
Ethics in Government Law: NRS 281A Public Officers and Employees



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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.

Interpret and enforce the Ethics In Government Law – NRS 281A

“Conflicts of Interest” for Public Officers and Public Employees



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.

Commission Jurisdiction (2 years)

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

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



Nevada Commission on Ethics

- 3 Primary Functions:
 - Advisory Opinions (Confidential)
 - Ethics Complaints (Investigation Confidential)
 - Outreach/Education
 - AB 70
 - Exempts Ethics Training from OML

- Acknowledgment of Statutory Ethical Standards Form
 - Appointed: 30 days of appointment/reappointment; January 15 each even-numbered year for appointed officer who doesn't have definite term.
 - Elected: January 15 after General election; 30 days after special election

Advisory Opinions

Any public officer or public employee with questions regarding his or her own past, present or future conduct related to the Ethics in Government Law may request a **confidential advisory opinion** from the Commission. Consideration of these advisory opinions has been statutorily exempted from Nevada's Open Meeting Law.



Ethics Complaints – Filing

Who May File:

1) Any person

- Not an incarcerated person
- Confidential Requester if:
 - Requester works in same agency as Subject; or
 - Bona fide threat of physical harm

2) Commission may initiate

3) Local/Special Ethics Committee

Ethics Law Statutes

- Prohibited conduct
 - Misuse of Official Position (decisions/conduct) in conflict with certain Private Interests ...

Private Interests:

- “Pecuniary” (NRS 281A.139)

- “Commitments in a Private Capacity” (NRS 281A.065)
 - Family/Relatives – 3rd Degree of Consanguinity/Affinity
 - Employers
 - Business Relationships
 - Household Members
 - Substantially Similar Relationships
 - Fiduciary Positions – Nonprofit Boards of Directors

PROHIBITED CONDUCT

GIFTS...



(Improper Influence)

NRS 281A.400(1)

PROHIBITED CONDUCT

- IMPROPER USE OF POSITION
 - Unwarranted Benefits



NRS 281A.400(2)

PROHIBITED CONDUCT

■ IMPROPER USE OF POSITION

Improper Contracts/Employment

(Negotiating/Entering)

New Limitations –

SB 129 (2019)

- Contracts with agency



NRS 281A.400(3,10); 281A.430

PROHIBITED CONDUCT

- IMPROPER USE OF POSITION

Additional Compensation – Private Source



NRS 281A.400(4)

PROHIBITED CONDUCT

■ IMPROPER USE OF POSITION

Using/Suppressing Non-public Government Information



NRS 281A.400(5,6)

PROHIBITED CONDUCT

■ MISUSE GOVERNMENT RESOURCES

Limited Use Exceptions



NRS 281A.400(7)

PROHIBITED CONDUCT

■ IMPROPER USE OF POSITION

Influencing Subordinate – Personal Purpose



NRS 281A.400(9)

PROHIBITED CONDUCT

Honoraria for performing your public duty.



Causing a governmental entity to make an expenditure to support or oppose a ballot question or candidate (during period between candidate filing and election).



“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) – Prohibits Executive Branch officers/employees of State Government from employment by regulated business/industry
- NRS 281A.550(5) – Prohibits certain public officer/employee from employment with vendors of agency. (State/Local)
- NRS 281A.410 – Prohibits any public officer/employee from representing or counseling private persons/entities on issues that were before the agency.
- Relief **may** be granted from the strict application of NRS 281A.550(3) and (5). (NRS 281A.550(6))

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”
 - ✓ Representation of private client
- **Disclosure** must be made at the time the matter is considered.
- **Sufficient** to Inform Public – Nature and Scope

NRS 281A.420(1)

Disclosure – Public Employees

- **To supervisory head of organization**
- **Sufficient to inform public**



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**.

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.**

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 opinions on Commission website.



What Ethics Law is NOT:

- Campaign Finance
- Rude Behavior
- Laziness
- Poor Policy Decisions
- Sexual Harassment
- Discrimination

Commission Opinions & Other Resources

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

www.ethics.nv.gov

Nevada Commission on Ethics

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