

Agenda Item 3



**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, April 19, 2023, at 9:30 a.m.
at the following location:

**State Bar of Nevada
3100 West Charleston Boulevard, Suite 100
Las Vegas, NV 89102**

Zoom Meeting Information

<https://us06web.zoom.us/j/87605057620?pwd=Q1MyanFhSnd4MDgwSi9DUVJyemhvZz09>

Zoom Meeting Telephone Number: 720-707-2699

Meeting ID: 876 0505 7620

Passcode: 205088

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. A recording of the meeting is available for public inspection at the Commission's office and on the [Commission's YouTube channel](#).

1. Call to Order and Roll Call.

Chair Kim Wallin, CPA, CMA, CFM appeared in-person at the State Bar of Nevada in Las Vegas and called the meeting to order at 9:30 a.m. Also appearing in-person were Vice-Chair Brian Duffrin and Commissioners Barbara Gruenewald, Esq., James Oscarson, Thoran Towler, Esq. and Amanda Yen, Esq. Commissioner Teresa Lowry, Esq. was excused and Commissioner Damian Sheets, Esq. was absent. Present for Commission staff in Las Vegas were Executive Director Ross E. Armstrong, Esq., Associate Counsel Elizabeth J. Bassett, Esq., Investigator Erron Terry and Executive Assistant Kari Pedroza. Deputy Attorney General Laena St-Jules, Esq. also appeared in person in Las Vegas.

2. Public Comment.

There was no public comment.

3. Recognition of Senior Legal Researcher Darci Hayden for her years of dedicated and outstanding service to the Commission.

Chair Wallin introduced the Item and expressed her gratitude for the administrative assistance Senior Legal Researcher Darci Hayden provided to the Commission, specifically with Ethics Complaints, Advisory Opinions and in her role as liaison between the Commission Counsel and Associate Counsel when cases moved forward to a hearing. She thanked Darci for her many years of service to the State of Nevada and congratulated her on her retirement. Chair Wallin wished her all the best as she begins to write a new chapter or even a novel about her next phase.

Commissioner Yen echoed the Chair's comments and added that Darci deserved the highest regard and recognition for her contributions behind-the-scenes. She expressed her appreciation to Darci for her years and service and stated that Darci will be missed.

Commissioner Gruenewald personally thanked Senior Legal Researcher Hayden for all the times she assisted Commissioner Gruenewald with changing her password and accessing her email account.

Commissioner Oscarson thanked Senior Legal Researcher Hayden for her hard work in preparing materials for the Commission. He shared his appreciation for her time and effort in everything she did for the Commission.

Commissioner Towler agreed that Darci will be missed. He thanked her for her contribution to the Commission and shared his hope that she enjoys retirement. Commissioner Towler echoed the Chair's comment about Darci's next book and stated he looked forward to any books she may write about her future endeavors.

Vice-Chair Duffrin shared that he had the honor of seeing Darci before she left when he last visited the Commission's office, and she shared with him her goals for retirement. He also echoed his fellow Commissioner's comments and thanked Darci for her service. Vice-Chair Duffrin congratulated Darci and wished her well going forward.

Former Commission Counsel Tracy Chase thanked the Commission for the opportunity to recognize Senior Legal Researcher Hayden. Tracy shared that she had the privilege of working closely with Darci for many years and commended her dedication, hard work and service to the State of Nevada. Former Commission Counsel Chase expressed her gratitude for Darci's task management skills and collaborative effort. She shared that Darci was instrumental in assisting with litigation proceedings. Tracy commented her personal appreciation for Darci's support over the years and wished her a wonderful retirement.

Commissioner Oscarson commented on how relaxed Former Commission Counsel Chase and Senior Legal Researcher Hayden looked and that it shows they are enjoying retirement.

Former Executive Director Yvonne Nevarez-Goodson thanked the Commission for the invitation to say a few words about Darci. She congratulated Darci on her retirement and noted her appreciation for the many years she and Darci worked together at the Commission. Former Executive Director Nevarez-Goodson shared one of her priorities as Executive Director for the Commission was to surround herself with staff who believed in the mission and the work of the Commission and Darci certainly fit the bill. She commended Darci on taking pride in her work and encouraging professional growth among the Commission staff. Former Executive Director Nevarez-Goodson congratulated Darci for her efforts with National Association for Legal Support Professionals and promoting collaboration and cohesion between professionals in the administrative law field. She recognized Darci for all of the work she performed silently behind the scenes during her tenure with the Commission. Former Executive Director Nevarez-Goodson thanked Senior Legal Researcher Hayden for her keeping staff on track with statutory deadlines and her administrative talents. She shared a few anecdotal experiences and expressed her gratitude for Darci's support and friendship.

Chair Wallin thanked Former Commission Counsel Chase and Former Executive Director Nevarez-Goodson for their heart-felt remarks in recognition of Senior Legal Researcher Hayden.

Executive Director Armstrong echoed the comments made by his predecessor and former colleague. He thanked Darci for her assistance and historical knowledge of Commission cases as it was hugely beneficial to him as the newly appointed Executive Director. Executive Director Armstrong acknowledged her critical role and contribution to the Commission over the years and stated that she would be greatly missed. He shared with the Commission that he presented her with a pen inscribed with her pen name on it as a token of the Commission's appreciation.

Associate Counsel Bassett echoed Executive Director Armstrong's comments and commented that she would miss the great energy that Darci brought to the office. She thanked her for the tremendous amount of work she did for the Commission and the assistance she provided to Associate Counsel Bassett. She congratulated Darci on her retirement and expressed her well wishes to Darci in her creative endeavors.

Executive Assistant Pedroza thanked the Commission for the opportunity to acknowledge Senior Legal Researcher Hayden on the record. She expressed her gratitude for all of Darci's assistance and collaborative efforts as her counterpart in the Administrative Team during their time together at the Commission. Executive Assistant Pedroza shared that although Darci will be truly missed at the Commission, she extended her excitement about being able to witness what Darci might do in the future.

Senior Legal Researcher Hayden thanked the Commissioners and Commission staff, both former and current, for their well wishes. She shared what an honor and a privilege it had been working for the Commission. Senior Legal Researcher Hayden shared she was overwhelmed by the kind words and warm regards by all that shared. She stated she would miss each and every one of her colleagues and Commissioners.

4. Approval of Minutes of the March 15, 2023, Commission Meeting.

Chair Wallin stated that all Commissioners were present for the March Commission Meeting, except for Commissioner Sheets who was absent and therefore precluded from participating in this item.

Commissioner Towler moved to approve the March 15, 2023 Commission Meeting Minutes as presented. Commissioner Yen seconded the motion. The Motion was put to a vote and carried as follows:

Chair Wallin:	Aye.
Vice-Chair Duffrin:	Aye.
Commissioner Gruenewald:	Aye.
Commissioner Oscarson:	Aye.
Commissioner Towler:	Aye.
Commissioner Yen:	Aye.

5. Discussion and approval of a Proposed Stipulation concerning Consolidated Ethics Complaint Nos. 20-081C & 20-085C regarding Leonardo Blundo, Member, Board of County Commissioners, Nye County, State of Nevada.

Chair Wallin introduced the item and stated for the record that proper notice had been provided and waivers were received regarding this item. Chair Wallin further noted that Vice-Chair Duffrin and Commissioners Gruenewald and Sheets served as members of the Review Panel and would be precluded from participating in the consideration of the dispositive motions under this item pursuant to NRS 281A.220(4).

