

Nevada Ethics in Government Law



Presented by:

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Nevada Commission on Ethics

What is the Nevada Commission on Ethics?

- **The Commission**
 - The Ethics Commission consists of 8 members appointed to serve 4-year terms
 - 4 members appointed by the Governor
 - 4 members appointed by the Legislative Commission.
- **Staff**
 - The state-wide staff to the Commission consists of an Executive Director, Commission Counsel, Associate Counsel, Investigator, Paralegal and an Executive Assistant.



2

Nevada Commission on Ethics

OUR MISSION

To enhance the public's faith and confidence in government and uphold the public trust by **ensuring that public officers and public employees commit themselves to avoiding conflicts** between their private interests and their public duties.

3

Commission Jurisdiction (2 years)

- ✓ Public Officers
- ✓ Public Employees
- ✓ State Legislators
 - ✓ Exceptions
- ✓ Former Public Officers and employees

- ✓ Exceptions:
 - ✓ Judicial Officers
 - ✓ Advisory Board Members



4

Nevada Commission on Ethics

- Interprets and provides guidance on the statutory provisions of NRS 281A - the Ethics in Government Law ([First-Party Requests for Opinion](#))
- Investigates and adjudicates complaints from public officers, public employees and the public ([Third-Party Requests for Opinion](#))
- Accepts certain written disclosures

5

Required Written Disclosures for Public Officers

- Agency Representation Disclosure
- Acknowledgment of Statutory Ethical Standards

6

Personal Interests:

- “Pecuniary” (NRS 281A.139)
- “Commitments in a Private Capacity” (NRS 281A.065)

7

PROHIBITED CONDUCT

1. Accepting gifts, services, favors, employment, economic opportunities, etc. which would tend to improperly influence a reasonable person



2. Using a public office to secure unwarranted privileges, preferences, exemptions, or advantages for self or others.

NRS 281A.400(1) and (2)

8

PROHIBITED CONDUCT

3. Participating as an agent of government to negotiate or execute contracts with a business in which one has a pecuniary interest.
4. Accepting a salary or other compensation from a private source for performing public duties.



NRS 281A.400(3) and (4)

9

PROHIBITED CONDUCT

5. Furthering private pecuniary interest or that of others by using any non-public information acquired through public duties or relationships.



6. Suppressing or delaying government reports or documents which might tend to unfavorably affect pecuniary interest or that of a person to whom one has a private commitment.

NRS 281A.400(5) and (6) ¹⁰

PROHIBITED CONDUCT

7. Using government resources - time, property, equipment, and so forth to benefit a personal or financial interest.

- But some personal use is allowed

- ✓ Use is authorized by the responsible public officer or necessary in an emergency;
- ✓ Use does not interfere with the performance of public duties;
- ✓ Cost or value of use is nominal; **AND**
- ✓ Use does not create the "appearance of impropriety".



NRS 281A.400(7)(a) ¹¹


PROHIBITED CONDUCT

8. Attempting to benefit a **personal** or financial interest by influencing subordinates.
9. Seeking other employment or contracts through the use of public position.



NRS 281A.400(9) and (10) ¹²

PROHIBITED CONDUCT

10. Accepting an honoraria for performing your public duty. 
11. Causing a governmental entity to make an expenditure to support or oppose a ballot question or candidate (during period between candidate filing and election).



NRS 281A.510 and 281A.520 ¹⁵

“Cooling-Off” Prohibitions

- One-year cooling off period to seek or accept employment or certain private representations after leaving public service (certain exceptions) (NRS 281A.550(3) and (5) and 281A.410)
- Relief may be granted from the strict application of certain prohibitions. (NRS 281A.550(6))

NRS 281A.410 and 281A.550(3)(5)(6) ¹⁴

Prohibited Contracts

- No contracts between government agencies and business entities in which public officer has a pecuniary interest, unless open competitive bidding; or
- No sales of goods/services to local governmental agency governed by public officer unless sole source of supply.
- Relief from the strict application of the statute may be obtained.

NRS 281A.400(3) and 281A.430 ¹⁵

Disclosure and Abstention for Public Officers and Employees

Walking the Disclosure & Abstention tightrope



Disclosures

- **Disclosure** is mandatory for any interest created by:
 - ✓ A gift or loan
 - ✓ A **substantial*** pecuniary interest
 - ✓ A "commitment in a private capacity"
- **Disclosure** must be made at the time the matter is considered.

NRS 281A.420(1)

17

Disclosures

Woodbury Opinion (NCOE Opinion No. 99-56)

- Disclose **sufficient information** to inform the public of the potential effect of the action or abstention upon public officer and private commitments,
- Apply the **reasonable person standard**, considering whether private interest/commitment would likely have a material effect on a (similarly situated) reasonable person's independence of judgment, and
- **Explain why** the standard does or does not apply.

18

Disclosure – Public Employees

- To supervisory head of organization
- Sufficient to inform public



19

Voting & Abstention

Abstention is **required only** in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected.

This determination should be made by the public officer and explained **on the record**.

NRS 281A.420(4) ²⁰

Voting & Abstention

- Voting is presumed permissible **if the** resulting benefit/detriment to the public officer (or committed person) is no greater than the benefit/detriment to anyone else affected by the matter.

NRS 281A.420(4) ²¹

Penalties

- The Commission is authorized to impose civil penalties for **willful** violations of the Ethics in Government Law.
- Mitigating factors

NRS 281A.475, 281A.480 and 281A.170²²

Penalties:

Monetary sanctions & referral for removal from office

- Not to exceed **\$5,000** for a first willful violation;
- Not to exceed **\$10,000** for a separate act or event that constitutes a second willful violation; and
- Not to exceed **\$25,000** for a separate act or event that constitutes a third willful violation.
- **Referral for removal** from position of trust.

The Commission must consider comparable situations in a comparable manner and ensure the disposition of a matter bears a reasonable relationship to the severity of the violation.

NRS 281A.475 and 281A.480²³

SAFE HARBOR PROVISIONS

No willful violation **IF**:

(a) The public officer or employee relied in **good faith** upon the **advice of the legal counsel** retained by his or her the public body, agency or employer:

and

(b) The legal advice was:

- Provided before conduct; and
- Not contrary to prior published opinion on Commission website.



24

Pending Legislation

- 79th (2017) Legislative Session
 - SB 30 (Attorney General)
 - SB 36 (Governor)
 - SB 84 (NCOE, Sponsored by Governor)

25

Commission Opinions & Other Resources

- Resources and Opinions of the Nevada Commission on Ethics are indexed on the NCOE website:

www.ethics.nv.gov
(New website!)

26

Nevada Commission on Ethics

Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703
775-687-5469 (Office)
775-687-1279 (Fax)



Yvonne M. Nevarez-Goodson
Executive Director
Direct Line: 775-687-4312

Website: www.ethics.nv.gov
ynevarez@ethics.nv.gov

27
