



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

NOTICE OF PUBLIC MEETING

NAME OF ORGANIZATION: NEVADA COMMISSION ON ETHICS
DATE & TIME OF MEETING: Wednesday, July 15, 2015 at 9:00 a.m.
PLACE OF MEETING: This meeting will be held telephonically. Members of the public may attend at the following location:

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

AGENDA

NOTES:

- Two or more agenda items may be combined for consideration.
- At any time, an agenda item may be taken out of order, removed, or delayed.
- Public comment will be accepted at the beginning of the open session and again before the conclusion of the open session of the meeting. Comment and/or testimony by the public may be limited to three (3) minutes. No action may be taken on any matter referred to in remarks made as public comment. Members of the public may also submit written public comment to the Commission at NCOE@ethics.nv.gov.

CLOSED SESSIONS:

	A. Discussion and consideration of a Proposed Stipulated Agreement concerning Third-Party Request for Opinion No. 14-59C, regarding Gerald Antinoro, Sheriff, Storey County, State of Nevada, submitted pursuant to NRS 281A.440(2).
	B. Discussion and consideration of a Proposed Stipulated Agreement concerning Third-Party Request for Opinion No. 14-64C regarding Ashok Mirchandani, Deputy Director, Nevada Department of Business and Industry submitted pursuant to NRS 281A.440(2).
	C. Discussion and consideration of a Proposed Stipulated Agreement concerning Third-Party Request for Opinion Nos. 15-03C, 15-07C and 15-08C regarding Paul Murphy, Member, Board of Directors, Fernley Swimming Pool District, State of Nevada, submitted pursuant to NRS 281A.440(2).
	D. Closed Session for discussion and consideration of potential or pending litigation.

OPEN SESSION:

	1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.
	2. Public Comment. Comment and/or testimony by any member of the public will be limited to three (3) minutes. No action will be taken under this agenda item.
*For Possible Action	3. Consideration and approval of proposed Stipulated Agreement pursuant to NRS 281A.440(8) concerning Third-Party Request for Opinion No. 14-59C, regarding Gerald Antinoro, Sheriff, Storey County, State of Nevada, submitted pursuant to NRS 281A.440(2).
*For Possible Action	4. Consideration and approval of proposed Stipulated Agreement, including possible dismissal, pursuant to NRS 281A.440(8) concerning Third-Party Request for Opinion No. 14-64C regarding Ashok Mirchandani, Deputy Director, Nevada Department of Business and Industry, submitted pursuant to NRS 281A.440(2).
*For Possible Action	5. Consideration and approval of proposed Stipulated Agreement pursuant to NRS 281A.440(8) concerning Third-Party Request for Opinion Nos. 15-03C, 15-07C and 15-08C regarding Paul Murphy, Member, Board of Directors, Fernley Swimming Pool District, State of Nevada, submitted pursuant to NRS 281A.440(2).
For Possible Action	6. Approval of Minutes of the May 20, 2015 Commission Meeting.
For Possible Action	7. Election of Commission Chair and Vice Chair for Fiscal Year 2015-16, pursuant to NAC 281A.150.
For Possible Action	8. Review and possible direction regarding the requirements of NRS 281A.500 to public officers holding multiple offices, including clarification of the filing requirements for, and revision of, the Nevada Acknowledgement of Ethical Standards form, prescribed by the Commission under NRS 281A.500(4).
For Possible Action	9. Presentation on and direction for publication of Annual Report prepared by the Executive Director pursuant to NAC 281A.180(2).
	10. Report by Executive Director on agency status and operations, including: <ul style="list-style-type: none">• Externship Program with UNLV's Boyd School of Law.• Education and Outreach by the Commission.• Status of official website for Commission.• Year-end RFO update and Opinion status.• Budget report and other Fiscal Year-end matters.
	11. Legislative Updates on certain Bills adopted in the 2015 Legislative Session of the State of Nevada, relating to operations of public agencies and public officers, including the informal codification of AB 60, relating to Ethics in Government Law.
	12. Commissioner Comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures. No action will be taken under this agenda item.

	13. Public Comment. Comment and/or testimony by any member of the public may be limited to three (3) minutes. No action will be taken under this agenda item.
	14. Adjournment.

***A meeting or hearing held by the Commission pursuant to NRS 281A.440 to receive information or evidence regarding the conduct of a public officer or employee, and deliberations of the Commission regarding such a public officer or employee, are exempt from the provisions of NRS Chapter 241, The Open Meeting Law. As a result, these agenda items, or any portion of them, may be heard in closed session.**

NOTES:

- ❖ The Commission is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada Commission on Ethics, in writing at 704 W. Nye Lane, Ste. 204, Carson City, Nevada 89703; via email at ncoe@ethics.nv.gov or call 775-687-5469 as far in advance as possible.
- ❖ To request an advance copy of the supporting materials for any open session of this meeting, contact Executive Director Yvonne M. Nevarez-Goodson, Esq. at ncoe@ethics.nv.gov or call 775-687-5469.
- ❖ This Agenda and supporting materials are posted and are available not later than the 3rd working day before the meeting at the Commission's office, 704 W. Nye Lane, Ste. 204, Carson City, Nevada, or on the Commission's website at www.ethics.nv.gov. A copy also will be available at the meeting location on the meeting day.

This Notice of Public Meeting and Agenda was posted in compliance with NRS 241.020 before 9:00 a.m. on the third working day before the meeting at the following locations:

- Nevada Commission on Ethics, 704 W. Nye Lane, Suite 204, Carson City
- Nevada Commission on Ethics' website: <http://ethics.nv.gov>
- Nevada Public Notice Website: <http://notice.nv.gov>
- State Library & Archives Building, 100 North Stewart Street, Carson City
- Blasdel Building, 209 E. Musser Street, Carson City
- Washoe County Administration Building, 1001 East 9th Street, Reno
- Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas

AGENDA ITEM NO. 3

AGENDA ITEM NO. 3

JUL 30 2014

NEW DATA FINDS
OPINION POLLERS

NEVADA COMMISSION ON ETHICS
THIRD-PARTY REQUEST FOR OPINION

NRS 281A.440(2)

COMMISSION
ON ETHICS

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. *(If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)*

NAME: (Last, First)		Gerald Antinoro		TITLE OF PUBLIC OFFICE: (Position: e.g. city manager)		Sheriff	
PUBLIC ENTITY: (Name of the entity employing this position: e.g. the City of XYZ)		Storey County					
ADDRESS: (Street number and name)		POB 498		CITY, STATE, ZIP CODE		Virginia City, NV. 89440	
TELEPHONE:		Work: 775.847.0709		Other: (Home, cell)		E-MAIL:	

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. *(You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)*

Check here ☒ if additional pages are attached.

See Attached Packet

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body?
If yes, describe:

No

- 4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.**

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input checked="" type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input checked="" type="checkbox"/> NRS 281A.400(2)	Using 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.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input checked="" type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input checked="" type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input checked="" type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input checked="" type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here ☐ if additional pages are attached.

NAME and TITLE: (Person #1)		Timothy Guthrie		(Law enforcement)	
ADDRESS:				CITY, STATE, ZIP	
				Carson City, Nevada	
TELEPHONE:		Work:	Other: (Home, cell)	E-MAIL:	
		775.671.8098	775.297.3916		
NATURE OF TESTIMONY:					

NAME and TITLE: (Person #2)		Lance Andrews		(Law enforcement)	
ADDRESS:				CITY, STATE, ZIP	
				Reno, Nevada	
TELEPHONE:		Work:	Other: (Home, cell)	E-MAIL:	
		775.846.6463			
NATURE OF TESTIMONY:					

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

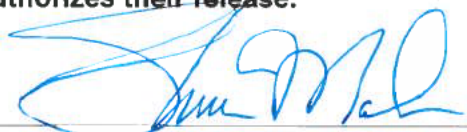
State the total number of additional pages attached (including evidence) 14

7. REQUESTER'S INFORMATION:

YOUR NAME:	Shawn Mahan		
YOUR ADDRESS:	POB 1134	CITY, STATE, ZIP:	Virginia City, Nevada 89440
YOUR TELEPHONE:	Day: 775.847.2696 Home	Evening: 775.345.4171 cell	E-MAIL: Knowyourself@Tahoe.Com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.


Signature:

7/30/2014
Date:

Shawn Mahan
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.

NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

7/30/2014

Nevada Commission on Ethics

Re: Gerald Antinoro

Sir:

I am writing in hopes of supervision, intervention and resolution of ongoing wrongdoings being experienced by myself personally and professionally. I am currently employed with the Storey County Sheriff's Office as a Deputy Sheriff, wherein my employment began in 2002. Over the past few years, personal and professional occurrences in unlawful misconduct have been focused at me directly from Storey County employee and Sheriff Gerald Antinoro. Gerald Antinoro has created a level of exemption from rules and regulations, which has allowed him to run amuck and remain unchecked.

I am now engaged in the political process and challenging Gerald Antinoro for the elected office of sheriff. Please understand my motivations are not based in disgruntled or vengeful retaliation towards Gerald Antinoro. To the contrary, I intend on elevating the appearance of Storey County's long-standing and negative reputation from such future occurrences. As a 14-year Storey County citizen, I feel compelled to uncover these misdoings. I present this objective and factual compilation for your review.

I herein attest that Sheriff Gerald Antinoro has violated local and state law pertaining to enforcement of laws. As a result of his own conduct Gerald Antinoro has:

- Intentionally impeded constitutional rights to pursue happiness, through my participation in political activity.
- Created a hostile working environment by oppression under color of authority.
- Promote criminal activities undertaken against me.
- Failed to take lawful action against criminal complaints filed against him.
- Purveyed lawful violations of the Nevada Peace Officers Bill of Rights, Storey County Administrative Policy, Storey County Sheriff's Office Policy and Nevada Revised Statutes (613.040).

On July 15, 2014 I was issued a Cease and Desist order Gerald Antinoro. This order demands I seek approval from Gerald Antinoro personally prior to conducting political events. As a citizen of Storey County, in pursuit of happiness, I feel this is an egregious violation. I have also been threatened with termination of employment from the Storey County Sheriff's Office if I proceed with this event. There was and is no nexus with my employment with the Storey County Sheriff's Office and the scheduled event. At no time did I interact with Infinity Health care professionals while in uniform or on duty. An illegal investigation into this matter has subsequently taken place against me as a result.

On Friday July 18, 2014 at approximately 1200 hours Sergeant Melanie Keener conducted an investigation while on duty at the Sheriff's Office. Sgt. Keener personally contacted Infinity HealthCare representative and coordinator Heather McCutcheon and began questioning her. This investigation, via telephone lasted at least thirty minutes with McCutcheon being asked such questions as (but not limited to): "Was deputy Mahan on duty when he made contact with you? How did Deputy Mahan and you meet? Have you ever had contact with deputy Mahan while he was on duty? Did Deputy Mahan offer

you money? Did Deputy Mahan ever represent the Storey County Sheriff's Office? Was Deputy Mahan in uniform when you had contact with him?" The medical professional is willing to testify.

On March 17, 2014, I introduced and presented a lawful police report (Storey County Case 14-200, Addendum A) for review by the sheriff. As is customary, this case was initially presented to my immediate supervisor Jeff Bowers. The case identified violations of law pertaining to illegal campaign practices by Antinoro while on duty and using a Storey County facilities for these purposes. Under the supervision of Gerald Antinoro, the case remained unrecognized until July 14, 2014. Currently, no investigative or lawful action has been applied to this case.

Storey County Administrative Policy and Procedure 213 strictly prohibits the aforementioned conduct specifically "Employees shall not engage in political activity of any kind during working hours. This includes, but is not limited to: soliciting money, influence, service, or any other valuable thing to aid, promote, or defeat any political committee or the nomination or election of any person to public office. Wearing or displaying of apparel, buttons, insignia, or other items which advocate for or against a political candidate or a political cause is also an example of prohibited political activity during work hours. Furthermore, no person shall attempt to coerce, command, or require a person holding or applying for any position, office, or employment, including a citizen requesting service supplied by employer, to influence or to give money, service, or other valuable thing to aid, promote, or defeat any political committee, or to aid, promote, or defeat the nomination or election of any person to public office" Further, "Employees are expressly forbidden to use any employer resources, including but not limited to: interoffice mail, email, telephone, fax machines, the Internet, or copy machines to engage in any political activity outside the approved scope of the employees' official duties"

There have been, and are, in place, clandestine efforts to sabotage my career and professional standing that are on file with Storey County Human resources and my local union (Operating Engineers #3). Another candidate and Storey County Deputy, Timothy Guthrie has and is undergoing extremely parallel circumstances. His grievances are also on file and he is willing to testify to Gerald Antinoro's misconducts.

Storey County Sheriff's Office Policy and Procedure **340.3.3** among other states: Discrimination, oppression or favoritism: (a) Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

Please accept this brief narrative as evidence towards the claims presented. It is my sincerest hope that among other things, truth and justice be revealed through this process. I understand the value of your time and convey my appreciation for your attention.

Shawn Mahan

Cease and Desist

Jeff Bowers

Sent: Tuesday, July 15, 2014 10:49 PM

To: Shawn Mahan

Cc: Gerald Antinoro

Deputy Mahan.

Pursuant to our telephone conversation this afternoon I am providing this e-mail with serves as a direct order to cease and desist any planned event regarding Infinity Hospice Care. The reason for this action is, but is not limited to, the following reasons:

- 1) You are, both on and off duty, a representative of the Storey County Sheriff's Office. I will refer you to existing policy if you are confused as to expected behavior. All conduct that directly or indirectly affects the Storey County Sheriff's Office falls under the purview of existing Policy & Procedure.
- 2) The Storey County Sheriff's Office already has in place a senior awareness program. Any and all activity which involves the seniors or any other demographic group in this county where you, as a representative of the Sheriff's office, present yourself as a member of this office, **whether explicit or implied**, is directly governed by the Sheriff or his designee. The Sheriff has given no authorization to present yourself in this event, nor has he sanctioned this event.
- 3) You have presented no assurance that Infinity Hospice Care is an appropriate entity to conduct business in this county. Further, you are expressly prohibited by policy to advocate for any for-profit business within this county. The fact that you announce only your name on the flyer announcing this event does not diminish the fact that you are in fact an employee of the Sheriff's office. Even were you allowed to seek such advocacy of a for-profit business from the Sheriff, you have presented no evidence that this company is competitive or offers superior service to county residents versus other, competing hospice care businesses. This is an egregious violation of your oath of office and ethical codes of conduct.
- 4) SCSO Policy & Procedure 340.3.4 (ab) states: "you are prohibited from... Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Office or which is contrary to good order, efficiency or morale....." Your event only serves to confuse citizens of Storey County as to which program to trust (Infinity Hospice versus the existing Senior Program). As such, this event breaks down the order you are expected to maintain.

Lastly, the Sheriff, as your employer, has a duty to present to our citizens consistent and cohesive service. Your planned event is directly contrary to his intent due, among other things, a conflict with an existing sanctioned program. As your Sheriff, he has the right, and has exercised that right, to demand you seek his approval before any such event can be planned.

Participation in this program by you will result in severe disciplinary action being taken against you. I encourage you to seek approval from the Sheriff before any such event is planned in the future.

Sergeant Jeff Bowers
Storey County Sheriff's Office
(775) 847-1146
jbowers@storeycountynv.org



STOREY COUNTY SHERIFF'S OFFICE

Page 1

P O BOX 498 VIRGINIA CITY, NV 89440 775-847-0950
MISDEMEANOR REPORT

14-200

Printed by S023

Offenses General	Description Investigation	Fel/Misd	Date Occurred		Time Occurred		Date Printed			
			03/10/14-03/10/14		1055 - 1110		06/22/2014			
			Date Reported		Time Reported		Time Printed			
			03/10/2014		1115		16:28:58			
Related Cases			Incident #							
			140310014							
Location		Beat	Area	Disposition			Dispo Date			
Sheriff Substation, Lockwood, 200 Canyon #B, Lockwood, NV 89432		4	6	Suspended (leads exhausted)			03/17/2014			
Location Type		Location of Entry		Method of Entry		Point of Entry		Alarm System	Means of Attack (Robbery)	
Street/Highway										
Reporting Party / Victim			Drivers License		Cell Phone		Email			
Residence Address			Notified of Victim Rights		Residence Phone		DOB	Age	Sex	Race
Business Name and Address					Business Phone		Height	Wt	Hair	Eyes
Assistance Rendered/Victim Disposition					Transporting Agency		Means of Attack (Assaults)			
Description of Injuries			Other Information							
Subject			Drivers License		Cell Phone		Email			
Mendoza, John-Michael					775-742-0768					
Residence Address					Residence Phone		DOB	Age	Sex	Race
PO Box 31, Virginia City, NV 89440					775-337-1387					
Business Name and Address					Business Phone		Height	Wt	Hair	Eyes
Suspect Name					Action Taken		Charges			
Residence Address					Cell Phone		DOB	Age	Sex	Race
Business Name and Address					Business Phone		Height	Wt	Hair	Eyes
Identifying Features					Residence Phone		Drivers License		Arrest Number	
Status			Vehicle Make and Model		License/State		Vehicle Type			
Involved			Tan Mercury		400TPV NV		Sports Utility Vehicle			
No.	Status/Disposition		Property Description				Value	Val Recovered	Val Damaged	
Solvability Factors										
Suspect Confession										
Prepared By			Date		Assisted By		Approved By		Date	
S023 - Mahan, Shawn			03/10/2014							
Routed To		Date		Routed To		Date		Notes		

**STOREY COUNTY SHERIFF'S OFFICE**

Page 2

**P O BOX 498 VIRGINIA CITY, NV 89440 775-847-0950
MISDEMEANOR REPORT**

14-200

Printed by S023

Subject Antinoro, Gerald Cook	Drivers License	Cell Phone	Email			
Residence Address 2589 Keystone Circle, Gold Hill, NV 89440 --- PO Box 88, Virginia City, NV 89440		Residence Phone 881-8196	DOB	Age	Sex M	Race W
Business Name and Address		Business Phone	Height 5'10"	Wt 160	Hair BRO	Eyes BLU
Subject Miller, Merilee Ann	Drivers License	Cell Phone	Email			
Residence Address 226 Rue De La Divoire, Sparks, NV 89434		Residence Phone 775-342-6403	DOB	Age	Sex F	Race W
Business Name and Address		Business Phone	Height 5'8"	Wt 150	Hair GRY	Eyes BRO
Subject Welch, Joseph Adam	Drivers License	Cell Phone 527-2164	Email			
Residence Address 857 Klien St, Dayton, NV 89403		Residence Phone 775-434-7016	DOB	Age	Sex M	Race W
Business Name and Address Storey County .		Business Phone	Height 5'6"	Wt 180	Hair BRO	Eyes HAZ

**STOREY COUNTY SHERIFF'S OFFICE**

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P O BOX 498 VIRGINIA CITY, NV 89440 775-847-0950

NARRATIVE

14-200

On 03/11/2014 at approximately 1101 hours I was conducting Patrol duties in the Lockwood area of Storey County, Nevada.

While entering the Storey County Sheriffs Office Lockwood Substation parking lot, located at 420 Canyon Way, I observed approximately ten people standing at the rear staff entrance to the facility. The individuals appeared to be waiting to enter the building. I then realized the group was the "We Care" group, a non-profit Storey County entity.

I was parked next to a tan sedan bearing Nevada License plate 400TPV known to me to belong to Storey County Sheriff's Office Volunteer and "We Care" President Merilee Miller. Miller, a Lockwood resident, approached my vehicle and asked me if "I was there to let them in?". She explained a scheduled 1100 meeting with the Storey County "We Care" group, Deputy John Mendoza and Gerald Antinoro was planned at 420 Canyon Way. Antinoro and Mendoza were late in attendance and had not arrived on scene. Deputy Mendoza was at the time on compensated Family and Medical Leave (FMLA) while attending this employment function.

I then observed two Black and Grey campaign signs stating "Gerald Antinoro for Storey County Sheriff" affixed to the front doors of Miller's vehicle. I asked Miller if she was aware of campaign practices displaying signage prior to election. Miller stated she drove her vehicle to the "We Care" meeting and her signs were there to show Gerald Antinoro. They were duly affixed to the vehicle and placed upon Storey County property, in clear public view upon my arrival.

I then opened 420 Canyon Way and granted the "We Care" group access to the building and departed the area. Upon my departure I observed Storey County Sheriff's Office employee John Mendoza, Storey Count Sheriff's Office Deputy Joe Welch and current Storey County Sheriff Gerald Antinoro arrive at 420 Canyon Way and drive into the parking lot.

I later spoke with Gerald Antinoro via telephone. I explained the circumstances and event to Antinoro, including Miller's vehicle placement, political signage and "We Care" activities while on Storey County property. Antinoro explained Miller was justified in having his personal campaign signs affixed to her vehicle and nothing could be done. Antinoro stated Miller was covered under Nevada Revised Statute governing public domain. Antinoro [paraphrasing] considered the matter closed at that time.

Having approved and condoned Miller's behavior, Antinoro demonstrated a conflict of interest and breach of ethical codes of conduct and authority. Antinoro used his position for personal interest. The "We Care" group, governed by Antinoro, yet a Storey County non-profit entity was granted exemption from the dictates of Storey County political activity. Specifically, policy 212, 213, 214 and 005 which prohibit such conduct. Section 17.84.110 also prescribes political signage regulations. Public domain is not a physical place rendering statutory protections nor should Storey County property have been utilized for the recognition of any political candidate. Ethical, professional and political conflicts have been established between the "We Care" group and the Storey County Sheriff's Office as a result of these actions.

Merilee Miller had knowingly placed Gerald Antinoro's Campaign signs on personal property (her vehicle) while on Storey County governmental property. Miller willfully promoted a political candidate,

Prepared By:

S023 MAHAN, SHAWN

Date:

03/11/2014

Approved By:

Date:

**STOREY COUNTY SHERIFF'S OFFICE**

Page 4

P O BOX 498 VIRGINIA CITY, NV 89440 775-847-0950

NARRATIVE

14-200

in this case, the current Sheriff Gerald Antinoro who is seeking re-election while on Storey County Property. Miller was at 420 Canyon Way in a professional capacity representing Storey County. As a representative of Storey County with "We Care" and as a Storey County Sheriff's Office Volunteer Miller's expression violated Storey County Sheriff's Office Policy and Procedure Manual (340.3.5, §Y). Miller also violated Storey County Administrative Policy prohibiting political activities on public grounds and buildings.

I am recommending admonishment be issued to Storey County Volunteer and "We Care" president Merilee Miller, Deputy John Mendoza for FMLA conflicts and the conduct violations of Antinoro (Storey County Policy and Storey County Sheriff's Office Policy and Procedures inclusive). I am recommending this case be forwarded to Storey County Sheriff's Office Investigator Keener, the District Attorney's Office and the State of Nevada Ethics Commission for review of latent and evident policy and procedural breaches. I am attaching the above mentioned Storey County Administrative Codes for reference. I recommend minutes of the "We Care" meeting conducted after this incident be included showing members present.

It must be noted, I am currently a registered candidate for the elected Office of Storey County Sheriff. Ethically and professionally, I would have taken precise and comparable actions towards any individual regardless of political affiliation or candidacy. This incident was not sought out or conducted with unlawfully.

Nothing further

Prepared By:

S023 MAHAN, SHAWN

Date:

03/11/2014

Approved By:

Date:







Liberty County
Gerald Antinoro
SHERIFF

Shawn
MAHAN

DEPUTY
Gerald Antinoro
LIBERTY COUNTY SHERIFF







Shawn
Gerald
ANTINORO
SHERIFF
SANTA CLARA COUNTY



JURISDICTIONAL DETERMINATION

RFO NO.: <u>14-59C</u>	NAME: <u>Gerald Antinoro</u>
DATE REC'D: <u>7/30/14</u>	POSITION: <u>Sheriff, Storey County</u>

The complaint was received ☐ IN PROPER FORM or ☒ NOT IN PROPER FORM. - waived right for copies
7/31/14

If "not in proper form" state reason:

☒ Does not include appropriate amount of copies. ☐ Not on NCOE form

DETERMINATION BY EXECUTIVE DIRECTOR:

ALLEGATIONS:

Conflicts between Sheriff and Deputy, both are candidates for Sheriff in election

- Sheriff demands Deputy seek approval before conducting a political event off-duty
 - has investigation of Infinity Healthcare questioned re: contact related to
 - has failed to take action re: reports of misconduct/crim. complaint filed against him
 - used County facilities to further political campaign w/ We Care group
 - threatened employment of challengers
 - brought actions against Requester and another candidate in an effort to sabotage reputation, career & status w/ union
 - issued cease and desist order re: participating in a flyer to promote candidacy w/ Hospice program.

NRS 281A-020 - conflict avoidance

- 400(1) - seeking improper gift/bribe
 - (2) - using position to secure unwarranted advantage
 - (7) - using County resources to further personal interests
 - (9) - attempting to benefit personal interest using influence over a subordinate
- 500 - failing to file ethics acknowledge in a timely manner

<input type="checkbox"/>	IS public employee as defined in NRS 281A.150	
<input checked="" type="checkbox"/>	IS NOT public employee as defined in NRS 281A.150	
<input checked="" type="checkbox"/>	IS a public officer as defined in NRS 281A.160	<u>Sheriff (elected)</u>
<input type="checkbox"/>	IS NOT a public officer as defined in NRS 281A.160	
<input checked="" type="checkbox"/>	Complaint DOES contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	
<input type="checkbox"/>	Complaint DOES NOT contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	

JURISDICTIONAL DETERMINATION

Alleged Statute Violation	Behavior alleged/credible evidence provided to support claim:
NRS 281A. 400(1)	Report, testimony that office & power used to harass opponent; use of facility to further campaign interests
NRS 281A. 400(2)	testimony, Report - see (1) above and apply to intimidate opponents who are subordinate, extending policies beyond intent.
NRS 281A. 400(7)(8) 8 does not apply to Sheriff	email, staff time to further campaign
NRS 281A. 1300 281A. 400(9)	letter/emails authored by Sergeant to further campaign
NRS 281A. 020	Cease & desist letter is a conflict, policy
Other:	

Based upon the foregoing analysis, I have determined that the Commission ☒ DOES or ☐ DOES NOT have the jurisdiction to accept the RFO and the evidence required to take appropriate action regarding NRS 281A. 400(1)(2)(7)(9) & 020, but no evidence to support 400(8) or 500

Dated: 7/31/14


Executive Director

COMMISSION COUNSEL REVIEW:

☒ DO CONCUR or ☐ DO NOT CONCUR

Pursuant to NAC 281A.400, RFO includes "evidence which support the allegation" for the allegations implicating NRS 281A.020, 281A.400(1), (2), (7) + (9).

NRS 281A 400(8) applies only to State Legislators and no evidence of a failure to file an acknowledgment form per 281A.500.

Allegations suggest that Subject's conduct, even if authorized by law and internal policy, also amounted to conduct undertaken to benefit personal campaign. Need to confirm what activities were authorized by law/policy and confirm connection to alleged conflicts of interest.

Also, to extent allegations cross-over into allegations of interfering with Requester's Rt to seek office = outside scope of Ethics Law and sufficient constitutional case law regarding subject of Rt to seek office vs. Rt to maintain employment while seeking office.

Dated: 8/4/14


Commission Counsel



**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Gerald Antinoro, Sheriff, Storey
County, State of Nevada,

Request for Opinion No. **14-59C**

Public Officer. /

NOTICE TO SUBJECT OF REQUEST FOR OPINION
Pursuant to NRS 281A.440(2) and NAC 281A.410

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) received a Request for Opinion (RFO) alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes (NRS) Chapter 281A.010-281A.550, the Nevada Ethics in Government Law (see sections checked below).

√	Statute	Essence of Statute:
√	NRS 281A.020(1)	Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.
√	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.
√	NRS 281A.400(2)	Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, 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.
	NRS 281A.400(3)	Participating as government agent in negotiating or executing a contract between the government and a business entity in which he has a significant pecuniary interest.
	NRS 281A.400(4)	Accepting a salary, retainer, augmentation, expense allowance or other compensation from any private source for performing public duties.
	NRS 281A.400(5)	Acquiring, through public duties or relationships, information which by law or practice is not at the time available to people generally, and using it to further the pecuniary interests of self or other person or business entity.

	NRS 281A.400(6)	Suppressing governmental report or other document because it might tend to unfavorably affect pecuniary interests.
√	NRS 281A.400(7)	Using government time, property, equipment or other resources for personal or financial interest. (Some exceptions apply.)
	NRS 281A.400(8)	State Legislator using government time, property, equipment or other facility for a nongovernment purpose or for the private benefit of himself or any other person, or having a legislative employee, on duty, perform personal services or assist in a private activity. (Some exceptions apply.)
√	NRS 281A.400(9)	Attempting to benefit personal or financial interest by influencing a subordinate.
	NRS 281A.400(10)	Seeking other employment or contracts through official position.
	NRS 281A.410	Failing to file a disclosure of representation and counseling a private person before public agency for compensation.
	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest for which disclosure is required.
	NRS 281A.420(3)	Acting on a matter in which abstention was required.
	NRS 281A.430	Engaging in contracts in which the Subject has an interest.
	NRS 281A.500	Failing to timely file an ethical acknowledgment.
	NRS 281A.510	Accepting an improper honorarium.
	NRS 281A.520	Causing a government entity to support or oppose a ballot question or candidate.

A copy of the RFO is attached, together with a copy of the relevant provisions of the NRS and the Nevada Administrative Code (NAC). You may also find the relevant provisions of NRS and NAC and a searchable database of Commission Opinions on the Commission's website at www.ethics.nv.gov.

Please note that the Commission will not investigate your allegation pertaining to NRS 281A.400(8) because it applies only to state legislators, or NRS 281A.500 because no reliable evidence to support this allegation was provided with the RFO. However, pursuant to NAC 281A.405(4), you may request a panel of Commissioners to review this determination.

Pursuant to NRS 281A.440(3) through (6), the Commission's process is as follows:

1. Within 70 days after the receipt of a request for opinion, the Executive Director investigates the allegations and makes a written recommendation to a two-Commission-member investigatory panel whether just and sufficient cause is present for the full Commission to render an opinion in the matter.

2. Within 15 days after the Executive Director provides her written recommendation, the panel considers the RFO and related materials and makes a final determination regarding whether just and sufficient cause exists for the Commission to hold a public hearing and render an opinion.

3. If the investigatory panel determines that just and sufficient cause exists, within 60 days after the panel determination (unless the statutory timelines are waived), the Commission will conduct a public evidentiary hearing and render an opinion whether the public officer or employee's conduct violated provisions of the Ethics in Government Law.

Pursuant to NRS 281A.440(3), should you wish to respond to these allegations, the Commission must receive your written response no later than 30 days after the date you receive this notice. A lack of response on your part is not deemed an admission that the allegations are true.

You may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Swift resolution of the RFO is beneficial to all concerned; however, you may waive any or all deadlines set forth by statute or regulation in this matter. A waiver of statutory time form is enclosed. Should you wish to request an extension of or waive any of the statutory deadlines, please complete the waiver and return it to the Commission's office as soon as possible.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO (and even the fact that it received the RFO) confidential until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion. However, the Commission has no authority to require the requester to do so. As a result, information may appear in the media. Rest assured that the Commission will not be the source of any public information until the investigatory panel has completed its review and has rendered its determination. You will be provided notice of the Panel Determination when the Panel's investigation and consideration is completed.

If you have any questions regarding this notice, please contact me on my direct line at (775) 687-4313.

Dated this 5th ay of August, 2014.



Caren Cafferata-Jenkins, Esq
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject** addressed as follows:

Gerald Antinoro
P.O. Box 88
Virginia City, NV 89440

Cert. Mail No.: 7008 0150 0002 6137 3979

Dated: 8/5/14.



Employee, Nevada Commission on Ethics

RECEIVED

AUG 14 2014

COMMISSION
ON ETHICS

Caren Cafferata-Jenkins, Esq.
State of Nevada
Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703

August 12, 2014

RE: Request for Opinion No. 14-58C

I am writing in response to the allegations made in the above referenced request. First, I will say that these allegations are ludicrous and part of a continuing pattern of conduct by the individual requesting the opinion. I will now address each individual allegation to the best of my ability.

NRS 281A.020 (1) Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.

There is nothing in the complaint or supporting documents I see that indicates there is any conflict between my public and private role. The singular allegation, "*The case identified violations of law pertaining to illegal campaign practices by Antinoro while on duty and using a Storey County facilities for these purposes*" is misleading to say the least. The specific incident referred to was a meeting of Sheriff's Office volunteers at the Lockwood Substation. Prior to the meeting commencing, one of the volunteers present placed magnetic signs on her vehicle in the parking lot of the substation that contained the verbiage "Antinoro for Sheriff." There was no use of county facilities for political purposes. Merely magnetic signs on a private individual's vehicle.

Subsequent to Mr. Mahan's complaint I sought an opinion from Storey County District Attorney Bill Maddox regarding political signs on vehicles. Mr. Maddox opined that signs/bumper stickers on a vehicle did not violate state statutes. Mr. Mahan was advised of this in writing by Mr. Maddox, as were all candidates for all offices in Storey County. The individual did not surrender her First Amendment rights merely by becoming a volunteer for the Sheriff's Office, nor was any county function, equipment, or other resources used. I took no action because I perceived no violation of law or Sheriff's Office policy as a result of the individual's exercise of her First Amendment rights.

As for Mr. Mahan's allegation that I interfered with processing the case and forwarding it to the District Attorney, I did not interfere or direct anyone else too. His direct supervisor returned the case to him on more than one occasion due to errors, which to my knowledge have still not been corrected. This is a normal part of the reporting process. The case itself will not be forwarded to the District Attorney for prosecution due to the fact he has already opined that there is no violation of law. To send it to him for review at this time would be squandering his time, ergo county resources, for a case that has no merit. Again, a standard part of the review process; cases without merit are closed, not forwarded to the District Attorney.

NRS 281A.400 (1) Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.

Again, there is no specific allegation here. There are innuendo and inference but nothing that indicates I have sought or accepted anything for any reason. There is nothing further I can offer in regards to this without some type of specific reference. Anything that is offered as evidence or indicator I have violated this statute I will readily respond to.

NRS 281A.400 (2) Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, 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.

Yet again, I see no specific allegation that this has occurred. There is inference that I did this in the case of the above referenced signage issue at the Sheriff's Office Substation however as stated, there was no crime. As the individual being responsible for the conduct and actions of the Sheriff's Office, ultimately I make the decisions. That being said, often times, supervisors make similar decisions or confer with me with for a joint decision, however there are other cases wherein I directed something not be pursued as there was no violation to be pursued. If doing my job constitutes a violation of the law or is the "granting of privileges" than we have a problem with the Office of Sheriff and law enforcement in general. I have never asked for anything politically or professionally nor have I ever granted favor to anyone for political or professional purposes. I have prided myself on fair and impartial application of the law in Storey County and there is a plethora of people throughout the county who support my re-election for that very reason.

NRS 281A.400 (7) Using government time, property, equipment or other resources for personal or financial interest.

Again the complaint is devoid of substantive basis for such an allegation. I have not utilized any Storey County resource for my personal or financial gain. To the contrary, to avoid the appearance of impropriety, often times since filing for re-election, I will use my personal vehicle during the day and dress in plain clothes or a simple polo shirt in case something "political" may arise (such as a citizen wanting to discuss the campaign). The Office of Special Counsel has acknowledged the uniqueness of the Office of Sheriff being a "uniformed" position and allows the elected Sheriff some leeway due to this however to avoid even the appearance of impropriety, as indicated, often I utilize my personal resources for county benefit, not county resources for mine.

NRS 281A.400 (9) Attempting to benefit personal or financial interest by influencing a subordinate.

I can only assume that this allegation is in reference to the event Mr. Mahan details regarding Infinity Health Care. Contrary to Mr. Mahan's claim there is no nexus to his employment, there is. Mr. Mahan is a deputy of the Sheriff's Office. The Sheriff's Office works with the state

department of Aging Services and has a Senior Outreach program wherein we work with a variety of service providers for our senior population. We have worked hard to ensure our senior citizens receive accurate and timely services from whoever the provider is as well as working hard to develop professional relationships with said providers.

Storey County is a very small county as you well know. The fact that Mr. Mahan is a deputy has not gone without notice to the citizens of the county. As such, there is little ability for him to completely separate himself from his position. As soon as Mr. Mahan started advertising his "event" that was politically based, people contacted the Sheriff's Office confused as to if it were Deputy Mahan or the regularly assigned deputy handling the outreach. Service providers contacted the Sheriff's Office with the same question, and one Senior Advocate from the Department of Aging said she did not even know who this provider was. She went on to tell me that hospice services (as offered by Infinity Health Care) were a prescription service and are normally channeled through a person's medical provider. She said they (the State) will offer an overview of hospice services but do not advocate for any specific provider because of the unique nature of hospice. Suffice it to say, Mr. Mahan's "event" caused significant question, distress, and the potential for harm to the programs and relationships the Sheriff's Office has fostered.

As such, Sgt. Jeff Bowers, Mr. Mahan's supervisor, spoke to him in regards to his "event" as evidenced by Mr. Mahan's attachment of the email from Sgt. Bowers. Sgt. Bowers was of the belief that such conduct (the presentation Mr. Mahan arranged with Infinity Health Care) would be in violation of Sheriff's Office policy, which spells out the circumstances the Office can dictate off-duty conduct. It was his opinion, as well as mine, that such action would be contrary to the good order and efficient operation of the office. Such dictates have been long supported by the courts when the off-duty actions of an employee have negative impact on the employer. In this instance, based on the concerns and confusion evidenced by contact with the Sheriff's Office seeking clarification, it need not be assumed but was in fact contrary to the good order and efficient operation of the Office.

As for his warning of possible disciplinary action, I expect supervisors to advise subordinates if/when their actions may be contrary to policy heading them towards discipline. The language, "...will result in severe disciplinary action..." is consistent with all warnings wherein someone is being forewarned of potential action. As for Sgt. Keener contacting the company regarding Mr. Mahan's actions, Sgt. Keener is in essence the second in command of the Sheriff's Office. It is my opinion that she acted prudently in trying to ascertain the circumstances when a potential policy violation came to light. In the case of both Sgt. Bowers and Sgt. Keener, supervisors doing their duties does not constitute and "illegal investigation" as alleged by Mr. Mahan.

Nothing has been done to unduly impede Mr. Mahan's run for political office. To the contrary, many things have been overlooked to prevent conflict or the appearance of retaliation while still trying to administer the duties of the Office of Sheriff and the duties related thereto. Mr. Mahan is of the belief that so long as he does anything under the auspices of his political campaign, it cannot be redressed or constitutes some harassment or breach of ethics.

In conclusion, Mr. Mahan has a long history of making allegations to further his own agenda. This can be evidenced through contact with Storey County Personnel Director Austin Osborne

and Jojo Meyers of Matrix Leadership. Mr. Mahan has for years made allegations against those he perceives as hindering or impeding his personal desires. Likewise, his allegations such as this one, are blustery yet contain little if any specific fact. I too could attach pictures of political signs that have been vandalized or questionably placed yet they do not speak to the circumstances at hand and are merely designed to inflame opinion where facts are lacking. Further, the inclusion of an official Storey County Sheriff's Office report (which still has not been approved by a supervisor) as "evidence" that Mr. Mahan has coveted for his own gain without proper authorization, is an example of his own ethical and policy failings.

At the present time I do not feel an attorney is necessary however, should one become necessary, District Attorney Bill Maddox has indicated he will represent me in this matter. I hope this has answered all the question regarding this baseless allegation. If additional information is necessary, please do not hesitate to contact me.



Gerald Antinoro
Storey County Sheriff
PO Box 88
Virginia City, NV 89440
(775) 881-8196



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Gerald Antinoro, Sheriff, Storey County,
State of Nevada,

Request for Opinion No. **14-59C**

Public Officer. /

PANEL DETERMINATION

NRS 281A.440(5); NAC 281A.440

The Nevada Commission on Ethics received a Third-Party Request for Opinion (RFO), No. 14-59C, regarding the conduct of Gerald Antinoro ("Antinoro") alleging certain violations of the Ethics in Government Law set forth in NRS 281A.

At the time of the alleged conduct, Antinoro served as Sheriff of Storey County, a public officer as defined in NRS 281A.160. The Commission has jurisdiction over the conduct of public officers pursuant to NRS 281A.280. Therefore, the Commission has jurisdiction in this matter.

On February 18, 2015, pursuant to NRS 281A.440(5), an Investigatory Panel consisting of Commissioners Gregory J. Gale and Cheryl A. Lau, Esq. reviewed the following: 1) Request for Opinion; 2) Subject's written response; 3) the results of the Commission's related investigation and 4) the Associate Counsel's Report and Recommendation on behalf of the Executive Director.

Under NAC 281A.435, the Panel concludes that the facts do not establish credible evidence to substantiate just and sufficient cause for the Commission to consider the alleged violations of NRS 281A.400(1) and (7). Therefore, these allegations are dismissed.

However, the Panel unanimously concludes that credible evidence does support just and sufficient cause for the Commission to hold a hearing and render an opinion regarding whether Antinoro violated NRS 281A.020 and NRS 281A.400(2) and (9).

Therefore, the Investigatory Panel refers the alleged violations of NRS 281A.020 and NRS 281A.400(2) and (9) to the Commission to hold a hearing and render an opinion. Under NRS 281A.440, a notice of hearing and a procedural order will follow.

Dated: February 26, 2015

By: /s/ Yvonne M. Nevarez-Goodson
Yvonne M. Nevarez-Goodson, Esq.
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **PANEL DETERMINATION** in Request for Opinion **No. 14-59C**, via and E-mail and U.S. Mail to the parties and interested persons as follows:

Gerald Antinoro
P.O. Box 88
Virginia City, NV 89440

Email: [gantinatoro@storeycounty.org](mailto:gantinoro@storeycounty.org)

Shawn Mahan
P.O. Box 1134
Virginia City, NV 89440

DATED: February 26, 2015



Employee of the Nevada Commission on Ethics



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request for
Opinion Concerning the Conduct of **Gerald
Antinoro**, Sheriff, County of Storey,
State of Nevada,

Request for Opinion No. **14-59C**

Subject. /

FOURTH-AMENDED NOTICE OF HEARING AND SCHEDULING ORDER

Notice of Hearing on Proposed Stipulated Agreement

PLEASE TAKE NOTICE, that the Nevada Commission on Ethics ("Commission") will consider a **Proposed Stipulated Agreement** regarding the allegations submitted in Third-Party Request for Opinion No. ("RFO") 14-59C at the following time and location:

The Hearing Will Take Place:

**Wednesday, July 15, 2015 at 9:00 a.m., or as soon thereafter as the
Commission is able to hear the matter, at the following location:**

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

If the Proposed Stipulated Agreement is approved, it will serve as the final Opinion in this matter and become a public record. If the Proposed Stipulated Agreement is not approved, the Commission has set the matter for hearing in accordance with the following notice of hearing.