Chair Wallin asked Counsel in the Complaints to identify themselves and their clients for the record. Associate Counsel Elizabeth J. Bassett, Esq. appeared on behalf of Executive Director Armstrong before the Commission in this matter. Brian Hardy, Esq. appeared via Zoom on behalf of Leonardo Blundo, who was not in attendance but was provided proper notice of the Agenda Item and understood that the Commission would proceed in his absence.

Associate Counsel Elizabeth J. Bassett, Esq. presented an overview of the Proposed Stipulation to resolve Consolidated Ethics Complaint Nos. 20-081C & 20-085C regarding Leonardo Blundo.

Counsel Hardy commended Associate Counsel Bassett on providing the recitation of the Proposed Stipulation. He confirmed his client is in agreement with the terms of the Proposed Stipulation and acknowledged that the Stipulation is the product of negotiations between the parties. Counsel Hardy acknowledged that the diligent work of the Commission staff was critical to the resolution of this matter and thanked Commission staff for their collaborative efforts. He expressed his appreciation to the Commission for its consideration.

Chair Wallin asked questions of Associate Counsel Bassett, Counsel Hardy and Executive Director Armstrong, and each provided responses to the questions.

Commissioner Oscarson stated that he struggled with the purported determination of willfulness and could not support the Stipulation as proposed.

Commissioner Yen clarified the finding of a willful violation as outlined in the Proposed Stipulation. She added that consideration should be given to the fact that the parties negotiated and came to a stipulation of the matter and that each party conceded slightly on their stance.

Commissioner Yen made a motion to accept the terms of the Stipulation as presented by the parties to resolve Consolidated Ethics Complaint Case Nos. 20-081C & 20-085C (Blundo) and direct Deputy Attorney General Laena St-Jules to finalize the legal form of Stipulation and any matters relating thereto. Commissioner Towler seconded the motion. The Motion was put to a vote and carried as follows:

Chair Wallin:	Aye.
Vice-Chair Duffrin:	Abstain pursuant to NRS 281A.220.
Commissioner Gruenewald:	Abstain pursuant to NRS 281A.220.
Commissioner Towler:	Aye.
Commissioner Oscarson:	Nay.
Commissioner Yen:	Aye.

Chair Wallin thanked Counsel Hardy for his assistance in the resolution of this matter. Counsel Hardy thanked the Commissioners for their constant and consistent professionalism and that of its staff.

6. Discussion regarding Senate Bill 431 and possible direction to the Executive Director on how to proceed with advocating for the Commission's position on the bill.

Chair Wallin introduced the item and asked the Executive Director for his presentation on the matter.

Executive Director Armstrong noted that the Legislative Subcommittee had a meeting scheduled the week prior to consider this item, but unfortunately was unable to meet due to technical issues. He summarized the intent and potential impact of Senate Bill 431 on the Commission. He referred to the meeting materials corresponding to the item and asked the Commission for feedback pertaining to the proposed letter outlining the Commission's position on Senate Bill 431. He further requested direction from the Commission on how to proceed with advocating the Commission's position on the bill.

The Commissioners shared their thoughts and discussed the operational and fiscal implications of the proposed bill as it related to the Commission.

Commissioner Oscarson moved to support the letter that the Executive Director has written and any outreach efforts the Executive Director can establish starting with the Governor's Office to see what their thoughts are, which may negate some other needs, but still reach out to make sure they are onboard as well. Vice-Chair Duffrin seconded the motion. The motion was put to a vote and carried unanimously.

7. Consideration and approval of the Use of Information Services and Equipment Policy as presented by the Executive Director.

Chair Wallin introduced the item and asked the Executive Director for his presentation on the matter.

Executive Director Armstrong referred to the proposed Use of Information Services and Equipment Policy provided in the meeting materials and highlighted the provisions. He reported that he reached out to the State IT department EITS prior to completing the policy.

Chair Wallin thanked Executive Director Armstrong for his work on the policy.

Commissioner Towler moved to accept the Use of Information Services and Equipment Policy as presented. Commissioner Yen seconded the motion. The motion was put to a vote and carried unanimously.

8. Consideration and approval of the Commissioner Salary Policy as presented by the Executive Director.

Chair Wallin introduced the item and asked her fellow Commissioners if there were any disclosures.

Each Commissioner provided the following disclosure separately on the record:

I am a Commissioner with the Nevada Commission on Ethics. Pursuant to NRS 281A.139, I have a pecuniary interest in the proposed Nevada Commission on Ethics' Commissioner Salary Policy as I have a beneficial interest in any payments that are authorized pursuant to NRS 281A.210(2) and (3). However, after consultation with Deputy Attorney General St-Jules and pursuant to NRS 281A.420(4), I do not believe abstention is required in this matter as any benefit or detriment accruing to me would not be greater than the benefit or detriment accruing to the group of Nevada Commission on Ethics Commissioners, and the independence of judgment of a reasonable person in my situation would not be materially affected by my pecuniary interest.

Executive Director Armstrong referred to the proposed Commissioner Salary Policy provided in the meeting materials and highlighted the provisions.

Vice-Chair Duffrin asked a question pertaining to the tracking procedure of the policy and Executive Director Armstrong addressed his question.

Commissioner Oscarson moved to accept the Commissioner Salary Policy as presented. Vice-Chair Duffrin seconded the motion. The motion was put to a vote and carried unanimously.

9. Report by Executive Director on agency status and operations, and possible direction thereon. Items to be discussed include, without limitation:

- a. Education and Outreach
- b. Quarterly Case Log
- c. Legislative Update
- d. Budget Update
- e. Commission Recruitment Updates

Chair Wallin introduced the Item and asked Executive Director Armstrong for his presentation.

a. Education and Outreach: Executive Director Armstrong noted the written report submitted on Education and Outreach in the meeting materials.

Executive Director Armstrong informed the Commission that he had completed a couple training session videos for the Online Learning Management System.

Executive Director Armstrong reported an increase in LinkedIn followers and provided the number of training attendees for the Fiscal Year.

b. Quarterly Case Log: Executive Director Armstrong referenced the updated Quarterly Case Logs provided in the meeting materials noting that with the matter resolved during the meeting that day there are no pending cases prior to FY22 and after the next few months workload, there will be no pending cases from FY22.

c. Legislative Update: Executive Director Armstrong noted that the Legislative Update report was provided to the Commissioners and included in the meeting materials earlier that week to ensure all updates were included. He outlined important dates for the conclusion of the current Legislative Session.

d. Budget Update: Executive Director Armstrong reported that the work program for temporary contract services for the Senior Legal Researcher position was being processed and expected to be complete within 2 weeks. He also stated that minor work programs would be processed for the Commission's operations and information technology budget accounts.

e. Commission Counsel Hiring Update: Executive Director Armstrong reiterated that the Personnel Subcommittee would be holding interviews that afternoon for the Commission Counsel position and depending on the outcome, the full Commission could interview the final candidates at the next monthly Commission meeting.

Executive Director Armstrong informed the Commission that he had two interviews scheduled the following week for the Senior Legal Researcher position.

Commissioner Yen moved to accept the Executive Director's agency status report as presented. Commissioner Oscarson seconded the motion. The motion was put to a vote and carried unanimously.

