

STATE OF NEVADA  
COMMISSION ON ETHICS  
ANNUAL REPORT  
JULY 1, 2017

*A public office is a public trust, to be held for the sole benefit of the people.*

Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, NV 89703  
Tel. 775-687-5469  
Fax 775-687-1279  
[www.ethics.nv.gov](http://www.ethics.nv.gov)  
[ncoe@ethics.nv.gov](mailto:ncoe@ethics.nv.gov)



# ANNUAL REPORT TO THE COMMISSION ON ETHICS REGARDING FISCAL YEAR 2017

Pursuant to Nevada Administrative Code 281A.180(2), the Executive Director provides this Annual Report to the Commission on Ethics (“Commission”) regarding the fiscal, legislative, regulatory and other business undertaken by and on behalf of the Commission in the past fiscal year and the goals for new fiscal year. This Report recognizes the Commission's activities and accomplishments between July 1, 2016 and June 30, 2017 (FY17) and its objectives for the coming year.

The information presented is based upon public records of the Commission. Additionally, the Commission maintains a public website at [www.ethics.nv.gov](http://www.ethics.nv.gov) at which the public may search the Commission's database of opinions, review minutes and agendas, instructions and forms for filing requests for the Commission's opinion and access other public information. The Commission also posts its agendas on the Nevada Public Notice statewide website at [www.notice.nv.gov](http://www.notice.nv.gov).

July 1, 2017

Commissioners:

Fiscal Year 2017 (FY17) marks a year of significant legal, technological and procedural advancements for the Commission and its staff. The Commission achieved its goals outlined for FY17 through its progressive legislative endeavors, technological advancements, litigation and overall case management. At the end of FY16, the Commission sought to achieve efficiency in resolving cases before the Commission to prevent a backlog of written opinions, refocus its efforts on outreach and education and modernize with new technologies to ensure secure communications with staff and open transparency with the public. The Commission launched its new Website, procured a contract to develop a customized case and document management system and online opinion database, transitioned to secured communications via State-issued email accounts, and increased its in-house technologies to include enhanced Internet. With the developments from the 2017 Legislative Session, the Commission is poised to develop new processes for investigating and adjudicating ethics complaints and carrying forward its updated technology into FY18.

In the midst of these in-house changes and expansive legislative and budgetary priorities, the Commission welcomed several new Commissioners prepared to offer fresh perspective and dialogue to the Commission's work and outreach. The Commission consists of Gubernatorial and Legislative appointees, which must include a certain number of licensed attorneys and former public officers or employees. In FY17, the Governor appointed Brian Duffrin, former Chief of the Administration Division of the Nevada Gaming Control Board, and P.K. O'Neill, former State Assemblyman and former Investigator with the Nevada Department of Public Safety. With their collective administrative and management experience as former public officers and employees, both Commissioners immediately offered dynamic and thoughtful insight and perspective to case resolution, complaint investigations, agency operations and legislative priorities.

In addition to the Governor's new appointees for FY17, the Legislative Commission appointed Amanda Yen, Esq., an attorney at McDonald, Carano & Wilson law firm and former State Assemblyman Lynn Stewart to join the Commission. Commissioner Yen initiated and rendered strong legal analysis and interpretation, creative problem-solving and practical insights during a year that included significant litigation and new Commission precedent, and Commissioner Stewart has offered invaluable legislative insights given the demands of the 2017 Legislative Session.

Under the continued leadership and experience of Chair Cheryl Lau, Esq., Vice-Chair Keith Weaver, Esq. and Commissioner Barbara Gruenewald, Esq., the Commission decided multiple precedent-setting cases, confronted varied constitutional and legal challenges and streamlined and formalized various procedures to ensure more efficient meetings and case management. These Commissioners guided their newer colleagues through aggressive legislative proposals, both budgetary and substantive, and welcomed fresh perspective on new cases. Looking forward to FY18, the Commission anticipates its remaining vacancy will be filled by the Legislative Commission.