NOTICE OF HEARING

PLEASE TAKE NOTICE, the Commission has set a hearing for **August 19-20, 2015** to consider alleged violations of the Nevada Ethics in Government Law set forth in Chapter 281A of the Nevada Revised Statutes ("NRS") by Subject Gerald Antinoro ("Subject").

On or about February 26, 2014, the Commission served Subject with: (1) a Panel Determination enumerating the allegations to be considered by the Commission in accordance with NRS Chapter 281A and Chapter 281A of the Nevada Administrative Code ("NAC"), and (2) a Notice of Hearing and Scheduling Order. On or about April 27, 2015, Subject by and through his counsel, Brent T. Kolvet, Esq., Thorndal Armstrong et al, filed a Motion to Dismiss the RFO. After consideration of the Motion, the record and arguments from counsel at a Commission meeting on May 20, 2015, the Commission took action to deny the Motion. This Fourth-Amended Notice and Order shall supersede the provisions of all previous Notices and Orders. Pursuant to NRS 281A.440 (6), Subject waived the statutory time limits for a hearing in this matter.

The hearing will assist the Commission to determine whether a violation of the Nevada Ethics in Government Law occurred and, if a violation is found, whether such violation is willful and whether any penalties will be imposed by the Commission pursuant to NRS 281A.480.

THE HEARING WILL TAKE PLACE:

Wednesday, August 19, 2015 at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, and may continue, if necessary, on Thursday, August 20, 2015 at a time to be announced by the Commission, at the following location:

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

Subject must be present at the hearing location when this matter is called. If Subject is not present when this hearing is called, the Commission may consider as true the alleged violations specified in the Panel Determination. Please direct any hearing scheduling matters to Commission Counsel, Tracy L. Chase, Esq., at (775) 687-5469 or via email at tchase@ethics.nv.gov.

Although the hearing is exempt from Nevada's Open Meeting Law pursuant to NRS 281A.440 (15), the Commission makes every effort to open the hearing to the public. A record will be made by a certified court reporter. Subject has the right to appear, be represented by legal counsel, hear evidence presented, respond to evidence, and present evidence on his behalf.

In accordance with the Scheduling Order outlined below, Subject has the right to request that the Commission issue subpoenas on his behalf to compel witnesses to testify and/or produce evidence. In making this request, Subject may be required to demonstrate the relevance of the witnesses' testimony and/or evidence. Other rights are found in NRS 281A, NRS 233B and NAC 281A. The Commission must support any finding of a violation of NRS 281A by a preponderance of the evidence.

SCHEDULING ORDER

The Commission is scheduled to commence hearing the RFO on **August 19, 2015**. The Commission's Executive Director and Associate Counsel¹ and the Subject (hereafter referred to respectively as a "Party" or the "Parties," as applicable) shall comply with the following scheduling order:

1. APPEARANCE.

The Commission requests the appearance of Subject at the **August 19, 2015** hearing. Subject has 5 business days² after receipt of the Notice of Hearing to respond to the Commission's request to attend the hearing pursuant to NRS 281A.300. If Subject does not respond, the Commission will issue a subpoena to compel Subject's attendance.

¹ In accordance with NRS 281A.440 and NAC 281A.460(1)(e) and 281A.500, the Commission has engaged the services of an Associate Counsel to ensure administrative due process in cooperation with the Executive Director to present the evidence and legal arguments to the Commission and respond to the Subject's presentations and contentions.

² For the purposes of this Scheduling Order, "business days" means the Commission's regular business days of Monday through Thursday between 7:00 a.m. and 5:30 p.m., excluding State Holidays. The computation of any time prescribed by this Scheduling Order shall be governed by the computation of time attributed to periods prescribed by NRS 281A.190.

2. DISCOVERY/INVESTIGATION.

Pursuant to NRS 281A.290 and 281A.440 and NAC 281A.270, on or before **Wednesday, July 22, 2015**, the Parties may serve written discovery in the form of interrogatories and requests for production. Such requests shall not be costly or burdensome. All responses to discovery requests must be completed not later than 5 business days after receipt of the discovery request. Within the limits of time available for satisfying the requirements and deadlines set forth in this scheduling order and preparing for hearing, a party may request to depose any witnesses. Such depositions may be taken by telephone as agreed by counsel. Any disagreement regarding depositions of witnesses may be resolved by issuing subpoenas to compel the testimony of such witnesses at the hearing. The investigation of facts and all Discovery shall be completed by the Parties no later than **Thursday, July 30, 2015**.

3. SUBPOENA POWERS.

On or before **Thursday, July 16, 2015**, the Parties may submit a written request for the Commission to issue subpoenas for the production of documents or to compel the attendance of witnesses, if any, pursuant to NRS 281A.300. Each party shall serve such subpoenas in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay the applicable costs of such service.

4. MOTIONS.

On or before **Thursday, July 30, 2015**, the Parties may submit written discovery-related and procedural motions to the Commission. The opposing Party shall submit a written response to any such motion not later than 3 business days after receipt of the motion. A reply to any responsive pleading may be provided by oral argument during the hearing at the discretion of the Commission.

On or before **Monday, August 3, 2015**, the Parties may submit written non-discovery-related and substantive/dispositive motions to the Commission. The opposing Party shall submit a written response to any such motion not later than 3 business days after receipt of the motion. A reply to any responsive pleading may be provided by oral argument during the hearing at the discretion of the Commission.

The Parties shall submit to the Commission twelve (12) copies of any motion or response, including exhibits to the motion or response. All motions and responses must be bound and page numbered. The Executive Director/Associate Counsel's motions or responses must include a green cover sheet and the Subject's motions or responses must include a yellow or goldenrod cover sheet.

5. PREHEARING STATEMENTS.

On or before **Wednesday, August 5, 2015**, the Parties shall submit written prehearing statements to the Commission.

The Parties shall submit to the Commission twelve (12) copies of the prehearing statement. The prehearing statements must be bound and page numbered. The Executive Director/Associate Counsel's prehearing statement must include a green cover sheet and the Subject's prehearing statement must include a yellow or goldenrod cover sheet.

The Prehearing Statements must include the following information:

a) Statement of Relevant Facts

A brief statement of relevant facts, including any admitted or undisputed facts, not to exceed one page.

b) Claims and Defenses

A concise statement, not to exceed 2 pages, of the party's allegations or defenses and the facts supporting the same. Such allegations, defenses and facts shall be organized by listing each essential element of the allegation or defense and stating the facts in support of each such element as they relate to specific provisions of NRS Chapter 281A.

c) Statement of Issues of Law

A statement of any issues of law, not to exceed 2 pages, supported by authorities with a brief summary of the relevant rule and without additional argument. The parties should emphasize any Commission opinions deemed relevant and applicable.

d) Witnesses

The names of each witness, except impeaching witnesses, the party expects to call, a clear statement of the expected testimony of each witness and its relevance, and an estimate of the time the party will require for the testimony of each witness. To the extent possible, provide an estimate of time for cross-examination of the opposing party's witnesses.

e) Exhibits

A list of the exhibits expected to be identified and introduced at hearing for the purpose of developing the evidentiary record and a concise statement of the relevancy of each exhibit.

f) Stipulations

A concise statement of any stipulations regarding the admissibility of an exhibit or expected testimony of any witness offered by the opposing party.

g) Motions

A brief summary of any pre-hearing procedural or substantive motions, not to exceed one paragraph. Except for any procedural or substantive motions that arise during the hearing, all pre-hearing procedural and substantive motions must be submitted in accordance with this Scheduling Order.

h) Other

Any other appropriate comments, suggestions or information which may assist the Commission in the disposition of the case, not to exceed one page.

6. EXHIBIT BOOKS.

On or before **Thursday, August 6, 2015**, the Parties shall submit to the Commission twelve (12) copies of an exhibit book(s) consisting of the exhibits, if any, expected to be identified and introduced as evidence at the hearing. The exhibit book(s) must include an index of the exhibits and be bound and Bates numbered.

- a) The cover of the Executive Director/Associate Counsel's exhibit book(s) must be green and the exhibit book(s) must be tabbed and identified by numbers.
- b) The cover of the Subject's exhibit book(s) must be yellow or goldenrod and the exhibit book must be tabbed and identified by letters.

7. OBJECTIONS.

On or before **Monday, August 10, 2015**, the Parties shall submit a concise statement of any objections to the admissibility of any exhibit identified by the other party and, to the extent possible, the expected testimony of any witnesses. Such statement shall not exceed 2 pages. If no objection is stated as to any exhibit or expected testimony, the Commission will presume that there is no objection to the admission of the listed exhibit or expected testimony into evidence.

8. SUBMISSION AND SERVICE REQUIREMENTS.

The Parties shall submit all documents not later than 5:30 p.m. (the Commission's close of business) on the respective dates outlined herein to the Office of the Commission located at 704 W. Nye Lane, Suite 204, Carson City, Nevada 89703, care of Commission Counsel, Tracy L. Chase, Esq., or electronically to Ms. Chase at tchase@ethics.nv.gov. **Electronic submission does not eliminate the parties' obligations to provide physical copies of relevant documents to the Commission as outlined herein.**

Each Party shall serve its documents on the other Party by physical delivery or electronic mail not later than 5:30 p.m. on the respective dates outlined herein as follows:

<p>Yvonne M. Nevarez-Goodson, Esq. Executive Director Nevada Commission on Ethics 704 West Nye Lane, Suite 204 Carson City, NV 89703 ynevarez@ethics.nv.gov</p> <p>Jill C. Davis, Esq. Associate Counsel Nevada Commission on Ethics 704 West Nye Lane, Suite 204 Carson City, NV 89703 jilldavis@ethics.nv.gov</p>	<p>Brent Kolvet, Esq. Thorndal Armstrong et al 6590 S. McCarran Blvd. Suite B Reno, NV 89509 btk@thorndal.com</p>	
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A certificate of service shall be included verifying service as required herein.

9. SUGGESTED QUESTIONS FOR WITNESSES.

If Shawn Mahan, the Requester, wishes to question a witness at the hearing as authorized by NRS 281A.440(11), he must submit such questions in writing to the Commission's Executive Director on or before **Monday, August 3, 2015**. The Executive Director may submit the questions to the Commission if she deems the questions relevant and appropriate. The Commission is not required to ask any question so submitted.

10. EXTENSIONS AND CONTINUANCES.

The Parties may not agree to extensions of the deadlines included herein without the written consent of the Commission. Extensions will not be granted except in the case of good cause shown.

No request for continuance of the scheduled hearing will be granted except upon extraordinary circumstances stated in written motion.

11. PREHEARING CONFERENCE.

After the receipt of Prehearing Statements, the Commission will set a prehearing conference between the Parties and the Chair to be held before the hearing set for this matter.

12. HEARING SCHEDULE.

The Commission may set a hearing schedule after receipt of Prehearing Statements.

DATED: June 17, 2015

/s/ Tracy L. Chase

Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **FOURTH-AMENDED NOTICE OF HEARING AND SCHEDULING ORDER** in Request for Opinion No. 14-59C, via email and U.S. Mail, addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703

Email: ynevarez@ethics.nv.gov

Jill C. Davis, Esq.
Associate Counsel
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703

Email: jilldavis@ethics.nv.gov

Brent Kolvet, Esq.
Thorndal Armstrong et al
6590 S. McCarran Blvd., Suite B
Reno, NV 89509

Email: btke@thorndal.com

Shawn Mahan
P.O. Box 1134
Virginia City, NV 89440

Email: knowyourself@yahoo.com

DATED: June 17, 2015



An employee, Nevada Commission on Ethics

AGENDA ITEM NO. 4

AGENDA ITEM NO. 4

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input checked="" type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input checked="" type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here ☒ if additional pages are attached.

NAME and TITLE: (Person #1)		See Report and Documentation Submitted Herewith.		
ADDRESS:		CITY, STATE, ZIP		
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:	
NATURE OF TESTIMONY:				

NAME and TITLE: (Person #2)				
ADDRESS:		CITY, STATE, ZIP		
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:	
NATURE OF TESTIMONY:				

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) 214.

7. REQUESTER'S INFORMATION:

Ms. Madeline Bravo-Pritchard

YOUR NAME:	Nevada Affordable Housing Assistance Corporation		
YOUR ADDRESS:	5485 Kietzke Lane	CITY, STATE, ZIP:	Reno, NV 89511
YOUR TELEPHONE:	Day: 775-284-0302	Evening:	E-MAIL: mbravopritchard@nahac.org

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

Madeline Bravo-Pritchard
Signature:

9/20/2014
Date:

Senior Compliance Investigator of the Nevada Affordable Housing
Print Name: Madeline Bravo-Pritchard Assistance Corporation

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.
NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

Confidential

Internal Compliance Report

From

Madeline Bravo-Pritchard

Senior Compliance Investigator

Dated 9/16/14

Do not copy

Do not disseminate

without approval of Issuer

CONFIDENTIAL

REPORT OF POTENTIAL FRAUD & CONFLICT OF INTEREST

ASHOK MIRCHANDANI, former NAHAC PRESIDENT & BOARD CHAIRMAN

PREPARED BY: MADELINE L. BRAVO-PRITCHARD/SR. COMPLIANCE
INVESTIGATOR SEPTEMBER 16, 2014

Through a series of interrelated events which resulted in an initial investigation, potential conflicts of interest on the part of NAHAC's former President and Chairman of the Board, Ashok Mirchandani, as well as a potential misuse of Federal Hardest Hit Fund resources (which includes staff and legal counsel time as well as reimbursement of expenses incurred outside of approved categories) has been discovered. The potential conflicts of interest arise from Mr. Mirchandani's contemporaneous service as a Director, the Secretary and Treasurer of Home Means Nevada, Inc. ("Home Means Nevada") and the President and Chairman of the Board of the Nevada Affordable Housing Assistance Corporation ("NAHAC"). The potential misuse of Hardest Hit Fund resources involves the payment of startup expenses for Home Means Nevada's Home Retention Program with Hardest Hit Fund resources as well as paying for personal expenses with Hardest Hit Fund.

This is a **preliminary report only**. The time period involved and complexity of the investigation will require a substantial amount of additional investigation and perhaps a forensic accounting.

BACKGROUND

A. Relevant Background on Home Means Nevada & NAHAC Board.

NAHAC was formed by Charles Horsey and Lon DeWeese of the Nevada Housing Division on February 11, 2003. The transaction with Treasury commencing the Nevada Hardest Hit Program closed on June 23, 2010.

Home Means Nevada was formed on January 25, 2012 by Ashok Mirchandani, Deputy Director of the Nevada Department of Business & Industry, and the then Director of the Nevada Department of Business & Industry, Terry Johnson. Mr. Mirchandani was, and is, the Registered Agent, Secretary and Treasurer of Home Means Nevada. Mr. Johnson was the President from the time the entity was incorporated until on or about November 12, 2012.¹ Based on the information in the Nevada Secretary of State file, when Home Means Nevada was incorporated, it appears that Mr. Johnson and Mr. Mirchandani were the sole Directors as well. See, Nevada Secretary of State File for Home Means Nevada, Exh.1.

¹Mr. Johnson was appointed to the Nevada Gaming Control Board by Governor Sandoval effective November 12, 2012.

At the time Home Means Nevada was formed, NAHAC had been administering the Nevada Hardest Hit programs for approximately 1 year and 7 months.

The initial list filed on December 5, 2012, for Home Means Nevada lists Bruce Breslow, the new Director of the Department of Business and Industry as the President and one of the Directors in place of Mr. Johnson. As noted above, Mr. Mirchandani remained as Registered Agent, Secretary and Treasurer. It appears that Mr. Breslow and Mr. Mirchandani are the sole Directors.

Until Charles Horsey left the Nevada Housing Division January 3, 2013, the Executive Committee of the NAHAC Board of Directors was the de facto NAHAC Board. The Executive Committee consisted of Charles Horsey, Lon DeWeese and Hilary Lopez.

Jim deProse was appointed as the Administrator of the Nevada Housing Division on January 22, 2013, and assumed control of NAHAC. At that time, there was no functioning Board of Directors. On or about March 22, 2013, the Director of Business and Industry and Jim deProse decided to restructure the NAHAC Board to a five member board with three initial members, one of which was Mr. Mirchandani. Before this could be accomplished, Mr. DeProse was involved in an unfortunate incident and was ultimately removed from his positions as the Administrator of the Housing Division. This occurred in late April 2013. Immediately after the incident, Mr. Mirchandani was placed on the Board of NAHAC and assumed his positions as President and Chairman of the Board. *See*, April 29, 2013, resolutions, Exh. 2.

The Articles of Incorporation for Home Means Nevada were amended on April 24, 2013, by Mr. Mirchandani to amend Article 4- Purpose (left blank on the initial filing) to add the IRS 501(c)(3) provisions. *See*, Exh. 1.

The bill approving the funding for the Home Means Nevada Program was introduced during the 2013, bi-annual session on May 31, 2013, and was approved by the Governor June 10, 2013. *See*, SB 521, Exh 3.

In late May 2013, counsel was requested by Mr. Mirchandani to change the NAHAC name to "Home Means Nevada." This change was never consummated. *See*, Exh 4.

On or about late June, or July 2013, Mr. Mirchandani met with representatives from the United States Treasury to request that the Hardest Hit Fund be moved to Home Means Nevada for its program. This request was denied.

Shortly thereafter, work started on the on 11th Amendment to the Commitment to Purchase Financial Instrument and HFA Participation Agreement, which closed on August 28, 2013. The 11th Amendment added the Home Retention Program. The 12th Amendment closed on June 11, 2014.

Mr. Mirchandani asked to be recused from any Home Means Nevada matters that come before the Board in light of him being on the Board of Directors for both HMN and NAHAC on June 18, 2014.

Mr. Mirchandani resigned from the NAHAC Board on July 23, 2014.

B. Discussion of Potential Conflicts/Misappropriations.

- 1) Was Mr. Mirchandani holding positions as Director and Officer on both boards of directors disclosed to the NAHAC Board as required by NAHAC's current policies and procedures?
- 2) Did Mr. Mirchandani disclose to the United States Treasury ("UST") that he was working on both the Home Means Nevada portion of the Home Retention Program and the NAHAC portion of the Home Retention Program?
- 3) Was an additional conflict of interest created due to Mr. Mirchandani's ability to direct Hardest Hit Fund resources to the Home Retention Program and away from other NAHAC/Hardest Hit Fund programs, and to influence the NAHAC policy in favor of the Home Retention Program for the benefit of Home Means Nevada?
- 4) Was the payment of Home Means Nevada costs with Hardest Hit Funds a misuse of Federal funds?
- 5) Was the use of Hardest Hit Fund credit card to pay personal expenses a misuse of Federal funds?

Given that numerous red flags exist regarding the potential issues stated above, combined with the requirement of the UST that a system exists whereby instances of inappropriate or illegal behavior, potential or actual fraudulent activities, or conflicts of interest are detected and remediated in a timely manner by NAHAC to the best of our ability, combined with a required notification to NAHAC Board President/or NAHAC Legal Department on the same day of potential violations to the aforementioned, Compliance/Audit has been conducting this investigation. Madeline Bravo-Pritchard requested the assistance of Kit Sober/Compliance Auditor for this review given the sensitivity of the issue and the level of employee potentially involved (e.g. Ash Mirchandani former NAHAC President/ Board Chairman and Amber Lopez Lasater Executive Director/CEO).

Under the Commitment to Purchase Financial Instrument and HFA Participation Agreement (the "Participation Agreement") with UST:

NAHAC represented and warranted that it would comply with all regulations on conflicts of interest that are applicable to it in connection with the conduct of its business and performance of the Services and all conflicts of interest and non-disclosure obligations and restrictions and related mitigation procedures set forth in the Participation Agreement.

Additionally, NAHAC acknowledged that the provision of false or misleading information to Treasury in connection with the HHF Program or the Services may constitute a violation of: (a) Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or (b) the civil False Claims Act (31 U.S.C. §§ 3729-3733). NAHAC covenanted to immediately:

1. Disclose to Treasury any discovered credible evidence, in connection with the Participation Agreement and the Services, that a management official, employee, or contractor of Eligible Entity has committed, or may have committed, a violation of the referenced statutes or other wrongdoing; and
2. Disclose to Treasury any other material facts or information in its possession that Treasury should expect to know about Eligible Entity or its employees, management officials or contractors to help protect the reputational interests of Treasury in connection with the HHF Program.

Additionally, all administrative expenses paid with HHF Program funds shall be accounted for and are subject to OMB Circular A-87 (revised 5/4/95, as further amended 8/29/97), which can be found at:

<http://www.whitehouse.gov/omb/rewrite/circulars/a087/a087-all.html>.

NAHAC Policies.

Review of the “Code of Ethics, Conflict of Interest Policy, and Business Conduct for Employees of the Nevada Affordable Housing Assistance Corporation ‘NAHAC’” document (Approved by resolution as adopted by the Board of Directors on November 11, 2010; Amended January 23, 2013, as well as on May 20, 2013) (Emphasis added on selected sections below)

“INTRODUCTION

The purpose of this Code of Ethics, Conflict of Interest, and Business Conduct (“Code”) is to assure that employees of NAHAC act in the best interest of NAHAC, without being partial to any particular organization or their own personal interests; devote to NAHAC their undivided loyalty and uncompromised integrity; conform to the highest standards of business ethics; and give the appearance as well as the fact of such impartiality, devotion and integrity. NAHAC expects employees to comply strictly with this Code and to exercise good judgment and reasonable prudence in

carrying out NAHAC business. Different employees have different duties with respect to this code. For example,

- managers have a responsibility to foster high ethical standards in the workplace; to responsibilities for the conduct of their staff, and for making sure that their staff are aware of this code and are sensitive to ethical issues;
- *employees who make assistance decisions for NHHF and those employees who procure goods and services for NAHAC, are responsible for ensuring that those decisions reflect good stewardship of NAHAC funds, make effective and efficient use of scarce resources, and ensure that their actions do not give rise to any appearance of favoritism, personal gain or other impropriety.*

Violations of this policy will result in discipline, including dismissal. Violations include, but are not limited to, withholding of information concerning unethical conduct and failure by managers to assure that all individuals working for NAHAC are briefed on this policy.

The Code:

1. **Business Ethics.** *Each employee shall act at all times with integrity and perform his or her duties in compliance with all applicable Federal, state, and local laws and NAHAC policies and procedures.*
2. **Impropriety and Appearance Thereof.** *Employees will perform their duties in an honest and objective manner so their performance will not be challenged or impaired. If there is any doubt about whether circumstances may lead to reasonable questions regarding the impartiality of an employee, the matter must be raised with the Executive Director. NAHAC relies on the integrity of its employees to avoid even an appearance of impropriety."*

Further:

"STEWARDSHIP

5. **Obligation to Protect and Conserve Corporate Assets.** *Each employee has a continuing obligation to protect and conserve NAHAC money, property and other resources, expending them strictly in accordance with policies adopted by the Board of Directors, and pursuant to procedures duly established by NAHAC Policy."*

600.E.06 – Expense and Accounts Payable, Employee Expense Reimbursements

PURPOSE: NAHAC Board recognizes that Board members, Officers and employees (“Personnel”) may be required to travel or incur other expenses from time to time to conduct Company business and to further the mission of this non-profit organization. The purpose of this Policy is to ensure that (a) adequate cost controls are in place, (b) travel and other expenditures are appropriate, and (c) to provide a uniform and consistent approach for the timely reimbursement of authorized expenses incurred by Personnel.

POLICY: NAHAC policy is to reimburse only reasonable and necessary expenses actually incurred by Personnel.

When incurring business expenses NAHAC expects Personnel to:

- Exercise discretion and good business judgment with respect to those expenses.
- Be cost conscious and spend NAHAC’s money as carefully and judiciously as the individual would spend his or her own funds.
- Report expenses, supported by required documentation, as they were actually spent.

Question: When did these Conflicts of Interest first occur?

It is difficult to determine when the Conflicts of Interest initially arose as investigation is in its initial stages and this is a preliminary report only. The interests of NAHAC and Home Means Nevada clearly were in opposition when the UST made the decision that the Hardest Hit Funds could not be moved to Home Means Nevada in the summer of 2013. At the latest the conflicts were present on the date of the closing of the 11th Amendment, August 28, 2013. Some of the incidents reflecting the potential conflicts are discussed below. Also see the accompanying time line and back up documentation.

Based on information in the file, Mr. Mirchandani is the Home Means Nevada representative primarily responsible for the Home Means Nevada program. Mr. Mirchandani consistently refers to the Home Means Nevada Program as “his program”.

In March 2014, NAHAC began working toward implementing its Home Retention Program. During communications with representatives of Home Means Nevada as well as the participating servicer and housing counseling agency, it became apparent that Home Means Nevada intended that a list of borrowers determined to be eligible by Home Means Nevada for the NAHAC Home Retention Program would be delivered to NAHAC, and that NAHAC would simply fund these files without independent underwriting. *See*, Emails attached hereto as Exh. 5 (Note- For the Purposes of This Initial Report, attorney – client privileged communications have not been included.) This can also be testified to by Senior Compliance Officer, Madeline Bravo-Pritchard and Amber Lopez Lasater.

In May 2014, during a meeting at the NAHAC office in Las Vegas, representatives of Home Means Nevada advised Ms. Bravo-Pritchard, Ms. Lopez Lasater, and another former NAHAC employee, that Home Means Nevada would provide NAHAC with a list of eligible homeowners and that NAHAC would simply fund the files.

On June 11, 2014, Ashok Mirchandani (Ash)/NAHAC Board Chairman emailed Stefanie Sharp, NAHAC Attorney, and Madeline Bravo-Pritchard, NAHAC Senior Compliance Investigator, that he was interjecting himself in the process of working out NAHAC the Servicer Participation Agreement with Wingspan for the Home Retention Program (HRP). Amber Lopez Lasater, NAHAC Executive Director, relayed directly via phone, 06/11/2014, to Madeline Bravo-Pritchard that Mr. Mirchandani had directed Ms. Lopez Lasater to have Madeline Bravo-Pritchard cease calling or working directly with the Wingspan, the servicer for Home Means Nevada, or the Financial Guidance Center (FGC), the Housing Counseling Agency (HCA) for Home Means Nevada. Ms. Lopez Lasater stated that any dialog regarding the NAHAC Home Retention Program (HRP) needed to go through her, and that Ms. Bravo-Pritchard could not directly reach out to Wingspan, FGC, or HMN. *See*, Exh 6.

NOTE: Prior to the June 11, 2014, email referenced above, NAHAC (Compliance and Legal) had been negotiating with Wingspan, FGC and HMN with respect to agreements to implement the NAHAC Home Retention Program.

Thereafter, during the process of developing underwriting guidelines, representatives of Home Means Nevada began to attempt to dictate how NAHAC would implement the Home Retention Program, and guidance was sought from UST.

The direction received from Ash Mirchandani on how NAHAC would implement its Hardest Hit Fund Home Retention Program was in direct contradiction to the directions given by UST to Madeline Bravo-Pritchard, Senior Compliance Investigator, in an email dated August 5, 2014. *See*, Ex.7.

After Mr. Mirchandani had resigned from the NAHAC Board on July 23, 2014, various employees in the Las Vegas office advised Ms. Bravo-Pritchard that Mr. Mirchandani met on multiple occasions with Ms. Lopez Lasater and the Chief Operating Officer of Home Means Nevada in the NAHAC North Las Vegas office. During this same time period, Ms. Bravo – Pritchard received a call from Ms. Lopez Lasater after hours. Mr. Mirchandani and the Chief Operating Officer of Home Means Nevada had come to Ms. Lopez Lasater's office and were pressuring her on how the unpaid principal balance (UPB) would be determined in the NAHAC Underwriting guidelines. Ms. Lopez Lasater called Ms. Bravo-Pritchard to confirm that the determination of the UPB in the NAHAC underwriting guidelines conformed to the requirements of the 12th Amendment.

On September 2, 2014, during the Internal Compliance 4th quarter audit field work in North Las Vegas, Ms. Bravo-Pritchard interviewed Ms. Lopez Lasater. As part of this interview, Ms. Lopez Lasater was questioned in regard to Mr. Mirchandani's instructions as to the NAHAC Compliance Department involvement with the implementation of the Home Retention Program.

Ms. Lopez- Lasater stated that Mr. Mirchandani directed her on multiple occasions to tell Ms. Madeline Bravo not to "meddle" in the implementation of the Home Retention Program. *See Excerpt Below.*

"Madeline L. Bravo-Pritchard/NAHAC Sr. Compliance Investigator ("MPB") when in North Las Vegas conducting a site review for Q4 asked Amber Lopez Lasater/NAHAC Executive Director several questions. Ms. Lopez Lasater (Amber) sat with the Sr. Compliance Investigator on 09/2/14 around 12:30 p.m. in the back conference room in the North Las Vegas Office of NAHAC. *During any time did Ash Mirchandani have a conversation with you regarding compliance and my reaching out to UST for guidance on HRP?* Amber answer, "Yes" MBP asked "Did Ash ever ask you to get me to stop meddling in HMN?" Amber answer, "Yes" MBP asked "Did you get that in an email?" Amber answered "No. The only time it was put in writing was on 06/11/14 email to both you and Stefanie (legal)."

Misappropriation of Funds.

Payment of non-program related costs is not permitted under the Participation Agreement or the applicable OMB Circular. Initial investigation has revealed that various costs and bills of Home Means Nevada were paid from Nevada's Hardest Hit Fund by Mr. Mirchandani, and that he also paid personal expenses from the Nevada Hardest Hit Fund. Again, just a sample of the credit cards and invoices have been examined to date. Discussion of some of the incidents involving a potential misuse of Hardest Hit Funds are discussed below. The accompanying Time Line and Spread Sheet and backup documentation provide exemplars of the potential misuse.

Mr. Mirchandani resigned from the Board on July 23, 2014, and failed to return his NAHAC credit card or the bank token for the Bank of New York Mellon account. NAHAC Controller, Nedra Wilson, failed to take action to cancel the card. On August 19, 2014, Ms. Wilson finally cancelled the card and requested that the bank token be returned. The bank token was eventually returned on September 2, 2014. The credit card has not been returned as of this date (9/16/14). At Mr. Mirchandani's direction (1) salaries for Home Means Nevada employees, (2) Home Means Nevada startup costs and (3) the internet domain licenses, (4) computers, and (5) office supplies for Home Means Nevada were paid for from the Nevada Hardest Hit Fund. (6) Mr. Mirchandani also paid for meals associated with Home Means Nevada business from the Nevada Hardest Hit Fund. (7) Mr. Mirchandani additionally paid for unauthorized travel and seminar expenses with his NAHAC credit card. (8) Expenses were additionally charged on Mr. Mirchandani's NAHAC credit card after he resigned from the Board (July 23, 2014). These facts were discovered on or about September 2, 2014.

As noted above, Ms. Bravo-Pritchard, September 2, 2014, when in Las Vegas conducting a site review for Q4 Internal Compliance audit, asked Ms. Lopez Lasater several questions. During this interview, Ms. Lopez Lasater brought up the fact that she “thought” Mr. Mirchandani traveled after he was off the Board. Ms. Bravo-Pritchard requested the travel dates, and initiated her investigation.

Ms. Bravo-Pritchard’s research revealed that not only had Mr. Mirchandani gone to the Corelogic conference after he was no longer a NAHAC Board member but he also charged the expenses on the NAHAC credit card, for a total of \$2,099.00. At Mr. Mirchandani’s direction, Ms. Lopez Lasater also attended this Corelogic event, without approval of the Board of Directors.

As noted above, Nedra Wilson, NAHAC Controller, was knowledgeable of the fact that Mr. Mirchandani had the NAHAC Board Chair credit card in his possession, and that he was no longer on the NAHAC Board. This credit card should have been turned in to the Controller on July 23, 2014, or should have been canceled by the NAHAC Controller on July 24, 2014.

After Mr. Mirchandani’s resignation from the Board, on August 19, 2014, Deputy Attorney General (DAG) Colleen Platt contacted NAHAC Legal Counsel and advised that there was an account at Nevada State Bank in the NAHAC name for which Mr. Mirchandani was sole signatory. Prior to the notification to NAHAC Legal Counsel by the DAG, the only people who were aware of this account were the representatives of the Nevada Housing Division and the outside auditors of the Nevada Housing Division. It should be noted that resistance is being encountered regarding the transfer of the accounting information for this account to NAHAC.

Mr. Mirchandani did not disclose this account to the Board during his tenure with NAHAC. The receivable noted on the NAHAC audited financial statements for this account was \$1,399,000 as of June 30, 2014, with a cash balance of approximately \$103,177.

*See attached timeline and supporting documentation

** Additional Copies of all credit card receipts are available upon request.

RFO No. 14-64C (Mirchandani)

Exhibits to the RFO
Have been Intentionally Omitted

RECEIVED

OCT 14 2014

COMMISSION
ON ETHICS



Nevada Affordable Housing
Assistance Corporation

October 10, 2014

Via Email: jilldavis@ehthics.nv.gov

Jill Davis, Esq., Associate Counsel
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89702

RE: Attached supplemental documentation for the following report:
Submitted by: Nevada Affordable Housing Assistance Corporation (NAHAC)
Regarding: Ashok Mirchandani, Deputy Director, Department of Business and Industry
Report Filed: Third Party Request for Opinion
Prepared by: Madeline L Bravo-Pritchard, NAHAC Senior Compliance Investigator
Filed: September 22, 2014

Attached is supporting documentation for the Third Party Request for Opinion I filed with your office on September 22, 2014.

The "Tickmark" column on the summary spreadsheet references the supporting documentation that follows.

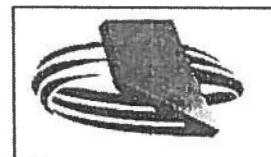
Please note: On July 2, 2014, NAHAC Las Vegas Office moved. The prior NAHAC Las Vegas Headquarters (reflected on some supporting documentation) was 205 E Warm Springs Blvd, Suite 105, Las Vegas, NV 89119. The NAHAC current address is: 2250 Las Vegas Blvd North, Suite 300 North Las Vegas, NV 89030-5873.

Respectfully,

Madeline L. Bravo-Pritchard
NAHAC Senior Compliance Investigator

CC: NAHAC Board of Directors
Stefanie Sharp, NAHAC Legal Counsel

Attachments



Nevada Affordable Housing
Assistance Corporation

- (a) NAHAC Visa charges, Control Account Statement 6/12/13 -- Tickmark (1)
- (b) NAHAC Visa charges Control Account Statement 7/10/13--Tickmarks (2) (3) (4) (5) (6) (7) (8)
- (c) NAHAC Visa charges Control Account statement 8/12/13-- Tickmarks (9) (10) (11) (12) (13)
- (d) NAHAC payments to Talent Network on behalf of Connie Johnson, July-October 2013--
Tickmarks (14) (15) (16) (17) (18) (19) (20) (21) (23)
- (e) NAHAC Payments to Talent Network on behalf of Maryann Gorski, HMN Admin Assistant,
October and November 2013-- Tickmarks (22) (24) (25) (26) (27)
- (f) NAHAC payments to Anna Zakowska, September-November 2013-- Tickmarks (28) (29) (30)
(31) (32) (33) (34) (35)
- (g) NAHAC payments to Ed Dickinson, September-November 2013-- Tickmarks (36) (37) (38)
(39) (40) (41)
- (h) NAHAC Visa charges Control Account statement 9/11/13 -- Tickmarks (42) (43)
- (i) NAHAC Visa Control Account statement 10/10/13 -- Tickmarks (44) (45) (46) (47) (48) (49)
(50) (51) (52)
- (j) NAHAC Visa charges, Ashok Mirchandani -3643 account statement 3/12/14 -- Tickmark (53)
- (k) NAHAC Visa charges, Amber Lopez Lasater -2842 account statement 4/10/14 -- Tickmarks (55)
(56) (57)
- (l) NAHAC Visa charges, Amber Lopez Lasater -2842 account statement 3/12/14 -- Tickmark (54)
- (m) NAHAC Visa charges, Amber Lopez Lasater -2842 account statement May 2014 charges
(statement not received) Ash expense -- Tickmarks (58) (59)
- (n) NAHAC Visa charges, Ashok Mirchandani -3643 account statement May 2014 (statement not
received) Ash expense --- Tickmark (60)
- (o) NAHAC Visa charges Amber Lopez Lasater -2842 account May 2014 charges (statement not
received) Ash and Amber expenses -- Tickmarks (61)
- (p) NAHAC Visa charges, Ashok Mirchandani -3643 account statement June 2014 (statement not
received), and NAHAC Reimbursements for Ash Mirchandani expenses Washington DC NAIB
Capitol Conference 5/5-7/14 and HHF Conference 5/7-8/14 -- Tickmarks (62) (63) (64) (65)
(66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (83) (84)
- (q) NAHAC Visa charges Control Account statements June 10, 2014 -- Tickmarks (80) (81) (82)
- (r) NAHAC Visa charge Ashok Mirchandani -3643 account July 21, 2014. Statement not received --
Tickmark (85)
- (s) NAHAC Visa charges on behalf of Amber Lopez Lasater July 2014. Statement not received --
Tickmark (87)
- (t) NAHAC Visa charges on behalf of Amber Lopez Lasater July and August 2014. Statements not
received -- Tickmarks (86) (88) (89) (90)
- (u) Invoices issued to HMN and supporting documentation for partial restitution of expenses made
by NAHAC on behalf of HMN -- Tickmarks (91) (92) (93)

RFO No. 14-64C (Mirchandani)

Attachments to the RFO Supplemental Documents
Have been Intentionally Omitted



JURISDICTIONAL DETERMINATION

RFO NO.: 14-64C	NAME: Ashok Mirchandani
DATE REC'D: 9/22/14	POSITION: Deputy Director - NV State Dept. of Business & Industry

The complaint was received ☒ **IN PROPER FORM** or ☐ **NOT IN PROPER FORM.**

If "not in proper form" state reason:

☐ Does not include appropriate amount of copies. ☐ Not on NCOE form

DETERMINATION BY EXECUTIVE DIRECTOR:

ALLEGATIONS:

Associate Counsel - As Deputy Director of Business and Industry (B&I) Mirchandani was managing through the Federal backed Nevada Affordable Housing Assistance Corp (NAHAC) and State sponsored Home Means Nevada non-profits all of the money designated to helping underwater homeowners. Mirchandani was an officer in both entities, Chairman of NAHAC and Director, Secretary & Treasurer of Home Means Nevada. The evidence provided indicates that federal money that was for the Hardest Hit Fund, administered through NAHAC was used to pay for start up and other expenses for Home Means Nevada, Mirchandani's own personal expenses (some of which appear to have been reimbursed) Mirchandani's position at B&I. relates directly to both entities. Both non-profits are essentially state- sponsored and were formed to dole out funds from the federal government and/or AG settlements to underwater homeowners. If not for his position at B&I, and B&I's close links with both organizations those organizations would not exist. There is tremendous overlap between B&I and the two non- profits. The evidence suggests misuse of funds.

<input checked="" type="checkbox"/>	IS public employee as defined in NRS 281A.150	
<input type="checkbox"/>	IS NOT public employee as defined in NRS 281A.150	
<input checked="" type="checkbox"/>	IS a public officer as defined in NRS 281A.160	
<input type="checkbox"/>	IS NOT a public officer as defined in NRS 281A.160	
<input checked="" type="checkbox"/>	Complaint DOES contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	
<input type="checkbox"/>	Complaint DOES NOT contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	

JURISDICTIONAL DETERMINATION

Alleged Statute Violation	Behavior alleged/credible evidence provided to support claim:
NRS 281A. 020(1)	failed to avoid conflicts - B&I position vs. fiduciary duties to entities he is an officer of
NRS 281A. 400(2)	used position at B&I to grant funds to programs/non-profits where he serves as a fiduciary
NRS 281A. 400(4)	used credit cards of the organizations for personal items- which is govt. money
NRS 281A. 400(5)	used non-public information to serve his personal interests
NRS 281A. 400(7)	used govt resources for his own benefit through personal purchases and trips
Other: 400(9) 420(1)(3)	(9) used subordinate to direct govt funds own use/ 420 not disclose/abstain conflicts to govt

Based upon the foregoing analysis, I have determined that the Commission ☒ **DOES** or ☐ **DOES NOT** have the jurisdiction to accept the RFO and the evidence required to take appropriate action regarding
NRS 281A. 020(1), 400(2), (4), (5), (7), (9) and 420(1), (3) - Commission Does have jurisdiction

Dated: October 15, 2014

/s/ Jill Davis, Associate Counsel (for ED)
Executive Director

COMMISSION COUNSEL REVIEW:

☒ **DO CONCUR** or ☐ **DO NOT CONCUR**

Pursuant to NAC 281A.400 and 281A.405, the evidence presented supports the allegations that the Subject has a private commitment to the Nonprofit organizations as an officer and/or director of those organizations, and he appears to be using his official government position to direct and/or influence expenditures of State and Federal funds through his agency to the nonprofit organizations. This represents a conflict of interest between his official duties and private interests implicating the statutes identified above.

Under Commission precedent, public officers and employees have a commitment in a private capacity to the nonprofit organizations which they serve as officers and directors.

Dated: October 21, 2014

/s/ Yvonne M. Nevarez-Goodson
Commission Counsel



CONFIDENTIAL

**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Ashok Mirchandani, Deputy Director,
Department of Business and Industry,
State of Nevada,

Request for Opinion No. **14-64C**

Subject. /

NOTICE TO SUBJECT OF REQUEST FOR OPINION

Pursuant to NRS 281A.440(2) and NAC 281A.410

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) received a Request for Opinion (RFO) alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes (NRS) Chapter 281A.010-281A.550, the Nevada Ethics in Government Law (see sections checked below).

✓	Statute	Essence of Statute:
✓	NRS 281A.020(1)	Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.
	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.
✓	NRS 281A.400(2)	Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, 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.
	NRS 281A.400(3)	Participating as government agent in negotiating or executing a contract between the government and a business entity in which he has a significant pecuniary interest.
✓	NRS 281A.400(4)	Accepting a salary, retainer, augmentation, expense allowance or other compensation from any private source for performing public duties.
✓	NRS 281A.400(5)	Acquiring, through public duties or relationships, information which by law or practice is not at the time available to people generally, and using it to further the pecuniary interests of self or other person or business entity.
	NRS 281A.400(6)	Suppressing governmental report or other document because it might tend to unfavorably affect pecuniary interests.
✓	NRS 281A.400(7)	Using government time, property, equipment or other resources for personal or financial interest. (Some exceptions apply.)

