



STATE OF NEVADA
BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Public Employee**,
Public Agency, State of Nevada,

Advisory Opinion No. 25-177A

Subject. /

ABSTRACT OPINION

EXECUTIVE SUMMARY¹

TOPIC: COOLING OFF

Public Employee requested this confidential advisory opinion from the Nevada Commission on Ethics ("Commission") pursuant to NRS 281A.675, regarding the propriety of their conduct as it relates to the Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A. Public Employee, who retired from their position with Public Agency and started private employment that same month, asks whether the "cooling-off" requirements established in NRS 281A.410 and 281A.550 apply to their continued employment with Private Company.

After fully considering the request and analyzing the facts and circumstances as presented by Public Employee, the Commission advises Public Employee that their employment by Private Company violates NRS 281A.550(5). The Commission further determines that relief from the requirements of NRS 281A.550(5) is not appropriate under the presented circumstances. Public Employee is further cautioned that they must also comply with the mandatory one-year prohibition contained in NRS 281A.410(1)(b), which restricts compensation for representation or consulting services to Private Company on any contracts or applications Private Company had with Public Agency during the time of Public Employee's employment.

¹ This executive summary constitutes no part of the opinion of the Commission. It has been prepared by Commission staff for the convenience of the reader.

I. FINDINGS OF FACT

- A. Public Employee was previously employed with Public Agency.
- B. Public Agency selected Private Company to provide services to Public Agency. A contract was executed between Private Company and Public Agency ("Agreement") within the last 12-months of Public Employee's employment with Public Agency. The total Agreement amount is in excess of \$25,000.
- C. Public Employee was approached by Private Company about potential employment and was offered a position with Private Company. Public Employee accepted Private Company's offer and agreed to a starting date approximately 6 months later. Public Employee continued to be employed by Public Agency until they started their position with Private Company.
- D. Public Employee did not submit their Request for Advisory Opinion to the Commission until five months after leaving public service and starting employment with Private Company and approximately 11 months after accepting Private Company's employment offer.
- E. Public Employee was not a member of the committee that selected Private Company to provide services for Public Agency. In fact, Public Employee recused themselves from any involvement in the selection process due to a potential conflict of interest unrelated to their future employment with Private Company. Three of the Public Agency personnel on the committee who selected Private Company for the Agreement were Public Employee's subordinates, however, and two were direct reports.
- F. In the development of the RFP for the Agreement, Public Employee provided a review of and comments on the RFP's scope and wording. Public Employee's comments involved ensuring that certain services and scope of work were included in the RFP's requirements.
- G. Public Employee is seeking relief from the strict application of the cooling-off prohibitions of the Ethics Law, specifically NRS 281A.550. Public Employee asserts that the Commission should grant their requested relief because:
 - 1. Public Employee discussed potential employment with Private Company several months after Public Company's selection for the contract to provide services to Public Agency.
 - 2. Public Employee was not Public Agency's Project Manager for the Agreement. This function was performed by one of Public Employee's direct reports.
 - 3. Public Employee strongly believes that their involvement in the Agreement with Public Agency is beneficial to the public because they are very knowledgeable about the services provided to Public Agency under the Agreement.
 - 4. Public Employee's local presence can help reduce consultant travel costs for Public Agency.

II. RELEVANT STATUTES

A. NRS 281A.020(1) – Duty to Avoid Conflicts of Interest

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.

B. NRS 281A.410(1)(b) – “Cooling-Off” – Representing or Counseling

- In addition to the requirements of the code of ethical standards:
1. If a public officer or employee serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:
* * *

(b) If the public officer or employee leaves the service of the agency, shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon any issue which was under consideration by the agency during the public officer's or employee's service. As used in this paragraph, “issue” includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

C. NRS 281A.550(5) – “Cooling-Off” – Employment with Contract Vendor

5. Except as otherwise provided in subsection 6, a former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:
 - (a) The amount of the contract exceeded \$25,000;
 - (b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and
 - (c) The position held by the former public officer or employee at the time the contract was awarded allowed the former public officer or employee to affect or influence the awarding of the contract.

D. NRS 281A.550(6), (8) and (9) – Relief from Strict Application of “Cooling-Off” Requirements

6. A current or former public officer or employee may file a request for an advisory opinion pursuant to [NRS 281A.675](#) concerning the application of the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:
 - (a) The best interests of the public;
 - (b) The continued ethical integrity of the State Government or political subdivision, as applicable; and

(c) The provisions of this chapter, it may issue an advisory opinion to that effect and grant such relief.

