



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

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

Request for Opinion No. **16-85C**

Subject. /

STIPULATED AGREEMENT

1. **PURPOSE:** This Stipulated Agreement resolves Third-Party Request for Opinion (“RFO”) No. 16-85C before the Nevada Commission on Ethics (“Commission”) concerning Tricia Strasdin (“Strasdin”), 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, Strasdin served as a member of the CCSD Board. As such, Strasdin 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 Strasdin in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION:**

- a. On or about December 1, 2016, the Commission received RFO No. 16-85C from a member of the public (“Requester”), alleging that Strasdin:
 - 1) Failed in her commitment to avoid conflicts between her personal interests and her 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 she 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). Strasdin was provided an opportunity to respond to the RFO.
- c. On or about January 18, 2017, Strasdin, through legal counsel, Sharla Hales, Esq., provided a written Response to the RFO.
- d. Strasdin waived her right to a panel determination pursuant to NRS 281A.440 and acknowledges that credible evidence establishes just and sufficient cause for the Commission to render an opinion regarding the allegations implicating NRS 281A.020 and 281A.420(1) and (3).
- e. In lieu of a panel determination and a hearing, Strasdin now enters into this Stipulated Agreement acknowledging her duty as a public officer to commit herself to protect the public trust and conform her conduct to Chapter 281A of the Nevada Revised Statutes.

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

- a. Strasdin was appointed as a Member of the CCSD Board on June 23, 2016. She is a public officer as defined in NRS 281A.160.
- b. CCSD is a political subdivision as defined in NRS 281A.145.
- c. Michelle Dalager (“Dalager”) resides with and has a relationship with Strasdin that is substantially similar to a domestic partnership, and she is employed by CCSD as a teacher at Churchill County High School.
- d. Sharla Hales, Esq., is a lawyer licensed in the State of Nevada and serves as legal counsel for the CCSD Board and is representing Strasdin in these RFO proceedings.

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.

- e. The CCSD Board approves certain recommended personnel actions in the district and such actions are regularly listed on the Board agenda and materials and are 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.
- f. As a Board member, Strasdin holds final authority over decisions that affect Ms. Dalager's terms and conditions of employment with CCSD, including her benefits and salary.

August 11, 2016 CCSD Board Meeting

- g. At the August 11, 2016 meeting, the Consent Agenda included seven items. Consent Agenda Item A involved Ms. Dalager and was noted on the agenda as follows:
 - A. Approval of Recommended Personnel Action (Attachment A)
- h. Attachment A to the agenda listed Ms. Dalager as the person recommended to fill the position of 8th Grade Girls Basketball Coach, a part-time paid position.
- i. The August 11, 2016 meeting was the second full Board meeting attended by Strasdin as a new Board member.
- j. Strasdin does not recall that Consent Agenda Item A involved Ms. Dalager. Consequently, she did not provide a disclosure regarding her relationship with Ms. Dalager and voted with the Board to approve the Consent Agenda unanimously.

October 27, 2016 CCSD Board Meeting

- k. At the October 27, 2016 meeting, the Consent Agenda included eleven items. Consent Agenda Item A involved Ms. Dalager and was noted on the agenda as follows:
 - A. Approval of Recommended Personnel Action (Attachment A)
- l. The original Board Material Packet included Attachment A, which did not list Ms. Dalager as the person recommended to fill the position of Head JV Boys Basketball Coach, a part-time paid position.

m. A revised Attachment A, which included Dalager's name, was provided to Strasdin and other Board members when they arrived at the meeting.

n. The minutes reflect the following:

Trustee Strasdin disclosed that under extra-curricular activities on the personnel sheet that her partner, Michelle Dalager, is recommended for the Head JV Boys Basketball Coaching position for which she has coached for a long time.

o. Strasdin did not have time to confer with Sharla Hales, Esq. about her abstention obligation before she voted with the Board to approve the Consent Agenda unanimously.

5. **TERMS / CONCLUSIONS OF LAW:** Based on the foregoing, Strasdin 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. Strasdin 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. Strasdin has a commitment in a private capacity to the interests of Ms. Dalager because she has a relationship with Dalager that is substantially similar to a domestic partnership. See NRS 281A.065(6).

