



TEACHING, INTERPRETING AND CHANGING LAW SINCE 1979

April 23, 2020

*Via Electronic Mail*

City Council of McFarland  
Mayor Pro Tem, Stephen McFarland  
Councilmember Sally Gonzalez  
Councilmember Rafael Melendez  
Councilmember Maria T. Perez  
Councilmember Eric Rodriguez

Council Chambers  
103 West Sherwood Avenue  
McFarland, CA 93250

**Re: Recusal of Mayor Pro Tem Stephen McFarland and Councilmember Eric Rodriguez during the April 23, 2020 public hearing for the appeal of the Central Valley Modified Community Correctional Facility Conditional Use Permit Nos. 01-96 and 02-96**

Dear members of the McFarland City Council:

We write to respectfully urge Mayor Pro Tem Stephen McFarland and Councilmember Eric Rodriguez to recuse themselves during the April 23, 2020 public hearing for the appeal of the Central Valley Modified Community Correctional Facility Conditional Use Permit (CUP) Nos. 01-96 and 02-96 due to their conflicts of interest concerning GEO Group Inc. (“GEO”). As a matter of common-sense ethics and as a matter of law, we believe that Mr. Rodriguez and Mr. McFarland’s relationship with GEO gives rise to a conflict of interest and creates an appearance of unfairness.

We believe that Mr. Rodriguez and Mr. McFarland have conflicts of interests that prevent them from being unbiased adjudicators during the April 23<sup>rd</sup> vote. Both Mr. Rodriguez and Mr. McFarland have had a history of employment with GEO. GEO employed Eric Rodriguez in February 2017 as a Behavior Case Manager<sup>1</sup>, and Stephen McFarland has been and may still be a Correctional Counselor with GEO.<sup>2</sup> We have reason to believe that in the weeks prior to his appointment to the city council, Mr. Rodriguez has had continued conversations with GEO’s employees specifically about GEO’s conditional use permit at issue.

---

<sup>1</sup> See LinkedIn, *Eric Rodriguez*, <https://www.linkedin.com/in/eric-rodriguez-66b8a197/> (last visited: April 22, 2020).

<sup>2</sup> See LinkedIn, *Steve McFarland*, <https://www.linkedin.com/in/steve-mcfarland-69a7b664/> (last visited: April 22, 2020).



Constitutional due process requires that the public has the right to a fair and unbiased process, and the presence of a biased decisionmaker is unconstitutional.<sup>3</sup> There are numerous forms of bias that can affect adjudication, but financial interest has been held to directly contravene impartiality.<sup>4</sup> The issue is not whether Mr. McFarland has in fact been influenced, but rather “whether the adjudicator’s financial interest would offer a *possible* temptation to the average person” to not be impartial.<sup>5</sup> California statute and regulations reinforce this by preventing any individual from participating in a government decision where there may be a financial interest in the decision.<sup>6</sup> Namely, under California regulation § 18700, “[a] public official . . . has a prohibited conflict of interest and may not make, participate in making, or in any way use or attempt to use his or her official position to influence a governmental decision when he or she knows or has reason to know he or she has a disqualifying financial interest.” A current employment relationship with GEO would squarely indicate a financial interest in the April 23<sup>rd</sup> vote, and therefore preclude any relevant councilmember from participating in the vote.<sup>7</sup>

The public also deserves greater transparency about Mr. Rodriguez and Mr. McFarland’s exact financial interest in GEO. However, insufficient information is currently available to determine the scope of any financial ties to GEO. Every public official is required to submit a Statement of Economic Interest (Form 700) that provides necessary information to the public about an official’s personal financial interests to ensure that officials are making decisions in the “best interest of the public and not enhancing their personal finances,” and allows the public to be aware of “potential conflicts of interest so the official can abstain from making or participating in governmental decisions that are deemed conflicts of interest.”<sup>8</sup> Mr. McFarland’s 2019 Form 700, the last publicly available Form 700, is deficient in numerous respects as it is incomplete. It lacks information about any of his investments, real property, income, loans, business positions, or gifts. We question whether Mr. McFarland has no finances to disclose. The community deserves to have a full and complete Form 700 to accurately assess conflicts in this and other decisions which impact the McFarland community. Especially here, where we believe GEO currently employs Mr. McFarland, it is critical to understand the nature of his financial relationship with the corporation. Indeed, payments that amount to \$500 over a twelve-month period between a government official and an interested party would violate California statute (Political Reform

