to Ethics Complaint. (Tab D):**

28 Wright submitted a response to the Ethics Complaint on August 30, 2010. The

1 response indicated that Wright denied violating any provisions of NRS 281A. In her
2 response, Wright indicated that she separated her private and public interests and she
3 did not seek an economic opportunity for her mother. Wright stated, that at the time of
4 the alleged violations, her mother was no longer employed by Martin Harris
5 Construction and was no longer receiving any salary, retirement or any other benefits.

6 As to the allegation of failing to disclose her mother's past employment and
7 failing to abstain from matters related to Martin Harris Construction that came before
8 the CCSD Board, Wright stated that since her mother was no longer employed and no
9 pecuniary interest or any other relationships existed between Martin Harris and any
10 member of her family, she had nothing to disclose or reason to abstain from voting. In
11 addition, Wright stated that she consulted with the CCSD Board legal counsel Mark
12 Wood, Esq., who advised her that if Martin Harris no longer employed her mother and
13 if her mother no longer received compensation including health insurance or retirement
14 from the company, Wright was not required to disclose or abstain from voting.

15
16 **Investigation Resources:**
17

18 I interviewed the following individuals and reviewed their responses:
19

20 **1. Witnesses interviews and responses. (Tab E):**

- 21 • Ken Small, requester, in person on September 21, 2010. (Investigator's Report,
22 Tab A, p.6).
- 23 • Deanna Wright. Subject of RFO 10-60C, in person, on October 5, 2010.
24 (Investigator's Report, Tab A, pp. 6-7).
- 25 • Mark Wood, Esq., legal counsel for the CCSD Board of Trustees, via telephone
26 on October 7, 2010. (Investigator's Report, Tab A, pp.7-8).

1 mother. Furthermore, the requester suggested an opposite scenario implying that if
2 Wright voted against matters related to Martin Harris, the contractor may challenge
3 McCandless' unemployment claims and give a negative recommendation to a future
4 employer. Moreover, other allegations suggests that Wright should have disclosed her
5 mother's past employment and abstained from matters related to JMA Architects Inc.,
6 since JMA is "known to partner on projects with Martin Harris Construction." The
7 Complaint focuses mainly on the period between January 8, 2009 (Wright's first
8 meeting as a CCSD Board member) and January 22, 2009.

9 On January 8, 2009, the CCSD Board voted on and approved architectural
10 design services for future elementary schools noted as consent agenda items 5.14,
11 5.15, 5.16 and 5.17. (Exhibit 2). None of the four agenda items mentioned Martin
12 Harris Construction. However, the architectural design services under agenda item
13 5.17 were awarded to JMA Architects Inc., which as noted above, created an alleged
14 conflict of interest for Wright. (Complaint, Tab B, p. 4, ¶¶e and ¶¶2). In addition, JMA
15 Architects was named in agenda item 5.21. Wright voted to approve all of the
16 aforementioned items. (Exhibit 2).

17 In addition, the requester alleged that the January 8, 2009 minutes failed to
18 comply with the Open Meeting Law requirements. (Complaint, Tab B, p. 4, ¶ 3).
19 However, Open Meeting Law matters are not within the jurisdiction of this Commission.

20 Furthermore, on January 21, 2009, the CCSD Board voted to adopt a Capital
21 Improvement Plan (building construction plan) noted as agenda item 4.01. The
22 requester alleged that due to the nature of the work (large project), Martin Harris
23 Construction may submit a bid proposal, which would create a conflict of interest for
24 Wright. (Complaint, Tab B, pp. 3-4 ¶¶ a-g).

25 Finally, on January 22, 2009, the CCSD Board voted to "Ratify Change Orders"
26 noted as consent agenda item 5.13. The action appears to approve additional funds to
27 several contractors including Martin Harris Construction. (Exhibit 2). Wright voted on
28 the item; no disclosures or abstentions were recorded. The requester alleged that

1 Martin Harris performed the majority of the work while Wright's mother was still
2 employed as its accountant and the project was ongoing as of the January 22, 2009
3 Board meeting. According to the requester, Wright should have disclosed her mother's
4 employment and abstained from the vote.