10. Commissioner Comments on matters including, without limitation, identification of future agenda items, upcoming meeting dates and meeting procedures. No action will be taken under this agenda item.

Vice-Chair Duffrin extended his thanks to Commission staff for their hard work, especially since the Commission has two vacant positions.

Commissioner Oscarson echoed Vice-Chair Duffrin's sentiment and expressed his appreciation for fellow Commissioners.

Commissioner Yen commented in agreeance with her fellow Commissioners and expressed her gratitude to Executive Director Armstrong and Associate Counsel Bassett for their professional representation of the Commission, acknowledging comments made by opposing counsel in various Ethics cases.

11. Public Comment.

There was no public comment.

12. Adjournment.

Commissioner Towler made a motion to adjourn the public meeting. Vice-Chair Duffrin seconded the motion. The Motion was put to a vote and carried unanimously.

The meeting was adjourned at 11:14 a.m.

Minutes prepared by:

[/s/ Kari Pedroza](#)

Kari Pedroza
Executive Assistant

[/s/ Ross Armstrong](#)

Ross Armstrong, Esq.
Executive Director

Minutes approved May 17, 2023:

Kim Wallin, CPA, CMA, CFM
Chair

Brian Duffrin
Vice-Chair

DRAFT

Agenda Item 4



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Joseph Rodriguez**, Trustee, Washoe
County School District; Lieutenant, State Fire
Marshal Division, State of Nevada,

Ethics Complaint
Case No. 22-051C

Subject. /

**PROPOSED
OPINION**

I. INTRODUCTION AND PROCEDURAL HISTORY

Pursuant to NRS 281A.710(1)(b), an Ethics Complaint was filed with the Nevada Commission on Ethics ("Commission") on May 2, 2022, alleging that Joseph Rodriguez, ("Rodriguez"), Washoe County School District ("WCSD") Trustee and Nevada State Fire Marshal Division Lieutenant, violated provisions of the Ethics in Government Law set forth in Chapter 281A of the Nevada Revised Statutes ("Ethics Law").

On June 13, 2022, the Commission conducted its jurisdictional and evidentiary review of the record, including the Ethics Complaint, supporting evidence and the recommendations of the Executive Director. The Commission accepted jurisdiction of the Complaint and directed the Executive Director to investigate and serve a *Notice of Complaint and Investigation* regarding Rodriguez's alleged violations of NRS 281A.400(2) (using position in government to grant an unwarranted advantage to himself or others), NRS 281A.400(7) (using governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest) and NRS 281A.520 (causing a governmental entity to incur an expense or make an expenditure to support or oppose a candidate).

On or about June 13, 2022, the Commission served Rodriguez via certified mail a *Notice of Complaint and Investigation* advising him of the allegations in the Complaint. On or about July 18, 2022, Rodriguez, by and through his attorney Adam Hosmer-Henner, Esq. with McDonald Carano LLP, submitted a response to the allegations.

On July 21, 2022, the Commission served Rodriguez a *Notice of Additional Issues and Facts*. On September 16, 2022, Rodriguez, through his counsel, submitted a supplemental response to this notice.

On September 19, 2022, the Commission received a waiver of statutory time requirements for the Executive Director to complete his investigation until November 16, 2022 and for the Executive Director to present a recommendation to a review panel until November 30, 2022.

On November 16, 2022, the Commission's Review Panel ("Panel")¹ issued a *Review Panel Determination and Referral Order* finding just and sufficient cause for the Commission to hold a hearing and render an opinion in this matter based on credible evidence that alleged Rodriguez violated NRS 281A.400(2) and (7). The Panel further found no just and sufficient cause for the Commission to render an opinion regarding the allegations pertaining to NRS 281A.520. The Commission referred allegations of violations of NRS 281A.400(2) and (7) to the Commission but dismissed allegations related to Rodriguez's alleged use of WCSD photographs under NRS 281A.400(2) and (7) and NRS 281A.520 for lack of sufficient evidence.

On December 5, 2022, pursuant to NRS 281A.745, Rodriguez waived the statutory time requirements for the adjudicatory through the end of March 2023 and provided a further waiver of the time to render an opinion in this matter through the end of December 2023.

On December 6, 2022, the Commission issued a *Notice of Hearing and Scheduling Order and Notice of Hearings and Meetings to Consider Your Character, Alleged Misconduct, Professional Competence or Health*, setting a hearing for discovery-related or dispositive motions or stipulations and an adjudicatory hearing and/or hearing on adjudicatory motions or stipulations for March 15, 2023. Thereafter, each party filed a motion for summary judgment, which motions were fully briefed and submitted for the Commission's consideration.

On February 23, 2023, Rodriguez submitted an *Adjudicatory Motion*, and on February 27, 2023, the Executive Director submitted a *Motion in Limine*. These motions were fully briefed.

On March 2, 2023, the Commission served a *Notice of Hearing and Scheduling Order* on Rodriguez, notifying Rodriguez of the date, time and location that the Commission would hold public meetings to consider discovery-related or dispositive motions or stipulations and conduct an adjudicatory hearing.

On March 14, 2023, the presiding officer, Vice-Chair Duffrin, held a pre-hearing conference, which was attended by Executive Director Armstrong, represented by Associate Counsel Bassett, and counsel for Rodriguez, Mr. Hosmer-Henner. The Vice-Chair discussed procedural matters with the parties relating to the adjudicatory hearing and received comments from the parties on stipulations of facts and exhibits. The Vice-Chair also ruled orally on Rodriguez's *Adjudicatory Motion* and the Executive Director's *Motion in Limine*. Later that same day, the Vice-Chair issued an *Order Granting Executive Director's Motion in Limine* and an *Order Denying Trustee Rodriguez's Adjudicatory Motion*.

On March 15, 2023, the Commission heard oral argument on the parties' motions for summary judgment. The Commission denied both motions. The Commission then held an adjudicatory hearing to consider whether Rodriguez violated NRS 281A.400(2) or NRS 281A.400(7). At the start of the hearing, the parties orally stipulated to the admission of certain facts and exhibits, and during the hearing, orally stipulated to the admission of one additional exhibit. At the conclusion of the adjudicatory hearing and after fully considering the record, testimony, evidence and arguments of the parties, in accordance with the requirements of the law including, without limitation, the mitigating

¹ Chair Wallin and Commissioners Towler and Sheets served on the Panel and are precluded by NRS 281A.220(4) from participation in further matters after issuance of the Panel Determination.

factors set forth in NRS 281A.775, the Commission deliberated and approved on the record the finding of two willful violations of NRS 281A.400(2) and two willful violations of NRS 281A.400(7). The Commission imposed on Rodriguez a civil penalty in the amount of \$250 per violation, for a total penalty of \$1,000. The Commission also reprimanded Rodriguez and required him to complete ethics training selected by the Executive Director within 60 days of the written decision being issued. The Commission now renders this written opinion setting forth its formal findings of fact and conclusions of law in compliance with NRS 233B.125 and NAC 281A.473.