III. CONCLUSIONS OF LAW

- A. Public Employee is a former public employee as defined by NRS 281A.150 and NRS 281A.180.
- B. Pursuant to NRS 281A.675, the Commission has jurisdiction to render an advisory opinion in this matter.
- C. Under the circumstances presented, Public Employee's employment with Private Company is prohibited for one-year from the date they left public service by NRS 281A.550(5).
- D. Relief from the strict application of the Ethics Law's cooling-off prohibition under NRS 281A.550(6) is not granted because Public Employee accepted employment from Private Company prior to requesting an advisory opinion and seeking relief in violation of NRS 281A.550(9).
- E. In addition, pursuant to the requirements of NRS 281A.410(1)(b), Public Employee may not represent or counsel a private person or entity, including Private Company, for at least one year after the termination of their public service on any issues that were under consideration by Public Agency during Public Employee's tenure, including regarding the Agreement.
- F. The Commission considered the request for an advisory opinion, a list of proposed facts that were affirmed as true by Public Employee and publicly available information.
- G. For the purposes of the conclusions offered in this Opinion, the Commission's findings of fact are accepted as true. Facts and circumstances that differ from those presented to and relied upon by the Commission may result in different findings and conclusions than those expressed in this Opinion.²
- H. If in the future additional facts are obtained that relate to application of the Ethics Law to their circumstances, Public Employee may return to the Commission for education and guidance on the application of the Ethics Law by filing a new advisory request.
- I. An advisory opinion does not protect a public officer or employee from an investigation or adjudication based on an ethics complaint submitted pursuant to NRS 281A.710(b)(2) regarding past conduct addressed in the advisory opinion.
- J. Pursuant to NAC 281A.352, a quorum of the Commission considered this matter by submission, without holding an advisory opinion hearing.

² The Commission reserves its statutory authority should an ethics complaint be filed presenting contrary circumstances. See *In re Howard*, Comm'n Op. No. 01-36 (2002) (notwithstanding this advisory opinion, a member of the public is not precluded from bringing an ethics complaint); *In re Rock*, Comm'n Op. No. 94-53 (1995) (Commission reservation of right to review until time issue is raised).

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

IV. COMMISSION DECISION

The Legislature has identified limited circumstances in which a public employee may be restricted in future employment endeavors in the private sector so as not to dilute the public's faith in government.

[T]he Legislature has limited future private employment opportunities that may derive, in part, out of public experiences, including through relationships acquired during public service or expertise obtained in a particular field earned as a result of public duties. The Legislature has tackled unique employment engagements that directly signal impropriety as a result of specific positions or ability to influence public duties that necessarily interact with private employment opportunities.

In re Durski, Comm'n Op. No. 18-118A (2018), at p. 9.

Several provisions of the Ethics Law apply to Public Employee's circumstances in seeking and accepting employment in the private sector with Private Company, including NRS 281A.550(5) and NRS 281A.410(1)(b). Each statute has a varied focus but similarly serves to protect the public trust and associated relationships acquired during public service, or expertise obtained as a result of public duties.

A. NRS 281A.550(5) APPLIES TO RESTRICT PUBLIC EMPLOYEE'S EMPLOYMENT WITH PRIVATE COMPANY FOR ONE YEAR

NRS 281A.550(5) prohibits seeking or accepting employment with a private entity that contracts with the State or a political subdivision if (a) the contract amount exceeds \$25,000, (b) the contract was awarded within the 12 months immediately preceding the termination of public service, and (c) the position held by the former public officer or employee at the time the of the contract award allowed the former public officer or employee to affect or influence the award of the contract. *In re Public Officer*, Comm'n Op. No. 23-083A (2023), at p. 5. All conjunctive requirements of NRS 281A.550(5) must be present for the one-year "cooling-off" prohibition to apply to restrict the employment.

Public Agency's Agreement with Private Company was made and entered on within the last year of Public Employee's employment with Public Agency and has a not-to-exceed limit well in excess of \$25,000. Public Employee describes their role related to the contract process and award as limited because they recused themselves from any involvement in the selection process due to a potential conflict of interest unrelated to their later employment with Private Company. However, three of the Public Agency personnel who served on the committee that selected Private Company were Public Employee's subordinates, two of which were direct reports. Public Employee provided review of and comments on the scope and wording of the RFP for the Agreement, ensuring certain work and services were included in the RFP's scope.

