

Agenda Item 3



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

The Commission on Ethics held a public meeting on
Wednesday, June 26, 2024, at 10:00 a.m.
at the following location:

**Humboldt General Hospital
Sarah Winnemucca Room
118 E Haskell Street
Winnemucca, NV 89445**

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 in Winnemucca and called the meeting to order at 10:13 a.m. Commissioners Scott Scherer, Esq. and Michael E. Lanton, Esq. also appeared in person. Commissioners Teresa Lowry, Esq., John T. Moran III, Esq., Stan Olsen, and Amanda Yen, Esq. appeared via Zoom videoconference. Vice Chair Thoran Towler, Esq. was excused. Present for Commission staff in Winnemucca were Executive Director Ross E. Armstrong, Esq., Associate Counsel Elizabeth J. Bassett, Esq., Investigator Erron Terry, and Executive Assistant Kari Pedroza. Outreach and Education Officer Sam Harvey appeared via Zoom videoconference. Chief Deputy Attorney General Gregory D. Ott, Esq. also appeared via Zoom videoconference.

2. Public Comment.

There was no public comment.

3. Approval of Minutes of the May 14, 2024, Commission Meeting.

Chair Wallin stated that all Commissioners were present for the May 14, 2024, Commission Meeting except Vice Chair Towler and Commissioners Lowry and Yen who were excused from the meeting and therefore precluded from participating in this item.

Commissioner Langton moved to approve the May 14, 2024, Commission Meeting Minutes as presented. Commissioner Scherer seconded the motion. The Motion was put to a vote and carried as follows:

Chair Wallin:	Aye.
Commissioner Langton:	Aye.
Commissioner Lowry:	Abstain.
Commissioner Moran:	Aye.
Commissioner Olsen:	Aye.
Commissioner Scherer:	Aye.
Commissioner Yen:	Abstain.

4. Presentation by meeting host, Humboldt General Hospital.

Chair Wallin introduced the item and welcomed Humboldt General Hospital Chief Executive Officer (CEO) Robyn Dunckhorst, BSN, RN, CEN.

CEO Dunckhorst provided a presentation on Humboldt General Hospital. She thanked the Commission for the opportunity to present before them.

Chair Wallin thanked CEO Dunckhorst for her presentation and for allowing the Commission to use the Sarah Winnemucca Room at the Humboldt General Hospital for the meeting.

No action was taken on this agenda item.

4. Discussion and possible action to approve a Proposed Stipulation concerning Ethics Complaint Case No. 23-015C regarding John Bartlett, Former Compliance Investigator, State Contractors Board, 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 Towler and Commissioners Moran and Yen served as members of the Review Panel and would be precluded from participating in this item pursuant to NRS 281A.220(4).

Chair Wallin asked the parties in the Complaint to introduce themselves for the record. Executive Director Armstrong appeared before the Commission. Michael J. Brock, Esq. appeared via Zoom videoconference on behalf of John Bartlett, who was not in attendance and understood that the Commission would proceed in his absence.

Executive Director Armstrong provided an overview of Ethics Complaint Case No. 23-015C regarding Mr. Bartlett and the Proposed Stipulation to resolve the matter. The terms of the Proposed Stipulation outlined that Mr. Bartlett's actions in using information he received in his public position to benefit his private and personal interests upon departure from government employment constituted a single course of conduct and resulted in two violations of the Ethics Law, implicating the provisions of NRS 281A.400(5) and (7). The parties agreed to one willful violation of NRS 281A.400(5) and one non-willful violation of NRS 281A.400(7) and a civil penalty of \$1,500 for the willful violation, the amount Mr. Bartlett received as a bonus from a client whose information he obtained through his public employment.

Commissioner Scherer noted for the record that the monetary fine in this matter is the amount by which Mr. Bartlett benefited, in addition, Mr. Bartlett paid significant amounts to the Contractor's Board and considering this information and the facts of the case, the fine is appropriate in this instance. He added further that the circumstance of this case are unique, and he wouldn't want that fine to be precedent for willful violations going forward.

