

**PROPOSED REGULATION OF THE
COMMISSION ON ETHICS**

LCB File No. R186-05

February 7, 2006

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-46, NRS 281.471.

A REGULATION relating to ethics in government; establishing certain procedures and requirements for hearings of the Commission on Ethics concerning requests for opinions to interpret statutory ethical standards that apply to public officers and public employees; requiring the disclosure of certain ex parte communications with members of the Commission; authorizing the disqualification of members of the Commission under certain circumstances; authorizing any person to petition for the adoption, amendment or repeal of regulations of the Commission; establishing additional duties for the Executive Director of the Commission; revising certain requirements concerning written opinions of the Commission concerning statutory ethical standards for public officers and public employees; and providing other matters properly relating thereto.

Section 1. Chapter 281 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

Sec. 2. *“Panel” has the meaning ascribed to it in NRS 281.4357.*

Sec. 3. *“Presiding officer” means a member of the Commission appointed by the Chairman to preside over a hearing.*

Sec. 4. *“Principal office of the Commission” means the office of the Commission designated by the Executive Director pursuant to section 5 of this regulation as the office in which the business of the Commission must be primarily conducted.*

Sec. 5. 1. *The Executive Director shall designate which office of the Commission will serve as the principal office of the Commission.*

2. The business of the Commission must be primarily conducted in the principal office of the Commission, including, without limitation, the submission of any documents and requests for opinions from the Commission.

Sec. 6. *1. If any member of the Commission participates in an ex parte communication, the member must disclose to the Commission that he participated in an ex parte communication.*

2. If a member of the Commission discloses that he participated in an ex parte communication or the Commission otherwise determines that a member of the Commission participated in an ex parte communication, the Commission may require the member to abstain from participating with the Commission in any hearing or determination to be made by the Commission concerning the matter that was the subject of the ex parte communication.

3. As used in this section, “ex parte communication” means any written or oral communication between any person and a member of the Commission which:

(a) Is communicated outside the presence of the entire Commission;

(b) Is not communicated during a formal proceeding of the Commission; and

(c) Includes any comment, response or argument regarding any:

(1) Ongoing investigation by the Commission;

(2) Action that is pending before the Commission;

(3) Prospective or potential action of the Commission;

(4) Matter in which the Commission had involvement that is pending litigation; or

(5) Communication by a member of the Commission that the member declares or claims to be a communication made off of any record or anonymously.

Sec. 7. *A subject may retain legal counsel to represent his interest during:*

1. *Any investigation of an ethics complaint; or*
2. *Any hearing.*

Sec. 8. 1. *The Chairman or presiding officer of a hearing concerning a request for an advisory opinion shall:*

(a) Ascertain whether the subject of the request for an advisory opinion and all persons requested by the subject to testify are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room before the hearing begins.

(b) Ensure that an oath is administered in accordance with NAC 281.112 to the subject and all persons whose testimony will be taken.

2. *The subject of the request for an advisory opinion must be present at the hearing.*

3. *The Chairman or presiding officer shall allow the subject to:*

(a) Present opening arguments;

(b) Present any evidence on behalf of the subject; and

(c) Examine any witnesses on behalf of the subject.

4. *The subject, any witnesses or any counsel retained by the subject may be questioned by any member of the Commission at any time during the proceeding.*

5. *Upon the conclusion of the presentation of evidence by the subject and the examination of any witnesses, the Chairman or presiding officer shall allow the subject to present closing arguments.*

6. *Upon the conclusion of the closing arguments by the subject, the Commission will:*

(a) Deliberate the issues of fact presented at the hearing;

(b) Render an advisory opinion on the matter; and

(c) Submit a copy of the advisory opinion to the subject.

7. The advisory opinion rendered by the Commission shall be binding upon the subject as to his future conduct pursuant to subsection 1 of NRS 281.511.

8. The Commission may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.

9. The request for an advisory opinion and the information presented during the proceedings set forth in this section must be confidential, unless the subject of the advisory opinion acts in a manner set forth in subsection 5 of NRS 281.511 to waive the confidentiality of such information.

Sec. 9. *A final determination issued by a panel pursuant to NRS 281.462 which specifies that just and sufficient cause exists for the Commission to render an opinion pursuant to an ethics complaint must be recorded in writing and include, without limitation:*

- 1. The findings of the panel; and*
- 2. The statutes upon which the panel determined that just and sufficient cause existed for the Commission to render an opinion.*

Sec. 10. *1. Before the Commission holds a hearing concerning an ethics complaint, the Commission must serve the subject with written notice of the hearing at least 30 days before the date on which the hearing is scheduled to commence which includes the date, time and location of the hearing. A written record of the final determination of the panel issued pursuant to section 9 of this regulation may serve as the written notice required pursuant to this subsection if it includes the date, time and location of the hearing.*

2. Notice shall be deemed complete upon delivery personally to the subject or by mailing the notice by certified mail or overnight delivery service to the last known address of the subject.