Under the continued direction, governance and partnership of Executive Director Yvonne M. Nevarez-Goodson, Esq. and Commission Counsel Tracy L. Chase, Esq., the Commission and its staff achieved great success in the 2017 Legislature and in various judicial forums, all while continuing to timely respond to advisory and complaint based requests for the Commission's opinion. Continuing to serve the Commission during the past fiscal year, and providing outstanding public service, were the Commission's Associate Counsel, Judy Prutzman, Esq., Executive Assistant, Valerie Carter, CPM, Senior Legal Researcher, Darci Hayden, PP, and Investigator, Anthony Freiberg.

The Commission should be further commended for maintaining a current case load, preventing a backlog and increasing its outreach and education, all while defending the Commission's legal interests on judicial review in various legal forums, including various district courts and the Nevada Supreme Court, and pursuing an expansive legislative agenda.

Upon reflection of the goals and achievements for FY17, I present this report highlighting our past accomplishments and promoting our future endeavors. As you review the information in this Annual Report, I trust you will be as confident as I am about the Commission's successes and direction for future reforms in the upcoming year. Thank you for the opportunity to serve the Commission, its staff and the public for these last 8 years. I am honored to continue serving in this prestigious role to implement the Commission's goals for the next fiscal year.

Sincerely,

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director

## I. About the Nevada Commission on Ethics

### **Nevada Commission on Ethics - Ethics in Government Law:**

The Nevada Commission on Ethics is an independent public body appointed equally by the Governor and Legislative Commission to enforce and interpret the provisions of Nevada's Ethics in Government Law, NRS Chapter 281A ("Ethics Law"). The Ethics Law preserves the public's trust in government and ensures that public officers and employees avoid conflicts between their private interests and the interests of the public. The Ethics Law sets forth various standards of conduct to guide public officers and employees to avoid such conflicts and maintain integrity in public service.

The Commission's primary mission includes providing outreach and education to Nevada's public officers, employees and attorneys regarding conflicts of interest and the provisions of the Ethics Law. Encompassed in its educational efforts, the Commission provides advisory opinions to public officers and employees regarding their own circumstances ("First-Party Requests for Advisory Opinion") and investigates and opines regarding conduct of public officers and employees alleged to be in violation of the Ethics Law ("Third-Party Requests for Opinion" and/or "Ethics Complaints"), hereafter collectively referred to as "Requests for Opinion" or "RFOs".

### **Membership:**

The Commission consists of 8 members, appointed equally by the Governor and the Nevada Legislative Commission. The Governor and Legislative Commission must each appoint at least two former public officers or employees and one attorney licensed in the State of Nevada, and no members may be actively involved in the work of any political activity or campaign or conduct lobbying activities for compensation on behalf of private parties. Not more than half of the total commissioners may be members of the same political party or residents of the same county in the State. The appointment criteria establishes independence and objectivity in addressing RFOs as applicable to all State and local government elected and appointed public officers and employees. During the majority of FY17, the Commission operated with only 7 members, including 4 new commissioners and one vacancy of the Legislative Commission.

**Requests for Opinions:**

The Commission holds the exclusive statutory authority to interpret and enforce the provisions of the Ethics Law and renders its opinion regarding the applicability of the Ethics Law to public officers and employees via First-Party Requests for Advisory Opinions and Third-Party Requests for Opinions (Complaints). The Commission's primary mission to provide outreach and education to public officers and employees is consistent with its responsiveness to requests for advisory opinions and efforts to prevent third-party complaints. The Commission staff is responsible for reviewing and preparing all requests for the Commission's opinion, including jurisdictional and other legal analysis and preparation and presentation of evidence for hearings.