Commissioner Langton made a motion to accept the terms of the Stipulation as presented by the parties to resolve Ethics Complaint Case No. 23-015C (Bartlett) and direct Chief Deputy Attorney General Ott to finalize the agreement in legal form and any matters relating thereto. Commissioner Lowry seconded the motion. The Motion was put to a vote and carried as follows:

Chair Wallin:	Aye.
Commissioner Langton:	Aye.
Commissioner Lowry:	Aye.
Commissioner Moran:	Abstain pursuant to NRS 281A.220.
Commissioner Olsen:	Aye.
Commissioner Scherer:	Aye.
Commissioner Yen:	Abstain pursuant to NRS 281A.220.

Chair Wallin thanked Mr. Brock and his client Mr. Bartlett for their assistance and cooperation in resolving the matter.

Mr. Brock thanked the Commissioners for their efforts.

5. Discussion and possible action to approve a Proposed Stipulation concerning Ethics Complaint Case Nos. 23-120C, 23-121C, 23-128C and 23-129C regarding Catherine Hall, Chair, Mineral County Commission, 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 Towler and Commissioners Moran and Yen served as members of the Review Panel and would be precluded from participating in this item pursuant to NRS 281A.220(4).

Chair Wallin asked the parties in the Complaint to introduce themselves for the record. Executive Director Armstrong appeared before the Commission. Richard G. Campbell, Esq. appeared via Zoom videoconference on behalf of Catherine Hall, who was not in attendance and understood that the Commission would proceed in her absence.

Executive Director Armstrong provided an overview of Ethics Complaint Case Nos. 23-120C, 23-121C, 23-128C and 23-129C regarding Ms. Hall and the Proposed Stipulation. The terms of the Proposed Stipulation were based on the stipulated facts that Ms. Hall used her County credit card to purchase supplies for her private business and incurred additional travel upgrade costs, the parties agreed to one non-willful violation of NRS 281A.400(2) and one non-willful violation of NRS 281A.400(7). The violations were deemed non-willful based on mitigating factors including but not limited to restitution paid, prompt correction of the violation, previous history, seriousness of the violation, and cost of investigation and proceedings. Executive Director Armstrong noted that a civil penalty in the amount of \$1,000 is imposed for the non-willful violations of NRS 281A.400(2) and 281A.400(7).

Commissioner Lowry made a motion to accept the terms of the Stipulation as presented by the parties to resolve Ethics Complaint Case Nos. 23-120C, 23-121C, 23-128C and 23-129C (Hall) and direct Commission Counsel Bassett to finalize the agreement in legal form and any matters relating thereto. Commissioner Scherer seconded the motion. The Motion was put to a vote and carried as follows:

Chair Wallin:	Aye.
Commissioner Langton:	Aye.
Commissioner Lowry:	Abstain pursuant to NRS 281A.220.
Commissioner Moran:	Aye.
Commissioner Olsen:	Aye.
Commissioner Scherer:	Aye.
Commissioner Yen:	Abstain pursuant to NRS 281A.220.

Chair Wallin thanked Mr. Campbell and his client Ms. Hall for working with Commission staff to resolve the matter.

Mr. Campbell thanked the Commission for its time and consideration

6. Review and possible adoption of a Nevada Commission on Ethics Strategic Plan.

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

Executive Director Armstrong referenced the Strategic Plan draft included in the meeting materials, emphasizing it was a draft and once the content was determined, the design would be incorporated in the final Strategic Plan. He went over the draft page by page and provided details on the intention of each section for the Commission, noting that the content was based on feedback received from the Commission at the April meeting. Executive Director Armstrong shared that the proposed Goals and Activities are aligned with Governor Lombardo's 3-year Policy Matrix.

Commissioner Scherer requested that Strategic Plan content be tied to the Ethics Law statute and ensure the public understands the connection and the extent of the statute and the Commission's jurisdiction.

