



State of Nevada Ethics Manual

Disclosure & Abstention

Key Take Away

This section of the NV Ethics Manual explains how and whom to properly inform (disclose) about conflicts of interest you may have and what steps to take to avoid violations of Ethics in Government Law, such as excluding yourself (abstaining) from decision-making related to your conflict of interest ([see NRS 281A.420](#)).

Key Terms

Conflict of Interest: When personal interests might affect your decisions or actions.

Disclosure: Sharing any conflict of interests you have and explaining the details to help determine if abstention is necessary.

Continuous Disclosure: Disclosing once in insufficient. You must disclose every time the conflict arises.

Abstention: Not taking sides or participating in discussions or making decisions.

Guide to Determine if You Have a Conflict of Interest

When you're in a public meeting and you're unsure if you have a conflict of interest, ask yourself these questions to decide if a reasonable person in your situation would find it necessary to disclose the conflict or both disclose and abstain from participating.

- Will/have I received a gift, or a loan related to this matter?
For example: A key stake holder wants to take you to lunch before you vote on a matter impacting their business.
- Do I have a significant financial interest in this matter?
For example: Your home will be sold under eminent domain if this motion passes to build a new highway.
- Does someone close to me have a significant financial interest in this matter? (see *“Commitments in a Private Capacity”* section of the manual [linked here to determine which relationships require disclosure and/or abstention](#))

For example:

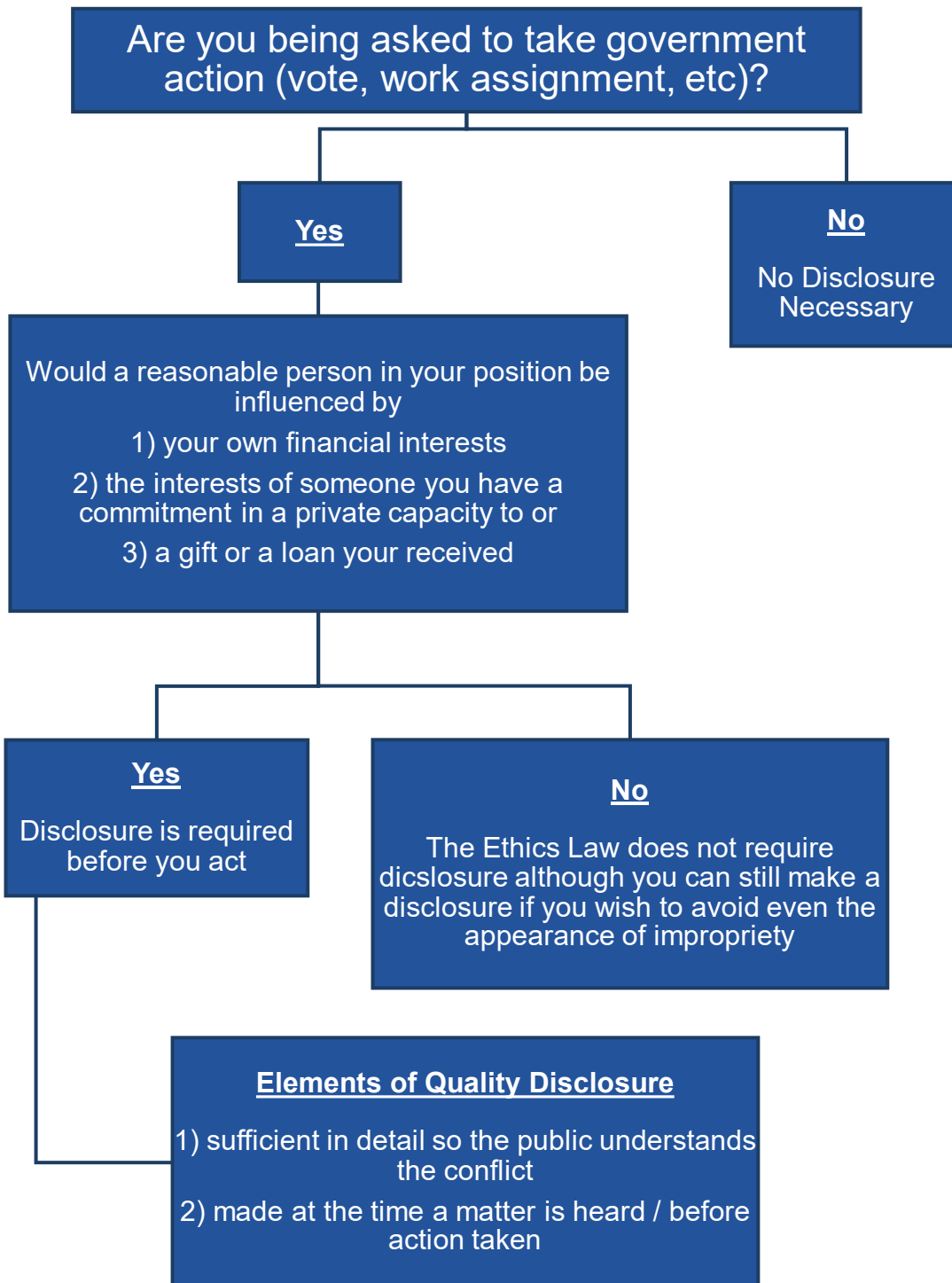
- Your domestic partner's boss will secure the development contract if you choose their proposal over other developers.
- You are tasked with inspecting your longtime, close friend's restaurant for health code violations.

