



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

Request for Opinion No. 10-60C

Subject./

**EXECUTIVE DIRECTOR'S RECOMMENDATION
AND APPROVAL OF INVESTIGATOR'S REPORT**

The following is the Executive Director's recommendation based on consideration and investigation of the Request for Opinion filed against DEANNA L. WRIGHT ("Subject"), a public officer, and on the Subject's written response, attached to the Investigator's Report. That Report and its exhibits are attached for the consideration of the two-commissioner investigatory panel.

Allegations:

The main allegation is that, between January 8 and January 22, 2009 and at all times relevant to the request, Ms. Wright had a pecuniary interest in her mother's employment and a commitment in a private capacity to her mother, to Martin Harris Construction and to JMA Architects (an entity that Martin Harris is known to do business with). As a result, the request contends, she should have disclosed her mother's former employment with Martin Harris Construction and abstained from voting on issues before the Clark County School District (CCSD) Board of Trustees that affected or might affect Martin Harris Construction or JMA Architects.

Facts:

Deanna Wright serves as a Trustee on the CCSD Board of Trustees. Ms. Wright's mother lives in Ms. Wright's household and falls within the 3rd degree of consanguinity to Ms. Wright. Two months before Ms. Wright was sworn into office as a Trustee, her mother's employment with Martin Harris Construction was terminated. Ms. Wright's mother had worked in the accounting department for just over two years. Martin Harris Construction bids and undertakes large construction jobs such as those for which the CCSD accepts proposals. JMA Architects is an architectural firm with which Martin Harris has worked on previous jobs.

Ms. Wright consulted with the CCSD legal counsel and was informed that since her mother is no longer employed by and receives no continuing retirement, health or other benefits from Martin Harris Construction, that Ms. Wright need not disclose any conflict or abstain when construction projects related to existing Martin Harris Construction contracts or on which Martin Harris might bid come before the Board.

Relevant Statutes (NRS) and Regulations (NAC):

NAC 281A.435 Basis for finding by panel; unanimous finding required for determination that no just and sufficient cause exists. (NRS 281A.290)

1. A finding by a panel as to whether **just and sufficient cause** exists for the Commission to render an opinion on an ethics complaint **must be based on credible evidence.**

2. A finding by a panel that no just and sufficient cause exists for the Commission to render an opinion on an ethics complaint must be unanimous.

3. As used in this section, **“credible evidence” means the minimal level of any reliable and competent form of proof** provided by witnesses, records, documents, exhibits, concrete objects, and other such similar means, **that supports a reasonable belief by a panel that the Commission should hear the matter and render an opinion.** The term does not include a newspaper article or other media report if the article or report is offered by itself.

NRS 281A.020 Legislative findings and declarations.

1. It is hereby declared to be the public policy of this State that:

(a) A public office is a public trust and shall be held for the sole benefit of the people.

(b) A public officer or employee must commit himself or herself to **avoid conflicts between the private interests** of the public officer or employee and **those of the general public** whom the public officer or employee serves.

The requester alleges that Wright has failed to avoid conflicts between her private interests in her mother's employment and those of the community that she serves.

NRS 281A.400 General requirements; exceptions. A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. **A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person** in the public officer's or employee's position **to depart from the faithful and impartial discharge of the public officer's or employee's public duties.**

The requester alleges that if an economic opportunity accrues to Martin Harris Construction, Wright could enhance the possibility that her mother will be re-hired in the accounting department of the company, and therefore Wright has sought an economic opportunity that would tend to improperly influence her as a public officer to vote in favor of Martin Harris' change orders before the CCSD Board or the Capital Improvement Plan considered by the Board.

NRS 281A.420 Requirements regarding disclosure of conflicts of interest and abstention from voting because of certain types of conflicts; effect of abstention on quorum and voting requirements; exceptions.

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

(a) Regarding which the public officer or employee has accepted a gift or loan;
(b) **In which the public officer or employee has a pecuniary interest; or**
(c) **Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interest of others, without disclosing** sufficient information concerning the gift, loan, interest or commitment to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's pecuniary interest, or upon the persons to whom the public officer or employee has a commitment in a private capacity.