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 Strasdin's conduct. Specifically, Strasdin 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 her decision on matters before the CCSD Board. See NRS 281A.420(1). As a public officer, Strasdin is also required to abstain from voting or otherwise acting on matters in which the interests of persons with whom she shares such relationships would clearly and materially affect the independence of judgment of a reasonable person in her 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.
- f. Strasdin understands that she must disclose her relationship with Ms. Dalager whenever a matter involving Dalager comes before the Board, even though the relationship is a matter of public record by virtue of Strasdin's disclosure at the October 27, 2016 meeting. Such matters include, but are not limited to, the topics of labor management, discussions about salaries, job duties, employment benefits, pension plans, disciplinary matters, litigation, general terms and conditions of employment, and personnel policy issues. *See In re Murnane*, Comm'n Op. No. 15-45A (2016).
- g. Under prior Commission precedent, public officials must vigilantly search for reasonably ascertainable potential conflicts of interest and cannot remain unaware of readily knowable facts. *In re Atkinson Gates, Williams and Malone*, Comm'n Op. Nos. 97-54, 97-59, 97-66, 97-53 and 97-52 (1997). Instead, public officials must design and implement systems to spot and respond to potential ethical conflicts. *Id.*
- h. Disclosures required by the Ethics Law must occur "at the time the matter is considered." NRS 281A.420(1). The Ethics Law does not recognize a continuing disclosure or a disclosure by reference. Silence based upon a prior disclosure at a prior meeting fails to inform the public of the nature and extent of the conflict at the meeting where no actual disclosure occurred. *See In re Buck*, Comm'n Opinion No. 11-63C (2011) (holding that incorporation by reference of her prior disclosure even though based upon the advice of counsel, did not satisfy the disclosure requirements of NRS 281A.420(1)).

- i. As a public officer, Strasdin is also prohibited from voting upon or advocating for or against the passage of a matter in which the independence of judgment of a reasonable person in her situation would be materially affected by her commitment to Ms. Dalager. NRS 281A.420(3)(c). However, it is presumed that the independence of judgment of a reasonable person is not materially affected if the resulting benefits or detriments to the public officer, or the person to whom the public officer has a commitment in a private capacity, are not more or less than those accruing to any other member of the group affected by the matter. NRS 281A.420(4)(a). Accordingly, provided Strasdin makes a proper disclosure, she need not abstain on matters where the result of Board action provides no special advantage or particular benefit or detriment to either herself or Ms. Dalager, but will impact all District employees in the same manner.
- j. Strasdin understands that she has a continuing duty to conduct an abstention analysis under NRS 281A.420(3) and must abstain from acting on matters in which the independence of judgment of a reasonable person in Strasdin's situation would be materially affected by her commitment in a private capacity to the interests of Ms. Dalager. In particular, Strasdin clearly has an obligation to abstain when the Board considers the terms and conditions of Dalager's employment. Strasdin must also take responsibility for the analysis of non-employment matters that come before the Board and make a reasonable determination as to whether her relationship with Ms. Dalager would tend to influence a reasonable person in her situation in rendering votes or other decisions, including whether there would be an appearance that her vote would be influenced by her private relationship with Ms. Dalager. *See In re Public Officer*, Comm'n Op. No. 16-14A (2016) (discussing disclosure and abstention standards applicable to spouses).
- k. Strasdin's actions constitute a single course of conduct resulting in one nonwillful violation of the Ethics Law, implicating the provisions of NRS 281A.020(1) and NRS 281A.420(1) and (3).
- l. Based upon the consideration and application of the statutory mitigating criteria set forth in NRS 281A.475, the Commission concludes that Strasdin's violation

in this case should not be deemed a “willful violation” pursuant to NRS 281A.170 and the imposition of a civil penalty pursuant to NRS 281A.480 is not appropriate for the reasons that follow:

- 1) The gravity of the violation is not substantial;
 - 2) Strasdin has not previously been the subject of any violation of the Ethics Law;
 - 3) Strasdin has not received any personal financial gain as the result of her conduct in this matter;
 - 4) Strasdin has been diligent to cooperate with and participate in the Commission’s investigation and analysis, as well as the resolution of this matter; and
 - 5) Strasdin, as a recently appointed Board member, is holding her first public office.
- m. Strasdin agrees to attend an Ethics in Government Law training session with the Commission’s Executive Director for the CCSD Board members, to ensure that the Board members understand the disclosure and abstention requirements, including responsibilities related to consent agenda items. See, e.g., *In re Woodbury*, Comm’n Op. No. 16-40C (2016). This training will be conducted no later than twelve months after the date this Stipulated Agreement is executed.
- n. 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.
- o. 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 Strasdin.

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6. **WAIVER:**

- a. Strasdin knowingly and voluntarily waives her right to an Investigatory Panel proceeding and any related hearing before the full Commission on the allegations in this RFO (No. 16-85C) and of any and all rights she 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. Strasdin knowingly and voluntarily waives her 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 27 day of Feb, 2017. *Tricia Strasdin*
Tricia Strasdin

The above Stipulated Agreement is approved by:

DATED this 24th day of Feb., 2017. *Sharla Hales*
FOR TRICIA STRASDIN, Subject
Sharla Hales, Esq.

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

DATED this 16th day of March, 2017. *Judy A. Prutzman*
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
Tracy L. Chase, Esq.
Commission Counsel

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 Strasdin waived her 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.