



ETHICS LAW BASICS

BOARDS AND
COMMISSIONS

STAY ON THE PATH



“A public office is a public trust and shall be held for the sole benefit of the people”

NRS 281A.020

STATUTORY AND REGULATORY AUTHORITY



- Chapter 281A Nevada Revised Statutes – Nevada Ethics Law
- Chapter 281A Nevada Administrative Code – Ethics Regulations



THE NEVADA ETHICS COMMISSION

- 8-member Commission
- No more than 4 members of the same party
- No more than 4 members from the same county
- At least 4 former public officers or employees
- At least 2 licensed attorneys
- No current public officers / prohibition on being actively involved in political party or campaign



THREE MAJOR FUNCTIONS OF THE ETHICS COMMISSION

1. Education and Outreach about Nevada's Ethics Law
2. Provide Advisory Opinions to public officers and employees about Nevada's Ethics Law
3. Receive and process Complaints alleging violations of Nevada's Ethics Law

WHY AN ETHICS LAW?

- Watergate Scandal Triggered Enactment of Government Ethics Laws
 - Federal Ethics in Government Act (1978)
 - Nevada Ethics Law (1975)



WHO IS COVERED IN THE JURISDICTION OF THE ETHICS COMMISSION?



Nevada Ethics Law

- Public Officers (position in Nevada Constitution, Nevada Law, local government charter or ordinance, or listed in NRS 281A.182)
- Public Employees
- Some cases – former public officers/employees

Not Nevada Ethics Law

- Private individuals
- Private business, companies, or organizations
- Public agencies as in “the agency violated the ethics law”
- Judges
- Federal Government Employees
- Volunteers
- Advisory Committees

WHAT TYPES OF CONDUCT FALLS UNDER THE JURISDICTION OF THE ETHICS COMMISSION?

Nevada Ethics Law

- Conduct within the last two years
- Conduct that is expressly prohibited by a statute found in NRS Chapter 281A

Not Nevada Ethics Law

- Conduct older than two years
- Allegations of harassment or other activity covered by Equal Employment Opportunity Commission or Nevada Equal Rights Commission
- Other employment related grievances
- Local or other agency ethics rules that are not found in NRS Chapter 281A

COMMITMENT IN A PRIVATE CAPACITY - NRS 281A.065



Spouse / Domestic Partner



Member of Household



3rd Degree of
Consanguinity / Affinity



Employer



Substantial and Continuing
Business Relationship



Substantially Similar

ETHICS CATEGORIES

- Improper Benefits
- Disclosure/Abstention
- Cooling Off

ANDREA

SIXTEEN

CASPER

THE CASE OF JO-JO BEAR



IMPROPER BENEFIT – GOVERNMENT RESOURCES



1. Use of government position

2. Benefit

3. Benefit is for Self or to a Commitment in a Private Capacity or Result of Gift/Loan

IMPROPER BENEFIT - GIFTS





IMPROPER BENEFIT - GIFTS

- No gifts, services, favors, or engagements that “tend improperly to influence a reasonable person to depart from the faithful and impartial discharge of duties” NRS 281A.400(1)
- No salary or compensation from private source for performance of public duties NRS 281.400(4)

Different than financial disclosure requirements administered by the Secretary of State





IMPROPER BENEFIT – GOVERNMENT RESOURCES

- Economic opportunity using public position (NRS 281A.400(1))
- Unwarranted privileges, preferences, exemptions or advantages using position (NRS 281A.400(2))
- Negotiating a contract with self or for others with current agency (NRS 281A.400(3))
- Benefit to self or other using influence over a subordinate (NRS 281A.400(9))
- Honorarium for speaking (NRS 281A.510)
- Contract with government agencies prohibition (NRS 281A.430)



IMPROPER BENEFIT – GOVERNMENT RESOURCES



- Use of government time, property, equipment, or other facility to benefit a significant personal or pecuniary interest. NRS 281A.400(7)



IMPROPER BENEFIT – USE OF INFORMATION



- Use of non-public information to benefit self or others (NRS 281A.400(5))
- Suppression of government report to benefit self or others (NRS 281A.400(6))

DISCLOSURE & ABSTENTION



“Government ought to be outside and not inside...Everybody knows that corruption thrives in secret places, and avoids public places, and we believe it a fair presumption that secrecy means impropriety”

