

## Advisory Opinion No. 75-12

### QUESTION:

Whether it is necessary for the Department in question to adopt guidelines for the ethical conduct of its public officers as required by the Section 29 of the Nevada Ethics in Government Law since according to the opinion of the Department in question only its director is bound to file a financial disclosure statement pursuant to Section 26 of the Nevada Ethics in Government Law?

### RESPONSE:

Section 29 of Chapter 540 of the 1975 Statutes of Nevada is quite clear in its intent, as is expressed in the language itself. The Section provides that:

"Each public agency shall, on or before June 30, 1976, adopt guidelines by which its officers may determine whether they have a conflict of interest prohibited by Section 24 of this act...." (Emphasis supplied.)

Therefore, regardless of whether a public agency has only one public officer or a dozen public officers subject to the Nevada Ethics In Government Law, it is mandatory that each public agency file the required guidelines by June 30, 1976. Accordingly it is the opinion of the Nevada State Ethics Commission that the Department in question must file the guidelines as required by Section 29 of Chapter 540, 1975 Statutes of Nevada.

In addition it would appear that the Director is not the only person in the Department subject to the provisions of Section 26 of the Nevada Ethics in Government Law. Attorney General's Opinion No. 193 (9/3/75 ) establishes the criteria for determining which public officers are subject to the Nevada Ethics in Government Law and which are not. To be subject to the statute, a person must have his public office established by the constitution, a statute or an ordinance in the State of NEVADA. Secondly, the duties of office must be specified in the constitution, a statute or an ordinance. Finally, the person must be made responsible for the direction, supervision, and control of his agency. In regard to this latter criteria, it was pointed out in Opinion No. 193 that it is possible for a division head to be responsible for the direction, supervision and control of his division and, if he meets the other criteria set forth in Attorney General's Opinion No.193, then the Division head would also be considered a public officer for the purpose of the Nevada Ethics in Government Law.

In this connection the Chapter of NRS which sets up the Department in question specifically creates in the Statute, six divisions within the Department. The Chapter furthermore specifically outlines the duties of these six divisions. Finally, although the Division heads all report to the Director for overall direction, it would appear that each division head has the responsibility for the direction, supervision and control of his own division. Under the criteria set forth by the Attorney General's Opinion No.193, therefore, it would appear that these division heads within the Department in question are also to be considered public officers within the purposes of the Nevada Ethics in Government Law. As such they would also be required to file financial disclosure statements pursuant to Section 26 of the Statute.

November 14, 1975.