Sec. 11. *The procedures for obtaining and granting a continuance of a hearing concerning an ethics complaint are as follows:*

1. Except as otherwise provided in subsection 3, the date or time of the hearing may be continued by the Executive Director:

(a) Upon the written petition of the subject;

(b) For good cause shown by the subject or the staff of the Commission; or

(c) By stipulation of the subject of the hearing.

2. A continuance will not be granted unless it is made in good faith, reasonably necessary and is not sought merely for delay or by reason of neglect.

3. If a request for a continuance is received by the Commission within 3 working days before the date of the hearing, the request must be reviewed and ruled upon by the entire Commission as a preliminary matter before the commencement of the hearing.

Sec. 12. *1. The Chairman or presiding officer of a hearing concerning an ethics complaint shall:*

(a) Ascertain whether all persons commanded to appear under subpoena are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room before the hearing begins.

(b) Ensure that an oath is administered in accordance with NAC 281.112 to all persons whose testimony will be taken.

(c) Exclude from the hearing all witnesses scheduled to testify except during the testimony of the witness. The Chairman or presiding officer shall instruct all witnesses who are excluded from the hearing not to discuss the case during the pendency of the proceeding.

(d) Hear any preliminary motions, stipulations or orders and address any administrative details.

(e) Require the Executive Director to present the ethics complaint, the response to the ethics complaint by the subject and the determination of the panel concerning just and sufficient cause for the Commission to render an opinion in the matter.

2. The subject may remain present at the hearing.

3. After the Executive Director has completed the presentation required pursuant to paragraph (e) of subsection 1, the Chairman or presiding officer shall:

(a) Allow the subject to present opening arguments; and

(b) Authorize the Executive Director to present any witnesses or evidence on behalf of the Commission concerning the ethics complaint.

4. The subject may cross examine any witnesses presented by the Commission.

5. Upon the conclusion of the presentation and cross-examination of witnesses and the presentation of evidence by the Executive Director on behalf of the Commission, the Chairman or presiding officer shall request the subject to proceed with the introduction of evidence and calling of witnesses on his behalf.

6. The subject, any witnesses or any counsel retained by the subject may be questioned by any member of the Commission at any time during the proceeding.

7. Upon the conclusion of the presentation of evidence by the subject and the examination of any witnesses, the Chairman or presiding officer shall allow the subject to present closing arguments.

8. *Upon the conclusion of the closing arguments by the subject, the Commission will deliberate the issues of fact presented at the hearing and render an opinion concerning whether the subject has violated a statutory ethical standard.*

9. *Upon a finding of a statutory violation, the Commission will impose any civil penalties or other statutory remedies required pursuant to NRS 281.551.*

10. *The Commission may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.*

Sec. 13. *1. In conducting any investigation, inquiry or hearing concerning an ethics complaint, the Commission and the officers and employees of the Commission are not bound by the technical rules of evidence, and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission. The rules of evidence of courts of this State will be followed generally but may be relaxed at the discretion of the Commission if deviation from the technical rules of evidence will aid in determining the facts.*

2. Any evidence offered at a hearing must be material and relevant to the issues of the hearing.

3. The Commission may exclude inadmissible, incompetent, repetitious or irrelevant evidence or order that the presentation of such evidence be discontinued.

4. A subject may object to the introduction of evidence and shall briefly state the grounds of the objection at the time the evidence is offered.

5. If an objection is made to the admissibility of evidence, the Commission may:

(a) Note the objection and admit the evidence;

(b) Sustain the objection and refuse to admit the evidence; or

(c) Receive the evidence subject to a subsequent ruling by the Commission.

Sec. 14. 1. *Not less than 20 business days before a hearing concerning an ethics complaint, the subject shall provide to the Executive Director a copy of all documents and exhibits that are reasonably available to the subject which the subject reasonably anticipates will be used in support of his position. The subject shall promptly supplement and update any such documents and exhibits.*

2. If the subject fails to provide any document or exhibit required to be provided by the provisions of this section, the Commission may prohibit the subject from presenting the document or exhibit at the hearing.