II. FINDINGS OF FACT

In rendering this opinion, the Commission reviewed and considered all evidence and testimony set forth in the record. The Commission finds the following facts to be established based on the preponderance of evidence standard set forth in NRS 281A.790(9), NRS 281A.765 and NRS 233B.125:

1. Rodriguez has been employed by the State Fire Marshal Division of the Nevada Department of Public Safety since at least 2021, and as such is a public employee as defined in NRS 281A.150.
2. The State Fire Marshal Division is a law enforcement agency.
3. Rodriguez was appointed to serve as a WCSD Trustee beginning in July 2021.
4. Rodriguez successfully campaigned to be elected as a WCSD Trustee in 2022.
5. Rodriguez earns a salary in connection with his position as WCSD Trustee.
6. Rodriguez maintained a campaign website for his election as a WCSD Trustee in 2022 ("Campaign Website"). The Campaign Website was created approximately in Spring 2022.
7. From May 2, 2022 through at least March 15, 2023, the Campaign Website contained a picture of Rodriguez dressed in his State Fire Marshal Division uniform and badge ("Picture One").
8. Picture One was taken approximately in the summer of 2019 during an honor walk where other law enforcement officers appeared in uniform. Rodriguez did not request that the picture be taken and was not considering applying for WCSD Trustee at the time the picture was taken.
9. From May 2, 2022 through at least March 15, 2023, the Campaign Website contained a picture of Rodriguez wearing his State Fire Marshal Division badge and gun in a school classroom ("Picture Two").
10. Picture Two was taken in approximately February 2020. The State Fire Marshal Division promotes fire safety and visits schools throughout the State, and Picture Two was taken during one such school visit. School visits are a routine part of Rodriguez's job and entails him wearing his uniform and badge. Rodriguez believes a parent took the picture, and he was not considering applying for WCSD Trustee at the time the picture was taken.

11. Pictures One and Two appeared on the Campaign Website among twelve other pictures, which included pictures of Rodriguez in other contexts, including with his family and in military uniform.
12. Rodriguez provided many pictures to his campaign team for potential inclusion on his Campaign Website. Rodriguez was aware of which pictures were posted to his Campaign Website.

III. STATEMENT OF THE ISSUE AND RELEVANT STATUTES

A. ISSUES

The issues considered by the Commission are whether Rodriguez's conduct in posting Pictures One and Two on his Campaign Website constitutes a violation of either NRS 281A.400(2) or NRS 281A.400(7).

B. RELEVANT STATUTES

1. Duty to Avoid Conflicts – NRS 281A.020(1) Provides:

1. It is hereby declared to be the public policy of this State that:

(a) A public office is a public trust and shall be held for the sole benefit of the people.

(b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.

2. Use of Government Position to Secure or Grant “Unwarranted” Privileges, Preferences or Advantages – NRS 281A.400(2) Provides:

A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity. As used in this subsection, “unwarranted” means without justification or adequate reason.

3. Improper Use of Government Resources and Property – NRS 281A.400(7) Provides:

Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer or employee who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal;
and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

→ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

4. Standards for Determining Willful Violation – NRS 281A.775 Provides:

1. The Commission, in determining whether a violation of this chapter is a willful violation and, if so, the penalty to be imposed on a public officer or employee or former public officer or employee pursuant to NRS 281A.785 or 281A.790, or the review panel, in determining whether to approve a deferral agreement regarding an alleged violation, shall consider, without limitation:

(a) The seriousness of the violation or alleged violation, including, without limitation, the nature, circumstances, extent and gravity of the violation or alleged violation;

(b) The number and history of previous warnings, letters of caution or instruction, deferral agreements or violations or alleged violations of the provisions of this chapter relating to the public officer or employee;

(c) The cost to conduct the investigation and any meetings, hearings or other proceedings relating to the violation or alleged violation;

(d) Any mitigating factors, including, without limitation, any self-reporting, prompt correction of the violation or alleged violation, any attempts to rectify the violation or alleged violation before any ethics complaint is filed and any cooperation by the public officer or employee in resolving the ethics complaint;

(e) Any restitution or reimbursement paid to parties affected by the violation or alleged violation;

(f) The extent of any financial gain resulting from the violation or alleged violation; and

(g) Any other matter justice may require.

2. The factors set forth in this section are not exclusive or exhaustive, and the Commission or the review panel, as appropriate, may consider other factors in the disposition of the matter if they bear a reasonable relationship to the determination of the severity of the violation or alleged violation.

3. In applying the factors set forth in this section, the Commission or the review panel, as appropriate, shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation or alleged violation.

5. Definitions Applicable to Willfulness Determination:

NRS 281A.105 “Intentionally” defined. “Intentionally” means voluntarily or deliberately, rather than accidentally or inadvertently. The term does not require proof of bad faith, ill will, evil intent or malice.

NRS 281A.115 “Knowingly” defined. “Knowingly” imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such

other facts as should put an ordinarily prudent person upon inquiry.

NRS 281A.170 “Willful violation” defined. “Willful violation” means a violation where the public officer or employee:

1. Acted intentionally and knowingly; or
2. Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter, ↪ unless the Commission determines, after applying the factors set forth in NRS 281A.775, that the public officer’s or employee’s act or failure to act has not resulted in a sanctionable violation of this chapter.

6. Remedies for Violations of the Ethics Law – NRS 281A.785 Provides in Pertinent Part:

1. Except as otherwise provided in this section, in proceedings concerning an ethics complaint, the Commission, based on a finding that a violation of this chapter has been proven, or the review panel, as part of the terms and conditions of a deferral agreement, may, in addition to any other penalty provided by law and in accordance with the provisions of NRS 281A.775:

(a) Require the public officer or employee who is the subject of the ethics complaint to:

(2) Attend and complete training.

(b) Publicly admonish, reprimand or censure the public officer or employee.

2. In carrying out the provisions of subsection 1, the Commission, based on a finding that a violation of this chapter has been proven, or the review panel, as part of the terms and conditions of a deferral agreement, may publicly:

(b) Reprimand a public officer or employee if it is determined that the public officer or employee has willfully violated any provision of this chapter, but there is no evidence that the willful violation involved bad faith, malicious intent or knowing or reckless disregard of the law, or if such a reprimand is imposed as part of the terms and conditions of a deferral agreement. A reprimand is a severe written reproof for the conduct of the public officer or employee.

7. Civil Penalties for Willful Violations – NRS 281A.790 Provides in Pertinent Part:

1. In addition to any other penalties provided by law and in accordance with the provisions of NRS 281A.775, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

(a) Not to exceed \$5,000 for a first willful violation of this chapter;

(b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and

(c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

IV. DECISION

The Ethics Law is designed to preserve the public trust and ensure that public officers and employees maintain proper separation between their public duties and private interests. See NRS 281A.020. In furtherance of State policy to protect the public trust, the Code of Ethical Standards was enacted to require proper separation of private interests and commitments from public duties. See NRS 281A.400. As discussed below, the Commission concludes that Rodriguez willfully violated NRS 281A.400(2) and (7).

A. VIOLATION OF NRS 281A.400(2) – USE OF GOVERNMENT POSITION TO SECURE OR GRANT “UNWARRANTED” PRIVILEGES, PREFERENCES OR ADVANTAGES

As relevant here, a violation of NRS 281A.400(2) occurs when a public employee uses his position in government to secure or grant himself an unwarranted advantage. At issue is whether Rodriguez’s use of Pictures One and Two, showing him with his State Fire Marshal Division uniform, badge and gun, violates NRS 281A.400(2).

