



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

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

Advisory Opinion No. 25-189A

Subject. /

ABSTRACT OPINION

EXECUTIVE SUMMARY¹

TOPIC: GOVERNMENT RESOURCES
SUBTOPIC: CAMPAIGNS

Public Employee requested this confidential advisory opinion from the Nevada Commission on Ethics ("Commission") pursuant to NRS 281A.675, regarding the propriety of their anticipated future conduct as it relates to the Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A.

Public Employee intends to seek election to a seat in the Nevada Legislature and has asked about restrictions on their conduct in their position an employee of Public Agency in support of their campaign. After fully considering Public Employee's request and analyzing the facts and circumstances as presented by them, the Commission issues this written confidential opinion ("Opinion") advising that Public Employee must not:

- 1) Use non-public information, such as personal contact information, obtained because of their public position, to benefit their campaign;
- 2) Use government time, property, equipment, or other facilities, such as their state car, computer, computer systems, or other equipment, to benefit their legislative campaign;
- 3) Cause Public Agency or another government entity to incur any expense to benefit their campaign; and
- 4) Secure "unwarranted" benefits for their campaign using their position at Public Agency

If Public Employee fails to comply with the restrictions described in this opinion, they will violate the Ethics Law.²

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.

² The Commission does not address restrictions from other state statutes regarding Public Employee's conduct as a candidate nor does it have the jurisdiction to address whether Public Employee could maintain their State Executive Branch employment while a member of the Legislature. Public Employee is encouraged to carefully review election instructions and materials from the Secretary of State's Office to ensure full compliance with Nevada laws.

I. FINDINGS OF FACT

- A. Public Employee (“Public Employee”) is employed with Public Agency.
- B. Public Employee works full-time Tuesday through Friday, 7AM to 6PM and is categorized in the State personal system as a Classified non-exempt employee.
- C. Public Employee does not supervise any other State staff.
- D. Public Agency is located within the Executive Department of the State Government.
- E. The state computer systems to which Public Employee has access at Public Agency contain non-public information such as personal contact information of individuals who interact with the State Agency.
- F. Public Employee does not have uniform, but they do have a badge that indicates they work for the State of Nevada. Public Employee also has access to copy machines, computers, computer systems with personal information, state vehicles and a phone.
- G. Public Employee plans to run for State Assembly in the upcoming 2026 election cycle.

II. RELEVANT STATUTES

A. NRS 281A.020—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.400—Code of Ethics Standards

- 2. 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.

- 5. If a public officer or employee acquires, through the public officer’s or employee’s public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or employee shall not use the information to further a significant pecuniary interest of the public officer or employee or any other person or business entity.

- 7. [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;

C. NRS 281A.520—Public officer or employee prohibited from requesting or otherwise causing governmental entity to incur expense or make expenditure to support or oppose ballot question or candidate in certain circumstances

1. Except as otherwise provided in subsections 4 and 5, a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose:

(a) A ballot question.

(b) A candidate.

2. For the purposes of paragraph (b) of subsection 1, an expense incurred, or an expenditure made by a governmental entity shall be considered an expense incurred or an expenditure made in support of a candidate if:

(a) The expense is incurred, or the expenditure is made for the creation or dissemination of a pamphlet, brochure, publication, advertisement or television programming that prominently features the activities of a current public officer of the governmental entity who is a candidate for a state, local or federal elective office; and

(b) The pamphlet, brochure, publication, advertisement or television programming described in paragraph (a) is created or disseminated during the period specified in subsection 3.

3. The period during which the provisions of subsection 2 apply to a particular governmental entity begins when a current public officer of that governmental entity files a declaration of candidacy and ends on the date of the general election, general city election or special election for the office for which the current public officer of the governmental entity is a candidate.

4. The provisions of this section do not prohibit the creation or dissemination of, or the appearance of a candidate in or on, as applicable, a pamphlet, brochure, publication, advertisement or television programming that:

(a) Is made available to the public on a regular basis and merely describes the functions of:

(1) The public office held by the public officer who is the candidate;

or

(2) The governmental entity by which the public officer who is the candidate is employed; or

(b) Is created or disseminated in the course of carrying out a duty of:

(1) The public officer who is the candidate; or

(2) The governmental entity by which the public officer who is the candidate is employed.

