



STATE OF NEVADA
BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Joyce Haldeman, Associate Superintendent
for Community and Government Relations,
Clark County School District,
State of Nevada,

Request for Opinion No. 13-25C

_____ Subject. /

STIPULATED AGREEMENT

1. **PURPOSE:** This stipulated agreement resolves Third-Party Request for Opinion (“RFO”) No. 13-25C before the Nevada Commission on Ethics (“Commission”) concerning Joyce Haldeman (“Haldeman”), Associate Superintendent for Community and Government Relations (“Associate Superintendent”), of 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, Haldeman was employed as Associate Superintendent, a public employee as defined in NRS 281A.150. 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 Haldeman in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION**

- a. On or about February 25, 2013, the Commission received this RFO from a private citizen alleging that Haldeman had caused the CCSD, a governmental entity, to

- incur expenses in support of a ballot question by authorizing CCSD resources to be utilized for the transportation and storage of campaign materials.
- b. As required by NAC 281A.410, the Commission provided Haldeman with notice of the RFO by mail. Pursuant to NRS 281A.440(3), Haldeman was provided an opportunity to respond to the RFO and submitted a written response through the CCSD's legal counsel, Carlos L. McDade, Esq., General Counsel.
 - c. Based on facts developed from the RFO, Haldeman's response and the Commission's investigation, pursuant to NRS 281A.440(4), the Commission's Executive Director provided a report to a two-member Investigatory Panel consisting of Commissioners Magdalena Groover and James Shaw, and 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 reviewed the Executive Director's report and recommendation. The Panel adopted the Executive Director's recommendation and forwarded the allegation implicating NRS 281A.520 to the Commission to hold a hearing and render an opinion.
 - e. The Commission notified Haldeman of the time and place set for a Commission hearing in this matter. In lieu of participating in a full hearing, Haldeman now enters into this Stipulated Agreement acknowledging her duty as a public employee to commit herself to protect the public trust by ensuring that CCSD resources are not expended to support ballot questions. *See* NRS 281A.020 and 281A.520.

4. **STIPULATED FACTS:**

The following events are relevant to the matter:

- a. Joyce Haldeman is employed as the Associate Superintendent for Community and Government Relations for CCSD, and therefore is a public employee pursuant to NRS 281A.150.

- b. CCSD is a political subdivision pursuant to NRS 281A.145.
- c. 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 “shall keep the public school buildings . . . in such repair as is necessary for the comfort and health of pupils and teachers.” (NRS 393.100).
- d. At a special meeting of the CCSD Board of Trustees (“Board”), the Board discussed the substance of a proposed 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. Without other resources available to address their statutory duties to provide proper school facilities for the students of Clark County, 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. 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.
- e. CCSD created factual brochures regarding Ballot Question 2 which were devoid of language intended to persuade readers to support the measure, other than by the inherent nature of the information provided.
- f. CCSD paid for the brochures and disseminated them to the parents of students in the district and to employees of CCSD.
- g. The CCSD brochures reached a relatively small audience compared to the number of Clark County registered voters because the CCSD did not expend funds to distribute the informational materials to individuals other than employees and parents.
- h. Various members of the Board reached out to community supporters with activities designed to increase awareness and support for Ballot Question 2, and worked

- with the School Improvement Committee, a political action committee, to further their efforts.
- i. The School Improvement Committee supporters followed the legal procedures outlined by the Secretary of State's office to create a Political Action Committee ("PAC") and raised money from private sources to conduct a comprehensive awareness campaign to secure votes to pass Ballot Question 2.
 - j. The PAC raised private funds for campaign brochures, yard signs, TV and radio ads, billboards, t-shirts, and costs associated with volunteer activities.
 - k. The PAC created persuasive campaign materials to support the passage of Ballot Question 2.
 - l. 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.
 - m. In the month preceding the election, on behalf of the PAC, Haldeman authorized the CCSD Purchasing Division to retrieve the PAC's printed materials using a CCSD vehicle and CCSD employees to travel to R & R Partners Public Relations Firm, in Las Vegas, Nevada to pick up the materials, deliver a portion of the materials to another location and unload and store the remaining materials in a CCSD Warehouse. CCSD employees did so on seven separate days between October 4 and October 18, 2012 on behalf of the PAC at Haldeman's request.
 - n. 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.
 - o. In addition, CCSD, as a convenience to parents and the public, also provided access to the "Vote Yes" door hangers, yard signs and T-shirts that had been prepared and paid for by the PAC.

