

LCB File No. R111-03

**PROPOSED REGULATION OF THE
COMMISSION ON ETHICS**

New language is *italicized in blue*
Deleted language is ~~bracketed and redlined~~

CHAPTER 281 - PUBLIC OFFICERS AND EMPLOYEES

COMMISSION ON ETHICS

General Provisions

NAC 281.005 Definitions. (NRS 281.471) As used in NAC 281.005 to 281.242, inclusive, unless the context otherwise requires, the words and terms defined in NAC 281.011 to 281.021, inclusive, have the meanings ascribed to them in those sections.

Staff recommendations for amendments: None

NAC 281.007 “Advisory opinion” defined. (NRS 281.471) “Advisory opinion” means ~~fa~~ ~~confidential~~ *an* opinion rendered by the commission upon the request of a public officer or public employee pursuant to subsection 1 of NRS 281.511.

Staff recommendations for amendments: Delete the word ‘confidential’ from this definition. A public officer or public employee who requests an advisory opinion from the Commission may waive confidentiality of the opinion.

~~[NAC 281.009 “Candidate” defined. (NRS 281.471) “Candidate” has the meaning ascribed to it in NRS 281.4323.]~~

Staff recommendations for amendments: Delete this section as ‘candidate’ is defined in statute. (NRS 281.4323)

~~[NAC 281.011 “Chairman” defined. (NRS 281.471) “Chairman” means the chairman of the commission.]~~

Staff recommendations for amendments: Delete this section as the term is self-explanatory.

~~[NAC 281.015 “Commission” defined. (NRS 281.471) “Commission” means the commission on ethics.]~~

Staff recommendations for amendments: Delete this section as ‘commission’ is defined in statute. (NRS 281.4325)

NAC 281.0151 “Commission counsel” defined. (NRS 281.471) “Commission counsel” means the legal counsel to the commission appointed by the commission pursuant to NRS 281.464.

Staff recommendations for amendments: None

~~[NAC 281.0152 “Compensation” defined. (NRS 281.471) “Compensation” has the meaning ascribed to it in NRS 281.4327.]~~

Staff recommendations for amendments: Delete this section as ‘compensation’ is defined in statute. (NRS 281.4327)

NAC 281.0153 “Complaint” defined. (NRS 281.471) “Complaint” means a request for an opinion submitted ~~[by a third party]~~ to the commission pursuant to subsection 2 of NRS 281.511, or pursuant to NRS 294A.345 or 294A.346.

Staff recommendations for amendments: Complaints may submitted by a specialized or local ethics committee, a person, or by the Commission on its own motion.

~~[NAC 281.0154 “Complaint concerning campaign practices” defined. (NRS 281.471) “Complaint concerning campaign practices” means a complaint or request for an opinion concerning campaign practices filed with the commission pursuant to NRS 294A.345 or 294A.346.]~~

Staff recommendations for amendments: Delete this section as a ‘complaint concerning campaign practices’ is already included in the definition of ‘complaint’ in NAC 281.0153.

~~[NAC 281.0155 “Decision” defined. (NRS 281.471) “Decision” has the meaning ascribed to it in NRS 281.433.]~~

Staff recommendations for amendments: Delete this section as ‘decision’ is defined in statute. (NRS 281.433)

~~[NAC 281.0156 “Ethics complaint” defined. (NRS 281.471) “Ethics complaint” means a request for an opinion submitted by a third party to the commission pursuant to subsection 2 of NRS 281.511.]~~

Staff recommendations for amendments: Delete this section as ‘ethics complaint’ is already included in the definition of ‘complaint’ in NAC 281.0153.

~~[NAC 281.0157 “Executive director” defined. (NRS 281.471) “Executive director” has the meaning ascribed to it in NRS 281.4333.]~~

Staff recommendations for amendments: Delete this section as ‘executive director’ is defined in statute. (NRS 281.433, 281.4635, 281.463)

~~[NAC 281.016 “Hearing” defined. (NRS 281.471) “Hearing” means a hearing on the merits of an ethics complaint or a complaint concerning campaign practices held by the commission.]~~

Staff recommendations for amendments: Delete this section as the term ‘hearing’ is self-explanatory.

NAC 281.0162 “Information related to the complaint” defined. (NRS 281.471) “Information related to the complaint” includes, without limitation:

1. An ethics complaint;
2. All investigative materials and information related to the ethics complaint, including, without limitation, any investigation report;
3. Each document in the possession of the commission or its staff related to the ethics complaint; and
4. The record of the proceedings of a panel related to the ethics complaint.

The term does not include any confidential information unless the confidentiality for the information has been expressly or impliedly waived.

Staff recommendations for amendments: None

NAC 281.0163 “Investigate” defined. (NRS 281.471) “Investigate” means to examine and inquire into a matter and to marshal evidence according to those methods and employing those services that the executive director determines are reasonable and necessary under the relevant facts and circumstances presented by the matter.