**First-Party Requests for Advisory Opinions:**

Any public officer or employee may request a confidential advisory opinion from the Commission regarding the applicability of the Ethics Law to his/her own past, present or future circumstances. If the request relates to a conflict of interest between a public duty and private interest, the Commission will conduct a closed hearing and render a confidential opinion in the matter advising the public officer or employee whether he/she has a conflict of interest and whether or how the ethical standards of conduct apply to his/her circumstances. With the assistance of its staff, the Commission collects all relevant facts and circumstances related to the RFO, holds an evidentiary hearing in the matter and renders its oral opinion. The Commission later issues a formal written opinion in the matter. The Commission's advice is binding with respect to future conduct and any advice related to present or future conduct may be subject to judicial review for errors of law or abuses of discretion.

**Third-Party Requests for Opinions (Complaints):**

Any member of the public may file an ethics complaint or the Commission may initiate an ethics complaint against a public officer or employee alleging a violation of the Ethics Law. The Commission may investigate the allegations, conduct hearings and impose sanctions. If the Commission has jurisdiction regarding a complaint and it is properly filed with sufficient information to support the allegations, the Executive Director will investigate the matter and make a recommendation to a two-member investigatory

panel of the Commission regarding whether the evidence is sufficient to warrant a hearing and formal opinion in the matter. If the Panel determines that the matter supports just and sufficient cause for the Commission to render an opinion, the matter will proceed for formal hearing or informal disposition of the matter. Since 2013, all complaints that have been forwarded to the Commission from a Panel have been resolved through informal dispositions, including stipulated findings and agreements and dispositive legal motions.



## II. Case Statistics

### Requests for Opinion (RFOs) Received:

<u>Fiscal Year/Dates</u>	<u>Total 1st Party RFOs Rec'd</u>	<u>Total 3rd Party RFOs Rec'd</u>	<u>REJECTED 3rd Pty</u>	<u>ACCEPTED 3rd Pty</u>
FY17: 7/16 - 6/17	12	43	31	12

### Third-Party RFOs which the NCOE accepted jurisdiction:

<u>Fiscal Year/Dates</u>	<u>Investigated</u>	<u>Panel Dismissed</u>	<u>Panel Waived/ Forwarded to Commission for Hearing/Opinion</u>	<u>3rd Pty to Hearings/Opinion</u>	<u>3rd Pty Stips/Orders</u>
FY17: 7/16 - 6/17	12 <sup>1</sup>	1	5	0	5

The Commission experienced a decrease in the number of Third-Party RFOs accepted/investigated during the last two fiscal years as compared to prior years. The Commission does not control the number of Third-Party RFOs that may be filed in any particular year. Most, if not all, Third-Party RFOs the Commission has considered since 2013 have resulted in stipulated resolutions. This denotes the nature of alleged violations of the Ethics Law and the role of the Executive Director and Associate Counsel, along with the Subjects' counsel, to resolve matters in a timely fashion and mitigate the strain on Commission resources. Given this trend, the Commission sought legislative approval during the 2017 Legislature to further streamline its investigatory and hearing processes and diversify the scope of sanctions for violations to include various corrective action, letters of caution or instruction and public admonitions, censures and reprimands. The Legislature approved these amendments and the new processes and discipline will be implemented in the next fiscal year.

### Jurisdictional Reviews:

The regulations set forth in NAC Chapter 281A require the Executive Director and Commission Counsel to review each Third-Party Request for Opinion and make a determination whether the Commission has jurisdiction to investigate the matter. This decision is based upon confirmation that the Subject is a public officer or employee, the alleged conduct is within the scope of NRS 281A, and credible evidence has been

<sup>1</sup> 6 RFOs still pending outcome.

provided that supports the allegations. The Commission adopted procedural regulations authorizing appeals of staff jurisdictional determinations to the Commission wherein the Requester may seek review of the staff’s denial of jurisdiction and the Subject may request the Commission’s review of staff’s determination to accept jurisdiction. The statistics below highlight the number of administrative jurisdictional reviews processed during FY17.

The 2017 Legislature approved various procedural amendments to the Ethics Law, including a requirement for the full Commission to determine jurisdiction in all matters before an investigation is conducted. Accordingly, the Commission will no longer accept jurisdictional appeals.

