

Nevada Ethics Law Training
 January 3, 2022
 David Rigdon, Town Attorney

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Who Do Ethics Laws Apply To?

Public Officers
 - Definition found in NRS 281A.160
 - Includes elected officials like Town Board Members

Public Employees
 - Definition found in NRS 281A.150
 - Anyone who performs public duties under the direction and control of a public officer
 - Town Manager is a public employee
 - Other Town employees not covered because they do not work under direct supervision of the Board

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Purpose of Ethics Law

NRS 281A.020
 - Public office is a public trust held solely for benefit of the citizens who the officer serves.
 - All public officers and employees must commit themselves to avoiding conflicts between their private interests and the general interests of the public.
 - Town Manager and Board positions were established to benefit the residents and businesses in Gardnerville, not to benefit the individuals holding those positions.

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Nevada's Code of Ethical Standards

NRS 281A.400 – General Requirements

- Shall not seek or accept any "gift, service, favor, employment, engagement, emolument, or economic opportunity" that "would tend to influence a reasonable person . . . to depart from the faithful and impartial discharge" of their public duties.
- Shall not use position "to secure or grant unwarranted privileges, preferences, exemptions or advantages."
- Shall not participate as an agent for government in negotiating or executing contracts with yourself or your business.
- Shall not accept payment from any private source for performance of public duties.
- Shall not use non-public information for personal benefit.
- Shall not suppress government report or document to benefit self.
- Shall not use government property for personal use (incidental use OK).
- Shall not benefit own pecuniary interest.

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What is "Commitment in a Private Capacity?"

Expands reach of Code of Ethics beyond just public officer or employee.
 Defined in NRS 281A.065 as "commitment, interest or relationship of a public officer to:"

- Spouse.
- Member of Household.
- Relation within 3rd degree of consanguinity (children, parents, uncles, aunts, etc.).
- Employer of officer, spouse, or member of household.
- Anyone with whom officer has "substantial and continuing business relationship."
- Anyone with a relationship substantially similar to those listed.

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Lobbying

NRS 281A.410 – Representing or counseling private parties before public agencies

- May not accept compensation to represent private parties before the agency you serve (TOG).
- 1 year cooling off period (applies to any "issue which was under consideration by the agency during term of service).
- TOG board member may lobby other agencies (but not Town Manager).
- Agency cannot be located in county in which member serves (exception available via advisory opinion from Ethics Commission).

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Conflicts of Interest

NRS 281A.420 – Conflicts must be disclosed

- Must disclose matters where (1) you have received gift or loan, (2) you have a pecuniary interest, (3) your vote would be affected by commitment in private capacity to interests of another person, (4) you have done any lobbying.
- Not required to disclose campaign contributions already disclosed in campaign reporting.

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Abstentions

NRS 281A.420 – Abstention from voting

- After disclosure, must abstain from voting when "independence of judgment of a reasonable person . . . would be materially affected by:" (1) acceptance of gift or loan, (2) significant pecuniary interest, or (3) commitment in private capacity to interests of another.
- Not required to abstain where benefit "is not greater than that accruing to any other member of any general business, profession, occupation or group that is affected by the matter."
- "Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs" public policy of State favors public officers performing their duty to vote.

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Contracting

NRS 281A.430 – Contracting with Agency

- Generally, public officers may not contract with the agency they serve. Applies to businesses they work for.
- Exceptions: (1) contracting process is governed by open competitive bidding, (2) sources of supply are limited, (3) the public officer has not taken part in developing the plans or specifications, and (4) Public officer is not personally involved in considering or accepting offers.
- If an exception applies, public officer must disclose and may not vote on contract approval.
- May seek advisory opinion from Ethics Commission if strict application of statute does not serve best interests of public.

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Remedies and Penalties

- Additional training
- Remedial action.
- Public apology.
- Restrictions on future conduct.
- Admonishment, reprimand, or censure.
- Fines for willful violation (\$5,000 1st offense, \$10,000 2nd offense, \$25,000 3rd or more offense).
- Removal from office (if violation is willful).
- NRS 281A.790(5) – violation not willful if relief in good faith on advice of agency legal counsel.

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Acknowledgement Form

- For Public Official (Board Members)
- Must be completed by January 15 of year following general election for each term of office.
- For Public Employee (Town Manager)
- Must be completed within 30 days of taking office and then January 15 of each even numbered year.
- Acknowledges that you have received, read, and understand ethical standards (cannot plead ignorance).

NEVADA ACKNOWLEDGEMENT OF ETHICAL STANDARDS FOR PUBLIC OFFICERS
(ACKNOWLEDGEMENT FORM)

Department of State and Local Government
Division of Legislative Services

NAME: _____
 POSITION: _____
 COUNTY: _____
 ADDRESS: _____

I have received and read the Nevada Ethics Standards for Public Officials and Public Employees and understand the standards. I have read and understand the standards and agree to abide by the standards. I have read and understand the standards and agree to abide by the standards.

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DATE: _____

SIGNATURE: _____

NEVADA ACKNOWLEDGEMENT OF ETHICAL STANDARDS FOR PUBLIC OFFICERS (ACKNOWLEDGEMENT FORM) - 1/1/2023

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Questions??

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