



STATE OF NEVADA
BEFORE THE NEVADA COMMISSION ON ETHICS

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

Advisory Opinion No. 25-075A

Subject. /

ABSTRACT OPINION

EXECUTIVE SUMMARY¹

TOPIC: COOLING OFF

Public Employee, an employee of State Agency, requested this 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 asks whether the “cooling-off” requirements established in NRS 281A.410 and 281A.550 apply to their potential future private employment for a private provider of services, Private Business.

After fully considering their request and analyzing the facts and circumstances as presented by Public Employee, the Commission advises Public Employee that their potential future employment with Private Business is not within the scope of conduct prohibited by the “cooling-off” provisions of NRS 281A.550 because Private Business is not regulated by State Agency nor does it have any contracts with State Agency. Further, based on the circumstances as presented by Public Employee the mandatory one-year prohibition contained in NRS 281A.410(1)(b), which restricts compensation for representation or consulting services to any private person or entity on any issue that was under consideration by State Agency during Public Employee’s employment, is also not applicable to Public Employee’s potential private employment with Private Business. However, NRS 281A.410(1)(b) does apply to prohibit Public Employee from counseling or representing any clients of Private Business on any issues the client had pending before State Agency during 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 is employed as a specialist with State Agency. They began working at State Agency in March 2025.
- B. Public Employee's job duties as a specialist include:
 - 1. Review new applications and issue permits for industry projects;
 - 2. Review exploration and project cost estimates; and
 - 3. Perform project inspections
- C. Public Employee's position with State Agency does not include any policy formation or work on drafting regulations for the industry. Public Employee does not serve in a supervisory role and does not sign any permits.
- D. Public Employee's job does include technical evaluation for permits, as well as modifications. They draft permits for the State Agency Supervisor to review and the State Agency Chief to sign.
- E. Since starting with State Agency, Public Employee has performed various work on several projects in the industry.
- F. Public Employee seeks to leave State service and work in the private sector. In such a position, Public Employee would be performing technical work for a specific segment of the industry.
- G. Specifically, Public Employee would like to work for Private Business. Private Business provides comprehensive services to companies in the industry. Private Business does not provide any permitting services.
- H. Private Business is not itself regulated by State Agency.
- I. Public Employee has had unofficial conversations with Private Business about potential employment but has not interviewed with or been offered a position by the company.
- J. Public Employee confirms that they will not seek employment with any company they regulated while at State Agency and would not be performing any permitting work in the specific segment of the industry they plan to enter.
- K. Public Employee verifies that in their current role with State Agency they have not obtained knowledge of any trade secrets for any companies in the industry in Nevada.

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. NRS 281A.410(1)(b): “Cooling-Off”-Representing 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: “Cooling-Off” Prohibitions and Relief

3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6 and NRS 678A.360, a former public officer or employee of a board, commission, department, division or other agency of the Executive Department of State Government, except a clerical employee, shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted by the board, commission, department, division or other agency for 1 year after the termination of the former public officer's or employee's service or period of employment if:

(a) The former public officer's or employee's principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year, the former public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ the former public officer or employee; or

(c) As a result of the former public officer's or employee's governmental service or employment, the former public officer or employee possesses knowledge of the trade secrets of a direct business competitor.

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.

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,

III. CONCLUSIONS OF LAW

- A. In their role at State Agency, Public Employee is a public employee pursuant to NRS 281A.150
- B. The Commission has jurisdiction to render this advisory opinion pursuant to NRS 281A.675.
- C. Pursuant to NRS 281A.410(1)(b), Public Employee may not represent or counsel a private person or entity for compensation for at least one year after Public Employee's separation from public service on any issues that were under consideration by State Agency during their tenure. This includes representing or counseling any clients of Private Business on issues that were under consideration during Public Employee's employment with State Agency.
- D. Private Business provides services to companies in the industry but is not itself regulated by State Agency. NRS 281A.550(3) therefore does not apply to restrict Public Employee's potential private employment with Private Business.
- E. NRS 281A.550(5) does not apply to restrict Public Employee's potential employment with Private Business because Private Business does not have any contracts with State Agency.
- 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. 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 officer or employee may be restricted in future private employment endeavors so as not to dilute the public's faith in government. Notably, the Legislature, in enacting the distinct and separately enforceable restrictions in NRS 281A.410 and NRS 281A.550, has not prohibited all future private income or employment opportunities. Each statute has a varied focus but similarly serves to protect the public's trust including the associated relationships acquired during public service and expertise obtained as a result of public duties.