**Jurisdictional Appeals Received:**

<u>Fiscal Year /Dates</u>	<u>Total 3rd Party RFOs Rec'd</u>	<u>Total Jurisdictional Reviews</u>	<u>Jurisdictional Reviews by Subject (Upheld/Overtured)</u>	<u>Jurisdictional Reviews by Requester (Upheld/Overtured)</u>
<b>FY17:</b> 7/16-6/17	43	3	<b>1 Total</b> (Upheld) Jurisdiction Confirmed	<b>2 Total</b> (2 upheld) Jurisdiction Denied

**Sanctions Imposed:**

In FY17, the Commission imposed \$5,500 in civil penalties for willful violations of the Ethics in Government Law. Pursuant to State law, the Commission collects and deposits all funds received from the imposition of sanctions into the State General Fund. Subjects who do not pay the civil sanction are reported to the State Controller for collection.

<b>Public Officer or Employee</b>	<b>Statute(s) violated</b>	<b>Civil Penalty</b>
Donna Lopez, Quality Control Officer, PEBP	NRS 281A.020 and NRS 281A.400(1)	\$1,000
Kimberlie Buffington, Former Lander County Planning Commissioner	NRS 281A.020 and NRS 281A.420(1)(3)	\$1,000
Gerald Antinoro, Sheriff, Storey County	NRS 281A.400(7)	\$1,000
Brad Bonkowski, Supervisor, Carson City Board of Supervisors	NRS 281A.420(1)(3)	\$2,500

**Documents Filed:**

Pursuant to NRS 281A.500, public officers filed 658 Acknowledgment of Ethical Standards forms with the Commission for calendar year 2016. Most public officers are statutorily required to file these forms at the beginning of a term of office, so the number of forms filed from year to year are not indicative of a rise or fall in overall compliance. The number of Acknowledgements generally increases following educational outreach by the Commission, as the awareness of this requirement is implemented throughout the State and local jurisdictions. In FY17, the Executive Director included direct correspondence to Nevada's state and local government clerks and agency managers to increase compliance.

NRS 281A.410 requires certain public officers to disclose their paid representation or counseling of private persons before a state agency of the Executive branch. The Commission received 11 disclosures of agency representation for 2016.

Starting in FY18, public officers will no longer be required to file the representation forms. The Legislature eliminated the requirement for these forms, instead requiring public disclosures of such representations if the public officer has a conflict of interest between a public duty and the nature of the representation.

### III. Litigation & Appellate Review:

During FY17, the Commission defended several of its decisions that were the subject of petitions for judicial review and/or petitions for writs of mandamus.

#### RFOs 14-21C and 14-22C (Hansen and Wheeler)

Throughout FY17, the Commission awaited a decision from the Nevada Supreme Court in response to a motion to dismiss the Commission's appeal related to these matters that have been the subject of litigation during the last 3 fiscal years. As reported in prior Annual Reports, after the Commission's acceptance of jurisdiction of these matters, Subjects Hansen and Wheeler filed a joint Petition for Judicial Review and/or Petition and Application for Writ of Certiorari, Review or Prohibition entitled "*Hansen and Wheeler v. Nevada Commission on Ethics*" in the First Judicial District Court of the State of Nevada in and for Carson City, Case No. 150C000761B, challenging subject matter jurisdiction. The Subjects asserted protection from the Commission's jurisdiction based upon certain principles of legislative privilege and immunity. The Commission objected to these assertions on the basis that they were premature and the Commission must have an opportunity to investigate the facts and determine whether the alleged conduct constitutes legislative acts subject to the privileged immunity. The District Court granted the petition for judicial review in favor of the Subjects, holding that the Commission did not abuse its discretion or act unreasonably or arbitrarily, but the Commission nevertheless did not have jurisdiction to investigate the matters based on the application of a new law that was enacted by the Legislature during the 2015 Legislative Session. The Commission filed a Notice of Appeal of the District Court decision in the Nevada Supreme Court, Case No. 69100.

