



## STATE OF NEVADA

### BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Public Officer**, Public Entity,  
State of Nevada,

Advisory Opinion No.19-120A

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Public Officer. /

### **ABSTRACT OPINION**

#### **I. STATEMENT OF THE CASE**

Public Officer ("Public Officer") is employed by Public Entity, State of Nevada ("Public Entity"), and requested this confidential advisory opinion from the Nevada Commission on Ethics ("Commission") pursuant to NRS 281A.675, regarding the propriety of Public Officer's anticipated future conduct as it relates to the Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A. Pursuant to NAC 281A.352, a quorum of the Commission considered this matter by submission, without holding an advisory-opinion hearing.<sup>1</sup> The Commission considered the request for an advisory opinion, information provided by Public Officer that was affirmed as true, and publicly available information.

Public Officer seeks an opinion from the Commission regarding the applicability of the Ethics Law and its "cooling-off" requirements set forth in NRS 281A.410 and NRS 281A.550(5) if Public Officer leaves public service and establishes a private consulting firm for matters unrelated to Public Entity, or alternatively, seeks employment with a contract vendor (or subcontractor) for the Public Entity or another government agency.

After fully considering Public Officer's request and analyzing the facts and circumstances, the Commission deliberated and advises Public Officer of its decision that the "cooling-off" provisions of NRS 281A.550(5) apply to some of the proposed employment opportunities, and determines relief is not granted regarding employment therewith. For other proposed employment opportunities, Public Officer is advised they are permissible, but are subject to the restrictions imposed by NRS 281A.410(1)(b) which prohibit consulting on issues that were under consideration by Public Entity during Public Officer's tenure of public service, and the Code of Ethical Standards set forth in NRS 281A.400.

The Commission indicates at the outset, that it would be impossible for it to confirm whether any of Public Officer's proposed employment opportunities would have operations that relate to an issue under consideration by Public Entity during Public Officer's tenure of employment because the operations of Public Entity are extensive. Accordingly, the Commission directs full statutory compliance with the mandatory provisions of NRS 281A.410(1)(b) in this opinion.

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<sup>1</sup> The following Commissioners participated in the original written opinion: Chair Lau, Vice-Chair Weaver and Commissioners Duffrin, Gruenewald, Lowry, O'Neill, Wallin and Yen. Vice-Chair Weaver's term of office ended prior to the issuance of this Abstract Opinion.

The Commission now renders this Abstract Opinion confirming its findings of fact and conclusions of law. The facts in this matter were obtained from documentary evidence provided by Public Officer. For the purposes of the conclusions offered in this opinion, the Commission's findings of fact in the full-written opinion accept as true those facts Public Officer presented. Facts and circumstances that differ from those presented to and relied upon by the Commission in this opinion may result in different findings and conclusions than those expressed in this opinion. Although the full written opinion was served on Public Officer, for confidentiality reasons, this Abstract Opinion redacts certain Findings of Fact, provides a summary of issues, and removes other identifying information to protect the confidentiality of the requester.<sup>2</sup>

## **II. QUESTION PRESENTED**

Public Officer questions whether the "cooling-off" provisions set forth in NRS 281A.550(5) or NRS 281A.410(1)(b) prohibit, for one year after separation from public service, Public Officer's employment with the following: (1) a private consulting firm established by Public Officer, (2) identified contract vendors (subcontractors) of Public Entity, and (2) contract vendors for other public agencies. If NRS 281A.550(5) applies to any of the proposed contract vendors, Public Officer requests to be granted relief from its strict application pursuant to NRS 281A.550(6).

## **III. FINDINGS OF FACT**

1. Public Officer is an appointed public officer for Public Entity.
2. Public Entity has authority over an extensive variety of services provided to the public and Public Officer's public duties included many aspects associated with related operational and personnel matters.
3. In compliance with NRS 281A.410(1)(b), Public Officer has no intention of providing private representation or consultation to a private employer or its clients for compensation regarding any issues that were under consideration by Public Entity during Public Officer's term of service.
4. Public Officer intends to separate from public service and either establish or be employed by a private consulting firm to consult and represent private clients, which could include providing consulting services as a subcontractor to certain contract vendors of Public Entity or other public agencies.
5. If NRS 281A.550(5) applies to any of the proposed employment alternatives, Public Officer requests that the Commission grant relief based upon the following:
  - a. Public Officer pledges not to accept direct employment with a contract vendor for Public Entity to render services associated with a Public Entity contract for a period of one year after separation from public service.
  - b. For one-year, Public Officer will not work on any Public Entity issues that were under consideration during Public Officer's tenure of public employment for Public Entity.