	NRS 281A.400(8)	State Legislator using government time, property, equipment or other facility for a nongovernment purpose or for the private benefit of himself or any other person, or having a legislative employee, on duty, perform personal services or assist in a private activity. (Some exceptions apply.)
√	NRS 281A.400(9)	Attempting to benefit personal or financial interest by influencing a subordinate.
	NRS 281A.400(10)	Seeking other employment or contracts through official position.
	NRS 281A.410	Failing to file a disclosure of representation and counseling a private person before public agency for compensation.
√	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest for which disclosure is required.
√	NRS 281A.420(3)	Acting on a matter in which abstention was required.
	NRS 281A.430	Engaging in contracts in which the Subject has an interest.
	NRS 281A.500	Failing to timely file an ethical acknowledgment.
	NRS 281A.510	Accepting an improper honorarium.
	NRS 281A.520	Causing a government entity to support or oppose a ballot question or candidate.

A copy of the RFO is attached, together with a copy of the relevant provisions of the NRS and the Nevada Administrative Code (NAC). You may also find the relevant provisions of NRS and NAC and a searchable database of Commission Opinions on the Commission's website at www.ethics.nv.gov.

Pursuant to NRS 281A.440(3) through (6), the Commission's process is as follows:

1. Within 70 days after the receipt of a request for opinion, the Executive Director investigates the allegations and makes a written recommendation to a two-Commission-member investigatory panel whether just and sufficient cause is present for the full Commission to render an opinion in the matter.
2. Within 15 days after the Executive Director provides a written recommendation, the panel considers the RFO and related materials and makes a final determination regarding whether just and sufficient cause exists for the Commission to hold a public hearing and render an opinion.
3. If the investigatory panel determines that just and sufficient cause exists, within 60 days after the panel determination (unless the statutory timelines are waived), the Commission will conduct a public evidentiary hearing and render an opinion whether the public officer or employee's conduct violated provisions of the Ethics in Government Law.

Pursuant to NRS 281A.440(3), should you wish to respond to these allegations, the Commission must receive your written response no later than 30 days after the date you receive this notice. A lack of response on your part is not deemed an admission that the allegations are true.

You may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Swift resolution of the RFO is beneficial to all concerned; however, you may waive any or all deadlines set forth by statute or regulation in this matter. A waiver of statutory time is enclosed. Should you wish to request an extension of or waive any of the statutory deadlines, please complete the waiver and return it to the Commission's office as soon as possible.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO (and even the fact that it received the RFO) confidential until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion. However, the Commission has no authority to require the requester to do so. As a result, information may appear in the media. Rest assured that the Commission will not be the source of any public information until the investigatory panel has completed its review and has rendered its determination. You will be provided notice of the Panel Determination.

If you have any questions regarding this notice, please contact me at (775) 687-5469.

Dated this 21st day of October, 2014.

/s/ Yvonne M. Nevarez-Goodson
Yvonne M. Nevarez-Goodson, Esq.
Commission Counsel/
Acting Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject** addressed as follows:

Ash Mirchandani, Deputy Director
Department of Business and Industry
555 E. Washington Ave, Suite 4900
Las Vegas, NV 89101

Cert. Mail # 9171 9690 0935 0037 6370 30

Dated: 10/21/14.


Employee, Nevada Commission on Ethics



Vegas Valley Law, LLC
6130 Elton Avenue Las Vegas, NV 89107
Ph: 483-7008 E-Mail: John@MyLawyerLV.com

State of Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703

12/16/14

Attn: Jill Davis
Re: Third Party Request for an Opinion Regarding the Conduct of Ashok Mirchandani

Dear Ms. Davis,

As you are aware, Mr. Mirchandani has retained our firm to represent him in response to a complaint filed with the Ethics Commission by Madeline Bravo-Pritchard. Having reviewed the documents attached to the Request for an Opinion, we find Ms. Pritchard's allegations to be vague, disorganized and poorly supported. In addition, because of the presentation, it is difficult to directly link the allegations raised against Mr. Mirchandani to the specific statutes the commission believes he may have violated. Consequently, in the interest of ensuring that we have adequately responded to all of your questions and concerns, we request that you meet with us again after reviewing our response, to discuss these issues before concluding your investigation.

We believe the allegations raised by Ms. Bravo-Pritchard fit into 13 overarching categories, and have organized our response accordingly as follows. In reviewing these responses, please pay careful attention to the exhibits, as several of them consist of multiple pages and are referenced in this document more than once.

I. Allegation: Mr. Mirchandani failed to disclose to NAHAC that he was a board member of Home Means Nevada (HMN)

Response: The allegation is false. The Board and staff of NAHAC were always aware of Mr. Mirchandani's role with HMN. In fact, for two months HMN was located *inside NAHAC's offices*. In addition, updates on the status of HMN were given at every NAHAC board meeting

Mr. Mirchandani was not named as a board member of HMN until May of 2014, when the organization began ramping up to launch the Home Retention Program (prior to that the program was dormant). Mr. Mirchandani disclosed his appointment at the next NAHAC board meeting in June of 2014 (see minutes, attached as Exhibit 1). At the same meeting, he recused himself from all NAHAC board decisions involving HMN. *Id*

At the following board meeting (7/23/14), Mr. Mirchandani removed himself as NAHAC's Chairman of the Board on a temporary basis, citing potential conflicts, and giving himself time to resolve them before resuming his duties as Chair. See July meeting minutes, attached as Exhibit 2.

Hence, in addition to disclosing his positions on both boards to NAHAC, Mr. Mirchandani took affirmative steps to avoid and/or resolve any potential conflicts arising from his membership on both boards.

II. Mr. Mirchandani failed to disclose to UST that he was working on the Home Retention Programs for both NAHAC and Home Means Nevada

Response: The allegation is false. Disclosure occurred multiple times.

The Business Plan for Home Means Nevada states that the Deputy Director of the Department of Business and Industry will serve as a board member. This was also disclosed to UST by Bruce Breslow in a 3/19/13 e-mail (attached as Exhibit 3).

While positioning NAHAC and HMN to receive hardest hit funds, Mr. Breslow and Mr. Mirchandani participated in numerous telephone conference calls with UST, and in particular with Mr. McArdle, during which Mr. Mirchandani's roles in both organizations were discussed with specificity.

In August of 2013, Mr. Breslow and Mr. Mirchandani traveled to Washington DC for a CDFI Training Conference. During their trip, they met with UST representatives, including Mark McArdle, Erin Quinn, and other UST officials to report on the status of NAHAC, HMN and the Home Retention Program. Mr. Mirchandani's roles in both organizations were disclosed and clearly understood by everyone in the meeting.

Finally, in January or February of 2014, Timothy Bowler, Mark McArdle and Erin Quinn from UST met with Mr. Mirchandani in NAHAC's boardroom to discuss both organizations. The meeting is referenced in the February 2014 minutes from the NAHAC board. (See Exhibit 4)

III. Question: Did a conflict of interest arise when Mr. Mirchandani was named as Chairman of NAHAC, because the position gave him the ability to direct Hardest Hit Funds resources to the Home Retention Program, and away from other programs?

Response: No. Mr. Mirchandani did not have a private or personal interest in the Home Retention Program, so there was no incentive to favor the program over any others. Mirchandani was an officer of Home Means Nevada solely by virtue of his position as the Deputy Director of the Nevada Department of Business and Industry (B&I).

Likewise, Mr. Mirchandani was only involved with NAHAC because the Director of B&I (Bruce Breslow) asked him to take over the organization and also address issues raised in the 2013 UST audit of NAHAC, to prevent Nevada's share of the Hardest Hit Funds from being revoked due to noncompliance with federal guidelines governing use of the funds.

Note: In January and February of 2013, UST performed a compliance audit of NAHAC, reviewing the period of Oct 1, 2011 – December 31, 2012. Auditors identified 23 areas in which corrective actions were needed (See Exhibit 5). Less than 2 months after Mirchandani was named as Chair of NAHAC, a follow-up compliance review was performed. Only four of the 23 concerns remained, and progress was noted in addressing the remaining concerns. (See Exhibits 6-7)

In addition to the aforementioned, it should be noted that:

- NAHAC implemented the Home Retention Program *as approved by UST*, and modeled the program after a similar program in Florida (at UST's recommendation) See e-mail from Erin Quinn, attached as Exhibit 8. This was not a program that Mr. Mirchandani pushed in his role as Chair of NAHAC; and

- As Chair, Mr. Mirchandani removed \$35 million from the Home Retention Program to fund a different program called Help at Last. This is clear evidence that Mirchandani displayed no bias towards the Home Retention Program. See Exhibit 9
- Funds that were allocated to the Home Retention Program were approved by the legislature, following Bruce Breslow's recommendation and set aside for that purpose *before Mirchandani was named as Chair. Hence, he had nothing to do with the decision to direct the funds towards the HRP.* See newspaper articles, attached as Exhibit 10)

Finally, there was no conflict because after the funds were allocated, NAHAC and HMN were close strategic partners in running the program. Thus, the interests of both organizations were aligned.

IV. Allegation: A conflict was created when Mr. Mirchandani was named as a board member of both NAHAC and HMN, because if Mirchandani had favored the Home Retention Program over other HHF programs, HMN could have benefitted from the favoritism.

Response: The allegation is purely hypothetical. It is true that an apparent conflict could exist. This is exactly why, following the formalization of HMN's board, Mr. Mirchandani temporarily removed himself as the chairman of NAHAC at the 7/23/14 board meeting.

Mr. Mirchandani had applied for a position as director of DETR, and believed, based on the interview, that his hiring was imminent. Had Mr. Mirchandani gotten the DETR job, he would have left B&I, causing him to be removed from his position at HMN. Mr. Mirchandani could then have resumed his duties as Chair of NAHAC with the conflict having been resolved.

Mr. Mirchandani intended to resign from the NAHAC board if the DETR job went to someone else, because he would have remained at B&I and continued to serve on the board of HMN.

Ultimately, Mr. Mirchandani resigned from NAHAC before an announcement was made by DETR, when he learned that there were accusations of impropriety with regard to his roles at HMN and NAHAC. Mr. Mirchandani's resignation in September of 2014 eliminated any apparent conflicts.

As noted in our response in Section III of this memorandum, even if apparent conflicts existed by virtue of Mr. Mirchandani serving in both organizations, his conduct demonstrates there were no actual conflicts. The allegation that Mr. Mirchandani was biased towards HMN is belied by the fact that he followed the UST's recommendations and instructions with regard to implementing the Home Retention Program, and he removed a substantial amount of money from the program to benefit a different program.

Lastly, it should be emphasized that Home Means Nevada was the only state non-profit organization that ever sought to obtain funds from NAHAC for the Home Retention Program, which is a state run program, approved by the legislature. The idea that HMN received preference over other potentially competing organizations is patently false. No other organizations existed in Nevada that offered the same services as HMN or met the guidelines set forth by UST.

V. Allegation: Mr. Mirchandani improperly used Hardest Hit Funds to pay Home Means Nevada's costs

Response: Mr. Mirchandani admits some Home Means Nevada Costs were paid using Hardest Hit Funds. However, use of the funds was not improper, and was expressly approved by the United States Treasury as a line item in the budget designed to develop strategic partners for NAHAC.

As of the 11th Amendment, NAHAC's budget included a line item of more than \$500K for "Key Business Partners." In an August 7, 2013 e-mail presenting the budget (attached as Exhibit 11), Robert Skinner disclosed the amount to UST and stated it was for "initial Home Retention Program activities." UST approved the budget with the line item intact. Skinner also sent e-mails to Mr. Mirchandani explaining the purpose of the line item and potential uses. See Exhibit 12

Skinner's explanation was consistent with instructions Mr. Mirchandani and Bruce Breslow received from UST.

Mark McArdle from UST previously advised Mr. Breslow and Mr. Mirchandani that because NAHAC was not authorized to purchase bank notes, funds for the Home Retention Program would have to be passed by NAHAC to a third party. Mr. McArdle stated the third party could be a subcontractor or "whatever organization you designate." (See 3/20/13 e-mail, attached as Exhibit 13) HMN was chosen to fill the role designated by UST because of its existing state nonprofit designation, and because it was created and overseen by B&I.

As the deadline approached to begin purchasing mortgage notes, HMN lacked the resources to prepare for the launch of the Home Retention Program. During numerous conference calls between Mr. McArdle, Bruce Breslow and Mr. Mirchandani, Breslow expressed concerns that HMN wouldn't be ready in time.

In response to Mr. Breslow's concerns, McArdle suggested Breslow and Mr. Mirchandani should use NAHAC funds to pay the early startup costs of HRP, with the understanding the funds would be used for both organizations.

A. Specific HMN expenses alleged to have been improperly paid using Hardest Hit Funds:

1. 8/27/13- NAHAC counsel allegedly drafted employment contracts for 2 HMN employees.

Response: the allegation is false. As is indicated in the billing from Stephanie Sharp and the contracts (See Exhibit 14) these employees were hired by NAHAC to "assist with implementation of the HRP Program partnership with Home Means Nevada. They were not HMN employees.

2. NAHAC allegedly paid the salaries of HMN employees.

Response: the allegation is false. See e-mail from Mr. Mirchandani to Connie Johnson on August 26, 2013 (attached as Exhibit 15) These were NAHAC employees; not HMN employees. At some point as HRP evolved, the employees did move to HMN. When that occurred, HMN paid their salaries.

3. NAHAC allegedly paid HMN start-up costs, including purchasing internet domain licenses, computers, and office supplies for HMN, and using NAHAC's HR consultant to recruit HMN employees.

Response: this is true. The expenses were part of the budget line item for "strategic partnerships." As discussed previously, the use of the line item for setting up HMN was approved by UST.

4. NAHAC allegedly paid for meals associated with HMN business

Response: NAHAC and HMN were partners in implementing the Home Retention Program. Because the entities worked closely together on this program, their "business" often overlapped. Thus, at some meetings where meals were provided, both NAHAC and HMN business was

conducted. However, no meals were paid for using NAHAC's funds at meetings where only HMN business was conducted.

5. Mr. Mirchandani's attendance of the 2013 Core Logic Conference was for the purpose of conducting HMN business, and not NAHAC business.

Response: The allegation is false. At the conference, Mr. Mirchandani met with many banks who do business with NAHAC, to communicate that NAHAC had begun accepting new applications again, and discuss the details of their participation in NAHAC programs, including in the Home Retention Program. Mirchandani also met with Core Logic to discuss purchasing of housing data from Core Logic, and later negotiated a reduced price for Core Logic's services.

VI. Allegation: Mr. Mirchandani used Hardest Hit funds to pay his personal expenses

A. List of alleged personal expenses paid using Hardest Hit Funds:

1. 7/02/13 USPS- listed as "unknown charges" in the complaint

Response: The charges were for the creation of a NAHAC post office box- NAHAC wished to avoid having homeowners come into NAHAC's office to drop off payments. The post office box was intended to allow homeowners to mail in payments. Robert Skinner, executive director of NAHAC went to the post office with Mr. Mirchandani, and Mr. Mirchandani gave Mr. Skinner the receipt.

2. 7/03/13 Triple George Grill

Response: Mr. Mirchandani had lunch with Brad Beal, CEO of One Nevada Credit Union. Mr. Mirchandani had invited Mr. Beal to serve as a NAHAC board member. At the first board meeting, Mr. Beal discovered he would have to vote on whether to shut down the Principle Modification Program, which was a source of revenue to One Nevada. Due to the conflict, Mr. Beal resigned from the Board (See letter, attached as EXHIBIT 16). The purpose of the lunch was to thank Mr. Beal for his service, apologize for creating the conflict, and discuss NAHAC programs that One Nevada could participate in as a lender.

3. 6/14/13 Apple Store- \$727.46 listed as "unknown charges" in complaint

Response: Mr. Mirchandani purchased an iPad to use for conducting NAHAC business, ie wire transfers, e-mails, document creation, etc. Mr. Mirchandani subsequently determined that the iPad was inadequate for NAHAC's purposes. On 6/18 the iPad was returned, and a laptop computer was purchased instead.

4. 6/18/13 Apple Store- \$379.43 listed as "unknown charges" in complaint

Response: These charges were for the purchase of a laptop computer and software that were used by Mr. Mirchandani to conduct NAHAC business. A receipt was e-mailed to Howie Johnson (bookkeeper) on the date of purchase. See Exhibit 17. Upon resigning from NAHAC, Mr. Mirchandani returned the computer and software to NAHAC. See Exhibit 18

5. 6/30/13- Apple Store Online- unknown charges.

Response: Mr. Mirchandani does not recognize the charge, and it does not appear in the expense summary provided in the complaint. Therefore, we are unable to respond with specificity.

6. 8/02/13- Triple George Grill- \$24.00

Response: Upon information and belief, Mr. Mirchandani had lunch with Michelle Johnson, CEO of Financial Guidance Center, to discuss NAHAC programs and her company's participation. Information confirming this may be available on the Outlook calendar in Mr. Mirchandani's office at B&I.

7. 8/06/13 and 8/10/13- Southwest Airlines wifi charges (\$8 each)

Response: Mr. Mirchandani was traveling to and from Washington DC in his capacity as the Deputy Director of Business and Industry. During the flights, he worked on NAHAC business. See Exhibit 19; an e-mail Mr. Mirchandani sent to Bruce Breslow while traveling, indicating he was working on NAHAC business.

8. 9/21/13- Lucille's Red Rock- \$100.80

Response: Mr. Mirchandani inadvertently used his NAHAC credit card to pay for a family meal. When Mr. Mirchandani discovered the error, he immediately disclosed it to NAHAC and reimbursed the expense. SEE EXHIBIT 20

NRS 281A.400(7) requires that for there to be a violation, Mr. Mirchandani's conduct has to benefit a significant personal or pecuniary interest. Since Mr. Mirchandani repaid the charges, there were no personal or pecuniary benefits gained (and if there were, they were clearly not "significant.")

VII. Allegation: Mr. Mirchandani improperly directed Madeline Pravo Pritchard and Stephanie Sharp "not to meddle" in the development of NAHAC's underwriting guidelines, so that guidelines could be developed that favored HMN and conflicted with UST directives

Response: The allegation is misleading, and the characterization of Mr. Mirchandani's actions as improper is inconsistent with the evidence presented in the complaint. Bravo Pritchard was NAHAC's Compliance Officer and Sharp was NAHAC's outside counsel. Hence, drafting NAHAC's underwriting guidelines was not their responsibility. Upon information and belief, Bravo Pritchard and Sharp involved themselves only so that Ms. Sharp could bill NAHAC for additional legal services.

At the time when Bravo Pritchard and Sharp inserted themselves into the process, underwriting guidelines were already being written by Kasala Andrews; NAHAC's Underwriting Manager. Besides the costly duplication of effort created by Pritchard and Sharp, having two teams separately work on this project at the same time resulted in confusing, overlapping communications with UST and Wingspan that Mr. Mirchandani found problematic. In addition, he noted that guidelines being proposed by Pritchard would have saddled NAHAC with significant and unnecessary administrative costs, including expenses for housing counseling services and mortgage servicer fees that HMN was already paying for.

In light of his concerns, Mr. Mirchandani properly directed Amber Lopez Lasater to instruct Pritchard and Sharp to discontinue their activities and allow Kasala Andrews develop the underwriting guidelines. Mirchandani further directed that Underwriting present the proposed guidelines Pritchard to ensure compliance with NAHAC's term sheet. Ms. Sharp would then have been consulted on any issues identified by Compliance. See Exhibit 21. Had Ms. Pritchard done her job as instructed, instead of focusing on office politics, the conflicts she complains existed between NAHAC's underwriting guidelines and instructions from UST would not have existed.

VIII. Allegation: Mr. Mirchandani failed to return his NAHAC credit card when he resigned from the Board on 7/23/14

Response: Mr. Mirchandani did not resign on 7/23/14. As indicated in the minutes from the Board meeting, he “temporarily remove(d) himself” from the board, in order to avoid conflicts of interest. SEE EXHIBIT 2. The minutes reflect that Mr. Mirchandani intended to be restored as Chair after the bylaws were approved. Hence, Kolleen Kelley was named as the new Chair on an “interim” basis only.

With the exception of losing his right to vote on matters before the Board, Mr. Mirchandani’s removal as the Chair was not intended to be instantaneous. The intent of the Board was for Mr. Mirchandani to transition out over the course of a month, giving NAHAC time to prepare for the change and transfer power to Ms. Kelley. The transition was supposed to be complete in time for the August 2014 board meeting. To that end, Mr. Mirchandani continued to function in many ways as a board member for several weeks following the 7/23/14 board meeting.

As evidence of the Board’s intent, and of Mr. Mirchandani’s continuing to function as a board member following the 7/23/14 board meeting, see the following documents, attached hereto as Exhibit 22:

- Sep 12 e-mail from Amber Lopez Lasater, indicating “it was grey as to when Ms. Kelley would take over as Chairman” and confirming Mr. Mirchandani’s announcement (at the 7/23 board meeting) that he would “transition out until the August Board meeting.”
- Jul 31 e-mail from Nedra Wilson, indicating NAHAC did not yet have a bank token for Ms. Kelley yet, and requesting that Mr. Mirchandani release funds. See also Mr. Mirchandani’s response (on the same sheet), in which he issues a directive to the Board regarding future releases in excess of \$10K.
- Aug 13 e-mail from Nedra Wilson, requesting that Mr. Mirchandani log onto the BNY Mellon website to authorize her as an administrator, so that she could transfer bank tokens.
- Aug 20 e-mail from Mr. Mirchandani to Nedra Wilson, authorizing additional wire transfers.
- Aug 27 e-mail from Nedra Wilson, confirming Mr. Mirchandani is still the authorized signer on NAHAC’s account with Nevada State Bank, and requesting that he authorize auditors to receive information about the account.
- Sep 12 e-mail from Mr. Mirchandani to Kolleen Kelley, resigning from NAHAC’s board, along with Ms. Kelley’s response.

With specific regard to the NAHAC credit card, Mr. Mirchandani did not surrender it after the 7/23/14 board meeting because (a) he was still authorized to use the card for approved expenses during the transition period, and (b) NAHAC never requested that the card be returned.

On 8/19/14, Mr. Mirchandani received an e-mail from Nedra Wilson indicating the card had been canceled. SEE EXHIBIT 23. Upon receipt of the e-mail, Mr. Mirchandani properly disposed of the credit card by destroying it.

IX. Allegation: Mr. Mirchandani failed to timely return his BNY bank token after resigning from the Board on 7/23/14

Response: NAHAC did not request that the token be returned until Aug 19. (See Exhibit 23) Mr. Mirchandani returned the token at his next opportunity, on Aug 22. See e-mail from Nedra Wilson on Sep 2, confirming the token was received (attached as EXHIBIT 24).

Mr. Mirchandani did not return the token before NAHAC requested it, because NAHAC had not assigned a token to Ms. Kelley yet, (Exhibit 23) and the board needed Mr. Mirchandani to continue releasing wire transfers (during the transition) until Ms. Kelley could take over that responsibility.

X. Allegation: Mr. Mirchandani continued to charge expenses to his NAHAC credit card after he resigned from the Board on 7/23/14.

Response: The only credit card charges alleged to have been made after 7/23/14 were for expenses related to the 2014 Core Logic Conference. Mr. Mirchandani will address all allegations of impropriety related to his attendance of Core Logic in Section XI of this memorandum.

XI. Allegation: Mr. Mirchandani's attendance of the 2014 Core Logic Conference was an unauthorized expense because he resigned from the Board on 7/23/14 before traveling to the conference

Response: Mr. Mirchandani's attendance was approved by the Board and paid for before July 2014.

As explained in Section VIII of this memorandum, Mr. Mirchandani did not resign on 7/23/14. He only temporarily stepped down as a board member. Furthermore, the intent of Mr. Mirchandani and the Board was for him to transition out over the course of a month, and continue functioning in a limited capacity until the August board meeting. Mr. Mirchandani attended the conference near the beginning of the transition period, while he was still performing many of his functions as Chair.

It is important to note that at the 7/23/14 board meeting, the Board knew of the impending Core Logic trip, and following the announcement of his temporary removal from the Board, no one made a motion to cancel Mr. Mirchandani's participation in the conference, or to send another board member in his place.

During the Core Logic conference, Mr. Mirchandani conducted NAHAC business, including holding meetings with Core Logic regarding the services they provided to NAHAC, meeting with representatives from mortgage servicers, having discussions with several national banks about opportunities to participate in NAHAC programs as lenders, obtaining useful information from organizations similar to NAHAC in CA and other states, and meeting with federal officials to discuss programs NAHAC was involved with, other potential programs, and how each would interface with federal housing regulations.

Following the conference, Mr. Mirchandani voluntarily reimbursed NAHAC for the entire cost of the trip. See Exhibit 25. Although we contend it was proper for Mr. Mirchandani to attend Core Logic, this was done to avoid even the appearance of impropriety.

Note that Mr. Mirchandani turned down an opportunity to have the Board review the Core Logic expenses and vote to approve them again (see Exhibit 26), as well as an offer by Bruce Breslow to have HMN pay for the trip.

XII. Allegation: It was improper for Mr. Mirchandani to invite Amber Lasater to attend the 2014 Core Logic Conference without Board approval, and her attendance was an unapproved expense

Response: The allegation is false. Ms. Lasater was the Executive Director of NAHAC, and was responsible for all of its programs. There were legitimate reasons for her to attend, and she worked on NAHAC business during the conference.

Board approval was not required for Ms. Lasater to attend, for the following reasons:

- NAHAC's travel policy was for employees to be authorized by their immediate supervisors (see Exhibit 27). As the Chair, Mr. Mirchandani was Ms. Lasater's supervisor, and had authority to approve the expense.
- NAHAC's authority matrix gave Mr. Mirchandani purchasing powers up to \$10K. The cost of the travel and training Ms. Lasater obtained at the conference was within that amount.
- At the June 2013 board meeting, Ms. Sharp made a motion to allow Mr. Mirchandani to make decisions on behalf of the board, and then bring them up at the following board meeting for informational purposes. The motion was unanimously passed. Thus, Mr. Mirchandani had the authority to authorize Ms. Lasater's travel without board approval. See Exhibit 28
 - Had the Board disagreed with his decision, they could have canceled Ms. Lasater's trip at subsequent board meetings (they all knew she was going) but did not. This is implicit evidence that the Board did approve of her attending the conference.

XIII. Allegation: Mr. Mirchandani was the lone signatory on a NAHAC bank account at Nevada State Bank that was not disclosed to the Board

Response: This allegation apparently refers to a loan servicing account that was supposed to be transferred back to the Housing Division before Mr. Mirchandani was appointed as the Chairman. (see 9/10/13 e-mails between David Heath, a NAHAC board member, and CFO of the Housing Division, and Tiffany Williamson, attached as Exhibit 29).

Following these correspondences, Mr. Mirchandani believed the situation was resolved. Thereafter, he was unaware the account still existed. Ms. Pritchard knew of the account, because she was directed to assist the external auditor (Grant Thornton) to reconcile all NSB accounts as part of the 2013 external audit of NAHAC. However, Ms. Pritchard never brought the account's existence to the attention of Mr. Mirchandani or the Board.

Ms. Pritchard not only knew of the account, but also certified the work done on the reconciliation by proposing that Grant Thornton be paid an extra \$20K because of "all the extra work that went into the reconciliation." See Exhibit 30. Furthermore it should be noted that during Mr. Mirchandani's tenure he asked for compliance reports to be made a standing item at all board meetings, and instructed the compliance officer to bring all compliance matters directly to the Board's attention. None of the allegations raised in the RFO by the ethics commission were ever brought to the Board or shared with Mr. Mirchandani until the ethics commission served him with Pritchard's compliant.

Finally, it is important to note that:

- The mere existence of this account is not an ethics violation. There is no indication Mr. Mirchandani knew about or ever accessed the account; and

- If Mr. Mirchandani had known about the account, no formal disclosure would have been necessary, as NAHAC received or should have received monthly bank statements on all of their accounts, including this one. Clearly, as an organization, NAHAC knew about the existence of the account.

Conclusion

No ethics violations, either intentional or unintentional, were committed by Mr. Mirchandani. The complaint notes that 6 Nevada statutes may have been violated:

- NRS 281A.020(1)
- NRS 281A.400(2)
- NRS 281A.400(4)
- NRS 281A.400(5)
- NRS 281A.400(7); and
- NRS 281A.400(9)

To establish that a violation occurred, most of these statutes require that Mr. Mirchandani's conduct benefitted a significant personal or pecuniary interest. The statute defines "pecuniary interest" as "any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including, without limitation: (1) Anything of economic value; and (2) Payments or other money which a person is owed or otherwise entitled to by virtue of any statute, regulation, code, ordinance or contract or other agreement."

Mr. Mirchandani had no pecuniary interest in NAHAC or HMN. He donated hundreds of hours of time with no compensation; not because of a personal interest in these organizations, but because he was directed to do so by his supervisor, Bruce Breslow.

Evidence clearly shows that Mr. Mirchandani never violated any of these statutes. Upon information and belief, the ethics complaint made against Mr. Mirchandani was made in bad faith by NAHAC's compliance officer, as revenge for perceived slights to Ms. Bravo Pritchard, Gina Breslow and Stephanie Sharp. See Exhibit 31 (a complaint filed by Nedra Wilson to the Consumer Affairs Unit of B&I, detailing statements Ms. Bravo Pritchard made to that effect).

Ms. Pritchard apparently believed that Mr. Mirchandani deliberately blocked her from being hired to a more lucrative position, and was angry about Mr. Mirchandani's handling of Stephanie Sharp. (When Mr. Mirchandani was appointed as Chair of NAHAC, Ms. Sharp was serving as both a board member and outside counsel. Mr. Mirchandani forced her to choose between those roles. Ms. Sharp chose to remain as outside counsel because it was a paid position. Thereafter, Mr. Mirchandani systematically reduced NAHAC's administrative costs and overhead, including unnecessary legal fees; costing Ms. Sharp's firm tens of thousands of dollars). Mr. Mirchandani does not understand the inclusion of Mrs. Breslow, as he never made any accusations against her, and is making none against her at this time.

No violation of NRS 281A.020(1)

"A public office is a public trust and shall be held for the sole benefit of the people" and "A public officer must commit himself or herself to avoid conflicts between the private interests of the public officer and those of the general public."

There can be no violation, because there was no private interest on the part of Mr. Mirchandani. He was never compensated for his roles in NAHAC or HMN, and was only involved with them by virtue of his position at B&I (as required by HMN bylaws) and because he was ordered to take action by B&I Director Bruce Breslow.

In our initial meeting with the ethics commission, it was suggested that Mr. Mirchandani *did* have an interest in benefitting HMN, because of the personal recognition he would garner if the organization succeeded. That may be true. However, if that is the case, then Mr. Mirchandani's interests, and those of the public are not at odds. The success of HMN and the Home Retention program depended on two things: (1) bringing NAHAC into full compliance with UST guidelines, so that Nevada would not lose Hardest Hit Funds that were allocated to the state, and (2) helping the largest number of people possible to retain their homes. Thus, the best way to serve his own interests was for Mr. Mirchandani to serve the public's interests.

While it is true that Mr. Mirchandani encountered potential conflicts of interest between HMN and NAHAC, the evidence in this memorandum shows that he consistently disclosed the potential conflicts and recused himself from decisions where appropriate to maintain his neutrality. Mr. Mirchandani even stepped down from NAHAC's board on 7/23/14. On that basis, there is simply no evidence to support an allegation that he violated the statute.

No violation of NRS 281A.400(2)

This statute is presumably highlighted because of accusations that Mr. Mirchandani used his position as NAHAC's chair to benefit HMN or the HRP at the expense of other organizations/programs. The accusation is utterly without merit, and is unsupported by a scintilla of evidence.

As we have shown, the decision to fund the HRP was the legislature's; not Mr. Mirchandani's. Likewise, the decision to use HMN as the designated non-profit to receive funds from NAHAC was made by Bruce Breslow as Director of B&I *before* Mr. Mirchandani became directly involved with HMN. Mirchandani's assignment with regard to HMN was to support Bruce Breslow (HMN's president) in running the organization and to increase HMN's ability to manage the HRP *because the decision had already been made to send NAHAC funds to HMN*.

As discussed in this memorandum, no other non-profit organization ever presented itself to NAHAC to receive funds. Hence, the idea that Mr. Mirchandani directed NAHAC's resources away from other organizations to benefit HMN is preposterous.

The idea that the Home Retention Program was given preference over other programs by Mr. Mirchandani is also without merit. Money was spent as directed by the state legislature and UST. No funding was ever taken from any other program to benefit HRP. Conversely, it was Mirchandani who spearheaded the effort to remove millions of dollars from the Home Retention Program (HMN's only program) to be used elsewhere (in the Help at Last Program) by NAHAC.

Finally and most importantly, Mr. Mirchandani had no personal or pecuniary interest in HMN. As the evidence shows, he held a position on HMN's board only because he was the Deputy Director of B&I. Since Mr. Mirchandani never used his position to secure unwarranted privileges, preferences, exemptions, or advantages for himself or any business organization in which he held a significant pecuniary interest, there can be no violation.

No violation of NRS 281A.400(4)

"A public officer shall not accept any salary, retainer, augmentation, expense allowance, or other compensation from any private source for the performance of the public officer's or employee's duties as a public officer or employee."

No violation occurred because:

- Mr. Mirchandani never received compensation in any form for working at NAHAC or HMN. Any moneys he was paid were to reimburse him for actual costs incurred in the performance of his duties.
- If the commission decides that Mr. Mirchandani did receive compensation, there would still be no violation because all of NAHAC's funding came from the Hardest Hit Funds, provided to NAHAC by UST. Hence, the money was not from a "private source" as required by the statute.
 - If the ethics commission chooses to treat NAHAC and/or HMN as private organizations for the purpose of alleging that Mr. Mirchandani violated the statute, then there is still no violation, because Mr. Mirchandani's role in a private organization cannot be construed as part of his "duty as a public officer or employee."

No violation of NRS 281A.400(5)

The statute prohibits public officers from using information that is not available to the general public to further a significant pecuniary interest. Having thoroughly reviewed the Complaint against Mr. Mirchandani, we can find no factual allegations that, even if proven true, would substantiate a claim he violated NRS 281A.400(5)

No violation of NRS 281A.400(7)

Upon information and belief, this statute was highlighted because Mr. Mirchandani allegedly used government resources to obtain personal benefits, including a laptop computer, meals unrelated to NAHAC business, and travel (Core Logic).

The attached documentary evidence clearly shows that Mr. Mirchandani turned in the laptop computer upon leaving his position at NAHAC, that all meals billed to NAHAC occurred at meetings where NAHAC business was conducted, and that Mr. Mirchandani's attendance of the 2013 and 2014 Core Logic conferences was both appropriate and approved by the Board. Despite this, Mr. Mirchandani voluntarily reimbursed NAHAC for the entire cost of the 2014 Core Logic conference, thereby suffering a pecuniary loss in order to conduct NAHAC's business.

No violation of NRS 281A.400(9)

Statutory Language: "A public officer or employee shall not attempt to benefit a significant personal or pecuniary interest of the public officer or employee through the influence of a subordinate."

The complaint fails to allege sufficient facts to establish a violation. Presumably, the statute was highlighted in reference to the allegation that Mr. Mirchandani removed Ms. Bravo Pritchard and Ms. Sharp from the process of creating NAHAC's underwriting guidelines (to benefit HMN by circumventing UST directives).

No violation occurred because:

- Mr. Mirchandani had no personal or pecuniary interest in HMN. He was not paid for his work at either NAHAC or HMN. He held positions within those organizations solely because he was the Deputy Director of Business and Industry.
- There is no evidence that Mr. Mirchandani manipulated NAHAC's underwriting guidelines to benefit HMN.

- There is no evidence of any motive to benefit HMN. Removing Mr. Bravo Pritchard from the process of drafting the underwriting guidelines should not have had any impact on the contents, because Mr. Mirchandani specifically directed Underwriting to submit the proposed guidelines to Ms. Bravo Pritchard, so she could ensure compliance with UST directives. If the approved directives did not comply with UST guidelines, it is because Ms. Bravo Pritchard failed to raise any issues concerning compliance until she filed the ethics commission complaint against Mr. Mirchandani.

Please feel free to contact me at any time to answer remaining questions you may have, or to otherwise discuss the contents of this memorandum and/or the complaint. We look forward to meeting with you again after you have reviewed our response.

Respectfully,

John Wickett, Esq.
Vegas Valley Law, LLC
6130 Elton Avenue
Las Vegas, NV 89107
(702) 483-7008
John@MyLawyerLV.com

RFO No. 14-64C (Mirchandani)

Exhibits to the Response to the RFO
Have been Intentionally Omitted



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Ashok Mirchandani, Deputy Director,
Department of Business and Industry,
State of Nevada,

Request for Opinion No.: **14-64C**

Subject. /

NOTICE OF HEARING

PLEASE TAKE NOTICE, that the Nevada Commission on Ethics ("Commission") will consider a **Proposed Stipulated Agreement** regarding the allegations submitted in Third Party Request for Opinion No. 14-64C at the following time and location:

The Hearing Will Take Place:

Wednesday, July 15, 2015 at 10:00 a.m., or as soon thereafter as the Commission is able to hear the matter, at the following location:

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

If the Proposed Stipulated Agreement is approved, it will serve as the final Opinion in this matter. If the Proposed Stipulated Agreement is not approved, the Commission will issue an Amended Notice of Hearing setting the date, time and location for a hearing to consider the matter.

DATED: June 29, 2015

/s/ Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **NOTICE OF HEARING** in Request for Opinion **No. 14-64C**, via email and U.S. Mail, addressed to the parties and interested persons as follows:

John Wickett, Esq.
Chan Lengsavath, Esq.
Vegas Valley Law, LLC
6130 Elton Avenue
Las Vegas, NV 89107

Email: john@mylawyerlv.com
Email: chan@mylawyerlv.com

Attorneys for Subject

Madaline Bravo-Pritchard
Nevada Affordable Housing
Assistance Corporation
5485 Kietzke Lane
Reno, NV 89511

Email: mbravopritchard@nahac.org

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Jill C. Davis, Esq.
Associate Counsel
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703

Email: ynevarez@ethics.nv.gov

Email: jilldavis@ethics.nv.gov

Dated: June 29, 2015



Employee, Nevada Commission on Ethics

AGENDA ITEM NO. 5

AGENDA ITEM NO. 5

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input checked="" type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input checked="" type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here ☐ if additional pages are attached.

NAME and TITLE: (Person #1)	Paula Kerr, member Board of Directors, Fernley Swimming Pool		
ADDRESS:	545 WEDGE PKWY	CITY, STATE, ZIP	Fernley, NV 89408
TELEPHONE:	Work: 775-575-9457	Other: (Home, cell)	E-MAIL: pmkerr@sbcglobal.net
NATURE OF TESTIMONY:	Paula brought the Memorandum from Stephen Rye, District Attorney, to the meeting. She talked to Paul Murphy and Jann VanHorn before the meeting about this and informed both that she intended to bring it up if Mr. Murphy insisted on making a presentation. She had been in contact with Christie Reeder, Lyon County Human Resources, during the preceeding week for guidance. Ms. Reeder also sent Paula an email regarding Mr. Murphy's position. During the meeting, she tried to make this information known and make him see he was out of line.		

NAME and TITLE: (Person #2)	Mike Freeman		
ADDRESS:	1644 Sierra Highlands	CITY, STATE, ZIP	Reno, NV 89423
TELEPHONE:	Work: 775-575-2121	Other: (Home, cell) 775-901-1677	E-MAIL: fernleypool@sbcglobal.net
NATURE OF TESTIMONY:	Mike is the Pool Facility Director. He was seated next to me at the meeting. He would be able to tell about the exchange of emails concerning the Agenda before the meeting. He is responsible for the employees whose positions would be changed by the proposals Mr. Murphy forwarded. He had prepared rebuttal. Mike is a very level-headed person who was prepared to give precise information as to the current budget, employees responsibilities and scheduling. He had copies of all documents Paula and I brought to the meeting.		

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) _____.

7. REQUESTER'S INFORMATION:

YOUR NAME:	Martha J. Hanna		
YOUR ADDRESS:	1516 Tee Court	CITY, STATE, ZIP:	Fernley, NV 89408
YOUR TELEPHONE:	Day: 775-741-9630 Evening: 775-835-6663	E-MAIL:	mh1516t@gmail.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

Martha J. Hanna
Signature:

1/27/2015
Date:

MARTHA J. HANNA
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.
NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

RECEIVED

FEB 02 2015

COMMISSION
ON ETHICS

Martha J. Hanna
1516 Tee Court
Fernley, Nevada 89408

January 26, 2015

Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703

To Whom It May Concern:

Earlier this afternoon, I mailed a packet containing an Third-Party Request for Opinion on a suspected violation by Paul Murphy. I realized that an introductory letter had not been included.

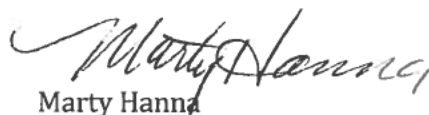
I am a newly re-elected member of the Fernley Swimming Pool Board with a total of six years to date. My current position is Recording Secretary. When a Board works together, great things can happen. There's an issue now, though, that reason and legal opinion hasn't been able to fix. The issue is causing a big problem with the integrity of the Board.

This filing is not being made in the name of the Pool Board. Paula Kerr, another Board member, and I feel this is the only response available to deal with an untenable situation. Paula is currently on vacation and won't be available until February 15th.

Paul Murphy made the decision to run for the open Board position and he campaigned believing that he was not involved in a conflict of interest. His first Board meeting showed his lack of interest in understanding the difficulty of his position. As a result, the whole Board came across as unprofessional and fractured.

I respect my position and the responsibility the public has given me. I respect the law. I want only what is best for the Pool, as does Paula. We're both hoping this will give a definitive answer to this conflict. We both feel that there is still room for Paul Murphy to be a contributing member of the Board, with limits.

Yours truly,


Marty Hanna

NEVADA COMMISSION ON ETHICS THIRD-PARTY REQUEST FOR OPINION

Re: Paul Murphy

Item 2

Paul Murphy won election in November, 2014, to the Fernley Swimming Pool Board.

To give a little history, Mr. Murphy is married to a supervisor at the Pool, Jennifer Murphy. He used to be a life guard, also. Two years ago, he went to Dena Lopez, who was the Facility Director until last fall, to ask for a Lifeguard job again. He was not hired because Dena felt it would lead to a conflict with his wife being a supervisor. That seemed to be a triggering event. Since that time, Jennifer Murphy has filed three formal discrimination accusations against Dena. The Board handled each case by hiring an outside investigator. There was, no "finding" in any case.