Staff recommendations for amendments: None

~~[NAC 281.0166 “Nevada Ethics in Government Law” defined. (NRS 281.471) “Nevada Ethics in Government Law” means NRS 281.411 to 281.581, inclusive.]~~

Staff recommendations for amendments: Delete this section as ‘Nevada Ethics in Government Law’ is defined in statute. (NRS 281.411)

NAC 281.0167 “Opinion” defined. (NRS 281.471) “Opinion” means a quasi-judicial decision rendered by the commission pursuant to NRS 281.477 or 281.511.

Staff recommendations for amendments: None

~~[NAC 281.0169 “Panel” defined. (NRS 281.471) “Panel” has the meaning ascribed to it in NRS 281.4357.]~~

Staff recommendations for amendments: Delete this section as ‘panel’ is defined in statute.

NAC 281.017 “Party” defined. (NRS 281.471) “Party” means the subject of the request and any other person who the commission determines will be treated as a party in the matter before the commission. The term does not include the requester of an ethics complaint unless the commission, in its discretion, determines otherwise.

Staff recommendations for amendments: None

~~[NAC 281.018 “Person” defined. (NRS 281.471) “Person” means a natural person, a business entity or a social organization.]~~

Staff recommendations for amendments: Delete this section as ‘person’ is defined in statute. (NRS 0.039)

NAC 281.0182 “Proceedings of a panel” defined. (NRS 281.471) “Proceedings of a panel” means a review by a panel of the recommendation of the executive director concerning an ethics complaint as to whether just and sufficient cause exists for the commission to render an opinion pursuant to subsection 2 of NRS 281.511. For the purposes of NAC 281.005 to 281.242, inclusive, the proceedings of a panel do not constitute a hearing and seldom require the testimony of witnesses.

Staff recommendations for amendments: None

NAC 281.0184 “Proper form” defined. (NRS 281.471) “Proper form” means a form, available from the office or website of the commission, which is created by the commission for the intended purpose of the form and is submitted to the commission with all required information clearly and legibly printed or typed on the form.

Staff recommendations for amendments: None

~~[NAC 281.0186 “Public employee” defined. (NRS 281.471) “Public employee” has the meaning ascribed to it in NRS 281.436.]~~

Staff recommendations for amendments: Delete this section as ‘public employee’ is defined in statute. (NRS 281.436)

~~[NAC 281.0187 “Public officer” defined. (NRS 281.471) “Public officer” includes:
—1. A public officer, as that term is defined in NRS 281.005; and
—2. A public officer, as that term is defined in NRS 281.4365.]~~

Staff recommendations for amendments: Delete this section as ‘public officer’ is defined in statute. (NRS. 281.4365)

~~[NAC 281.0189 “Record of the proceedings of a panel” defined. (NRS 281.471) “Record of the proceedings of a panel” means written documentation memorializing the deliberations of a panel during its proceedings.]~~

Staff recommendations for amendments: Delete this section as the term ‘record’ is self-explanatory.

NAC 281.0192 “Requester” defined. (NRS 281.471) “Requester” means a person or group of persons who file with the commission a complaint concerning campaign practices pursuant to NRS 281.477 or an ethics complaint pursuant to subsection 2 of NRS 281.511.

Staff recommendations for amendments: None

~~[NAC 281.0194 “Statement of acknowledgment” defined. (NRS 281.471) “Statement of acknowledgment” means the form required to be filed with the commission by a public officer pursuant to NRS 281.552 which acknowledges that the public officer has received, has read and understands the Nevada Ethics in Government Law.]~~

Staff recommendations for amendments: Delete this section as the term is self-explanatory.

~~[NAC 281.0196 “Statement of disclosure of agency representation” defined. (NRS 281.471) “Statement of disclosure of agency representation” means the statement of disclosure required to be filed with the commission pursuant to NRS 281.491.]~~

Staff recommendations for amendments: Delete this section as the term is self-explanatory.

~~[NAC 281.0197 “Statement of financial disclosure” defined. (NRS 281.471) “Statement of financial disclosure” means the form which each candidate for public or judicial office, and each public or judicial officer, who would be or is entitled to receive compensation for serving in office must file with the commission pursuant to NRS 281.561.]~~

Staff recommendations for amendments: Delete this section as the term is self-explanatory.

NAC 281.0198 “Subject” defined. (NRS 281.471) “Subject” means:

1. A public officer or public employee against whom an ethics complaint has been filed pursuant to subsection 2 of NRS 281.511; or

2. A candidate against whom a complaint concerning campaign practices has been filed pursuant to NRS 294A.345 or 294A.346.

Staff recommendations for amendments: None

~~[NAC 281.021 “Vice chairman” defined. (NRS 281.471) “Vice chairman” means the vice chairman of the commission.]~~

Staff recommendations for amendments: Delete this section as the term is self-explanatory.