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Disclosure Decision Tree

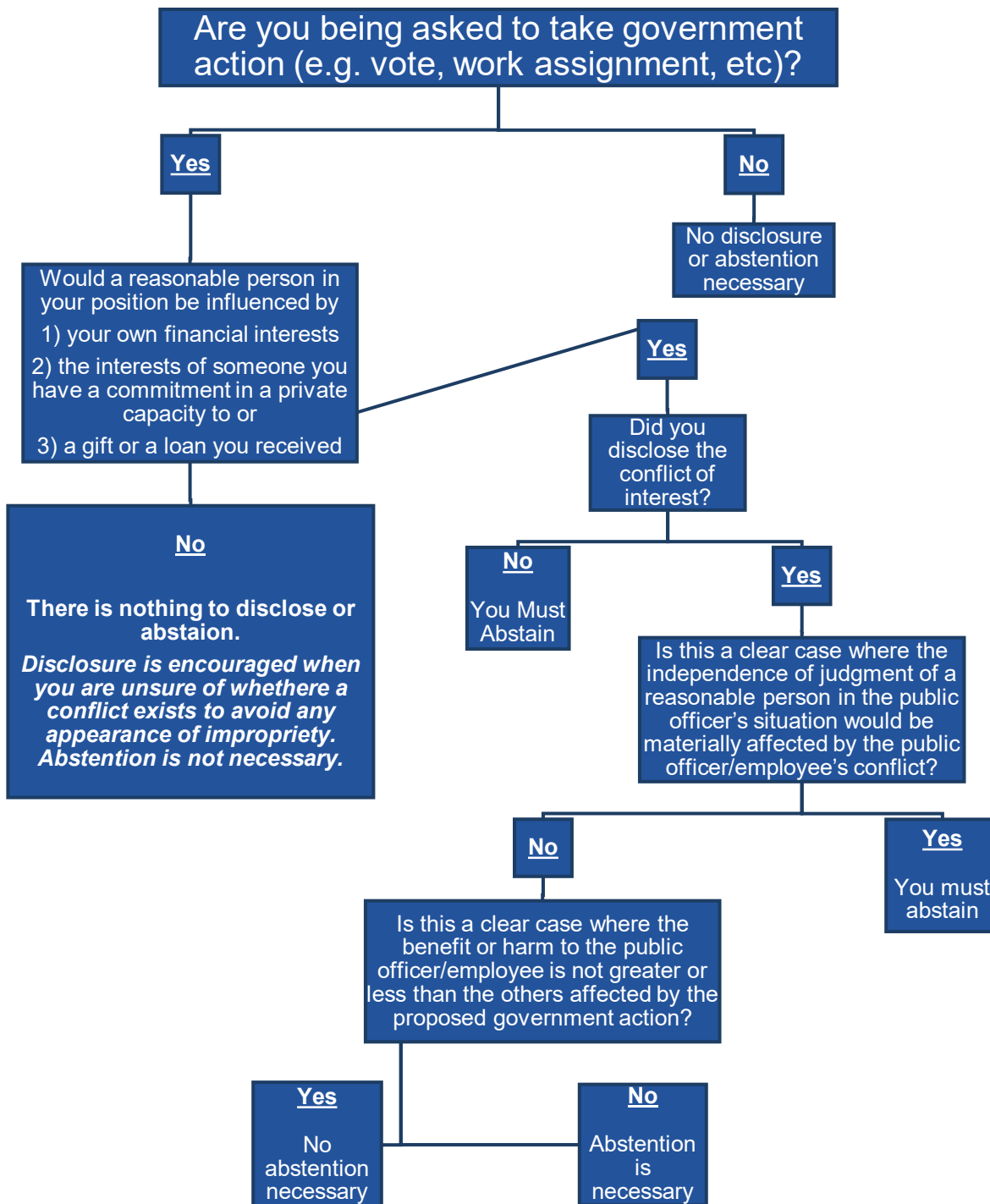


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Abstention Decision Tree



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How to Disclose Your Conflict of Interest

- **As a Member of a Public Body**

If the public officer is a member of a body which makes decisions, the disclosure must be made in public to the chair and other members of the body at the time the issue becomes before the public body.