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<sup>2</sup> The Commission reserves its statutory authority should an ethics complaint be filed presenting contrary circumstances. See *In re Howard*, Comm'n Op. No. 01-36 (2002) (notwithstanding advisory opinion, public is not precluded from bringing ethics complaint) and *In re Rock*, Comm'n Op. No. 94-53 (1995) (reservation of right to review until time issue is raised).

- c. During Public Officer's public service, there was no plan or intention to work for any of the contract vendors upon separation from public service.
- d. Public Officer confirms that Public Officer has not yet sought private employment, there are no current opportunities, offers of employment, or any verbal/written promises or expectations for future employment.
- e. Public Officer believes Public Officer's knowledge, skills and abilities would assist both the private and the public sector on a consulting basis, and does not believe that employment with any of the prospective employers, as proposed, would be contrary to the best interests of the public, the Ethics Law or the ethical integrity of Public Entity based in part upon the following:
  - i. Public Officer requests the Commission recognize the nuances of the proposed consulting services asserting that the proposed services to contract vendors, directly or through a subcontractor arrangement, would not have any impact on existing contract deliverables required by current contracts between Public Entity and its contract vendors.
  - ii. Given the nature of Public Officer's profession and the number of contract vendors for Public Entity, it would be difficult to locate a potential employer whose employment prospects would not implicate NRS 281A.550(5).
  - iii. It would cause hardship for Public Officer if the 12-month "cooling-off" period established in NRS 281A.550 is applied.

#### **IV. STATEMENT OF ISSUES AND RELEVANT STATUTES**

##### **A. OVERVIEW OF ISSUES**

Public Officer seeks guidance from the Commission on whether NRS 281A.550(5) or NRS 281A.410(1)(b) restricts Public Officer from seeking or obtaining the identified employment after separation from public service. This matter signifies concerns triggering the "cooling-off" prohibitions of the Ethics Law under NRS 281A.550(5) and NRS 281A.410(1)(b). NRS 281A.550(5) restricts soliciting or accepting employment from a person to whom a contract was awarded within the preceding 12 months if the amount of the contract exceeds \$25,000 and the position held at that time of the contract award allowed the public officer or employee to affect or influence the award of the contract. NRS 281A.410(1)(b) restricts providing paid consultation or representation services on any issue that was under consideration during the tenure of public office for a 12-month period after separation from public service.

In enacting these statutes, the Legislature has identified limited circumstances in which a public employee may be restricted in future employment endeavors in the private sector so as not to dilute the public's faith in government. Notably, the Legislature, in enacting the distinct and separately enforceable restrictions in NRS 281A.410 and NRS 281A.550, has not prohibited all future private income or employment opportunities. Each statute has a varied focus, but similarly serve to protect the public trust and associated relationships acquired during public service, or expertise obtained as a result of public duties. Further, the Legislature enacted NRS 281A.410(1)(b) to restrict for a period of one year, the representation, counseling and employment engagements that directly signal impropriety when they converge with private sector income and employment opportunities.

Public Officer intends to separate from public service, and identifies various employment opportunities that could be pursued, thereby, seeking instruction from the Commission on each employment scenario to assure compliance with the requirements of the Ethics Law. The employment opportunities are categorized into the following three employment scenarios for purpose of applying the Ethics Law:

1. Establishment of a private consulting firm.
2. Contract vendors for the employing agency - Public Entity.
3. Contract vendors for other government agencies.

The Commission's written opinion served on Public Officer specifically details the application of NRS 281A.550(5) to every proposed employer within the three employment scenarios. However, the specifics of this analysis have been redacted to protect the requester's identity.

For all potential employers, the facts affirmed as true by Public Officer substantiate that Public Officer has not solicited or accepted employment from any proposed employer, and therefore, Public Officer has complied with the requirements of NRS 281A.550(9). Regarding any employment determined by the Commission to be restricted by NRS 281A.550(5), Public Officer requests that the Commission grant relief from the strict application pursuant to NRS 281A.550(6). Separately, the Commission provides direction on the mandatory requirements of NRS 281A.410(1)(b) restricting paid counseling or representation on matters that were under consideration during Public Officer's public service for a one-year.

## **B. RELEVANT STATUTES**

### **1. Duty to Avoid Conflicts of Interest**

**NRS 281A.020(1) provides:**

1. It is hereby declared to be the public policy of this State that:
  - (a) A public office is a public trust and shall be held for the sole benefit of the people.
  - (b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.