NAC 281.022 “Entitled to receive compensation” interpreted. (NRS 281.471) As used in NRS 281.561, the commission will interpret “entitled to receive compensation” to mean entitled to receive any remuneration, not including any reimbursement for lodging, meals, travel or any combination thereof, which a candidate for a public ~~[or judicial]~~ office, or a public ~~[or judicial]~~ officer, has a right to receive for serving in the office in question.

Staff recommendations for amendments: Delete the term ‘judicial’ as the Commission no longer has jurisdiction over judicial candidates or officers.

~~[NAC 281.023 “Vexatious purpose or action” interpreted. (NRS 281.471) For the purposes of the Nevada Ethics in Government Law, the commission will consider a vexatious purpose or action to include, without limitation, any purpose or action which is intended to mislead or deceive or which is misleading or deceptive.]~~

Staff recommendations for amendments: Delete the definition pursuant to the provisions of SB 147, 2003 Nevada Legislature.

NAC 281.024 Severability. (NRS 281.471)

1. The provisions of NAC 281.005 to 281.242, inclusive, are hereby declared to be severable.
2. If any provision of NAC 281.005 to 281.242, inclusive, is held invalid, or if the application of any such provision to any person, thing or circumstance is held invalid, such invalidity does not affect any other provision of NAC 281.005 to 281.242, inclusive, that can be given effect without the invalid provision or application.

Staff recommendations for amendments: None

Administration

NAC 281.0245 Election of chairman. (NRS 281.471) The commission will elect a chairman *and a vice chairman* from among its members at its first meeting of each new fiscal year.

Staff recommendations for amendments: Technical amendment.

NAC 281.0246 Duties of chairman; delegation of assignments. (NRS 281.471) The chairman:

1. Shall preside over the meetings and hearings of the commission.
2. May delegate assignments of work to the staff of the commission as necessary and appropriate.

Staff recommendations for amendments: None

~~[NAC 281.025 Election of vice chairman. (NRS 281.471) The commission will elect a vice chairman from among its members at its first meeting each new fiscal year.]~~

Staff recommendations for amendments: Added into NAC 281.0245.

NAC 281.027 Duties of vice chairman. (NRS 281.471) The vice chairman shall perform the duties of the chairman during the absence of the chairman.

Staff recommendations for amendments: None

NAC 281.029 Vacancy in office of chairman. (NRS 281.471) If the office of chairman becomes vacant, the vice chairman shall serve as the acting chairman until the next meeting of the commission, at which time the commission will elect a successor to fill the unexpired term of the chairman.

Staff recommendations for amendments: None

NAC 281.035 Vacancy in office of vice chairman. (NRS 281.471) If the office of the vice chairman becomes vacant, a successor will be elected by the commission at its next meeting to fill the unexpired term of the vice chairman.

Staff recommendations for amendments: None

NAC 281.038 Appointment of temporary acting chairman or vice chairman in certain circumstances. (NRS 281.471) If both the chairman and vice chairman are disqualified or recused from participating in a matter, the commission may appoint a temporary acting chairman or vice chairman, or both, for the matter.

Staff recommendations for amendments: None

NAC 281.048 Executive director to schedule and provide notice of meetings, hearings and proceedings. (NRS 281.471) The executive director shall, as necessary and appropriate, schedule, make arrangements for and provide notice of meetings and hearings of the commission and proceedings of a panel.

Staff recommendations for amendments: None

NAC 281.053 Duties of executive director. (NRS 281.471) In addition to any other duties of the executive director required by the Nevada Ethics in Government Law or NAC 281.005 to 281.242, inclusive, or as otherwise imposed by the commission, the executive director shall:

1. Pursuant to paragraph (e) of subsection 1 of NRS 281.4635, create a curriculum for training and conduct training for public officers and employers of public employees on the requirements of NAC 281.005 to 281.242, inclusive, chapter 281 of NRS and the rules and previous opinions of the commission.

2. At the first meeting of the commission of each new fiscal year, report to the commission on the state of the affairs of the commission for the prior fiscal year and on the goals for the commission for the new fiscal year.

Staff recommendations for amendments: None

NAC 281.056 Commission counsel to prepare written opinions. (NRS 281.471) In addition to any other duties imposed on him by the commission, the commission counsel shall, in a timely manner, prepare a written opinion for each complaint and advisory matter heard by the commission.

Staff recommendations for amendments: None

NAC 281.085 Meeting of commission requires quorum; majority vote sufficient for all business. (NRS 281.471)

1. A meeting of the commission will not proceed without a quorum present. Except as otherwise provided in NAC 281.005 to 281.242, inclusive, a majority vote of the members present and eligible to vote at a meeting is sufficient for all business of the commission.