President Woodrow Wilson

DISCLOSURE & ABSTENTION

Before approving, voting, or acting on a matter when

- Gift or loan accepted
- Significant pecuniary interest
- Reasonably affected by commitment in private capacity
- Former lobbying

NRS 281A.420

QUALITY DISCLOSURE



- “Sufficient to inform the public of the potential effect of the action or abstention upon the person or interest”

AND

- “Made at the time the matter is considered”

DISCLOSURE & ABSTENTION

- A Public Officer shall not vote upon or advocate for the passage or failure of a matter
 - Independence of judgment of a reasonable person affected by
 - own pecuniary interest,
 - commitment in a private capacity,
 - gift or loan



DISCLOSURE & ABSTENTION



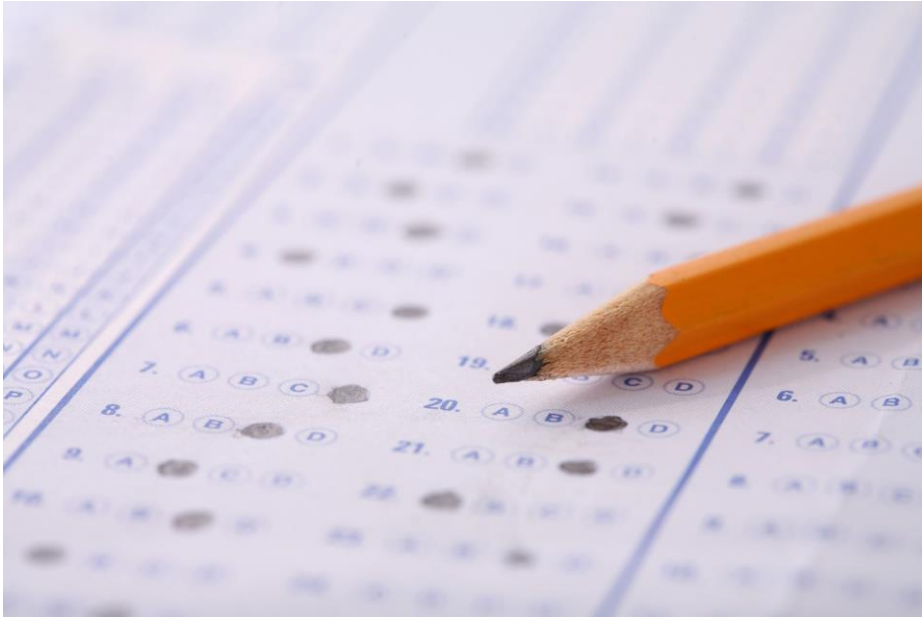
Presumption in NRS 281A.420

- Favors participation
- Abstention required in clear cases where the public officer's situation is materially affected
- Presumed permissible if no greater benefit/detriment to officer than to anyone else affected by the matter

Case by Case Basis

Item by Item Basis

DISCLOSURE & ABSTENTION



Test Cases

- Licensing Board member
 - Friend from high school is before the board for disciplinary action
- Commission that sets fees
 - Uncle is someone who pays the fee, commission considering raising the fee
- Board Member employed by Company A
 - Company A is applying to the board for a decision on expanded service



COOLING OFF

COOLING OFF

- One-year cooling off period to seek or accept employment
 - Regulated business/industry (State Only)
 - Vendors of the agency
- Counseling or lobbying the agency

NRS 281.410 and .550



Relief can be granted



WHAT ACTION CAN THE ETHICS COMMISSION TAKE IN RESPONSE TO A VIOLATION

Nevada Ethics Law

- Monetary penalties
- Stipulated agreements to require education, practice changes, or mandate public apologies
- Issue Letter of Instruction or Caution
- Admonish or reprimands
- Refer to other appropriate authorities
- Petition for removal of the public officer

Not Nevada Ethics Law

- File an injunction to prevent a public officer from taking an action
- Any criminal sanctions or remedies including sentencing a person to jail or prison



4 TIPS FOR COMPLIANCE

1. Maintain a list of individuals or entities to which you have a “commitment in a private capacity”
2. Review any agendas where you have action items beforehand to identify potential conflicts of interest
3. Consult with legal counsel who can search prior opinions
4. Request an advisory opinion



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