Dena Lopez has since stepped away from the position of Facility Director and is now the Senior Supervisor over all lifeguards.

Mr. Murphy's first meeting as a Board member was January 20, 2015. He requested three items be put on the agenda, two of which involved Pool personnel. When the Facility Director sent the "proposed" (attachment #1) agenda to the Board for approval, both Paula Kerr and I felt there was going to be "conflict of interest" issues.

Paula contacted Christie Reeder (attachment #2), Lyon County Human Resources director. Christie is familiar with Jennifer Murphy's history and our concern for her new access to the Board. Mrs. Murphy had been disciplined for contacting another Board member, (Bill Riesen). She'd given him inside and questionable information to undermine Dena Lopez when she was the Facility Director.

Christie wrote an email (attachment #3) explaining how Paul would have to handle those agenda items effecting his wife.

Both Paula and I felt it would be helpful to have an authoritative presence at the meeting. We knew we would be in a minority position. We contacted Christie Reeder, Josh Foli, Lyon County Comptroller, Brendt, PoolPact attorney, and Wayne Carlson, PoolPact, to find someone available to come to the meeting. No one was available on such short notice.

Josh Foli, though, asked Steve Rye, Lyon County District Attorney to write an opinion (attachment #4) in order to give the Board guidance. Christie Reeder, also, sent another email with guidance (attachment #5.)

About 30 minutes before the meeting, Paula Kerr talked to Board member, Jann VanHorn and Paul Murphy about the potential for a "conflict of interest." Paul Murphy expressed his opinion that the Ethics guidelines didn't apply to him in this situation. I came in at the end of that discussion and gave Paul a copy of Steve Rye's letter, a copy of Christie Reeder's second email and pages 16-22 of

the 2014 Ethics in Government Manual for Nevada Public Officers and Public Employees: NRS281A (attachment #6). Parts that apply to Paul's situation had been underlines. He made copies of the handouts and gave those to the other Board members.

The meeting progressed and Jann VanHorn was elected the new Board Chairman. (As another footnote, Jann VanHorn was the Facility Director until the Board terminated her and Dena Lopez was hired to replace her.)

Agenda items Paul Murphy should have stepped away from:

Item 7: Possible action to review first draft of the revised Duties and Responsibilities for the Fernley Swimming Pool Board. This item was tabled until February with little discussion.

Item 9: a proposal to "restructure the current job classifications: elimination of the Cashier, Senior Supervisor, and Office Assistant classifications". I brought up the conflict of interest. Paul said it didn't apply to him and that Paula and I were out of line to ask for outside opinions that would keep him from doing what he said he'd do when he was campaigning. He started to proceed with his presentation. I again interrupted and asked the Chairman, Jann Vanhorn, if I could read into the minutes, the portion of the ethics law that was being violated. She would not allow me to read it. She said she was going to allow Paul to make his presentation but not allow any discussion. I reminded her that Paul was not even allowed to do that under the ethics law. Again, she said she would allow him to go forward.

Paul wants to eliminate the Senior Supervisor position currently held by Dena Lopez, and that of Office Assistant currently held by a woman Dena hired.

Item 10: Implementation of a certification incentive program for District staff. Again, Jann allowed Paul to make his presentation, but no discussion.

Paula Kerr and I are surrounded by three other Board members who want to have direct control over the Pool staff. Their main objective remains firing Dena Lopez and advancing Jennifer Murphy. Their aim is very thinly veiled. They may have the votes to change the direction of the Pool Board, and remove Dena Lopez, but Mr. Paul Murphy has to follow the law while he does it.

The new Board Chairman, Jann VanHorn, has a law degree, but was not inclined to use her expertise to take control of the meeting.



300 Cottonwood Lane
Fernley, NV 89408

Board of Trustees

Paula Kerr
Marty Hanna
Jann Van Horn
Bill Riesen
Paul Murphy

**Fernley Swimming Pool District
Regular Meeting**

Fernley Swimming Pool, Multi-Purpose Room
300 Cottonwood Lane, Fernley, Nevada 89408

AGENDA

Tuesday, January 20th, 2015, 3:00pm

Items may be taken out of order. Two or more agenda items may be combined for consideration. Agenda items may be removed or may be delayed at any time. All items are action items unless otherwise noted.

3:00p.m. – Opening of Meeting: Pledge of Allegiance

Chairperson's Statement: *To avoid meeting disruptions please place cell phones & beepers in silent mode or turn them off during the meeting. All meetings are recorded. When addressing the Board, please speak clearly into the microphone. Thank you for your understanding.*

- 1. Roll Call**
- 2. Public Input**

Members of the public are permitted to speak at this time. Speakers are asked to come to the podium and are limited to five minutes per person. Please speak clearly into the microphone, state your name for the record and kindly print your name on the sign-in log sheet at the podium. Items not on the agenda for this meeting cannot be acted upon, but may be placed on future agendas.

Notice: Reasonable efforts will be made to accommodate people with physical disabilities. If you need any special assistance, please call 575-2121 at least 24 hours in advance.

- 3. Reports**

This item is for Board Members, the Facility Director and various public entity representatives to provide general information to the Board and the public.

No Action Will Be Taken On This Item

4. Consent Agenda-

Items placed in this section are a matter of routine business, which are expected to involve little or no discussion by the Board or the public. The Consent Agenda is usually voted on in mass. However, if any Board Member or any member of the public so desires, individual items may be discussed and/or voted on as a separate matter of business. **Action may or may not be taken.**

4a. For Possible Action to approve minutes from December 15th, 2014 regular board meeting

4b. For Possible Action vouchers and bills.

5. For Possible Action Fernley Swimming Pool Board of Trustees election of officers.

6. For Possible Action to review shade awning options to put in the splash park area.

7. For Possible Action to review first draft of the revised Duties and Responsibilities for the Fernley Swimming Pool Board.

8. For Possible Action for the Fernley Swimming Pool to retain an attorney.

9. For Possible Action to restructure the current job classifications: elimination of the Cashier, Senior Supervisor, and Office Assistant classifications. Introduced by Board Member Murphy.

10. For Possible Action to implement a certification incentive program for District staff. Introduced by Board Member Murphy.

11. For Possible Action to purchase a new updated Automatic External Defibrillator (AED). Introduced by Board Member Murphy.

12. For Possible Action to eliminate all Open Swim and Lap Swim fees for Fernley Residents. To implement a resident membership program.

13. Discussion and Consideration time and date of a Board Governance Training with Wayne Carlson of Pool/Pact, currently scheduled for Wednesday, February 11th from 3pm – 5pm. **(No action will be taken on this item)**

14. For Possible Action determine Dates, Times, and Location for Fernley Swimming Pool Board of Trustees regular meetings for the 2015 calendar year.

15. Public Input

16. Discussion and Consideration of Future Agenda Items

17. Adjournment

Certificate of Posting

I Mike Freeman, Fernley Swimming Pool Facility Director, do hereby certify that I posted, or caused to be posted, a copy of this agenda in accordance with NRS 241.020 at the following locations on or before January 14th, 2015 before 9:00 am at Fernley Swimming Pool, Fernley City Center, Post Office, and Fernley Justice Court. To obtain supporting material for this agenda please contact the Facility Directors Office inside the Fernley Swimming Pool or call 775-575-2717

Reasonable efforts will be made to accommodate people with physical handicaps. Please call in advance if you need any special assistance.

Lyon County Nevada

775-463-6510

#2

From: Paula [mailto:pmkerr@sbcglobal.net]
Sent: Thursday, January 08, 2015 12:21 PM
To: Christie Reeder
Subject: next board meeting

Our next board meeting is Jan 20 at the pool. I would love to talk with you about the issues in the attached letter. Like who we would contact about the problems that will be coming up. I am sure I am not going to be chairman as I am a minority with the new board.

Let me know if you can be there and maybe we can meet before or after.

Paula Kerr

CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is also legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is prohibited. If you have received this transmission in error, please immediately notify the sender and immediately destroy the original transmission and its attachments without reading or saving in any manner. Thank you.



Marty Hanna <mh1516t@gmail.com>

FW: next board meeting

1 message

Paula <pmkerr@sbcglobal.net>
To: mh1516t@gmail.com

Fri, Jan 9, 2015 at 12:40 PM

Is this enough to get us thru a meeting or two? I can call the DA General if you think it is needed. We have to wait to see if Jann and Bill have anything ready for discussion as they were working on the manuals. We definitely need something in the guidelines about board members going to the pool, giving permission to employees etc. and telling Mike how to do his job.

From: Christie Reeder [mailto:creeder@lyon-county.org]
Sent: Friday, January 09, 2015 10:03 AM
To: Paula
Subject: RE: next board meeting

Hello Paula and Happy New Year,

The short answer: the new board member must abstain on voting on specific matters (this also means removing himself physically from the board area when the agenda item comes up). He does not need to leave the room, but he also then cannot speak as a public participant. Examples of topics for which he must abstain:

- Budget approval – since his wife is one of the employees, it is a direct conflict to make recommendations and vote. He may attend and participate in discussion, but not in recommendations or voting.
- Performance reviews, discipline, terminations, etc. in regards to his wife. In this area he cannot even participate in discussion as this is a direct conflict.

You will need to contact George Taylor, Sr. Deputy Attorney General at 775-684-1230 to get a formal statement if needed. Explain your situation and ask for list of conflicts or get a statement on the AG's office standing in regards to what constitutes a conflict (it is not clear/explicit in the OML Guide).

I will not be able to attend the Jan 20th meeting as we are in the midst of implementing new accounting software and I am booked solid through February. If you cannot obtain the information you need from the AG's office, let me know.

—
Christie Reeder, HR

#2

STEPHEN B. RYE
District Attorney



<http://www.lyon-county.org>

JEREMY REICHENBERG
Chief Deputy District Attorney

**OFFICE OF THE DISTRICT ATTORNEY
LYON COUNTY**

801 OVERLAND LOOP, SUITE 308
DAYTON, NEVADA 89403
Phone: (775) 246-6130
Fax: (775) 246-6132

31 SOUTH MAIN STREET
YERINGTON, NEVADA 89447
Phone: (775) 463-6511
Fax: (775) 463-6516

565 EAST MAIN STREET
FERNLEY, NEVADA 89408
Phone: (775) 575-3353
Fax: (775) 575-3358

MEMORANDUM

Date: January 16, 2015

To: Josh Foli, Lyon County Comptroller
Christie Reeder, Human Resources Director

From: Stephen B. Rye, District Attorney

Re: Fernley Swimming Pool Meeting – January 20, 2015

You have forwarded this office some information regarding the Fernley Swimming Pool Board's consideration of a reorganization item and elimination of positions scheduled for the meeting on January 20, 2015. As I understand, the wife of Board Member Paul Murphy works for the Pool. There is some indication that Mr. Murphy requested that this item be placed on the agenda. Lyon County, as service provider for HR Matters and financial matters, has some concerns with the issue.

Please be advised that this recommendation is based upon the limited information we have in regards to this matter. In the event that additional information becomes available, please let me know.

Generally, when a matter comes before a public officer that affects a person to whom the public officer has a commitment in a private capacity, that conflict must be disclosed. A spouse is a person to which a public officer has a commitment in a private capacity. NRS 281A.420(1) prohibits a public officer or employee from acting to approve, disapprove, vote, abstain from voting or otherwise act upon a matter which would reasonably be affected by the public officer's commitment in a private capacity to the interests of another person, unless the public officer discloses sufficient information concerning the commitment to put the public on notice of the

potential effect of the action or abstention upon the person to whom the public officer has a commitment in a private capacity.

In addition to disclosure, a public officer must abstain from voting on or advocating the passage or failure of a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's commitment in a private capacity to the interests of another person. If the decision could or might impact the employment of the board member's spouse, even if remotely, it is my opinion that abstention is the proper action for that board member.

Please understand that I do not have any specific information on the reorganization or any information that this matter will involve Mr. Murphy, or that he intends to vote or participate in this agenda item. This memo only addresses some of the issues that have been raised in regards to this particular agenda item.

You have also asked whether a reorganization and elimination of positions should be undertaken if it is done for other than financial means. You are correct that this may create liability or personnel issues. Since you do not have sufficient information to evaluate the matter, taking such action may result in potential liability to the District. For that reason, I would advise that the Board table or not consider the matter until such time as the Comptroller can review the reasons, justification and plan, and report to the Board, at which time the Board would be able to make an informed decision, taking into account any potential employee liability or personnel issues which may arise from the proposed action.

In summary, if the action involves Board Member Murphy's spouse, even remotely, it is my recommendation that he disclose in a public meeting and abstain from voting or participation. I would also recommend that the Board delay action until the Comptroller and HR can advise on the potential liability issues associated with possible reorganization or elimination of positions.

Please feel free to contact me if you have additional questions.

Paula <pmkerr@sbcglobal.net>
To: mh1516t@gmail.com

Thu, Jan 15, 2015 at 10:16 AM

#5

From: Christie Reeder [mailto:creeder@lyon-county.org]
Sent: Wednesday, January 14, 2015 8:53 PM
To: Paula
Subject: Re: FW: Proposed agenda 1/20/2014

Hello Paula,

1. Board members are able to put items on the agenda. With an item on the agenda, the board member will need to have rationale and supportive documentation for the proposed changes. (e.g., if an item is placed on the agenda that requests position eliminations, there must be some sort of justification and therefore documentation such as "budget savings to offset revenue losses." Eliminating positions is serious and if not properly conducted, can lead to EEOC claims, lawsuits and in almost all cases, payment of unemployment claims. No board member has contacted myself or Josh Foli to discuss the pool budget or proper procedures in evaluating position eliminations.
2. In regards to one proposed position elimination, the Senior Supervisor, is a direct conflict to his relationship with his wife as she reports to the Senior Supervisor. He must abstain from discussion and voting on this agenda item. Generally, the board has left the management of the pool to the director. Is Mike proposing these position eliminations? This is a potential ethics violation for the new board member and you do not have to wait until the improper actions are taken to contact the AG's office.
3. As Chairperson, you have the right to question each of the agenda items to keep the board in good ethics standing and to instruct other board members on proper protocols.
4. You may want to inform your new board member that he can be personally liable for adverse actions he initiates as a board member. As a public official, he is not exempt from personal lawsuits, EEOC claims or ethics investigations on his conduct by the Attorney General's office.

I have a call into Pool/Pact on these matters and will follow up as soon as I hear back...

—

Christie Reeder, Director
Lyon County Human Resources
27 South Main Street
Yerington, NV 89447
775-463-6510 x1420

3) the administration of laws and rules of the State or any political subdivision.

The following persons are expressly not public officers:

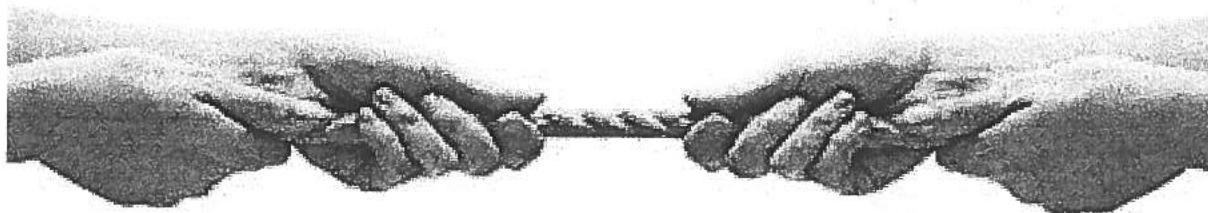
- Any justice, judge or other officer of the court system;
- Any member of a board, commission or other body whose function is purely advisory;
- Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or
- A county health officer appointed pursuant to NRS 439.290.

"Public employee" means any person who performs public duties under the direction and control of a public officer for compensation paid by the State or any county, city or other political subdivision. NRS 281A.150. Public employees may work for improvement districts or school districts, be temporary or seasonal, and be paid by the hour or salaried.

WHAT CONDUCT IMPLICATES THE ETHICS LAWS?

CONFLICTS OF INTEREST

To recognize a conflict of interest when it arises, public officers and employees must be aware of matters affecting circumstances or persons with whom they have entered into a loan as a borrower or a lender; from whom they have received a gift; persons or entities or issues with which they have a significant pecuniary (financial) interest, and persons to whom they have a commitment in a private capacity to that person's interests.



NRS 281A.065 defines "commitment in a private capacity" with respect to the interests of another person, to mean a commitment, interest or relationship of a public officer or employee:

1. to their spouse or domestic partner
2. to a member of their household (NRS 281A.100 "Household" means an association of persons who live in the same home or dwelling and who are related by blood, adoption, marriage or domestic partnership.)
3. to a family member or in-law related by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;
4. to the employer of the public officer or employee, or the employer of the spouse, domestic partner or a member of the household of the public officer or employee;
5. to a person with whom the public officer or employee has a substantial and continuing business relationship; or
6. to anyone with whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in 1 to 5 above.

DISCLOSURE AND ABSTENTION

Generally, when a matter comes before a public officer that affects a gift or a loan, a significant pecuniary interest or a person to whom the public officer has a commitment in a private capacity, that conflict must be disclosed. NRS 281A.420(1) prohibits a public officer or employee from acting to approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

- (a) Regarding which the public officer or employee has accepted a gift or loan;
- (b) In which the public officer or employee has a significant pecuniary interest; or
- (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person,

unless the public officer must disclose sufficient information concerning the gift, loan, interest or commitment to put the public on notice of the potential effect of the action or abstention upon the person who provided the gift or



loan upon the public officer's or employee's significant pecuniary interest, or upon the person to whom the public officer or employee has a commitment in a private capacity. The disclosure must be made publicly at the time the matter is considered.

In addition to disclosure, a public officer must abstain from voting on or advocating the passage or failure of a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

- (a) the public officer's acceptance of a gift or loan;
- (b) the public officer's significant pecuniary interest; or
- (c) the public officer's commitment in a private capacity to the interests of another person.

The Commission has developed a guide to disclosure and abstention.

WHEN YOU THINK YOU MAY HAVE A CONFLICT OF INTEREST AT A PUBLIC MEETING, ASK YOURSELF THE FOLLOWING QUESTIONS TO DETERMINE WHETHER TO DISCLOSE THE CONFLICT OR BOTH DISCLOSE AND ABSTAIN FROM PARTICIPATING.

DOES THE MATTER BEFORE ME HAVE TO DO WITH:

MY ACCEPTANCE OF A GIFT OR A LOAN?

MY SIGNIFICANT PECUNIARY (economic) INTEREST?

THE INTERESTS OF A PERSON TO WHOM I HAVE A COMMITMENT IN A

PRIVATE CAPACITY? That's defined as a commitment, interest or relationship with a person:

- 1. who is the spouse or domestic partner of the public officer or employee;
- 2. who is a member of the household of the public officer or employee;
- 3. who is related to the public officer or employee, or to the spouse or domestic partner of that person, by blood, adoption, marriage or domestic partnership within the third degree;
- 4. who employs the public officer or employee, the spouse or domestic partner of that person or a member of the household of the public officer or employee;
- 5. with whom the public officer or employee has a substantial and continuing business relationship; or

6. with whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described above.

If my answer to any of the above is YES, then, when the matter is being considered,

1. I must disclose, on the record, sufficient information to fully inform or put the public on notice of the potential effect of my acting or abstaining on the matter due to my conflict of interest. My disclosure must describe the nature and extent of the relationship that is the source of the conflict.

AND

2. I must abstain only in a clear case where the independence of judgment of a reasonable person in my situation would be materially affected by the conflict just disclosed. I should undertake the abstention analysis on the record immediately after I state my disclosure.

* * *

WHAT YOU MIGHT SAY: "Mr./Madam Chair, NRS 281A.420 requires me to disclose a conflict of interest. The matter before this body affects my acceptance of a gift or loan / my pecuniary interest / my commitment in a private capacity to the interests of Mrs. Foster, my foster mother. (Next, you must take time to describe the potential conflict between your interest and the matter before the body or board on which you serve.) Ms. Foster's doughnut business will be financially enhanced if we approve building the new police station next door to her shop, and she will likely face financial ruin if we don't. Ms. Foster is everything to me even if she isn't my biological mother. She raised me in her home from age 3 until I turned 19. Our relationship is substantially similar to a blood relation, probably closer, so I conclude that the independence of judgment of a reasonable person in my situation would / would not be materially affected by this relationship, and because this is / is not a clear case of a disqualifying conflict of interest, I am going to be voting / abstaining from voting in this matter." (If you decide to abstain, you must refrain from advocating for or against the matter in any way.)

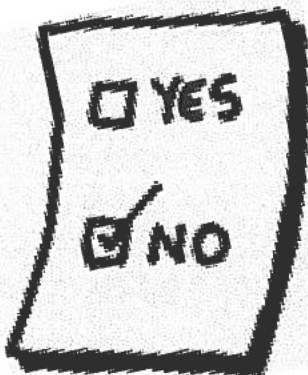
REMEMBER, YOU MAY DISCLOSE EVEN AN APPEARANCE OF IMPROPRIETY, THOUGH YOU ARE NOT REQUIRED TO DO SO. THIS TYPE OF DISCLOSURE ASSISTS IN YOUR DUTY TO AVOID CONFLICTS OF INTEREST AND TO ENHANCE AND MAINTAIN THE PUBLIC TRUST. SEE NRS 281A.020.

If the public officer is a member of a body which makes decisions, the disclosure must be made in public to the chair and other members of the body. If the public officer is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of his or her organization or, if the public officer holds an elective office, to the general public in the area from which he or she is elected.

Public officers need not disclose campaign contributions or contributions to a legal defense fund that were reported pursuant to the statutes relevant to those gifts.

In addition to the disclosure and abstention requirements, a public officer who will be abstaining from participating may not advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by a gift or loan; a significant pecuniary interest; or a commitment in a private capacity to the interests of another person.

It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by a conflict of interest where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of another person, accruing to the other person, is not greater than that accruing to any other member of any general business, profession, occupation or group affected by the matter.



Appropriate weight and proper deference must be given to the public policy of this State which favors the right of a public officer to perform the duties of elected or appointed office, including the duty to vote or otherwise act upon a matter, provided the public officer has properly disclosed the acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity in the manner required.

"Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the disclosure and abstention restrictions are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person." NRS 281A.420.

Except as otherwise provided in the Open Meeting Law, if a public officer will abstain from voting because of the Ethics Law, the quorum needed and the number of votes necessary to act upon the matter is reduced as though the member abstaining were not a member of the body or committee.

A State Legislator's disclosure and abstention obligations are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the Legislature under the authority of the Nevada Constitution.

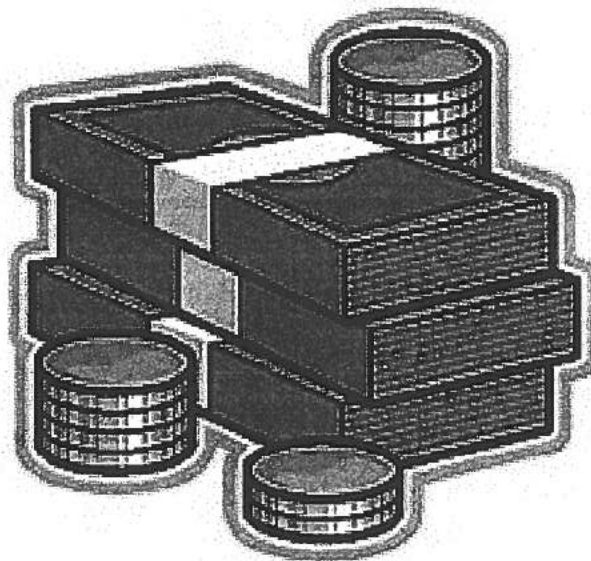
PROHIBITED CONDUCT

NRS 281A.400 outlines a variety of acts that public officers and employees are prohibited from undertaking. The first 10 items of prohibited conduct may be found in NRS 281A.400, while several others appear throughout the statutes.



1. *Gifts that Tend to Improperly Influence Decision-making* - A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of his or her public duties.

2. *Unwarranted advantage* - A public officer or employee may not use his or her position in government to secure or grant an unwarranted privilege, preference, exemption or advantage for himself or herself, any business entity in which he or she has a significant pecuniary interest, or any person to whom he or she has a commitment in a private capacity to the interests of that person. In this subsection, "unwarranted" means without justification or adequate reason.



3. *Self-Dealing* - A public officer or employee is prohibited from participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he or she has a significant pecuniary interest is prohibited.

4. *Extra Compensation* - A public officer or employee may not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his or her public duties.

5. *Using non-public information* - If, through his or her public duties or relationships, a public officer or employee acquires any information which is not publicly available at the time, he or she may not use that information to further a significant pecuniary interest.



NOTE: A public officer or employee may use data or other information for non-governmental purposes if it is lawfully obtained from a governmental agency and is available to members of the general public.

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JURISDICTIONAL DETERMINATION

RFO NO.: 15-02	NAME: Paul Murphy
DATE REC'D: 1/29/15	POSITION: Member, Board of Directors, Fernley Swimming Pool, GID

The complaint was received ☒ **IN PROPER FORM** or ☐ **NOT IN PROPER FORM.**

If "not in proper form" state reason:

☐ Does not include appropriate amount of copies. ☐ Not on NCOE form

DETERMINATION BY EXECUTIVE DIRECTOR:

ALLEGATIONS:

The RFO alleges that the Subject, Mr. Murphy, violated various provisions of NRS 281A through the use of his position as a member of the Fernley Pool GID Board. His spouse (a person to whom Mr. Murphy has a commitment under NRS 281A.065) is an employee of the Pool District, and it is alleged that Mr. Murphy has included and presented various meeting agenda items regarding restructuring of pool personnel in a manner that will benefit his spouse's employment, and potentially his own financial interests (spouse's income/community property state). The RFO further alleges that Mr. Murphy acted despite the conflict of his private interests, despite advice and representation from the County and GID that the issues would create a conflict of interest for him.

Under NAC 281A.400, sufficient credible evidence has been provided with the RFO to support the allegations, including the meeting agenda, various memos from County and GID staff related to the alleged conflicts and how to properly avoid such conflicts. The RFO also provides the names of various witnesses who have knowledge of the facts and circumstances and who will provide testimony.

<input type="checkbox"/>	IS public employee as defined in NRS 281A.150	
<input type="checkbox"/>	IS NOT public employee as defined in NRS 281A.150	
<input checked="" type="checkbox"/>	IS a public officer as defined in NRS 281A.160	
<input type="checkbox"/>	IS NOT a public officer as defined in NRS 281A.160	
<input checked="" type="checkbox"/>	Complaint DOES contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	
<input type="checkbox"/>	Complaint DOES NOT contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	

JURISDICTIONAL DETERMINATION

Alleged Statute Violation	Behavior alleged/credible evidence provided to support claim:
NRS 281A. 020(1)	Failing to avoid conflicts involving spouse's private interests
NRS 281A. 400(2)	using position to influence personnel decisions affecting spouse
NRS 281A. 400(5)	using information available to him from employees and spouse
NRS 281A. 400(6)	Suppressing/the memorandum from County/GID staff re: conflict of interest
NRS 281A. 420(1)(3)	presenting agenda item and advocating for approval without disclosing
Other:	evidence: agenda, witness testimony, emails and memo on conflict

Based upon the foregoing analysis, I have determined that the Commission ☒ **DOES** or ☐ **DOES NOT** have the jurisdiction to accept the RFO and the evidence required to take appropriate action regarding NRS 281A. see above

Dated: 2/11/15

/s/ Yvonne M. Nevarez-Goodson
Executive Director

COMMISSION COUNSEL REVIEW:

☒ **DO CONCUR** or ☐ **DO NOT CONCUR**

Associate Counsel- The RFO involves the Fernley Swimming Pool District Board. Paul Murphy (Paul), the subject, is on the Board of the Pool District, and his wife works for the pool district. Pursuant to NRS 281A.065 Paul has a commitment in a private capacity to his wife. On the January 20, 2015 Agenda, numerous items would have a possible impact on his wife and her employment with the Pool District. The minutes are not currently available for this meeting, however the issues placed on the Agenda appear to trigger the Ethics Law based upon Paul's commitment in a private capacity to his wife and her employment. The Requester is a fellow board member and provides a narrative regarding Paul's lack of disclosure and abstention, and possible benefit to his wife on the issues.

The Requester provides witness names of those with first-hand knowledge about the alleged conduct and indicates that those individuals will testify about certain information and hold documents relevant to the investigation. The noted witness testimony is reliable evidence to support the allegations as defined by NAC 281A.400.

Additionally, evidence was submitted that regarding the potential conflicts of interest through a memorandum from the District Attorney, and emails regarding the potential conflict.

(note -see RFOs 15-07 and 15-08)

Dated: 2/3/2015

Jill Davis, Associate Counsel
Commission Counsel



**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

February 19, 2015

Paul Murphy, Member
Board of Directors
Fernley Swimming Pool District
300 Cottonwood Lane
Fernley, NV 89408

Re: Requests for Opinion Nos. 15-02C, 15-07C and 15-08C, regarding Paul Murphy, Member, Board of Directors, Fernley Swimming Pool District

Dear Mr. Murphy:

Enclosed you will find three (3) separate "Notice to Subject" documents enclosing three (3) different Third-Party Requests for Opinion, filed by three (3) different requesters. Please note that each of these Requests for Opinion is confidential and the Commission has not waived the confidentiality of any one to any of the other requesters, all of whom have been notified separately.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in blue ink that reads "Valerie Carter".

Valerie M. Carter
Executive Assistant



**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

Request for Opinion No. **15-02C**

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Paul Murphy, Member, Board of
Directors, Fernley Swimming Pool District
State of Nevada,

Subject. /

NOTICE TO SUBJECT OF REQUEST FOR OPINION

Pursuant to NRS 281A.440(2) and NAC 281A.410

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) received a Request for Opinion (RFO) alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes (NRS) Chapter 281A.010-281A.550, the Nevada Ethics in Government Law. Pursuant to NAC 281A.405, the Commission's Executive Director and Commission Counsel have determined that the RFO was properly filed and the Commission has jurisdiction to consider allegations implicating the following statutes. (See sections checked below)

✓	Statute	Essence of Statute:
✓	NRS 281A.020(1)	Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.
	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.
✓	NRS 281A.400(2)	Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, 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.
	NRS 281A.400(3)	Participating as government agent in negotiating or executing a contract between the government and a business entity in which he has a significant pecuniary interest.
	NRS 281A.400(4)	Accepting a salary, retainer, augmentation, expense allowance or other compensation from any private source for performing public duties.
✓	NRS 281A.400(5)	Acquiring, through public duties or relationships, information which by law or practice is not at the time available to people generally, and using it to further the pecuniary interests of self or other person or business entity.
✓	NRS 281A.400(6)	Suppressing governmental report or other document because it might tend to unfavorably affect pecuniary interests.

	NRS 281A.400(7)	Using government time, property, equipment or other resources for personal or financial interest. (Some exceptions apply.)
	NRS 281A.400(8)	State Legislator using government time, property, equipment or other facility for a nongovernment purpose or for the private benefit of himself or any other person, or having a legislative employee, on duty, perform personal services or assist in a private activity. (Some exceptions apply.)
	NRS 281A.400(9)	Attempting to benefit personal or financial interest by influencing a subordinate.
	NRS 281A.400(10)	Seeking other employment or contracts through official position.
	NRS 281A.410	Failing to file a disclosure of representation and counseling a private person before public agency for compensation.
√	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest for which disclosure is required.
√	NRS 281A.420(3)	Acting on a matter in which abstention was required.
	NRS 281A.430	Engaging in contracts in which the Subject has an interest.
	NRS 281A.500	Failing to timely file an ethical acknowledgment.
	NRS 281A.510	Accepting an improper honorarium.
	NRS 281A.520	Causing a government entity to support or oppose a ballot question or candidate.

A copy of the RFO is attached. You may also find the relevant provisions of NRS and NAC, including newly Adopted Regulations, LCB File No. R048-14 ("R048-14"), and a searchable database of Commission Opinions on the Commission's website at www.ethics.nv.gov.

Pursuant to NAC 281A.405 (as amended by R048-14), you may submit a request in writing to the office of the Commission not later than **10 days** from receipt of this notice for the Commission to review this jurisdictional determination. If you appeal the determination, the Requester will be provided an opportunity to respond and you will be notified of the date set for the Commission's review and final determination of jurisdiction. With no appeal of jurisdiction, the Commission will accept jurisdiction and initiate its investigation of this matter.

Upon the Commission's acceptance of jurisdiction, pursuant to NRS 281A.440(3), you may submit a written response to these allegations within **30 days** of receipt of this notice. A lack of response on your part is not deemed an admission that the allegations are true.

Pursuant to NRS 281A.440(3) through (6), the Commission's process is as follows:

1. Within 70 days after the Commission's acceptance of jurisdiction (unless the statutory timelines are waived), the Executive Director investigates the allegations and makes a written recommendation to a two-Commission-member investigatory panel whether just and sufficient cause is present for the full Commission to render an opinion in the matter.

2. Within 15 days after the Executive Director provides a written recommendation (unless the statutory timelines are waived), the investigatory panel considers the RFO and related materials and makes a final determination regarding whether just and sufficient cause exists for the Commission to hold a public hearing and render an opinion.
3. If the investigatory panel determines that just and sufficient cause exists, within 60 days after the panel determination (unless the statutory timelines are waived), the Commission will conduct a public evidentiary hearing and render an opinion whether the public officer or employee's conduct violated provisions of the Ethics in Government Law.

You may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Swift resolution of the RFO is beneficial to all concerned; however, you may waive any or all deadlines set forth by statute or regulation in this matter. A waiver of statutory time is enclosed. Should you wish to request an extension of or waive any of the statutory deadlines, please complete the waiver and return it to the Commission's office as soon as possible.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO (and even the fact that it received the RFO) confidential until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion. However, the Commission has no authority to require the requester to do so. As a result, information may appear in the media. Rest assured that the Commission will not be the source of any public information until the investigatory panel has completed its review and has rendered its determination. You will be provided notice of the Panel Determination.

If you have any questions regarding this notice, please contact me at (775) 687-5469 or ynevarez@ethics.nv.gov.

Dated this 19th day of February, 2015.

/s/ Yvonne M. Nevarez-Goodson
Yvonne M. Nevarez-Goodson, Esq.
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject** addressed as follows:

Paul Murphy, Member
Board of Directors
Fernley Swimming Pool District
300 Cottonwood Lane
Fernley, NV 89408

Cert. Mail # 9171969009350037639218

Dated: 2/19/15

Valerie Carter
Employee, Nevada Commission on Ethics



**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

March 26, 2015

Paul Murphy, Member
Board of Trustees
Fernley Swimming Pool District
300 Cottonwood Lane
Fernley, NV 89408

Re: Requests for Opinion Nos. 15-02C, 15-07C and 15-08C ("RFOs"), regarding
Paul Murphy, Member, Board of Trustees, Fernley Swimming Pool District

Dear Mr. Murphy:

Enclosed is a *Notice Regarding Jurisdiction* issued by the Commission in each of the above referenced RFOs. Please note that these Requests for Opinions remain confidential and the Commission has not waived the confidentiality of any one to any of the other requesters, all of whom have been notified separately.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in blue ink, reading "Darci L. Hayden", with a long horizontal flourish extending to the right.

Darci L. Hayden
Senior Legal Researcher

/dh
Enclosures



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Paul Murphy, Member, Board of
Trustees, Fernley Swimming Pool District,
State of Nevada,

Request for Opinion No. **15-02C**

CONFIDENTIAL
Pursuant to NRS 281A.440(8)

Public Employee. /

NOTICE REGARDING JURISDICTION

The Nevada Commission on Ethics ("Commission") received a Third-Party Request for Opinion ("RFO") No. 15-02C on January 29, 2015 from Requester, Martha J. Hanna, alleging that certain actions taken by Paul Murphy, Vice-Chairman, Board of Trustees, Fernley Swimming Pool District ("Subject"), may have resulted in violations of Nevada's Ethics in Government Law (NRS 281A).

Pursuant to NAC 281A.405 and newly adopted Commission regulation R048-14, the Commission's staff ("Staff") determined that the RFOs were properly filed and the Commission has jurisdiction to investigate the allegations. On or about February 19, 2015, a *Notice to Subject* was issued.

Pursuant to NAC 281A.405, as amended, Subject was notified of his right to request a review of Staff's jurisdictional determination ("Appeal"). No appeal has been filed and the deadline for such filing has passed.

Therefore, pursuant to NRS 281A.440(3), PLEASE TAKE NOTICE that the Commission will now exercise its jurisdiction and initiate its investigation in RFO 15-02C. The Subject may file a written response to the RFO not later than 30 days after receipt of this Notice.

Date March 26, 2015

/s/ Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted via E mail and U.S. Postal Service, through the State of Nevada mailroom, a true and correct copy of the **Notice Regarding Jurisdiction in RFO No. 15-02C** addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Jill C. Davis, Esq.
Associate Counsel
704 W. Nye Lane, Suite 204
Carson City, NV 89704

Paul Murphy
Vice-Chairman
Board of Trustees
Fernley Swimming Pool District
300 Cottonwood Lane
Fernley, NV 89408

Martha J. Hanna
1516 Tee Court
Fernley, NV 89408

Date: March 26, 2015

Employee, Nevada Commission on Ethics

NEVADA ETHICS OPINION REQUEST

NEVADA COMMISSION ON ETHICS THIRD-PARTY REQUEST FOR OPINION

NRS 281A.440(2)

RECEIVED
FEB 09 2015
COMMISSION
ON ETHICS

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

NAME: (Last, First)	Murphy, Paul	TITLE OF PUBLIC OFFICE: (Position: e.g. city manager)	FSPD Vice Chairman
PUBLIC ENTITY: (Name of the entity employing this position: e.g. the City of XYZ)	Fernley Swimming Pool District		
ADDRESS: (Street number and name)	300 Cottonwood Ln	CITY, STATE, ZIP CODE	Fernley, NV 89408
TELEPHONE:	Work:	Other: (Home, cell) (775) 230-4729	E-MAIL: h2opolomurf@yahoo.com

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here ☒ if additional pages are attached.

At the January 20, 2015 meeting for the Fernley Swimming Pool Board, newly elected member, Paul Murphy, presented policy and employment changes that violate several NRS Codes pertaining to ethics of individuals in elected positions. These changes would give Paul Murphy's wife, Jennifer Murphy, unfair advantages as an employee of the Fernley Swimming Pool and would remove the positions of several other key employees with which Jennifer Murphy has had personal conflict. These employees are currently in supervisory roles over Jennifer Murphy. The proposal is to remove these 2 positions.
These allegations are presented and supported in the attached documentation, including a letter that was written prior to the meeting in hopes of warning the board against presenting such material. However, the board did not heed the warnings of the letter, nor did they listen to the advice from the District Attorney and HR Manager that this item should not be discussed.
Please see attached documentation on CD-ROM.

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body?
If yes, describe:

No

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input checked="" type="checkbox"/> NRS 281A.400(2)	Using 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.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input checked="" type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input checked="" type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here ☐ if additional pages are attached.

NAME and TITLE: (Person #1)		Karma Deaton	
ADDRESS:		1474 Grey Bluff Dr.	CITY, STATE, ZIP Fernley, NV 89408
TELEPHONE:		Work:	Other: (Home, cell) (775) 404-2489
		E-MAIL:	karmabird1979@hotmail.com
NATURE OF TESTIMONY:		Will attest to the fact that Paul Murphy presented and was in violation of these NRS codes at the Fernley Swimming Pool Board Meeting of January 20, 2015. Will also attest to the history between the Murphy and Lopez families that would lead Paul Murphy to seek the dismissal of Dena Lopez and Kathy McClellan from the Fernley Swimming Pool.	

NAME and TITLE: (Person #2)		Mark McClellan	
ADDRESS:		1700 Harvest Creek Way	CITY, STATE, ZIP Fernley, NV 89408
TELEPHONE:		Work:	Other: (Home, cell) (503)705-1097
		E-MAIL:	mwmcclellan@gmail.com
NATURE OF TESTIMONY:		Will attest to the fact that Paul Murphy presented and was in violation of these NRS codes at the Fernley Swimming Pool Board Meeting of January 20, 2015. Will also attest to the history between the Murphy and Lopez families that would lead Paul Murphy to seek the dismissal of Dena Lopez and Kathy McClellan from the Fernley Swimming Pool.	

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. [NAC 281A.435\(3\)](#) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

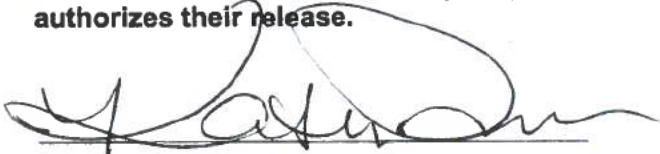
State the total number of additional pages attached (including evidence) 146 on CD.

7. REQUESTER'S INFORMATION:

YOUR NAME:	Kathy McClellan		
YOUR ADDRESS:	1700 Harvest Creek Way	CITY, STATE, ZIP:	Fernley, NV 89408
YOUR TELEPHONE:	Day:	Evening: (503) 705-1043	E-MAIL: mcclellan5192@gmail.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.


Signature:

2/5/15
Date:

Kathy D McClellan
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.
[NAC 281A.255\(3\)](#)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

January 28, 2015

Dear Sir or Madam,

Pertaining to the Fernley Swimming Pool Board Meeting of January 20, 2015:

It has come to the attention of several members of the public that there are multiple violations of NRS Statutes by some of the Fernley Swimming Pool Board Members as it concerns the employees of the Fernley Swimming Pool.

These violations are listed below, as are corresponding, documented facts concerning these violations.

Please take into consideration that there is a lot of history behind these facts that are undocumented, but still may have bearing on your decision in this matter. If you find the need to clarify or gain more understanding, you may contact the concerned parties and they should be happy to help in any way possible.

A list of the Documented Facts:

Fact 1: Over the past 2 years, Jennifer Murphy has made numerous personal and professional statements, complaints, and accusations against Dena Lopez and Kathy McClellan, which have been documented. It was never found that there was any credence to the statements and accusations made. (See Document Package #1 –Items are highlighted in yellow.)

Fact 2: Paul Murphy has also made statements, complaints, and accusations against Dena Lopez during Fernley Swimming Pool Board Meetings. These are documented as well. (See Document #2 – Items are highlighted in green.)

Fact 3: Jennifer Murphy currently works as a Supervisor at the Fernley Swimming Pool. Paul Murphy is newly appointed as a member of the Fernley Swimming Pool Board, which is a publically elected position. Paul Murphy and Jennifer Murphy are married.

