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ON ETHICS

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April 5, 2013

Caren Cafferata-Jenkins, Esq.  
Executive Director  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, NV 89703Re: In the Matter of the Request for Opinion - Request No. 13-24C  
Re: Carolyn Edwards  
In the Matter of the Request for Opinion - Request No. 13-25CC  
Re: Joyce Haldeman

Dear Ms. Cafferata-Jenkins:

Enclosed please find the Clark County School District's Responses to Request No. 13-24C and Request No. 13-25CC.

These Responses were emailed to you on Friday, April 5, 2013.

Sincerely,

Eva Martinez, Secretary to  
Carlos L. McDade, General Counsel

Enclosures as stated

APR 08 2013

COMMISSION  
ON ETHICSSTATE OF NEVADA  
BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion  
Concerning the Conduct of  
Carolyn Edwards, Trustee, District F,  
Clark County School District,  
State of Nevada

Response to Allegations  
RFO 13-24C

RESPONDENT TRUSTEE CAROLYN EDWARDS is in receipt of a Request for Opinion from the above-identified Commission, and responds herewith:

I. REPRESENTATION OF TRUSTEE EDWARDS

Respondent is represented by Counsel, the Office of General Counsel, Clark County School District (the "District"). Counsel refers to NRS 281A.450 as instructive guidance and has determined that an act or omission on which the alleged violation is based (a) appears to be within the course and scope of public duty or employment of Trustee Edwards, and (b) appears to have been performed or omitted in good faith. Therefore, representation by this office is appropriate.

II. ALLEGATIONS

The Request for Opinion ("RFO") alleges that Trustee Edwards violated NRS 281A.520. That statute states in pertinent part: a public officer shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose (a) a ballot question. The RFO refers to an email that Trustee Edwards sent to her constituents on October 16, 2012 (enclosure 1).

III. FACTS

A. PUBLIC OFFICER

Trustee Edwards admits that she is a public officer under NRS 281A.160.

B. EMAIL

Trustee Edwards admits that she sent the email at enclosure 1 to her constituents.

### C. BALLOT QUESTION

Trustee Edwards admits that "Question 2" refers to Question No. 2 on the November 6, 2012 General Election Ballot, to wit:

Clark County School District Capital Projects Funding Question: Shall the Clark County School District be authorized to levy an additional property tax rate of up to 21.2 cents per \$100 assessed valuation for capital construction for schools for a period of up to 6 years, commencing on July 1, 2013? The cost for the owner of a new \$100,000 home is estimated to be \$74.20 per year. If this question is approved by the voters, any property tax levied as authorized by this question will be outside of the caps on a taxpayer's liability for property (ad valorem) taxes established by the legislature in the 2005 session.

### IV. DISCUSSION

Trustee Edwards denies that the sending of the email violated NRS 281A.520.

#### A. NO EXPENSE WAS INCURRED OR FUNDS EXPENDED

NRS 281A.520 states that a public officer shall not incur an expense or make an expenditure to support or oppose a ballot question.

The petitioner's sole allegation is that Trustee Edwards sent ("e-mailed") the email at enclosure 1 and that this action is a violation of NRS 281A.520. The allegation is simple and simply refuted. There was no expense incurred to the District or expenditure made as a result of Trustee Edwards' use of the email system for this purpose. Therefore, there can be no violation.

The affidavit of Mr. Dan Wray, Director, Technology & Information Systems Services Division, Clark County School District, makes it clear that the cost of Trustee Edwards' email was so negligible as to be indeterminable (enclosure 2). The InterAct email system is designed to provide services to 37,000 employees. The trustees of the Board of School Trustees oversee the entire District, including the email system, and are authorized users of the system. Trustees are provided the use of InterAct to communicate amongst themselves, to the District staff and to their constituents and other persons for school business. It is noted that their constituents include the parents of District students.

Trustee Edwards' use of email to communicate school business is within the authorized uses permitted to her. In other words, the District's budget provides for Trustee Edwards' use of the email system and it cost the District no more or no less that Trustee Edwards sent this email. This particular email in question did not incur an expense to the District or cause the District to make an expenditure of any calculable amount.

