



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Matt Hyde, Member, Churchill County
School District Board of Trustees,
State of Nevada,

Request for Opinion No. **16-84C**

Subject. /

STIPULATED AGREEMENT

1. **PURPOSE:** This Stipulated Agreement resolves Third-Party Request for Opinion ("RFO") No. 16-84C before the Nevada Commission on Ethics ("Commission") concerning Matt Hyde ("Hyde"), a Member of the Board of Trustees ("Board") for the Churchill County School District ("CCSD"), State of Nevada, and serves as the final opinion in this matter.

2. **JURISDICTION:** At all material times, Hyde served as a member of the CCSD Board. As such, Hyde is a public officer, 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 Hyde in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION:**

- a. On or about December 1, 2016, the Commission received RFO No. 16-84C from a member of the public ("Requester"), alleging that Hyde:
 - 1) Failed in his commitment to avoid conflicts between his personal interests and his public duties (NRS 281A.020(1));
 - 2) Failed to disclose a conflict of interest for which disclosure is required (NRS 281A.420(1)); and

- 3) Failed to abstain from acting on a matter in which he had a conflict of interest (NRS 281A.420(3)).
- b. On or about December 13, 2016, staff of the Commission issued a Notice to Subject under NRS 281A.440(2) stating that the Commission accepted jurisdiction to investigate the allegations regarding violations of NRS 281A.020(1) and NRS 281A.420(1) and (3). Hyde was provided an opportunity to respond to the RFO.
- c. On or about January 18, 2017, Hyde, through legal counsel, provided a written Response to the RFO.
- d. Hyde executed a Panel Waiver and Waiver of Confidentiality to permit the Commission to consider this Stipulated Agreement.
- e. In lieu of a panel determination and a hearing, Hyde and the Commission now enter into this Stipulated Agreement, pursuant to NAC 281A.275, finding no violation of NRS 281A.020(1) or NRS 281A.420(1) and (3).
- f. This RFO presented a case of first impression for the Commission with respect to a public officer voting on a consent agenda item that approves his appointment to a volunteer coaching position that does not involve anything of economic value. This Stipulated Agreement provides an opportunity for the Commission to promote and clarify the goals of the Ethics Law and to educate all public officers similarly situated to Hyde.

4. **STIPULATED FACTS**: At all material times, the following facts were relevant to this matter:¹

- a. Hyde was elected as a Member of the CCSD Board in November, 2015. He is a public officer as defined in NRS 281A.160.
- b. CCSD is a political subdivision as defined in NRS 281A.145.
- c. Hyde has two sons who attended Churchill County High School as sophomores during school year 2014-15.

¹ Stipulated Facts do not constitute part of the "Investigative File" as that term is defined by NRS 281A.440(17). All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Stipulated Agreement.

- d. Sharla Hales, Esq., is a lawyer licensed in the State of Nevada and serves as legal counsel for the CCSD Board and, in such capacity, represents Hyde in these RFO proceedings.
- e. The Jump Start College program is a dual-enrollment opportunity for students in selected Nevada high schools, including Churchill County High School. Jump Start participants enroll in college courses through Western Nevada College and earn an Associates Degree while simultaneously earning high school credits.
- f. The CCSD Board approves certain recommended personnel actions in the District and such actions are regularly listed in Board materials and included on consent agendas which contain items that the District staff believe to be routine and without any reasonable basis for the Board to vote against the items.

Jump Start College Program

- g. At the February 5, 2015 CCSD Board meeting, Agenda Item B, under New Business, related to the Jump Start College program and was noted on the agenda as follows:
 - B. For Discussion and Possible Action: Regarding the Jump Start Tuition Costs (BMAR-16)
- h. Hyde did not disclose that his sons attended Churchill County High School because, although they were academically qualified to participate, he knew that they were not interested in the Jump Start College program.
- i. Hyde voted with other Board members to unanimously approve a motion to cover the cost of the Jump Start tuition in the amount of \$1,402.50 per student, the one-time application fee, lab fees, and the cost of books. The Board also voted to have the District purchase a set of books for Jump Start students to use and return at the end of the semester.
- j. In fact, Hyde's sons did not participate in the Jump Start College program.