Sec. 15. *If a subject fails to appear at a hearing concerning an ethics complaint which is scheduled by the Commission and a continuance has not been requested or granted, upon an offer of proof by the Executive Director that the subject was given proper notice and upon a determination by the Commission that proper notice was given, the Commission may proceed to consider the case without the participation of the absent subject and may dispose of the matter on the basis of the evidence before it. If the subject fails to appear at the hearing or fails to reply to the notice provided pursuant to NAC 281.188, the alleged violations specified in the final determination of the panel that just and sufficient cause exists for the Commission to render an opinion may be considered as true.*

Sec. 16. 1. *A subject may submit a motion to disqualify a member of the Commission for good cause from participating in a hearing.*

2. Except as otherwise provided in this subsection, a motion to disqualify a member of the Commission must comply with the procedures concerning motions before the Commission which are set forth in NAC 281.103. A motion to disqualify a member of the Commission

which is submitted pursuant to subsection 1 must be ruled upon by the Commission as a whole.

3. If the Commission approves a motion to disqualify a member of the Commission, the necessary quorum to act upon and the number of votes necessary to act upon a matter before the Commission is reduced as though the member who is disqualified was not a member of the Commission.

Sec. 17. 1. *Any person may submit a written petition to the Commission at the principal office of the Commission to adopt, file, amend or repeal any regulation of the Commission.*

2. A petition submitted pursuant to subsection 1 must include, without limitation:

(a) The name and address of the petitioner;

(b) A clear and concise statement of the regulation to be adopted, filed, amended or repealed, including, without limitation, the text of the proposed language of the regulation to be adopted, filed, amended or repealed;

(c) The reason for the adoption, filing, amendment or repeal of the regulation; and

(d) The statutory authority for the adoption, filing, amendment or repeal of the regulation.

3. The Commission may decline to act upon a petition submitted pursuant to this section if the petition does not contain the information required pursuant to subsection 2.

4. The Commission will:

(a) Review and make a decision concerning the petition at the next scheduled meeting of the Commission in which consideration of the petition is feasible following the receipt of the petition; and

(b) Notify the petitioner in writing of the decision of the Commission concerning the petition within 30 days after the petition is considered by the Commission.

Sec. 18. NAC 281.005 is hereby amended to read as follows:

281.005 As used in NAC 281.005 to 281.242, inclusive, *and sections 2 to 17, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 281.007 to 281.021, inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

Sec. 19. NAC 281.016 is hereby amended to read as follows:

281.016 “Hearing” means a hearing:

1. On the merits of an ethics complaint.
2. ~~On a complaint concerning campaign practices held by the Commission.~~
- ~~3.~~ On an advisory opinion.

Sec. 20. NAC 281.0167 is hereby amended to read as follows:

281.0167 “Opinion” means a quasi-judicial decision rendered by the Commission pursuant to NRS ~~281.477 or~~ 281.511.

Sec. 21. NAC 281.0182 is hereby amended to read as follows:

281.0182 “Proceedings of a panel” means a review by a panel of the recommendation of the Executive Director concerning an ethics complaint as to whether the Commission has jurisdiction over an ethics complaint or 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, *and sections 2 to 17, inclusive, of this regulation*, the proceedings of a panel do not constitute a hearing and seldom require the testimony of witnesses.

Sec. 22. NAC 281.0184 is hereby amended to read as follows:

281.0184 “Proper form” means a form, available from ~~the~~ *an* office or website of the Commission, which is ~~created~~ :

1. *Created* by the Commission for the intended purpose of the form ; and ~~[is submitted]~~
2. *Submitted* to the Commission *at the principal office of the Commission* with all required information clearly and legibly printed or typed on the form.

Sec. 23. NAC 281.0192 is hereby amended to read as follows:

281.0192 “Requester” means a person or group of persons who file with the Commission ~~[a complaint concerning campaign practices pursuant to NRS 294A.345 or 294A.346 or]~~ an ethics complaint pursuant to subsection 2 of NRS 281.511.

Sec. 24. NAC 281.0198 is hereby amended to read as follows:

281.0198 “Subject” means ~~[-~~

~~1. **A]** a public officer or public employee ~~[against]~~ :~~

1. *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.]~~ *Who files a request for an advisory opinion pursuant to subsection 1 of NRS 281.511.*

Sec. 25. NAC 281.022 is hereby amended to read as follows:

281.022 As used in NRS 281.559, the Commission will interpret “entitled to receive annual compensation” to mean entitled to receive any remuneration, not including any reimbursement for lodging, meals, travel or any combination thereof, which a public officer ~~[who is appointed to an office]~~ has a right to receive for serving in the office in question.

Sec. 26. NAC 281.024 is hereby amended to read as follows:

281.024 1. The provisions of NAC 281.005 to 281.242, inclusive, *and sections 2 to 17, inclusive, of this regulation* are hereby declared to be severable.

