



ETHICS LAW BASICS

PEBP BOARD



ROADMAP

- Why Ethics Matters
- Barriers to Compliance
- What We Do
- Who and What is Covered
- Key Areas of the Law
 - Improper Benefits
 - Disclosure & Abstention
 - Cooling Off
- Resources & Contacts



WHY AN ETHICS LAW?

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



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

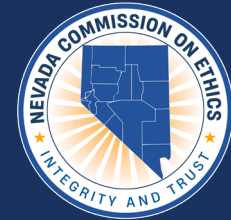


WHY DOES ETHICS MATTER?

Dissolves Trust in
Government

Undermines Efforts of Public
Servants

Government for the People



BARRIERS TO ETHICAL CONDUCT IN PUBLIC SERVICE

- Lack of awareness of ethics laws and best practices
- Limited knowledge about where to find ethics resources
- Contradiction between normative practices in private sector and public sector ethics laws and best practices
- Pressure from supervisors, vendors, legislators, and more
- Societal pressures





MAJOR FUNCTIONS OF THE COMMISSION



Education and Outreach
about Nevada's Ethics Law



Provide Advisory Opinions to
public officers and
employees about Nevada's
Ethics Law



Receive and process
Complaints alleging
violations of Nevada's Ethics
Law

Prevention

Enforcement



THE NEVADA COMMISSION ON ETHICS – NRS 281A

Commissioners are prohibited from:

- Serving more than two consecutive, 4-year terms
- Holding another public office
- Being actively involved in the work of any political party or campaign
- Lobbying

*Make-up of the Commission:

- No more than 4 members can be from the same political party or reside in the same county.
- 2 must be a Nevada Licensed attorney.
- 4 Commissioner appointments must be former public officers/employees.



WHAT FALLS UNDER THE JURISDICTION OF THE ETHICS COMMISSION?