The Commission has long held that a campaign endorsement showing badge and uniform (i.e., the accouterments of office) would result in an advantage to the person being endorsed. See *In re Kirkland*, Comm’n Op. No. 98-41 (1999).² Consequently, the

² The Commission found no violation of NRS 281A.400(2)’s predecessor statute in this case. However, resolution of the alleged violation turned on whether the use of the accouterments of office was “unwarranted.” The Commission analyzed whether the use was “unlawful,” and because it was not,

Commission has “continue[d] to caution against any attempt, even an incidental one, to bolster a political endorsement by the use of a public office and associated accouterments or any governmental property, equipment or resources.” *In re Public Officer*, Adv. Op. No. 19-124A (2020). This is because “[s]uch uses provide the impression that the public officer is acting in an official capacity implicating NRS 281A.400(2).” *Id.*

Rodriguez contends that he did not violate NRS 281A.400(2) because he used pictures that were taken prior to him considering running for WCSD Trustee and because the pictures were not government property. The Commission does not find these distinctions material.

Rodriguez displayed himself on his Campaign Website with uniform, badge and gun, which “signify the power and prestige of” his law enforcement position, see *In re Antinoro*, Comm’n Op. Nos. Nos. 18-031C/18-052C (2019), and which position is accorded “respect and deference” by the public, see *In re Kirkland*, Comm’n Op. No. 98-41 (1999). In the context of NRS 281A.400(2), the accouterments of office represent a public officer or employee’s position in government; a uniform, badge and gun are powerful, visceral symbols of a peace officer’s position. By posting pictures on his Campaign Website of himself with uniform, gun and badge, Rodriguez invoked and advertised his position in government, thereby creating the impression of prestige and power as well as the impression that he was acting in an official capacity. This provided an unwarranted advantage to Rodriguez in his campaign. It is irrelevant that Rodriguez used pictures from before he considered running for WCSD Trustee; it is the use of the pictures with the accouterments of office, and what they symbolize, as part of his campaign that constitutes the improper use of his position in government.

Accordingly, the Commission determines, based on a preponderance of the evidence, that Rodriguez violated NRS 281A.400(2) twice by posting two pictures of himself in State Fire Marshal Division accouterments on his Campaign Website.

B. VIOLATION OF NRS 281A.400(7) – IMPROPER USE OF GOVERNMENT RESOURCES AND PROPERTY

1. Violation of NRS 281A.400(7)

As relevant here, NRS 281A.400(7) prohibits a public employee from using governmental time, property, equipment or other facility to benefit his own significant personal or pecuniary interest. Rodriguez argues that he did not use governmental resources or property because Pictures One and Two were taken prior to him considering running for WCSD Trustee and were not government property. The Commission disagrees.

concluded that the use was also not “unwarranted.” NRS 281A.400(2)’s predecessor statute was amended after the opinion in *In re Kirkland* was issued to include that “unwarranted” as used in that statute “means without justification or adequate reason.” See Senate Bill 478, 70th Session, § 14.5 (approved June 9, 1999). That definition remains in NRS 281A.400(2) today.

Commission precedent supports rejection of Rodriguez’s argument. In *In re Kuzanek*, Comm’n Op. No 14-61C (2014), undersheriff Tim Kuzanek displayed pictures of himself in full sheriff’s office dress uniform and a picture of his undersheriff badge as part of campaign materials for his candidacy for sheriff. The Commission found use of these pictures violated NRS 281A.400(7). See *id.* (“The use of Washoe County Sheriff Deputy uniform and undersheriff badge act as a visual endorsement, affirmation . . . , and sanction of Kuzanek’s campaign for sheriff, and provide an unfair advantage to Kuzanek at government cost. This is the type of harm to the public that the Ethics Law is designed to prohibit.”). The Commission has therefore previously concluded that displaying a representation of government property as part of a campaign constitutes use of government property under NRS 281A.400(7). There is no basis to treat a picture of government property differently based solely on when it was taken. Rodriguez used government property, implicating NRS 281A.400(7), when he posted Pictures One and Two showing his uniform, gun and badge on his Campaign Website as part of his campaign.

The Commission also notes that “statutory interpretation should not render any part of a statute meaningless, and a statute’s language should not be read to produce absurd or unreasonable results.” *Leven v. Frey*, 123 Nev. 399, 405, 168 P.3d 712, 716 (2007). Rodriguez’s proposed interpretation of NRS 281A.400(7) would lead to an absurd or unreasonable result as a violation would turn on when a picture was taken: if a candidate uses a picture from before his campaign, there would be no violation, but if the candidate uses a picture taken after the candidate announces his candidacy, there would be a violation. Such an arbitrary distinction cannot be accepted, including because members of the public viewing the picture would have no way of knowing when the picture was taken.

Finally, there can be no doubt that a benefit to Rodriguez’s personal or pecuniary interests is implicated. As the Commission has previously explained, “incumbent Public Officers seeking re-election have significant personal and financial interests in maintaining the elected position.”³ *In re Public Officer*, Adv. Op. No. 19-124A (2020) (citing *In re Antinoro*, Comm’n Op. Nos. 18-031C/18-052C (2019)). Rodriguez had a significant personal and financial interest in seeking election as a WCSD Trustee, including because he earns a salary as a WCSD Trustee.

Based upon the record, the Commission determines by a preponderance of the evidence that Rodriguez’s use of Pictures One and Two on his Campaign Website constituted use of government property and was in furtherance of a significant personal and pecuniary interest.

2. The Limited-Use Exception Does Not Apply

The Commission next considers whether Rodriguez’s use of the pictures was permitted by the limited-use exception established in statute. There is no violation of NRS

³ While Rodriguez was not technically seeking re-election as he was initially appointed as a WCSD Trustee, his interests in maintaining his position are identical to an incumbent’s interests in seeking re-election.

281A.400(7) if all four factors of the limited-use exception are met. As an initial matter, the Commission notes that no evidence was submitted regarding the first factor, i.e., “[t]he public officer or employee who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances.” Consequently, the limited-use exception does not apply.

The limited-use exception also does not apply because Rodriguez cannot establish that the use of the pictures does not create the appearance of impropriety. For over twenty years, the Commission has held that the use of the accouterments of public office for campaigning purposes is inappropriate, in part because it creates the impression of government sanction. See *In re Kirkland*, Comm’n Op. No. 98-41 (1999). The Commission has followed a hard line: “A public officer will create an appearance of impropriety under NRS 281.481(7)(a)(4)⁴ if, in the course of endorsing a person’s candidacy, he uses the physical accouterments of his office or position to bolster the endorsement.” *Id.*; see also *In re Kuzanek*, Comm’n Op. No. 14-61C (2014) (“A public officer and/or employee cannot engage in any activity that involves . . . the use of state or political subdivision badge or uniform to give that person an advantage, and it creates the appearance of impropriety.”); *In re Antinoro*, Comm’n Op. Nos. Nos. 18-031C/18-052C (2019) (“An elected sheriff’s use of his official uniform, badge and ‘other physical accouterments’ of the public office in the course of supporting his own campaign for re-election also creates an appearance of impropriety and violates NRS 281A.400(7).”).

Accordingly, based on a preponderance of the evidence, the limited-use exception does not apply, and the Commission determines that Rodriguez violated NRS 281A.400(7) twice based on Pictures One and Two appearing on his Campaign Website.

