



STATE OF NEVADA
BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
For Opinion Concerning the Conduct of
CAROLYN EDWARDS, Member,
Clark County School District Board of Trustees,
State of Nevada,

Request for Opinion No. 13-24C

Subject. /

STIPULATED AGREEMENT

1. **PURPOSE:** This stipulated agreement resolves Third-Party Request for Opinion (“RFO”) No. 13-24C before the Nevada Commission on Ethics (“Commission”) concerning Carolyn Edwards (“Edwards”), Member, Board of Trustees (“Board”) for the Clark County School District (“CCSD”) in Las Vegas, Nevada, and serves as the final opinion in this matter.

2. **JURISDICTION:** At all material times, Edwards was an elected officer of the Clark County School District Board of Trustees as defined in NRS 281A.160. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A gives the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. *See* NRS 281A.280. Accordingly, the Commission has jurisdiction over Edwards in this matter.

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3. PROCEDURAL HISTORY BEFORE COMMISSION

- a. On or about February 25, 2013, the Commission received this RFO from a private citizen alleging that Edwards had caused the CCSD, a governmental entity, to incur an expense in support of a ballot question by instructing a secretary to send an email on Edwards' behalf.
- b. As required by NAC 281A.410, the Commission provided Edwards with notice of the RFO by mail. Pursuant to NRS 281A.440(3), Edwards was provided an opportunity to respond to the RFO and submitted a written response through the CCSD's General Counsel, Carlos L. McDade, Esq..
- c. Based on facts developed from the RFO, Edwards' response, and the Commission's investigation, pursuant to NRS 281A.440(4), the Commission's Executive Director provided a report and recommendation to a two-member Investigatory Panel consisting of Commissioners Magdalena Groover and James Shaw. The report recommended a finding that credible evidence established just and sufficient cause to forward the allegations implicating NRS 281A.520 to the Commission for hearing and opinion.
- d. On May 20, 2013, the Investigatory Panel adopted the Executive Director's recommendation, and forwarded the allegations implicating NRS 281A.520 to the Commission to hold a hearing and render an opinion.
- e. The Commission notified Edwards of the time and place set for a Commission hearing in this matter.
- f. Later, Edwards submitted a Motion for Summary Resolution through current counsel, Mark A. Hutchison, Esq., and Jacob A. Reynolds, Esq., which the Commission denied.
- g. In lieu of participating in a hearing, Edwards now enters into this Stipulated Agreement acknowledging her duty as a public officer to commit herself to protect the public trust.

4. **STIPULATED FACTS:**

The following events are relevant to the matter:

- a. Carolyn Edwards, a CCSD Trustee, is a public officer as defined in NRS 281A.160.
- b. CCSD is a political subdivision as defined in NRS 281A.145.
- c. Carlos L. McDade, Esq., General Counsel for CCSD, is a licensed Nevada attorney, and serves as the legal adviser to the CCSD and its elected trustees.
- d. At a special meeting of the CCSD Board, the Board discussed the substance of a potential ballot question, and voted unanimously on Friday, June 8, 2012 to place a capital projects tax question on the Clark County ballot in the November 6, 2012 election.
- e. Nevada Revised Statutes state that a local school board of trustees “may build, purchase or rent schoolhouses and other school buildings,” (NRS 393.080(1) (a)) and that it “shall keep the public school buildings . . . in such repair as is necessary for the comfort and health of pupils and teachers.” (NRS 393.100) The Board voted to approve the formation of a ballot question which sought voter support for additional taxes or the issuance of bonds to construct and maintain adequate school facilities.
- f. Later known as “Ballot Question 2” the question proposed to permit the CCSD to levy an additional property tax rate not to exceed 21.2 cents (per \$100 of assessed valuation) to finance capital projects for schools, including constructing and equipping school improvements and replacements and acquiring school sites.
- g. Various members of the Board reached out to community supporters to increase awareness and support for Ballot Question 2, and partnered with the School Improvement Committee, a political action committee (hereafter referred to as the “PAC”), to promote its passage.