5. The provisions of this section do not prohibit an expense, or an expenditure incurred to create or disseminate a television program that provides a forum for

discussion or debate regarding a ballot question, if persons both in support of and in opposition to the ballot question participate in the television program.

6. As used in this section:

(a) "Governmental entity" means:

- (1) The government of this State;
- (2) An agency of the government of this State;
- (3) A political subdivision of this State; and
- (4) An agency of a political subdivision of this State.

(b) "Pamphlet, brochure, publication, advertisement or television programming" includes, without limitation, a publication, a public service announcement and any programming on a television station created to provide community access to cable television. The term does not include:

- (1) A press release issued to the media by a governmental entity; or
- (2) The official website of a governmental entity.

III. CONCLUSIONS OF LAW

- A. Public Employee is a public employee as defined by NRS 281A.150. They serve in the Executive Department of the State Government, making them a member of the Executive Branch.
- B. Pursuant to NRS 281A.675, the Commission has jurisdiction to render an advisory opinion in this matter.
- C. The Ethics Law does not prohibit Public Employee from running for the State Assembly while being employed with the Executive Branch.
- D. Public Employee is prohibited under NRS 281A.400(2) from securing "unwarranted" advantages for their campaign using their public employee position and must comply with their agency's policies, procedures and purpose as they relate to use of position.
- E. Public Employee is prohibited by NRS 281A.400(5) from using non-public information in the state computer systems such as contact information and mailing addresses to benefit their campaign.
- F. Public Employee is prohibited by NRS 281A.400(7) from using government time, property, equipment or other facility to benefit their campaign. This includes, but is not limited to, the use of their state vehicle, computer, scheduled work time or state offices.
- G. NRS 281A.520 prohibits Public Employee from requesting or causing Public Agency or another governmental entity to incur any expense or make any expenditure to support their campaign.
- H. 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.
- I. 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.³

- J. 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.
- K. Pursuant to NAC 281A.352, a quorum of the Commission considered this matter by submission, without holding an advisory opinion hearing.

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 Ethics Law is designed to preserve the public's trust and ensure that public officers and employees maintain proper separation between their public duties and private interests. See NRS 281A.020. The Code of Ethical Standards was enacted to require proper separation of public officers' and employees' private interests and commitments from their public duties. See NRS 281A.400.

Public officers and employees have a responsibility to avoid conflicts between their private interests and the public they serve. NRS 281A.020. Public officers or employees must not use a public position in government to benefit their own campaigns or their significant personal interest in endorsements and supporting the campaigns of other persons. See *In re Antinoro*, Comm'n Op. Nos. 18-031C and 18-052C (2019), at p. 5. "Simply, public officers and employees are not entitled to take advantage of public resources to support their own campaign or other political campaigns." *In re Public Officer*, Comm'n Op. No. 19-124A (2020), at p. 4; see also *In re Matson*, Comm'n Op. No. 11-67C (2014), at p. 11.

A. THE ETHICS LAW DOES NOT RESTRICT A PUBLIC EMPLOYEE'S ABILITY TO RUN FOR OFFICE

Public Employee seeks this opinion to ensure they are complying with the Ethics Law as they run for the State Assembly. The Ethics Law includes narrow restrictions on public officers and employees seeking additional or new employment. These restrictions primarily apply when a public officer or employee departs public service for the private sector in what are referred to as the Ethics Law's "cooling off" restrictions. The Commission has made it clear that the cooling off restrictions do not apply when a public official seeks new public service opportunities. See *In re Carter*, Comm'n Op. No. 23-132A (2024).

Other restrictions found in the Ethics Law center around use of the public officer or employee's current public position and do not establish a blanket prohibition on seeking other employment as contemplated by Public Employee.

³ 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).

B. PUBLIC EMPLOYEE MUST BE CAUTIONED NOT TO USE THEIR CURRENT PUBLIC EMPLOYMENT TO BENEFIT THEIR CAMPAIGN

Although Public Employee is not prohibited by the Ethics Law from running for Legislative office, they must maintain compliance with the restrictions against using their current public office to benefit their campaign. Public Employee maintains both a personal and pecuniary interest in winning their election. See NRS 281A.065; NRS 281A.139.