2. As used in this section, “quorum” means a majority of the appointed and sworn members of the commission.

Staff recommendations for amendments: None

General Practice and Procedure Governing Requests for Opinions

NAC 281.093 Provisions governing practice and procedure: Applicability; construction; deviation. (NRS 281.471)

1. Except as otherwise provided in subsection 3, the provisions of NAC 281.093 to 281.1127, inclusive, govern all practice and procedure before the commission.

2. The commission will liberally construe the provisions of *NAC* ~~[NRS]~~ 281.093 to 281.1127, inclusive, to determine all matters before the commission in a just, speedy and economical manner.

3. ~~[For good cause shown, the]~~ *The* commission may deviate from the provisions of NAC 281.093 to 281.1127, inclusive, if the deviation will not materially affect the interests of the party who is the subject of the request.

Staff recommendations for amendments: Paragraph two incorrectly cites NRS when it should cite NAC. The term ‘good cause’ is deleted for purposes of consistency within this section.

NAC 281.097 Requirements for filing written communications and documents. (NRS 281.471) Each written communication or document filed with the commission must be clearly and legibly typed or printed on 8 1/2 by 11 inch paper, on one side only, and addressed to the office of the commission. *Except as otherwise provided in the ‘new section 1’ of NAC 281 contained herein, the* ~~[The]~~ commission will consider a written communication or document to have been filed with the commission on the date on which the communication or document is received at the office of the commission.

Staff recommendations for amendments: To make this section consistent with the provisions of new section 1, regarding determination of jurisdiction.

NAC 281.101 Consolidation of matters. (NRS 281.471) The commission may consolidate, in whole or in part, two or more matters into one hearing if the commission determines that the matters share common facts and issues.

Staff recommendations for amendments: None

NAC 281.103 Motions. (NRS 281.471)

1. ~~[All motions]~~ *No motion* related to an ethics complaint ~~[must]~~ *may* be made *until after a panel has determined that there is just and sufficient cause for the Commission to hear and render an opinion in the matter and* before the hearing on the matter unless the cause for the motion arises at and during the hearing on the matter.

2. A motion that is made before the hearing on the matter must be in writing and must be filed at the office of the commission not later than 12 days before the date of the hearing.

3. A written motion must contain:

(a) A brief statement of the facts and the points and authorities upon which the motion is based;

(b) A description of the relief sought; and

(c) A certificate of mailing which indicates that the motion was served upon all other parties to the matter.

4. The commission, in its discretion, may allow a party making a motion to argue the motion before the commission.

5. The commission, in its discretion, may allow a party or any other person to respond to a motion.

6. The chairman, in his discretion, may rule upon a motion on a matter at any time before, during or after the hearing by the commission on the matter.

7. A motion for rehearing or the reconsideration of an opinion on a matter issued by the commission must be filed with the commission not later than 15 days after the date on which the final opinion of the commission is served.

Staff recommendations for amendments: If a panel proceeding results in dismissal of a complaint for lack of just and sufficient cause, motions are moot.

NAC 281.106 Discovery. (NRS 281.471) The provisions for civil discovery set forth in N.R.C.P. 26 to 37, inclusive, do not apply to matters before the commission. Upon the request of a party, for good cause shown, the chairman may allow discovery *on a matter before the commission* to the extent which he deems appropriate.

Staff recommendations for amendments: Clarification.

~~[NAC 281.108 Continuances; notice. (NRS 281.471) Upon the request of the subject of an ethics complaint, the executive director may continue a hearing before the commission concerning the ethics complaint for a period not to exceed 30 days. Upon its own motion, or for good cause shown upon the motion of the subject of an ethics complaint, the commission may continue the hearing in a matter for a period not to exceed 30 days. A notice of continuance must set forth the reason for the continuance and the new hearing date.]~~

Staff recommendations for amendments: Deleted to conform with the provisions of SB 147, 2003 Nevada Legislature.

NAC 281.109 Stipulations. (NRS 281.471)

1. A party in a matter before the commission may stipulate to any fact in issue. The stipulation must be in writing or made by oral statement on the record.

2. At its discretion and with the agreement of the subject of an ethics complaint, the commission may, in lieu of holding a hearing, resolve a matter before the commission with a stipulated agreement. Such a stipulated agreement must be in writing or made by oral statement on the record.

Staff recommendations for amendments: None

NAC 281.112 Oaths. (NRS 281.471) The chairman and vice chairman, including an acting chairman and acting vice chairman, if any, may administer oaths. ~~[In their absence, a]~~ A court reporter present at meetings and hearings may administer oaths.

Staff recommendations for amendments: Technical amendment.

NAC 281.1125 Subpoenas. (NRS 281.471)

1. A subject of an ethics complaint may request that a subpoena be issued by filing a written request for a subpoena at the office of the commission. A subject of an ethics complaint who requests the issuance and service of a subpoena pursuant to this section shall pay all expenses related to the issuance and service of the subpoena.

