



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

**MINUTES  
of the meeting of the  
NEVADA COMMISSION ON ETHICS**

The Commission on Ethics held a public meeting on  
Wednesday, May 9, 2018, at 9:30 a.m.  
at the following locations:

**Grant Sawyer State Building  
Suite 5400  
555 E. Washington Avenue  
Las Vegas, NV 89101**

and via video-conference to:

**Governor's Office of Economic Development  
808 W. Nye Lane  
Carson City, NV 89703**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts are available for public inspection at the Commission's office located in Carson City.

1. Call to Order and Roll Call.

Chair Cheryl A. Lau, Esq. called the meeting to order in Las Vegas, Nevada at 9:30 a.m. Also present in Las Vegas were Vice-Chair Keith A. Weaver, Esq. and Commissioners Brian Duffrin, Barbara Gruenewald, Esq. and Amanda Yen, Esq. Present for Commission staff in Las Vegas were Executive Director Yvonne M. Nevarez-Goodson, Esq., Commission Counsel Tracy L. Chase, Esq., Associate Counsel Judy Prutzman, Esq., and Executive Assistant Kari Pedroza. Senior Legal Researcher Darci Hayden was present for Commission staff in Carson City. Commissioner Philip K. O'Neill was excused.

The pledge of allegiance was conducted.

2. Public Comment.

The Chair noted that no members of the public were present in Carson City or Las Vegas.

3. Approval of Minutes of the March 21, 2018 Commission Meeting and the April 18, 2018 Regulation Workshop.

Vice-Chair Weaver moved to adopt the March 21, 2018 minutes. Commissioner Duffrin seconded the motion. Commissioner Yen abstained from the vote after she disclosed that she was excused from the March meeting. The Motion was put to a vote and carried unanimously.

Commissioner Yen moved to approve the minutes for the April 18, 2018 meeting. Commissioner Gruenewald seconded the motion. The Motion was put to a vote and carried with Commissioner Duffrin abstained.

4. Discussion and approval of a Proposed Stipulation concerning Ethics Complaint No. 17-26C regarding Jeffrey Witthun, Director, Family Support Division, Clark County District Attorney's Office, State of Nevada.

Jeffrey Witthun, Director of the Clark County District Attorney's Office, Family Support Division, and his legal representative, Shannon Wittenberger, Esq., introduced themselves for the record.

Associate Counsel Judy Prutzman presented the facts and terms of the Proposed Stipulated Agreement to the Commission in Ethics Complaint No. 17-26C. Associate Counsel Prutzman summarized that the complaint alleged Mr. Witthun violated the Ethics Law in 2016 when he used his public position to create an unpaid summer internship position for his son within the division and approved the hiring decision that resulted in his son working in a paid part-time position. She reported that the review panel determined that just and sufficient cause existed for the Commission to render an opinion regarding the allegations pertaining to NRS 281A.400(1), (2), (7), and (9) and NRS 281A.420(1).

Associate Counsel Prutzman outlined a proposed stipulated resolution of one nonwillful violation for Mr. Witthun's conduct related to the approval of his son's part-time paid position because he disclosed that he was acting on the matter to his supervisor as well as the head of human resources and both individuals authorized his conduct, and one willful violation for his conduct related to his son's summer internship. The Proposed Stipulated Agreement reflects that Mr. Witthun's conduct related to his son's summer internship would result in a willful violation of the Ethics Law and a \$2,500 civil penalty with an allowance for partial payment of the penalty, given unique personal circumstances, if three conditions were met by Mr. Witthun before the end of the calendar year. The three conditions provided were that Mr. Witthun must facilitate and attend ethics training for all employees within the division he oversees, he must notify his supervisor, the district attorney and the Clark County human resources director of the terms of his stipulation, and he would be required to submit a policy for his division addressing the hiring or supervision of family. If the three conditions were met, Commission staff proposed that \$1,500 of the total penalty would be forgiven and Mr. Witthun would be required to pay \$1,000.

Mr. Witthun's counsel, Shannon Wittenberger, Esq., thanked the Commission for working with her client on a resolution and provided information about mitigating factors and recognized a unique financial hardship Mr. Witthun had recently experienced due to a fire at his residence and that his conduct had been consistent with prior practice at his agency.

Mr. Witthun reiterated to the Commission that he was not aware that his conduct was in violation of the Ethics Law; however, he is more informed now and will ensure that his agency receives ethics training and is currently working on drafting a policy regarding nepotism for his agency.

Mr. Witthun, Counsel Wittenberger and Associate Counsel Prutzman confirmed for the record that they consented to the terms of the Proposed Stipulation.

Commission Counsel Chase stated for the record that the three review panel members in this matter were statutorily precluded under NRS 281A.220 from participating in any further post panel determination. Accordingly, the Proposed Stipulation would be considered by Chair Lau and Commissioners Duffrin and Yen.

