

ETHICS BASIC TRAINING

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TOPICS

- * Public policy
- * Jurisdiction
- * Gifts
- * Contracts
- * Misuse of Office
- * Honoraria
- * Voting
- * Campaign Contributions
- * Forms/Reports Due
- * Extortion
- * Bribery
- * Federal Hatch Act

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- * The term of office of a Legislator begins on the day after the General Election.

(Nevada Constitution, Article 4, sections 3 & 4)

PUBLIC POLICY

(NRS 281A.020)

- * A public office is a public trust and shall be held for the sole benefit of the people.
- * 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.
- * Recognizes that Legislators serve as “citizen Legislators”:
 - who have other occupations and business interests;
 - who are expected to have particular philosophies and perspectives that are necessarily influenced by the life experiences of the Legislator, including, without limitation, professional, family and business experiences; and
 - who are expected to contribute those philosophies and perspectives to the debate over issues with which the Legislature is confronted.

JURISDICTION OVER LEGISLATORS' ETHICAL CONDUCT

- * House: Actions taken within the sphere of legitimate legislative activity (e.g., disclosure, voting and abstention)
- * Commission on Ethics: Conduct that falls outside the sphere of legitimate legislative activity (e.g., misuse of office)

GIFTS

(NRS 281A.400)

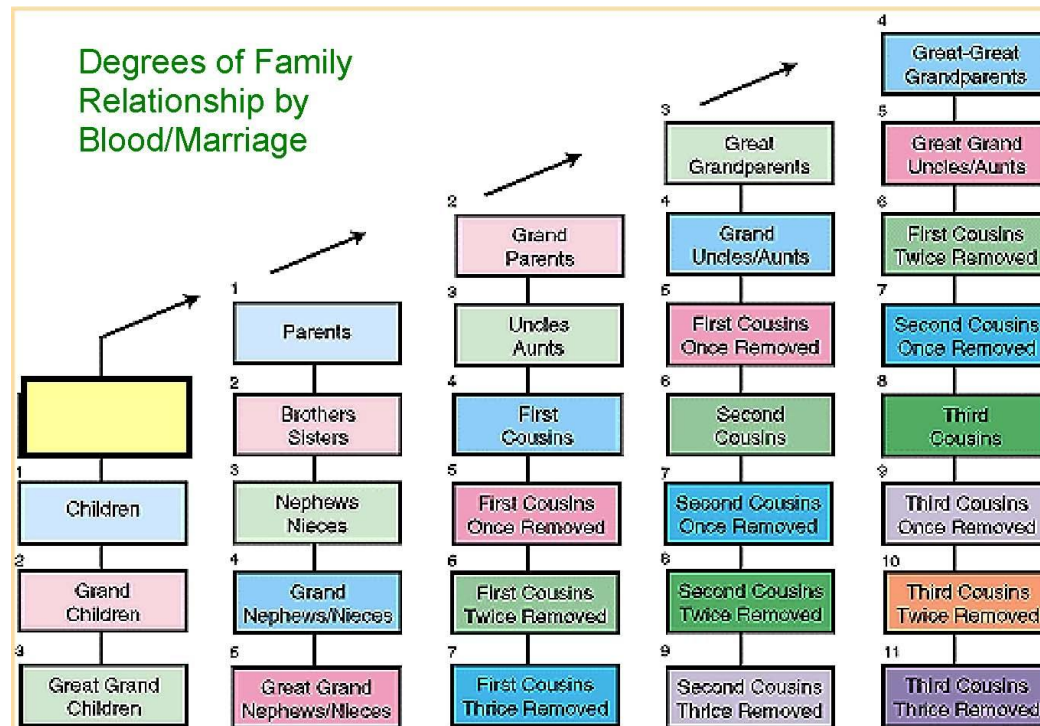
- * Prohibits a public officer or employee from seeking or accepting “any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in the public officer’s or employee’s position to depart from the faithful and impartial discharge” of his or her public duties.
- * Penalty: civil penalties for willful violations

GIFTS

Financial Disclosure Statement (NRS 281A.620)