5
6 **Interview with Requester Ken Small on September 21, 2010.**

7 I spoke to Requester Ken Small on September 21, 2010 and asked him about
8 his allegations. Small stated that, in his opinion, Wright violated multiple provisions of
9 NRS 281A due to her participation and vote several agenda items related to CCSD
10 construction projects, mainly because of her mother's past employment. Small stated
11 that Wright's mother was employed by Martin Harris Construction, a major contractor
12 with a history of doing work for CCSD and, as such, Wright should have disclosed her
13 mother's employment and abstain from voting on numerous agenda items.

14 In addition, Small stated that Wright's participation and votes on projects for
15 Martin Harris may create more work and a subsequent need for additional accounting
16 services, which may result in Martin Harris re-hiring Wright's mother. In contrast, Small
17 added that Wright's opposition to Martin Harris would create conflict as well; if Wright
18 voted against such projects, Martin Harris may provide a negative recommendation for
19 Wright's mother to a future employer or oppose to her claim for unemployment
20 benefits. Therefore, to avoid any conflicts, Small believed that Wright should have
21 disclosed her mother's employment, although past, and abstain from voting on projects
22 that could be related to Martin Harris.

23
24 **Interview with Subject Deanna Wright on October 5, 2010.**

25 I interviewed Wright on October 5, 2010 and questioned her as to the
26 allegations brought by Small. Wright stated that, indeed, her mother Heather
27 McCandless is a member of her household and she was employed by Martin Harris
28 Construction from May 2006 to November 2008. However, in late November 2008, she

1 was terminated due to a substantial decline in construction projects in the area. Wright
2 stated that her mother was employed as an accountant but her duties did not involve
3 estimating bids. In addition, Ms. McCandless had no financial ties to Martin Harris after
4 her termination; she was neither entitled to nor did she receive retirement benefits or
5 health insurance coverage. Furthermore, she did not perform any part-time or on-call
6 work for Martin Harris after her departure.

7 Wright reiterated her written response that she was sworn in the office as a
8 CCSD Trustee on January 5, 2009 (Response indicated incorrect date as January 6,
9 2009), which was several weeks after her mother's termination from Martin Harris
10 Construction. Wright stated that she consulted the with the Board's legal counsel and
11 was advised that if her mother was no longer employed by Martin Harris and received
12 no compensation, Wright was not required to disclose her mother's past employment or
13 abstain from voting.

14 As to the allegation of a connection to Martin Harris through JMA Architects
15 (Complaint, Tab B, p.4, ¶e), Wright was perplexed by the allegation as it made little
16 sense to her. Wright stated that she has no interest in JMA Architects and she is not
17 familiar with the company including the assertion that they often "partner with Martin
18 Harris on construction projects." Mainly, Wright stated that the allegation is simply false
19 because no architectural firm can select its own contractor and no contractor can select
20 its own architectural firm; the selection of contractors lies in the sole discretion of the
21 CCSD.

22
23 **Telephone interview with Mark Wood, Esq., on October 7, 2010.**

24 I spoke to CCSD legal counsel Mark Wood, Esq., on October 7, 2010 to confirm
25 his conversation with Wright. Wood stated that he recalls speaking to Wright regarding
26 her mother's employment on more than one occasion. In addition, Wood recalled
27 advising Wright that she was not required to disclose her mother's past employment
28 and that she need not to abstain from voting. Wood added that the advice was based

1 on the information he received from Wright. Wood asked Wright whether her mother
2 had any kind of financial interest in Martin Harris including retirement or health
3 insurance benefits; Wright replied that her mother no longer received any salary and
4 she had no retirement or insurance benefits. Based on that information, Wood advised
5 Wright that she was not required to disclose her mother's past employment and she
6 was not required to abstain from voting.

7
8 **1. Allegation one: Between January 8 and January 22, 2009 and all**
9 **times relevant to this matter, Wright violated NRS 281A.020 by failing**
10 **to separate her private and public interests by participating in matters**
11 **related to Martin Harris Construction and JMA Architects.**

- 12
- 13 ■ NRS 281A.020(2) provides, in relevant part:
 - 14 1. It is hereby declared to be the public policy of this State that:
 - 15 (a) A public office is a public trust and shall be held for the sole
16 benefit of the people.
 - 17 (b) A public officer or employee must commit himself or herself to
18 avoid conflicts between the private interests of the public officer or
19 employee and those of the general public whom the public officer or
20 employee serves.
 - 21 2. The Legislature finds and declares that:
 - 22 (a) The increasing complexity of state and local government, more
23 and more closely related to private life and enterprise, enlarges the
24 potentiality for conflict of interests.
 - 25 (b) To enhance the people's faith in the integrity and impartiality of
26 public officers and employees, adequate guidelines are required to show
27 the appropriate separation between the roles of persons who are both
28 public servants and private citizens.