- h. Throughout the campaign, the PAC, Trustees and CCSD made careful efforts to separate activities to ensure that any persuasive materials, activities, and communications related to Ballot Question 2 were paid for by the PAC rather than the school district.
- i. CCSD offered parents and employees its objective information related to the needs of the schools and the impact that the successful passage of Ballot Question 2 would have on CCSD.
- j. On October 16, 2012, four days prior to the beginning of early voting in Clark County Nevada, Edwards caused an email to be sent to her constituent list which informed her constituents about how to get involved in supporting Ballot Question 2 if they chose to do so.
- k. At the time Edwards caused the email to be sent she was in Washington D.C. on business. Between breaks in meetings she was contacted about the email in question, which had been prepared by Kristen Searer (a CCSD staff member), and distributed to the Trustees for dissemination to their contacts in the community.
- l. Edwards confirmed that Carlos McDade had approved the email's contents and that it could be forwarded to her constituent list.
- m. The constituent list is maintained by Edwards' secretary Lisa Chrapcynski, a CCSD employee assigned to support Edwards and another Board member in their Trustee duties, including sending and receiving emails related to the Board and providing other general support.
- n. Because Edwards was out of the office in Washington D.C. on official business on October 16, 2012, Edwards asked her secretary to forward the October 16 email to Edwards' constituent list on her behalf.
- o. Chrapcynski dutifully forwarded the October 16 email to Edwards' constituent list as instructed.

- p. Chrapcynski estimates that it took her approximately 30 seconds to forward the email. At the time the email was sent, Chrapcynski earned \$24.28 per hour.
- q. The cost CCSD incurred or expended for the use of the CCSD interact email system to send the October 16 email was negligible to the point that it is virtually unmeasurable.
- r. Using Chrapcynski to send the email did not cause CCSD to pay Chrapcynski any sum in excess of her full-time pay.
- s. Edwards understood that Chrapcynski's job description was to help Edwards with communications to her constituents. Edwards also understood the advice of counsel to be reliable that asking Chrapcynski to send the email would not cause an additional expense to be incurred.

5. TERMS / CONCLUSIONS OF LAW: Based on the foregoing, Edwards and the Commission agree as follows:

- a. Each of the findings of fact enumerated in section 4 is deemed to be true and correct.
- b. Edwards is a member of the CCSD Board of Trustees.
- c. In her role as a Trustee, Edwards instructed her secretary Chrapcynski to send an email on Edwards' behalf to her constituent list, providing information regarding how to support Ballot Question 2, if they chose to support Ballot Question 2.
- d. Edwards relied in good faith upon her understanding that CCSD General Counsel concluded that her conduct was permissible in forwarding the email to her constituents. Edwards did not intend for the district to incur a cost by sending the email and did not consider the use of a secretary assigned to assist her to communicate with constituents to be an expense to the district. However, the Commission does find the use of CCSD personnel, in this instance, to be an expense in support of a ballot question.

- e. Edwards' conduct under these circumstances constitutes a single non-willful violation of NRS 281A.520 (1) (a) for causing a government entity, the CCSD, to incur an expense or make an expenditure in support of a ballot question.
- f. The Commission is obligated to determine whether mitigating factors affect its determination of willfulness or non-willfulness and whether factors should affect the imposition of sanctions under NRS 281A.480.
- g. The Commission concludes that Edwards' conduct should not be deemed a "willful violation" based on the consideration and application of the mitigating factors set forth in NRS 281A.475 (Section 27.5 of Senate Bill No. 228 adopted by the 77th Session of the Nevada Legislature, effective on June 13, 2013 (Section 27.5 of Chapter 551, Statutes of Nevada 2013, at page 3765)) and NRS 281A.480(5)(a) and (b) as follows:
 - (i) As stated previously, the use of a secretary to send the email resulted in the expenditure of public funds to support a ballot question, which though serious as a principle, is in this instance of such a nature, circumstance, extent or gravity as to be deemed as part of a well-intentioned, good faith effort by Trustee Edwards to fulfill her obligation and duty to further the care and education of the students of Clark County as stated in Nevada Statute that the Board of Trustees "shall keep the public school buildings . . . in such repair as is necessary for the comfort and health of pupils and teachers." (NRS 393.100).
 - (ii) Edwards has not previously been the subject of any violation of the Ethics Law.
 - (iii) Although the applicable statute does not have a *de minimis* exception, the Commission does not ignore that the presumed total additional cost to the district is nominal. While the amount does not affect the fact that the

action occurred, it does indicate that this was an isolated event, consisting of one email, and not an ongoing or substantial harm to the public.