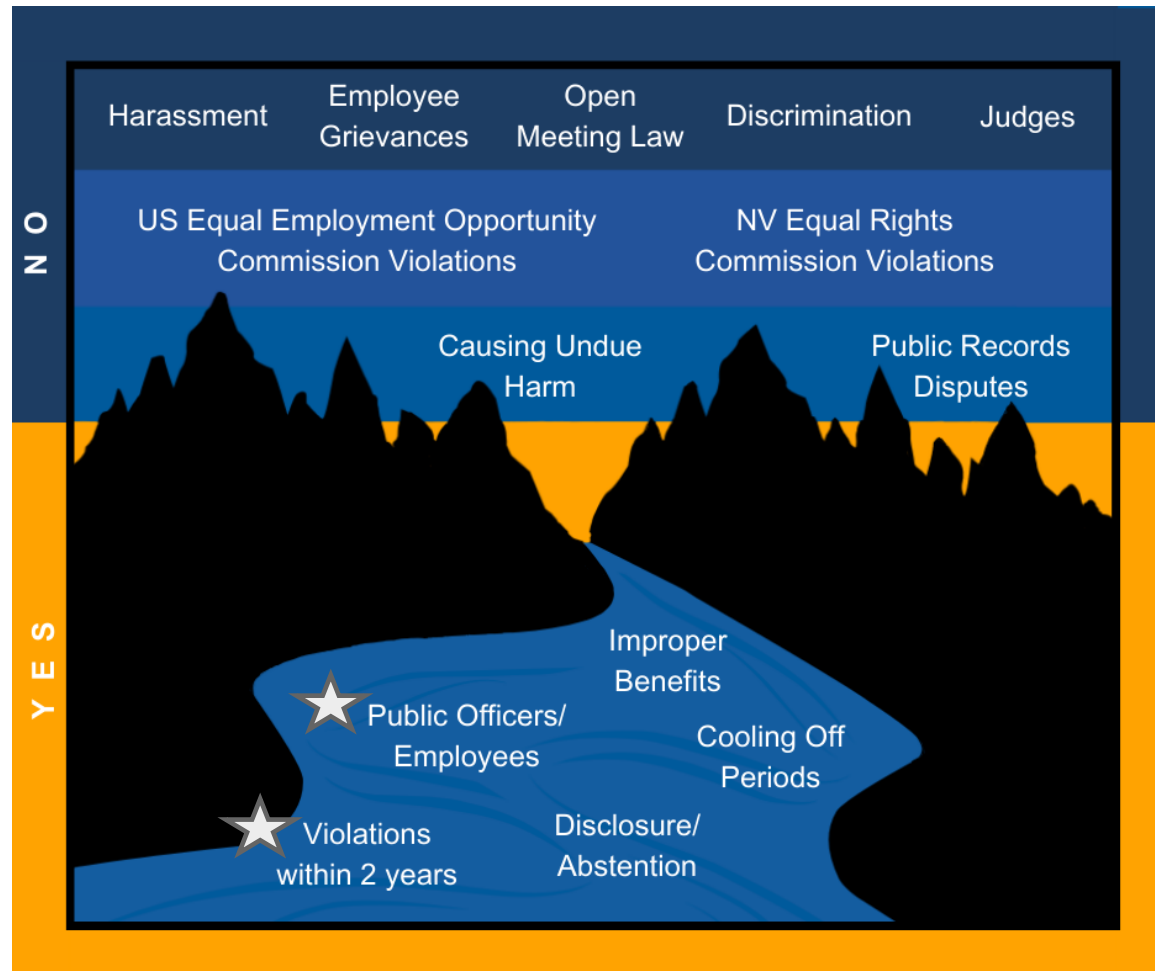


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COMMITMENT IN A PRIVATE CAPACITY - NRS 281A.065



Spouse / Domestic Partner



Member of Household



3rd Degree of
Consanguinity / Affinity



Employer



Substantial and Continuing
Business Relationship



Substantially Similar



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3 MAIN AREAS OF THE ETHICS LAW



THE CASE OF JO-JO BEAR



IMPROPER BENEFIT – GOVERNMENT RESOURCES



Use Government Position



Benefit/Gift/Loan for Themselves or
Someone They Have a Private Commitment



Potential Ethics Violation



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)