2. If any provision of NAC 281.005 to 281.242, inclusive, *and sections 2 to 17, inclusive, of this regulation* 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, *and sections 2 to 17, inclusive, of this regulation* that can be given effect without the invalid provision or application.

Sec. 27. NAC 281.053 is hereby amended to read as follows:

281.053 *1.* In addition to any other duties of the Executive Director required by the Nevada Ethics in Government Law *set forth in NRS 281.411 to 281.581, inclusive,* or NAC 281.005 to 281.242, inclusive, *and sections 2 to 17, inclusive, of this regulation,* or as otherwise imposed by the Commission, the Executive Director shall:

~~1.1~~ *(a)* 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, *and sections 2 to 17, inclusive of this regulation,* chapter 281 of NRS and the rules and previous opinions of the Commission.

~~1.2~~ *(b)* 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.

(c) Serve as the contact person for the Commission concerning any questions regarding, or requests for, public information or any media relations of the Commission in accordance with the policy of the Commission concerning public information which was adopted by the Commission on August 18, 2004, and any subsequent amendment to the policy.

(d) As necessary and appropriate, schedule, make any arrangements for and provide notice of any meeting or hearing of the Commission.

2. *Only the Executive Director, Chairman and Vice Chairman may communicate on matters concerning the Commission on behalf of the Commission.*

Sec. 28. NAC 281.056 is hereby amended to read as follows:

281.056 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 *ethics* complaint and advisory matter heard by the Commission.

Sec. 29. NAC 281.085 is hereby amended to read as follows:

281.085 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, *and sections 2 to 17, inclusive, of this regulation*, 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.

Sec. 30. NAC 281.097 is hereby amended to read as follows:

281.097 1. Each written communication or document filed with the Commission must ~~be~~ :

(a) Be in proper form;

(b) Be clearly and legibly typed or printed on 8 1/2- by 11-inch paper, on one side only ~~;~~ ~~and~~;

(c) Be addressed to the *principal* office of the Commission ~~;~~ *and*

(d) Include any duplicate copy required to be included with the form, as specified on the form.

2. Except as otherwise provided in subsection 6 of NRS 281.559 with regards to a statement of financial disclosure, the Commission will consider a written communication or document which is required to be filed with the Commission to have been filed with the Commission on the date on which the communication or document is received at the *principal* office of the Commission.

3. Except as otherwise provided in NAC 281.227, a written communication or document filed with the Commission may not be submitted via facsimile transmission.

Sec. 31. NAC 281.103 is hereby amended to read as follows:

281.103 1. Motions related to an ethics complaint must be made:

(a) After a panel has made a final determination that just and sufficient cause exists for the Commission to render an opinion pursuant to NRS 281.462; and

(b) 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 *principal* 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.

Sec. 32. NAC 281.1125 is hereby amended to read as follows:

281.1125 1. A subject of an ethics complaint may request that a subpoena be issued by filing a written request for a subpoena at the *principal* 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(e)~~ 45 of the Nevada Rules of Civil Procedure.

Sec. 33. NAC 281.1127 is hereby amended to read as follows:

281.1127 A *subject or* witness before the Commission shall testify in person, except that the Commission may, for good cause shown, allow the witness to testify by telephone or videoconference.

Sec. 34. NAC 281.1155 is hereby amended to read as follows:

281.1155 The Executive Director shall confer with the Commission Counsel to determine 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. 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 *principal* office of the Commission in writing not later than 10 days after the date on which the public officer or public employee received notification.

Sec. 35. NAC 281.186 is hereby amended to read as follows:

281.186 *1.* The Commission will only consider those ethics complaints which are filed in proper form with the Executive Director at the *principal* office of the Commission.

2. An ethics complaint must be filed with:

(a) The original form for an ethics complaint;

(b) Two copies of the form; and

(c) Three copies of all supporting documents and evidence.

3. Once an ethics complaint has been filed with the Commission, the requester of the ethics complaint may not withdraw the *ethics* complaint without the consent of the Commission.

4. 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.

5. An ethics complaint must be accompanied by a minimal level of evidence which supports the allegation that the subject has violated a statutory ethical standard set forth in the ethics complaint and demonstrates that the alleged conduct of the subject would constitute a violation of the Nevada Ethics in Government Law set forth in NRS 281.411 to 281.581, inclusive.

6. As used in this section, “minimal level of 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 of the allegation made in the ethics complaint. The term includes any evidence which is offered to corroborate a newspaper article or other media report. The term does not include a newspaper article or other media report if the article or report is offered by itself.