Fact 4: In June 2013, Paul Murphy was denied a position at the Fernley Swimming Pool by former Facility Director Dena Lopez. (Documentation to this fact can be provided.)

Fact 5: Due to the stresses of her job as Fernley Swimming Pool Facility Director, some of which were caused by the complaints from Jennifer Murphy and the board's reaction to these complaints, Dena Lopez stepped down as Facility Director and is now employed as the Senior Supervisor for the Fernley Swimming Pool. (See Document #3)

promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, evaluation or other disciplinary action.”

An abuse of authority occurs when a public officer uses their authority to retaliate by affecting the employment or job duties of another employee with which they have had personal conflict.

NRS 281.651 (Pertains to Facts #1, 2, 5)

A state officer or employee or a local governmental officer or employee shall not use the provisions of NRS 281.611 to 281.671, inclusive, to harass another state officer or employee or another local governmental officer or employee, as applicable.

Through the actions stated above, it is blatantly obvious that Paul Murphy is using his new authority as a member of the Fernley Swimming Pool Board to take discriminatory/harassing actions against Dena Lopez and Kathy McClellan. Based upon the history of complaints and accusations from both Paul and Jennifer Murphy (See Documents #1-2), it is reasonable to assume that these actions are both purposeful and vengeful.

There are several NRS Codes being violated in just the first month of Paul Murphy’s tenure as a Fernley Swimming Pool Board Member.

Another interpretation to consider concerning the actions of agenda item, “To restructure current job classifications: elimination of the Cashier, Senior Supervisor, and Office Assistant classifications”, is that it sends a message to other employees and personnel of the Fernley Swimming Pool that Jennifer Murphy has gained special privileges from the Fernley Swimming Pool Board. IE: If you get on Jennifer Murphy’s “bad side”, her husband (Board Member, Paul Murphy) will make sure there are consequences and/or disciplinary action.

This creates a hostile work environment for employees of the Fernley Swimming Pool. “A hostile work environment is created by a boss or coworker whose actions, communication, or behaviors make doing your job impossible. This means that the behavior altered the terms, conditions, and/or reasonable expectations of a comfortable work environment for employees. Additionally, the behavior, actions or communication must be discriminatory in nature”. Discrimination is monitored and guided by the Equal Employment Opportunity Commission (EEOC) which was created by the Civil Rights Act of 1964.

A rebuttal of the reasons Paul Murphy may give for eliminating these positions:

I am expecting that the reason Paul Murphy will give for eliminating these positions are the costs associated with salary and benefits.

However, even a cursory look at the Fernley Swimming Pool Budget for 2014-2015 as compared to 2013-2014 will show that salary and benefits only went up slightly as compared to previous years. Total salary (including benefits) increased by \$34,831. Of that, \$30,000 is associated with Group Healthcare Insurance due to new federal mandates. This shows that there was truly only a \$5,000 increase to the overall salaries of all Fernley Swimming Pool employees. (See Document #5)

Updates Concerning Fernley Swimming Pool Board Meeting of January 20, 2015:

The previous letter was written before the actual board meeting took place. We sent it to the former Chairperson of the Board, the Human Resources Department, Pool Pact, and the District Attorney. We sent the letter in hopes that the agenda item would simply be removed from discussion.

The Board received letters from both the District Attorney and Human Resources (See Document #11) warning the Board of the potential violations and that the agenda item should be tabled for the time being. However, the new Chairperson of the Board, Jann Van Horn, ignored the advice and allowed Paul Murphy to present the agenda item with no discussion from either the Board or the Public. It is my understanding that this is a violation of Open Meeting Law, as they prohibited any public input in rebuttal of Paul Murphy's presentation.

At this time, several of the Fernley Swimming Pool Board Members have filed complaints against the actions taken by both Chairperson Jann Van Horn and new board member, Paul Murphy. There has also been a complaint filed by the Fernley Swimming Pool Facility Director and several members of the public.

Along with the documentation pertaining to this case, I have included letters written by Fernley Swimming Pool Employees and Patrons who are concerned with everything that is going on during the Board Meetings.

I have placed all documentation, including a copy of the meeting (starting at Paul Murphy's presentation) on a disc that is included with this letter.

Contents of Disc:

- Document 1A – Notes about Jennifer Murphy
- Document 1B – Letter of Complaint from J. Murphy
- Document 1C – Meeting Minutes concerning J. Murphy
- Document 2 – Pertaining to Paul Murphy
- Document 3 – Dena Lopez Resignation
- Document 4 – Paul Murphy Email – Agenda Items
- Document 5 – 2014-2015 Pool Budget
- Document 6 – Yearly Financial Comparison
- Document 7 – Actual Expenditures
- Document 8 – January 20 Agenda
- Document 9A – Pertaining to Bill Riesen
- Document 9B – Pertaining to Karen Riesen
- Document 10 – Letters from Employees
- Document 11 – Letters from DA and HR
- Document 12 – Pertaining to the positions of Senior Supervisor and Admin Assistant
- Media – MP3 file of Jan 20 Meeting beginning w/ Paul Murphy Presentation

STEPHEN B. RYE
District Attorney



<http://www.lyon-county.org>

JEREMY REICHENBERG
Chief Deputy District Attorney

**OFFICE OF THE DISTRICT ATTORNEY
LYON COUNTY**

801 OVERLAND LOOP, SUITE 308
DAYTON, NEVADA 89403
Phone: (775) 246-6130
Fax: (775) 246-6132

31 SOUTH MAIN STREET
YERINGTON, NEVADA 89447
Phone: (775) 463-6511
Fax: (775) 463-6516

565 EAST MAIN STREET
FERNLEY, NEVADA 89408
Phone: (775) 575-3353
Fax: (775) 575-3358

MEMORANDUM

Date: January 16, 2015

To: Josh Foli, Lyon County Comptroller
Christie Reeder, Human Resources Director

From: Stephen B. Rye, District Attorney

Re: Fernley Swimming Pool Meeting – January 20, 2015

You have forwarded this office some information regarding the Fernley Swimming Pool Board's consideration of a reorganization item and elimination of positions scheduled for the meeting on January 20, 2015. As I understand, the wife of Board Member Paul Murphy works for the Pool. There is some indication that Mr. Murphy requested that this item be placed on the agenda. Lyon County, as service provider for HR Matters and financial matters, has some concerns with the issue.

Please be advised that this recommendation is based upon the limited information we have in regards to this matter. In the event that additional information becomes available, please let me know.

Generally, when a matter comes before a public officer that affects a person to whom the public officer has a commitment in a private capacity, that conflict must be disclosed. A spouse is a person to which a public officer has a commitment in a private capacity. NRS 281A.420(1) prohibits a public officer or employee from acting to approve, disapprove, vote, abstain from voting or otherwise act upon a matter which would reasonably be affected by the public officer's commitment in a private capacity to the interests of another person, unless the public officer discloses sufficient information concerning the commitment to put the public on notice of the

potential effect of the action or abstention upon the person to whom the public officer has a commitment in a private capacity.

In addition to disclosure, a public officer must abstain from voting on or advocating the passage or failure of a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's commitment in a private capacity to the interests of another person. If the decision could or might impact the employment of the board member's spouse, even if remotely, it is my opinion that abstention is the proper action for that board member.

Please understand that I do not have any specific information on the reorganization or any information that this matter will involve Mr. Murphy, or that he intends to vote or participate in this agenda item. This memo only addresses some of the issues that have been raised in regards to this particular agenda item.

You have also asked whether a reorganization and elimination of positions should be undertaken if it is done for other than financial means. You are correct that this may create liability or personnel issues. Since you do not have sufficient information to evaluate the matter, taking such action may result in potential liability to the District. For that reason, I would advise that the Board table or not consider the matter until such time as the Comptroller can review the reasons, justification and plan, and report to the Board, at which time the Board would be able to make an informed decision, taking into account any potential employee liability or personnel issues which may arise from the proposed action.

In summary, if the action involves Board Member Murphy's spouse, even remotely, it is my recommendation that he disclose in a public meeting and abstain from voting or participation. I would also recommend that the Board delay action until the Comptroller and HR can advise on the potential liability issues associated with possible reorganization or elimination of positions.

Please feel free to contact me if you have additional questions.



Marty Hanna <mh1516t@gmail.com>

FW: next board meeting

1 message

Paula <pmkerr@sbcglobal.net>
To: mh1516t@gmail.com

Fri, Jan 9, 2015 at 12:40 PM

Is this enough to get us thru a meeting or two? I can call the DA General if you think it is needed. We have to wait to see if Jann and Bill have anything ready for discussion as they were working on the manuals. We definitely need something in the guidelines about board members going to the pool, giving permission to employees etc. and telling Mike how to do his job.

From: Christie Reeder [mailto:creeder@lyon-county.org]
Sent: Friday, January 09, 2015 10:03 AM
To: Paula
Subject: RE: next board meeting

Hello Paula and Happy New Year,

The short answer: the new board member must abstain on voting on specific matters (this also means removing himself physically from the board area when the agenda item comes up). He does not need to leave the room, but he also then cannot speak as a public participant. Examples of topics for which he must abstain:

- Budget approval – since his wife is one of the employees, it is a direct conflict to make recommendations and vote. He may attend and participate in discussion, but not in recommendations or voting.
- Performance reviews, discipline, terminations, etc. in regards to his wife. In this area he cannot even participate in discussion as this is a direct conflict.

You will need to contact George Taylor, Sr. Deputy Attorney General at 775-684-1230 to get a formal statement if needed. Explain your situation and ask for list of conflicts or get a statement on the AG's office standing in regards to what constitutes a conflict (it is not clear/explicit in the OML Guide).

I will not be able to attend the Jan 20th meeting as we are in the midst of implementing new accounting software and I am booked solid through February. If you cannot obtain the information you need from the AG's office, let me know.

—
Christie Reeder, HR

Note about the Pool board meeting of January 20, 2015:

I have never attended a pool board meeting prior to this meeting. It was held at the pool because of an agenda item which required visual information about the pool. The meeting seemed to go well at first, at least cordial. Then it seemed to me to get a little tense, but that may have been because there was a difficult agenda item in which a brand new board member was making a motion to discontinue a couple of key positions in the pool management. This was the impetus of my attendance. I was not in agreement of this agenda item, as I understood it, and was interested in obtaining as much information as possible as to why the issue was raised. If there was an important, legitimate reason for the disintegration of the positions, I wanted to be aware. However, after the new pool board member presented his issue, the tension was high and the chairwoman then promptly shut it down and said there would be no discussion or input from the public. This was very frustrating to me. I thought perhaps it might be allowed at the end, under the agenda item that seemed to imply there could be public questions or input in regard to any item. But, that did not seem to be the case, so I left the meeting.

Other general observations: The new pool board member appeared very defensive about many issues during the meeting, including his wife being a pool employee and how that would have no bearing on his ability to serve as he stated he would not be biased. He was also very defensive as he was presenting his issue about pool fees. And, then again, even more so, as he presented the issue of the elimination of the key positions.

Also, it seemed that three members of the board were distinctly aligned against the other two. There was one incident where the disunity became very obvious during discussions. The chairwoman at times seemed also to become defensive.

I would question whether this board is actually acting in accordance with their own job description and what is most beneficial to the public for which the pool is in existence.

Cordially,
Erin Brumage

775-400-7199

Thurs. Jan 22, 2015

775-741-3959

To Whom it May Concern,

I would like to make a statement of things that I have personally witnessed in regard to the relationship between Dena Speer, Kathy McEllan and (Paul and Jennifer Murphy and Bill Reiser) over the course of this last year. I have seen Jennifer and Bill continually and aggressively overstep the bounds of what the Serrley Swimming Pool Board is defined as being.

This is due to an obvious and well known personal vendetta. No chain of command was followed, there have been various efforts to slander and cause division within not only staff but the public itself. Mr. Reiser has not respected the boundaries of his position, quite the contrary he has jumped at every opportunity to overstep those boundaries. Paul Murphy, feeling that his wife was unfairly treated has made no

secret of his personal feelings for these two women. I firmly believe that he intends to use his "position" on the Pool Board as a platform to exact his idea of justice at the terrible price of the Serrley Community.

Dena Speer and Kathy McEllan are outstanding women who have devoted their heart and soul to this community shown

in their efforts at the pool. Community has always been first and foremost in their actions and accomplishments.

I believe that Paul has shown the real purpose of his agenda by his first motion of his first month in this position.

These people cannot, must not be allowed to continue to sacrifice the well-being of our community by using a public forum to run a personal agenda. We need our pool and we need it to be a place of fun, exercise and family. By attacking and trying to remove Dena & Kathy I sincerely fear and am convinced that the future of our pool will never reach the level of excellence that it now has, again.

Respectfully,

Jacquelyn McKinney

775-622-2384

TO: Steven B. Rye, District Attorney, Lyon County, Nevada
FROM: Brently Hume, Resident, Fernley, Nevada
SUBJECT: Fernley Pool Board Meeting Procedures

PURPOSE:

The purpose of this letter is to discuss the procedures of the Fernley Pool Board during the January 20, 2015, meeting in regards to the open meeting rules, and possible conflicts of interest for board member Paul Murphy.

INFORMATION:

In the interest of full disclosure, my wife, Carol, is an employee of the Fernley Pool as a lifeguard and as a water fitness instructor. Please note that none of the issues I will bring up below should directly affect my wife's position at the pool unless retribution is sought as a result of this letter.

Mr. Murphy is a newly elected member of the pool board. His wife is also an employee of the pool in a supervisory position.

HISTORY:

Without boring you with details at this time, please recognize that there has been contention between former Pool Director (now Senior Supervisor) Dena Lopez and the Murphys, evidenced by a letter writing campaign and contentious, demoralizing talk. Factions have developed on either side of the conflict.

MEETING EVENTS:

When the agenda of the January 20, 2015, meeting was initially distributed, it was noted that Mr. Murphy was proposing some personnel changes, including the elimination of certain positions. This resulted in one of the largest numbers of civilians in attendance at any recent board meeting.

When the meeting reached this agenda item, a copy of your memorandum to the Comptroller and HR Director dated January 16, 2015, was mentioned and possession acknowledged by all board members, but it was not distributed to the public. In your memo, you recommended that the Comptroller and HR advise the board before the matter of reorganization was presented. When the (newly elected) chairwoman asked

Mr. Murphy to begin his presentation, two board members objected based on your memo as well as their own perception of the possible conflict of interest about to be presented. After some moderately argumentative discussion, the chairwoman stated that she would allow Mr. Murphy to make his presentation, but would allow no discussion relating to it. Mr. Murphy proceeded to make his presentation, which included the elimination of Dena Lopez's position and two others. Mr. Murphy's presentation included some questionable figures regarding the financial impact, but due to the chairwoman's ruling, no one was allowed to challenge them. This may be a violation of public meeting rules.

No action was taken on the presentation, nor was the item put on the agenda for the next meeting. Its future is unknown at this time, but the more suspicious of us might be led to believe it will return when less public scrutiny is present.

CONCLUSION:

It is the opinion of many of the staff (without proof) that Mr. Murphy is intending to put his wife in contention for the position of Pool Director by setting up the current director to fail and eliminating certain members of the "other faction". There seems to be a power struggle already existing in the staff that is causing severe morale problems. The majority of the staff works together very well and get along fine. However, the election of Mr. Murphy to the board and his first meeting controversy are worrying to many and creating a somewhat hostile work environment.

I would request that you render an opinion regarding the legality of the board's hearing and consideration of Mr. Murphy's presentation, as well as the chairwoman's actions in preventing public comment. Mr. Murphy is the legally elected board member for this term, but he may need some guidance on the definition of a conflict of interest.

If further information is needed, I would be glad to answer any questions. I have not seen a copy of the minutes to the meeting, but they might be informative.

Thank you for your attention to this matter.

Sincerely,

Brently A. Hume
940 Roan Ct.
Fernley, NV 89408
(775) 622-5998

775-622-2384

January 25, 2015

To Whom It May Concern:

This letter is written to express my concern with regard to the direction the Fernley Pool Board is taking with regard to personnel changes at the Fernley Pool.

It seems that the newly elected Pool Board member, Paul Murphy, followed by 1 or 2 others, are trying to take over Personnel for the Fernley Pool. Paul Murphy has a clear conflict of interest since his wife, Jennifer Murphy, is a supervisor.

It is my understanding that the Pool Board should set direction, pass a budget and vote on major expenditures for the pool, as well as hire the Pool Director. The Pool Director in turn runs the pool within the budget the Board has set.

Now it seems that the Board is trying to disrupt the smooth running of the Pool. Paul Murphy's proposals at the Board meeting on January 20, 2015 seem to be retaliation to issues that his wife has with Dena Lopez. These issues were brought forth in a letter written in June 2013 by his wife and promoted by the wife of another Board member, who was teaching Aqua-fit at the time.

During that controversy in the summer of 2013 and now again with these proposals, it has been very unsettling for the rest of the employees at the Pool. It is a hostile workplace environment.

Mike Freeman is the new Pool Director at the Fernley Pool. He comes with a multitude of certifications, but he cannot run the pool without qualified personnel below him. It not only seems that Paul Murphy is trying to eliminate positions above his wife, but is trying to set up Mike Freeman for failure, possibly to have his wife replace him as Director. This again is very concerning to many employees.

If this atmosphere continues, the Pool could not only lose qualified employees, but patrons as well.

Thank you for your attention to this matter.



Carol L. Hume

27 January 2015

To whom it may concern,

My name is Ramona Kay Savant and I am an employee of the Fernley Swimming Pool. I have been a Water Fitness Instructor at the pool since August of 2010. I am concerned about what is happening at the pool and with the Pool Board.

Back in the spring of 2013 our Pool Director Dena Lopez, during the slow season at the pool, went to a variety of training sessions for the pool. This was so she could provide in-house training for lifeguards and other programs at the pool. During that time I heard one of the Supervisors, Jennifer Murphy, and one of the water fitness instructors, Karen Riesen, complaining to the rest of the staff about Dena being gone so much. Jennifer and Karen wanted to have her fired as the Pool Director.

Through a third party I heard that Jennifer and Karen wrote a letter to have the Director removed. Jennifer also pressured some of the lifeguards and water fitness instructors to sign the letter.

Karen Riesen's husband, Bill Riesen, is on the Pool Board and Jennifer's husband, Paul Murphy, has just been elected to the board. I feel they are using their position to hurt the programs and staff at the pool. Trying to get rid of the Senior Supervisor, Assistant to the Director and the Cashier positions, as well as other harmful changes.

Dena has been a great Director, she has brought many great programs to the pool and as a boss, I could not have asked for a better one. Because of the pressure placed on she has stepped down from Pool Director to the position of Senior Supervisor.

The Assistant to the Director, Kathy McClellan, has been an asset to the pool. She has great ideas to bring new activities to the pool and she has kept beautiful scenes painted on the windows of the pool. I don't even know all the things or duties she does for the pool. Kathy is a pleasure to work with and always has a smile.

Sincerely,

A handwritten signature in cursive script that reads "Ramona Kay Savant". The signature is written in dark ink and is positioned above the printed name.

Ramona Kay Savant

My name is Karma Deaton. I have worked at the Fernley pool for a little over a year now. I was employed as a full time lifeguard, substitute supervisor, and an aqua-fit instructor. My time at the pool from the very start has been tense and uncomfortable. Working with Jenn Murphy from the very first day, she made it very well known that she didn't like her boss, Dena Lopez, and office manager, Kathy McClellan.

While lifeguarding, she would talk to the other guards about Dena and Kathy. It would be all about personal things she would say was done to her and try to get the guards upset with them. Most was personal but some was directed towards the Fernley Pool. For instance, Kathy was being trained and learning what she could to better herself in her job. Jenn told the guards that Kathy wasn't any good and couldn't believe that she was ahead of them in training. Jenn went out of her way to try to convince the guards that Kathy and Dena didn't have their best interest at heart and talked to them over and over about personal issues.

Being friends and working side by side with the guards, they all told me they felt uneasy and hated being in the middle and felt so uncomfortable with Jenn talking to them and pushing the personal issues. I have had two guards recently come to me and said how Paul Murphy is pushing the issue about releasing Dena's and Kathy's job and it is not right to take it to a personal level! It is obvious that the pool cannot run without these jobs and there is way too much work for just Mike to do! Then they both added how this personal issue needs to stop! I let them know if they were upset they could talk to Mike about it. Both said they are staying out of it because if they said anything about Jenn, they were afraid to see what Paul would do with their jobs next.

I think it is crazy how uncomfortable Jenn and Paul have made it to work at the pool. The only reason I have come forward is because I only do aqua fit part-time now. So Paul or Jenn can't affect my full time job as a hair dresser.

This issue has gone so far that that at my shop, my friend that does hair next to me one day pulled me off to the side and told me she does Bill's (Riesen) hair and he has made it clear to her something was going on at the pool. He asked her to ask me to book some of my pool clientele on a different day than him. She said he needs to be able to talk to her without feeling nervous or uncomfortable about who was around to hear. (Bill is close friend with Jenn and Paul and also on the Pool Board.) Why is a board member telling a hair dresser personal things about the pool that shouldn't be talked about?

There are three times when I was supervising that Bill came into the pool and was so mean and pushy and unprofessional! I have had Paul embarrass me at board meetings where I was afraid to come forward and talk about what I have seen at the pool.

Jenn and Paul Murphy, and Bill Riesen have made the pool a very uncomfortable place to work with their grudges against Dena Lopez and Kathy McClellan. Their interest is not what is best for the pool but how to upset or ruin Dena's and Kathy's jobs. They have made that very clear to the pool staff and have scared the staff enough that they are worried about even coming forward.

Karma Deaton

A handwritten signature in black ink that reads "Karma Deaton". The signature is written in a cursive, flowing style with a large loop at the end of the last name.

RFO Nos. 15-07C and 15-08C (Murphy)

CD Rom Attachments to
RFO Nos. 15-07C and 15-08C
Have been Intentionally Omitted

JURISDICTIONAL DETERMINATION

RFO NO.: 15-07	NAME: Paul Murphy
DATE REC'D: 2/9/15	POSITION: Member, Board of Directors, Fernley Swimming Pool, GID

The complaint was received ☒ **IN PROPER FORM** or ☐ **NOT IN PROPER FORM.**

If "not in proper form" state reason:

☐ Does not include appropriate amount of copies. ☐ Not on NCOE form

DETERMINATION BY EXECUTIVE DIRECTOR:

ALLEGATIONS:

This RFO is identical to RFO 15-08C - different requester.

See RFO # 15-02C - same general allegations. This RFO includes allegations of NRS 281A.400(9) and 281A.500 (acknowledgment form), and does not include 281A.400(5) and (6),

Regarding NRS 281A.400(9) - sufficient credible evidence supports the allegation that Murphy has had various discussions and influence of Pool employees with respect to employment matters, including witness letters/testimony.

Regarding NRS 281A.500 - failure to file an acknowledgment form, the RFO did not include evidence of the same, however those public records are maintained by the Commission and readily determinable. A review of the Commission's records reveals that Mr. Murphy has not filed an acknowledgment form with the Commission.

<input type="checkbox"/>	IS public employee as defined in NRS 281A.150	
<input checked="" type="checkbox"/>	IS NOT public employee as defined in NRS 281A.150	
<input checked="" type="checkbox"/>	IS a public officer as defined in NRS 281A.160	
<input type="checkbox"/>	IS NOT a public officer as defined in NRS 281A.160	
<input checked="" type="checkbox"/>	Complaint DOES contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	
<input type="checkbox"/>	Complaint DOES NOT contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	

JURISDICTIONAL DETERMINATION

Alleged Statute Violation	Behavior alleged/credible evidence provided to support claim:
NRS 281A. 020(1)	Failing to avoid conflicts involving spouse's private interests
NRS 281A. 400(2)	using position to influence personnel decisions affecting spouse
NRS 281A. 400(9)	discussing employment matters involving spouse with employees
NRS 281A. 420(1)(3)	presenting agenda item and advocating for approval without disclosing
NRS 281A. 500	failing to timely file an acknowledgment form
Other:	evidence: agenda, witness testimony, emails and memo on conflict

Based upon the foregoing analysis, I have determined that the Commission ☒ **DOES** or ☐ **DOES NOT** have the jurisdiction to accept the RFO and the evidence required to take appropriate action regarding NRS 281A. see above

Dated: 2/11/15

/s/ Yvonne M. Nevarez-Goodson
Executive Director

COMMISSION COUNSEL REVIEW:

☒ **DO CONCUR** or ☐ **DO NOT CONCUR**

Associate Counsel- The RFO involves the Fernley Swimming Pool District Board. Paul Murphy (Paul), the subject, is on the Board of the Pool District, and his wife works for the pool district. Pursuant to NRS 281A.065 Paul has a commitment in a private capacity to his wife. On the January 20, 2015 Agenda, numerous items would have a possible impact on his wife and her employment with the Pool District. The minutes are not currently available for this meeting, however the issues placed on the Agenda appear to trigger the Ethics Law based upon Paul's commitment in a private capacity to his wife and her employment. The Requester is a fellow board member and provides a narrative regarding Paul's lack of disclosure and abstention, and possible benefit to his wife on the issues.

The Requester provides witness names and evidence was submitted that regarding the potential conflicts of interest through a memorandum from the District Attorney, minutes and letters from pool staff.

RFO 15-02 addressed the conflict issue regarding Paul's wife, but RFOs 15-07 and 15-08 have additional evidence regarding possible NRS 281A.400(9) violations regarding a joint employee letter denouncing Dena Lopez, the former Facilities Director and then letters recanting the same.

Dated: 02/11/2015

Jill Davis, Associate Counsel for
Commission Counsel



**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

Request for Opinion No. **15-07C**

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Paul Murphy, Member, Board of
Directors, Fernley Swimming Pool District
State of Nevada,

Subject. /

NOTICE TO SUBJECT OF REQUEST FOR OPINION

Pursuant to NRS 281A.440(2) and NAC 281A.410

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) received a Request for Opinion (RFO) alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes (NRS) Chapter 281A.010-281A.550, the Nevada Ethics in Government Law. Pursuant to NAC 281A.405, the Commission's Executive Director and Commission Counsel have determined that the RFO was properly filed and the Commission has jurisdiction to consider allegations implicating the following statutes. (See sections checked below)

✓	Statute	Essence of Statute:
✓	NRS 281A.020(1)	Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.
	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.
✓	NRS 281A.400(2)	Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, 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.
	NRS 281A.400(3)	Participating as government agent in negotiating or executing a contract between the government and a business entity in which he has a significant pecuniary interest.
	NRS 281A.400(4)	Accepting a salary, retainer, augmentation, expense allowance or other compensation from any private source for performing public duties.
	NRS 281A.400(5)	Acquiring, through public duties or relationships, information which by law or practice is not at the time available to people generally, and using it to further the pecuniary interests of self or other person or business entity.
	NRS 281A.400(6)	Suppressing governmental report or other document because it might tend to unfavorably affect pecuniary interests.

	NRS 281A.400(7)	Using government time, property, equipment or other resources for personal or financial interest. (Some exceptions apply.)
	NRS 281A.400(8)	State Legislator using government time, property, equipment or other facility for a nongovernment purpose or for the private benefit of himself or any other person, or having a legislative employee, on duty, perform personal services or assist in a private activity. (Some exceptions apply.)
√	NRS 281A.400(9)	Attempting to benefit personal or financial interest by influencing a subordinate.
	NRS 281A.400(10)	Seeking other employment or contracts through official position.
	NRS 281A.410	Failing to file a disclosure of representation and counseling a private person before public agency for compensation.
√	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest for which disclosure is required.
√	NRS 281A.420(3)	Acting on a matter in which abstention was required.
	NRS 281A.430	Engaging in contracts in which the Subject has an interest.
√	NRS 281A.500	Failing to timely file an ethical acknowledgment.
	NRS 281A.510	Accepting an improper honorarium.
	NRS 281A.520	Causing a government entity to support or oppose a ballot question or candidate.

A copy of the RFO is attached. You may also find the relevant provisions of NRS and NAC, including newly Adopted Regulations, LCB File No. R048-14 ("R048-14"), and a searchable database of Commission Opinions on the Commission's website at www.ethics.nv.gov.

Pursuant to NAC 281A.405 (as amended by R048-14), you may submit a request in writing to the office of the Commission not later than **10 days** from receipt of this notice for the Commission to review this jurisdictional determination. If you appeal the determination, the Requester will be provided an opportunity to respond and you will be notified of the date set for the Commission's review and final determination of jurisdiction. With no appeal of jurisdiction, the Commission will accept jurisdiction and initiate its investigation of this matter.

Upon the Commission's acceptance of jurisdiction, pursuant to NRS 281A.440(3), you may submit a written response to these allegations within **30 days** of receipt of this notice. A lack of response on your part is not deemed an admission that the allegations are true.

Pursuant to NRS 281A.440(3) through (6), the Commission's process is as follows:

1. Within 70 days after the Commission's acceptance of jurisdiction (unless the statutory timelines are waived), the Executive Director investigates the allegations and makes a written recommendation to a two-Commission-member investigatory panel whether just and sufficient cause is present for the full Commission to render an opinion in the matter.

2. Within 15 days after the Executive Director provides a written recommendation (unless the statutory timelines are waived), the investigatory panel considers the RFO and related materials and makes a final determination regarding whether just and sufficient cause exists for the Commission to hold a public hearing and render an opinion.
3. If the investigatory panel determines that just and sufficient cause exists, within 60 days after the panel determination (unless the statutory timelines are waived), the Commission will conduct a public evidentiary hearing and render an opinion whether the public officer or employee's conduct violated provisions of the Ethics in Government Law.

You may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Swift resolution of the RFO is beneficial to all concerned; however, you may waive any or all deadlines set forth by statute or regulation in this matter. A waiver of statutory time is enclosed. Should you wish to request an extension of or waive any of the statutory deadlines, please complete the waiver and return it to the Commission's office as soon as possible.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO (and even the fact that it received the RFO) confidential until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion. However, the Commission has no authority to require the requester to do so. As a result, information may appear in the media. Rest assured that the Commission will not be the source of any public information until the investigatory panel has completed its review and has rendered its determination. You will be provided notice of the Panel Determination.

If you have any questions regarding this notice, please contact me at (775) 687-5469 or ynevarez@ethics.nv.gov.

Dated this 19th day of February, 2015.

/s/ Yvonne M. Nevarez-Goodson
Yvonne M. Nevarez-Goodson, Esq.
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject** addressed as follows:

Paul Murphy, Member
Board of Directors
Fernley Swimming Pool District
300 Cottonwood Lane
Fernley, NV 89408

Cert. Mail # 9171969009350037639218

Dated: 2/19/15

Valerie Carter
Employee, Nevada Commission on Ethics



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Paul Murphy, Member, Board of
Trustees, Fernley Swimming Pool District,
State of Nevada,

Request for Opinion No. **15-07C**

CONFIDENTIAL
Pursuant to NRS 281A.440(8)

_____ Public Employee. /

CORRECTED NOTICE REGARDING JURISDICTION
(Correction in italics)

The Nevada Commission on Ethics ("Commission") received a Third-Party Request for Opinion ("RFO") No. 15-07C on February 9, 2015 from Requester, Kathy McClellan, alleging that certain actions taken by Paul Murphy, Vice-Chairman, Board of Trustees, Fernley Swimming Pool District ("Subject"), may have resulted in violations of Nevada's Ethics in Government Law (NRS 281A).

Pursuant to NAC 281A.405 and newly adopted Commission regulation R048-14, the Commission's staff ("Staff") determined that the RFOs were properly filed and the Commission has jurisdiction to investigate the allegations. On or about February 19, 2015, a *Notice to Subject* was issued.

Pursuant to NAC 281A.405, as amended, Subject was notified of his right to request a review of Staff's jurisdictional determination ("Appeal"). No appeal has been filed and the deadline for such filing has passed.

Therefore, pursuant to NRS 281A.440(3), PLEASE TAKE NOTICE that the Commission will now exercise its jurisdiction and initiate its investigation in *RFO No. 15-07C*. The Subject may file a written response to the RFO not later than 30 days after receipt of this Notice.

Date March 30, 2015

/s/ Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted via Email and U.S. Postal Service, through the State of Nevada mailroom, a true and correct copy of the **Notice Regarding Jurisdiction** regarding **RFO No. 15-07C** addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Jill C. Davis, Esq.
Associate Counsel
704 W. Nye Lane, Suite 204
Carson City, NV 89704

Paul Murphy
Vice-Chairman
Board of Trustees
Fernley Swimming Pool District
300 Cottonwood Lane
Fernley, NV 89408

Kathy McClellan
1700 Harvest Creek Way
Fernley, NV 89408

Date: March 30, 2015



Employee, Nevada Commission on Ethics

NEVADA ETHICS OPINION REQUEST

15-082

NEVADA COMMISSION ON ETHICS THIRD-PARTY REQUEST FOR OPINION

NRS 281A.440(2)

FEB 09 2015

COMMISSION
ON ETHICS

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

NAME: (Last, First)	Murphy, Paul		TITLE OF PUBLIC OFFICE: (Position: e.g. city manager)	FSPD Vice Chairman
PUBLIC ENTITY: (Name of the entity employing this position: e.g. the City of XYZ)	Fernley Swimming Pool District			
ADDRESS: (Street number and name)	300 Cottonwood Ln	CITY, STATE, ZIP CODE	Fernley, NV 89408	
TELEPHONE:	Work:	Other: (Home, cell) (775) 230-4729	E-MAIL:	h2opolomurf@yahoo.com

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here ☒ if additional pages are attached.

At the January 20, 2015 meeting for the Fernley Swimming Pool Board, newly elected member, Paul Murphy, presented policy and employment changes that violate several NRS Codes pertaining to ethics of individuals in elected positions. These changes would give Paul Murphy's wife, Jennifer Murphy, unfair advantages as an employee of the Fernley Swimming Pool and would remove the positions of several other key employees with which Jennifer Murphy has had personal conflict. These employees are currently in supervisory roles over Jennifer Murphy. The proposal is to remove these 2 positions.
These allegations are presented and supported in the attached documentation, including a letter that was written prior to the meeting in hopes of warning the board against presenting such material. However, the board did not heed the warnings of the letter, nor did they listen to the advice from the District Attorney and HR Manager that this item should not be discussed.
Please see attached documentation on CD-ROM.

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe:

No

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input checked="" type="checkbox"/> NRS 281A.400(2)	Using 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.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input checked="" type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input checked="" type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here ☐ if additional pages are attached.

NAME and TITLE: (Person #1)	David Lopez		
ADDRESS:	PO Box 2132	CITY, STATE, ZIP	Fernley, NV 89408
TELEPHONE:	Work:	Other: (Home, cell) (775) 846-3438	E-MAIL: dave.dena@sbcglobal.net
NATURE OF TESTIMONY:	Will attest to the fact that Paul Murphy was in violation of these NRS Codes. Will also attest to the history between the Murphy and Lopez families that would lead Paul Murphy to seek the dismissal of Dena Lopez and Kathy McClellan from the Fernley Swimming Pool.		

NAME and TITLE: (Person #2)	Leonard Gleason		
ADDRESS:	PO Box 1074	CITY, STATE, ZIP	Fernley, NV 89408
TELEPHONE:	Work:	Other: (Home, cell) (775) 530-7379	E-MAIL: lgleason@nvenergy.com
NATURE OF TESTIMONY:	Will attest to the fact that Paul Murphy presented and was in violation of these NRS codes at the Fernley Swimming Pool Board Meeting of January 20, 2015. Will also attest to the history between the Murphy and Lopez families that would lead Paul Murphy to seek the dismissal of Dena Lopez and Kathy McClellan from the Fernley Swimming Pool.		

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. [NAC 281A.435\(3\)](#) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) 146 on CD

7. REQUESTER'S INFORMATION:

YOUR NAME:	Dena Lopez		
YOUR ADDRESS:	PO Box 2132	CITY, STATE, ZIP:	Fernley, NV 89408
YOUR TELEPHONE:	Day: (775) 848-9742	Evening: (775) 848-9742	E-MAIL: denalopez01@sbcglobal.net

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

Dena Lopez
Signature:

1-5-15
Date:

Dena Lopez
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.

[NAC 281A.255\(3\)](#)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

RFO Nos. 15-07C and 15-08C (Murphy)

Attachments to RFO 15-08C
Have been Intentionally Omitted
Because they are duplicates of the
Attachments to RFO 15-07C

JURISDICTIONAL DETERMINATION

RFO NO.: 15-08	NAME: Paul Murphy
DATE REC'D: 2/9/15	POSITION: Member, Board of Directors, Fernley Swimming Pool, GID

The complaint was received ☒ **IN PROPER FORM** or ☐ **NOT IN PROPER FORM.**

If "not in proper form" state reason:

☐ Does not include appropriate amount of copies. ☐ Not on NCOE form

DETERMINATION BY EXECUTIVE DIRECTOR:

ALLEGATIONS:

This RFO is identical to RFO 15-07C - different requester.

See RFO # 15-02C - same general allegations. This RFO includes allegations of NRS 281A.400(9) and 281A.500 (acknowledgment form), and does not include 281A.400(5) and (6),

Regarding NRS 281A.400(9) - sufficient credible evidence supports the allegation that Murphy has had various discussions and influence of Pool employees with respect to employment matters, including witness letters/testimony.

Regarding NRS 281A.500 - failure to file an acknowledgment form, the RFO did not include evidence of the same, however those public records are maintained by the Commission and readily determinable. A review of the Commission's records reveals that Mr. Murphy has not filed an acknowledgment form with the Commission.

<input type="checkbox"/>	IS public employee as defined in NRS 281A.150	
<input checked="" type="checkbox"/>	IS NOT public employee as defined in NRS 281A.150	
<input checked="" type="checkbox"/>	IS a public officer as defined in NRS 281A.160	
<input type="checkbox"/>	IS NOT a public officer as defined in NRS 281A.160	
<input checked="" type="checkbox"/>	Complaint DOES contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	
<input type="checkbox"/>	Complaint DOES NOT contain allegations of the Ethics in Government Law, NRS 281A.010-281A.660.	

JURISDICTIONAL DETERMINATION

Alleged Statute Violation	Behavior alleged/credible evidence provided to support claim:
NRS 281A. 020(1)	Failing to avoid conflicts involving spouse's private interests
NRS 281A. 400(2)	using position to influence personnel decisions affecting spouse
NRS 281A. 400(9)	discussing employment matters involving spouse with employees
NRS 281A. 420(1)(3)	presenting agenda item and advocating for approval without disclosing
NRS 281A. 500	failing to timely file acknowledgment form
Other:	evidence: agenda, witness testimony, email/memo, public record

Based upon the foregoing analysis, I have determined that the Commission ☒ **DOES** or ☐ **DOES NOT** have the jurisdiction to accept the RFO and the evidence required to take appropriate action regarding NRS 281A. see above

Dated: 2/11/15

/s/ Yvonne M. Nevarez-Goodson
Executive Director

COMMISSION COUNSEL REVIEW:

☒ **DO CONCUR** or ☐ **DO NOT CONCUR**

Associate Counsel- The RFO involves the Fernley Swimming Pool District Board. Paul Murphy (Paul), the subject, is on the Board of the Pool District, and his wife works for the pool district. Pursuant to NRS 281A.065 Paul has a commitment in a private capacity to his wife. On the January 20, 2015 Agenda, numerous items would have a possible impact on his wife and her employment with the Pool District. The minutes are not currently available for this meeting, however the issues placed on the Agenda appear to trigger the Ethics Law based upon Paul's commitment in a private capacity to his wife and her employment. The Requester is a fellow board member and provides a narrative regarding Paul's lack of disclosure and abstention, and possible benefit to his wife on the issues.

The Requester provides witness names and evidence was submitted that regarding the potential conflicts of interest through a memorandum from the District Attorney, minutes and letters from pool staff.

RFO 15-02 addressed the conflict issue regarding Paul's wife, but RFOs 15-07 and 15-08 have additional evidence regarding possible NRS 281A.400(9) violations regarding a joint employee letter denouncing Dena Lopez, the former Facilities Director and then letters recanting the same.

Dated: 02/11/2015

Jill Davis - Associate Counsel
Commission Counsel



**STATE OF NEVADA
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
(775) 687-5469 • Fax (775) 687-1279
<http://ethics.nv.gov>

Request for Opinion No. **15-08C**

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Paul Murphy, Member, Board of
Directors, Fernley Swimming Pool District
State of Nevada,

Subject. /

NOTICE TO SUBJECT OF REQUEST FOR OPINION

Pursuant to NRS 281A.440(2) and NAC 281A.410

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) received a Request for Opinion (RFO) alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes (NRS) Chapter 281A.010-281A.550, the Nevada Ethics in Government Law. Pursuant to NAC 281A.405, the Commission's Executive Director and Commission Counsel have determined that the RFO was properly filed and the Commission has jurisdiction to consider allegations implicating the following statutes. (See sections checked below)

√	Statute	Essence of Statute:
√	NRS 281A.020(1)	Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.
	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.
√	NRS 281A.400(2)	Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, 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.
	NRS 281A.400(3)	Participating as government agent in negotiating or executing a contract between the government and a business entity in which he has a significant pecuniary interest.
	NRS 281A.400(4)	Accepting a salary, retainer, augmentation, expense allowance or other compensation from any private source for performing public duties.
	NRS 281A.400(5)	Acquiring, through public duties or relationships, information which by law or practice is not at the time available to people generally, and using it to further the pecuniary interests of self or other person or business entity.
	NRS 281A.400(6)	Suppressing governmental report or other document because it might tend to unfavorably affect pecuniary interests.

	NRS 281A.400(7)	Using government time, property, equipment or other resources for personal or financial interest. (Some exceptions apply.)
	NRS 281A.400(8)	State Legislator using government time, property, equipment or other facility for a nongovernment purpose or for the private benefit of himself or any other person, or having a legislative employee, on duty, perform personal services or assist in a private activity. (Some exceptions apply.)
√	NRS 281A.400(9)	Attempting to benefit personal or financial interest by influencing a subordinate.
	NRS 281A.400(10)	Seeking other employment or contracts through official position.
	NRS 281A.410	Failing to file a disclosure of representation and counseling a private person before public agency for compensation.
√	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest for which disclosure is required.
√	NRS 281A.420(3)	Acting on a matter in which abstention was required.
	NRS 281A.430	Engaging in contracts in which the Subject has an interest.
√	NRS 281A.500	Failing to timely file an ethical acknowledgment.
	NRS 281A.510	Accepting an improper honorarium.
	NRS 281A.520	Causing a government entity to support or oppose a ballot question or candidate.

A copy of the RFO is attached. You may also find the relevant provisions of NRS and NAC, including newly Adopted Regulations, LCB File No. R048-14 ("R048-14"), and a searchable database of Commission Opinions on the Commission's website at www.ethics.nv.gov.