In response to the Commission's Notice of Appeal of the District Court decision, the Subjects filed complaints against the Commission in the First Judicial District Court alleging that the Commission violated various provisions of Nevada's Open Meeting Law, along with a related motion in the pending appeal before the Nevada Supreme Court. The complaints and motion challenge the Commission's process for appealing the decision and assert that the Commission did not provide appropriate notice to the Subjects that the Commission would evaluate their character or competence by appealing the District Court's decision on the petition for judicial review. The Commission opposed

all allegations and defended these claims before the First Judicial District Court of the State of Nevada in and for Carson City, Case Nos. 15OC002611B and 16OC000291B, and the Nevada Supreme Court Case No: 69100. The two open meeting law cases were consolidated and stayed pending resolution of the motion in the Nevada Supreme Court. On June 29, 2017, a 3-member panel of the Nevada Supreme Court granted the motion to dismiss the appeal. The Commission anticipates seeking Rehearing and/or Reconsideration of the Panel Opinion during the next fiscal year and defending the open meeting law claims.

#### RFO 16-33C (Sullivan)

The Commission accepted jurisdiction of this complaint which alleged that Sullivan misused her official position to secure unwarranted benefits for herself and failed to disclose a conflict of interest and abstain from participating in a land use project that affected her personal residence. The Executive Director investigated the matter and provided a report and recommendation to an Investigatory Panel of the Commission regarding just and sufficient cause for the Commission to render an opinion in the matter. The Panel issued a determination concluding that the investigation did not yield sufficient evidence to support a violation of the Ethics Law and dismissed the matter.

The Requester of the complaint filed a Petition for a Writ of Mandamus in the First Judicial District Court of the State of Nevada in and for Carson City, Case No. 16OC002811B, asserting that the Commission should overturn the Panel Determination and hold a hearing in the matter. The Commission defended the Petition asserting that the Requester was not a party to the proceedings and lacked standing to file the Petition. The Court agreed with the Commission that the Requester lacked standing and dismissed the case.

#### RFO 16-63N (Confidential Subject)

The Commission received this complaint which alleged that Confidential Subject misused an official position for private interests. The Commission concluded that the allegations did not assert conflicts of interest under the Ethics Law. The matter remains confidential because it was dismissed at the jurisdictional phase of proceedings, without a Panel proceeding which marks the point in time at which a complaint becomes public

under NRS 281A.440. The Requester of the complaint filed a Petition for a Writ of Mandamus in the First Judicial District Court of the State of Nevada in and for Carson City, Case No. 16OC002901B, asserting that the Commission should accept jurisdiction and conduct an investigation of the matter. The Commission defended the Petition asserting that the Requester was not a party to the proceedings and lacked standing to file the Petition. The Court agreed with the Commission that the Requester lacked standing and dismissed the case.

RFO 15-74A (Confidential Subject)

In response to this confidential request for an advisory opinion filed by Confidential Subject, the Commission issued an opinion regarding the application of the disclosure and abstention provisions of the Ethics Law to the Confidential Subject's private circumstances. Confidential Subject filed a Petition for Judicial Review in the Second Judicial District Court of the State of Nevada in and for Washoe County, Case No. CV16-02118, asserting that the Commission committed various errors of law, including various constitutional errors. The District Court upheld the Commission's determination regarding disclosure and concluded that the Commission's opinion did not violate any constitutional protections. However, the Court overturned the Commission's determination regarding abstention.

The Commission filed a Notice of Appeal with the Nevada Supreme Court asserting that the District Court committed error in its reversal of the Commission's abstention analysis. The Confidential Subject filed a cross-appeal asserting the Court committed error in its affirmance of the Commission's opinion related to disclosure and its dismissal of the constitutional claims. These matters have been filed under seal with the Nevada Supreme Court, Case No. 73105, to maintain the statutory confidentiality of the Confidential Subject and the Commission's opinion. The Commission will continue to defend its opinion and the petition in the next fiscal year.

