

Abstract of Advisory Opinion No. 98-53

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion of two PUBLIC OFFICERS

This Opinion is in response to a first-party request for opinion filed with the Nevada Commission on Ethics (Commission) by Mr. and Mrs. Z seeking guidance from the Commission regarding whether the Ethics in Government Law was implicated regarding the interrelationship of their public employments and their marriage. A confidential hearing was held by the Commission on October 22, 1998, in Las Vegas, Nevada. The Commission received testimony from Mr. and Mrs. Z and Mrs. Z's supervisor (Mr. Supervisor). Neither Mr. nor Mrs. Z waived statutory confidentiality, so the proceeding was not open to the public. The Commission now issues the Findings of Fact and Opinion which follows.

FINDINGS OF FACT

1. In 1995, Mr. Z was appointed by the Governor to serve on a Commission (SC). Mr. Z was subsequently elected to be the President of the SC in 1998. Mr. Z is also an employee of the Some County School District.
2. Mrs. Z is an administrator for the Nevada Department of Education. By statute, Ms. Z's position is responsible for enforcing regulations created by the SC and is the nonvoting secretary of the SC.
3. Mrs. Z's supervisor is Mr. Supervisor. The SC has no authority over the employment of either Mr. Supervisor or Mrs. Z. Mr. Supervisor also has no authority over Mr. Z's employment since Mr. Z is employed by the Some County School District, not the State of Nevada.

ANALYSIS AND OPINION

The Commission has jurisdiction over this matter pursuant to NRS 281.465(1)(a) and 281.511 (2)(b) because Mr. Z is a public officer as defined in NRS 281.4365 and Mr. Z and Mrs. Z are both public employees as defined in NRS 281.436.

Mr. Z and Mrs. Z posited two questions: (1) Is the Ethics in Government Law implicated by Mr. Z's service on the SC and Mrs. Z's service as a state-level administrator?, and (2) Is the Ethics in Government Law implicated by Mr. Z's service as President of the SC while Mrs. Z serves as the nonvoting secretary to the SC? The answer to both of these questions is that the Ethics in Government Law is neither implicated or violated by Mr. Z's and Mrs. Z's circumstances. The record at our hearing showed that there was no improper intermixing of Mr. Z's and Mrs. Z's public service obligations and their private marital relations. Mr. Z's and Mrs. Z's public duties cross when he presides over the committee that writes regulations that she enforces and at which meetings she sits as the nonvoting secretary. This nexus involves only their public duties and does not implicate their private relationship. Neither Mr. Z nor his committee have any authority to hire, fire, promote, or otherwise effect either Mrs. Z's or Mr. Supervisor's employment. There simply is no nexus between private and public interests that would implicate the Ethics in Government Law.

CONCLUSION

Based upon the record, the Commission concludes that the Ethics in Government Law is not implicated by the circumstances of Mr. Z and Mrs. Z as presented in this matter. Mr. Z, Mrs. Z, and Mr. Supervisor are commended for their conscientiousness for seeking this Commission's counsel regarding a potential conflict of interest.

COMMENT

It is specifically noted that the foregoing Opinion applies only to these specific facts and circumstances. The provisions of the Nevada Revised Statutes quoted and discussed above must be applied on a case-by-case basis, with results which may vary depending on the specific facts and circumstances involved.

DATED: May 7, 1999.

NEVADA COMMISSION ON ETHICS

By: /s/ MARY E. BOETSCH, Chairwoman