



**STATE OF NEVADA  
COMMISSION ON ETHICS**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

**IN THE MATTER OF THE REQUEST  
FOR AN ADVISORY OPINION OF  
DEBRA KLOSOWSKI-KING,  
Adult Education GED Coordinator  
Clark County School District's Adult Education Programs**

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**Advisory Opinion No. 06-05**

This matter came before the Nevada Commission on Ethics (hereinafter the "Commission") for a hearing on April 12, 2006, on the request for an advisory opinion filed with the Commission by Debra Klosowski-King, Adult Education GED Coordinator for the Clark County School District's Adult Education Programs (hereinafter "Adult Education").

The matter was properly noticed as confidential and the hearing was closed pursuant to NRS 281.511(5). Ms. King appeared in person, was sworn, and presented testimony. After the hearing, Ms. King waived confidentiality with regard to this matter.

Ms. King sought an opinion from the Commission determining whether a conflict of interest exists if she were to run for a seat on the Clark County School Board while employed with Adult Education. Further, Ms. King inquired whether, if she were to be elected, a conflict would exist if she remained employed in her position with Adult Education.

After full analysis of the request for an advisory opinion and considering all of the facts and circumstances presented, the Commission deliberated and orally advised Ms. King of its decision in the matter. The Commission incorporates its oral decision into the following findings and issues this opinion.

### **FINDINGS OF FACT**

1. At the time of the hearing, Ms. King planned to run for public office for Clark County School District Board of School Trustees (the “Board”).
2. At the time of the hearing, Ms. King was the Clark County School District’s Adult Education Coordinator over General Education Development (GED).
3. Adult Education is designed to serve adults and out of school youth 17 years of age or older who desire to earn a high school diploma or obtain a Nevada State Certificate of High School Equivalency. Adult Education does not include students in K through 12, and serves students enrolled in regular day schools who need to make up a number of deficient high school credits. Adult Education is considered a drop-out prevention program.
4. A Clark County School District organizational chart shows the Adult Education Director supervises Ms. King. The Executive Director of the entire Education Services Division supervises the Adult Education Director. The Associate Superintendent for the District serves over the Executive Director, the Deputy Superintendent for the District serves over the Associate Superintendent and the District Superintendent serves over the Deputy Superintendent. The District Superintendent is appointed by the Board.

### **CONCLUSIONS OF LAW**

1. At the time of her hearing, Ms. King was a public employee as defined in NRS 281.436.
2. The Commission has jurisdiction over this matter pursuant to NRS 281.511(1) and NRS 281.521.

**WHEREFORE**, on motion duly made, seconded, and approved unanimously, the Commission renders the following opinion:

## OPINION

The issue in this opinion is whether a conflict of interest would exist if Ms. King were to run for the Clark County School Board while employed by Adult Education. Further, if Ms. King were to be elected, whether a conflict would exist if she remained employed in her position with Adult Education.

Nevada's Ethics in Government Law addresses situations involving public officers and public employees that create appearances of impropriety and conflicts of interest.

NRS 281.481, subsection 2 provides:

“A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) “Commitment in a private capacity to the interests of that person” has the meaning ascribed to “commitment in a private capacity to the interests of others” in subsection 8 of NRS 281.501.<sup>1</sup>

(b) “Unwarranted” means without justification or adequate reason.”

NRS 281.481, subsection 9 provides:

“A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.”

In prior opinions, the Commission interpreted these provisions in the context of public officers and public employees seeking to maintain dual roles. For example, in Commission on Ethics Opinion 98-71, in response to an advisory opinion request, the Commission found that a

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<sup>1</sup> NRS 281.501(8) defines “commitment in a private capacity to the interest of others” as a commitment to a person: (a) Who is a member of his household; (b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity; (c) Who employs him or a member of his household; (d) With whom he has a substantial and continuing business relationship; or (e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

county school district substitute teacher would violate NRS 281.481(2) by concurrently maintaining employment as a school district substitute and acting as a school board trustee:

“[T]he Commission takes the position that the mere opportunity for an employer to effect undue or unwarranted influence over a subordinate in order to advance his own pecuniary interests would create an appearance of impropriety; a hurdle that Mr. B would not be able to surpass unless he were to resign his employment as a substitute teacher....[t]he mere act of being the “boss of himself appears improper. He would be fair game for a host of accusations and complaints, both by the Superintendent if he thought Mr. B was using his position on the School Board to benefit his position as a substitute teacher, and by other substitute teachers who thought he was getting an unfair advantage by getting the jobs they wanted.”<sup>2</sup>

Similarly, in Commission on Ethics Opinion 02-01, where a member of a state board sought an opinion from the Commission as to whether his employment by a State of Nevada department would implicate violations of the Nevada Ethics in Government law, the Commission found:

“The specific circumstances proposed by Public Officer herein create the potential for her to become the boss (i.e., a member of the Board) of the boss (i.e., the administrator) of the boss (i.e., a deputy administrator) of her boss (i.e., a Department director)—a situation which could put Public Officer at risk of creating at least an appearance of impropriety and/or a conflict of interest and the potential for third-party allegations against Public Officer of ethical violations under NRS Chapter 281.”<sup>3</sup>

In the recent Commission on Ethics Opinion 04-77, the Commission again addressed the issue of undue influence over a subordinate and opined:

“An employee may very well feel undue pressure to follow instructions given by an elected official regardless of the number of management levels between the employee and the elected governing body on which the official serves.”<sup>4</sup>

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<sup>2</sup> See, Abstract CEO 98-71.

<sup>3</sup> See, Abstract CEO 02-01.

<sup>4</sup> See, In re Boggs-McDonald CEO 04-77.

Ms. King requested an opinion from this Commission considering the possible conflicts that may arise by being employed with Adult Education while serving as a Board trustee. After hearing Ms. King's testimony, the Commission determined that like the circumstances in the prior opinions mentioned above, as a Board trustee, Ms. King would be in a position where the opportunity exists to exert undue influence over a subordinate, thereby creating the appearance of impropriety.

As Board trustee, Ms. King would ultimately become the boss of her boss. Ms. King is supervised by Adult Education's Director whose supervisors ultimately report to the District's superintendent. The Board appoints the District's superintendent. Further, this conflict would cause Ms. King, in her capacity as Board trustee, challenges when determining on what cases she would be able to act without conflict.

Therefore, the Commission finds that Ms. King is not precluded under the Nevada Ethics in Government Law from campaigning for the position of trustee for the Board. However, if Ms. King is successful in the election, her continued employment as a member of the Adult Education would create a situation which could put her at risk of creating at least an appearance of impropriety and/or a conflict of interest and the potential for third-party allegations against her of ethical violations. Consequently, Ms. King would have to make a choice on whether to resign her employment or resign from her elected position of Board trustee.

**NOTE: THE FOREGOING OPINION APPLIES ONLY TO THE SPECIFIC FACTS AND CIRCUMSTANCES DEFINED HEREIN. FACTS AND CIRCUMSTANCES THAT DIFFER FROM THOSE IN THIS OPINION MAY RESULT IN AN OPINION CONTRARY TO THIS OPINION. NO**

INFERENCES REGARDING THE PROVISIONS OF  
NEVADA REVISED STATUTES QUOTED AND  
DISCUSSED IN THIS OPINION MAY BE DRAWN TO  
APPLY GENERALLY TO ANY OTHER FACTS AND  
CIRCUMSTANCES.

DATED: October 25, 2006.

NEVADA COMMISSION ON ETHICS

By: [Caren Jenkins](#)  
Caren Jenkins, Chairman