B. THE DISTRICT PROVIDES COMMUNICATION RESOURCES TO THE TRUSTEES FOR DAY-TO-DAY USE

To further illustrate that Trustee Edwards' use of the InterAct email did not constitute any expense, the District directs the Commission's attention to the fact that the District provides several methods of communication to the trustees for their use for official business. Trustees are provided the use of the following District communication systems in the normal course of business: "Contact Your Board Member" which allows citizens to send electronic messages to the trustees and is available on the District website; "Community Linkage" surveys which are available on the District website; citizens may call the trustees via the Board office at 799-1072, the number is available on the District website; the trustees also utilize "Educational Service Announcements," "School Matters," and "Web Casting" under Board Governance Policy GP-17: Cost of Governance (enclosure 3). These different avenues of communication allow the board members to fulfill their duties as elected representatives of their constituents to oversee the District, including communicating with those constituents.

Trustee Edwards' use of the District's email system to send out the particular email in question did not incur costs or require expenditures simply because she is authorized to use the system to communicate with the public. This email did not cost the District any manpower, time or money.

C. INCIDENTAL PERSONAL USE IS AUTHORIZED BECAUSE IT DOES NOT INCUR EXTRA EXPENSE OR REQUIRE ADDITIONAL EXPENDITURES TO THE OPERATION OF THE INTERACT EMAIL SYSTEM

Additionally, even certain unofficial use of the email system is authorized by District policy because minor use does not incur any additional expense or require additional expenditures.

Due to the size and complexity of the email system and the enormous volume of emails sent and received every day, the District developed an "Acceptable Use Policy" to govern day-to-day use of the InterAct email system. Employees and trustees are allowed "Incidental Personal Use of Technology Resources" under Section J of the Acceptable Use Policy. Section J states that:

Technology resources may be used by District personnel for personal purposes provided that the use does not interfere with the Clark County School District's ability to carry out District business, does not interfere with the employee's duties, does not subject the Clark County School District to increased costs or risks, and does not violate the terms of the Acceptable Use Policy.



The Technology Division of the District has determined that most incidental use is minor in nature in comparison to the huge volume of official email and as a consequence, requires no additional labor and no additional data storage of measurable amount. Therefore, even if this email is considered incidental personal use, it did not incur extra expense or require additional expenditures.

#### D. TRUSTEES' STATUTORY DUTIES

The petitioner states that "while Ms. Edwards is free to advocate using her own personal resources, as a Public Officer, she cannot advocate for a ballot question using CCSD resources, including the email system or any administrative staff required to prepare the aforementioned email and its mailing list."

Petitioner's position is incorrect for several reasons. First, it is incorrect to refer to Trustee Edwards as "Ms. Edwards," (she is now "President Edwards" after election to that Board position) as though she has no more duties or obligations as a trustee than a normal citizen would have. As an elected official, Trustee Edwards has a duty to represent her constituents. NRS 386.165 creates county school boards to run county school districts. NRS 386.350 grants school boards, by statutory edict, "such reasonable and necessary powers...as may be requisite to attain the ends for which the public schools...are established and to promote the welfare of school children..." The District School Board promulgated rules in order to carry out its statutory duties. The Board's Governance Policy "GP-4.2 Board Members' Principles of Operation" (enclosure 4) states in Section 6 that Board members shall meet responsibilities to the community by vigorously seeking adequate financial support of the schools, effectively communicating Board and District actions to the community and seeking to involve the community in the schools and the education process.

County school districts are effectively required to raise money for capital construction projects, such as building schools and major infrastructure maintenance, repair and replacement. Question No. 2 was an effort, in compliance with Nevada law, to raise funds for capital projects, including construction to relieve overcrowding in schools and capital maintenance such as replacing old and unreliable air conditioning systems. The trustees were elected to provide an education to and protect the welfare of children. They chose to do so by asking the voters to decide if they would vote to allow the District to raise money for these purposes by way of Question No. 2.

The provision of NRS 281A.520 cited by petitioner may actually prevent trustees from performing their statutory duty. At the very least, there is a question as to how NRS 386.165 and NRS 281A.520 interact that has not been previously raised or resolved in Nevada courts. The District reserves the right to raise that question and any other legal defense within this and other venues, if necessary.

V. CONCLUSION

The District and Trustee Edwards respectfully request that the Commission find that Trustee Edwards' use of the email system did not violate NRS 281A.520.