RFO 16-54C (Antinoro)

The Commission issued a final opinion in this matter finding that Antinoro committed a willful violation of the Ethics Law by using government letterhead as a mechanism to endorse a political candidate and the Commission imposed a \$1,000

sanction. Sheriff Antinoro filed a Petition for Judicial Review of the Commission's decision in the First Judicial District Court in Carson City, asserting that the Commission committed legal error and that the statute is unconstitutional. The petition was filed at the end of the fiscal year and the Commission will defend its opinion and the judicial review in the next fiscal year.

## IV. Legislative Matters

The Commission proposed and submitted a bill draft request to amend various provisions of the Nevada Ethics in Government Law set forth in NRS Chapter 281A to the 2017 Nevada Legislature. The Governor sponsored the proposal which was presented to the Legislature as Senate Bill 84. After various amendments, the Nevada Legislature enacted Senate Bill 84 during the 79<sup>th</sup> Legislative Session (2017). The majority of the amendatory provisions are effective on July 1, 2017 and will be implemented by the Commission in Fiscal Year 18.

The measure encompasses vast amendments to NRS Chapter 281A, including:

- 1) Reorganizing and restructuring various statutes and sections within NRS Chapter 281A;
- 2) Revising statutory terminology and procedures to clarify distinctions between advisory requests and complaints;
- 3) Clarifying the scope of the Commission's jurisdiction to include certain persons who contract with public agencies to fill positions that would ordinarily be held or filled by a public officer or employee under certain circumstances, and to exclude allegations solely related to employment-based discrimination and harassment claims;
- 4) Streamlining the Commission's jurisdictional, investigatory and case management processes of ethics complaints, including a new review panel and approval of deferral agreements;
- 5) Expanding the remedies available to review panels for terms and conditions of deferral agreements and to the Commission for findings of violations;
- 6) Adopting consistent criteria regarding conflicts of interest throughout the statutory standards of conduct;
- 7) Clarifying that the cooling-off provisions which prohibit former public officers or employees from seeking, negotiating or entering into employment in the private sector includes services contemplated or provided through oral or written agreements and that any relief from the application does not relieve the public officer or employee from the prohibitions against representing or counseling private persons on issues that were under consideration by the former public agency; and
- 8) Revising the filing and disclosure requirements for public officers.

Most notably, SB 84 contemplates a new structure by which third-party requests for opinion, now "ethics complaints", will be processed, investigated and considered by the Commission. Specifically, the Ethics Law will now require the full Commission to make jurisdictional determinations in all ethics complaints upon a review of sufficient



evidence to support the allegations. The Commission will have the authority to dismiss the complaint with or without a confidential letter of instruction or letter of caution, or direct the Executive Director to investigate the matter and make a recommendation to a Panel regarding whether there is credible evidence to support just and sufficient cause for the Commission to render an opinion in the matter. Upon direction from the Commission, the Executive Director will conduct an investigation.

Senate Bill 84 replaced the current 2-member investigatory panel with a 3-member review panel that will have final authority to dismiss the complaint with or without a letter of instruction or caution, forward the matter to the Commission for a final opinion or approve a deferral agreement between the subject of the complaint and the Executive Director. Senate Bill 84 further expands the remedies available to the Commission upon findings of violations to impose various forms of discipline and provide for certain administrative decisions and less formal resolutions of minor violations, including letters of instruction or caution, deferred discipline with education, corrective action, public apologies and public admonitions, censures and reprimands.

After the 2017 Legislative Session, Commission staff spent the final months of FY17 revising all of its forms, updating its website and drafting internal templates for the new procedures outlined in SB 84. As the new legislation becomes effective on July 1, 2017, the Commission will be prepared to implement the law related to its receipt of requests for advisory opinions, ethics complaints, and acknowledgement forms. The Commission will also be prepared to seamlessly issue jurisdictional orders, letters of caution or instruction, deferral agreements and revised forms of discipline via educational requirements and public admonitions, censures and reprimands.