### **2. "Cooling-Off" – Accepting Employment with Contract Vendor**

**NRS 281A.550(5) provides:**

5. Except as otherwise provided in subsection 6, a former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:
  - (a) The amount of the contract exceeded \$25,000;
  - (b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and

(c) The position held by the former public officer or employee at the time the contract was awarded allowed the former public officer or employee to affect or influence the awarding of the contract.

### **3. Relief from Strict Application of “Cooling-off” Requirements**

**NRS 281A.550(6), (7), (8) and (9) provide:**

6. A current or former public officer or employee may file a request for an advisory opinion pursuant to NRS 281A.675 concerning the application of the relevant facts in that person’s case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:

- (a) The best interests of the public;
  - (b) The continued ethical integrity of the State Government or political subdivision, as applicable; and
  - (c) The provisions of this chapter,
- ↪ it may issue an advisory opinion to that effect and grant such relief.

7. For the purposes of subsection 6, the request for an advisory opinion, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive.

8. The advisory opinion does not relieve the current or former public officer or employee from the strict application of any provision of NRS 281A.410.

9. For the purposes of this section:

- (a) A former member of the Public Utilities Commission of Nevada, the Nevada Gaming Control Board or the Nevada Gaming Commission; or
- (b) Any other former public officer or employee governed by this section,

↪ is employed by or is soliciting or accepting employment from a business, industry or other person described in this section if any oral or written agreement is sought, negotiated or exists during the restricted period pursuant to which the personal services of the public officer or employee are provided or will be provided to the business, industry or other person, even if such an agreement does not or will not become effective until after the restricted period.

### **4. “Cooling-Off” – Representing or Counseling**

**NRS 281A.410(1)(b) provides, in relevant part:**

In addition to the requirements of the code of ethical standards:

1. If a public officer or employee serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:

...

(b) If the public officer or employee leaves the service of the agency, shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon any issue which was under



consideration by the agency during the public officer's or employee's service. As used in this paragraph, "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

## **5. The Code of Ethical Standards – NRS 281A.400**

### **NRS 281A.400(1) provides:**

A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

### **NRS 281A.400(2) provides:**

A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. As used in this subsection, "unwarranted" means without justification or adequate reason.

### **NRS 281A.400(10) provides:**

A public officer or employee shall not seek other employment or contracts through the use of the public officer's or employee's official position.

## **V. COMMISSION DECISION**

### **A. NRS 281A.550(5) – CONTRACT VENDORS**

NRS 281A.550(5) establishes a one-year "cooling-off" period for public officers and employees of the State and its political subdivisions that restricts solicitation or acceptance of employment from a contract vendor if the amount of the contract exceeds \$25,000, the contract was awarded in the preceding 12-month period prior to termination of employment, and the public position held by the public officer or employee placed him/her in the position to affect or influence the award of the contract. The statutory requirements are in the conjunctive and all must be present for the restriction to apply.

#### **1. Establishment of a Private Consulting Firm**

One of Public Officer's proposed employers is Public Officer's own consulting firm, which could be established to provide services as an independent contractor to represent private clients on matters pertaining to Public Officer's public duties. However, the consulting firm would not directly provide vendor services to Public Entity, but instead would provide services as a subcontractor to Public Entity's vendors. In addition, Public Officer may also seek to provide consulting services for clients who are not affiliated with or regulated by Public Entity.

To address the issue of providing consulting services as a subcontractor to a contract vendor for Public Entity, the Commission evaluates whether the public officer would be “employed” by the contract vendor and then determines whether the agency’s contract with the vendor satisfied the conditions set forth in statute to prohibit the employment. A public officer may not avoid application of the statute by asserting that the “employment” is with a private consulting firm, which would not have a contract with the agency or “direct” employment with the contract vendor.

The Commission has previously opined that “employment” in the context of the cooling-off statutes includes employment through a consulting firm and/or as an independent contractor because this arrangement effectively establishes an employment relationship with the contract vendor. It is the nature, scope and content of the engagement that are determinative and the statutory references to employment in NRS 281A.550 include engaging the services of the public officer or employee for compensation in any business form that is available. *In re Public Officer*, Comm’n Op. No. 13-09A (2013). To opine otherwise would create a loophole in the statute to authorize an employment relationship with a contract vendor that disregards the Legislature’s intent and the spirit of this law. Accordingly, for purposes of this statute, any professional services Public Officer may provide through a private consulting firm as an independent contractor for a contract vendor for Public Entity will be deemed to be “employment” for application of NRS 281A.550(5).