1. Use of Non-Public Information Prohibited by NRS 281A.400(5)

Public Employee has confirmed that in their role at Public Agency, they have access to non-public information kept in various state systems. NRS 281A.400(5) prohibits public employees from using “any information which by law or practice is not at the time available to people generally...to further a significant pecuniary interest of the public officer or employee...” The Commission has confirmed that using information about members of the public acquired during an application process to benefit oneself violates NRS 281A.400(5). See *In re Hagen*, Comm’n Op. No. 20-060C (2022).

Public Employee is cautioned that they must not use any non-public information to benefit their campaign. They may not export mailing addresses or contact information from state systems to create distribution lists for campaign fundraising efforts or campaign marketing. Similarly, if any of their opponents have personal information in systems that Public Employee has access to, they are prohibited from using that information to advance their own campaign’s interests.

This prohibition applies only to non-public information and does not restrict Public Employee from properly purchasing or otherwise acquiring information from publicly accessible mailing lists in the same way other candidates could access and acquire that information.

2. Use of Time, Property, Equipment or Facilities; Causing Government Entity to Incur Expenses

Public Employee is prohibited from using government time, property, equipment or facilities to benefit their campaign for State Assembly based on the restrictions found in NRS 281A.400(7) and NRS 281A.520. In Public Employee’s specific case, they must be aware of timekeeping requirements and be cautious about the use of state equipment.

a. Use of Government Time Prohibited

Public Employee is a classified non-exempt state worker who works a 4-10 shift Tuesday through Friday. Classified staff must properly account for and record each hour of their assigned workday. This means Public Employee may not be working on their campaign during hours in which they are assigned to work. If campaign requirements come into conflict with their scheduled working hours, Public Employee must work with their agency to determine the appropriate course of action to avoid violating NRS 281A.400(7). This may include an approved alternative work schedule, the use of annual time, the use of compensatory time or other flexibility permitted in the state personnel system.

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Public Employee is cautioned that the use of sick leave is not appropriate for campaign activity as sick leave is limited to the following specific reasons in NAC 284.554:

1. An employee is entitled to use sick leave if the employee:

- (a) Is unable to perform the duties of his or her position because he or she is sick, injured or physically incapacitated due to a medical condition;
- (b) Is physically incapacitated due to pregnancy or childbirth and is therefore unable to perform the duties of the employee's position;
- (c) Is quarantined;
- (d) Is receiving required medical, psychological, optometric or dental service or examination;
- (e) Is receiving counseling through an employee assistance program for a condition which would otherwise qualify pursuant to the provisions of this section;
- (f) Has an illness, death or other authorized medical need in his or her immediate family and he or she complies with the requirements of NAC 284.558 or 284.562; or
- (g) Meets the requirements set forth in subsection 2.

Sick leave is not authorized by administrative regulation for the promotion of one's own political campaign. A Review Panel of the Commission recently entered into a deferral agreement with a state officer who allegedly inappropriately used sick leave to campaign. See *In re Jenkins*, Panel Determination and Deferral Agreement, Ethics Case No. 23-136C (2024). Similarly, any use of lunch or other breaks to conduct campaign business should be clearly documented to avoid the appearance of impropriety.

b. Use of Government Equipment, Property, Facility Prohibited

The Commission has determined it is never proper for public officers or employees to "create the impression of government sanction" of their campaign by using their public position or its attributes, such as government power, time, resources or staff. NRS 281A.400(7); *In re Kirkland*, Comm'n Op. No. 98-41 (1999), at p. 4 ("*Kirkland*"); see also *Matson*, at p. 13. Although NRS 281A.400(7)(a) does provide for a limited exception to this rule in certain circumstances, the Commission has held that it is difficult to establish that exception in the campaign context because public officers or employees will have difficulty establishing that the use of government property did not create an "appearance of impropriety". *In re Public Officer*, Comm'n Op. No. 19-124A (2020), at p. 7.

Public officials have struggled to comply with this restriction in the past. The Commission has found a violation of the Ethics Law when computer equipment of a state agency was used "for creating, maintaining, storing, and printing documents" related to a re-election campaign. *In re Augustine*, Comm'n Op. No. 04-47 (2004). Similarly, the Commission found a violation of NRS 281A.400(7) when a County Assessor used county office supplies to make anti-rally signs and used county cars to travel to and from the rally. *In re Matson*, Comm'n Op. No. 11-67C (2014).