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Volunteer JV Football Coaching Position

- k. At the August 13, 2015 CCSD Board Meeting, there were five items placed on the Consent Agenda. Consent Agenda Item A related to a recommended personnel action that involved Hyde and was noted on the agenda as follows:
 - A. Approval of Recommended Personnel Action (Attachment A)
- l. The Board Agenda included Attachment A, which indicated that Hyde was recommended to fill the position of Assistant JV Football Coach, a part-time non-paid position.
- m. Hyde was the only applicant interested in and considered for the assistant JV coaching position. Hyde's sons played football on the varsity team and therefore would not interact with the JV Football Coach.
- n. The minutes reflect the following:
 - Trustee Hyde stated that his name is listed under Item 6, Extra Curricular Activities Assistant JV Football Coach, which is a non-paid strictly volunteer position.
- o. Hyde voted with the Board to unanimously approve the Consent Agenda.
- p. At the August 13, 2015 meeting, Hyde conferred with Sharla Hales, Esq., and was advised that he did not need to abstain from voting on his coaching position because there was no pay or benefits attached to the volunteer position.
- q. The volunteer coaching position did not provide remuneration for Hyde's services and Hyde had no expectation of receiving anything of value for his coaching assistance.
- r. Hyde did not travel with the JV football team and received no per diem reimbursements or meals. Hyde received a polo shirt and a sweatshirt from the head coach, who received these items free from a company with which the coach did business for the team.
- s. At the end of the football season, the high school boosters club gave \$500 to Hyde as a gift for his volunteer services. This gift was unexpected by Hyde and funds for this gift were acquired from private donations and did not include any public funds from the District.

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

- a. Each of the stipulated facts enumerated in Section 4 of this Stipulated Agreement is agreed to by the parties.
- b. Hyde holds public office which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the citizens of Churchill County).
- c. Hyde has a commitment in a private capacity to the interests of his children. See NRS 281A.065(3).
- d. Public officers have a duty to avoid conflicts of interest. See NRS 281A.020. As a public officer, the conflicts of interest provisions of the Ethics Law apply to Hyde's conduct. Specifically, Hyde must commit to avoid actual and perceived conflicts of interest, including publicly disclosing sufficient information concerning certain private relationships and significant pecuniary interests which would reasonably affect his decision on matters before the CCSD Board, as provided in NRS 281A.420(1). As a public officer, Hyde is also required to abstain from voting or otherwise acting on matters in which such relationships would clearly and materially affect the independence of judgment of a reasonable person in his position. NRS 281A.420(3).
- e. The disclosure and abstention requirements of NRS 281A.420 extend to consent agenda items. See *In re Tobler and Mayes*, Comm'n Op. Nos. 11-76C and 11-77C (2012). Each matter on a consent agenda requires action for final approval. Without a formal vote of the Board, the consent item is not approved and any staff action does not become effective. Accordingly, when considering items on a consent agenda, public officers are required to properly disclose any significant pecuniary interests or commitments in a private capacity to the interests of others and undertake the statutorily directed abstention analysis on the record to determine whether abstention is appropriate.

Jump Start College Program

- f. Hyde understands that he must disclose his relationship with and the interests of his school-aged children whenever any matter that directly involves his

children comes before the Board. However, he was not required to disclose those relationships before voting on the Jump Start College program at the February 5, 2015 Board meeting. There is no evidence that Hyde's children were interested in or intended to participate in the program, or that Hyde and/or his children would receive any individual benefit from the Board's decision to cover costs for the Jump Start College program. Accordingly, Hyde's action on the matter would not reasonably be affected by his commitments to the interests of his children.

- g. Based on the lack of evidence requiring disclosure, Hyde had no obligation to abstain from voting on the Jump Start College program pursuant to NRS 281A.420(3).