- p. The PAC involved parent volunteers to encourage community support, and PAC-produced materials that parent volunteers needed for their activities were stored in an unused portion of the garage at the CCSD Administrative Building.
- q. Haldeman authorized storage of the PAC materials in CCSD facilities after consulting the attorney for the CCSD.
- r. Prior to the pickup and delivery of the PAC materials, Haldeman consulted CCSD General Counsel regarding the use of a CCSD vehicle (on a space available condition while the truck was making regular deliveries to CCSD) if the cost of mileage and labor was reimbursed by the PAC.
- s. Carlos McDade, Esq., General Counsel to CCSD, provided legal advice to Haldeman that the activities she authorized in this matter were allowable under NRS 281A.520 if the CCSD expenses were reimbursed in full by the PAC.
- t. McDade also approved delivery as an appropriate activity provided the PAC paid for the costs. This advice was given, and this decision was made, prior to transportation of the materials.
- u. The PAC materials were transported on a "space available" basis in a CCSD vehicle that was on a pre-arranged transportation route. CCSD required the PAC to pay as though the vehicle made a dedicated trip for the PAC. The cost of transporting those PAC materials was absorbed by CCSD, and later itemized. CCSD billed the PAC for those costs, and received payment from PAC funds.
- v. CCSD billed the PAC \$648.00 for the services invoiced as "Work done in connection with promotional materials for CCSD 'Question 2' campaign."
- w. The PAC issued a check payable to "Clark County School District" dated October 31, 2012 in the amount of \$648.00, and filed a report of the expense with the Secretary of State on November 2, 2012, showing the expenditure as "other miscellaneous expenses" paid to CCSD from the PAC's checking account.

5. TERMS / CONCLUSIONS OF LAW: Based on the foregoing, Haldeman 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. Haldeman is a public employee of the CCSD, a political subdivision.
- c. In her role as Associate Superintendent, Haldeman authorized a governmental expenditure to transport and store the PAC campaign materials in violation of NRS 281A.520 by causing a government entity, CCSD, to incur expense for the transportation and storage of the materials. The fact that Haldeman arranged for repayment of the governmental expenditure does not absolve her of her duty to protect the public trust and ensure that governmental resources are not used for improper purposes.
- d. Haldeman relied in good faith upon the advice of CCSD General Counsel Carlos L. McDade, Esq., that her conduct was permissible with the direction that the full costs be paid by the PAC. Ms. Haldeman specifically intended that the CCSD incur no cost for the actions undertaken by: (1) seeking legal advice, (2) making a decision to require reimbursement prior to the transportation of the materials, and (3) transporting materials on a space available basis.
- e. Haldeman's conduct under these circumstances constitutes a single 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. Although Haldeman's conduct in causing the governmental expenditure would otherwise be deemed intentional and knowing and therefore "willful", the Commission is obligated to determine whether mitigating factors affect that designation and whether factors should affect the imposition of sanctions under NRS 281A.480.
- g. The Commission concludes that Haldeman's 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 pursuant to NRS 281A.480(5)(a) and (b) as follows:

- (i) The violation resulting in the improper expenditure of public funds, though serious, is of such a nature, circumstance, extent or gravity as to be deemed as a part of a well-intentioned, good faith effort to fulfill her obligation and duty to further the care and education of the students of Clark County.
- (ii) Haldeman has no personal history as the subject of any previous violation of the Ethics Law.
- (iii) The materials were transported and stored over a brief time period such that the violation of NRS 281A.520 was not repeated and Haldeman cooperated with the Commission in resolving the RFO and now fully understands her obligations under the Ethics Law.
- (iv) Haldeman received no financial gain as a result of the violation.
- (v) The PAC reimbursed CCSD for the full cost resulting from the transportation, handling and storage of the PAC materials.
- (vi) Because of Haldeman's cooperation in the proceeding, the Commission incurred limited cost to investigate the violation and no cost to hold a hearing.
- (vii) Haldeman relied in good faith upon the advice of CCSD counsel that the activities in question did not violate NRS 281A.520 and therefore the safe harbor provisions of NRS 281A.480(5), as amended by Section 45 of Senate Bill No 228 adopted by the 77th Session of the Nevada Legislature, effective on June 13, 2013 (Section 45 of chapter 551, Statutes of Nevada 2013, at page 3782) apply.

- h. Although she evidently did not intend to violate the Ethics Law or expend governmental resources in support of a ballot question, Haldeman's conduct nevertheless did result in an improper use of public resources. However, based on the nature of the violation as well as the Commission's efforts to educate Haldeman regarding her duties under NRS 281A.520, justice is best served with a determination of a single non-willful violation.
 - i. NRS 281A.520 ensures public independence from government interference or influence during an election. As a public employee of the CCSD with authority over its public funds and resources, Haldeman had an obligation to ensure that the expenditure of CCSD resources remained neutral during the course of the election and that any question placed upon the ballot would not be unfairly supported at public expense. In this case, the Commission is satisfied that Haldeman did not intend that the CCSD incur an unreimbursed expense, and the expense was reimbursed by the PAC. Further, Haldeman has been diligent to cooperate with the Commission and educate herself regarding the Ethics Laws.
 - j. 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.
 - k. 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 Haldeman.
6. **WAIVER:**
- a. Haldeman knowingly and voluntarily waives a full hearing before the Commission on the allegations in this RFO (No. 13-25C) and of any and all rights she may be accorded pursuant to NRS Chapter 281A, the regulations of the Commission

(NAC Chapter 281A), the Nevada Administrative Procedures Act (NRS Chapter 233B) and any other applicable provisions of law.

- b. Haldeman 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 2nd day of December, 2013.




Joyce Haldeman

The above Stipulated Agreement is approved by:

DATED this 3rd day of December, 2013.


FOR JOYCE HALDEMAN, Subject



Carlos L. McDade, Esq.
General Counsel
Clark County School District

DATED this 4 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