As to the allegation that Wright failed to separate her private and public interests during CCSD Board meeting on the dates above, the evidence is as follows:

The Request for Opinion alleged that Wright participated in numerous discussions and subsequently voted on matters related to Martin Harris Construction, a company in which she has a pecuniary interest by the virtue of her mother's former employment. Furthermore, the requester alleged Wright has a commitment in a private capacity to JMA Architects, a company alleged to partner with Martin Harris

1 Construction, the former employer of Wright's mother.

2 The subject asserts that she had no duty to disclose her mother's former
3 employment and no duty to abstain from voting as neither she nor her mother had any
4 pecuniary interest in Martin Harris at the time of the votes. Wright's mother, Heather
5 McCandless was terminated from Martin Harris Construction in November 2008,
6 several weeks before Wright's first meeting as a new member of the CCSD Board
7 Trustees in January 2009. Wright's mother, Heather McCandless, received no salary or
8 benefits from Martin Harris Construction after her departure in November 2008. No
9 evidence of health and retirement benefits, stock options or contributions to Wright's
10 campaign was discovered.

11 Moreover, Wright consulted with the CCSD Board legal counsel who informed
12 her that if her mother is no longer employed by Martin Harris and receives no benefits,
13 Wright has no duty to disclose her mother's past employment or to abstain from voting.

14
15 **2. Allegation two: At all times relevant to this matter, and particularly
16 on January 8, 2009, January 21, 2009 and January 22, 2009 Wright
17 violated NRS 281A.400(1) by seeking an economic opportunity for
18 her mother which would tend to improperly influence Wright to depart
19 from faithful and impartial discharge of her public duties.**

- 20
21 ■ NRS 281A.400(1) provides, in relevant part:
- 22 1. A public officer or employee shall not seek or accept any gift, service,
23 favor, employment, engagement, emolument or economic opportunity
24 which would tend improperly to influence a reasonable person in the
25 public officer's or employee's position to depart from the faithful and
26 impartial discharge of the public officer's or employee's public duties.

27 As to the allegation that Wright sought an economic opportunity for her
28 mother, Heather McCandless, by her participation in discussions and subsequent votes
in support of several projects related to Martin Harris Construction and JMA Architects,
the evidence is as follows:

1 Wright voted on several agenda items on January 8, 2009, January 21, 2009
2 and January 22, 2009. (Complaint, Tab B, pp.12-67), (Exhibit 2). At the time of Wright's
3 first meeting as a new CCSD Board of Trustees member (January 8, 2009), her
4 mother, Heather McCandless, was no longer employed by Martin Harris Construction;
5 she received no salary, retirement or health insurance benefits from Martin Harris; her
6 only income came from unemployment benefits through the Nevada Department of
7 Employment, Training & Rehabilitation. (DETR).

8 As noted above, the requester alleged that if Wright voted to approve matters
9 related to Martin Harris Construction, the action could create more accounting work for
10 Martin Harris Construction, which may result in a re-hiring McCandless. The requester
11 also offered the opposite scenario suggesting that Wright's opposition to contracts for
12 Martin Harris may result in Martin Harris taking negative actions against McCandless
13 (Investigator's Report, Tab A, p.4). Vicky Darby, Martin Harris' HR manager stated the
14 company has no "re-hire list;" however, McCandless would be eligible for re-hire if an
15 opening occurred. (Exhibit 3).

16 The allegation of a connection between Wright, Martin Harris and JMA
17 Architects appears to be factually incorrect based on Wright's statement that no
18 architect can select its own contractor and vice versa. Furthermore, the suggestion that
19 Wright should remove herself from projects that are "the type of work that Martin Harris
20 bids on and builds" is rather speculative as it refers to Martin Harris' possible future
21 actions and as such, no evidence exists.

