

**Hypothetical Opinion No. 89-7**  
**BEFORE THE NEVADA COMMISSION ON ETHICS**

The subject of this Opinion is whether a public employee should participate in the purchase of supplies and equipment when the employer of the employee's spouse is a potential vendor.

**FINDINGS OF FACT**

1. An individual (the "Employee") is employed by a special use district (the "District") in a county in Nevada (the "County") as the office secretary. The Employee has been employed by the District since 1980 and has held her present position since 1987. The Employee is a member of the County employee's bargaining group and is employed by virtue of the collective bargaining agreement between that group and County.
2. As part of her job duties, the Employee has limited responsibility for purchasing supplies and equipment for the District. This responsibility includes placing telephone orders for the purchase of supplies; preparing purchase orders where necessary; soliciting verbal bids for large purchases of supplies and placing the orders once a vendor of supplies is selected; and drafting and distributing specifications and bid packages for purchases of equipment.
3. The appointed chief officer of the District has the ultimate responsibility for district purchasing, including vendor selection.
4. During the summer of 1989, the Employee's spouse went to work as a commissioned salesperson for a company that sells specialized equipment of the sort used by the District. The County is one of 22 counties in his sales territory.
5. The County is in the process of converting to a central purchasing system, staffed by a purchasing agent who will be responsible for the purchasing of supplies and equipment for use by county departments and districts. The effect of the conversion will be to relieve the Employee of any responsibility for purchase of the District's supplies and equipment.
6. As office secretary, the Employee has and will continue to have access to information regarding the district's purchasing needs which might be useful to the Employee's spouse in the latter's employment.

**OPINION**

Based upon the foregoing Findings of Fact, the Commission concludes that the Employee is a public employee as defined in NRS 281.436. This Opinion concerns the propriety of the Employee's conduct as a public employee, comes before the Commission at the Employee's request, through the County's District Attorney, and thus is being issued pursuant to NRS 281.511(1). NRS 281.481(2) provides:

"[n]o public officer or employee may use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any member of his household, any business entity in which he has a significant pecuniary interest, or any other person."

A prohibition regarding the use of information is contained in subsection six of NRS 281.481, which provides:

"[I]f a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he may not use the information to further the pecuniary interests of himself or any other person or business entity."

Considering the foregoing provisions and the facts found above, the Commission concludes that the potential for a conflict of interest exists between the Employee's responsibility to administer purchasing for the District and the employment of the Employee's spouse. The Employee should abstain from participating in the purchasing process whenever the employer of the Employee's spouse is a bidder or potential vendor. In those circumstances the

Employee should not make any recommendations to the chief officer regarding purchasing nor should the Employee perform any of the job functions which the Employee normally performs in the purchasing process. Additionally, the Employee should not discuss the purchasing needs of the District with the Employee's spouse. To do so may violate NRS 281.481(2) or (6) if a benefit accrued to the spouse, and thus the Employee, as a result.

Once the County has completed the conversion to a central purchasing system, the Employee will no longer be involved in the process of purchasing supplies and equipment for the District. This will negate the potential for violation of NRS 281.481(2), since the Employee will not be in a position where the Employee could potentially direct business toward the company of the Employee's spouse. The change in the purchasing process will not alleviate the concerns raised by NRS 281.481(6), however, because the Employee's access to information regarding the District's equipment and supply needs will not change. Therefore, the Employee should not discuss these matters with the Employee's spouse at any time in the future.

DATED: December 19, 1989.

NEVADA COMMISSION ON ETHICS

By: /s/ THOMAS R. C. WILSON, Chairman