To the extent Public Officer requests to provide services directly to Public Entity contract vendors through a consulting firm as either an employee or an independent contractor, the Commission determines that for the various identified contracts all but one meet the requirements of NRS 281A.550 because the associated contracts with Public Entity exceed \$25,000, were awarded in the previous year, and Public Officer either influenced or had the opportunity to influence the contracts. Therefore, NRS 281A.550 restricts the provision of the consulting services to these contract vendors for a period of 12-months after Public Officer separates from public service unless relief is granted pursuant to NRS 281A.550(6). With regard to the contract vendor whose contract is not within the scope of NRS 281A.550, employment is not restricted but Public Officer is referred to the portions of this opinion addressing the separate application of NRS 281A.410(1)(b), which restricts the provision of paid representation or counseling services on an issue that was under consideration by Public Entity during Public Officer’s public service because this statute would limit the type of consulting services that could be provided.

In addition, employment established through a consulting firm with private clients unaffiliated with Public Entity vendors or with other agency vendors do not implicate NRS 281A.550(5) because the conditions set forth in the statute are not satisfied. Cooling-off restrictions are triggered by the improper influence of the private sector over matters in which the public officer’s agency had an interest. In these circumstances, Public Entity would not be affected nor is there evidence that Public Entity awarded or influenced these contracts or that Public Officer influenced or had the opportunity to influence these contracts. In *In re Public Officer*, Comm’n Op. No. 18-116A (2018) and in *In re Bader*, Comm’n Op. No. 19-080A (2019), the Commission confirmed that NRS 281A.550(5) does not apply when no vendor contract existed within the applicable period to prompt the statutory requirements. The Commission emphasizes that this advice only extends to services provided to private clients who are not affiliated with Public Entity contract vendors. Nevertheless, if the consulting services for unaffiliated vendors pertains to any issue under consideration by Public Entity during Public Officer’s tenure of public service, such services would be subject to the restrictions of NRS 281A.410(1)(b), which are detailed below.

## **2. Contract Vendors for Employing Agency - Public Entity**

Public Officer indicates that potential employment opportunities may exist with certain contract vendors for Public Entity to provide services applicable to other jurisdictions. Even if the proposed contract vendor contemporaneously has a contract with another jurisdiction, if NRS 281A.550(5) applies to the proposed contract vendors by virtue of the contract with Public Entity, such employment would be precluded unless the Commission grants relief under NRS 281A.550(6), as detailed below.

## **3. Contract Vendors for Other Public Agencies**

Public Officer identifies potential employment with contract vendors for other public agencies, which contracts were awarded in the preceding year and exceed \$25,000. These contracts fulfill two of the three requirements for application of NRS 281A.550(5). However, the third requirement of NRS 281A.550(5) is not met because Public Officer confirms that Public Officer was not involved with the award of these contracts, nor did the public position held allow Public Officer to influence the award of the contracts. These matters were performed and conducted by and under the distinct and separate authority of other agencies, over which Public Entity had no control or oversight.

Therefore, employment with these contract vendors is not precluded by NRS 281A.550(5). See *In re Public Employee*, Comm'n Op. No. 19-048A (2019), at pgs. 5-6. Nevertheless, there are limitations under the Ethics Law associated with representing or counseling private persons or entities on any issue that was under consideration by Public Entity, as set forth in NRS 281A.410(1)(b) and other implicated laws, which are detailed in this opinion. The Commission also cautions Public Officer to understand and comply with the restrictions/prohibitions against misuses of a government position and government resources, including relationships or influence garnered as a result of public service for a Public Entity, through official duties to create private employment opportunities. See NRS 281A.400(1), (2), (5) and (10).

### **B. NRS 281A.550(6) – RELIEF FROM NRS 281A.550(5)-Public Entity CONTRACT VENDORS**

Public Officer requests relief to permit employment with Public Entity's contract vendors, which employment is restricted by NRS 281A.550(5), to provide services on matters outside of Public Entity's jurisdiction. This issue is appropriately considered in the context of whether relief should be granted under NRS 281A.550(6). Historically, when the Commission has granted relief, the review has included and been subject to heightened scrutiny or sensitivity to ensure the Legislature's prohibition is maintained and relief is provided in unique and qualifying circumstances that protect the public trust. In considering relief from "cooling-off," NRS 281A.550(6) requires the Commission to affirmatively find that the circumstances are not contrary to:

- (a) The best interests of the public;
- (b) The continued ethical integrity of the State Government or political subdivision, as applicable; and
- (c) The provisions of this chapter.