Pursuant to NAC 281A.405 (as amended by R048-14), you may submit a request in writing to the office of the Commission not later than **10 days** from receipt of this notice for the Commission to review this jurisdictional determination. If you appeal the determination, the Requester will be provided an opportunity to respond and you will be notified of the date set for the Commission's review and final determination of jurisdiction. With no appeal of jurisdiction, the Commission will accept jurisdiction and initiate its investigation of this matter.

Upon the Commission's acceptance of jurisdiction, pursuant to NRS 281A.440(3), you may submit a written response to these allegations within **30 days** of receipt of this notice. A lack of response on your part is not deemed an admission that the allegations are true.

Pursuant to NRS 281A.440(3) through (6), the Commission's process is as follows:

1. Within 70 days after the Commission's acceptance of jurisdiction (unless the statutory timelines are waived), the Executive Director investigates the allegations and makes a written recommendation to a two-Commission-member investigatory panel whether just and sufficient cause is present for the full Commission to render an opinion in the matter.

2. Within 15 days after the Executive Director provides a written recommendation (unless the statutory timelines are waived), the investigatory panel considers the RFO and related materials and makes a final determination regarding whether just and sufficient cause exists for the Commission to hold a public hearing and render an opinion.
3. If the investigatory panel determines that just and sufficient cause exists, within 60 days after the panel determination (unless the statutory timelines are waived), the Commission will conduct a public evidentiary hearing and render an opinion whether the public officer or employee's conduct violated provisions of the Ethics in Government Law.

You may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Swift resolution of the RFO is beneficial to all concerned; however, you may waive any or all deadlines set forth by statute or regulation in this matter. A waiver of statutory time is enclosed. Should you wish to request an extension of or waive any of the statutory deadlines, please complete the waiver and return it to the Commission's office as soon as possible.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO (and even the fact that it received the RFO) confidential until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion. However, the Commission has no authority to require the requester to do so. As a result, information may appear in the media. Rest assured that the Commission will not be the source of any public information until the investigatory panel has completed its review and has rendered its determination. You will be provided notice of the Panel Determination.

If you have any questions regarding this notice, please contact me at (775) 687-5469 or ynevarez@ethics.nv.gov.

Dated this 19th day of February, 2015.

/s/ Yvonne M. Nevarez-Goodson
Yvonne M. Nevarez-Goodson, Esq.
Executive Director

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject** addressed as follows:

Paul Murphy, Member
Board of Directors
Fernley Swimming Pool District
300 Cottonwood Lane
Fernley, NV 89408

Cert. Mail # 9171969009350037639218

Dated: 2/19/15

Valerie Carter
Employee, Nevada Commission on Ethics



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Paul Murphy, Member, Board of
Trustees, Fernley Swimming Pool District,
State of Nevada,

Request for Opinion No. **15-08C**

CONFIDENTIAL
Pursuant to NRS 281A.440(8)

Public Employee. /

CORRECTED NOTICE REGARDING JURISDICTION
(Correction in Italics)

The Nevada Commission on Ethics ("Commission") received a Third-Party Request for Opinion ("RFO") No. 15-08C on February 9, 2015 from Requester, Dena Lopez, alleging that certain actions taken by Paul Murphy, Vice-Chairman, Board of Trustees, Fernley Swimming Pool District ("Subject"), may have resulted in violations of Nevada's Ethics in Government Law (NRS 281A).

Pursuant to NAC 281A.405 and newly adopted Commission regulation R048-14, the Commission's staff ("Staff") determined that the RFOs were properly filed and the Commission has jurisdiction to investigate the allegations. On or about February 19, 2015, a *Notice to Subject* was issued.

Pursuant to NAC 281A.405, as amended, Subject was notified of his right to request a review of Staff's jurisdictional determination ("Appeal"). No appeal has been filed and the deadline for such filing has passed.

Therefore, pursuant to NRS 281A.440(3), PLEASE TAKE NOTICE that the Commission will now exercise its jurisdiction and initiate its investigation in *RFO No. 15-08C*. The Subject may file a written response to the RFO not later than 30 days after receipt of this Notice.

Date March 30, 2015

/s/ Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted via Email and U.S. Postal Service, through the State of Nevada mailroom, a true and correct copy of the **Notice Regarding Jurisdiction in RFO No. 15-08C** addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Jill C. Davis, Esq.
Associate Counsel
704 W. Nye Lane, Suite 204
Carson City, NV 89704

Paul Murphy
Vice-Chairman
Board of Trustees
Fernley Swimming Pool District
300 Cottonwood Lane
Fernley, NV 89408

Dena Lopez
P.O. Box 2132
Fernley, NV 89408

Date: March 30, 2015


Employee, Nevada Commission on Ethics



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Paul Murphy, Member, Board of
Trustees, Fernley Swimming Pool
District, State of Nevada,

Request for Opinion No.: **15-02C**
Request for Opinion No.: **15-07C**
Request for Opinion No.: **15-08C**

Subject. /

NOTICE OF CONSOLIDATED HEARING

PLEASE TAKE NOTICE, Under 281A.260 and 281A.250(3), the Nevada Commission on Ethics ("Commission") will hold a consolidated hearing to consider a **Proposed Stipulated Agreement** regarding the allegations submitted in Third Party Requests for Opinion Nos. 15-02C, 15-07C, and 15-08C.

The Hearing Will Take Place:

Wednesday, July 15, 2015 at 1:00 p.m., or as soon thereafter as the
Commission is able to hear the matter, at the following location:

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

If the Proposed Stipulated Agreement is approved, it will serve as the final Opinion in this matter. If the Proposed Stipulated Agreement is not approved, the Commission will issue an Amended Notice of Hearing setting the date, time and location for a hearing to consider the matter.

DATED: July 7, 2015

/s/ Tracy L. Chase

Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **NOTICE OF CONSOLIDATED HEARING** in Requests for Opinion **Nos. 15-02C, 15-08C, 15-08C**, via email and U.S. Mail, addressed to the parties and interested persons as follows:

Rebecca Bruch
Erickson, Thorpe & Swainston, Ltd.
99 West Arroyo Street
P.O. Box 3559
Reno, NV 89505

Email: rbruch@etsreno.com

Attorney for Subject

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Jill C. Davis, Esq.
Associate Counsel
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703

Email: ynevarez@ethics.nv.gov

Email: jilldavis@ethics.nv.gov

Martha J. Hanna
1516 Tee Court
Fernley, NV 89408

Email: mh1516t@gmail.com

Kathy McClellan
1700 Harvest Creek Way
Fernley, NV 89408

Email: mcclellan5192@gmail.com

Dena Lopez
P.O. Box 2132
Fernley, NV 89408

Email: denalopez01@sbcglobal.net

Dated: July 7, 2015



Employee, Nevada Commission on Ethics

AGENDA ITEM NO. 6

AGENDA ITEM NO. 6



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS**

May 20, 2015

The Commission on Ethics held a public meeting on
Wednesday, May 20, 2015, at 9:00 a.m. at the following location:

**Grant Sawyer State Office Building
Gaming Control Board
Room 2450
555 E. Washington Avenue
Las Vegas, NV 89101**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts of the open sessions are available for public inspection at the Commission's office located in Carson City.

OPEN SESSION:

1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.

Chairman, Paul H. Lamboley, Esq. called the meeting to order at 9:00 a.m. Also attending were Vice-Chairman Gregory J. Gale and Commissioners John C. Carpenter, Timothy Cory, Esq., Magdalena Groover, Cheryl A. Lau, Esq., and Keith A. Weaver, Esq. Commissioner James M. Shaw appeared via telephone.

Present for Commission Staff was Executive Director, Yvonne M. Nevarez-Goodson, Esq., Commission Counsel, Tracy L. Chase, Esq., Associate Counsel Jill C. Davis, Esq., Senior Investigator, Anthony Freiberg and Senior Legal Researcher, Darci Hayden.

2. Open Session for Public Comment.

No public comment.

The meeting was called into CLOSED session at 9:33 a.m.

CLOSED SESSION:

A. Closed Session pursuant to NRS 281A.440(8) for consideration of a Jurisdictional Appeal by the Requesters of Third-Party Request for Opinion No. 15-13N and Request for Opinion No. 15-17N, submitted pursuant to NAC 281A.405.

This Agenda item was held in closed session and will not be available to the public.

B. Closed Session for presentation, discussion and consideration of a Motion concerning Third-Party Request for Opinion No. 14-59C, regarding Gerald Antinoro, Sheriff, Storey County, State of Nevada, submitted pursuant to NRS 281A.440(2). Although this RFO is no longer confidential under NRS 281A.440(8) after the determination of the Investigatory Panel, the Motion presented contains otherwise protected confidential information and materials, and the Motion will be considered in a Closed Session pursuant to NRS 281A.440(15).

This Agenda item was held in closed session and will not be available to the public.

The meeting was called into OPEN session at 10:54 a.m.

OPEN SESSION:

1. Call to Order, Roll Call.
2. Open Session for Public Comment.

No public comment.

3. Open Session for determination of a Motion concerning Third-Party Request for Opinion No. 14-59C regarding Gerald Antinoro, Sheriff, Storey County, State of Nevada, submitted pursuant to NRS 281A.440(2).

This Agenda Item was called out of order. Chairman Lamboley began by explaining that after hearing presentations of the facts by counsel in Closed Session Item B, the item will move to an Open Session for deliberation by the Commission. The Chairman first expressed his appreciation to counsel, Mr. Brent Kolvet, Esq., counsel for Subject and Ms. Jill C. Davis, Esq., Associate Counsel for the Commission, for presenting the facts and then proceeded with housekeeping matters by asking for the Roll Call and Public Comment, and excusing from the proceeding Commissioners Gale and Lau because they were members of the Investigatory Panel in this matter.

The Chairman asked for questions from the Commission regarding Subject's Motion to Dismiss which resulted in a Motion by Commissioner Cory to Deny the Motion to Dismiss in the matter of Request for Opinion No. 14-59C regarding Sheriff of Storey County, Gerald Antinoro. Commissioner Shaw seconded the Motion and the motion was put to a vote and carried unanimously.

The meeting returned to CLOSED session at 11:06 a.m.

CLOSED SESSION:

C. Closed Session for discussion and consideration of a Proposed Stipulated Agreement concerning Third-Party Request for Opinion No. 14-64C regarding Ashok Mirchandani, Director, Nevada Department of Business and Industry, submitted pursuant to NRS 281A.440(2).

This Agenda Item was called out of order. This Agenda item was held in closed session and will not be available to the public.

The meeting returned to OPEN session at 11:29 a.m.

OPEN SESSION:

2. Open Session for Public Comment.

This Agenda Item was called out of order. Chairman Lamboley called for Public Comment. No public comment.

4. Open Session for consideration and approval of a Proposed Stipulated Agreement concerning Third-Party Request for Opinion No. 14-64C regarding Ashok Mirchandani, Director, Nevada Department of Business and Industry, submitted pursuant to NRS 281A.440(2)

This Agenda Item was called out of order. Chairman Lamboley began by welcoming participants for the parties; Mr. John Wicket and Mr. Chan Lengsavath, counsel for Subject, and Ms. Jill C. Davis, Esq., Associate Counsel for the Commission.

Vice-Chairman Gale disclosed for the record that Mr. Lengsavath worked for him in his previous position with the Gaming Control Board in the Audit Division, but that the employment relationship concluded six years in the past and he did not believe it would have any bearing on his decision-making in this matter.

Commissioner Weaver disclosed for the record that, in his capacity as a private attorney, he previously participated in a client matter in which he was opposing counsel to Subject's counsel in an unrelated matter but he did not think this personal business relationship would prevent him from voting on the matter. However, he gave Subject's counsel the opportunity to raise any concerns regarding his participation.

Subject's counsel consented to the participation of Vice-Chairman Gale and Commissioner Weaver in the respective matters.

Commission Counsel Tracy L. Chase, Esq., stated for the record that a correction should be made for this item regarding the title of Subject. Mr. Mirchandani's title should indicate "former Deputy Director" of the Nevada Department of Business and Industry.

Chairman Lamboley proceeded by opening Commission deliberation in which questions for factual clarifications were directed to parties' counsel.

Following questions and answers, Commissioner Weaver made a motion to reject the Stipulated Agreement on the grounds that the inadvertent use of the credit card is not an ethics violation and to dismiss any remaining allegations. Commission Counsel Chase recommended amending the Motion to include only the first part to reject the Stipulated Agreement because the second part regarding dismissal of remaining allegations was not part of the agenda item. Commissioner Weaver amended his motion accordingly and the motion was seconded by Commissioner Lau. The Motion was put to a vote carried unanimously. Chairman Lamboley added that the matter is considered by the Commission as still open and active.

The meeting was returned to CLOSED session at 12:04 a.m.

CLOSED SESSION:

D. Closed Session for discussion and consideration of potential or pending litigation.

This Agenda Item was called out of order. This Agenda Item was held in closed session and will not be available to the public.

The meeting reconvened in OPEN session at 12:15 a.m.

OPEN SESSION:

2. Open Session for Public Comment.

This Agenda Item was called out of order. Chairman Lamboley called for Public Comment. No public comment.

7. Open Session for discussion and potential direction to the Executive Director regarding the 2015 Session of the Nevada Legislature, including an update on the Commission's legislative measures (A.B. 60) and budget presentations before the Nevada Legislature.

This Agenda Item was called out of order. Ms. Nevarez-Goodson reported that A.B. 60 passed unanimously through the Senate and that it was currently waiting for enrollment, printing and the Governor's signature.

Ms. Nevarez-Goodson informed the Commission of the recent meetings with various legislators, local government representatives and Lieutenant Governor Hutchison regarding establishing quarterly or semiannual meetings going forward during the next biennium to talk about relevant ethics law reform, if any. Some of the ideas being discussed concern providing the Commission with more discretion in its ability to resolve third-party cases. These meetings would give the Commission an opportunity to invite interested parties to come forward prior to the next session with any concerns or input on proposed legislation. This will help to prevent being surprised during session with opposition to proposed changes.

Chairman Lamboley suggested that staff evaluate administrative rulemaking procedures, which are designed to solicit public comment on our proposed regulations as a comparable idea for pursuing public comment on proposed legislation.

5. Open Session for consideration and approval of Minutes from the March 18, 2015 Commission Meeting.

This Agenda Item was called out of order. Chairman Lamboley called for approval of the March 18, 2015 Commission Meeting Minutes. Commissioner Carpenter moved to approve the Minutes. Commissioner Lau seconded the motion. The motion was put to a vote and carried unanimously.

The Chairman excused himself from the meeting. Vice-Chairman Gale presided over the remainder of the meeting.

7. Open Session for discussion and potential direction to the Executive Director regarding the 2015 Session of the Nevada Legislature, including an update on the Commission's legislative measures (A.B. 60) and budget presentations before the Nevada Legislature.

This Agenda Item was called back into order. Ms. Nevarez-Goodson concluded her report on legislative issues with an update on the budget, reminding the Commission that the budget did close before the Senate Finance and Assembly Ways and Means Committees but that the Executive Director and Commission Counsel salaries still need to be corrected to clarify the salary issues with the addition last session of the Associate Counsel position. Based on the legislators' perspective, an affirmative decision was made last session through committee meetings to add only the new Associate Counsel positions but not to adjust the other two salaries accordingly.

However, the Legislative communications to the Commission suggested that any salary correction be made through the unclassified pay bill. This Session, however, the Commission was not provided an opportunity to request adjustments after the Governor's final budget was issued. Ms. Nevarez-Goodson suggested that testifying for budget enhancements is not normally done after the Governor has made his decision on an agency budget, but because the Commission has a unique status as a half legislatively appointed body, it might be possible to testify at the unclassified pay bill meeting, similar to what was suggested last session, if that meeting occurs and we are invited. However, Ms. Nevarez-Goodson did not think we would be invited to the table for this discussion.

Ms. Nevarez-Goodson requested that the Commissioners reach out to any of their respective contacts at the Legislature to discuss these adjustments. Ms. Nevarez-Goodson mentioned that she had spoken with Lt. Governor Hutchison regarding this issue who discussed it with Senator Kieckhefer. According to Lt. Governor Hutchison, Senator Kieckhefer indicated he had no problem with correcting the title disparity in the unclassified pay bill, but not the salaries. Ms. Nevarez-Goodson reminded the Commission that the impact to the State's General Fund from these salary enhancements would only be \$12,000 with \$60,000 spread over the local government contributions.

Vice-Chairman Gale asked the Commissioners to send emails to their respective contacts at the Legislature and asked Ms. Nevarez-Goodson to provide language they could use. Vice-Chairman Gale stated that the Commission is not trying to go against the Governor's position, but simply trying to fix a salary problem that has been in effect since last session. Ms. Nevarez-Goodson agreed that we are not trying to ask for special treatment from other agencies with regard to salaries but rather seeking to fix this error before next Session because it would then turn into a six-year problem.

6. Open Session for report by the Executive Director and Commission Counsel on agency status and operations, including, without limitation, an update regarding the status of pending Requests for Opinions, the Executive Director's proposed outreach and education program, and the development of an externship program with UNLV's William S. Boyd School of Law.

This Agenda Item was called out of order. Ms. Nevarez-Goodson began by directing the Commission to the Request for Opinion ("RFO") Chart in their meeting materials. Ms. Nevarez-Goodson said this was being shared per the request of the Commission for a quarterly update on the status of our cases. She noted there was one outstanding first-party opinion that would be completed soon, and that all other cases were on track and being completed timely, highlighting some third-party matters from last year that are still pending, but which have waivers of statutory timelines.

Ms. Nevarez-Goodson then updated the Commission on the outreach and education program. Some of this effort was stalled due to case load and staff turnover in recent months, but outreach is getting back on track. Ms. Nevarez-Goodson and Ms. Chase have met with various public officers and department heads this week in Las Vegas and will be scheduling future training with their respective staff, in particular establishing an increased presence in the southern jurisdictions.

Ms. Nevarez-Goodson turned next to discussion of her meeting with Dean Hamilton of UNLV's Boyd School of Law, regarding an externship program with the law school for the Ethics Commission. The Dean's reception to an externship program was positive based on a discussion of the interesting and unique legal issues that would provide a great experience for law students. Having an extern to bolster the Commission's staff will also be a plus. This partnership will also help put the Commission more on the map throughout the State. The Dean has externship

programs with other state agencies and the Governor's Office, but he was not familiar with the Ethics Commission, our jurisdiction, or the very significant legal issues we have faced in the last five years. Ms. Nevarez-Goodson stated she has also spoken with Boyd's Extern Coordinator and they are working on developing a program that might begin in the Fall 2015 Semester or at least get advertising to the Fall students, then begin for the Spring 2016 Semester.

Ms. Nevarez-Goodson reported further that Mr. Timothy Eacobacci, a recent graduate of Boyd School of Law, and current intern for the Attorney General's Office, contacted her to intern for the Commission. An internship has been arranged with him over the next several months while he secures a permanent job. Commission staff is sending him a package of materials, finalizing human resource matters and developing research projects. He is expected to start in June.

Vice-Chairman Gale asked for clarification between an externship and internship. Ms. Nevarez-Goodson explained that both will provide the same assistance to us from a law student but that the externship with Boyd will include a formal program developed specifically for the Commission and the students will obtain university credit from their work with the Commission. The Commission will also need to follow guidelines and terms developed for the program for evaluating the students' work.

Ms. Nevarez-Goodson continued her report by noting the upcoming election in July for a Chairman and Vice-Chairman and that several commissioner terms will be expiring over the next several months. She then went on to discuss upcoming Commission meetings noting that the full June 24 meeting will be cancelled. However, there is a first-party that will need a meeting of the commissioners via teleconference and she will be following up with emails regarding scheduling.

Ms. Nevarez-Goodson also informed the Commission that she was accepted into the Certified Public Manager program with the state and will begin the 18-month training in June. Ms. Nevarez-Goodson received congratulations from the Commissioners regarding her acceptance into the program.

In conclusion, Ms. Nevarez-Goodson brought to the Commission's attention the recent trend in calls regarding questions about what constitutes a gift for the purposes of NRS 281A. While she has been able to generally assist these callers with some guidance from past Commission cases, she has had to clarify that NRS 281A does not define "gift." Ms. Nevarez-Goodson stated that this appears to be a hot-button topic the Commission might want to address in a future legislative package or policy.

8. Open Session for Commissioner Comment on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.

No Commissioner comments.

9. Open Session for Public Comment. Comment and/or testimony by any member of the public may be limited to three (3) minutes. No action will be taken under this agenda item.

No Public comments

10. Adjournment.

Vice-Chairman Gale adjourned the meeting at 12:50 p.m.

Minutes prepared by:

Minutes approved: May 20, 2015:

Darci Hayden
Senior Legal Researcher

Paul H. Lamboley, Esq.
Chairman

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Gregory J. Gale
Vice-Chairman

AGENDA ITEM NO. 8

AGENDA ITEM NO. 8



**State of Nevada
COMMISSION ON ETHICS**

MEMORANDUM

DATE: July 8, 2015
TO: Commission Members
FROM: Yvonne Nevarez-Goodson, Executive Director
Tracy Chase, Commission Counsel
RE: Item 8 – Review and Possible Direction regarding NRS 281A.500 and
the Nevada Acknowledgement of Ethical Standards form, prescribed
by the Commission under NRS 281A.500(4)

SUMMARY:

The Commission has received a First-Party RFO and calls from various governmental entities requesting clarification regarding the reporting requirements pursuant to NRS 281A.500. Specifically questions persist whether a public officer must file a separate Acknowledgement for each and every public office held by the public officer or whether they can list the other offices as a supplement to the form.

The Ethics Law requires public officers to file a form acknowledging that they have received, read, and understand the statutory ethical standards. A copy of NRS 281A.500 is provided. The legislative history of NRS 281A.500 commenced in 1999 with the latest revisions to the statute adopted by the Nevada Legislature in 2013. Pursuant to the authority granted to it under NRS 281A.500(4), the Commission has prescribed the information to be included on the form Acknowledgement that is utilized by public officers to comply with their reporting requirements. A copy of the current Acknowledgement is provided.

NRS 281A.500 was enacted in 1999, and was amended five times during various sessions of the Nevada Legislature. The histories of the amendments will need to be researched and analysis completed as to the statutory requirements. However, it is known that in the 2009 Legislative Session, the adopted revisions required each public officer to file the form at certain times while holding office.

The timing for filing the Acknowledgement is statutory and dependent on whether the public officer holds his or her office by virtue of an election or appointment. For those holding office by election, there are different filing dates for the Acknowledgement depending on whether the election was a general or special election. For those holding office by appointment, there are different filing dates

depending on whether the public officer has a definite term of office or serves at the pleasure of the appointing authority.

Many elected public officers also hold appointed offices as part of their elected public duties that are not inconsistent with the duties of the elected public office.

CONCLUSION:

Rather than accept jurisdiction and initiate a hearing on a question of law, staff seeks direction from the Commission regarding its interpretation of the existing statutory requirements.

Commission staff will prepare a review of the Legislative History of the applicable laws and provide the Commission with a recommendation on whether a separate form for each public office is required and/or if there are revisions to the Acknowledgement to streamline the process and assist public officers in compliance with the reporting requirements of the Ethics Law.

NEVADA ACKNOWLEDGMENT OF ETHICAL STANDARDS FOR PUBLIC OFFICIALS

PERSONAL INFORMATION:

NAME:	TITLE OF PUBLIC OFFICE:
PUBLIC ENTITY:	
DATE APPOINTED OR ELECTED TO OFFICE (current term):	
ADDRESS:	CITY, STATE, ZIP:
TELEPHONE	E-MAIL:

I HEREBY ACKNOWLEDGE that (Handwritten initials required to the left of each of the following statements, as indicated):

INITIAL
HERE

I have received, read and understand the statutory ethical standards for public officers and public employees provided in NRS Chapter 281A (NRS 281A.500(1)(a)); and

INITIAL
HERE

I have a responsibility to inform myself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature (NRS 281A.500(1)(b)).

I understand that my refusal to execute and file this acknowledgement constitutes a willful violation of Chapter 281A of NRS, which may subject me to civil penalties. Further, if I am subject to removal from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for my removal for nonfeasance in office (NRS 281A.500(8)).

THE INFORMATION I HAVE PROVIDED HEREIN IS ACCURATE AND COMPLETE.

Date: _____

Signature: _____

Print Name:

WHO IS REQUIRED TO FILE:	WHEN (Due Date):
Appointed public officer.	Within 30 days of taking office, for each term of office.
Elected public officer who is elected at general election.	Jan. 15 th of the year following the general election, for each term of office.
Elected public officer who is elected at an election other than the general election.	Within 30 days of taking office, for each term of office.
Appointed public officer who serves at the pleasure of the appointing authority and does not have a definite term of office.	Within 30 days of taking office and then Jan. 15 th every even-numbered year while holding that office.

Statutory Ethical Standards may be obtained or requested from:

Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
775.687.5469 • 775.687.1279 fax
<http://ethics.nv.gov>

File completed form with:

Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
775.687.5469 • 775.687.1279 fax

NRS 281A.500 Notice and acknowledgment of statutory ethical standards: Distribution of information regarding standards; duty to file acknowledgment; contents; form; retention; penalty for willful refusal to file.

1. On or before the date on which a public officer swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:

(a) For an appointed public officer, the appointing authority of the public officer; and

(b) For an elected public officer of:

(1) The county and other political subdivisions within the county except cities, the county clerk;

(2) The city, the city clerk;

(3) The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and

(4) The Executive Department of the State Government, the Director of the Department of Administration, or his or her designee.

2. Within 30 days after a public employee begins employment:

(a) The Director of the Department of Administration, or his or her designee, shall provide each new public employee of a state agency with the information prepared by the Commission concerning the statutory ethical standards; and

(b) The manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.

3. Each public officer shall acknowledge that the public officer:

(a) Has received, read and understands the statutory ethical standards; and

(b) Has a responsibility to inform himself or herself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.

4. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:

(a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.

(b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer swears or affirms the oath of office.

5. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not have a definite term of office, the public officer, in addition to executing and filing the acknowledgment after the public officer swears or affirms the oath of office in accordance with subsection 4, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.

6. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is filed in one of the following ways:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.

(d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.

7. The form for making the acknowledgment must contain:

(a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a copy of the standards; and

(b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a printed copy of the statutory ethical standards from the Commission.

8. Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a printed copy of the form for making the acknowledgment, a printed copy of the statutory ethical standards must be included with the form.

9. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

10. Willful refusal to execute and file the acknowledgment required by this section shall be deemed to be:

(a) A willful violation of this chapter for the purposes of NRS 281A.480; and

(b) Nonfeasance in office for the purposes of NRS 283.440 and, if the public officer is removable from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for removal of the public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.

11. As used in this section, "general election" has the meaning ascribed to it in NRS 293.060.

(Added to NRS by 1999, 2730; A 2001, 2289; 2003, 3020, 3396; 2003, 20th Special Session, 265; 2009, 1066; 2013, 3784)—(Substituted in revision for NRS 281.552)

AGENDA ITEM NO. 9

AGENDA ITEM NO. 9

AGENDA ITEM 9

ANNUAL REPORT

WILL FOLLOW SEPARATELY

AGENDA ITEM NO. 11

AGENDA ITEM NO. 11



**State of Nevada
COMMISSION ON ETHICS**

M E M O R A N D U M

DATE: July 7, 2015
TO: Commission Members
FROM: Tracy Chase, Commission Counsel
RE: 2015 Legislative Session Update

This memorandum provides a general overview of the 2015 Legislative amendments affecting the procedures of the State of Nevada Commission on Ethics ("Commission"), with respect to the following bills:

1. Assembly Bill No. 53 – Nevada Administrative Procedure Act – NRS Chapter 233B.
2. Assembly Bill No. 135 – Nevada Public Records Law – NRS Chapter 239.
3. Assembly Bill No. 179 – Security of Personal Information – NRS Chapter 603A.
4. Senate Bill No. 70 – Nevada Open Meeting Law – NRS Chapter 241.
5. Senate Bill No. 307 – Financial Disclosure Statements and Gifts to Public Officers – NRS Chapters 218H and 281.

1. <u>Assembly Bill No. 53</u> – Nevada Administrative Procedure Act – Effective July 1, 2015	Effect on Commission Procedures:
<u>Administrative Proceedings</u> – AB 53 requires: (1) a party requesting transcript to pay for the associated costs, (2) in contested cases, the provisions of notice and opportunity for hearing be required by statute and regulation, and (3) voluntary surrender of a license constitutes disciplinary action (No. (3) is not applicable to the Commission).	Commission's public records policy will advise on transcript costs and NRS 281A and NAC 281A already complies with the required provisions of notice and opportunity for hearing.

1. <u>Assembly Bill No. 53 – Nevada Administrative Procedure Act – Effective July 1, 2015</u>	Effect on Commission Procedures:
<u>Standard of Proof for Agency Determination</u> - As a result of a recent Nevada Supreme Court opinion, ¹ the Legislature clarified that the standard of proof required to be used by an administrative agency is the preponderance-of-the-evidence standard, which is defined as “evidence that enables a trier of fact to determine that the existence of the contested fact is more probable than the nonexistence of the contested fact.”	NONE NRS 281A.480(9) utilizes this standard for the Commission to find a violation of the Ethics Law
<u>Standard confirmed for Judicial Review</u> – AB 53 codifies the definition of “substantial evidence,” as established in case law by the Nevada Supreme Court, for application as the standard for judicial review of administrative decisions.	NONE
<u>Judicial Review Procedures</u> – AB 53 specifies the manner of service for a Petition for Judicial Review and extends the timeline for an agency to file its record of administrative proceedings by 15 days.	Changes in procedures will be followed.
2. <u>Assembly Bill No. 135 – Nevada Public Records Law – NRS Chapter 239 – Effective upon passage for any preparatory administrative tasks and on January 1, 2016, for all other purposes</u>	Effect on Commission Procedures:
<u>Public Records Program</u> – AB 135 requires the Division of State Library and Archives to provide a program of education and training on Public Record Retention and Disposition. Under certain circumstances, the head of an agency is required to designate employees to complete the program and to issue letters of reprimand for knowing violation of associated regulations, with potential for more severe discipline for a repeated or egregious violation.	Commission’s operational policies being drafted will include relevant instruction for staff.

¹ *Nassiri v. Chiropractic Physicians’ Board of Nevada*, 130 Nev. Adv. Op. No. 27, 327 P.3d 547 (2014).

3. <u>Assembly Bill No. 179 – Security of personal Information – NRS Chapter 603A – Effective July 1, 2015.</u>	Effect on Commission Procedures:
<u>Definition of “Personal Information” expanded</u> – AB 170 expands the definition of “personal information” to include driver authorization cards, medical or health insurance identification cards, or any other form of card which contains a user name, unique identifier, electronic mail address in combination with a password, access code or security questions and the answer would permit access to an on-line account. This expansion means that established security measures would apply to these documents.	Commission’s internal policy under draft will include relevant instruction for staff on required security measures.
4. <u>Senate Bill No. 70 – Nevada Open Meeting Law (OML) – NRS Chapter 241 – Effective upon passage</u>	Effect on Commission Procedures:
<u>Definition of “Quorum” clarified</u> – SB 70 clarifies the definition of “quorum” to remove the extraneous reference to “constituent,” confirming that a quorum consists of a simple majority of the members of the public body unless a different number is prescribed by law.	NONE
<u>Definition of “Working Day” clarified</u> - “Working day” means every day of the week, except Saturday, Sunday, or a legal holiday; however, if an agency has a 4-day workweek and is closed Fridays, the Friday nevertheless counts as a working day, unless it is a legal holiday.	NONE The Commission procedures already count Friday as a working day for purposes of OML
<u>Addition of cross-references to other laws which authorize or require closed sessions, confirming that such laws prevail over the general provisions of the OML</u> - The amendment specifically references NRS 281A.350, 281A.440 and 281A.550.	NONE
<u>Agenda posting requires names of persons if any administrative action is considered to be taken, whether or not adverse to the person</u>	Commission procedures are updated

4. <u>Senate Bill No. 70 – Nevada Open Meeting Law (OML) – NRS Chapter 241 – Effective upon passage</u>	Effect on Commission Procedures:
<u>Documented Proof of Agenda Posting</u> - Public body must document proof of posting of an agenda for each posting location.	Commission procedures are updated
<u>Designation of Alternates</u> - Neither a public body nor its individual members, may designate a person to attend a public meeting of the body in their place, without specific legal authority.	NONE
<u>Approval of Written Minutes</u> - Bill requires approval of minutes within 45 days <u>or</u> at the next meeting of the public body, whichever occurs later, unless good cause is shown.	NONE
<u>OML Complaint Process Clarified</u> - A complaint may be filed with the Office of Attorney General, and all documents and other information compiled are confidential until the investigation is closed. Bill confirms the following are public records: (1) OML complaint, (2) findings of fact or conclusion of law made by the Attorney General, and (3) certain other document compiled as a result of the investigation that may be requested from a government entity other than the Attorney General.	NONE

5. <u>Senate Bill No. 307 – Financial Disclosure Statements and Gifts to Public Officers – NRS Chapters 218H and 281 - Effective upon passage for any preparatory administrative tasks and on January 1, 2016, for all other purposes</u>	Effect on Commission Procedures:
<u>Definition of “Gift” established</u> - Of interest in SB 307 is the Legislature’s establishment of a consistent definition for “gift” in two statutory acts applicable to certain public officers and candidates. Previously, the provisions of the Nevada Lobbying Disclosure Act (“LA”) prohibited soliciting or accepting any gifts that exceed \$100 in value in the aggregate from a donor in a calendar year. “Gift” did have a definition in NRS 218H.060, which excluded the cost of entertainment, food and beverages.	Definition of “gift” contained in the LA and FDA, may have interplay with the provisions of NRS 281A, and interpretive decisions of the Commission relating to public officers

5. <u>Senate Bill No. 307</u> – Financial Disclosure Statements and Gifts to Public Officers – NRS Chapters 218H and 281 - Effective upon passage for any preparatory administrative tasks and on January 1, 2016, for all other purposes	Effect on Commission Procedures:
<p>In addition to the LA, the previous provisions of the Financial Disclosure Act (“FDA”), required Legislators and other state and local public officers and candidates to disclose and report gifts received in excess of an aggregate value of \$200 from a donor in a calendar year.</p> <p>Unlike the LA, the FDA did not define the term “gift,” but it excluded certain types of gifts from reporting requirements. The bill references a 2007 decision of the Commission, when it had authority to interpret the FDA, wherein it indicated the FDA did not establish what constituted a gift for purpose of existing law, with respect to an acceptance of an invitation to visit a nuclear process facility located in France and travel to Europe for that purpose. (<i>In re Phillips</i>, CEO 01-23 (June 15, 2007)).</p> <p>SB 307 revises both the LA and FDA to establish a consistent definition of “gift” for both acts and a definition for “educational or informational meeting, event or trip,” which expenditures are required to be disclosed, but are not encompassed in the definition of “gift.”</p> <p>Note: SB 307 provided for other revisions to the LA and FDA, not specifically set forth above. Any public officer or candidate should become familiar with such revisions.</p>	<p>See above</p>

CONCLUSION:

Copies of the referenced legislation, as enrolled, are attached for your convenience. The Executive Director and Commission Counsel have already coordinated changes to Commission procedures on these matters to assure compliance with current law in protection of the agency and are available to answer any questions you may have on this memorandum.

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Assembly Bill No. 53—Committee
on Government Affairs

CHAPTER.....

AN ACT relating to administrative procedure; revising provisions governing the standard of proof in administrative hearings; making various other changes to the Nevada Administrative Procedure Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Administrative Procedure Act sets forth the minimum procedural requirements for the adjudication procedure of agencies of the Executive Department of the State Government that are subject to the Act. (NRS 233B.020)

Section 5 of this bill provides that the voluntary surrender of a license in a contested case will constitute disciplinary action against the licensee. **Section 5** also requires a party who requests the transcription of oral proceedings to pay for the costs of the transcription.

Under the Act, applications for the grant, denial or renewal of a license are a contested case for purposes of the application of the procedural requirements of the Act only if notice and opportunity for hearing are required to be provided to the applicant before the grant, denial or renewal of the license. (NRS 233B.127) **Section 8** of this bill clarifies that, to be a contested case, the provision of notice and opportunity for hearing must be required by statute or regulation.

Section 9 of this bill specifies the manner in which a petition for judicial review is required to be served. **Section 10** of this bill extends from 30 days to 45 days the period after the service of a petition for judicial review in which certain records are required to be transmitted to the reviewing court and also imposes a duty on the party who filed the petition to transmit to the reviewing court an original or certified copy of the transcript of the evidence. **Section 13** of this bill makes it discretionary instead of mandatory for a regulatory body that initiates disciplinary proceedings against a licensee to require the licensee to submit his or her fingerprints.

The Nevada Supreme Court recently clarified that the standard of proof that is required to be used by administrative agencies in administrative hearings is a preponderance of the evidence. (*Nassiri v. Chiropractic Physicians' Board of Nevada*, 130 Nev. Adv. Op. No. 27, 327 P.3d 487 (2014)) **Sections 2, 5, 7 and 14-27** of this bill revise the standard of proof for administrative hearings in existing law to conform to the preponderance-of-the-evidence standard in the *Nassiri* opinion. **Section 11** of this bill codifies into statute the definition of "substantial evidence" in case law for purposes of the standard for judicial review. (See, e.g., *State Empl't Sec. Dept. v. Hilton Hotels Corp.*, 102 Nev. 606 (1986))



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 233B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***“Preponderance of the evidence” means evidence that enables a trier of fact to determine that the existence of the contested fact is more probable than the nonexistence of the contested fact.***

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 233B.030 is hereby amended to read as follows:

233B.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 233B.031 to 233B.0385, inclusive, ***and section 2 of this act***, have the meanings ascribed to them in those sections.

Sec. 5. NRS 233B.121 is hereby amended to read as follows:

233B.121 1. In a contested case, all parties must be afforded an opportunity for hearing after reasonable notice.

2. The notice must include:

(a) A statement of the time, place and nature of the hearing.
(b) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(c) A reference to the particular sections of the statutes and regulations involved.

(d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.

3. Any party is entitled to be represented by counsel.

4. Opportunity must be afforded all parties to respond and present evidence and argument on all issues involved. An agency may by regulation authorize the payment of fees and reimbursement for mileage to witnesses in the same amounts and under the same conditions as for witnesses in the courts of this state.

5. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. If an informal disposition is made, the parties may waive the requirement for findings of fact and conclusions of law.



6. *The voluntary surrender of a license in a contested case shall be deemed to constitute disciplinary action against the licensee.*

7. The record in a contested case must include:

- (a) All pleadings, motions and intermediate rulings.
- (b) Evidence received or considered.
- (c) A statement of matters officially noticed.
- (d) Questions and offers of proof and objections, and rulings thereon.
- (e) Proposed findings and exceptions.
- (f) Any decision, opinion or report by the hearing officer presiding at the hearing.

~~7-1~~ 8. Oral proceedings, or any part thereof, must be transcribed on request of any party. *The party making the request shall pay all the costs for the transcription.*

~~8-1~~ 9. Findings of fact must be based exclusively on ~~substantial~~ *a preponderance of the* evidence and on matters officially noticed.

Sec. 6. NRS 233B.123 is hereby amended to read as follows:
233B.123 In contested cases:

1. Irrelevant, immaterial or unduly repetitious evidence must be excluded. Evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and must be noted in the record. Subject to the requirements of this subsection, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2. Documentary evidence may be received in the form of authenticated copies or excerpts . ~~if the original is not readily available.~~ Upon request, parties must be given an opportunity to compare the copy with the original.

3. Every witness shall declare, by oath or affirmation, that he or she will testify truthfully.

4. Each party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination, impeach any witness, regardless of which party first called the witness to testify, and rebut the evidence against him or her.



5. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the specialized knowledge of the agency. Parties must be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they must be afforded an opportunity to contest the material so noticed. The experience, technical competence and specialized knowledge of the agency may be utilized in the evaluation of the evidence.

Sec. 7. NRS 233B.125 is hereby amended to read as follows:

233B.125 A decision or order adverse to a party in a contested case must be in writing or stated in the record. Except as provided in subsection 5 of NRS 233B.121, a final decision must include findings of fact and conclusions of law, separately stated. Findings of fact and decisions must be based upon ~~substantial~~ *a preponderance of the* evidence. Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency regulations, a party submitted proposed findings of fact ~~it~~ *before the commencement of the hearing*, the decision must include a ruling upon each proposed finding. Parties must be notified either personally or by certified mail of any decision or order. Upon request a copy of the decision or order must be delivered or mailed forthwith to each party and to the party's attorney of record.

Sec. 8. NRS 233B.127 is hereby amended to read as follows:

233B.127 1. ~~When~~ *The provisions of NRS 233B.121 to 233B.150, inclusive, and section 3 of this act do not apply to* the grant, denial or renewal of a license ~~is required to be preceded by~~ *unless* notice and opportunity for hearing ~~the provisions of this chapter concerning contested cases apply.~~ *are required by law to be provided to the applicant before the grant, denial or renewal of the license.*

2. When a licensee has made timely and sufficient application for the renewal of a license or for a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

3. No revocation, suspension, annulment or withdrawal of any license is lawful unless, before the institution of agency proceedings, the agency gave notice by certified mail to the licensee



of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. An agency's order of summary suspension may be issued by the agency or by the Chair of the governing body of the agency. If the order of summary suspension is issued by the Chair of the governing body of the agency, the Chair shall not participate in any further proceedings of the agency relating to that order. Proceedings relating to the order of summary suspension must be instituted and determined within 45 days after the date of the order unless the agency and the licensee mutually agree in writing to a longer period.

Sec. 9. NRS 233B.130 is hereby amended to read as follows:

233B.130 1. Any party who is:

(a) Identified as a party of record by an agency in an administrative proceeding; and

(b) Aggrieved by a final decision in a contested case,

→ is entitled to judicial review of the decision. Where appeal is provided within an agency, only the decision at the highest level is reviewable unless a decision made at a lower level in the agency is made final by statute. Any preliminary, procedural or intermediate act or ruling by an agency in a contested case is reviewable if review of the final decision of the agency would not provide an adequate remedy.

2. Petitions for judicial review must:

(a) Name as respondents the agency and all parties of record to the administrative proceeding;

(b) Be instituted by filing a petition in the district court in and for Carson City, in and for the county in which the aggrieved party resides or in and for the county where the agency proceeding occurred; ~~and~~

(c) *Be served upon:*

(1) The Attorney General, or a person designated by the Attorney General, at the Office of the Attorney General in Carson City; and

(2) The person serving in the office of administrative head of the named agency; and

(d) Be filed within 30 days after service of the final decision of the agency.