Chair Wallin stated that including a decision matrix in the Strategic Plan will be helpful.

Commissioner Langton asked a question regarding the Commission's plan on page 3 and its alignment with the Governor's Policy Matrix and Executive Director Armstrong provided more details regarding that strategic focus item. Chair Wallin shared her interpretation of leveraging language included on page 3 of the proposed plan.

Commissioner Langton made a motion to adopt the Strategic Plan as proposed by the Executive Director and grant the Executive Director the authority to finalize the design, publish the plan and adopt the implementation plan. Commissioner Moran seconded the motion. The Motion was put to a vote and carried unanimously.

7. Review of current and proposed agency performance measures with possible action to direct the Executive Director to pursue amendments to the agency performance measures and adoption of internal metrics for tracking agency performance.

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

Executive Director Armstrong noted that at the April Meeting the Commission discussed changes to the agency's performance measures and referenced the proposed agency performance measures document provided in the meeting materials. He outlined that the Commission's performance measures include formal performance measures with the state as part of the budgeting process and internal performance measures reflecting the work of the Commission which help determine whether the Commission is meeting its goals. Executive Director went over the proposed performance measures, detailing each for the Commission.

Chair Wallin appreciated that the performance measures were shown as percentages as requested at the April meeting. She suggested that Executive Director Armstrong create a PowerPoint with comparison slides displaying the historical formal performance measure data to use during the budget presentation and a PowerPoint with internal performance measures to share with the Legislature. Executive Director shared his intention to include the data in the Commission's annual report.

Commissioner Yen made a motion to direct the Executive Director to pursue amendments to the Commission's performance measures and internal metrics as presented and discussed. Commissioner Lowry seconded the motion. The Motion was put to a vote and carried unanimously.

8. Report by Executive Director on agency status and operations, and possible direction thereon. Items to be discussed include, without limitation:
 - a. Operations Highlights
 - b. Budget Overview
 - c. Upcoming Meetings

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

a. Operations Highlights: Executive Director Armstrong reported that at the Legislative Commission meeting, two Legislators had concerns with language included in the Commission's proposed regulation, Senator Daly and Assemblywoman Anderson. He informed the Commission that he met with Senator Daly following the meeting regarding the Senator's concerns about the language and Executive Director Armstrong noted that the resolution could

be to retain the current language. Executive Director Armstrong noted that he is awaiting return communication from Assemblywoman Anderson pertaining to her concern over anonymous complaint filings and ensuring protection for whistleblowers.

Executive Director Armstrong noted that the Associate Counsel position remains vacant, the Senior Legal Researcher position is also vacant, and he is hoping to fill those two positions as soon as possible.

b. Budget Overview: Executive Director Armstrong acknowledged that the end of June concludes this fiscal year and stated that all work programs had been completed and final billings will be submitted within the next few weeks. He noted that in the upcoming fiscal year FY25 the Commission will have standard equipment replacements for staff computers. Executive Director shared that the ethics online learning management system was previously funded through Federal ARPA funds and will be funded through the agency's budget revenue as approved last session. He provided updates on the Commission's TIN and RFI to the Commission.

c. Upcoming Meetings: Executive Director Armstrong informed the Commission that the next meetings would be in August, October and November, specifically the August meeting is on the 21st and will be held in Reno. He noted there were a few complaint cases wherein the statutory timelines had not yet been waived and if that persists, there could be a need for an adjudicatory hearing in September. Executive Director Armstrong confirmed that he would update the Commission as the deadline gets closer.

Chair Wallin asked when the deadline was for those cases and Executive Director Armstrong responded that it is contingent on the timing of issuing determinations, but it would most likely be mid-September. Executive Director Armstrong added that he will know whether or not there will be a need for the September meeting by mid-July and would inform the Commission.

Commissioner Langton requested clarification on the RFI and Executive Director Armstrong provided the information.