2. Service of a subpoena issued pursuant to this section or NRS 281.475 must be made in the manner provided by Rule 45(c) of the Nevada Rules of Civil Procedure.

Staff recommendations for amendments: None

NAC 281.1127 Testimony must be in person; exception. (NRS 281.471) A witness before the commission shall testify in person, except that the commission may ~~[, for good cause shown,]~~ *in its discretion* allow the witness to testify by telephone or videoconference.

Staff recommendations for amendments: Technical amendment.

NAC 281.1129 Conduct of persons at meetings and hearings; consequences of improper conduct. (NRS 281.471)

1. All persons appearing before, or attending a meeting or hearing of, the commission shall conduct themselves in a polite, respectful and orderly manner. Smoking is not allowed at any meeting or hearing of the commission.

2. The commission will require a person who does not comply with subsection 1 to leave the room where the meeting or hearing is being held, and the person will be barred from attending the remainder of the meeting or hearing.

Staff recommendations for amendments: None

Advisory Opinions

NAC 281.1135 Proper form required for requests. (NRS 281.471) The commission will only consider those requests by a public officer or public employee for an advisory opinion which are submitted to the commission in proper form.

Staff recommendations for amendments: None

NAC 281.1145 Withdrawal of request; notice. (NRS 281.471) At any time before the commission renders an advisory opinion pursuant to NRS 281.511, the public officer or public employee who filed the request for the advisory opinion may withdraw his request ~~[by filing a written notice of withdrawal with the commission. The notice of withdrawal may be in the form of a letter to the commission].~~

Staff recommendations for amendments: Technical amendment.

NAC 281.1155 Determination of jurisdiction; notice; request for review of determination. (NRS 281.471) The executive director shall confer with the commission counsel to determine ~~[any questions of]~~ jurisdiction concerning requests for an advisory opinion. If the commission counsel determines that the commission lacks jurisdiction in the matter, the executive director shall so notify the requesting public officer or public employee ~~[in writing, by certified mail, return receipt requested].~~ A public officer or public employee who receives a notice pursuant to this section may request the commission to review the determination regarding jurisdiction. Such a request must be submitted to the office of the commission in writing not later than 10 days after the date on which the public officer or public employee *was notified* ~~[received the notice].~~

Staff recommendations for amendments: Technical amendment.

~~[NAC 281.1165 Confidentiality; exceptions. (NRS 281.471) Unless a public officer or public employee who requests an advisory opinion waives the confidentiality relating to his request expressly or by conduct described in subsection 5 of NRS 281.511, his request for the advisory opinion, the advisory opinion issued by the commission pursuant to that request and any motion, determination, evidence or record of a hearing relating to that request are confidential.]~~

Staff recommendations for amendments: Delete this section. Presently in NRS 281.511(5).

NAC 281.117 Distribution of opinions; fee. (NRS 281.471)

1. A copy of a written opinion published by the commission on a matter will be served ~~[, by certified mail,]~~ upon each party to that matter.

2. A copy of each opinion published by the commission will be made available for downloading from the website of the commission *and will be delivered to any other person or organization upon request.*

~~[3. A copy of each opinion published by the commission will be delivered to:~~

~~—(a) The secretary of state;~~

~~—(b) The state library and each law library and public library located in this state;~~

~~—(c) The Reno Gazette Journal, the Las Vegas Review Journal, the Las Vegas Sun, the Nevada Appeal and, upon request, any other newspaper in this state; and~~

~~—(d) Any other person or organization, upon request and payment of a reasonable fee.]~~

Staff recommendations for amendments: Technical change.

~~[NAC 281.118 Issuance and preparation of opinions. (NRS 281.471)~~

~~—1. If the confidentiality of an advisory opinion rendered by the commission has not been expressly or impliedly waived, the commission will:~~

~~—(a) Provide, within 30 days after the date on which the commission renders the opinion, the confidential written advisory opinion only to the public officer or public employee who requested the advisory opinion; and~~

~~—(b) Issue and publish a written hypothetical opinion abstracted from the confidential advisory opinion within 45 days after the date on which the confidential advisory opinion is provided to the public officer or public employee who requested the advisory opinion.~~

~~—2. The commission counsel shall prepare each written confidential advisory opinion and the abstracted hypothetical advisory opinion issued and published by the commission pursuant to this section.]~~

Staff recommendations for amendments: Delete this section. Presently in NRS 281.4645.

Ethics Complaints

NAC 281.186 Proper form required; withdrawal. (NRS 281.471) The commission will only consider those ethics complaints which are filed in proper form with the executive director at the office of the commission. Once an ethics complaint has been filed with the commission, the requester of the ethics complaint may not withdraw the complaint without the consent of the commission. A request to withdraw an ethics complaint must be in writing and set forth the specific reasons for requesting the withdrawal of the ethics complaint.