↪ Cross-petitions for judicial review must be filed within 10 days after service of a petition for judicial review.

3. The agency and any party desiring to participate in the judicial review must file a statement of intent to participate in the petition for judicial review and serve the statement upon the agency and every party within 20 days after service of the petition.

4. A petition for rehearing or reconsideration must be filed within 15 days after the date of service of the final decision. An order granting or denying the petition must be served on all parties at least 5 days before the expiration of the time for filing the petition for judicial review. If the petition is granted, the subsequent order shall be deemed the final order for the purpose of judicial review.

5. The petition for judicial review and any cross-petitions for judicial review must be served upon the agency and every party within 45 days after the filing of the petition, unless, upon a showing of good cause, the district court extends the time for such service. If the proceeding involves a petition for judicial review or cross-petition for judicial review of a final decision of the State Contractors' Board, the district court may, on its own motion or the motion of a party, dismiss from the proceeding any agency or person who:

(a) Is named as a party in the petition for judicial review or cross-petition for judicial review; and

(b) Was not a party to the administrative proceeding for which the petition for judicial review or cross-petition for judicial review was filed.

6. The provisions of this chapter are the exclusive means of judicial review of, or judicial action concerning, a final decision in a contested case involving an agency to which this chapter applies.

Sec. 10. NRS 233B.131 is hereby amended to read as follows:

233B.131 1. Within ~~30~~ 45 days after the service of the petition for judicial review or such time as is allowed by the court ~~to~~ **the** :

(a) The party who filed the petition for judicial review shall transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency.

(b) The agency that rendered the decision which is the subject of the petition shall transmit to the reviewing court the original or a certified copy of the ~~entire~~ remainder of the record of the proceeding under review . ~~including a transcript of the evidence resulting in the final decision of the agency.~~



➡ The record may be shortened by stipulation of the parties to the proceedings. A party unreasonably refusing to stipulate to limit the record, as determined by the court, may be assessed by the court any additional costs. The court may require or permit subsequent corrections or additions to the record.

2. If, before submission to the court, an application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence and any rebuttal evidence be taken before the agency upon such conditions as the court determines.

3. After receipt of any additional evidence, the agency:

- (a) May modify its findings and decision; and
- (b) Shall file the evidence and any modifications, new findings or decisions with the reviewing court.

Sec. 11. NRS 233B.135 is hereby amended to read as follows:

233B.135 1. Judicial review of a final decision of an agency must be:

- (a) Conducted by the court without a jury; and
- (b) Confined to the record.

➡ In cases concerning alleged irregularities in procedure before an agency that are not shown in the record, the court may receive evidence concerning the irregularities.

2. The final decision of the agency shall be deemed reasonable and lawful until reversed or set aside in whole or in part by the court. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.

3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:

- (a) In violation of constitutional or statutory provisions;
- (b) In excess of the statutory authority of the agency;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law;
- (e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) Arbitrary or capricious or characterized by abuse of discretion.



4. As used in this section, “substantial evidence” means evidence which a reasonable mind might accept as adequate to support a conclusion.

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 622.360 is hereby amended to read as follows:

622.360 1. If a regulatory body initiates disciplinary proceedings against a licensee pursuant to this title, the *regulatory body may require the* licensee ~~[shall, within 30 days after the licensee receives notification of the initiation of the disciplinary proceedings.]~~ *to* submit to the regulatory body a complete set of his or her fingerprints and written permission authorizing the regulatory body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of the licensee to comply with the requirements of subsection 1 constitutes an additional ground for the regulatory body to take disciplinary action against the licensee, including, without limitation, suspending or revoking the license of the licensee.

3. A regulatory body has an additional ground for taking disciplinary action against the licensee if:

(a) The report from the Federal Bureau of Investigation indicates that the licensee has been convicted of an unlawful act that is a ground for taking disciplinary action against the licensee pursuant to this title; and

(b) The regulatory body has not taken any prior disciplinary action against the licensee based on that unlawful act.

4. To the extent possible, the provisions of this section are intended to supplement other statutory provisions governing disciplinary proceedings. If there is a conflict between such other provisions and the provisions of this section, the other provisions control to the extent that the other provisions provide more specific requirements regarding the discipline of a licensee.

Sec. 14. NRS 622A.370 is hereby amended to read as follows:

622A.370 1. The prosecutor has the burden of proof in any hearing pursuant to this chapter. The standard of proof in such a hearing is ~~[substantial]~~ *a preponderance of the* evidence.

2. Except as otherwise provided in this chapter, the regulatory body or hearing panel or officer is not bound by strict rules of procedure or rules of evidence when conducting the hearing, except that evidence must be taken and considered in the hearing pursuant to NRS 233B.123.



3. In any hearing pursuant to this chapter, the acts which constitute grounds for initiating disciplinary action against a licensee and the administrative penalties that may be imposed against a licensee are set forth in the occupational licensing chapter governing the licensee.

4. If requested by any party, the hearing or any portion of the hearing must be transcribed. The party making the request shall pay all costs for the transcription.

5. As used in this section, "preponderance of the evidence" has the meaning ascribed to it in section 2 of this act.

Sec. 15. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

"Preponderance of the evidence" has the meaning ascribed to it in section 2 of this act.

Sec. 16. NRS 631.005 is hereby amended to read as follows:

631.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 631.015 to 631.105, inclusive, ***and section 15 of this act***, have the meanings ascribed to them in those sections.

Sec. 17. NRS 631.255 is hereby amended to read as follows:

631.255 1. The Board may, without a clinical examination required by NRS 631.240, issue a specialist's license to a person who:

(a) Presents a current certification as a diplomate from a certifying board approved by the Commission on Dental Accreditation of the American Dental Association; or

(b) Has completed the educational requirements specified for certification in a specialty area by a certifying board approved by the Commission on Dental Accreditation of the American Dental Association and is recognized by the certifying board as being eligible for that certification. A person who is licensed as a specialist pursuant to the provisions of this paragraph:

(1) Shall submit to the Board his or her certificate as a diplomate from the certifying board within 6 years after licensure as a specialist; and

(2) Must maintain certification as a diplomate of the certifying board during the period in which the person is licensed as a specialist pursuant to this paragraph.

2. In addition to the requirements set forth in subsection 1, a person applying for a specialist's license:

(a) Must hold an active license to practice dentistry pursuant to the laws of another state or territory of the United States, or the District of Columbia, or pursuant to the laws of this State, another



state or territory of the United States, or the District of Columbia, if the person is applying pursuant to paragraph (b) of subsection 1;

(b) Must be a specialist as identified by the Board;

(c) Shall pay the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.240;

(d) Must submit all information required to complete an application for a license; and

(e) Must satisfy the requirements of NRS 631.230.

3. The Board shall not issue a specialist's license to a person:

(a) Whose license to practice dentistry has been revoked or suspended;

(b) Who has been refused a license to practice dentistry; or

(c) Who is involved in or has pending a disciplinary action concerning a license to practice dentistry,

→ in this State, another state or territory of the United States, or the District of Columbia.

4. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

5. A person to whom a specialist's license is issued pursuant to this section shall limit his or her practice to the specialty.

6. The Board may revoke a specialist's license at any time ~~upon submission of substantial evidence to~~ if the Board *finds, by a preponderance of the evidence*, that the holder of the license violated any provision of this chapter or the regulations of the Board.

Sec. 18. NRS 631.271 is hereby amended to read as follows:

631.271 1. The Board shall, without a clinical examination required by NRS 631.240 or 631.300, issue a limited license to practice dentistry or dental hygiene to a person who:

(a) Is qualified for a license to practice dentistry or dental hygiene in this State;

(b) Pays the required application fee;

(c) Has entered into a contract with:

(1) The Nevada System of Higher Education to provide services as a dental intern, dental resident or instructor of dentistry or dental hygiene at an educational or outpatient clinic, hospital or other facility of the Nevada System of Higher Education; or

(2) An accredited program of dentistry or dental hygiene of an institution which is accredited by a regional educational accrediting organization that is recognized by the United States Department of Education to provide services as a dental intern, dental resident or instructor of dentistry or dental hygiene at an



educational or outpatient clinic, hospital or other facility of the institution and accredited by the Commission on Dental Accreditation of the American Dental Association or its successor specialty accrediting organization;

(d) Satisfies the requirements of NRS 631.230 or 631.290, as appropriate; and

(e) Satisfies at least one of the following requirements:

(1) Has a license to practice dentistry or dental hygiene issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(2) Presents to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the person has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board;

(3) Successfully passes a clinical examination approved by the Board and the American Board of Dental Examiners; or

(4) Has the educational or outpatient clinic, hospital or other facility where the person will provide services as a dental intern or dental resident in an internship or residency program submit to the Board written confirmation that the person has been appointed to a position in the program and is a citizen of the United States or is lawfully entitled to remain and work in the United States. If a person qualifies for a limited license pursuant to this subparagraph, the limited license remains valid only while the person is actively providing services as a dental intern or dental resident in the internship or residency program, is lawfully entitled to remain and work in the United States and is in compliance with all other requirements for the limited license.

2. The Board shall not issue a limited license to a person:

(a) Who has been issued a license to practice dentistry or dental hygiene if:

(1) The person is involved in a disciplinary action concerning the license; or

(2) The license has been revoked or suspended; or

(b) Who has been refused a license to practice dentistry or dental hygiene,

↳ in this State, another state or territory of the United States, or the District of Columbia.

3. Except as otherwise provided in subsection 4, a person to whom a limited license is issued pursuant to subsection 1:

(a) May practice dentistry or dental hygiene in this State only:



(1) At the educational or outpatient clinic, hospital or other facility where the person is employed; and

(2) In accordance with the contract required by paragraph (c) of subsection 1.

(b) Shall not, for the duration of the limited license, engage in the private practice of dentistry or dental hygiene in this State or accept compensation for the practice of dentistry or dental hygiene except such compensation as may be paid to the person by the Nevada System of Higher Education or an accredited program of dentistry or dental hygiene for services provided as a dental intern, dental resident or instructor of dentistry or dental hygiene pursuant to paragraph (c) of subsection 1.

4. The Board may issue a permit authorizing a person who holds a limited license to engage in the practice of dentistry or dental hygiene in this State and to accept compensation for such practice as may be paid to the person by entities other than the Nevada System of Higher Education or an accredited program of dentistry or dental hygiene with whom the person is under contract pursuant to paragraph (c) of subsection 1. The Board shall, by regulation, prescribe the standards, conditions and other requirements for the issuance of a permit.

5. A limited license expires 1 year after its date of issuance and may be renewed on or before the date of its expiration, unless the holder no longer satisfies the requirements for the limited license. The holder of a limited license may, upon compliance with the applicable requirements set forth in NRS 631.330 and the completion of a review conducted at the discretion of the Board, be granted a renewal certificate that authorizes the continuation of practice pursuant to the limited license for 1 year.

6. A permit issued pursuant to subsection 4 expires on the date that the holder's limited license expires and may be renewed when the limited license is renewed, unless the holder no longer satisfies the requirements for the permit.

7. Within 7 days after the termination of a contract required by paragraph (c) of subsection 1, the holder of a limited license shall notify the Board of the termination, in writing, and surrender the limited license and a permit issued pursuant to this section, if any, to the Board.

8. The Board may revoke a limited license and a permit issued pursuant to this section, if any, at any time ~~upon submission of substantial evidence to~~ *if the Board finds, by a preponderance of the evidence,* that the holder of the license violated any provision of this chapter or the regulations of the Board.



Sec. 19. NRS 631.272 is hereby amended to read as follows:

631.272 1. Except as otherwise provided in this section, the Board shall, without a clinical examination required by NRS 631.240, issue a temporary license to practice dentistry to a person who:

(a) Has a license to practice dentistry issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(b) Has practiced dentistry pursuant to the laws of another state or territory of the United States, or the District of Columbia, for a minimum of 5 years;

(c) Has not had a license to practice dentistry revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(d) Has not been refused a license to practice dentistry in this State, another state or territory of the United States, or the District of Columbia;

(e) Is not involved in or does not have pending a disciplinary action concerning a license to practice dentistry in this State, another state or territory of the United States, or the District of Columbia;

(f) Pays the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.240;

(g) Submits all information required to complete an application for a license; and

(h) Satisfies the requirements of NRS 631.230.

2. A person to whom a temporary license is issued pursuant to subsection 1 may:

(a) Practice dentistry for the duration of the temporary license; and

(b) Apply for a permanent license to practice dentistry without a clinical examination required by NRS 631.240 if the person has held a temporary license to practice dentistry pursuant to subsection 1 for a minimum of 2 years.

3. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

4. The Board shall not, on or after July 1, 2006, issue any additional temporary licenses to practice dentistry pursuant to this section.

5. Any person who, on July 1, 2006, holds a temporary license to practice dentistry issued pursuant to this section may, subject to the regulatory and disciplinary authority of the Board, practice dentistry under the temporary license until December 31, 2008, or



until the person is qualified to apply for and is issued or denied a permanent license to practice dentistry in accordance with this section, whichever period is shorter.

6. The Board may revoke a temporary license at any time ~~upon submission of substantial evidence to~~ if the Board *finds, by a preponderance of the evidence*, that the holder of the license violated any provision of this chapter or the regulations of the Board.

Sec. 20. NRS 631.273 is hereby amended to read as follows:

631.273 1. Except as otherwise provided in this section, the Board shall, without a clinical examination required by NRS 631.300, issue a temporary license to practice dental hygiene to a person who:

(a) Has a license to practice dental hygiene issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(b) Satisfies the requirements of NRS 631.290;

(c) Has practiced dental hygiene pursuant to the laws of another state or territory of the United States, or the District of Columbia, for at least 5 years immediately preceding the date that the person applies for a temporary license;

(d) Has not had a license to practice dental hygiene revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(e) Has not been denied a license to practice dental hygiene in this State, another state or territory of the United States, or the District of Columbia;

(f) Is not involved in or does not have pending a disciplinary action concerning a license to practice dental hygiene in this State, another state or territory of the United States, or the District of Columbia;

(g) Pays the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.300; and

(h) Submits all information required to complete an application for a license.

2. A person to whom a temporary license is issued pursuant to this section may:

(a) Practice dental hygiene for the duration of the temporary license; and

(b) Apply for a permanent license to practice dental hygiene without a clinical examination required by NRS 631.300 if the person has held a temporary license to practice dental hygiene issued pursuant to this section for at least 2 years.



3. The Board shall examine each applicant in writing concerning the contents and interpretation of this chapter and the regulations of the Board.

4. The Board shall not, on or after July 1, 2006, issue any additional temporary licenses to practice dental hygiene pursuant to this section.

5. Any person who, on July 1, 2006, holds a temporary license to practice dental hygiene issued pursuant to this section may, subject to the regulatory and disciplinary authority of the Board, practice dental hygiene under the temporary license until December 31, 2008, or until the person is qualified to apply for and is issued or denied a permanent license to practice dental hygiene in accordance with this section, whichever period is shorter.

6. The Board may revoke a temporary license at any time ~~upon submission of substantial evidence to~~ if the Board *finds, by a preponderance of the evidence*, that the holder of the license violated any provision of this chapter or the regulations of the Board.

Sec. 21. NRS 631.274 is hereby amended to read as follows:

631.274 1. The Board shall, without a clinical examination required by NRS 631.240 or 631.300, issue a restricted geographical license to practice dentistry or dental hygiene to a person if the person meets the requirements of subsection 2 and:

(a) A board of county commissioners submits a request that the Board of Dental Examiners of Nevada waive the requirements of NRS 631.240 or 631.300 for any applicant intending to practice dentistry or dental hygiene in a rural area of a county in which dental or dental hygiene needs are underserved as that term is defined by the officer of rural health of the University of Nevada School of Medicine;

(b) Two or more boards of county commissioners submit a joint request that the Board of Dental Examiners of Nevada waive the requirements of NRS 631.240 or 631.300 for any applicant intending to practice dentistry or dental hygiene in one or more rural areas within those counties in which dental or dental hygiene needs are underserved as that term is defined by the officer of rural health of the University of Nevada School of Medicine; or

(c) The director of a federally qualified health center or a nonprofit clinic submits a request that the Board waive the requirements of NRS 631.240 or 631.300 for any applicant who has entered into a contract with a federally qualified health center or nonprofit clinic which treats underserved populations in Washoe County or Clark County.



2. A person may apply for a restricted geographical license if the person:

(a) Has a license to practice dentistry or dental hygiene issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(b) Is otherwise qualified for a license to practice dentistry or dental hygiene in this State;

(c) Pays the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.240 or 631.300;

(d) Submits all information required to complete an application for a license; and

(e) Satisfies the requirements of NRS 631.230 or 631.290, as appropriate.

3. The Board shall not issue a restricted geographical license to a person:

(a) Whose license to practice dentistry or dental hygiene has been revoked or suspended;

(b) Who has been refused a license to practice dentistry or dental hygiene; or

(c) Who is involved in or has pending a disciplinary action concerning a license to practice dentistry or dental hygiene, in this State, another state or territory of the United States, or the District of Columbia.

4. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

5. A person to whom a restricted geographical license is issued pursuant to this section:

(a) May practice dentistry or dental hygiene only in the county or counties which requested the restricted geographical licensure pursuant to paragraph (a) or (b) of subsection 1.

(b) Shall not, for the duration of the restricted geographical license, engage in the private practice of dentistry or dental hygiene in this State or accept compensation for the practice of dentistry or dental hygiene except such compensation as may be paid to the person by a federally qualified health center or nonprofit clinic pursuant to paragraph (c) of subsection 1.

6. Within 7 days after the termination of a contract pursuant to paragraph (c) of subsection 1, the holder of a restricted geographical license shall notify the Board of the termination, in writing, and surrender the restricted geographical license.



7. A person to whom a restricted geographical license was issued pursuant to this section may petition the Board for an unrestricted license without a clinical examination required by NRS 631.240 or 631.300 if the person:

(a) Has not had a license to practice dentistry or dental hygiene revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(b) Has not been refused a license to practice dentistry or dental hygiene in this State, another state or territory of the United States, or the District of Columbia;

(c) Is not involved in or does not have pending a disciplinary action concerning a license to practice dentistry or dental hygiene in this State, another state or territory of the United States, or the District of Columbia; and

(d) Has:

(1) Actively practiced dentistry or dental hygiene for 3 years at a minimum of 30 hours per week in the county or counties which requested the restricted geographical licensure pursuant to paragraph (a) or (b) of subsection 1; or

(2) Been under contract with a federally qualified health center or nonprofit clinic for a minimum of 3 years.

8. The Board may revoke a restricted geographical license at any time ~~upon submission of substantial evidence to~~ *if the Board finds, by a preponderance of the evidence,* that the holder of the license violated any provision of this chapter or the regulations of the Board.

Sec. 22. NRS 631.275 is hereby amended to read as follows:

631.275 1. Except as otherwise provided in subsection 2, the Board shall, without examination, issue a restricted license to practice dentistry to a person who:

(a) Has a valid license to practice dentistry issued pursuant to the laws of another state or the District of Columbia;

(b) Has received a degree from a dental school or college accredited by the Commission on Dental Accreditation of the American Dental Association or its successor organization;

(c) Has entered into a contract with a facility approved by the Division of Public and Behavioral Health of the Department of Health and Human Services to provide publicly funded dental services exclusively to persons of low income for the duration of the restricted license; and

(d) Satisfies the requirements of NRS 631.230.

2. The Board shall not issue a restricted license to a person:

(a) Who has failed to pass the examination of the Board;



(b) Who has been refused a license in this State, another state or territory of the United States, or the District of Columbia; or

(c) Whose license to practice dentistry has been revoked in this State, another state or territory of the United States, or the District of Columbia.

3. A person to whom a restricted license is issued pursuant to subsection 1:

(a) May perform dental services only:

(1) Under the general supervision of the State Dental Health Officer or the supervision of a dentist who is licensed to practice dentistry in this State and appointed by the Division of Public and Behavioral Health of the Department of Health and Human Services to supervise dental care that is provided in a facility which has entered into a contract with the person to whom a restricted license is issued and which is approved by the Division; and

(2) In accordance with the contract required pursuant to paragraph (c) of that subsection.

(b) Shall not, for the duration of the restricted license, engage in the private practice of dentistry, which includes, without limitation, providing dental services to a person who pays for the services.

4. A restricted license expires 1 year after its date of issuance and may be renewed on or before the date of its expiration, unless the holder no longer satisfies the requirements for the restricted license. The holder of a restricted license may, upon compliance with the applicable requirements set forth in NRS 631.330 and the completion of a review conducted at the discretion of the Board, be granted a renewal certificate that authorizes the continuation of practice pursuant to the restricted license for 1 year.

5. A person who receives a restricted license must pass the examination of the Board within 3 years after receiving the restricted license. If the person fails to pass that examination, the Board shall revoke the restricted license.

6. The Board may revoke a restricted license at any time ~~upon submission of substantial evidence to~~ *if the Board finds, by a preponderance of the evidence,* that the holder of the license violated any provision of this chapter or the regulations of the Board.

Sec. 23. NRS 631.350 is hereby amended to read as follows:

631.350 1. Except as otherwise provided in NRS 631.271, 631.2715 and 631.347, the Board may:

(a) Refuse to issue a license to any person;

(b) Revoke or suspend the license or renewal certificate issued by it to any person;



- (c) Fine a person it has licensed;
- (d) Place a person on probation for a specified period on any conditions the Board may order;
- (e) Issue a public reprimand to a person;
- (f) Limit a person's practice to certain branches of dentistry;
- (g) Require a person to participate in a program to correct alcohol or drug abuse or any other impairment;
- (h) Require that a person's practice be supervised;
- (i) Require a person to perform community service without compensation;
- (j) Require a person to take a physical or mental examination or an examination of his or her competence;
- (k) Require a person to fulfill certain training or educational requirements;
- (l) Require a person to reimburse a patient; or
- (m) Any combination thereof;

↳ ~~upon submission of substantial evidence to~~ if the Board *finds, by a preponderance of the evidence*, that the person has engaged in any of the activities listed in subsection 2.

2. The following activities may be punished as provided in subsection 1:

- (a) Engaging in the illegal practice of dentistry or dental hygiene;
- (b) Engaging in unprofessional conduct; or
- (c) Violating any regulations adopted by the Board or the provisions of this chapter.

3. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

5. The Board shall not administer a private reprimand.

6. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.



Sec. 24. NRS 637.150 is hereby amended to read as follows:

637.150 1. ~~{Upon proof}~~ *If the Board finds*, by ~~{substantial}~~ *a preponderance of the* evidence, that an applicant or holder of a license:

- (a) Has been adjudicated insane;
 - (b) Habitually uses any controlled substance or intoxicant;
 - (c) Has been convicted of a crime involving moral turpitude;
 - (d) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
 - (e) Has advertised in any manner which would tend to deceive, defraud or mislead the public;
 - (f) Has presented to the Board any diploma, license or certificate that has been signed or issued unlawfully or under fraudulent representations, or obtains or has obtained a license to practice in this State through fraud of any kind;
 - (g) Has been convicted of a violation of any federal or state law relating to a controlled substance;
 - (h) Has, without proper verification, dispensed a lens, frame, specially fabricated optical device or other ophthalmic device that does not satisfy the minimum standards established by the Board pursuant to NRS 637.073;
 - (i) Has violated any regulation of the Board;
 - (j) Has violated any provision of this chapter;
 - (k) Is incompetent;
 - (l) Is guilty of unethical or unprofessional conduct as determined by the Board;
 - (m) Is guilty of repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner;
 - (n) Is guilty of a fraudulent or deceptive practice as determined by the Board; or
 - (o) Has operated a medical facility, as defined in NRS 449.0151, at any time during which:
 - (1) The license of the facility was suspended or revoked; or
 - (2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160,
- ↳ the Board may, in the case of an applicant, refuse to grant the applicant a license, or may, in the case of a holder of a license, place the holder on probation, reprimand the holder publicly, require the holder to pay an administrative fine of not more than \$10,000, suspend or revoke the holder's license, or take any combination of these disciplinary actions.



2. The Board shall not privately reprimand a holder of a license.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The provisions of paragraph (o) of subsection 1 apply to an owner or other principal responsible for the operation of the medical facility.

5. As used in this section, "preponderance of the evidence" has the meaning ascribed to it in section 2 of this act.

Sec. 25. NRS 638.145 is hereby amended to read as follows:

638.145 **1.** The Board shall not refuse to issue a license to an applicant or take any disciplinary action against a licensee unless the Board finds, by ~~substantial~~ ***a preponderance of the*** evidence, that the applicant or licensee has engaged in one or more of the practices prohibited by the provisions of this chapter.

2. As used in this section, "preponderance of the evidence" has the meaning ascribed to it in section 2 of this act.

Sec. 26. NRS 641.230 is hereby amended to read as follows:

641.230 **1.** The Board may suspend or revoke a person's license as a psychologist, behavior analyst or assistant behavior analyst or certificate as an autism behavior interventionist, place the person on probation, require remediation for the person or take any other action specified by regulation if the Board finds by ~~substantial~~ ***a preponderance of the*** evidence that the person has:

~~1-1~~ ***(a)*** Been convicted of a felony relating to the practice of psychology or the practice of applied behavior analysis.

~~1-2~~ ***(b)*** Been convicted of any crime or offense that reflects the inability of the person to practice psychology or applied behavior analysis with due regard for the health and safety of others.

~~1-3~~ ***(c)*** Been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

~~1-4~~ ***(d)*** Engaged in gross malpractice or repeated malpractice or gross negligence in the practice of psychology or the practice of applied behavior analysis.

~~1-5~~ ***(e)*** Aided or abetted the practice of psychology by a person not licensed by the Board.

~~1-6~~ ***(f)*** Made any fraudulent or untrue statement to the Board.

~~1-7~~ ***(g)*** Violated a regulation adopted by the Board.

~~1-8~~ ***(h)*** Had a license to practice psychology or a license or certificate to practice applied behavior analysis suspended or revoked or has had any other disciplinary action taken against the person by another state or territory of the United States, the District



of Columbia or a foreign country, if at least one of the grounds for discipline is the same or substantially equivalent to any ground contained in this chapter.

~~19-1~~ (i) Failed to report to the Board within 30 days the revocation, suspension or surrender of, or any other disciplinary action taken against, a license or certificate to practice psychology or applied behavior analysis issued to the person by another state or territory of the United States, the District of Columbia or a foreign country.

~~110-1~~ (j) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate a provision of this chapter.

~~111-1~~ (k) Performed or attempted to perform any professional service while impaired by alcohol, drugs or by a mental or physical illness, disorder or disease.

~~112-1~~ (l) Engaged in sexual activity with a patient or client.

~~113-1~~ (m) Been convicted of abuse or fraud in connection with any state or federal program which provides medical assistance.

~~114-1~~ (n) Been convicted of submitting a false claim for payment to the insurer of a patient or client.

~~115-1~~ (o) Operated a medical facility, as defined in NRS 449.0151, at any time during which:

~~11(a)-1~~ (1) The license of the facility was suspended or revoked; or

~~11(b)-1~~ (2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

↳ This ~~subsection~~ *paragraph* applies to an owner or other principal responsible for the operation of the facility.

2. As used in this section, "preponderance of the evidence" has the meaning ascribed to it in section 2 of this act.

Sec. 27. NRS 683C.130 is hereby amended to read as follows:

683C.130 1. Upon suspension, limitation or revocation of the license of an insurance consultant, the Commissioner shall immediately notify the licensee in person or by mail addressed to the licensee at his or her most recent address of record with the Division. Notice by mail is effective when mailed.

2. The Commissioner shall not again issue a license under this chapter to any natural person whose license has been revoked until at least 1 year after the revocation has become final, and thereafter not until the person again qualifies for it under this chapter. A person whose license has been revoked twice is not eligible for any license under this title.

3. If the license of a business organization is suspended, limited or revoked, no member, officer or director of the organization may be



licensed, or designated in a license to exercise its powers, during the period of suspension or revocation, unless the Commissioner determines ~~upon substantial~~, *by a preponderance of the* evidence, that the member, officer or director was not personally at fault and did not knowingly aid, abet, assist or acquiesce in the matter for which the license was suspended or revoked.

4. As used in this section, “preponderance of the evidence” has the meaning ascribed to it in section 2 of this act.

Sec. 28. This act becomes effective on July 1, 2015.



Assembly Bill No. 135—Committee
on Government Affairs

CHAPTER.....

AN ACT relating to public records; requiring the Division of State Library and Archives of the Department of Administration to develop and, under certain circumstances, conduct a program of education and training concerning the retention and disposition of official state records for the employees of agencies, boards and commissions that are required to have a schedule approved by the Committee to Approve Schedules for the Retention and Disposition of Official State Records; requiring, under certain circumstances, the head of such an agency, board or commission to require certain employees to complete the program; requiring the head of such an agency, board or commission to issue a letter of reprimand to an employee who knowingly and willfully disposes of an official state record in a manner contrary to an approved schedule for the retention and disposition of official state records or authorizing the head of an agency, board or commission to take more severe disciplinary action against such an employee in appropriate circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain state agencies, boards and commissions, in cooperation with the Division of State Library and Archives of the Department of Administration, to develop a schedule for the retention and disposition of the official state records of the agency, board or commission. Existing law also requires the Division to submit the schedules to the Committee to Approve Schedules for the Retention and Disposition of Official State Records for approval. Upon approval of a schedule, existing law provides that an official state record may be disposed of only in accordance with the approved schedule. (NRS 239.077, 239.080) As recommended by the Sunset Subcommittee of the Legislative Commission, this bill requires the Division to develop a program of education and training concerning the retention and disposition of official state records for employees of such agencies, boards and commissions. This bill requires the Division to conduct the program to the extent that resources are available. This bill also requires, under certain circumstances, the head of a state agency, board or commission that is required to maintain its official state records in accordance with such an approved schedule to require certain employees to complete the program. This bill further: (1) requires the head of an agency, board or commission to issue a letter of reprimand to an employee of the agency, board or commission who knowingly and willfully disposes of an official state record in a manner contrary to the approved schedule; or (2) authorizes the head of an agency, board or commission to take more severe disciplinary action against such an employee in appropriate circumstances.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 239 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Division shall develop and, to the extent that resources are available, conduct a program of education and training on the retention and disposition of official state records for the employees of each agency, board and commission that is required to maintain its official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080. The program must include, without limitation, instruction concerning:

(a) The general standards of the Division for the development pursuant to NRS 239.080 of schedules for the retention and disposition of official state records;

(b) The specific criteria for the retention and disposition of official state records in accordance with the approved schedule applicable to the agency, board or commission by which an employee is employed; and

(c) Any criminal or civil penalties or other administrative or disciplinary action to which an employee may be subject as the result of the disposal of an official state record in a manner contrary to the approved schedule for the retention and disposition of official state records applicable to the agency, board or commission by which the employee is employed.

2. Except as otherwise provided in subsection 3, the head of an agency, board or commission that is required to maintain its official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080 and approved by the Committee pursuant to NRS 239.077:

(a) Shall require each employee of the agency, board or commission, as applicable, whose duties include the management of the retention and disposal of any official state records of the agency, board or commission to complete the program of education and training on the retention and disposition of official state records that is developed and conducted by the Division pursuant to subsection 1.



(b) May require other employees of the agency, board or commission, as applicable, to complete the program of education and training described in paragraph (a).

3. If sufficient resources are not available for the Division to conduct, in whole or in part, the program of education and training on the retention and disposition of official state records pursuant to subsection 1, the Division shall:

(a) Determine which heads of agencies, boards or commissions that are required to maintain official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080 and approved by the Committee pursuant to NRS 239.077 are subject to the provisions of subsection 2; and

(b) Notify the head of each agency, board or commission that is required to maintain its official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080 and approved by the Committee pursuant to NRS 239.077 whether the head of the agency, board or commission is:

(1) Required to comply with the provisions of paragraph (a) of subsection 2; and

(2) Authorized to comply with the provisions of paragraph (b) of subsection 2.

4. The head of an agency, board or commission that is required to maintain its official state records in accordance with a schedule for the retention and disposition of official state records that has been developed pursuant to NRS 239.080 and approved by the Committee pursuant to NRS 239.077:

(a) Except as otherwise provided in paragraph (b), shall issue a letter of reprimand to any employee of the agency, board or commission, as applicable, who knowingly and willfully disposes of an official state record of the agency, board or commission in a manner contrary to the approved schedule for the retention and disposition of the official state records of the agency, board or commission.

(b) In lieu of a letter of reprimand issued pursuant to paragraph (a), may take more severe disciplinary action against an employee in a matter involving a repeated offense or where circumstances otherwise warrant such action.

Sec. 2. NRS 239.005 is hereby amended to read as follows:

239.005 As used in this chapter, unless the context otherwise requires:



1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

2. "Agency of the Executive Department" means an agency, board, commission, bureau, council, department, division, authority or other unit of the Executive Department of the State Government. The term does not include the Nevada System of Higher Education.

3. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

4. "Division" means the Division of State Library and Archives of the Department of Administration.

5. "Governmental entity" means:

(a) An elected or appointed officer of this State or of a political subdivision of this State;

(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State, including, without limitation, an agency of the Executive Department, or of a political subdivision of this State;

(c) A university foundation, as defined in NRS 396.405; or

(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools.

6. *"Official state record" includes, without limitation:*

(a) Papers, unpublished books, maps and photographs;

(b) Information stored on magnetic tape or computer, laser or optical disc;

(c) Materials that are capable of being read by a machine, including, without limitation, microforms and audio and visual materials; and

(d) Materials that are made or received by a state agency and preserved by that agency or its successor as evidence of the organization, operation, policy or any other activity of that agency or because of the information contained in the material.

7. "Privatization contract" means a contract executed by or on behalf of a governmental entity which authorizes a private entity to provide public services that are:

(a) Substantially similar to the services provided by the public employees of the governmental entity; and

(b) In lieu of the services otherwise authorized or required to be provided by the governmental entity.



Sec. 3. NRS 239.080 is hereby amended to read as follows:

239.080 1. An official state record may be disposed of only in accordance with a schedule for retention and disposition which is approved by the Committee.

2. In cooperation with the Division, each agency, board and commission shall develop a schedule for the retention and disposition of each type of official state record.

3. The Division shall submit the schedules described in subsection 2 to the Committee for final approval.

~~{4. As used in this section, "official state record" includes, without limitation, any:~~

~~—(a) Papers, unpublished books, maps and photographs;~~

~~—(b) Information stored on magnetic tape or computer, laser or optical disc;~~

~~—(c) Materials which are capable of being read by a machine, including microforms and audio and visual materials; and~~

~~—(d) Materials which are made or received by a state agency and preserved by that agency or its successor as evidence of the organization, operation, policy or any other activity of that agency or because of the information contained in the material.}~~

Sec. 4. This act becomes effective:

1. Upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On January 1, 2016, for all other purposes.



Assembly Bill No. 179—Assemblymen Flores, Carrillo, Diaz, Elliot Anderson; Araujo, Armstrong, Benitez-Thompson, Bustamante Adams, Carlton, Dickman, Dooling, Ellison, Gardner, Joiner, Jones, Kirkpatrick, Moore, Munford, Nelson, Ohrenschall, O'Neill, Seaman, Shelton, Silberkraus, Spiegel, Sprinkle, Swank, Thompson and Trowbridge

Joint Sponsors: Senators Denis, Kihuen, Spearman; and Manendo

CHAPTER.....

AN ACT relating to the security of personal information; expanding the definition of “personal information”; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines the types of information that constitute “personal information” for the purpose of requiring business entities who collect such information to provide certain security measures to ensure the protection of the information. (Chapter 603A of NRS) This bill expands the definition of “personal information” to include such items of information as electronic mail addresses and passwords, driver’s authorization card numbers, medical and health insurance identification numbers and other similar information.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Sections 1-7. (Deleted by amendment.)

Sec. 8. NRS 603A.040 is hereby amended to read as follows:

603A.040 ***1.*** “Personal information” means a natural person’s first name or first initial and last name in combination with any one or more of the following data elements, when the name and data elements are not encrypted:

~~1-1~~ ***(a)*** Social security number.

~~1-2~~ ***(b)*** Driver’s license number ***, driver authorization card number*** or identification card number.

~~1-3~~ ***(c)*** Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person’s financial account.

~~1-4~~

(d) A medical identification number or a health insurance identification number.



(e) A user name, unique identifier or electronic mail address in combination with a password, access code or security question and answer that would permit access to an online account.

2. The term does not include the last four digits of a social security number, the last four digits of a driver's license number , ~~to~~ the *last four digits of a driver authorization card number or the* last four digits of an identification card number or publicly available information that is lawfully made available to the general public ~~to~~ *from federal, state or local governmental records.*

Sec. 8.5. Notwithstanding the provisions of section 9 of this act, a data collector, as that term is defined in NRS 603A.030, or a business is not required to comply with the amendatory provisions of this act until July 1, 2016.

Sec. 9. This act becomes effective on July 1, 2015.



CHAPTER.....

AN ACT relating to public bodies; making various changes relating to meetings of public bodies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Open Meeting Law only applies to meetings of a quorum of the members of certain public bodies. (NRS 241.016) "Quorum" is defined in existing law as "a simple majority of the constituent membership of a public body or another proportion established by law." **Section 2** of this bill deletes the extraneous word "constituent" from this definition, thereby clarifying that a quorum consists of a simple majority of the members of the public body unless a different number is prescribed in law.

The Open Meeting Law specifies a certain number of working days by which a public body is mandated to comply with certain requirements with respect to its meetings, such as providing notice of its meetings and making available minutes or audio recordings of its meetings. (NRS 241.020, 241.033-241.035) **Section 2** defines "working day" for purposes of these requirements as every day of the week except Saturday, Sunday and legal holidays prescribed in existing law. Therefore, if an agency has a 4-day workweek and is closed on Fridays, for example, Friday would nevertheless count as a working day for that agency for purposes of the requirements of the Open Meeting Law unless a particular Friday is a legal holiday.

Under existing law, any provision of law which provides that a meeting, hearing or other proceeding is not subject to the Open Meeting Law or otherwise authorizes or requires a closed meeting, hearing or proceeding prevails over the general provisions of the Open Meeting Law. (NRS 241.016) **Section 3** of this bill lists examples of other such provisions of law that prevail over the general provisions of the Open Meeting Law.

Under existing law, if a public body will consider whether to take administrative action against a person during a public meeting, the agenda for the meeting is required to include the name of the person against whom the public body may take administrative action. (NRS 241.020) **Section 4** of this bill broadens this requirement for agendas to apply to other types of administrative action that a public body may take that are not adverse to a person, such as, for example, appointment of the person to a position.

The Open Meeting Law sets forth the minimum public notice required for meetings of public bodies subject to the Open Meeting Law. (NRS 241.020) **Section 4** of this bill requires such a public body to document in writing its compliance with the requirement for minimum public notice to post a copy of the public notice at required locations for each of its meetings.

Under the Open Meeting Law, a member of a public body is prohibited from designating a person to attend a meeting of the public body in the place of the member unless the designation is expressly authorized by the legal authority pursuant to which the public body was created. (NRS 241.025) **Section 5** of this bill extends this prohibition to the public body itself, thereby prohibiting a public body from designating a person to attend a meeting of the public body in the place of a member of the public body without specific legal authority.

Under the Open Meeting Law, a public body is required to keep written minutes of each of its meetings. (NRS 241.035) **Section 6** of this bill requires a public body to approve the minutes of a meeting of the public body within 45 days



after the meeting or at the next meeting of the public body, whichever occurs later, unless good cause is shown.

With certain exceptions, the Attorney General is required under existing law to investigate and prosecute violations of the Open Meeting Law. (NRS 241.039) **Section 7** of this bill authorizes the filing of a complaint alleging a violation of the Open Meeting Law with the Office of the Attorney General. **Section 7** also makes all documents and other information compiled as a result of an investigation of a violation of the Open Meeting Law confidential until the investigation is closed except: (1) the complaint; (2) findings of fact and conclusions of law made by the Attorney General relating to the complaint; and (3) any document or information compiled as a result of the investigation that may be requested for inspection or copying from a governmental entity other than the Office of the Attorney General.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, **241.039**, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,



360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 598.0964, 598A.110, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any



such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 2. NRS 241.015 is hereby amended to read as follows:

241.015 As used in this chapter, unless the context otherwise requires:

1. "Action" means:

(a) A decision made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present, whether in person or by means of electronic communication, during a meeting of the public body; or



(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. “Deliberate” means collectively to examine, weigh and reflect upon the reasons for or against the action. The term includes, without limitation, the collective discussion or exchange of facts preliminary to the ultimate decision.

3. “Meeting”:

(a) Except as otherwise provided in paragraph (b), means:

(1) The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present, whether in person or by means of electronic communication, at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present, whether in person or by means of electronic communication:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

4. Except as otherwise provided in NRS 241.016, “public body” means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government consisting of at least two persons which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board,



commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405, if the administrative, advisory, executive or legislative body is created by:

- (1) The Constitution of this State;
- (2) Any statute of this State;
- (3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;
- (4) The Nevada Administrative Code;
- (5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;
- (6) An executive order issued by the Governor; or
- (7) A resolution or an action by the governing body of a political subdivision of this State;

(b) Any board, commission or committee consisting of at least two persons appointed by:

(1) The Governor or a public officer who is under the direction of the Governor, if the board, commission or committee has at least two members who are not employees of the Executive Department of the State Government;

(2) An entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee otherwise meets the definition of a public body pursuant to this subsection; or

(3) A public officer who is under the direction of an agency or other entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee has at least two members who are not employed by the public officer or entity; and

(c) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201.

5. "Quorum" means a simple majority of the ~~constituent~~ membership of a public body or another proportion established by law.

6. "Working day" means every day of the week except Saturday, Sunday and any day declared to be a legal holiday pursuant to NRS 236.015.

Sec. 3. NRS 241.016 is hereby amended to read as follows:

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.



2. The following are exempt from the requirements of this chapter:

- (a) The Legislature of the State of Nevada.
- (b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law , *including, without limitation, NRS 91.270, 239C.140, 281A.350, 281A.440, 281A.550, 284.3629, 286.150, 287.0415, 288.220, 289.387, 295.121, 360.247, 385.555, 386.585, 392.147, 392.467, 392.656, 392A.105, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725*, which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,

➔ prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 4. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

- (a) The time, place and location of the meeting.



(b) A list of the locations where the notice has been posted.

(c) The name and contact information for the person designated by the public body from whom a member of the public may request the supporting material for the meeting described in subsection ~~†~~ 6 and a list of the locations where the supporting material is available to the public.