Commissioner Langton noted that he will be unable to attend the October meeting as he will be out of the country.

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

9. Report on Outreach and Education Presentation, and possible direction thereon.

Chair Wallin opened the item and asked Outreach and Education Officer (OEO) Sam Harvey for their presentation.

OEO Harvey referenced the written report provided in the meeting materials and highlighted social media follower increases and trends, recent trainings and upcoming training opportunities scheduled. They provided the status on finalizing the updated Ethics Manual, publishing the Commission's newsletter and including FAQ's on the Commission's website. OEO Harvey informed the Commissioners of the public records requests received and answered by the Commission.

Chair Wallin thanked OEO Harvey for their presentation and asked how they increased the number of Commission followers on LinkedIn. OEO Harvey responded that they utilized a free trial with a linked helper software which automates the process and generates requests and invitations.

Commissioner Moran shared his appreciation for OEO Harvey, and all the effort and experience in outreach and education.

Commissioner Yen acknowledged OEO Harvey for doing a great job and shared her appreciation for their hard work.

Chair Wallin echoed Commissioner Yen's comments and stated that she looked forward to seeing OEO Harvey's trust building social series and how it connects to the Strategic Plan goal in building public trust with the Commission.

Chair Wallin asked if the Commission needed to review and approve the Ethics Manual prior to publication and Executive Director Armstrong noted that there is no statutory or legal requirement for that to be done. He stated that the Ethics Manual can be provided to the Commissions for review and an opportunity to provide feedback directly to OEO Harvey only and not to each other to comply with the Open Meeting Law provisions.

Commissioner Moran moved to direct Outreach and Education Officer Harvey to take action regarding the Commission's outreach and education efforts as directed. Commissioner Lowry seconded the motion. The motion was put to a vote and carried unanimously.

10. Authorization for Commission Counsel to represent and defend the interests of the Ethics Commission of the State of Nevada in legal proceedings including petitions for judicial review and related appellate matters regarding the following litigation cases:
 - a. "Doe vs. Ross Armstrong; Nevada Commission on Ethics", Case No. CV24-01076, filed in the Second Judicial Court of Nevada.

Chair Wallin introduced the item and asked if there were any disclosures or abstentions from her fellow Commissioners on this item.

In compliance with NRS 281A.420 and Judicial Cannons applicable to her as a quasi-judicial officer, Commissioner Yen disclosed she is a partner with McDonald Carano and the agency for which petitioner works is a client of the firm, she has a commitment in a private capacity under NRS 281A.065 to her law firm and the client based on the law firm's continuing business relationship with that client. Consequently the independence of judgment of a reasonable person in Commissioner Yen's situation could be materially affected by the conflict in participating and voting in this matter. To avoid any appearance of impropriety, Commissioner Yen disclosed the conflict and abstained from participating in the matter.

Chair Wallin thanked Commissioner Yen for her disclosure.

Commission Counsel Bassett informed the Commission that a Petition for Judicial Review was filed challenging the Commission's Advisory Opinion in Ethics Case No. 24-019A in the Second Judicial District Court Case No. CV24-01076. Pursuant to statute the identity of the requestor must remain confidential. She noted the purpose of the agenda item was to request authority from the Commission to take all necessary legal steps to respond to the Petition for Judicial Review and to defend the Commission's advisory opinion in that matter.

Commissioner Moran made a motion to grant Commission Counsel authority to take any legal steps necessary to respond to any legal action that results from the Commission's actions on Case No. 24-019A, including but not limited to, defending the Commission's decisions in the Petition for Judicial Review filed in the Second Judicial District Court and file any appropriate motions to dismiss; Commission Counsel shall bring back case dispositive decisions such as appeals, dismissals or stipulated settlement agreements before the full Commission. Commissioner Moran further moved to delegate authority to the Chair and Vice Chair to consult with Commission Counsel regarding any legal issues or decisions pursuant to NRS 241.357 and NAC 281A.055 but for filing appeals, agreements to dismiss or settlement. Commissioner Langton seconded the motion. The Motion was put to a vote and carried and carried as follows:

Chair Wallin:	Aye.
Vice Chair Langton:	Aye.
Commissioner Lowry:	Aye.

