

**R E C E I V E D**

**APR 08 2013**

**COMMISSION  
ON ETHICS**

**STATE 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  
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