3. Except as otherwise provided in this section, **in addition** to the requirements of subsection 1, a **public officer shall not vote upon or advocate the passage or failure of**, but may otherwise participate in the consideration of, a **matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be 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 interests of others.**

8. As used in this section:

(a) **"Commitment in a private capacity to the interests of others" means a commitment to a person:**

(1) **Who is a member of the public officer's or employee's household;**
(2) **Who is related to the public officer or employee by blood, adoption or marriage within the third degree of consanguinity or affinity;**
(3) Who employs the public officer or employee or a member of the public officer's or employee's household;
(4) With whom the public officer or employee has a substantial and continuing business relationship; or
(5) Any other commitment or relationship that is substantially similar to a commitment or relationship described in subparagraphs (1) to (4), inclusive, of this paragraph.

The requester alleges that Ms. Wright's disclosure and abstention is required because Wright has a pecuniary interest in her mother's ability to gain employment and contribute financially to their shared household. The statute requires disclosure regarding the public officer's pecuniary interest, and does not currently extend to interests of household members under this subsection.

However, Wright's mother is a member of Wright's household and is within the third degree of consanguinity. Therefore any matter before the Board which might reasonably be affected by her mother's interests must be disclosed. In light of her

mother's former employment as an accounting employee in a construction company, a question of fact arises whether her mother's interests are reasonably affected when change orders on already let construction contracts and general capital improvement plans come before the Board. I submit that no credible evidence is included in the request or was uncovered by the investigation to meet this element.

As for abstention, the analysis to be undertaken is whether the independence of judgment of a reasonable person sitting as a School Trustee voting on change orders or capital improvement plans would be materially affected by a commitment to a public officer's unemployed mother.

This investigatory panel's role is to weigh whether sufficient evidence exists for the Commission to render an opinion on the request, based on credible evidence presented by the requester or uncovered in the investigation. The requester failed to show any link between the three votes Ms. Wright participated in on the Board January 8, 21 or 22, 2009 agendas and Martin Harris Construction's ability to generate sufficient funds to stimulate it to expand its workforce to re-hire Wright's mother. The votes related to architectural design services, change orders on contracts already underway, and a Capital Improvement Plan that is alleged to include projects of the type Martin Harris undertakes. None of the change orders allowed Martin Harris Construction to gain funds unrelated to a contract that was already underway. The projects included in the Capital Improvement Plan were not at the stage where any contractor bids would be let for a significant period, but Martin Harris might bid them upon when the opportunity presented itself.

JMA Architects is an architectural design firm with which Martin Harris has worked on previous projects. One of the change orders on which Wright voted involved that entity, but the requester failed to allege or show any connection between JMA and Ms. Wright's mother.

In light of these facts and that Ms. Wright's mother is no longer working, I recommend that the panel find that just and sufficient cause **DOES NOT EXIST** for the panel to forward the request to the full Commission for hearing.

Recommendation:

After reviewing the evidence and NRS 281A.020, NRS 281A.400, and NRS 281A.420, I recommend that the Panel find just and sufficient cause **DOES NOT EXIST** for the Commission to render an opinion on the allegations that: 1) Ms. Wright failed to adequately separate her private and public duties (NRS 281A.020); 2) sought an economic opportunity for her mother's former employer which would tend improperly to influence a reasonable School Board Trustee to depart from the faithful and impartial discharge of her public duties (NRS 281A.400(2)); 3) failed to disclose a conflict of interest; and/or 4) failed to abstain from participating in votes related to her pecuniary interest or her commitment in a private capacity to the interests of her mother (NRS 281A.420(1) and (3)). Therefore, I recommend that RFO 10-60C be dismissed.

Conclusion:

The Recommendation is that the Panel find just and sufficient cause **DOES NOT EXIST** for the Commission render an opinion on all of the above allegations against Deanna Wright.

I hereby approve the attached Investigator's Report and provide this, my recommendation, to this honorable panel.


Caren Jenkins, Esq.
Executive Director

Date: 11/2/2010