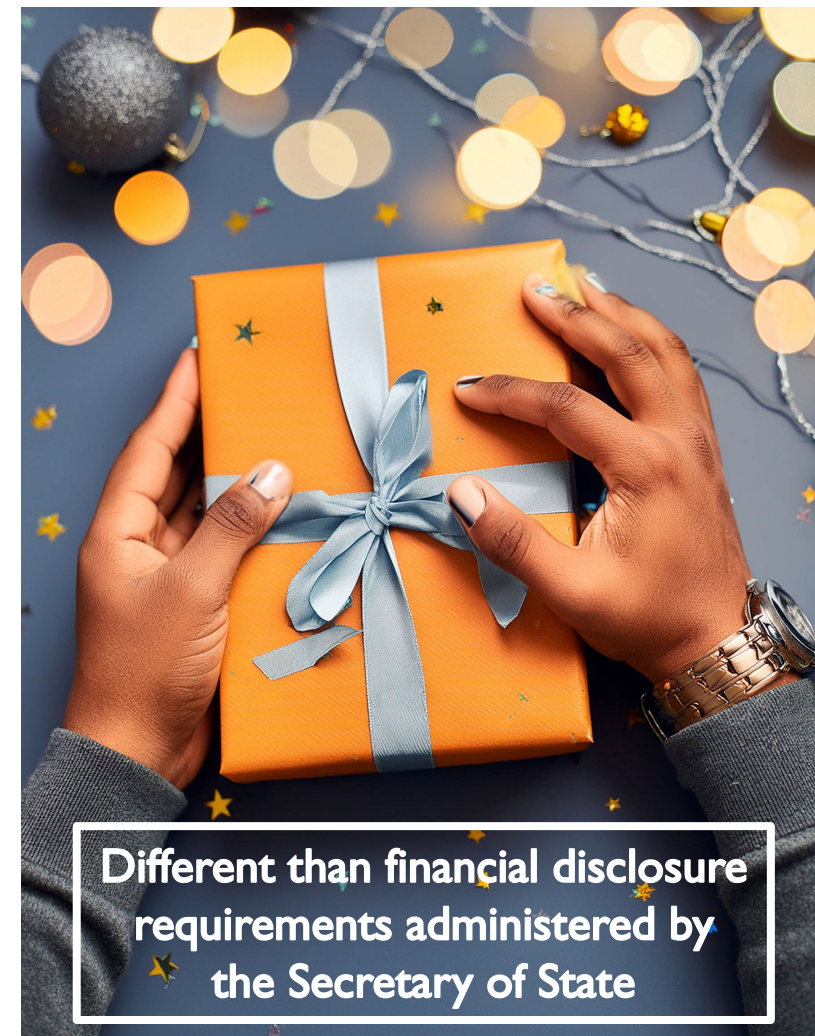
Facts to Consider

1. Accept or seek out the gift?
2. Value of the Gift
3. Nexus between the “gifter” and “giftee’s” decision

In re City of Reno (Advisory) – theater tickets

In re McClinton (Complaint) – hockey tickets

In re Lopez (Complaint) – coach purse



Different than financial disclosure requirements administered by the Secretary of State

IMPROPER BENEFIT – GOVERNMENT RESOURCES

- 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))
 - Contracting with government (NRS 281A.430)
 - No salary or compensation from private source for performance of public duties NRS 281.400(4)
- Benefit to self or other using influence over a subordinate (NRS 281A.400(9))
 - Honorarium for speaking (NRS 281A.510)



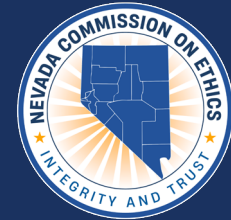
IMPROPER BENEFIT – GOVERNMENT RESOURCES



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

In re Pamintuan (Complaint) – state email/time

In re Hall (Complaint) – county credit card



IMPROPER BENEFIT – GOVERNMENT RESOURCES

Limited Use Exception (Property, Equipment, Facility) NRS 281A.400(7)(a)

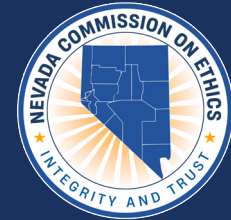
Properly authorized by policy allowing the use or if use is result of an emergency

Use does not interfere with performance of public officer/employee's public duties

Cost of value related to the use is nominal

Does not create the appearance of impropriety

**All 4 conditions must
be met together**



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

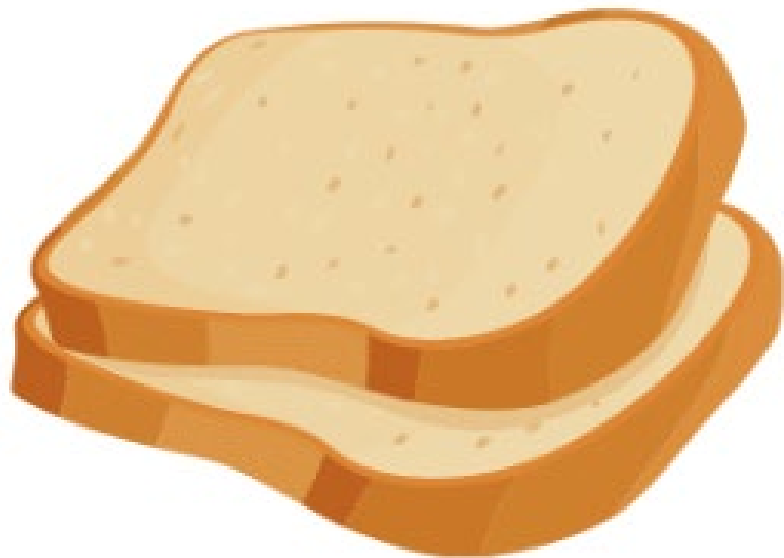
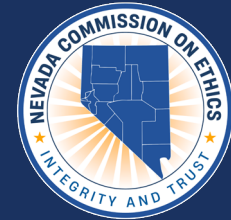
DISCLOSURE & ABSTENTION