- (iv) Edwards received no personal financial gain as a result of her conduct.
- (v) Edwards relied in good faith upon her understanding that CCSD counsel concluded that sending the October 16 email would not violate NRS 281A.520, and that reliance is among the mitigating factors here. NRS 281A.520 attempts to ensure public independence from government interference or influence during an election. As such public officers have an obligation to ensure that CCSD resources remain neutral during the course of an election so that any question placed upon the ballot would not be supported at public expense. The Commission is satisfied that Edwards did not intend for the CCSD to inappropriately incur an expense in violation of NRS 281A.520.
- (vi) Edwards has been diligent to cooperate with and to participate in the Commission's investigation and RFO process.
- (vii) The Commission acknowledges the tension Edwards experienced between the Board's role as a public entity to rely on governmental staff, time and resources to help it develop and support a ballot question, as compared to the ethical limitations on their actions as Trustees to use resources or cause governmental expenditures to support the same ballot question after the Board decides to put the matter before the voters. (See Section 4(e)). Nevertheless, NRS 281A.520 establishes the Legislative intent and explicitly prohibits public officers from causing a government to incur an expense or make an expenditure in support of or in opposition to a ballot question.
- (viii) The Commission recognizes that Ballot Question 2 was approved unanimously by the Board of Trustees.

- h. This agreement depends on and applies only to the specific facts, circumstances and law related to this RFO now before the Commission. Any facts or circumstances that may come to light after entry that are in addition to or differ from those contained in this agreement may create a different resolution of this matter.
- i. This agreement is intended to apply to and resolve only this specific proceeding before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal regarding Edwards.

6. WAIVER:

- a. Edwards knowingly and voluntarily waives a full hearing before the Commission on the allegations in this RFO (No. 13-24C) and of any and all rights she may be accorded pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A) and the Nevada Administrative Procedures Act (NRS Chapter 233B) and any other applicable provisions of law.
- b. Edwards knowingly and voluntarily waives her right to any judicial review of this matter as provided in NRS 281A, NRS 233B or any other applicable provision of law.

7. ACCEPTANCE: We, the undersigned parties, have read this agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of the Commission on November 20, 2013.

DATED this 25th day of November, 2013.

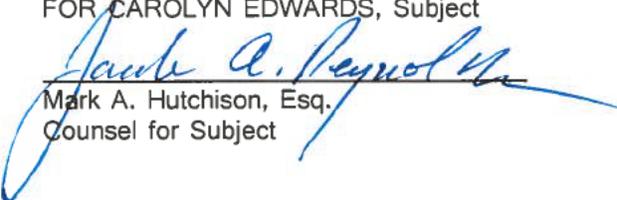


Carolyn Edwards

The above Stipulated Agreement is approved by:

DATED this 3rd day of December, 2013.

FOR CAROLYN EDWARDS, Subject


Mark A. Hutchison, Esq.
Counsel for Subject

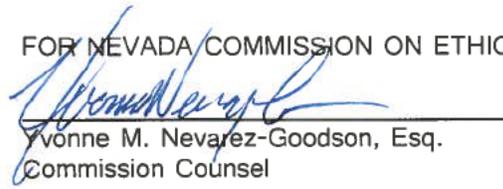
DATED this 4th day of December, 2013.

FOR CAREN CAFFERATA-JENKINS,
Executive Director, Commission on Ethics


Jill C. Davis, Esq.
Associate Counsel

DATED this 4th day of December, 2013.

FOR NEVADA COMMISSION ON ETHICS


Yvonne M. Nevarez-Goodson, Esq.
Commission Counsel

The above Stipulated Agreement is accepted by the Commission.

DATED November 20, 2013.

By: /s/ Paul Lamboley
Paul Lamboley
Chairman

By: /s/ Timothy Cory
Timothy Cory
Commissioner

By: /s/ Gregory Gale
Gregory Gale
Vice-Chairman

By: /s/ Cheryl Lau
Cheryl Lau
Commissioner

By: /s/ John Carpenter
John Carpenter
Commissioner

By: /s/ Keith Weaver
Keith Weaver
Commissioner