Dated this 5th day of April, 2013.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL  
CLARK COUNTY SCHOOL DISTRICT



CARLOS L. McDADE

General Counsel

5100 W. Sahara Avenue



Las Vegas, Nevada 89146

(702) 799-5373


**ENCLOSURE “1”**

**ENCLOSURE “1”**

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From:  Carolyn Edwards - Trustee  
Subject: 10/20/12 Volunteers Needed: Ballot Question 2  
To:  Carlos L. McDade

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Friday, April 05, 2013 10:56:40 AM 

----- Original Message -----

From: Carolyn Edwards - Trustee Tuesday, October 16, 2012 1:27:52 PM  
Subject: 10/20/12 Volunteers Needed: Ballot Question 2

Parents,

As a CCSD Trustee, I am able to advocate on behalf of important issues affecting our students. I feel very strongly on an issue I am writing to you about today.

As you know, there is an important initiative on the November ballot that would raise funds to improve some of our oldest schools. Question 2 also would replace two schools that are more than 50 years old and build two new schools in some of our highest growth areas.

**This Saturday, volunteers around Clark County will gather to distribute door hangers and yard signs to registered voters encouraging them to support Question 2. If you or anyone you know would like to participate, please call Community and Government Relations at 799-1080 or go to <http://www.ccsd.net/district/capital-improvement-plan/volunteer.php>**

I hope you will take the time to learn more about Question 2 at [www.ccsd.net/Q2](http://www.ccsd.net/Q2). Question 2 would add a temporary 21-cent property tax increase per \$100 of assessed value and would cost the average homeowner with a \$100,000 assessed value home about \$6 per month. It is a fiscally responsible way to repair some of our schools that have unreliable air conditioning or electrical systems, or that need vital repairs such as new roofs, and it has been endorsed by the Las Vegas Chamber of Commerce, Henderson Chamber of Commerce and Latin Chamber of Commerce.

If you cannot participate in the walk on Saturday but would still like a yard sign, or if you would like to distribute door hangers to your neighborhood on a different day, please feel free to contact Community and Government Relations at 799-1080. All volunteers will receive a free Question 2 T-shirt. I am always available to answer any questions you have on this initiative.

I hope you will join me in supporting this initiative. All of our students and staff



deserve schools that have reliable electrical and AC systems, and we need relief in some of our most overcrowded areas.

Sincerely,  
Carolyn Edwards  
Trustee, District F

**ENCLOSURE “2”**

**ENCLOSURE “2”**

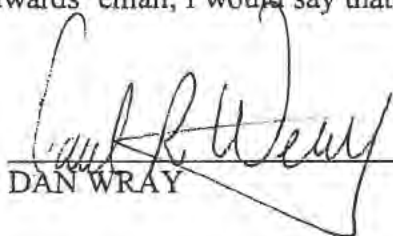


4. Employees and trustees are also allowed unofficial or personal use of the InterAct email system. "Incidental Personal Use of Technology Resources" under Section J of the Acceptable Use Policy. Section J states that:

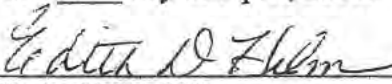
Technology resources may be used by District personnel for personal purposes provided that the use does not interfere with the Clark County School District's ability to carry out District business, does not interfere with the employee's duties, does not subject the Clark County School District to increased costs or risks, and does not violate the terms of the Acceptable Use Policy.

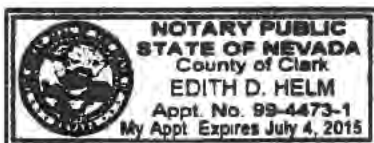
5. Due to the size and complexity of the email system, my Division has determined that policing minor, non-harmful personal use is not cost efficient or practical, given funding and manpower constraints and the fact that it creates little if any additional costs to the cost of doing business. Most incidental use is minor in nature in comparison to the huge volume of official email and as a consequence, requires no additional labor and no additional data storage of measurable amount. It incurs no extra cost or requires an additional expenditure above and beyond normal operating expenses.

6. As Trustee Edwards' use did not constitute extraordinary use, I consider the use to be in normal course of day-to-day business whether it was "official" or "personal incidental" use. If I had to quantify the cost to the District of Trustee Edwards' email, I would say that is was so negligible as to be incalculable.