In prior opinions, the Commission has confirmed that even without any actual impropriety, the reach of NRS 281A.550(5) extends to those contracts where the position held by the public officer or employee has the ability or potential to influence the contract award. See *In re Public Officer*, Comm'n Op No. 20-004A (2020). Influence without actual impropriety is therefore sufficient for application of NRS 281A.550(5). See *In re Public*

Employee, Comm'n Op. No. 18-137A (2019), at p. 8; *In re Public Employee*, Comm'n Op. No. 16-61A (2016).

Based upon the circumstances presented, the Commission finds that NRS 281A.550(5) applies to the Agreement because the contract's award date was within the 12-month period prior to Public Employee's separation from public service, the contract amount exceeds \$25,000 and the position held by Public Employee provided them the ability or potential to influence the contract award. Public Employee reviewed the wording and scope of the RFP that resulted in the Agreement, ensuring that certain wording and scope of work were included. These facts are sufficient to establish that Public Employee, in their position with Public Agency, had the ability to influence the award of the contract. Therefore, the Commission determines that NRS 281A.550(5)'s one-year "cooling-off" restriction applies to Public Employee's employment with Private Company, commencing on the date of Public Employee's separation from public service with Public Agency, unless the Commission determines relief is appropriate pursuant to NRS 281A.550(6).

B. RELIEF FROM NRS 281A.550(5)'S COOLING-OFF PROHIBITION IS NOT GRANTED

In light of its determination that NRS 281A.550(5)'s cooling-off prohibition applies to restrict Public Employee's employment with Private Company for one year, Public Employee requests that the Commission grant them relief from the application of the cooling-off restrictions under NRS 281A.550(6).

1. Public Employee's Acceptance of Employment with a Contract Vendor Prior to Seeking an Advisory Opinion from the Commission Precludes the Commission's Ability to Grant Relief Under NRS 281A.550(6).

NRS 281A.550(6) provides that:

A current or former public officer or employee may file a request for an advisory opinion pursuant to NRS 281A.675 concerning the application of the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper.

The Commission has previously determined that NRS 281A.550(9) requires that a public officer or employee may not solicit, accept or otherwise acquire employment with a contract vendor prior to obtaining relief from the application of NRS 281A.550's strict cooling-off prohibitions. The Commission has confirmed that:

To do otherwise is at one's peril. At a minimum, the restricted conduct hinders and could serve to preclude the ability of the Commission to grant relief from the "cooling-off" prohibition pursuant to NRS 281A.550(6).

In re Public Employee, Comm'n Op. No. 18-80A (2019), at p. 7.

Public Employee accepted employment with Private Company, a Public Agency contract vendor, approximately 11 months prior to requesting an advisory opinion from the Commission and seeking relief from the application of NRS 281A.550's cooling-off prohibitions. This precludes the Commission from granting relief.

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C. PUBLIC EMPLOYEE MUST ALSO COMPLY WITH NRS 281A.410(1)(b)'s LIMITATIONS

Limitations established in NRS 281A.410(1)(b) preclude representing or counseling a private person for compensation on any matter that was an "issue under consideration" during a public officer or employee's term of service. An "issue under consideration" includes a case, proceeding, application, contract, or determination, but does not include a legislative measure or administrative regulation. See NRS 281A.410(1)(b). The statute does not permit the Commission to grant any relief from the restrictions of NRS 281A.410(1)(b).

In *In re Sweeney*, Comm'n Op. No. 15-70C (2016), the Commission found a violation of NRS 281A.410(1)(b) where the former public employee did not realize her counseling or representation of a private person (her employer) was restricted by the Ethics Law. The Commission reiterates that NRS 281A.410(1)(b) applies to private consulting or service firms even when the ultimate service benefits a public entity because the former employee will receive a salary from the firm for advising it and representing its interests in providing client services associated with a contract for the applicable public entity. See *In re Public Employee*, Comm'n Op. No. 18-029A (2018).

The requirements of NRS 281A.410(1)(b) apply to Public Employee's situation. Given the mandatory requirements imposed by NRS 281A.410(1)(b), the Commission advises Public Employee that they are restricted, for one year from the date they left public service, from providing representation or counseling for compensation to a private person or business, including Private Company, on any "issue under consideration" during Public Employee's term of service with Public Agency.

In addition, Public Employee is prohibited from consulting or advising Private Company, or representing Private Company before Public Agency, on any contracts that Private Company entered into with Public Agency at any time while Public Employee worked for Public Agency for one year following their separation from State service, including the Agreement.

Dated this 15th day of December, 2025

NEVADA COMMISSION ON ETHICS

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