(d) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items by placing the term “for possible action” next to the appropriate item or, if the item is placed on the agenda pursuant to NRS 241.0365, by placing the term “for possible corrective action” next to the appropriate item.

(3) Periods devoted to comments by the general public, if any, and discussion of those comments. Comments by the general public must be taken:

(I) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting; or

(II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.

➔ The provisions of this subparagraph do not prohibit a public body from taking comments by the general public in addition to what is required pursuant to sub-subparagraph (I) or (II). Regardless of whether a public body takes comments from the general public pursuant to sub-subparagraph (I) or (II), the public body must allow the general public to comment on any matter that is not specifically included on the agenda as an action item at some time before adjournment of the meeting. No action may be taken upon a matter raised during a period devoted to comments by the general public until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action ~~against~~ regarding a



person, the name of ~~the~~ *that* person. ~~against whom administrative action may be taken.~~

(6) Notification that:

(I) Items on the agenda may be taken out of order;

(II) The public body may combine two or more agenda items for consideration; and

(III) The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

(7) Any restrictions on comments by the general public. Any such restrictions must be reasonable and may restrict the time, place and manner of the comments, but may not restrict comments based upon viewpoint.

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting;

(b) Posting the notice on the official website of the State pursuant to NRS 232.2175 not later than 9 a.m. of the third working day before the meeting is to be held, unless the public body is unable to do so because of technical problems relating to the operation or maintenance of the official website of the State; and

(c) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. For each of its meetings, a public body shall document in writing that the public body complied with the minimum public notice required by paragraph (a) of subsection 3. The documentation must be prepared by every person who posted a copy of the public notice and include, without limitation:

(a) The date and time when the person posted the copy of the public notice;



(b) The address of the location where the person posted the copy of the public notice; and

(c) The name, title and signature of the person who posted the copy of the notice.

5. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

~~5.1~~ 6. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection ~~16 or 7.1~~ 7 or 8, as applicable, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➔ The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain. As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

~~16.1~~ 7. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection ~~15.1~~ 6 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the



requester at the same time the material is provided to the members of the public body.

➡ If the requester has agreed to receive the information and material set forth in subsection ~~15~~ 6 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

~~17~~ 8. The governing body of a county or city whose population is 45,000 or more shall post the supporting material described in paragraph (c) of subsection ~~15~~ 6 to its website not later than the time the material is provided to the members of the governing body or, if the supporting material is provided to the members of the governing body at a meeting, not later than 24 hours after the conclusion of the meeting. Such posting is supplemental to the right of the public to request the supporting material pursuant to subsection ~~15~~ 6. The inability of the governing body, as a result of technical problems with its website, to post supporting material pursuant to this subsection shall not be deemed to be a violation of the provisions of this chapter.

~~18~~ 9. A public body may provide the public notice, information or supporting material required by this section by electronic mail. Except as otherwise provided in this subsection, if a public body makes such notice, information or supporting material available by electronic mail, the public body shall inquire of a person who requests the notice, information or supporting material if the person will accept receipt by electronic mail. If a public body is required to post the public notice, information or supporting material on its website pursuant to this section, the public body shall inquire of a person who requests the notice, information or supporting material if the person will accept by electronic mail a link to the posting on the website when the documents are made available. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or supporting material or a link to a website required by this section to a person who has agreed to receive such notice, information, supporting material or link by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

~~19~~ 10. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.



Sec. 5. NRS 241.025 is hereby amended to read as follows:

241.025 1. ~~{A member of a public body may not designate a person to attend a meeting of the public body in the place of the member unless such}~~ *Unless the* designation is expressly authorized by the legal authority pursuant to which ~~{the}~~ a public body was created ~~{}~~:

(a) The public body may not designate a person to attend a meeting of the public body in the place of a member of the public body; and

(b) A member of the public body may not designate a person to attend a meeting of the public body in his or her place.

2. Any ~~{such}~~ *authorized* designation must be made in writing or made on the record at a meeting of the public body.

~~{2-}~~ 3. A person *who is* designated ~~{pursuant to subsection 1-}~~ *to attend a meeting of a public body in the place of a member of the public body:*

(a) Shall be deemed to be a member of the public body for the purposes of determining a quorum at the meeting; and

(b) Is entitled to exercise the same powers as the regular members of the public body at the meeting.

Sec. 6. NRS 241.035 is hereby amended to read as follows:

241.035 1. Each public body shall keep written minutes of each of its meetings, including:

(a) The date, time and place of the meeting.

(b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.

(e) Any other information which any member of the public body requests to be included or reflected in the minutes.

↳ Unless good cause is shown, a public body shall approve the minutes of a meeting within 45 days after the meeting or at the next meeting of the public body, whichever occurs later.

2. Minutes of public meetings are public records. Minutes or ~~{audiotape recordings}~~ *an audio recording* of ~~{the meetings}~~ *a*



meeting made in accordance with subsection 4 must be made available for inspection by the public ~~[- and at]~~ *within 30 working days after adjournment of the meeting.* A copy of the minutes or audio ~~[recordings]~~ *recording* must be made available to a member of the public upon request at no charge. ~~[- within 30 working days after the adjournment of the meeting at which taken.]~~ The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with NRS 239.080 to 239.125, inclusive. Minutes of meetings closed pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was considered has consented to their disclosure. That person is entitled to a copy of the minutes upon request whether or not they become public records.

(b) Paragraph (b) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality.

(c) Paragraph (c) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters considered no longer require confidentiality and the person who appealed the results of the examination has consented to their disclosure, except that the public body shall remove from the minutes any references to the real name of the person who appealed the results of the examination. That person is entitled to a copy of the minutes upon request whether or not they become public records.

3. All or part of any meeting of a public body may be recorded on audiotape or any other means of sound or video reproduction by a member of the general public if it is a public meeting so long as this in no way interferes with the conduct of the meeting.

4. Except as otherwise provided in subsection 7, a public body shall, for each of its meetings, whether public or closed, record the meeting on audiotape or another means of sound reproduction or cause the meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS. If a public body makes an audio recording of a meeting or causes a meeting to be transcribed pursuant to this subsection, the audio recording or transcript:

(a) Must be retained by the public body for at least 1 year after the adjournment of the meeting at which it was recorded or transcribed;



(b) Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the recording or transcript is retained; and

(c) Must be made available to the Attorney General upon request.

5. The requirement set forth in subsection 2 that a public body make available a copy of the minutes or audio recording of a meeting to a member of the public upon request at no charge does not:

(a) Prohibit a court reporter who is certified pursuant to chapter 656 of NRS from charging a fee to the public body for any services relating to the transcription of a meeting; or

(b) Require a court reporter who transcribes a meeting to provide a copy of any transcript, minutes or audio recording of the meeting prepared by the court reporter to a member of the public at no charge.

6. Except as otherwise provided in subsection 7, any portion of a public meeting which is closed must also be recorded or transcribed and the recording or transcript must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any recording or transcript made pursuant to this subsection must be made available to the Attorney General upon request.

7. If a public body makes a good faith effort to comply with the provisions of subsections 4 and 6 but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter.

Sec. 7. NRS 241.039 is hereby amended to read as follows:

241.039 1. *A complaint that alleges a violation of this chapter may be filed with the Office of the Attorney General.*

2. Except as otherwise provided in NRS 241.0365, the Attorney General shall investigate and prosecute any violation of this chapter.

~~12-1~~ 3. *Except as otherwise provided in subsection 6 and NRS 239.0115, all documents and other information compiled as a result of an investigation conducted pursuant to subsection 2 are confidential until the investigation is closed.*

4. In any investigation conducted pursuant to subsection ~~1-1~~ 2, the Attorney General may issue subpoenas for the production of any relevant documents, records or materials.



~~13-1~~ 5. A person who willfully fails or refuses to comply with a subpoena issued pursuant to this section is guilty of a misdemeanor.

6. *The following are public records:*

(a) *A complaint filed pursuant to subsection 1.*

(b) *Every finding of fact or conclusion of law made by the Attorney General relating to a complaint filed pursuant to subsection 1.*

(c) *Any document or information compiled as a result of an investigation conducted pursuant to subsection 2 that may be requested pursuant to NRS 239.0107 from a governmental entity other than the Office of the Attorney General.*

Sec. 8. This act becomes effective upon passage and approval.



CHAPTER.....

AN ACT relating to public office; revising provisions relating to the lobbying of State Legislators; revising provisions regulating gifts to public officers and candidates for public office; revising provisions governing financial disclosure statements filed by such public officers and candidates; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law in the Nevada Lobbying Disclosure Act (Lobbying Act) prohibits lobbyists from giving State Legislators or members of their immediate family or staff any gifts that exceed \$100 in value in the aggregate in any calendar year and prohibits those persons from soliciting or accepting any such gifts. (NRS 218H.930) In defining the term “gift,” the Lobbying Act excludes the cost of entertainment, including the cost of food or beverages, so there is no limit on the amount of entertainment expenditures lobbyists may make for State Legislators or members of their immediate family or staff. (NRS 218H.060) If a lobbyist makes such expenditures, the lobbyist must disclose the expenditures by filing a report with the Director of the Legislative Counsel Bureau. (NRS 218H.400)

In addition to the disclosures required by the Lobbying Act, existing law, commonly referred to as the Financial Disclosure Act, requires State Legislators and other state and local public officers and candidates to disclose and report gifts received in excess of an aggregate value of \$200 from a donor during a calendar year on financial disclosure statements filed with the Secretary of State. (NRS 281.558-281.581) Unlike the Lobbying Act, the Financial Disclosure Act does not define the term “gift,” but it excludes certain types of gifts from the reporting requirements. (NRS 281.571)

In 2007, when the Commission on Ethics had the statutory authority to interpret the Financial Disclosure Act, it determined that the law did not require a public officer from a jurisdiction near the proposed Yucca Mountain nuclear waste project to report on his financial disclosure statement that a nuclear fuel reprocessing company working as a contractor on the project paid for certain travel, lodging and meal expenses for the public officer and his spouse to undertake an educational or informational trip to France to learn more about nuclear fuel reprocessing and nuclear emergency preparedness by touring reprocessing facilities operated by the company and meeting with French stakeholders, local leaders and emergency responders. The Commission found that the Legislature had not established what constitutes a gift for the purposes of existing law and that “[n]o evidence exists that the act of accepting an invitation from [the company], to visit its nuclear reprocessing facilities in France and traveling to Europe for that purpose, constitutes a gift.” (*In re Phillips*, CEO 06-23 (June 15, 2007))

By contrast, in the 2014 Financial Disclosure Statement Guide produced by the Office of the Secretary of State, the Guide includes as an example of a reportable gift “[t]ravel, lodging, food or registration expenses as part of a ‘fact-finding’ trip, which is part of the official or unofficial duties of a public officer, unless the expenses are paid by the candidate, [the] public officer, or the governmental agency that employs the public officer.” (Nev. Sec’y of State, *Financial Disclosure Statement Guide*, p. 5 (2014)) However, because this example in the Guide was not



promulgated by the Office of the Secretary of State in a regulation adopted under the Nevada Administrative Procedure Act, it does not have the force and effect of law. (NRS 233B.040; *State Farm Mut. Auto. Ins. v. Comm'r of Ins.*, 114 Nev. 535, 543-44 (1998); *Labor Comm'r v. Littlefield*, 123 Nev. 35, 39-43 (2007))

Sections 9 and 19 of this bill revise the Lobbying Act and the Financial Disclosure Act to establish a definition for the term “gift” that is similar for both acts. **Sections 4 and 17** of this bill also establish a definition for the term “educational or informational meeting, event or trip” that is similar for both acts. Under this bill, a gift does not include an educational or informational meeting, event or trip, but this bill requires the disclosure of such educational or informational meetings, events or trips. Specifically, under **sections 4, 8 and 11** of this bill, lobbyists are required to disclose any expenditures made for educational or informational meetings, events or trips provided to State Legislators, and under **sections 17, 20 and 27** of this bill, public officers and candidates are required to disclose on their financial disclosure statements any educational or informational meetings, events or trips provided by interested persons having a substantial interest in the legislative, administrative or political action of the public officer or the candidate if elected.

Sections 9 and 12 of this bill prohibit lobbyists from knowingly or willfully giving gifts in any amount to State Legislators or members of their immediate family or staff, whether or not the Legislature is in a regular or special session. Those sections also prohibit State Legislators or members of their immediate family or staff from knowingly or willfully soliciting or accepting gifts in any amount from lobbyists, whether or not the Legislature is in a regular or special session.

Sections 2, 3, 15, 16, 18 and 21-33 of this bill revise the Lobbying Act and the Financial Disclosure Act to update and modernize the statutory language, remove redundant provisions and promote consistency between the acts.

Finally, **section 41** of this bill provides that the provisions of this bill apply to public officers and candidates beginning on January 1, 2016. However, **section 40** of this bill states that the provisions of this bill do not apply to a financial disclosure statement that is filed by a public officer or candidate to report information for any period that ends before January 1, 2016. As a result, although most public officers will be required to file a financial disclosure statement on or before January 15, 2016, which must disclose information for the 2015 calendar year, the provisions of this bill will not apply to the information that must be disclosed for the 2015 calendar year. (NRS 281.559, 281.561)

By contrast, most candidates for a public office in 2016 will be required to file a financial disclosure statement, not later than the 10th day after the last day to qualify as a candidate for the office, which must disclose information for: (1) the 2015 calendar year; and (2) the period between January 1, 2016, and the last day to qualify as a candidate for the office. (NRS 281.561) For these candidates, the provisions of this bill will not apply to the information that must be disclosed for the 2015 calendar year but will apply to the information that must be disclosed for the period between January 1, 2016, and the last day to qualify as a candidate for the office.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 218H of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *“Domestic partner” means a person in a domestic partnership.*

Sec. 3. *“Domestic partnership” means:*

- 1. A domestic partnership as defined in NRS 122A.040; or*
- 2. A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.*

Sec. 4. *1. “Educational or informational meeting, event or trip” means any meeting, event or trip undertaken or attended by a Legislator if, in connection with the meeting, event or trip:*

(a) The Legislator or a member of the Legislator’s household receives anything of value from a lobbyist to undertake or attend the meeting, event or trip; and

(b) The Legislator provides or receives any education or information on matters relating to the legislative, administrative or political action of the Legislator.

2. The term includes, without limitation, any reception, gathering, conference, convention, discussion, forum, roundtable, seminar, symposium, speaking engagement or other similar meeting, event or trip with an educational or informational component.

3. The term does not include a meeting, event or trip undertaken or attended by a Legislator for personal reasons or for reasons relating to any professional or occupational license held by the Legislator, unless the Legislator participates as one of the primary speakers, instructors or presenters at the meeting, event or trip.

4. For the purposes of this section, “anything of value” includes, without limitation, any actual expenses for food, beverages, registration fees, travel or lodging provided or given to or paid for the benefit of the Legislator or a member of the Legislator’s household or reimbursement for any such actual expenses paid by the Legislator or a member of the Legislator’s



household, if the expenses are incurred on a day during which the Legislator or a member of the Legislator's household undertakes or attends the meeting, event or trip or during which the Legislator or a member of the Legislator's household travels to or from the meeting, event or trip.

Sec. 5. *"Member of the Legislator's household" means a person who is a member of the Legislator's household for the purposes of NRS 281.558 to 281.581, inclusive, and sections 14 to 23, inclusive, of this act.*

Sec. 6. *"Registrant" means a person who is registered as a lobbyist pursuant to this chapter.*

Sec. 7. NRS 218H.030 is hereby amended to read as follows:

218H.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 218H.050 to 218H.100, inclusive, *and sections 2 to 6, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 218H.050 is hereby amended to read as follows:

218H.050 1. "Expenditure" means any ~~advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge or subscription~~ of the following acts by a lobbyist while the Legislature is in a regular or special session:

(a) Any payment, conveyance, transfer, distribution, deposit, advance, loan, forbearance, subscription, pledge or rendering of money, services or anything else of value ~~including cost of entertainment, except the payment of a membership fee otherwise exempted pursuant to NRS 218H.400, and any~~; or

(b) Any contract, agreement, promise or other obligation, whether or not legally enforceable, to make any such expenditure. ~~while the Legislature is in a regular or special session.~~

2. The term includes, without limitation:

(a) Anything of value provided for an educational or informational meeting, event or trip.

(b) The cost of a party, meal, function or other social event to which every Legislator is invited.

3. The term does not include:

(a) A prohibited gift.

(b) A lobbyist's personal expenditures for his or her own food, beverages, lodging, travel expenses or membership fees or dues.

Sec. 9. NRS 218H.060 is hereby amended to read as follows:

218H.060 1. "Gift" means ~~a payment, subscription, advance,~~ any payment, conveyance, transfer, distribution, deposit, advance, loan, forbearance, subscription, pledge or rendering ~~for~~



~~deposit~~ of money, services or anything *else* of value , unless consideration of equal or greater value is received.

2. ~~“Gift”~~ *The term* does not include:

(a) ~~A~~ *Any* political contribution of money or services related to a political campaign . ~~;~~

~~—(b) A~~

(b) Any commercially reasonable loan made in the ordinary course of business . ~~;~~

(c) Anything of value provided for an educational or informational meeting, event or trip.

(d) The cost of ~~entertainment,~~ a party, meal, function or other social event to which every Legislator is invited, including , without limitation, the cost of food or beverages ~~;~~ or

~~—(d)~~ *provided at the party, meal, function or other social event.*

(e) Any ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion from a donor who is not a lobbyist.

(f) Anything of value received from ~~;~~

~~—(1) A member of the recipient’s immediate family; or~~

~~—(2) A relative of a person who is:~~

(1) Related to the recipient , or ~~relative of the recipient’s~~ to the spouse or domestic partner of the recipient, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or ~~from the spouse of any such relative;~~ affinity; or

(2) A member of the recipient’s household.

Sec. 10. NRS 218H.210 is hereby amended to read as follows:

218H.210 The registration statement of a lobbyist must contain the following information:

1. The registrant’s full name, permanent address, place of business and temporary address while lobbying.

2. The full name and complete address of each person, if any, by whom the registrant is retained or employed or on whose behalf the registrant appears.

3. A listing of any direct business associations or partnerships involving any current Legislator and the registrant or any person by whom the registrant is retained or employed. The listing must include any such association or partnership constituting a source of income or involving a debt or interest in real estate required to be disclosed in a ~~statement of~~ financial disclosure *statement* made by a ~~candidate for public office or a~~ public officer *or candidate* pursuant to NRS 281.571.

4. The name of any current Legislator for whom:

(a) The registrant; or



➡ (b) Any person by whom the registrant is retained or employed, has, in connection with a political campaign of the Legislator, provided consulting, advertising or other professional services since the beginning of the preceding regular session.

5. A description of the principal areas of interest on which the registrant expects to lobby.

6. If the registrant lobbies or purports to lobby on behalf of members, a statement of the number of members.

7. A declaration under penalty of perjury that none of the registrant's compensation or reimbursement is contingent, in whole or in part, upon the production of any legislative action.

Sec. 11. NRS 218H.400 is hereby amended to read as follows:

218H.400 1. Each registrant shall file with the Director:

(a) Within 30 days after the close of a regular or special session, a final report signed under penalty of perjury concerning the registrant's lobbying activities; and

(b) Between the 1st and 10th day of the month after each month that the Legislature is in a regular or special session, a report concerning the registrant's lobbying activities during the previous month, whether or not any expenditures were made.

2. Each report must:

(a) Be on a form prescribed by the Director; and

(b) Include the total of all expenditures, if any, made by the registrant on behalf of a Legislator or an organization whose primary purpose is to provide support for Legislators of a particular political party and House, including expenditures made by others on behalf of the registrant if the expenditures were made with the registrant's express or implied consent or were ratified by the registrant.

3. Except as otherwise provided in subsection 6, the report:

(a) Must identify each Legislator and each organization whose primary purpose is to provide support for Legislators of a particular political party and House on whose behalf expenditures were made;

(b) Must be itemized with respect to each such Legislator and organization; and

(c) Does not have to include any expenditure made on behalf of a person other than a Legislator or an organization whose primary purpose is to provide support for Legislators of a particular political party and House, unless the expenditure is made for the benefit of a Legislator or such an organization.

4. If expenditures made by or on behalf of a registrant during the previous month exceed \$50, the report must include a compilation of expenditures, itemized in the manner required by the



regulations of the Legislative Commission . ~~{, in the following categories:~~

- ~~—(a) Entertainment;~~
- ~~—(b) Expenditures made in connection with a party or similar event hosted by the organization represented by the registrant;~~
- ~~—(c) Gifts and loans, including money, services and anything of value provided to a Legislator, to an organization whose primary purpose is to provide support for Legislators of a particular political party and House, or to any other person for the benefit of a Legislator or such an organization; and~~
- ~~—(d) Other expenditures directly associated with legislative action, not including personal expenditures for food, lodging and travel expenses or membership dues.}~~

5. The Legislative Commission may authorize an audit or investigation by the Legislative Auditor that is proper and necessary to verify compliance with the provisions of this section. If the Legislative Commission authorizes such an audit or investigation:

(a) A lobbyist shall make available to the Legislative Auditor all books, accounts, claims, reports, vouchers and other records requested by the Legislative Auditor in connection with any such audit or investigation.

(b) The Legislative Auditor shall confine requests for such records to those which specifically relate to the lobbyist's compliance with the reporting requirements of this section.

6. A report filed pursuant to this section must not itemize with respect to each Legislator an expenditure if the expenditure is the cost of a *party, meal, function or other social event* to which every Legislator was invited. ~~{For the purposes of this subsection, "function" means a party, meal or other social event.}~~

Sec. 12. NRS 218H.930 is hereby amended to read as follows:

218H.930 1. A lobbyist shall not knowingly or willfully make any false statement or misrepresentation of facts:

(a) To any member of the Legislative Branch in an effort to persuade or influence the member in his or her official actions.

(b) In a registration statement or report concerning lobbying activities filed with the Director.

2. A lobbyist shall not *knowingly or willfully* give *any gift* to a member of the Legislative Branch or a member of his or her ~~{staff or}~~ immediate family ~~{gifts that exceed \$100 in value in the aggregate in any calendar year.}~~ , *whether or not the Legislature is in a regular or special session.*

3. A member of the Legislative Branch or a member of his or her ~~{staff or}~~ immediate family shall not *knowingly or willfully*



solicit ~~anything of value from a registrant~~ or accept any gift ~~that exceeds \$100 in aggregate value in any calendar year.~~ *from a lobbyist, whether or not the Legislature is in a regular or special session.*

4. A person who employs or uses a lobbyist shall not make that lobbyist's compensation or reimbursement contingent in any manner upon the outcome of any legislative action.

5. Except during the period permitted by NRS 218H.200, a person shall not knowingly act as a lobbyist without being registered as required by that section.

6. Except as otherwise provided in subsection 7, a member of the Legislative or Executive Branch of the State Government and an elected officer or employee of a political subdivision shall not receive compensation or reimbursement other than from the State or the political subdivision for personally engaging in lobbying.

7. An elected officer or employee of a political subdivision may receive compensation or reimbursement from any organization whose membership consists of elected or appointed public officers.

8. A lobbyist shall not instigate the introduction of any legislation for the purpose of obtaining employment to lobby in opposition to that legislation.

9. A lobbyist shall not make, commit to make or offer to make a monetary contribution to a Legislator, the Lieutenant Governor, the Lieutenant Governor-elect, the Governor or the Governor-elect during the period beginning:

(a) Thirty days before a regular session and ending 30 days after the final adjournment of a regular session;

(b) Fifteen days before a special session is set to commence and ending 15 days after the final adjournment of a special session, if:

(1) The Governor sets a specific date for the commencement of the special session that is more than 15 days after the date on which the Governor issues the proclamation calling for the special session pursuant to Section 9 of Article 5 of the Nevada Constitution; or

(2) The members of the Legislature set a date on or before which the Legislature is to convene the special session that is more than 15 days after the date on which the Secretary of State receives one or more substantially similar petitions signed, in the aggregate, by the required number of members calling for the special session pursuant to Section 2A of Article 4 of the Nevada Constitution; or

(c) The day after:

(1) The date on which the Governor issues the proclamation calling for the special session and ending 15 days after the final



adjournment of the special session if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the date on which the Governor issues the proclamation calling for the special session; or

(2) The date on which the Secretary of State receives one or more substantially similar petitions signed, in the aggregate, by the required number of members of the Legislature calling for the special session and ending 15 days after the final adjournment of the special session if the members set a date on or before which the Legislature is to convene the special session that is 15 or fewer days after the date on which the Secretary of State receives the petitions.

Sec. 13. Chapter 281 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 23, inclusive, of this act.

Sec. 14. *As used in NRS 281.558 to 281.581, inclusive, and sections 14 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 281.558 and sections 15 to 21, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 15. *“Domestic partner” means a person in a domestic partnership.*

Sec. 16. *“Domestic partnership” means:*

1. A domestic partnership as defined in NRS 122A.040; or

2. A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

Sec. 17. *1. “Educational or informational meeting, event or trip” means any meeting, event or trip undertaken or attended by a public officer or candidate if, in connection with the meeting, event or trip:*

(a) The public officer or candidate or a member of the public officer’s or candidate’s household receives anything of value to undertake or attend the meeting, event or trip from an interested person; and

(b) The public officer or candidate provides or receives any education or information on matters relating to the legislative, administrative or political action of the public officer or the candidate if elected.

2. The term includes, without limitation, any reception, gathering, conference, convention, discussion, forum, roundtable, seminar, symposium, speaking engagement or other similar



meeting, event or trip with an educational or informational component.

3. The term does not include a meeting, event or trip undertaken or attended by a public officer or candidate for personal reasons or for reasons relating to any professional or occupational license held by the public officer or candidate, unless the public officer or candidate participates as one of the primary speakers, instructors or presenters at the meeting, event or trip.

4. For the purposes of this section, “anything of value” includes, without limitation, any actual expenses for food, beverages, registration fees, travel or lodging provided or given to or paid for the benefit of the public officer or candidate or a member of the public officer’s or candidate’s household or reimbursement for any such actual expenses paid by the public officer or candidate or a member of the public officer’s or candidate’s household, if the expenses are incurred on a day during which the public officer or candidate or a member of the public officer’s or candidate’s household undertakes or attends the meeting, event or trip or during which the public officer or candidate or a member of the public officer’s or candidate’s household travels to or from the meeting, event or trip.

Sec. 18. *“Financial disclosure statement” or “statement” means a financial disclosure statement in the electronic form or other authorized form prescribed by the Secretary of State pursuant to NRS 281.558 to 281.581, inclusive, and sections 14 to 23, inclusive, of this act or in the form approved by the Secretary of State for a specialized or local ethics committee pursuant to NRS 281A.350.*

Sec. 19. 1. *“Gift” means any payment, conveyance, transfer, distribution, deposit, advance, loan, forbearance, subscription, pledge or rendering of money, services or anything else of value, unless consideration of equal or greater value is received.*

2. The term does not include:

(a) Any political contribution of money or services related to a political campaign.

(b) Any commercially reasonable loan made in the ordinary course of business.

(c) Anything of value provided for an educational or informational meeting, event or trip.

(d) Anything of value excluded from the term “gift” as defined in NRS 218H.060.



(e) Any ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion from a donor who is not an interested person.

(f) Anything of value received from a person who is:

(1) Related to the public officer or candidate, or to the spouse or domestic partner of the public officer or candidate, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity; or

(2) A member of the public officer's or candidate's household.

Sec. 20. *1. "Interested person" means a person who has a substantial interest in the legislative, administrative or political action of a public officer or a candidate if elected.*

2. The term includes, without limitation:

(a) A lobbyist as defined in NRS 218H.080.

(b) A group of interested persons acting in concert, whether or not formally organized.

Sec. 21. *1. "Member of the public officer's or candidate's household" means:*

(a) The spouse or domestic partner of the public officer or candidate;

(b) A relative who lives in the same home or dwelling as the public officer or candidate; or

(c) A person, whether or not a relative, who:

(1) Lives in the same home or dwelling as the public officer or candidate and who is dependent on and receiving substantial support from the public officer or candidate;

(2) Does not live in the same home or dwelling as the public officer or candidate but who is dependent on and receiving substantial support from the public officer or candidate;

(3) Lived in the same home or dwelling as the public officer or candidate for 6 months or more during the immediately preceding calendar year or other period for which the public officer or candidate is filing the financial disclosure statement and who was dependent on and receiving substantial support from the public officer or candidate during that period.

2. For the purposes of this section, "relative" means a person who is related to the public officer or candidate, or to the spouse or domestic partner of the public officer or candidate, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

Sec. 22. *1. Except as otherwise provided in NRS 281.572, the Secretary of State shall provide access through a secure*



Internet website for the purpose of filing financial disclosure statements to each public officer or candidate who is required to file electronically with the Secretary of State a financial disclosure statement pursuant to NRS 281.558 to 281.581, inclusive, and sections 14 to 23, inclusive, of this act.

2. A financial disclosure statement that is filed electronically with the Secretary of State shall be deemed to be filed on the date that it is filed electronically if it is filed not later than 11:59 p.m. on that date.

Sec. 23. The Secretary of State may adopt regulations necessary to carry out the provisions of NRS 281.558 to 281.581, inclusive, and sections 14 to 23, inclusive, of this act.

Sec. 24. NRS 281.558 is hereby amended to read as follows:

281.558 ~~As used in NRS 281.558 to 281.581, inclusive, "candidate"~~

*1. "Candidate" means any person ~~+~~
~~—1.1~~ who seeks to be elected to a public office and:*

(a) Who files a declaration of candidacy;

~~12.1~~ *(b) Who files an acceptance of candidacy; or*

~~13.1~~ *(c) Whose name appears on an official ballot at any election.*

2. The term does not include a candidate for judicial office who is subject to the requirements of the Nevada Code of Judicial Conduct.

Sec. 25. NRS 281.559 is hereby amended to read as follows:

281.559 *1. Except as otherwise provided in ~~subsections 2 and 3~~ this section and NRS 281.572, if a public officer who was appointed to the office for which the public officer is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office or if the public officer was appointed to the office of Legislator, the public officer shall file electronically with the Secretary of State a ~~statement of~~ financial disclosure ~~+~~ statement, as follows:*

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a ~~statement of~~ financial disclosure statement within 30 days after the public officer's appointment.

(b) Each public officer appointed to fill an office shall file a ~~statement of~~ financial disclosure statement on or before January 15 of:

(1) Each year of the term, including the year in which the public officer leaves office; and



(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

➔ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which the person is required to file a statement pursuant to subsection 1, the person may use the statement the person files for that initial office to satisfy the requirements of subsection 1 for every other public office to which the person is appointed and in which the person is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a ~~{statement of}~~ financial disclosure *statement* pursuant to the requirements ~~{of Canon 4}~~ of the Nevada Code of Judicial Conduct. ~~{Such}~~ *To the extent practicable, such* a statement ~~{of financial disclosure}~~ must include, without limitation, all information required to be included in a ~~{statement of}~~ financial disclosure *statement* pursuant to NRS 281.571.

~~{4. A statement of financial disclosure shall be deemed to be filed on the date that it was received by the Secretary of State.~~

~~{5. Except as otherwise provided in NRS 281.572, the Secretary of State shall provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section.~~

~~{6. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.}~~

Sec. 26. NRS 281.561 is hereby amended to read as follows:

281.561 1. Except as otherwise provided in ~~{subsections 2 and 3}~~ *this section* and NRS 281.572, each candidate ~~{for public office}~~ who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that the candidate is seeking, each candidate for the office of Legislator and ~~{, except as otherwise provided in subsection 3,}~~ each public officer who was elected to the office for which the public officer is serving shall file electronically with the Secretary of State a ~~{statement of}~~ financial disclosure ~~{}~~ *statement*, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a ~~{statement of}~~ financial disclosure ~~{no}~~ *statement not* later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the



election for the office will be held and the last day to qualify as a candidate for the office. The filing of a ~~{statement-of}~~ financial disclosure *statement* for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a ~~{statement-of}~~ financial disclosure *statement* for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if the candidate is elected to the office.

(b) Each public officer shall file a ~~{statement-of}~~ financial disclosure *statement* on or before January 15 of:

(1) Each year of the term, including the year in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

➔ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate ~~{for public office}~~ is serving in a public office for which the candidate is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281.559, the candidate need not file the statement required by subsection 1 for the full calendar year for which the candidate previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a ~~{statement-of}~~ financial disclosure *statement* for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a ~~{statement-of}~~ financial disclosure *statement* relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a ~~{statement-of}~~ financial disclosure *statement* pursuant to the requirements ~~{of Canon 4}~~ of the Nevada Code of Judicial Conduct. ~~{Such}~~ *To the extent practicable, such* a statement ~~{of financial disclosure}~~ must include, without limitation, all information required to be included in a ~~{statement-of}~~ financial disclosure *statement* pursuant to NRS 281.571.

~~{5. A statement of financial disclosure shall be deemed to be filed on the date that it was received by the Secretary of State.}~~

~~{6. Except as otherwise provided in NRS 281.572, the Secretary of State shall provide access through a secure website to the}~~



~~statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section.~~
~~7. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.~~

Sec. 27. NRS 281.571 is hereby amended to read as follows:

281.571 ~~1. Statements of~~ *Each* financial disclosure ~~as approved pursuant to NRS 281A.350 or in such electronic form as the Secretary of State otherwise prescribes,~~ *statement* must contain the following information concerning the ~~candidate for public office or~~ public officer ~~:~~

~~—(a) or candidate:~~

1. The candidate's or public officer's *or candidate's* length of residence in the State of Nevada and the district in which the ~~candidate for public office or~~ public officer *or candidate* is registered to vote.

~~(b)~~ *2. Each source of the candidate's or* public officer's *or candidate's* income, or that of any member of the ~~candidate's or~~ public officer's *or candidate's* household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

~~(c)~~ *3. A list of the specific location and particular use of real estate, other than a personal residence:*

~~(1)~~ *(a) In which the candidate for public office or* public officer *or candidate* or a member of the ~~candidate's or~~ public officer's *or candidate's* household has a legal or beneficial interest;

~~(2)~~ *(b) Whose fair market value is \$2,500 or more; and*

~~(3)~~ *(c) That is located in this State or an adjacent state.*

~~(d)~~ *4. The name of each creditor to whom the candidate for public office or* public officer *or candidate* or a member of the ~~candidate's or~~ public officer's *or candidate's* household owes \$5,000 or more, except for:

~~(1)~~ *(a) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (e); subsection 3; and*

~~(2)~~ *(b) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.*

~~(e)~~ *5. If the public officer or candidate has undertaken or attended any educational or informational meetings, events or trips during the immediately preceding calendar year or other period for which the public officer or candidate is filing the financial disclosure statement, a list of all such meetings, events or trips, including:*



(a) The purpose and location of the meeting, event or trip and the name of the organization conducting, sponsoring, hosting or requesting the meeting, event or trip;

(b) The identity of each interested person providing anything of value to the public officer or candidate or a member of the public officer's or candidate's household to undertake or attend the meeting, event or trip; and

(c) The aggregate value of everything provided by those interested persons to the public officer or candidate or a member of the public officer's or candidate's household to undertake or attend the meeting, event or trip.

6. If the ~~{candidate for public office or}~~ public officer *or candidate* has received *any* gifts in excess of an aggregate value of \$200 from a donor during the *immediately* preceding ~~{taxable}~~ calendar year ~~{1}~~ *or other period for which the public officer or candidate is filing the financial disclosure statement*, a list of all such gifts, including the identity of the donor and *the* value of each gift. ~~{, except:~~

~~—— (1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.~~

~~—— (2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.~~

~~—— (f)}~~ 7. A list of each business entity with which the ~~{candidate for public office or}~~ public officer *or candidate* or a member of the ~~{candidate's or}~~ public officer's *or candidate's* household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

~~{(g)}~~ 8. A list of all public offices presently held by the ~~{candidate for public office or}~~ public officer *or candidate* for which this ~~{statement of}~~ financial disclosure *statement* is required.

~~{2. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.~~

~~—— 3. As used in this section, “member of the candidate's or public officer's household” includes:~~

~~—— (a) The spouse of the candidate for public office or public officer;~~



~~—(b) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and~~

~~—(c) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.~~

Sec. 28. NRS 281.572 is hereby amended to read as follows:

281.572 1. A ~~{candidate or}~~ public officer *or candidate* who is required to file a ~~{statement of}~~ financial disclosure *statement* with the Secretary of State pursuant to NRS 281.559 or 281.561 is not required to file the statement electronically if the ~~{candidate or}~~ public officer *or candidate* has on file with the Secretary of State an affidavit which satisfies the requirements set forth in subsection 2 and which states that:

(a) The ~~{candidate or}~~ public officer *or candidate* does not own or have the ability to access the technology necessary to file electronically the ~~{statement of}~~ financial disclosure ~~{;} statement;~~ and

(b) The ~~{candidate or}~~ public officer *or candidate* does not have the financial ability to purchase or obtain access to the technology necessary to file electronically the ~~{statement of}~~ financial disclosure ~~{;} statement.~~

2. The affidavit described in subsection 1 must be:

(a) In the form prescribed by the Secretary of State and signed under an oath to God or penalty of perjury. A ~~{candidate or}~~ public officer *or candidate* who signs the affidavit under an oath to God is subject to the same penalties as if the ~~{candidate or}~~ public officer *or candidate* had signed the affidavit under penalty of perjury.

(b) Except as otherwise provided in subsection 4, filed not less than 15 days before the ~~{statement of}~~ financial disclosure *statement* is required to be filed.

3. A ~~{candidate or}~~ public officer *or candidate* who is not required to file the ~~{statement of}~~ financial disclosure *statement* electronically may file the ~~{statement of}~~ financial disclosure *statement* by transmitting the statement by regular mail, certified mail, facsimile machine or personal delivery. A ~~{statement of}~~ financial disclosure *statement* transmitted pursuant to this subsection shall be deemed to be filed on the date that it was received by the Secretary of State.

4. A person who is appointed to fill the unexpired term of an elected or appointed public officer must file the affidavit described in subsection 1 not later than 15 days after his or her appointment to



be exempted from the requirement of filing a ~~report~~ *financial disclosure statement* electronically.

Sec. 29. NRS 281.573 is hereby amended to read as follows:

281.573 1. Except as otherwise provided in subsection 2, ~~statements of~~ *each* financial disclosure *statement* required by the provisions of NRS 281.558 to 281.572, inclusive, *and sections 14 to 23, inclusive, of this act* must be retained by the Secretary of State for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last ~~statement of~~ financial disclosure *statement* for the last public office held.

Sec. 30. NRS 281.574 is hereby amended to read as follows:

281.574 1. A list of each public officer who is required to file a ~~statement of~~ financial disclosure *statement* must be submitted electronically to the Secretary of State, in a form prescribed by the Secretary of State, on or before December 1 of each year by:

(a) Each county clerk for all public officers of the county and other local governments within the county other than cities;

(b) Each city clerk for all public officers of the city;

(c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and

(d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. Each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the Secretary of State, a list of each candidate ~~for public office~~ who filed a declaration of candidacy or acceptance of candidacy with that officer within 10 days after the last day to qualify as a candidate for the applicable office.

Sec. 31. NRS 281.581 is hereby amended to read as follows:

281.581 1. If the Secretary of State receives information that a ~~candidate for public office or~~ public officer *or candidate* willfully fails to file a ~~statement of~~ financial disclosure *statement* or willfully fails to file a ~~statement of~~ financial disclosure *statement* in a timely manner pursuant to NRS 281.559, 281.561 or 281.572, the Secretary of State may, after giving notice to ~~that person or entity,~~ *the public officer or candidate*, cause the appropriate proceedings to be instituted in the First Judicial District Court.



2. Except as otherwise provided in this section, a ~~candidate for public office or~~ public officer *or candidate* who willfully fails to file a ~~statement of~~ financial disclosure *statement* or willfully fails to file a ~~statement of~~ financial disclosure *statement* in a timely manner pursuant to NRS 281.559, 281.561 or 281.572 is subject to a civil penalty and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. The amount of the civil penalty is:

(a) If the statement is filed not more than 10 days after the applicable deadline set forth in subsection 1 of NRS 281.559, subsection 1 of NRS 281.561 or NRS 281.572, \$25.

(b) If the statement is filed more than 10 days but not more than 20 days after the applicable deadline set forth in subsection 1 of NRS 281.559, subsection 1 of NRS 281.561 or NRS 281.572, \$50.

(c) If the statement is filed more than 20 days but not more than 30 days after the applicable deadline set forth in subsection 1 of NRS 281.559, subsection 1 of NRS 281.561 or NRS 281.572, \$100.

(d) If the statement is filed more than 30 days but not more than 45 days after the applicable deadline set forth in subsection 1 of NRS 281.559, subsection 1 of NRS 281.561 or NRS 281.572, \$250.

(e) If the statement is not filed or is filed more than 45 days after the applicable deadline set forth in subsection 1 of NRS 281.559, subsection 1 of NRS 281.561 or NRS 281.572, \$2,000.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

5. As used in this section, "willfully" means intentionally and knowingly.

Sec. 32. NRS 281A.350 is hereby amended to read as follows:

281A.350 1. Any state agency or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:



(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of the public officer's or employee's own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's inquiry to that committee instead of the Commission.

(c) Require the filing of ~~statements of~~ financial disclosure ~~statements~~ by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the Secretary of State for review; and

(2) Upon review, approved by the Secretary of State. The Secretary of State shall not approve the form unless the form contains all the information required to be included in a ~~statement of~~ financial disclosure ~~statement~~ pursuant to NRS 281.571.

2. The Secretary of State is not responsible for the costs of producing or distributing a form for filing a ~~statement of~~ financial disclosure ~~statement~~ pursuant to the provisions of subsection 1.

3. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

4. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

Sec. 33. NRS 293.186 is hereby amended to read as follows:

293.186 The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate:



1. If the candidate is a candidate for judicial office, the form prescribed by the Administrative Office of the Courts for the making of a ~~statement of~~ financial disclosure ~~;~~ **statement**;

2. If the candidate is not a candidate for judicial office and is required to file electronically the ~~statement of~~ financial disclosure ~~;~~ **statement**, access to the electronic form prescribed by the Secretary of State; or

3. If the candidate is not a candidate for judicial office, is required to submit the ~~statement of~~ financial disclosure **statement** electronically and has submitted an affidavit to the Secretary of State pursuant to NRS 281.572, the form prescribed by the Secretary of State,

↳ accompanied by instructions on how to complete the form and the time by which it must be filed.

Secs. 34-39. (Deleted by amendment.)

Sec. 40. The provisions of this act do not apply to a financial disclosure statement that is filed by a public officer or candidate to report information for any period that ends before January 1, 2016.

Sec. 41. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On January 1, 2016, for all other purposes.