Commissioner Duffrin asked Commission staff how they would verify that the conditions of the stipulation had been met. Associate Counsel Prutzman responded that staff has implemented internal procedures for tracking the terms of agreements including calendaring and follow-up. Executive Director Nevarez-Goodson offered that she would provide a report to the Commission when compliance with the terms had been satisfied.

Commissioner Duffrin asked Mr. Witthun to clarify his recent financial hardship and the status of the agency policy regarding the hiring or supervision of family members by public employees within the division. Mr. Witthun responded regarding the extent of the financial hardship experienced as the result of his residential fire and reported that he had a draft policy prepared for consideration by the District Attorney's Policy Committee to review such policies.

Commissioner Yen moved to accept the terms of the Stipulation and direct Commission Counsel to draft a final stipulation in appropriate form. Commissioner Yen noted that while the Commission sympathizes with Mr. Witthun's financial hardship, the basis for the motion was the other mitigating factors, particularly the education and the policy to be implemented. Commissioner Duffrin seconded the Motion. Executive Director Nevarez-Goodson clarified that the Commission did not intend for the terms of the stipulation to be changed. The Motion was put to a vote and carried unanimously. See Exhibit A, Witthun Proposed Stipulated Agreement.

5. Consideration and approval of Bill Draft Request Concepts submitted to the Office of the Governor based upon recommendations of the Executive Director pursuant to NRS 281A.240(1)(d).

Executive Director Nevarez-Goodson presented the final BDR Concepts that were approved during the Commission's prior meeting on March 21, 2018 and provided the Commission procedural information on the Bill Draft Request (BDR) process. The Commissioners did not have any questions on this Item.

The Chair called for a motion to approve the BDR concepts. Commissioner Gruenewald made the Motion and Commissioner Yen seconded the Motion. The Motion passed unanimously.

6. Report by the Executive Director on agency status and operations and possible direction thereon. Items to be discussed include:

- Proposed Regulations for submission to the Legislative Counsel Bureau
- Interim Salary Study (S.C.R. 6) Update
- Public Records Policy
- Education and Outreach by the Commission
- Commission Appointments
- Meeting Schedule
- FY18 Budget Update

Proposed Regulations for submission to the Legislative Counsel Bureau

Executive Director Nevarez-Goodson reported that Commission staff is working diligently on drafting proposed regulations that implement the provisions of S.B. 84 and outlined the next

steps in the process including providing proposed language to the Legislative Counsel Bureau for formal drafting and the Regulation Adoption Hearing, which will require a 30-day notice of the public hearing.

#### Interim Salary Study (S.C.R. 6) Update

Executive Director Nevarez-Goodson provided a brief update regarding the interim salary study, which was required by Senate Concurrent Resolution 6 from the 2017 Legislative Session. The Committee had not met again since the last Commission meeting and Executive Director Nevarez-Goodson reiterated that at their last meeting the Salary Study Committee agreed to conduct a salary survey and that she is awaiting the results of this survey. Executive Director Nevarez-Goodson stated that she intends to be present at any future committee meeting and will provide the Commission an update as available.

#### Public Records Policy

Executive Director Nevarez-Goodson discussed the recent decision from the Nevada Supreme Court regarding communications by public employees and public officers on their private devices or through their private email accounts. She reiterated the Commission's policy to communicate via government-issued email accounts for Commission-related business to protect private devices and email accounts from potential requests for public records.

#### Education and Outreach by the Commission

Executive Director Nevarez-Goodson reported on recent education and outreach efforts and noted that Commission staff has received consistent requests for training from various agencies. She stated she is considering possible adjustments during the budget process to provide outreach via online or digital platforms.

#### Commission Appointments

Executive Director Nevarez-Goodson acknowledged the two vacant positions and informed the Commission of the upcoming Legislative Commission meeting scheduled for May 16, 2018 at which she expects the Legislative Commission to consider appointments.

#### Meeting Schedule

Executive Director Nevarez-Goodson stated that there would be a Commission meeting on June 20, 2018 held in Las Vegas.

#### FY18 Budget

Executive Director Nevarez-Goodson reported that the Commission is on track to spend the fiscal year 2018 base budget this year and that the remaining travel funds will be expended for the June Commission meeting. Executive Director Nevarez-Goodson informed the Commission of the pending retirement of the Commission's Investigator, Anthony Freiberg, and thanked him for his public service.

7. Commissioner Comments on matters including, without limitation, identification of future agenda items, upcoming meeting dates and meeting procedures.

No Commissioner comments.

8. Open Session for Public Comment.

No public comment.

9. Adjournment.

The meeting adjourned at 10:27 a.m.

Minutes prepared by:

/s/ Kari Pedroza

Kari Pedroza  
Executive Assistant

/s/ Yvonne M. Nevarez-Goodson

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director

Minutes approved **June 20, 2018**:

/s/ Cheryl A. Lau

Cheryl A. Lau, Esq.  
Chair

/s/ Keith A. Weaver

Keith A. Weaver, Esq.  
Vice-Chair