What You Might Say in a Meeting:

"Chairperson, NRS 281A.420 requires me to disclose a conflict of interest. The matter before this body affects my acceptance of a gift or loan/my pecuniary interest/my commitment in a private capacity to the interests of..."

- **As a Public Employee**

A public employee must make the disclosure of their conflict of interest, preferably in writing, to the to the supervisory head of the public employee's organization

What You Might Say in Writing:

"Dear Supervisor, NRS 281A.420 requires me to disclose a conflict of interest. The matter before my employer affects my acceptance of a gift or loan/my pecuniary interest/my commitment in a private capacity to the interests of..."

- Next, you must take time to describe the potential conflict between your interest and the matter before the body or board on which you serve.

For example:

- I am related to this person; or our relationship is substantially similar to a blood relation, probably closer.
- I am a partner in the business before the board.

- **How to Communicate Your Abstention**

Analyze your conflict for the public:

- Decision to vote "I conclude that the independence of judgment of a reasonable person in my situation would not be materially affected by this relationship, and because this is not a clear case of a disqualifying conflict of interest, I am going to be voting from voting in this matter." (If you decide to abstain, you must refrain from advocating for or against the matter in any way.)
- Decision to abstain: "I conclude that the independence of judgment of a reasonable person in my situation would be materially affected by this relationship, and because this is a clear case of a disqualifying conflict of interest, I am going to be abstaining from voting in this matter." (If you decide to abstain, you must refrain from advocating for or against the matter in any way.)

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Best Practices

- Remember, you MAY disclose even an appearance of impropriety, though you are NOT required to do so. This type of disclosure assists in your duty to avoid conflicts of interest and enhance and maintain public trust. See NRS 281A.020.
- Abstain only when necessary; the general presumption is that you can vote following a proper and timely disclosure.
- Abstention from participating in decision-making by a public officer can disrupt how representative government usually works. It also takes away the opportunity for the public and the officer's constituents to have a say in government matters. Therefore, the rules about disclosing conflicts of interest and abstaining are meant to require abstention only in clear cases where a reasonable person in the public officer's situation would be significantly influenced by the officer's acceptance of a gift or loan, significant financial interest, or commitment in a private capacity to another's interests. See [NRS 281A.420](#).

Presumption of Participation

- There is a presumption that public officers and employees can participate in the responsibilities of their role as outlined in the respective laws governing their roles.
- Public officers need not disclose campaign contributions or contributions to a legal defense fund that were properly reported pursuant to the statutes relevant to those contributions.
- To support effective governance, the Ethics Law incorporates a presumption of participation if the conflict of interest meets the following criteria:
 - If the benefit or harm to the public officer would be the same as it would be for others in a similar situation.

OR

 - Their conflict of interest wouldn't affect the judgment of a reasonable person in their position.

*Most importantly, to fall within the presumption of participation, a public officer or employee **must first disclose** their conflict of interest in a timely and detailed manner, adequately informing the public of how their private interests affect their public duties. Even if one or both criteria are met, **failure to properly disclose the conflict of interest still constitutes a violation of the Ethics Law.***

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Will we still have a quorum?

Except as otherwise provided in the Open Meeting Law, if a public officer abstains from voting because of the Ethics Law, the quorum needed and the number of votes necessary to act upon the matter is reduced as though the member abstaining were not a member of the body or committee.

Can I still join the conversation about the vote if I abstained?

In addition to the disclosure and abstention requirements, a public officer who will be abstaining from participating may not advocate the passage or failure of the item. However, they may participate in other ways such as asking questions when information is presented or providing expertise others do not hold.

A public officer/employee who is abstaining can provide public comment on the item if they step down from their public duty on that specific item. They can then provide comments as a member of the general public.

Compliance Tips

1. Be aware of who you have a commitment in a private capacity to.
2. Review agendas and work assignments prior to discussing or taking action on them.
3. Consult your agency attorney prior to a meeting or if you are unsure if you have a possible conflict of interest.

Sample Opinions

- [*In re Public Officer, Comm'n Op. No. 23-094A \(2023\)*](#)
- [*In re Public Officer, Comm'n Op. No. 23-006A \(2023\)*](#)
- [*In re Cameron Kinney, Comm'n Op. No. 21-054A \(2021\)*](#)
- [*In re Public Officer, Comm'n Op. No. 21-053A \(2021\)*](#)
- [*In re Public Officer, Comm'n Op. No. 21-051A \(2021\)*](#)
- [*In re Brown, Comm'n Op. No. 22-064A \(2022\)*](#)

Video Resources

- [Disclosure and Abstention 10 min Video](#)
- [Understanding Commitment in a Private Capacity 10 min Video](#)

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