"The intent of the exemption statute is to facilitate beneficial moves from the public to private sectors so long as the moves do not endanger either the public or private sectors and so long as there is nothing otherwise unethical in the way that the employment relationship occurred." See *In re Public Officer*, Comm'n Op. No. 11-96A (2012); see also *In re Public Employee*, Comm'n Op. No. 13-29A (2013). Included in any



consideration of whether relief should be granted under the statutory standards is whether there is any potential impropriety associated with certain employment relationships involving contract vendors and public duties including whether a public officer or employee who is instrumental in influencing lucrative contracts for the public agency in a competitive business environment will be placed in a position to depart from the faithful discharge of public duties or unduly influenced to benefit a particular vendor over promises of future employment with that vendor.

Notably, NRS 281A.550(6) does not include a specific exception permitting employment by virtue of a promise not to work on specific matters pertaining to the employing agency when hired by a contract vendor. That exception, if it had been enacted by the Legislature, would by its very nature swallow the “cooling-off” provisions. However, future anticipated duties for the private employer (including abstaining on matters involving the employing public agency for the one-year period) are properly considered in granting relief but not controlling. The Commission reviews the full circumstances to determine whether or not it will render the required findings set forth in NRS 281A.550(6) to grant relief from the strict application of the “cooling-off” prohibition. See *In re Public Officer*, Comm’n Op. No. 15-74A (2016).

Public Officer requests relief be granted for a number of reasons including the nature of Public Officer’s profession, the number of existing contracts of Public Entity, and the associated hardship on Public Officer for the first year out of government service if strict application of NRS 281A.550 is applied. In its consideration, Public Officer requests the Commission recognize the nuances of the proposed consulting services and providing such services, as proposed, to contract vendors in other jurisdictions would not have any impact on existing contract deliverables or terms imposed by current contracts between Public Entity and the identified contract vendors.

For the Public Entity contract vendors to which NRS 281A.550(5) applies, the contracts are well within the restrictions set forth in NRS 281A.550(5). Public Officer’s managerial position with Public Entity provided Public Officer a significant role in the award and administration of associated matters. Moreover, the statute itself does not provide for the exception that is requested by Public Officer.

The Commission respects that Public Officer will refrain from providing services directly to Public Entity including services provided associated with its contract vendors if permitted employment with the contract vendor to assist it in other jurisdictions. However, the Commission determines that this factor alone is insufficient to grant relief given the magnitude of business that Public Entity does with contract vendors, connectivity of issues, the involved relationships, and the similarity of the proposed employment to Public Officer’s public duties. Further, Public Officer has other employment opportunities that do not involve these contract vendors and there is not sufficient demonstration that there is a shortage of professionals in Nevada with similar credentials. Based upon a review of all circumstances presented, the Commission does not grant relief because it is not able to make the findings that employment with Public Entity contract vendors would not contrary to the: (1) Ethics Law, (2) ethical integrity of the Public Entity, and (3) best interests of the public.

### **C. NRS 281A.410(1)(b) LIMITATIONS**

Public Officer is advised that the restrictions of NRS 281A.410(1)(b) are mandatory and Public Officer is advised to fully comply with the statute. The statute restricts Public Officer, for the one-year period following separation from public service with Public Entity, from representing or counseling any private person (including through one’s own

business, other consulting firms, vendors and vendor subcontractors/partners, etc.) on any issue that was under consideration by Public Entity during Public Officer's tenure of public service. NRS 281A.410(1)(b) defines "issue" to include a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations. In *In re Sweeney*, Comm'n Op. No. 15-70C (2016), the Commission found a violation even where the former employee did not realize her counseling or representation of a private person through an employment scenario (a private employer) was restricted by NRS 281A.410(1)(b). These provisions apply even when the provisions of NRS 281A.550 do not and are not subject to relief by the Commission in these circumstances.<sup>3</sup> Accordingly, former public officers/employees must be vigilant to recognize applicable situations and comply with the statutory restrictions.