  
DAN WRAY

Subscribed and Sworn to by Dan Wray before me this 5<sup>th</sup> day of April, 2013.

  
NOTARY PUBLIC





**ENCLOSURE “3”**

**ENCLOSURE “3”**

**GP-17: COST OF GOVERNANCE**

Adopted: 07/26/00

Revised: 05/24/01; 03/13/03; 11/13/03; 04/14/05; 05/22/08

11/17/09

*Board of School Trustees***CLARK COUNTY SCHOOL DISTRICT**

The Board will invest in training and preparation to govern with excellence.

Accordingly:

1. Board skills, methods, and supports will be sufficient to assure governing with excellence.
  - A. Training and retraining will be used liberally to orient new members and may be offered to candidates, as well as to maintain and increase existing member skills and understanding.
  - B. Outside monitoring assistance will be arranged so that the Board can exercise confident control over organizational performance. This includes, but is not limited to, fiscal audits, surveys, or other practices by the Board.
  - C. Outreach mechanisms will be used as needed to ensure the Board's ability to listen to owners' viewpoints and values.
  - D. The cost of governance is not limited to leadership excellence. Good governing requires adequate resources to ensure the desired outcome of Board policies. Resources must be devoted to:
    1. Agenda production.
    2. Transcription and production of minutes.
    3. Response to constituent concerns.
    4. Board communications, both internal and external, but not limited to, Community Linkage, Educational Service Announcements (ESA), School Matters, and Web Casting.
    5. Staff training in governance, public engagement, and customer service issues.
2. Costs will be incurred prudently, though not at the expense of good governance as follows:
  - A. Sufficient resources will be budgeted within the general funds to conduct Board professional development and supplemented with grants and contributions.
  - B. Sufficient funding will be budgeted within the general funds to conduct audits and other third party monitoring or organizational performance.\*

**GP-17: COST OF GOVERNANCE**  
(continued)

*Board of School Trustees*

**CLARK COUNTY SCHOOL DISTRICT**

3. The Board will approve an annual plan derived from the perpetual calendar (see GP-3: Board Responsibilities, GP-4: Board Members' Principles of Operation – Conduct and Ethics) and will include a review of the budget to guarantee issues including an extensive policy review will be conducted every two years following the legislative session to ensure compliance with legislative changes.
4. The perpetual calendar will reflect the outline of governance activities. The annual calendar will determine specific information.

\*The Board at its regular budget approval will determine the amount annually.



**ENCLOSURE “4”**

**ENCLOSURE “4”**



## GP-4.2: BOARD MEMBERS' PRINCIPLES OF OPERATION

Adopted: 06/21/12

*Board of School Trustees*

**CLARK COUNTY SCHOOL DISTRICT**

The Board will follow principles that will enable it and its members to operate lawfully, strategically, respectfully, responsibly and in a businesslike manner, recognizing that authority rests only with the Board and not with its individual members.

1. The Board will govern lawfully on behalf of students with an emphasis on strategic leadership for the future of Clark County School District through:
  - A. Outward vision rather than an internal preoccupation.
  - B. Encouragement of diversity in viewpoints.
  - C. Strategic leadership more than administrative detail.
  - D. Clear distinction of Board and Superintendent roles.
  - E. Collective rather than individual decisions.
  - F. Forward thinking rather than past or present.
  - G. Governing proactively rather than reactively.
2. Board members should support the decisions of the Board but may continue to express individual opinions.
3. Board members shall recognize that authority rests only with the Board during official meetings and that the individual member has no legal status to bind the Board outside meetings as defined by the Open Meeting Law.
  - A. Except as otherwise provided by NRS, four members of the Board shall constitute a quorum.
  - B. No action of the Board shall be considered valid without the approval of a quorum of the Board.