- * List of gifts in excess of an aggregate value of \$200 from the same donor in the preceding calendar year
- * Exceptions:
 - Ceremonial gifts (birthday, wedding, anniversary, holiday, etc.) from a donor who does not have a substantial interest in the legislative, administrative or political action of the public officer
 - Gifts from relatives within the third degree of consanguinity or affinity

CONSANGUINITY/AFFINITY CHART



GIFTS

Nevada Lobbying Disclosure Act (NRS Ch. 218H)

- * Prohibits a lobbyist from giving a Legislator or his or her staff or immediate family gifts that exceed \$100 in value in the aggregate in any calendar year.
- * Prohibits a Legislator or his or her staff or immediate family from soliciting anything of value from a registered lobbyist or accepting any gift that exceeds \$100 in aggregate value in any calendar year.
- * “Gift” includes money, services or anything of value unless consideration of equal or greater value is received. Does not include:
 - a political contribution of money or services;
 - a commercially reasonable loan made in the ordinary course of business ;
 - the cost of entertainment, including the cost of food or beverages; or
 - anything of value received from a member of the recipient’s immediate family or a relative of the recipient or his or her spouse within the third degree of consanguinity or from the spouse of any such relative.
- * Penalty: misdemeanor

GIFTS

Conflicts of Interest (Rule No. 23)

- * Acceptance of a gift by a Legislator or a member of the Legislator's family must be considered by the Legislator in determining whether the Legislator has a conflict of interest with respect to voting in a subcommittee, committee or during a floor session.
- * If the gift causes a conflict with respect to a specific vote, the gift will need to be disclosed to the body in which the vote is being taken and the Legislator may need to abstain from voting.

CONTRACTS

Code of Ethical Standards (NRS 281A.400)

- * Prohibits a public officer or employee from participating “as an agent of government in the negotiation or execution of a contract between the government and any business entity in which the public officer or employee has a significant pecuniary interest.”

CONTRACTS

Certain State Contracts (NRS 281A.970)

- * With certain exceptions, it is unlawful for a Legislator to:
 - Become a named contractor or named subcontractor under any contract or order for supplies or any other kind of contract paid for in whole or in part by money appropriated by the Legislature of which the Legislator is a member for the State or any of its departments, or the Legislature or either of its Houses, or to be interested, directly or indirectly, as principal, in any kind of contract so paid.
 - Be interested in any contract made by the Legislature of which that Legislator is a member, or be a purchaser or interested in any purchase or sale made by the Legislature of which that Legislator is a member.
- * Exceptions: sole source, public employees, etc.
- * Penalty: gross misdemeanor

CONTRACTS

Other Governmental Contracts (NRS 281A.430)

- * With certain exceptions, a public officer “shall not bid on or enter into a contract between a governmental agency and any business entity in which the public officer or employee has a significant pecuniary interest.”
- * Exceptions
 - Sole source – 4 requirements
 - Faculty members and employees of the Nevada System of Higher Education and members of regulatory bodies in certain circumstances
- * Penalty: civil penalties; recovery of fee, compensation or benefit from contract

MISUSE OF OFFICE

(NRS 281A.400)

- * Unwarranted privileges
- * Private compensation for performing public duties
- * Private use of confidential information
- * Suppressing information for pecuniary interests
- * Misuse of government property and resources:
 - Limited use for personal purposes is authorized if:
 - (1) the use does not interfere with the performance of public duties;
 - (2) The cost or value related to the use is nominal; AND
 - (3) The use does not create the appearance of impropriety.
 - Prohibits a Legislator from requesting or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity except:
 - (1) Where reasonable necessary to permit the Legislator to perform official duties; or
 - (2) Where such service has been established as a legislative policy.
- * Improper influence over subordinates
- * Use of position for self-dealing

HONORARIA (NRS 281A.510)