Public Officer served in a management position overseeing some of Public Entity's operations, which include having a significant role in negotiating and influencing awards of contracts. NRS 281A.410(1)(b) must be reviewed and applied by Public Officer on an issue-by-issue basis to ascertain whether Public Officer will be providing paid representation or consulting services, whether through one's own business or its clients, or other consulting firms, contract vendors, or any associated subcontractors or partners, on issues that were under consideration by Public Entity during Public Officer's public service. Although the Commission does not have sufficient information to conduct this analysis for each potential issue under consideration by Public Entity, it advises Public Officer to do so. An analysis of each issue under consideration must be thorough and consider all implications, and it may not be possible to ascertain the associated implications the proposed representation or consulting services has relating thereto given the extent and multitude of Public Entity contracts and operational matters. In this opinion, the Commission confirms that the statutory restrictions apply to all Public Entity contracts because those matters certainly were issues under consideration by Public Entity as an agency during Public Officer's public tenure.

The Commission further advises Public Officer that an "issue under consideration" extends farther than those issues Public Officer personally handled as part of public job duties for Public Entity. It extends to all matters under consideration by Public Entity during Public Officer's term of public service, whether Public Officer worked on the matter or participated on the issue under consideration, or it was acted upon by other public officers or employees of Public Entity. See *In re Public Employee*, Comm'n Op. No. 11-96A (2012). This restriction captures matters affecting any Public Entity operational or administrative matter including contract services even if such services are provided by other employers or consultants who are not a direct Public Entity contract vendor such as a subcontractor of a Public Entity vendor. It is noted that NRS 281A.410(1)(b) applies to issues before the employing agency and its plain statutory language would not capture unrelated issues under consideration by other public agencies or potential employers providing services to other jurisdictions. If there is any question, Public Officer may return to the Commission for an advisory opinion pursuant to NRS 281A.675, based upon the given set of facts.

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<sup>3</sup> NRS 281A.410(2) provides an exception for part-time Legislators and members of a local body and they may represent or counsel a private person before an agency for which they do not service and NRS 281A.410(3) provides authority to the Commission to grant relief to a member of a local legislative body under certain circumstances. Neither statute is applicable to the circumstances presented in this opinion and all other provisions of NRS 281A.410 are mandatory.

## VI. CONCLUSIONS OF LAW

1. Public Officer is a public officer as defined by NRS 281A.160.
2. Pursuant to NRS 281A.680(1), the Commission has jurisdiction to render an advisory opinion in this matter and such opinion may include guidance from the Commission to the public officer or employee under NRS 281A.665.
3. With the exception of providing consulting services to Public Entity's contract vendors, Public Officer's may establish and work for Public Officer's own consulting firm.
4. For the one-year period following separation from public service, Public Officer's employment with or providing subcontracting services to contract vendors within the scope of NRS 281A.550(5), including through Public Officer's own consulting firm, is restricted, and the Commission does not grant relief therefrom because it is unable to affirmatively find that this employment would not be contrary to the public trust, ethics law or ethical integrity of Public Entity. These restrictions preclude the provision of consulting services as an independent contractor to Public Entity's contract vendors.
5. Employment with a subcontractor providing services unrelated to Public Entity contract vendors is not restricted by NRS 281A.550(5); however, the provisions of NRS 281A.410(1)(b) would apply to restrict any services related to an issue under consideration by the Public Entity during Public Officer's employment.
6. Pursuant to NRS 281A.410(1)(b), Public Officer may not receive compensation to represent or counsel a private person or entity,<sup>4</sup> including through a consulting business and or as an employee or independent contractor of any of the identified potential employers/consulting businesses, for at least one year after separation from public service on any contracts with Public Entity or other issues that were under consideration during Public Officer's tenure with Public Entity.

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<sup>4</sup> Without limitation, person or entity includes any employer whether contract vendor, subcontractor, consulting firm, or other form of business or person.

Any Finding of Fact hereafter construed to constitute a Conclusion of Law, or any Conclusion of Law construed to constitute a Finding of Fact, is hereby adopted and incorporated as such to the same extent as if originally so designated.

Dated this 1<sup>st</sup> day of June, 2020.

NEVADA COMMISSION ON ETHICS

By: /s/ Cheryl A. Lau  
Cheryl A. Lau, Esq.  
Chair

By: /s/ Philip K. O'Neill  
Philip K. O'Neill  
Commissioner

By: /s/ Brian Duffrin  
Brian Duffrin  
Commissioner

By: /s/ Kim Wallin  
Kim Wallin  
Commissioner

By: /s/ Barbara Gruenewald  
Barbara Gruenewald, Esq.  
Commissioner

By: /s/ Amanda Yen  
Amanda Yen, Esq.  
Commissioner

By: /s/ Teresa Lowry  
Teresa Lowry, Esq.  
Commissioner