C. WILLFULNESS

Pursuant to NRS 281A.170, a violation is willful if it is intentional and knowing, which terms are defined in NRS 281A.105 and NRS 281A.115 respectively. For an act to be intentional, NRS 281A.105 requires that the subject acted “voluntarily and deliberately.” “The term does not require proof of bad faith, ill will, evil intent or malice.” NRS 281A.105. Here, Rodriguez selected pictures for inclusion on his Campaign Website, including Pictures One and Two, and was aware that they were posted. His conduct was therefore neither accidental nor inadvertent, but rather was intentional as defined in NRS 281A.105.

“Knowingly imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission.” NRS 281A.115. The provisions of NRS Chapter 281A do not require Rodriguez to have actual knowledge that his conduct violated the Ethics Law. See *State v. Rhodig*, 101 Nev. 608, 611, 707 P.2d 549, 551 (1985) (“[T]he law does not require knowledge that such an act or omission is unlawful.”). Here, Rodriguez was aware of the facts constituting the violations, and Commission precedent has consistently established that use of the

⁴ NRS 281.481(7)(a)(4) is the predecessor statute to NRS 281A.400(7)(a)(4).

accouterments of office in connection with a campaign endorsement can lead to violations of NRS 281A.400(2) and (7). Therefore, the Commission finds, based on a preponderance of the evidence, that Rodriguez's conduct was knowing.

D. NRS 281A.775 – MITIGATING FACTORS AND CIVIL PENALTY

The Commission considers all relevant mitigating factors set forth in NRS 281A.775 in determining whether a violation is willful and if so any civil penalty to be imposed. However, each factor may not necessarily be present or be provided equal weight.

1. Seriousness of the violation. The Commission has now issued a series of opinions establishing that public officers and employees cannot use the accouterments of office in campaigns. Use of the accouterments gives an improper impression that the public employee is acting in an official capacity and of government sanction.
2. The number and history of previous violations. Rodriguez has no prior history of Ethics Law violations.
3. The cost to conduct the investigation and hearing. This matter proceeded through an investigation, evidentiary motions, summary judgment motions, and an adjudicatory hearing, leading to additional cost to the Commission.
4. Mitigating factors. Rodriguez did not self-report and did not take down Pictures One and Two from his Campaign Website through the day of the adjudicatory hearing.
5. Restitution and reimbursement. No restitution or reimbursement was warranted in this matter.
6. Extent of financial gain. Rodriguez was elected as WCSD Trustee and earns a salary as a result. Moreover, the Campaign Website solicited and accepted monetary donations to Rodriguez's campaign account.

The nature of the violations and the totality of Rodriguez's conduct is determined to be significant when measured against the public's trust and the public policy of the State of Nevada requiring public officers and employees not use their position in government or government property for their benefit. Based upon the record, the Commission determines that Rodriguez's conduct constitutes two willful violations of NRS 281A.400(2) and two willful violations of NRS 281A.400(7) and imposes a civil penalty of \$250 per willful violation.

V. CONCLUSIONS OF LAW

1. At all times relevant to this matter, Rodriguez was a "public employee" as defined by NRS 281A.150.

2. Pursuant to NRS 281A.280, the Commission has jurisdiction to render an opinion in this matter.
3. Rodriguez, as a public employee, has a duty under the Ethics Law and its interpretive opinions to maintain proper separation between public duties and private interests. See NRS 281A.020.
4. Pursuant to NRS 281A.400(2), Rodriguez, as a public employee, is prohibited from using his position in government to secure an unwarranted advantage for himself.
5. Based upon the preponderance of the evidence, Rodriguez willfully violated NRS 281A.400(2) twice by using two pictures showing him with the accouterments of his State Fire Marshal Division position to secure an unwarranted advantage in his campaign for WCSD Trustee.
6. Pursuant to NRS 281A.400(7), Rodriguez, as a public employee, is prohibited from using government time, resources, property, equipment or other facility to benefit his significant personal or pecuniary interests, unless the limited-use exception applies.
7. Pursuant to the provisions of the Ethics Law and the record and based on the preponderance of the evidence, all requirements of the limited-use exception set forth in NRS 281A.400(7)(a) are not met; therefore, the conduct is not excused by the exception.
8. Based upon the preponderance of the evidence, Rodriguez willfully violated NRS 281A.400(7) twice by using government property, through two pictures showing him with the accouterments of his State Fire Marshal Division position, in furtherance of his significant personal and pecuniary interest in being elected and receiving a salary as a WCSD Trustee.
9. In accordance with the authority of the Commission under NRS 281A.775 and NRS 281A.790, civil penalties are imposed and Rodriguez must pay a civil penalty in the amount of \$1,000. Authorization is provided for the Executive Director and Rodriguez to enter into a payment schedule, with payment being completed within ten (10) months after the date of issuance of this opinion.
10. Pursuant to NRS 281A.785(1)(a)(2), Rodriguez must, within 60 days after the issuance of this opinion, complete ethics training to be selected by the Executive Director.
11. A reprimand is warranted pursuant to NRS 281A.785(1)(b) and (2)(b) because there was no evidence that the willful violations involved bad faith, malicious intent or knowing or reckless disregard of the law. This opinion serves as a public reprimand of Rodriguez's conduct described herein.

Any Finding of Fact hereafter construed to constitute a Conclusion of Law, or any Conclusion of Law construed to constitute a Finding of Fact, is hereby adopted and incorporated as such to the same extent as if originally so designated.⁵

The following Commissioners participated in this Opinion:⁶

Dated this ____ day of _____, 2023.

NEVADA COMMISSION ON ETHICS

By: /s/ Brian Duffrin
Brian Duffrin
Vice-Chair

By: /s/ James Oscarson
James Oscarson
Commissioner

By: /s/ Barbara Gruenewald
Barbara Gruenewald, Esq.
Commissioner

By: /s/ Teresa Lowry
Teresa Lowry, Esq.
Commissioner

⁵ Findings of Fact and Conclusions of Law are set forth separately in this Opinion as required by NRS 233B.125, NRS 281A.765 and NAC 281A.473; however, they are deemed interchangeable for interpretive purposes. See *State, Dep't of Commerce v. Soeller*, 98 Nev. 579, 586, 656 P.2d 224, 228 (1982) (concluding that when “the conclusion itself gives notice of the facts on which the Commission relied . . . we may imply the necessary factual findings, so long as the record provides substantial evidence to support the Commission’s conclusion”).

⁶ After consultation with Commission Counsel, Commissioner Amanda Yen disclosed that subject Rodriguez is a client of McDonald Carano LLP (“Firm”). Commissioner Yen further disclosed that she is a partner with the Firm and has both a pecuniary interest in her employment and a private commitment to the Firm, as her employer, and its clients under NRS 281A.065. Consequently, the independence of judgment of a reasonable person in Commissioner Yen’s situation could be materially affected in voting upon matters related to this case. To avoid any appearance of impropriety and to comply with Nevada’s Ethics in Government Law set forth in NRS Chapter 281A and Rule 2.11 of the Code of Judicial Conduct, Commissioner Yen disclosed her private interests and abstained from participation in this case.