---

<sup>3</sup> See *Haas v. County of San Bernardino*, 27 Cal. 4th 1017, 1024-1025 (2002) (“due process requires fair adjudicators in courts and administrative tribunals alike”); see also *Cohan v. City of Thousand Oaks*, 30 Cal. App. 4th 547, 559 (1994) (“The right to a fair procedure includes the right to impartial adjudicators”).

<sup>4</sup> See *Tumey v. Ohio*, 273 U.S. 510, 523 (1927).

<sup>5</sup> *Id.* at 32; see also *Ward v. Village of Monroeville*, U.S. 57, 59-60 (1972).

<sup>6</sup> Cal. Gov. Code § 81001(b) (“Public officials . . . should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them”); Cal. Gov. Code § 87100 (“No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest”).

<sup>7</sup> Cal. Code Regs. Title 2, §18700.1.

<sup>8</sup> *Ca. Fair Political Practices Comm.*, “Form 700,” <http://www.fppc.ca.gov/Form700.html> (last visited, April 22, 2020).



Act § 87103(c)). Mr. Rodriguez has yet to file his Form 700, and we urge him to do so immediately so that the public is fully aware of the scope of his financial interests, and to determine whether he has any financial ties to GEO.

Separate from the issue of potential financial interest, we believe that Mr. Rodriguez and Mr. McFarland's participation in the April 23rd vote could also give rise to a violation of California regulations and common law based on their personal interest alone, as Mr. Rodriguez and Mr. McFarland could be using their official position to influence the City of McFarland's decision regarding GEO's continued presence in the city.

Title 2, California Code of Regulations, § 18702.3(a) states:

. . . [An] official is attempting to use his or her official position to influence the decision if, for the purpose of influencing the decision, the official contacts or appears before, or otherwise attempts to influence any member, officer, employee or consultant of the [official's] agency. Attempts to influence include, but are not limited to, appearances or contacts by the official on behalf of a business entity, client or customer.

Here, given prior and/or current GEO employment, there is an undeniable risk that Mr. Rodriguez and Mr. McFarland could use their positions on the city council, knowledge and relationships with GEO, to influence the city's decision about whether to vote in favor of the permit. In addition to Mr. Rodriguez's former employment with GEO, we are concerned about potential conversations between Mr. Rodriguez and GEO employees in the weeks prior to his instatement on the city council. "The common law doctrine against conflicts of interest . . . prohibits public officials from placing themselves in a position where their private, personal interests may conflict with their official duties."<sup>9</sup> Because Mr. Rodriguez and Mr. McFarland have an employment history with GEO and likely ongoing communications with GEO, we are concerned over the risk that they will breach state law prohibition on actions by interested public officials. They are not disinterested, unbiased decisionmakers and we urge them to recuse themselves on April 23<sup>rd</sup>.

Thank you for your consideration of this issue with regards to today's (April 23) vote. We look forward to working with the city to ensure that it provides the public a fair and impartial decision-making process on this critical vote which deeply impacts McFarland residents. For the reasons outlined above, we urge Mayor Pro Tem Stephen McFarland and Councilmember Eric Rodriguez and to recuse themselves during the April 23<sup>rd</sup> vote concerning GEO. Please do not hesitate to contact the ILRC ([gruiz@ilrc.org](mailto:gruiz@ilrc.org)) with any questions.

---

<sup>9</sup> *Clark v. City of Hermosa Beach*, 48 Cal. App. 4<sup>th</sup> 1152, 1171 (1996).



TEACHING, INTERPRETING AND CHANGING LAW SINCE 1979

Sincerely,

Grisel Ruiz  
Supervising Attorney  
Immigrant Legal Resource Center