Commissioner Moran:
Commissioner Olsen:
Commissioner Scherer:
Commissioner Yen:

Aye.
Aye.
Aye.
Abstain pursuant to NRS 281A.420.

11. Commissioner Comments.

Chair Wallin shared that Vice Chair Towler had notified her that the Governor's office had contacted him to let him know he would not be reappointed to a second term on the Commission. She noted that a replacement has not been announced yet and until the appointment is made, Vice Chair Towler will serve on the Commission. Chair Wallin expressed her disappointment that Vice Chair Towler was not reappointed and her appreciation for all he had done for the Commission. She stated that he will be recognized at the August Commission meeting with a Proclamation.

Chair Wallin thanked Commission staff for doing a great job and Executive Assistant Pedroza for her effort in navigating the facilitation of the Commission meeting yet again. She thanked Commissioner Scherer for his assistance with Commission meeting connectivity.

12. Public Comment.

There was no public comment.

13. Adjournment.

Commissioner Scherer made a motion to adjourn the public meeting. Commissioner Moran seconded the motion. The Motion was put to a vote and carried unanimously.

The meeting was adjourned at 11:25 a.m.

Minutes prepared by:

[/s/ Kari Pedroza](#)

Kari Pedroza
Executive Assistant

[/s/ Ross Armstrong](#)

Ross Armstrong, Esq.
Executive Director

Minutes approved July 15, 2024:

Kim Wallin, CPA, CMA, CFM
Chair

Agenda Item 6



DUTIES OF COMMISSION CHAIR AND VICE CHAIR

<u>Statute/Regulation</u>	<u>Duties</u>
NRS 281A.220(1)	The Chair shall appoint one or more review panels of three members of the Commission on a rotating basis.
NRS 281A.240(3)	If the Executive Director is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Chair of the Commission shall designate a qualified person to perform the duties of the Executive Director with regard to that particular matter.
NRS 281A.300	The Chair and Vice Chair of the Commission may administer oaths . . . may issue a subpoena to compel the participation of a potential witness and the production of any books and papers during the course of any investigation . . . [and] may issue a subpoena to compel the attendance of a witness and the production of any books and papers for any hearing before the Commission
NAC 281A.155	The Chair: <ol style="list-style-type: none"> 1. Except as otherwise provided in this chapter, shall preside over the meetings and hearings of the Commission. 2. Unless otherwise directed by the Commission, shall monitor and direct litigation except decisions regarding litigation that the Commission is required to make in a meeting, including, without limitation, the decision to initiate or settle a case or to appeal an adverse determination in a case. 3. Except as otherwise provided in NRS 281A.220, 281A.240 and 281A.300, may delegate his or her duties to other members of the Commission. 4. May delegate assignments of work to the staff of the Commission as necessary and appropriate, including, without limitation, the scheduling of review panels.
NAC 281A.160	The Vice Chair shall perform the duties of the Chair during the absence of the Chair.
NAC 281A.177	<ol style="list-style-type: none"> 1. The Chair shall appoint a member of a review panel to serve as the presiding officer of the review panel. <p style="text-align: center;">***</p> <ol style="list-style-type: none"> 3. ... if a vacancy occurs in a majority of the membership of a review panel after the Executive Director has presented his or her written recommendation in a matter to the review panel pursuant to NRS 281A.725 but before the review panel has approved a deferral agreement in the matter or referred the ethics complaint to the Commission, the Chair shall appoint an additional member of the Commission to serve as a member of the review panel to establish a majority of the membership of the review panel.