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 **OPINION** in Ethics Complaint Case No. 22-051C via U.S. Certified Mail and electronic mail to the Parties as follows:

Executive Director:

Ross E. Armstrong, Esq.
Executive Director
Elizabeth J. Bassett, Esq.
Associate Counsel
704 W. Nye Lane, Suite 204

Email: RArmstrong@ethics.nv.gov

Email: EBassett@ethics.nv.gov

cc: k.pedroza@ethics.nv.gov

Subject:

Joseph Rodriguez
c/o Adam Hosmer-Henner, Esq.
McDonald Carano
100 West Liberty St., 10th Floor
Reno, NV 89501

Email: ahosmerhenner@mcdonaldcarano.com
cc: pmiller@mcdonaldcarano.com

Joseph Rodriguez
Trustee
Washoe County School District
425 East 9th Street
Reno, NV 89512

Certified Mail: _____

DATED: _____

An employee, Nevada Commission on Ethics



BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Joseph Rodriguez**, Trustee,
Washoe County School District;
Lieutenant, State Fire Marshall Division,
State of Nevada,

Ethics Complaint
Case No. 22-051C

_____ Subject. /

NOTICE OF MEETING

PLEASE TAKE NOTICE, the Nevada Commission on Ethics ("Commission") will hold a public meeting to consider approval of a proposed written opinion regarding the oral opinion rendered by the Commission in Ethics Complaint No. 22-051C as follows:

The Meeting will take place:

Wednesday, May 17, 2023 at 10:00 a.m.,
or as soon thereafter as the Commission is able to hear the matter,

At the following a location:

**State Bar of Nevada
9456 Double R Blvd, Suite B
Reno, NV 89521**

And Via Zoom:

<https://us06web.zoom.us/j/82196822130?pwd=Z1FoTXZzY25sZTJSZm83bTNOQ0doZz09>

Zoom Meeting Telephone Number: 720-707-2699

Meeting ID: 821 9682 2130

Passcode: 259053

In all presentations before the Commission, the Parties must reference appropriate authority set forth in NRS Chapter 281A, NAC Chapter 281A or Commission opinion precedent, which may be located on the Commission's website at www.ethics.nv.gov or available through other legal research sources.

DATED: May 10, 2023

/s/ Laena St-Jules
Laena St-Jules, Esq.¹
Deputy Attorney General

¹ The Commission has retained legal counsel from the Office of the Nevada Attorney General during the vacancy of the Commission Counsel position.

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 foregoing **Notice of Meeting** via *Email* addressed as follows:

Executive Director:

Ross E. Armstrong, Esq.
Executive Director
Elizabeth J. Bassett, Esq.
Associate Counsel
704 W. Nye Lane, Suite 204
Carson City, NV 89703

Email: rarmstrong@ethics.nv.gov

Email: ebassett@ethics.nv.gov

cc: k.pedroza@ethics.nv.gov

Subject:

Joeseph Rodriguez
c/o Adam Hosmer-Henner
McDonald Carano
100 West Liberty St, 10th Floor
Reno, NV 89501

Email: ahosmerhenner@mcdonaldcarano.com
cc: pmiller@mcdonaldcarano.com

DATED: May 10, 2023



Employee of the Nevada Commission on Ethics



RECEIVED
 MAY 02 2022
 COMMISSION
 ON ETHICS

NEVADA COMMISSION ON ETHICS
ETHICS COMPLAINT
NRS 281A.700 to 281A.790

1. **SUBJECT OF THE COMPLAINT** (person you allege violated provisions of NRS Chapter 281A, the Nevada Ethics in Government Law. *(Please use a separate form for each individual.)*)

Subject NAME:	Joseph Rodriguez		TITLE OF PUBLIC OFFICE: <i>(Position)</i>	Trustee
PUBLIC ENTITY: <i>(Name of the entity employing this position)</i>	Washoe County School District (WCSD)			
ADDRESS:	425 E Ninth St		CITY, STATE, ZIP CODE	Reno 89512
TELEPHONE:	Work: 775 348 0200	Other: (Home, cell)	EMAIL:	Joseph.Rodriguez@Washoeschol.net

2. Describe the alleged conduct of the public officer or employee (subject) that you believe violated NRS Chapter 281A. *(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.

ADDENDUM TO Nevada Ethics Complaint

vs: Joseph Rodriguez, Candidate and Public Officer, Washoe County School District (herein WCSD), District C

SEE: <https://joe4washoe.com/> <https://joe4washoe.com/about-joe/>

Summary: Trustee Rodriguez is a Public Officer, specifically a Trustee at the Washoe County School District (herein WCSD). He is also a State of Nevada full time law enforcement officer.

This is a complaint WCSD Trustee Rodriguez for violations of NRS 281A400 (2) and (7) and xxx as it relates to his use of himself in state police uniform on his campaign website.

It is unknown how he is depicted on other social media.

These attached photos show Rodriguez in a classroom, possibly Bohach Elementary in March-April 2022 with student shown and in his state uniform.

Was Rodriguez compensated in any way, mileage, on duty, etc during said school visit? (NRS 281A.520)

3. Is the alleged conduct currently pending before another administrative, law enforcement or judicial body? If yes, describe:

No

4. NRS Chapter 281A requires public officers and employees to hold public office as a public trust and avoid conflicts between public duties and private interests. (NRS 281A.020) What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

	Statute	Statutory Summary:
<input type="checkbox"/>	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity for himself or person to whom he has a commitment in a private capacity 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.
<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 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.
<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for himself or any person to whom he has a commitment in a private capacity 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 or the interests of any person to whom he has a commitment in a private capacity.
<input checked="" type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his significant personal or pecuniary interest, or any person to whom he has a commitment in a private capacity. (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 pecuniary interest or the interests of any person to whom he has a commitment in a private capacity through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts for himself or any person to whom he has a commitment in a private capacity through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Representing or counseling a private person for compensation on an issue pending before a public agency while employed, or within 1 year after leaving the service of a public agency, including before any state agency of the Executive or Legislative Department. (State and local legislators and part-time public officers and employees may represent/counsel private persons before agencies they do not serve, except local legislators may not represent/counsel private persons before other local agencies within the same county.)
<input type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose his acceptance of a gift or loan, pecuniary interest, commitment in a private capacity to the interest of another person or the nature of any representation or counseling provided to a private person for compensation before another agency in the preceeding year that is reasonably affected by an official matter.
<input type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on an official matter which is materially affected by his acceptance of a gift or loan, pecuniary interest, or commitment in a private capacity to the interest of another person.
<input type="checkbox"/>	NRS 281A.430	Bidding on or entering into a government contract in which he has a significant pecuniary interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.500	Failing to file or timely file a Nevada Acknowledgment of Ethical Standards for Public Officers form.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input checked="" 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	Negotiating or accepting employment from a business or industry regulated by or contracted with former public agency within one year after leaving service of the agency. (Failing to honor the one-year "cooling off" period after leaving public service, exceptions).

*Pursuant to NRS 281A.065, a public officer or employee has a commitment in a private capacity to the following persons/entities:

1. Spouse; domestic partner.
2. Household member.
3. Family member within 3rd degree of consanguinity/affinity.
4. Employer or spouse/domestic partner/household member's employer.
5. Substantial and continuing business relationships, i.e. partner, associate, or business entity.
6. Substantially similar relationships to those listed above, including close, personal relationships akin to family and fiduciary relationships to business entities.

5. **YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS.** (NRS 281A.710 through 281A.715.) Attach all documents or items you believe support your allegations, including witness statements, public or private records, audio or visual recordings, documents, exhibits, concrete objects, or other forms of proof.

State the total number of additional pages attached (including evidence) 2.