## V. Fiscal Matters

### **Commission Budget:**

FY17 wrapped up the second year of the Commission's current biennial budget. Other than cost savings in travel and court reporting, the Commission expended its legislatively approved budget for the fiscal year. The Commission's legislatively approved budget for FY17 was \$827,146 including personnel (salaries/benefits), travel, operating expenses, court reporting, information technology equipment and services, and other State-related cost allocations and assessments. Other than personnel and operating costs, the Commission's outreach and education program and responding to requests for opinions establish the largest fiscal impacts on the Commission's budget.

Given the legislative priorities and demands of Commissioners and staff during FY17 and the demands on staff to respond to significant litigation, the Commission held fewer in-person meetings which resulted in cost savings to the Commission's travel and court reporting budget categories. These cost-savings provided sufficient budget authority for the Commission to retain the services of an independent contractor to develop an online customized document management system and on-line searchable opinion database. This customized system will be launched in FY18 and will be compatible with and accessible through the Commission's newly launched Website. All forms and documents may then be filed electronically with the Commission. Furthermore, public attorneys will have access to on-line searchable database of the Commission's published opinions which will allow the attorneys to search for opinions based on specific terms or other search criteria. This is particularly important given the safe harbor provisions of the Ethics Law which provide protection from a finding of a willful violation where the public officer or employee reasonably relies upon the advice of counsel and such advice is not contrary to the Commission's published opinions. This system was conceived in part with the anticipated legislation to streamline internal investigatory and case management processes.

The Commission's budget objectives in FY17 included direction to the Executive Director to continue seeking appropriate title changes and salary enhancements for certain staff positions within the agency to establish parity with similar positions in other State agencies, in particular, the Commission's counterpart in the Judicial Branch, the

Nevada Judicial Discipline Commission. The Nevada Legislature addressed many, but not all, of the Commission's requested enhancements. However, the Commission remains resolute in its quest to achieve total parity in title and salary for equivalent positions and may again seek additional enhancements in future biennia which are consistent with these agencies. The Legislature also adopted SCR 6, which required an Interim Salary Study of the Unclassified and Non-classified positions in State Government to achieve parity. The Commission expects to participate in this Interim Study as appropriate.

The Commission derives its funding based upon a proportionate split between the State General Fund and certain of Nevada's Local Governments (cities and counties). The portion attributable to the local governments is based on the respective populations of those cities and counties. Historically, in prior biennia, the number of requests for opinion the Commission received regarding public officers or public employees in the various jurisdictions formed the basis for each entity's proportional contribution. During the last three biennia, the State/Local split has ranged from its current split of 21 percent State and 79 percent Local Government, to 31 percent State and 69 percent Local Government.

During the 2017 Legislative Session, the Commission sought an amendment to its budget to stabilize the funding split between the State General Fund and Local Governments. The Commission believed a funding split based on the number of requests for opinion received did not accurately reflect the Commission's overall expenditures attributable to the State versus local governments. In addition to resolving Requests for Opinion, the Commission conducts significant outreach and training to State and local governments and responds to litigation from various jurisdictions.

Accordingly, the Commission reviewed objective labor data that showed a consistent average split of Nevada's public officers and employees employed by the State or local governments at approximately 28 percent State and 72 percent local governments. These numbers are similar to the proportionate split over the last three biennia which averaged approximately 30 percent State and 70 percent local governments. Consequently, the 2017 Legislature approved a methodology change whereby the State and Local Government split will be determined based on the number

of public officers and employees in Nevada between State and local governments as reported in the labor statistics. As these numbers remain relatively consistent, it is anticipated that the split will also remain consistent in future biennia. This new methodology accurately reflects the full scope of the Commission's work attributable between State and local governments.