NAC 281A.361	. . . [T]he Chair or, in the absence of the Chair, the Vice Chair approves a written request by the subject to file the motion, . . . the Commission or the Chair or, in the absence of the Chair, the Vice Chair may authorize the subject to argue the motion before the Commission . . . [t] he Chair or, in the absence of the Chair, the Vice Chair may rule on the motion, except a motion for disposition of the matter
NAC 281A.363	[T]he Commission may issue a subpoena to compel the attendance of a witness and the production of any books and papers for any hearing before the Commission to consider any matter related to a request for an advisory opinion . . . If a witness fails or refuses to comply with the provisions of a subpoena issued pursuant to this section, the Chair or, in the absence of the Chair, the Vice Chair may petition the district court for an ex parte order compelling the witness to comply with the subpoena in accordance.
NAC 281A.442	The Commission or the Chair or, in the absence of the Chair, the Vice Chair may authorize the parties to argue a motion before the Commission . . . If a party files a motion in accordance with the requirements set forth in this section, any other party in the matter may file a response in opposition to the motion. The Chair or, in the absence of the Chair, the Vice Chair may authorize the moving party to file a reply to a response.
NAC 281A.448	<p>[T]he Executive Director may submit a request to the Chair or, in the absence of the Chair, the Vice Chair for the issuance of a subpoena to compel:</p> <p>(a) The participation of a potential witness and the production of any books and papers during the course of any investigation.</p> <p>(b) The attendance of any witness and the production of any books and papers in the possession of the witness for any hearing before the Commission.</p> <p>***</p> <p>5. If the subject or any other witness fails or refuses to comply with the provisions of a subpoena issued pursuant to this section relating to an ethics complaint, the Executive Director or the subject, as applicable, may submit a request to the Chair or, in the absence of the Chair, the Vice Chair to petition the district court for an ex parte order compelling the subject or other witness to comply with the subpoena.</p>
NAC 281A.065	“Presiding officer” means the Chair or a member of the Commission appointed by the Chair to preside over a hearing, review panel or meeting of the Commission.
NAC 281A.460	<p>1. The presiding officer of an adjudicatory hearing shall:</p> <p>(a) Ascertain whether all persons identified in the witness lists submitted by the parties are present, including, without limitation, any witnesses under subpoena, and whether all exhibits required for the adjudicatory hearing pursuant to the scheduling order, including, without limitation, all books and papers under subpoena, have been submitted to the Commission.</p> <p>(b) Ensure that an oath is administered in accordance with NAC 281A.280 to all persons whose testimony will be taken.</p> <p>(c) Except for the subject, exclude from the hearing all witnesses scheduled to testify except during the testimony of the witness. To preserve the integrity of the process and the evidence presented during a proceeding, the presiding officer may request all witnesses not to discuss the case with any person other than the legal counsel of the witness during the pendency of the proceeding.</p> <p>(d) Hear and rule on any procedural motions, including, without limitation, the admissibility of or objections to any proffered documentary evidence, and address any administrative details.</p>

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| | <p>(e) Direct the Executive Director to present opening comments regarding the ethics complaint, the response to the ethics complaint by the subject and the determination of the review panel concerning whether there is just and sufficient cause for the Commission to render an opinion in the matter.</p> <p>(f) Allow the subject to present opening comments.</p> <p>(g) Direct the Executive Director to call and question any witnesses and present any evidence concerning the ethics complaint.</p> <p>2. Upon the conclusion of the presentation of any evidence and the examination of any witnesses by the Executive Director, the presiding officer shall request the subject to proceed with the introduction of evidence and calling of witnesses on his or her behalf.</p> <p>3. Any member of the Commission may question the Executive Director, the subject, any witnesses or any counsel who represents the Executive Director or the subject at any time during the proceeding.</p> <p>4. Upon the conclusion of the presentation of evidence and the examination of witnesses by the Executive Director, the subject and any member of the Commission, the presiding officer shall allow the Executive Director and the subject to present closing comments.</p> <p>5. The Commission may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.</p> |
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