Volunteer JV Football Coaching Position

- h. A "pecuniary interest" means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including anything of economic value. NRS 281A.139.
- i. Hyde's volunteer coaching position is not the type of *significant* pecuniary interest that would reasonably affect his decision on the consent agenda item involving personnel matters, because Hyde's interest in the position did not include the expectation of anything of economic value. However, it is the avoidance of conflict and appearance of impropriety, even though actual impropriety is lacking, that the Ethics Law requires. See *In re Collins*, Comm'n Op. No. 11-78A (2011). A public officer's disclosure is important even where the conflict is remote in some aspects. In *In re Weber*, Comm'n Op. No. 09-47A (2009), the Commission held:

In keeping with the public trust, a public officer's disclosure is paramount to transparency and openness in government. The public policy favoring disclosure promotes accountability and scrutiny of the conduct of government officials...Such disclosures dispel any question concerning conflicts of interest and may very well ward off complaints against the public officer based on failure to disclose.

Therefore, Hyde properly sought legal advice from the Board's legal counsel and disclosed the perceived conflict regarding his recommended appointment to the JV Assistant Football Coach position.

- j. Abstention is only required when a reasonable person's independence of judgment is "materially affected by" the public officer's significant pecuniary interest or commitment in a private capacity. See NRS 281A.420 and *In re Woodbury*, Comm'n Op. No. 99-56 (1999). The evidence does not indicate that Hyde had a significant pecuniary interest that would be materially affected by a volunteer coaching position in which there was no expectation of economic value associated with the position.
- k. In appreciation of the public's concerns regarding the disclosure and abstention responsibilities of public officers in the context of the CCSD matters, Hyde and the Commission agree to promote the Commission's outreach efforts by sponsoring an Ethics in Government Law training conducted by the Executive Director of the Commission to encourage continued compliance with the Ethics Law. This training will be conducted no later than twelve months after the date this Stipulated Agreement is executed.
- l. This Stipulated 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 its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.
- m. 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 Hyde.


6. WAIVER:

- a. Hyde has waived his right to an Investigatory Panel proceeding and, upon approval of this Stipulation by the Commission, Hyde knowingly and voluntarily waives his right to any related hearing before the full Commission on the allegations in this RFO (No. 16-84C) and of any and all rights he may be

accorded with regard to this matter 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.

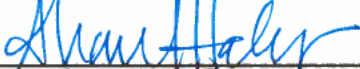
- b. Hyde also knowingly and voluntarily waives his right to any judicial review of this matter, as provided in NRS Chapter 281A, NRS Chapter 233B, any extraordinary writs as provided in NRS Chapter 34, or any other applicable provisions of law.

7. **ACCEPTANCE:** We, the undersigned parties, have read this Stipulated 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 February 15, 2017.

DATED this 29 day of Feb., 2017. 
Matt Hyde

The above Stipulated Agreement is approved by:

FOR MATT HYDE, Subject

DATED this 24th day of Feb., 2017. 
Shafia S. Hales, Esq.

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.
Executive Director, Commission on Ethics

DATED this 16th day of March, 2017. 
Judy A. Prutzman, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this 6th day of March, 2017. 
Tracy L. Chase, Esq.
Commission Counsel

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The above Stipulated Agreement is accepted by the Commission.²

DATED February 15, 2017.

By: /s/ Cheryl A. Lau
Cheryl A. Lau, Esq.
Chair

By: /s/ Phillip K. O'Neill
Phillip K. O'Neill
Commissioner

By: /s/ Keith A. Weaver
Keith A. Weaver, Esq.
Vice-Chair

By: /s/ Lynn Stewart
Lynn Stewart
Commissioner

By: /s/ Brian Duffrin
Brian Duffrin
Commissioner

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

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

² Hyde waived his right to an Investigatory Panel pursuant to NRS 281A.440. Accordingly, this Stipulated Agreement was executed prior to a Panel hearing in this matter and no Commissioner was precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220.