## VI. Outreach & Education Program

In FY17, the Commission continued its outreach and education program to Nevada's public officers and employees and public attorneys. This year, the Executive Director provided significant outreach to State legislators during the Legislative Session and the Commission's proposed amendments to the Ethics Law. Outreach has also included an emphasis on the Commission's anticipated new processes, revised forms and electronic submissions of documents. In addition to the traditional outreach through trainings, the Executive Director also targeted specific groups of public officers and employees based on specific concerns or cases addressed by the Commission in the preceding year. Specifically, the Executive Director initiated direct correspondence and informational letters to various groups, including, without limitation, correspondence and meetings with Nevada's state and local government clerks and managers regarding the required acknowledgment forms for elected and appointed public officers and the Nevada Real Estate Association regarding those licensed realtors and brokers who simultaneously serve public office, and other newly established public agencies or agencies under public scrutiny.

### Ethics Trainings - FY17

<b>Trainings Provided to:</b>	<b>Number of Ethics in Government Law Trainings Presented:</b>
State Government Entities	7
Local Government Entities	12
Other	2
<b>Total</b>	<b>21</b>

In addition to the Commission's training program, the Commission began tracking its other outreach efforts via staff communications and correspondence with the public during FY 16. The Commission staff provides regular, often daily, feedback for the public, public officers and employees and attorneys regarding the applicability of NRS 281A and Commission's opinion precedent. The Commission commenced tracking these communications regarding inquiries that are unrelated to pending RFOs. In FY17, the Commission staff reported that it responded to approximately 490 calls and emails related to questions regarding the applicability of the Ethics in Government Law. This marks an increase of more than 100 calls or emails over last fiscal year. It is estimated that this number does not fully reflect all staff communications related to ethics questions, and the

Commission staff will continue to track this form of educational outreach in the next fiscal year.

## VI. Closing Remarks

The Commission's focus on the 2017 Legislative Session marks a substantial achievement for the Commission during FY17 which will result in streamlining of the Commission's investigatory and case management processes. The emphasis on training and outreach during the past fiscal year and diversifying the format of such outreach has demonstrated success in educating public officers and employees to identify conflicts of interest and maintain proper separations of private conflicts from public duties under the Ethics in Government Law.

The current and anticipated document management system and technological upgrades are essential to promote and maintain timely and efficient processing of matters before the Commission. The launch of online forms and resources in FY18 will dramatically reduce internal staff processes and assist those served by the Commission by providing easier access to laws, regulations, opinions and forms.

The Commission will maintain its mission to advise public officers and employees regarding the applicability of the Ethics Law and confront conduct in violation of the Ethics Law to maintain the public trust associated with holding public office, which is held for the sole benefit of the people.

## Commission and Commissioner Information

Nevada Commission on Ethics  
as of 06/30/17

### Commissioners

\*=Appointed by Governor

\*\*=Appointed by Legislative Commission

**Chair - Cheryl Lau, Esq. (R)\***  
(07/01/16 – 06/30/20)

**Barbara Gruenewald, Esq. (D)\*\***  
(11/01/15 - 10/31/19)

**Vice Chair - Keith Weaver, Esq. (D)\***  
(04/06/16 – 09/30/20)

**Amanda Yen, Esq. (R)\*\***  
(12/21/16 – 06/30/20)

**Brian Duffrin (NP)\***  
(10/01/16 – 10/31/19)

**Lynn Stewart (R)\*\***  
(01/27/17 - 10/31/19)

**Philip “P.K.” O’Neill (R)\***  
(01/30/17 – 6/30/19)

**VACANT\*\***

### Staff

**Yvonne M. Nevarez-Goodson, Esq.**  
Executive Director

**Tracy L. Chase, Esq.**  
Commission Counsel

**Judy A. Prutzman, Esq.**  
Associate Counsel

**Darci L. Hayden, PP-SC**  
Senior Legal Researcher

**Valerie M. Carter, CPM**  
Executive Assistant

**Anthony L. Freiberg**  
Investigator



## Nevada Commission on Ethics

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704 W. Nye Lane, Suite 204

Carson City, NV 89703

**Tel: 775-687-5469**

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