- * Prohibition against a public officer or employee accepting or receiving honoraria
- * Definition: the payment of money or anything of value for an appearance or speech by the public officer or public employee in the officer's or employee's capacity as a public officer or public employee
- * Exclusions:
 - Payment of honorarium on behalf of the public officer or employee to a charitable organization from which the public officer or employee does not derive any financial benefit
 - Payment of actual or necessary costs incurred for transportation, meals and lodging while away from home, including costs for his or her spouse and staff
 - Compensation otherwise earned in the normal course of the public office or employment
 - A fee for a speech that is related to the public officer's or employee's profession or occupation outside his or her public office or employment under certain circumstance
 - A fee for a speech delivered to an organization of legislatures, legislators or other elected officials
- * Penalties: civil penalties; forfeiture of amount of honorarium

VOTING

Determination of Conflict of Interest (Rule No. 23)

* Determine whether the independence of judgment of a reasonable person in your position would be materially affected by:

- Your acceptance of a gift or loan
- Your private economic interest
- Your commitment to a member of your household or immediate family.

“Household” means a person who lives in your home in any relationship other than a renter.

“Immediate family” means a person who is related to the Legislator by blood, adoption or marriage within the first degree of consanguinity or affinity (i.e., your spouse and the parents and children (including adopted children and stepchildren) of you and your spouse).

VOTING

Determination of Conflict of Interest (Rule No. 23)

- * Presumption: Presumed that the independence of judgment of a reasonable person in the Legislator's situation would not be materially affected by his or her private economic interest or commitment to a member of his or her household or immediate family where the resulting benefit or detriment accruing to the Legislator or persons to whom he or she has such a commitment is not greater than that accruing to any other member of the general business, profession, occupation or group that is affected by the matter.
- * To apply the “materially affected” standard, you should determine whether you believe that the vote on the legislation being considered would have a direct and distinctive personal impact on you or a member of your household or immediate family.
- * Rule No. 23 does not prohibit a Legislator from requesting or introducing a legislative measure on which the Legislator has a conflict of interest.

VOTING

Disclosure of Conflicts of Interest (Rule No. 23)

- * If you determine that you have a conflict of interest, you are required to make a general disclosure of the conflict of interest verbally on the record in a meeting of a committee or on the floor of the House, as applicable.
- * You are not required to make the general disclosure at length again regarding the same conflict of interest when the matter arises on subsequent occasions during the same legislative session; instead, make a brief reference on the record to the previous disclosure.

VOTING

Abstention (Rule No. 23)

- * Determine whether:

- The conflict impedes your independence of judgment; and

- Your interest is greater than the interests of an entire class of persons similarly situated.

CAMPAIGN CONTRIBUTIONS

- * Blackout period – starts January 5, 2013
- * “Personal use” – “but for” test

FORMS/REPORTS

(Due January 15, 2013)

- * Financial Disclosure Statement (required of all Legislators)
- * Campaign Contributions and Expenses Report (required of all Legislators)
- * Legal Defense Fund Report (required only if one has been created on a Legislator's behalf)
- * Acknowledgment of Statutory Ethical Standards (required of all Legislators except holdover Senators)
- * Disclosure of Representation or Counseling of Private Person Before State Agency (required only if applicable)

EXTORTION

(Federal Hobbs Act)

- * Definition: “the obtaining of property from another, with his consent . . . under color of official right”
- * Quid pro quo – money for vote
- * Penalty: fine or imprisonment

BRIBERY

(NRS 218A.965)

- * Prohibits a Legislator from asking for or receiving “directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that the Legislator's official vote, opinion, judgment or action will be influenced thereby, or will be given in any particular manner, or upon any particular side of any question or matter upon which the Legislator may be required to act in the Legislator's official capacity.”
- * Penalty: Category C felony (1-5 years in state prison and/or maximum \$10,000 fine)

FEDERAL HATCH ACT

- * Prohibits certain public employees from engaging in certain political activity (e.g., being a candidate in a partisan election)
- * Covered employees:
 - Employees of the executive branch of a state or local government whose principal employment is in connection with an activity that is financed by federal loans or grants; exception for employees of school district and Nevada System of Higher Education
 - Employees of private nonprofit organizations that receive federal funding for Head Start or Community Service Block Grant programs
- * Penalty: dismissal from employment or loss of federal funds by employer

QUESTIONS

Contact the Legal Division
of the Legislative Counsel Bureau
(775) 684-6830