A. NRS 281A.410(1)(b) DOES NOT APPLY TO PUBLIC EMPLOYEE'S POTENTIAL EMPLOYMENT WITH PRIVATE BUSINESS BUT APPLIES TO PUBLIC EMPLOYEE'S WORK WITH ANY CLIENT WHO HAD ISSUES PENDING BEFORE STATE AGENCY DURING THEIR EMPLOYMENT

NRS 281A.410(1)(b) restricts representing or counseling of any private person (including a business entity) for compensation on any issue that was under consideration by the employing agency during the employment of a public officer or employee. See *In re Public Employee*, Comm'n Op. No. 18-015A (2018), at pgs. 8-9; *In re Public Officer*, Comm'n Op. No. 16-58A (2016), at pgs. 8-9. An issue under consideration includes a case, proceeding, application, contract, or determination but does not include the proposal or consideration of legislative measures or administrative regulations. See NRS 281A.410(1)(b). Except as specifically provided otherwise in NRS 281A.410(2) and (3), the statutory restrictions are mandatory, not subject to relief, and apply even when other cooling-off prohibitions do not.

Public Employee confirmed that Private Business, with which they may seek employment, has not had a "case, proceeding, application, contract, or determination" pending before State Agency, nor has the company represented any client before State Agency during Public Employee's employment. NRS 281A.410(1) therefore does not apply to Public Employee's potential private employment with Private Business. The requirements of NRS 281A.410(1) also restrict Public Employee from representing or counseling any client of Private Business on any issue the client had pending before State Agency during Public Employee's employment. Public Employee is reminded to be careful to ensure compliance with NRS 281A.410(1)(b) for one year following their separation from public employment.

B. NRS 281A.550(3) AND (5)'s COOLING OFF PROVISIONS DO NOT APPLY TO PUBLIC EMPLOYEE'S POTENTIAL PRIVATE EMPLOYMENT WITH PRIVATE BUSINESS

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

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1. NRS 281A.550(3)

The “cooling-off” requirements of NRS 281A.550(3) prohibit any actual or perceived quid pro quo wherein a public officer or employee secures favors in the public sector for the return of a favor in the private sector. See *In re Public Employee*, Comm’n Op. No. 17-28A (2018), at p. 5; *In re Public Officer*, Comm’n Op. No. 13-09A (2013), at p. 11. NRS 281A.550(3) prohibits public officers and employees from soliciting or accepting employment from an entity or industry whose activities are regulated by the public agency with which they were employed for one year after their separation from public service if one of three criteria is met: (1) the public officer or employee’s principal duties included formulating policy contained in the public agency’s regulations (NRS 281A.550(3)(a)); (2) within the immediately preceding year, the public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might employ the public officer or employee (NRS 281A.550(3)(b)); or (3) the public officer or employee has obtained trade secrets of a direct business competitor (NRS 281A.550(3)(c)). See *In re Public Officer*, Comm’n Op. No. 16-58C (2016).

Private Business provides consulting services to the industry regulated by State Agency but itself is not “a business or industry whose activities are governed by regulations” adopted by State Agency. See *In re Public Employee*, Comm’n Op. No. 20-021A (2020) (finding NRS 281A.550(3) is not implicated where the private employer is not regulated by the public agency); *In re Harris*, Comm’n Op. No. 19-77A (2019) (same); *In re Public Officer*, Comm’n Op. No. 18-116A (2018) (holding a private employer providing consulting services to the regulated industry does not meet NRS 281A.550(3)’s statutory conditions); see also *In re Public Officer*, Comm’n Op. No. 20-004A (2020); *In re Public Employee*, Comm’n Op. No. 15-49A (2016). As Private Business is not regulated by State Agency, NRS 281A.550(3) does not apply to restrict Public Employee’s potential employment with Private Business.

2. NRS 281A.550(5)

NRS 281A.550(5) prohibits seeking or accepting employment with a private entity that contracts with the State or a political subdivision if the contract amount exceeds \$25,000, the contract was awarded within the 12 months immediately preceding the termination of public service and 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. All conjunctive requirements of NRS 281A.550(5) must be present for the one-year “cooling-off” prohibition to apply to restrict the employment.

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Public Employee confirms that Private Business does not have any contracts with State Agency. The prohibitions set forth in NRS 281A.550(5) are therefore not applicable to Public Employee's circumstances.

Dated this 11th day of August, 2025

NEVADA COMMISSION ON ETHICS

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Scott Scherer, Esq.
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