

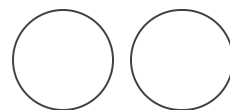


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Are You Going to Ethics Jail? Overview of Remedies and Penalties for Ethics Violations in Nevada



Nevada Commission on Ethics
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What action can the Ethics Commission take against a public officer or employee after finding that there has been an ethics violation?

The Nevada Ethics in Government Law, [Chapter 281A of the Nevada Revised Statutes](#) (NRS), gives the Nevada Commission on Ethics various tools to take corrective action in response to proven or suspected ethics violations by public officers and employees. While there is no Ethics Jail, the Ethics Law provides remedy options so that the response can be appropriately tailored to the offense. In addition, the Ethics Law allows “any combination” of listed remedies or penalties or “any other reasonable action that the Commission... determines will remedy the

violation or alleged violation or deter similar violations or conduct.” NRS 281A.785(1)(c). Let’s walk through the Commission’s most commonly used corrective action options.



Letters of Instruction and Caution

The Commission may issue a Letter of Instruction or Letter of Caution in an ethics case even if there is no final finding of a violation. These letters are confidential by statute and permit the Commission to communicate with a public officer or employee who has become the subject of a complaint. What’s the difference? The Letter of Instruction advises the official about the applicability of the ethics law to their conduct whereas the Letter of Caution is a bit more serious in that it informs the official that their conduct as alleged in the case is sufficient to implicate an ethics violation.

These letters are often used for first offenses if they are minor enough to not warrant a full case determination or an agreement for continued monitoring the official’s conduct.

Note on the Willfulness Determination

Before continuing down the path of discussing remedies, it is important to note that when the Commission determines that a violation has occurred it must decide if the violation is willful or not. Some remedies are only available if the Commission determines the violation is willful.

Admonishments, Reprimands, and Censures

The Ethics Law allows for three formal public communications to be issued following a violation finding. They include, in order of increasing severity, admonishments, reprimands, and censures. The standards for each are different and as follows:

1. Admonishment – written expression of disapproval. Available for non-willful violations
2. Reprimand – severe written reproof for the conduct. Available for willful violations where there is no evidence of bad faith, malicious intent, or knowingly or reckless disregard for the law.
3. Censure – formal written condemnation of the conduct. Available for willful violation where there is evidence of bad faith, malicious intent, or knowing or reckless disregard for the law.

You can read examples of cases that involved each here:

Admonishment: *In re Leo Blundo*, Case Nos. 19-

026C/027C https://nvethics.pdi.online/cm/pubdocs/Stipulated%20Agreement/2019/10/28153_In%20re%20Blundo,%20Stipulated%20Agreement%2019-026%2019-027C.pdf

Reprimand: *In re Judie Allan*, Case No. 18-

039C [https://nvethics.pdi.online/cm/pubdocs/Stipulated%20Agreement/2019/5/26679_In%20re%20Allan,%20Commn%20Op.%20No.%2018-039C%20\(2019\).pdf](https://nvethics.pdi.online/cm/pubdocs/Stipulated%20Agreement/2019/5/26679_In%20re%20Allan,%20Commn%20Op.%20No.%2018-039C%20(2019).pdf)

Censure: *In re Smith* Case Nos. 19-

081C/082C/105C [https://nvethics.pdi.online/cm/pubdocs/Stipulated%20Agreement/2020/9/33569_In%20re%20Smith,%20StipAgrmnt%20Nos.19-081,82,105%20\(2020\).pdf](https://nvethics.pdi.online/cm/pubdocs/Stipulated%20Agreement/2020/9/33569_In%20re%20Smith,%20StipAgrmnt%20Nos.19-081,82,105%20(2020).pdf)

Required Training, Apologies, and More

The Commission also has the authority when a violation is found to require the subject to attend and complete ethics training, issue a public apology for the violation, follow additional remedial courses of action, and comply with conditions or limitations on future conduct.



Monetary Penalties

The Commission may impose monetary penalties in certain circumstances. For instance, if the public officer or employee financially benefited from their unethical behavior, the Commission can order a civil penalty for up to twice the amount of financial gain realized. For example, if in violating the ethics law, a public officer directs \$50,000 of public funds into their pocket, the Commission may impose a fine up to \$100,000.

In addition to being able to claw back ill-gotten gains, the Commission may impose civil penalties for each willful violation of the Nevada Ethics Law in amounts not to exceed:

1. \$5,000 for the first offense
2. \$10,000 for each separate act or event that is a second offense
3. \$25,000 for each separate act or event that is a third offense

For a case that involves multiple allegations of events or acts that violate the Ethics Law, the monetary penalty can be combined. For example, in the *In re Ralenkotter* Case Nos. 18-061C/139C case, the total penalty imposed was \$24,406. [https://nvethics.pdi.online/cm/pubdocs/Stipulated%20Agreement/2020/9/33608_In%20re%20Ralenkotter,%20StipAgr,%20No.28-061,%20139%20\(2020\).pdf](https://nvethics.pdi.online/cm/pubdocs/Stipulated%20Agreement/2020/9/33608_In%20re%20Ralenkotter,%20StipAgr,%20No.28-061,%20139%20(2020).pdf)

Removal From Office

The most severe penalty that the Commission make issue as part of an Ethics case is to refer a public officer for removal from office. If the Subject of the complaint is a Legislator, a referral is made to the appropriate House of the legislature. If the Subject of the complaint is an officer who may only be removed through impeachment, the referral is sent to the Speaker of the Assembly and the Majority Leaders of the Senate. If the Subject is a public officer other than a Legislator or impeachable officer, the Commission may file a complaint in the appropriate court for the removal of the officer.

As an example of such a referral, see the case of former State Controller Kathy Augustine, *In re Augustine*, Case No. 04-

47: https://nvethics.pdi.online/cm/pubdocs/Opinions/2004/StipulatedAgreement_04-47C.pdf

Deferral Agreements

The Commission is empowered to resolve cases in numerous ways including and not limited to stipulations, consent orders, and deferral agreements. Deferral agreements allow the Commission and the Subject of an Ethics Complaint to agree to terms prior to a finding a violation. These negotiated agreements can include some of the penalties mentioned in this article as well as required training for the subject, a commitment to changes in practices or policies back at the home agency, and other acceptable conditions or limitations agreed upon by the parties.

Summary

As you can see, the Commission's corrective action options have varying severity and consequence to appropriately address ethics violations by public officers and employees. These include everything from private or public communications like letters of instruction or reprimands to monetary penalties and referrals for removal from office. The best way to avoid a penalty is to avoid an ethics violation in the first place. Have additional questions about the Commission's remedies and penalties? Feel free to ask in the comments below.

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