



**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In re **Brian Higbee**, Principal,  
Pahrnagat Valley Elementary  
School, Lincoln County School  
District, State of Nevada,

Ethics Complaint No. **18-024C**

\_\_\_\_\_  
Subject. /

**PANEL DETERMINATION**  
NRS 281A.725

The Nevada Commission on Ethics ("Commission") received this Ethics Complaint No. 18-024C ("Complaint") regarding the alleged conduct of Brian Higbee ("Higbee"), the Principal of Pahrnagat Valley Elementary School ("PVES") in Lincoln County School District, State of Nevada, in violation of the Ethics in Government Law set forth in NRS Chapter 281A ("Ethics Law"). The Commission issued its Order on Jurisdiction and Investigation on June 21, 2018, which Order instructed the Executive Director to investigate alleged violations implicating NRS 281A.400(1), (2), (7) and (9) and NRS 281A.420(1) for conduct associated with his wife's selection for employment at PVES.

As the Principal of PVES, Higbee is a public officer as defined in NRS 281A.160. The Commission has jurisdiction over this matter pursuant to NRS 281A.280 because the allegations contained in the Complaint relate to the Subject's conduct as a public officer and has associated implications under the Ethics Law.

On December 4, 2018, a Review Panel ("Panel") consisting of Commissioners Barbara Gruenewald, Esq. (Presiding Officer), Kim Wallin, CPA, and Amanda Yen, Esq., reviewed the following: 1) Ethics Complaint No. 18-024C; 2) Subject's Response to the Complaint; 3) Investigator's Report; 4) Executive Director's Recommendation to the Review Panel; and 5) Proposed Letter of Instruction.<sup>1</sup>

The Panel's does not find just and sufficient cause for the Commission to render an opinion on the following alleged violations:

**NRS 281A.400(1)** – There is no evidence that Higbee sought or accepted any service, favor, emolument or economic opportunity for himself or his spouse that would tend to improperly influence a reasonable person in Higbee's position to depart from the faithful and impartial discharge of his public duties as the Principal of PVES. The investigation revealed that Higbee informed his supervisor of his wife's application and followed District protocols and supervisory direction to delegate the hiring decision to a hiring committee and report the committee's decision to the School Board. Accordingly, the evidence supports that Higbee was not in a position to directly and/or individually influence the hiring decision that resulted in his wife being hired as the Pre-K teacher at PVES.

<sup>1</sup> All materials provided to the Panel, except the Ethics Complaint, represent portions of the investigatory file and remain confidential pursuant to NRS 281A.750.

NRS 281A.400(2) – The investigation revealed that Higbee disclosed his wife’s application for the Pre-K teaching position to his supervisor, did not participate on the hiring committee and did not have any hiring authority over the Pre-K teacher position. Moreover, the evidence establishes that Higbee did not influence the hiring committee’s review of applicants or recommendations to the School District.

NRS 281A.400(7) - Higbee specifically referred all hiring decisions related to the Pre-K position to a hiring committee and disclosed the conflict involving his wife’s application to his supervisor. There is no evidence that Higbee used his government time and position to facilitate the hiring of his wife, contrary to the restrictions set forth in NRS 281A.400(7). The evidence obtained during the investigation confirms that Higbee’s limited use of government time to submit a request for a waiver regarding the employment of his wife satisfies the “limited use” exception set forth in NRS 281A.400(7)(a) because he acted consistent with direction from his supervisor pursuant to School District policy, the use did not interfere with the performance of his public duties, the cost related to the use was nominal and the use did not create an appearance of impropriety.

NRS 281A.400(9) – The evidence establishes that Higbee did not influence his subordinates who served on the hiring committees for the Pre-K position.

NRS 281A.420(1) – The investigation revealed that Higbee informed his supervisor that his wife was an applicant for the Pre-K teacher position at PVES.

### **Conclusion**

Under NAC 281A.430, the Panel unanimously finds and concludes that the facts do not establish credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter. However, pursuant to NRS 281A.730, the Panel will issue a Confidential Letter of Instruction to Higbee regarding the applicability of the Ethics Law to his ongoing duty to avoid conflicts between his public duties and private commitments to his spouse. Accordingly, no further proceedings will be held with regard to this Complaint.

Dated this 6<sup>th</sup> day of December, 2018.

### NEVADA COMMISSION ON ETHICS

By: /s/ Barbara Gruenewald  
Barbara Gruenewald, Esq.  
Commissioner/Presiding Officer

By: /s/ Amanda Yen  
Amanda Yen, Esq.  
Commissioner

By: /s/ Kim Wallin  
Kim Wallin, CPA  
Commissioner