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”

In re Gibson, et al (Complaint) – FI ticket disclosure

DISCLOSURE & ABSTENTION

- A Public Officer shall not vote upon or advocate for the passage or failure of a matter
- A Public Officer shall not make decisions or act upon
 - If 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

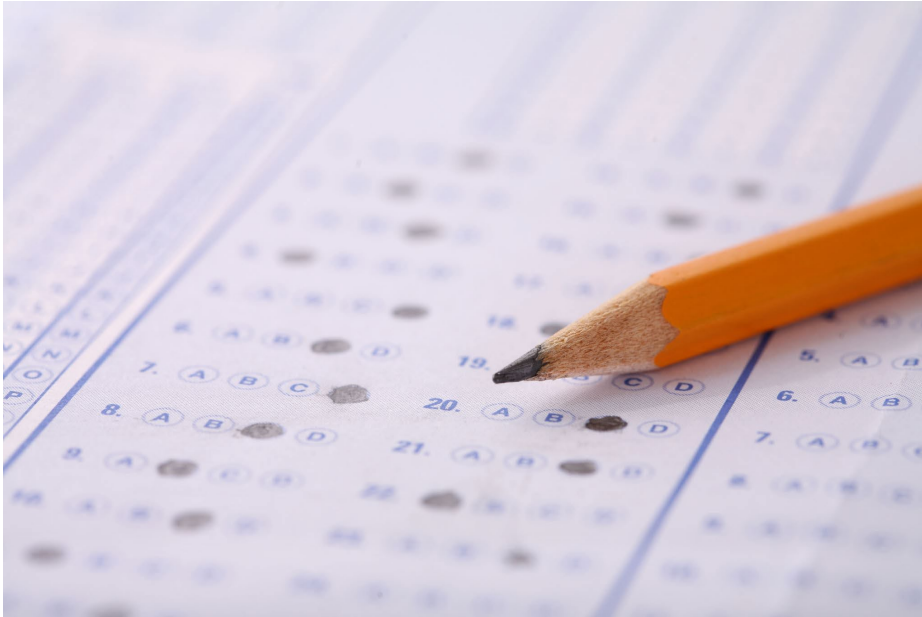
In re Ancho (Advisory) – retired public employee

DISCLOSURE & ABSTENTION



Test Cases

- Medical Benefits
 - Board is considering increasing costs that her nephew, as a public employee, will have to pay for benefits
- Vendor Selection
 - Picking a vendor and your friend from high school works for the vendor





COOLING OFF

COOLING OFF

- One-year cooling off period to seek or accept employment
 - Vendors of the agency
 - Private regulated business/industry (State Only)
- Private counseling or lobbying former agency

NRS 281A.410 and .550



Relief can be granted

1. Contract awarded exceeded \$25,000;
2. Awarded in the 12-months before you left
3. You could have affected or influenced who was awarded the contract.



RESOLUTION EXAMPLES

Willful

Civil Penalties Up to \$5k, \$10k, or \$25k
Petition to Removal a Public Officer

Non-Willful

Ethics Training
Mandated Apology
Admonishment
Payback Financial Benefit
Conditions on Future Behavior

No Violation

Letter of Caution/Instruction

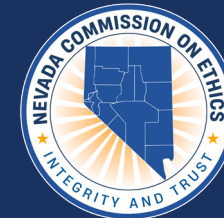


TIPS AND BEST PRACTICES



1. Maintain a list of individuals or entities to which you have a “commitment in a private capacity”
2. Familiarize yourself on your local/agency policies.
3. Be proactive to identify potential conflicts of interest as early as possible
4. If you are unsure, it is better to disclose than not disclose.
5. Consult with legal counsel who can search prior opinions
6. Request an advisory opinion

ASKING FOR HELP



- Timing
- Fear of being perceived as unethical for asking
- Commission is required to protect confidential information
- Whistleblower protections
- Asking your agency attorney first protects you
- We won't open a complaint if you ask for help
- It benefits others when you request opinion

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FEEDBACK