

Hypothetical Advisory Opinion No. 88-5

BEFORE THE NEVADA COMMISSION ON ETHICS

FACTS

The Executive Director of a public regulatory commission is statutorily mandated to devote his entire time and attention to the business of his office and cannot pursue any other business or occupation or hold any other office for profit. The concern which prompted the opinion request is that the Executive Director sometimes officiates at amateur sporting events, including Saturday Pop Warner football games, and running the UNLV basketball game clock for minimal compensation.

QUESTION

Do the ethical standards embodied in the Nevada Ethics in Government law require the requestor to cease officiating at the above-described events as a conflict of interest.

ANALYSIS AND OPINION

The activities described by the requestor do not create any ethical conflict under NRS 281.481(1), for two reasons. First, the compensation for officiating is token remuneration and would not tend to influence a reasonable person to depart from the faithful performance of his duties as Executive Director. Second, those activities are entirely unrelated to jurisdictional area of the commission the Executive Director serves. Here there is no potential for conflict between the Executive Director's private interest and his public duties.

The statutes governing the Executive Directors duties places heavy emphasis on his responsibilities to the public and stringent prohibitions against personal business interest. It is appropriate for the Commission on Ethics to offer guidance to the individual to avoid ethical conflict between the director's private interests and those of the general public which he serves.

The director's full time job is a normal work week plus whatever evening and weekend hours are required of him in order to adequately respond to your duties. Any other time is his own. The premise that public service requires the complete subordination of the individual and his private pursuits has no validity. The only requirement is that public service may not be compromised by personal pursuits and, in this case, that the director does not carry on a second business or office for profit.

The activities described by the requestor represent an avocation and not a vocation. An individual, as a citizen, is entitled to pursue interests which are community contributions which do not impact their duties as a public officer or employee. The fact that an officer or employee receives token payment for these avocation activities does not violate the statutes governing the director's duties.

The guidelines which will protect an officer or employer are:

1. The personal pursuit does not impede upon your full-time job.
2. The personal pursuit compensation is so modest and intermittent as not to constitute a second business or office for profit.

This advisory opinion is rendered based upon the facts presented to the commission. Given other facts, the opinion

of the commission may differ.