Staff recommendations for amendments: None

NEW SECTION 1: *Determination of jurisdiction; notice; request for review of determination. (NRS 281.471) The executive director shall confer with the commission counsel to determine jurisdiction concerning ethics complaints. If the executive director and commission counsel determine that the commission lacks jurisdiction in the matter, the executive director shall so notify the requester. A person who receives a notice pursuant to this section may request a commission panel to review the determination regarding jurisdiction. Such a request must be submitted to the office of the commission in writing not later than 10 days after the date on which the person was notified. Should the panel accept jurisdiction over the matter, the executive director shall investigate and proceed in the matter pursuant to NRS 281.511, and issue his recommendation of just and sufficient cause to the same commission panel.*

Staff recommendations for amendments: Makes ethics complaint process consistent with jurisdiction process for first-party advisory opinions under NAC 281.1155.

~~[NAC 281.187 Commission may initiate complaint on its own motion. (NRS 281.471) The commission may, in a closed session, initiate an ethics complaint against a public officer or public employee on its own motion pursuant to paragraph (c) of subsection 2 of NRS 281.511.]~~

Staff recommendations for amendments: Delete this section. Presently in NRS 281.511(2)(c).

NAC 281.188 Notice to subject: Requirements; response. (NRS 281.471)

1. Once an ethics complaint has been properly filed with the commission by a requester or initiated on the motion of the commission *and it has been determined that the Commission has jurisdiction in the matter*, the executive director shall forthwith notify the public officer or public employee who is the subject of the ethics complaint and provide the public officer or public employee an opportunity to respond to the allegations contained in the ethics complaint. Such a notification must be in writing and sent to the subject of the ethics complaint by certified mail, return receipt requested.

2. A notice of an ethics complaint made pursuant to this section must include:

(a) All information filed by the requester of the ethics complaint or information upon which the commission based its motion, as appropriate;

(b) A copy of the Nevada Ethics in Government Law;

(c) A copy of NAC 281.005 to 281.242, inclusive; and

(d) An outline of the process used by the commission to resolve ethics complaints.

3. The subject of an ethics complaint *may* ~~[must, not later than 10 days after the date on which he received the notice of the ethics complaint,]~~ file a written response with the commission. *Such response must be filed within 10 days of receipt of the notice, unless the subject files with the commission a waiver of statutory timeframes pursuant to NRS 281.511(3). [The executive director may extend the time for an additional 10 days for good cause shown.]*

Staff recommendations for amendments: Amended to conform with the provisions of SB 147, 2003 Nevada Legislature.

NAC 281.189 Executive director may expand investigation in determining written recommendation. (NRS 281.471) The executive director may investigate relevant issues and facts beyond those presented in an ethics complaint in determining his written recommendation of whether just and sufficient cause exists for the commission to render an opinion on the ethics complaint.

Staff recommendations for amendments: None

NAC 281.191 Information confidential until conclusion of proceedings of panel. (NRS 281.471)

1. Except as otherwise provided in NRS 281.511, until the conclusion of the proceedings of a panel to determine whether there is just and sufficient cause for the commission to render an opinion in the matter:

(a) The commission will not confirm or deny whether an ethics complaint has been filed by a requester, or initiated upon the motion of the commission, against a public officer or public employee; and

(b) All information related to an ethics complaint in the possession of the commission and its staff is confidential.

2. Upon the conclusion of the proceedings of the panel on an ethics complaint, ~~the confirmation of the existence of the ethics complaint,~~ the finding of the panel regarding just and sufficient cause and *the case file on the matter* ~~[all information related to the complaint is]~~ *are* open for public review.

Staff recommendations for amendments: Technical amendment.

NAC 281.192 Confidentiality of proceedings of panel. (NRS 281.471) The proceedings of a panel to determine whether just and sufficient cause exists for the commission to render an opinion on an ethics complaint are confidential and closed to all persons except the parties to the complaint and any other person the panel deems necessary to the proceedings.

Staff recommendations for amendments: None

NAC 281.193 Considerations of panel. (NRS 281.471) At its proceedings on an ethics complaint, a panel shall consider:

1. The *results of the executive director's investigation and his* recommendation ~~[of the executive director]~~ regarding just and sufficient cause;

2. The ethics complaint and all related information and material filed with the commission by the requester or submitted on the motion of the commission; and

3. The response, if any, of the public officer or public employee who is the subject of the complaint.

Staff recommendations for amendments: Technical amendment.

NAC 281.194 Basis for finding by panel; unanimous finding required for determination that no just and sufficient cause exists. (NRS 281.471)

1. A finding by a panel as to whether just and sufficient cause exists for the commission to render an opinion on an ethics complaint must be based on credible evidence.