6. Witnesses: Identify 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)				
ADDRESS:			CITY, STATE, ZIP	
TELEPHONE:		<i>Work:</i>	<i>Other: (Home, cell)</i>	E-MAIL:
NATURE OF TESTIMONY:				
NAME and TITLE: (Person #2)				
ADDRESS:			CITY, STATE, ZIP	
TELEPHONE:		<i>Work:</i>	<i>Other: (Home, cell)</i>	E-MAIL:
NATURE OF TESTIMONY:				

7. REQUESTER INFORMATION:

YOUR NAME:	Mon Bertolucci			
YOUR ADDRESS:	1492 Gaucho	CITY, STATE, ZIP:	Reno NV 89521	
YOUR TELEPHONE:	Day: 775 432-2138	Evening:	E-MAIL:	MONBERTOLUCCI@G CHARTER.NET

Your identity as the Requester will be provided to the Subject if the Commission accepts jurisdiction of this matter, unless:

Pursuant to NRS 281A.750, I request that my identity as the requester of this Ethics Complaint remain confidential because (please check appropriate box):

I am a public officer or employee who works for the same public body, agency or employer as the subject of this Ethics Complaint. Provide evidence in the text box below, or as an attachment, of your employment with the same public body, agency or employer.

OR

I can show a reasonable likelihood that disclosure of my identity will subject me or a member of my household to a bona fide threat of physical force or violence. Describe in the text box below, or in an attachment, the facts and circumstances that support a reasonable likelihood of a bona fide threat of physical force or violence.

A copy of this Complaint will be provided to the Subject. If your request for confidentiality is approved by the Commission, the Complaint will be redacted to protect your identity as the Requester. The Commission may decline to maintain the confidentiality of your identity as the Requester for lack of sufficient evidence of your employment status with the same public body, agency or employer, or proof of a bona fide threat of physical force or violence.

If the Commission declines to maintain my confidentiality, I wish to:

- Withdraw my Complaint OR
- Submit the Complaint understanding that the Subject will know my identity as the Requester.

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 regarding these allegations. I acknowledge that this Ethics Complaint, the materials submitted in support of the allegations, and the Commission's investigation are confidential unless and until the Commission's Review Panel renders a determination. Certain Commission proceedings and materials, including the Investigatory File remain confidential pursuant to NRS 281A.750 through 281A.760.



Signature:

04-27-22

Date:

Mon Bertolucci

Print Name:

You may file a Complaint using the Commission's online form submission at ethics.nv.gov (Preferred) or You must submit this form bearing your signature to the Executive Director via:
delivery/mail to Nevada Commission on Ethics, 704 W. Nye Lane, Suite 204, Carson City, Nevada, 89703,
email to NCOE@ethics.nv.gov, or fax to (775) 687-1279

ETHICS VIOLATIONS?

**USE OF INSIDE WCSD FACILITIES AND Students and
Use of Official
State of Nevada Law Enforcement Uniform**



Appointed WCSD Joseph Rodriguez uses his access and official positions to take photos of WCSD facilities, and of himself in State of Nevada Law Enforcement Uniform for his political campaign

(Screenshots current as of April 27, 2022) Allegation:

The use of student photos in unacceptable (FERPA)

The use of photos of inside school facilities is unacceptable

Use of State of Nevada Uniform and Badge is unacceptable

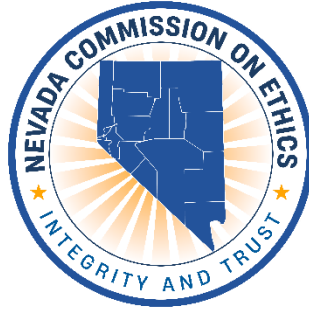
Opinion No. 9841: Furthermore, this Commission advises that in the future Mr. Kirkland not use his uniform, badge, employees, or other physical accouterments of his office in endorsement advertisements so as to avoid the appearance of impropriety under NRS 281.481(7)(a)...

and Lombardo Matter: Ethics Complaint Consolidated Case Nos. 21-062C, 21-082C and NRS 281A.400 (2) (7) and NRS 281.481 (7).

HOWEVER, THE COMMISSION ACCEPTS JURISDICTION OF THE ETHICS COMPLAINT FOR ALLEGATIONS RELATED TO NRS 281A.400(2) AND (7) AND DETERMINES THAT GOOD CAUSE EXISTS FOR THE COMMISSION TO ISSUE A CONFIDENTIAL LETTER OF CAUTION IN LIEU OF AN INVESTIGATION.

THE LETTER SHALL INSTRUCT THE SUBJECT REGARDING HIS DUTY UNDER THE ETHICS LAW TO REFRAIN FROM USING HIS PUBLIC POSITION AS A WCSD TRUSTEE OR PUBLIC PROPERTY AND RESOURCES FOR PRIVATE CAMPAIGN MATTERS. THESE ALLEGATIONS SHALL BE DISMISSED WITHOUT PREJUDICE UPON ISSUANCE OF THE CONFIDENTIAL LETTER OF CAUTION. ETHICS COMPLAINT CASE NO. 22-020C (MAYBERRY COMPLAINT)

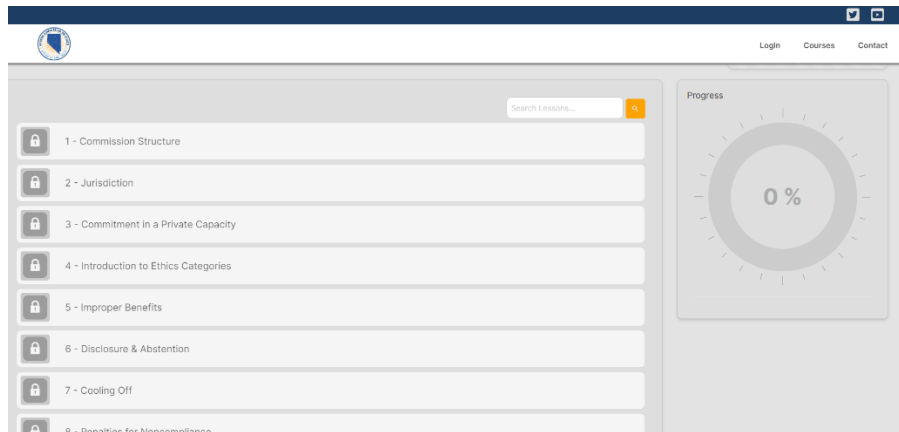
Agenda Item 5



Executive Director Report – May 2023

Education and Outreach

- Priority tasks to make the online learning management system operational include:
 - Building phase planning - complete
 - Content creation, review and finalization



Legislative Update

- See attached Legislative Report (sent closer to the meeting)

Budget Update

- FY2023 end of year work programs
 - Finalized need for end-of-year work programs
- Budget closing for 2023 Legislature held April 24, 2023
 - Budget closed to include the PIO position and continued training system costs

Scheduling Update

- May 30 – tentative special meeting to interview Commission Counsel candidates
- June 13 – Full Commission Meeting (Reno)
- July – dark
- August 23 – Full Commission Meeting (Rural)
- September – dark
- October 18 – Full Commission Meeting (Las Vegas)

Commission Recruitment Updates

- Commission Counsel position interviews scheduled for 5/17
 - Conflict Counsel funding coming from AG contingency funding
- Senior Legal Researcher filled by Wendy Pfaff
 - Onboarding plan in place
 - Start date 5/22
- John T. Moran III appointed by Governor Lombardo to the Commission. His term starts this fall.

Submitted: Ross E. Armstrong, Executive Director

Date: 5/10/2023