**GP-4.2: BOARD MEMBERS' PRINCIPLES OF OPERATION**  
(continued)

- C. A quorum of members will only meet, deliberate, or vote regarding matters within the Board's jurisdiction in either an open meeting or a closed meeting in compliance with a specific statute.
  - D. Members' interaction with the public, press, or other entities must recognize Board decisions and the inability of any member to speak for the Board except to support Board decisions.
  - E. An agenda item which has previously been considered and decided by the Board within the past year may only be placed on the agenda for reconsideration by a Trustee who was on the prevailing side of the previous decision. The agenda item will be preceded by a specific agenda item to address whether the item should be reconsidered.
4. Board members shall respect relationships with other members of the Board by:
- A. Recognizing the integrity of predecessors and associates and the merit of their work.
  - B. Refusing to make statements or promises regarding voting on any matter that should properly come before the Board as a whole.
  - C. Respecting the right of others to their opinions and supporting the majority rule principle.
5. Board members shall respect the authority of the Superintendent of Schools and the staff by:
- A. Giving the Superintendent full administrative authority for properly discharging the professional duties of the position and by holding the Superintendent accountable for desired results.
  - B. Recognizing individual interactions with the Superintendent or with employees of the Superintendent lack authority except when explicitly authorized by the Board.

**GP-4.2: BOARD MEMBERS' PRINCIPLES OF OPERATION**  
(continued)

- C. Refraining from expressing individual judgments of performance of the Superintendent or employees of the Superintendent except for participation in Board deliberations about whether the Superintendent has achieved reasonable interpretation of Board policy.
  - D. Acting only upon the recommendations of the Superintendent in matters of employment or dismissal of District personnel.
  - E. Excluding the Superintendent at regular and special meetings of the Board only when the contract and salary of the Superintendent or his/her confidential employees are under consideration.
  - F. Referring all complaints to the Superintendent or his/her designee and discussing such complaints at a regular meeting only after failure of an administrative solution.
  - G. Providing an environment in which the Superintendent and staff may function effectively within the community and discharge their educational functions on a thoroughly professional basis.
  - H. Presenting any criticisms of any employee directly to the Superintendent or his/her designee.
6. Board members shall meet responsibilities to the community by:
- A. Attempting to appraise fairly both the present and future educational needs of the community.
  - B. Insisting that all District business transactions be conducted on an open, ethical, and above-board basis.
  - C. Vigorously seeking adequate financial support of the schools.
  - D. Effectively communicating Board and District actions to the community.



**GP-4.2: BOARD MEMBERS' PRINCIPLES OF OPERATION**  
(continued)

*Board of School Trustees*

**CLARK COUNTY SCHOOL DISTRICT**

- E. Seeking to involve the community in the schools and the educational process.
- F. Seeking to improve education throughout the state of Nevada.
- 7. Board members shall strive to have meetings conducted in a professional manner with appropriate decorum through:
  - A. Well-attended meetings and well-prepared participants.
  - B. A well-planned agenda that is adjusted to focus on the Ends.
  - C. Keeping discussion centered on the agenda and staying focused on Board business.
  - D. Balanced participation with everyone participating and no one dominating.
  - E. Sharing viewpoints in a clear, concise manner.
  - F. Ensuring that the decision-making process is understood and implemented appropriately.
  - G. Accomplishing work in an atmosphere of trust and openness with respect and courtesy.
  - H. Making decisions only after all facts bearing on a question have been presented and discussed.
  - I. Taking action at the policy level rather than the operational level.
  - J. Clarifying Board priorities while discussing the range of potential outcomes, beneficiaries, and costs.
  - K. Monitoring policies to facilitate rigorous accountability and assurance of Superintendent performance.



**GP-4.2: BOARD MEMBERS' PRINCIPLES OF OPERATION**

(continued)

*Board of School Trustees*

**CLARK COUNTY SCHOOL DISTRICT**

- L. Supporting the Superintendent's reasonable interpretation of applicable Board policies or further clarifying Board intention by revising the policies.
  - M. Making decisions based on information garnered from District and community input.
8. The Board shall follow parliamentary procedures utilizing Roberts Rules of Order as a guide, recognizing the exceptions for small boards.<sup>1</sup> The following are recommended procedures:
- A. All main motions require a second.
  - B. Only one main motion can be active at a time.
  - C. The Board President presides over the meeting, introduces the item, recognizes speakers, repeats the motion before the vote, and summarizes the vote.
  - D. The Board President may vote on all motions and, with restraint, may make and second motions.

<sup>1</sup>See addendum for Rules of Precedence.