2. A finding by a panel that no just and sufficient cause exists for the commission to render an opinion on an ethics complaint must be unanimous.

3. As used in this section, "credible evidence" means the minimal level of any reliable and competent form of proof provided by witnesses, records, documents, exhibits, concrete objects,

and other such similar means, that supports a reasonable belief by a panel that the commission should hear the matter and render an opinion. The term does not include a newspaper article or other media report if the article or report is offered by itself.

Staff recommendations for amendments: None

NAC 281.195 Record of proceedings of panel. (NRS 281.471) The executive director shall provide and make arrangements for a record to be made of any proceedings of a panel.

Staff recommendations for amendments: None

Complaints Concerning Campaign Practices

NAC 281.202 Proper form and filing required. (NRS 281.471) The commission will consider only those complaints concerning campaign practices which are submitted to the office of the commission in proper form. A complaint concerning campaign practices must be filed with the executive director at the office of the commission and be accompanied by all evidence and argument to be offered by the requester concerning the issues related to the complaint.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000)

Staff recommendations for amendments: None

NAC 281.204 Requirements for notice to subject. (NRS 281.471) Upon receiving a complaint concerning campaign practices, the executive director shall notify the subject of the complaint by the most expedient means possible. If verbal notice is given, written notice must also be provided by facsimile or overnight delivery no later than the next calendar day after the receipt of the complaint. The notice must include the time and place of the hearing on the matter by the commission.

Staff recommendations for amendments: None

Procedures for Hearings

~~[NAC 281.211 Hearing on ethics complaint: Notice to subject. (NRS 281.471) If the commission holds a hearing on an ethics complaint, the executive director shall notify the subject of the hearing of the place and time of the hearing by the commission on the matter.]~~

Staff recommendations for amendments: Delete this section. Presently in NRS 281.511(3).

NAC 281.213 Executive director to provide information to commission. (NRS 281.471) At least 1 week before the date on which the commission is scheduled to hold a hearing on a matter, the executive director shall provide to the commission:

1. A statement of the matter that sets forth the issues to be determined at the hearing;
2. A list of any witnesses and their expected testimony; and
3. Any other information which the executive director deems necessary to assist the commission in hearing the matter.

Staff recommendations for amendments: None

NAC 281.215 Commission to determine order of proceedings. (NRS 281.471) Except as otherwise provided in NRS 281.477 and 281.511, the commission will determine, as it deems

appropriate, the order of proceedings for the hearing and will inform the parties thereof before the hearing commences.

Staff recommendations for amendments: None

NAC 281.217 Testimony: Oath or affirmation required. (NRS 281.471) All testimony received at a hearing before the commission must be given under oath or affirmation.

Staff recommendations for amendments: None

NAC 281.219 Testimony: Generally. (NRS 281.471)

1. Except as otherwise provided in NRS 281.511, a party to a hearing before the commission may, to the extent required by the commission, appear and testify before the commission and participate in the hearing. The subject of the hearing may be represented by counsel, hear the evidence presented to the commission, respond and present evidence and testimony on his own behalf, examine and cross-examine witnesses, and make arguments.

2. The commission will question witnesses at the hearing.

Staff recommendations for amendments: None

Written Opinions

~~[NAC 281.221 Preparation by commission counsel. (NRS 281.471) The commission counsel shall prepare, for the signature of the chairman, a written opinion for each ethics complaint and complaint concerning campaign practices rendered by the commission.]~~

Staff recommendations for amendments: Delete this section. Presently in NRS 281.4645.

NAC 281.223 Requirements. (NRS 281.471)

1. A written opinion of the commission must plainly state:

(a) Each violation alleged against the public officer or public employee who is the subject of the opinion;

(b) The determination of the commission with regard to each allegation; and

(c) The applicable findings of fact and conclusions of law.

2. Each opinion must be numbered, dated and signed by the chairman.

Staff recommendations for amendments: None

Statement of Financial Disclosure ~~[, Statement of Acknowledgment and Statement of Disclosure of Agency Representation]~~

NAC 281.227 Statement of financial disclosure. (NRS 281.471) *Statements* ~~[A candidate for a public and judicial office, and a public or judicial officer, who is entitled to receive compensation for his office must file a statement]~~ of financial disclosure *must be filed* in proper form ~~[with the commission]~~ *pursuant to NAC 281.0184, NRS 281.559, NRS 281.561, NRS 281.571, and NRS 281.574.* The form for a statement of financial disclosure is available at the office, and on the website, of the commission.

Staff recommendations for amendments: Amended to conform with the provisions of SB 147 and AB 529, 2003 Nevada Legislature.

NEW SECTION 2: Requirements for delivery of financial disclosure statement to commission office. (NRS 281.471) Pursuant to NRS 281.559, the commission will consider a financial disclosure statement to have been filed on the date on which the financial disclosure statement is received at the office of the commission if the statement was sent by regular mail, transmitted by facsimile or electronic means, or delivered personally, or on the date that it was mailed if it was sent by certified mail.