22 Finally, Wright discussed her mother's past employment and her disclosure
23 and abstention responsibilities with the CCSD Board legal counsel who advised her
24 that if McCandless was no longer employed and received no benefits from Martin
25 Harris, Wright had no duty to disclose or abstain. Therefore, it appears that Wright
26 relied on the advice of her legal counsel.

1 **3. Allegation three:** On January 8, 2009, January 21, 2009, January
2 22, 2009 and all other times relevant to this matter, Wright violated
3 NRS 281A.420(1) by failure to disclose her mother's past
4 employment before voting on several construction projects.

- 5
6 ▪ NRS 281A.420(1) provides, in relevant part:

7 Except as otherwise provided in this section, a public officer or employee
8 shall not approve, disapprove, vote, abstain from voting or otherwise act
9 upon a matter:

10 (a) Regarding which the public officer or employee has accepted a
 gift or loan;

11 (b) In which the public officer or employee has a pecuniary interest;
 or

12 (c) Which would reasonably be affected by the public officer's or
13 employee's commitment in a private capacity to the interest of others,
14 without disclosing sufficient information concerning the gift, loan, interest
15 or commitment to inform the public of the potential effect of the action or
16 abstention upon the person who provided the gift or loan, upon the public
17 officer's or employee's pecuniary interest, or upon the persons to whom
18 the public officer or employee has a commitment in a private capacity.
19 Such a disclosure must be made at the time the matter is considered. If
20 the public officer or employee is a member of a body which makes
21 decisions, the public officer or employee shall make the disclosure in
22 public to the chair and other members of the body. If the public officer or
23 employee is not a member of such a body and holds an appointive office,
24 the public officer or employee shall make the disclosure to the
25 supervisory head of the public officer's or employee's organization or, if
26 the public officer holds an elective office, to the general public in the area
27 from which the public officer is elected.

28 As to the allegation that Wright failed to disclose her mother's employment on
the dates noted above, the evidence is as follows:

 At the time of the January 8, 2009, January 21, 2009 and January 22, 2009
votes, the record shows that Wright made no disclosures. By that time, Wright's
mother, McCandless, was no longer employed by Martin Harris Construction. (Exhibit
3), (Response, Tab D, p.1). She received no salary, health or retirement benefits and
she did not perform any part-time or on-call work for Martin Harris. In addition, it
appears that Wright relied on the advice of her legal counsel. (Investigator's Report,
Tab A, pp. 7-8, Interview with Mark Wood).

1 **4. Allegation four:** On January 8, 2009, January 21, 2009, January 22,
2 2009 and at all times relevant to the matter, Wright violated NRS
3 281A.420(3) by failing to abstain from voting on several construction
4 projects.

- 5
- 6 ■ NRS 281A.420(3) provides, in relevant part:

7 Except as otherwise provided in this section, in addition to the
8 requirements of subsection 1, a public officer shall not vote upon or
9 advocate the passage or failure of, but may otherwise participate in the
10 consideration of, a matter with respect to which the independence of
11 judgment of a reasonable person in the public officer's situation would be
12 materially affected by:

(a) The public officer's acceptance of a gift or loan;

(b) The public officer's pecuniary interest; or

(c) The public officer's commitment in a private capacity to the
13 interests of others.

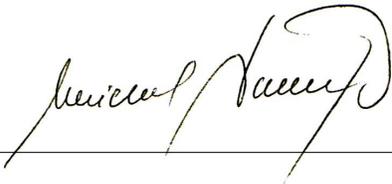
14 As to the allegation that Wright failed to abstain from voting on several
15 construction projects, the evidence is as follows:

16 At the time of the January 8, 2009, January 21, 2009 and January 22, 2009
17 votes, Wright's mother, Heather McCandless, was no longer employed by Martin Harris
18 Construction. (Exhibit 3), (Response, Tab D, p.1). She received no salary, health or
19 retirement benefits and she did not perform any part-time or on-call work for Martin
20 Harris. In addition, it appears that Wright relied on the advice of her legal counsel.
21 (Investigator's Report, Tab A, pp. 7-8, Interview with Mark Wood). Wright voted on
22 each of the related agenda items. (Exhibit 2).

23 Dated this 26 day of October 2010.

24 NEVADA COMMISSION ON ETHICS

25
26
27
28



Mike Vavra, MPA, Investigator