These restrictions apply to Public Employee. For example, Public Employee is prohibited from using their state car to travel to campaign events or transport campaign materials, making copies of campaign literature on Public Agency printers or copiers, or otherwise using the physical resources of their office to benefit their pecuniary and personal interest in their campaign. Public Employee is also cautioned that attempting to directly solicit members of the public they meet with as part of their public employment to support the campaign might create an appearance of impropriety or be an impermissible

use of state time for their personal and pecuniary interests if done during working hours, such as at appointments. Failing to maintain compliance with this rule will violate NRS 281A.400(7).

c. Use of Time or Equipment May Also Violate NRS 281A.520

NRS 281A.520 prohibits a public officer or employee from causing an agency to incur an expense to benefit a campaign or ballot initiative. Public Employee must be cautious to ensure that they do not cause Public Agency to incur any expense during the course of their campaign. The prohibition extends beyond just monetary payments and can include the use of time or equipment.

The Commission found a violation of NRS 281A.520 when a school district associate superintendent caused campaign materials to be transported using school district vehicles when there was “space available” on regular routes. *In re Haldeman*, Comm’n Op. No. 13-25C (2013). Public Employee has access to state vehicles and other equipment. If they were to use that equipment to transport campaign signs around their Assembly District, such use would implicate NRS 281A.520. Public Employee must be aware that even a negligible expense incurred by the agency will violate this statute. See *In re Edwards*, Comm’n Op. No. 13-24C (2013) (even approximately 30 seconds of staff time to benefit a ballot initiative violated the Ethics Law). Public Employee must be diligent in not causing their agency to incur any costs to support their campaign.

d. Use of Title Permitted

Although Public Employee is prohibited from using state time, equipment, property or other facilities to benefit their campaign, there are not restrictions on the use of their title or otherwise communicating to potential voters what their career and experience have been. See *In re Public Officer*, Comm’n Op. No. 19-124A (2020). Public Employee should take steps to ensure that any mention of their public office or title does not give the appearance of an endorsement by the public agency. “[T]he government cannot endorse candidacies”. *In re Kirkland*, Comm’n Op. No. 98-41 (1999), at p. 4.

3. “Unwarranted” Privileges, Preferences, Exemptions or Advantages to Benefit the Campaign

The Ethics Law prohibits public employees like Public Employee from using their position to secure “unwarranted” advantages for themselves. “Unwarranted” means “without justification or adequate reason.” NRS 281A.400(2). While the prohibited conduct above violates various provisions of the Ethics Law, the cumulative effect of those acts could additionally violate NRS 281A.400(2). In determining whether or not conduct violates NRS 281A.400(2) “the Commission reviews the facts on a case-by-case basis. In doing so, the Commission takes into consideration agency policies.” *In re Public Officer*, Comm’n Op. No. 19-124A (2020) citing *Kirkland*. In addition to the agency’s policies, the Commission will look at “the procedures and the purpose of the public agency that are applicable to the public officer or employee.” See *In re Ralenkotter*, Comm’n Op. Nos. 18-061C/139C (2020), at p. 9.

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In order to best protect themselves from a violation of NRS 281A.400(2), Public Employees are encouraged to maintain compliance with the provisions of the Ethics Law referenced in this opinion and the remaining provisions of the Ethics Law (especially the Code of Ethical Standards found in NRS 281A.400). Public Employees must also ensure they are familiar with Public Agency policies and procedures related to any use of position, conflicts of interest, use of equipment or any other policies the agency may have that apply to Public Employees.

Dated this 13th day of November, 2025

NEVADA COMMISSION ON ETHICS

By: /s/ Scott Scherer
Scott Scherer, Esq.
Chair

By: /s/ Kim Wallin
Kim Wallin, CPA, CMA, CFM
Vice-Chair

By: Absent
Teresa Lowry, Esq.
Commissioner

By: /s/ Michael E. Langton
Michael E. Langton, Esq.
Commissioner

By: /s/ John Miller
John Miller
Commissioner

By: Absent
John T. Moran, III, Esq.
Commissioner

By: /s/ Terry J. Reynolds
Terry J. Reynolds
Commissioner

By: /s/ Brianna Smith
Brianna Smith, Esq.
Commissioner