Staff recommendations for amendments: Amended to conform with the provisions of Section 19, AB 529, 2003 Nevada Legislature.

~~[NAC 281.229 Statement of acknowledgment. (NRS 281.471) Every public officer shall, pursuant to NRS 281.552, file with the commission a form acknowledging that the public officer has received, read and understands the Nevada Ethics in Government Law. The form for a statement of acknowledgment is available at the office, and on the website, of the commission.]~~

Staff recommendations for amendments: Delete this section. Presently in NRS 281.552.

~~[NAC 281.231 Statement of acknowledgment: Retention. (NRS 281.471) The commission will retain each statement of acknowledgment filed with the commission pursuant to NRS 281.552 for at least 6 years after the date on which the statement was filed.]~~

Staff recommendations for amendments: Delete this section. Presently in NRS 281.552.

~~[NAC 281.233 Statement of disclosure of agency representation. (NRS 281.471) Any legislator or public officer who, during the previous calendar year, has represented or counseled a private person and is required to file with the commission a disclosure of such representation pursuant to subsection 3 of NRS 281.491 shall file the disclosure using the form for such a disclosure that is available at the office, and on the website, of the commission.]~~

Staff recommendations for amendments: Delete this section. Presently in NRS 281.491.

~~[NAC 281.235 Statement of disclosure of agency representation: Retention. (NRS 281.471) The commission will retain all statements of disclosure of agency representation filed with the commission for at least 6 years from the date of filing.]~~

Staff recommendations for amendments: Delete this section. Presently in NRS 281.491.

~~[NAC 281.237 Forms for statements available for public inspection. (NRS 281.471) All forms for statements of financial disclosure, statements of acknowledgment and statements of disclosure of agency representation are available for public inspection at the office of the commission.]~~

Staff recommendations for amendments: Delete this section. Pursuant to provisions of NRS Chapter 239.

Miscellaneous Provisions

~~[NAC 281.240 Maintenance of files. (NRS 281.1195) The commission will maintain the following files:~~

- ~~—1. Files relating to complaints concerning campaign practices filed pursuant to NRS 281.477;~~
- ~~—2. Files relating to complaints and requests for opinions filed pursuant to NRS 281.511;~~
- ~~—3. Statements of financial disclosure filed pursuant to NRS 281.573;~~
- ~~—4. Statement of acknowledgments filed pursuant to NRS 281.552; and~~
- ~~—5. Statement of disclosure of agency representation filed pursuant to NRS 281.491.]~~

Staff recommendations for amendments: Delete this section. Pursuant to provisions of NRS Chapter 239.

NAC 281.242 Obtaining copies of public records or transcripts; payment of costs; waiver of costs. (NRS 281.471)

1. Except as otherwise provided in this section, to obtain copies of public records from the commission, a person must:

(a) File a written request at the office of the commission or appear personally at the office of the commission; and

(b) Before the copies are made, pay the actual cost of the copies or an estimate of the actual cost, as determined by the commission's staff, unless the commission's staff, in its discretion and based upon its experience with the person requesting the copies, allows the person to pay the actual cost of the copies when the copies are provided to the person.

2. Except as otherwise provided in this section, the cost of obtaining copies of public records from the commission is 25 cents for each page of the public record that is copied.

3. Except as otherwise provided in this section, to obtain copies of a transcript concerning a matter that was recorded by the commission, a person must file a written request at the office of the commission ~~for appear personally at the office of the commission and:~~

~~— (a) Pay for copies of the transcript pursuant to the provisions of subsections 1 and 2 if, at the time of the request, a transcript concerning the matter has been prepared by the commission's staff; or~~

~~— (b) Pay for copies of the transcript pursuant to the provisions of NRS 239.053 or, with the approval of the commission, pursuant to]~~ **and make** arrangements ~~[made]~~ directly with the court reporter.

4. A person may not obtain copies of a transcript concerning a matter that was recorded by the commission unless the contents of the proceedings concerning that matter may be disclosed to that person pursuant to the provisions of NRS 281.411 to 281.581, inclusive, and NAC 281.093 to 281.1127, inclusive.

5. A court reporter may not provide to a person copies of a transcript concerning a matter that was recorded by the commission or any other documents unless the court reporter has received written permission from the commission to do so.

6. The commission may waive all or a portion of the cost of obtaining copies of public records ~~for a transcript]~~ if the person requesting the copies files a written request for such a waiver at the office of the commission and the commission determines that:

(a) The copies requested are reasonable in quantity; and

(b) The person requesting the copies is a party to a matter before the commission and does not have the financial ability to pay for all or a portion of the cost of the copies.

Staff recommendations for amendments: Technical amendment.