Sec. 36. NAC 281.1865 is hereby amended to read as follows:

281.1865 1. The Executive Director shall confer with the Commission Counsel to determine jurisdiction concerning an ethics complaint.

2. If the Executive Director and Commission Counsel determine that the Commission has jurisdiction concerning the ethics complaint pursuant to subsection 1, the Executive Director shall investigate and proceed in the matter pursuant to NRS 281.511.

3. If the Executive Director and Commission Counsel determine that the Commission lacks jurisdiction concerning the ethics complaint pursuant to subsection 1, the Executive Director shall so notify the requester.

4. A person who receives a notice pursuant to subsection 3 may request a review of the determination regarding jurisdiction by a panel. Such a request must be submitted to the *principal* office of the Commission in writing not later than 10 days after the date on which the person received notification. The Chairman will appoint a panel to conduct the review of the determination regarding jurisdiction.

5. If a panel appointed pursuant to subsection 4 determines that the Commission has jurisdiction concerning an ethics complaint, the Executive Director shall investigate and proceed in the matter pursuant to NRS 281.511. Upon conclusion of the investigation, the Executive

Director shall, to the extent possible, submit his recommendation regarding just and sufficient cause required pursuant to NRS 281.511 to the same panel that determined that the Commission has jurisdiction concerning the ethics complaint.

Sec. 37. NAC 281.188 is hereby amended to read as follows:

281.188 1. Once an ethics complaint has been properly filed with the Commission by a requester or initiated on the motion of the Commission and the Commission has determined that the Commission has jurisdiction over the matter presented in the ethics complaint, 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 ~~§~~, *or by overnight delivery service.*

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 ~~§~~ *set forth in NRS 281.411 to 281.581, inclusive;*

(c) A copy of NAC 281.005 to 281.242, inclusive ~~§~~, *and sections 2 to 17, inclusive, of this regulation;* and

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

3. The subject of an ethics complaint may file a written response to the ethics complaint with the Commission. If the subject of an ethics complaint files a response with the Commission, the response must be filed not later than 10 days after the date on which he received the notice of

the ethics complaint, unless he files with the Commission a waiver of the time limits in accordance with subsections 3 and 4 of NRS 281.511.

Sec. 38. NAC 281.189 is hereby amended to read as follows:

281.189 **1.** 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.

2. *If the Executive Director includes issues and facts beyond those presented in the ethics complaint in his written recommendations which are not included in the notice issued to the subject pursuant to NAC 281.188, the Executive Director must provide additional notice to the subject of the additional issues and facts and provide the subject with the same opportunity to respond to such issues and facts that is set forth in subsection 3 of NAC 281.188.*

Sec. 39. NAC 281.191 is hereby amended to read as follows:

281.191 **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 finding of the panel regarding just and sufficient cause and the file of the Commission on the *ethics* complaint are open for public review.

Sec. 40. NAC 281.193 is hereby amended to read as follows:

281.193 At its proceedings on an ethics complaint, a panel shall consider:

1. The results of the investigation of the Executive Director and the 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 *ethics* complaint.

Sec. 41. NAC 281.215 is hereby amended to read as follows:

281.215 Except as otherwise provided in NRS ~~[281.477 and 281.511,]~~ *281.511 and sections 8 and 12 of this regulation*, the Commission will determine, as it deems appropriate, the order of proceedings for ~~the~~ *a* hearing and will inform the parties thereof before the hearing commences.

Sec. 42. NAC 281.219 is hereby amended to read as follows:

281.219 1. Except as otherwise provided in NRS 281.511 ~~[, a party to]~~ *and sections 8 and 12 of this regulation, the Commission will provide the subject of* a hearing before the Commission ~~[may, to the extent required by the Commission,]~~ *with the opportunity to* 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.

Sec. 43. NAC 281.223 is hereby amended to read as follows:

281.223 1. A written opinion of the Commission must plainly state:

- (a) ~~Each~~ *If the opinion concerns an ethics complaint, each* violation alleged against the public officer or public employee who is the subject of the opinion;
- (b) *Except as otherwise provided in subsection 5 of NRS 281.511, if the opinion concerns a request for an advisory opinion, each question for which the public officer or employee seeks guidance concerning the interpretation of a statutory ethical standard;*
- (c) The determination of the Commission with regard to each allegation ~~;~~ ~~and~~ ~~—(e)~~ *or question, as applicable; and*
- (d) The applicable findings of fact and conclusions of law.

2. Each *written* opinion must be numbered, dated and signed by the Chairman.

3. *The Commission will:*

- (a) *Provide a copy of each written opinion to each person who is a party;*
- (b) *Post a copy of each written opinion on the website of the Commission at <http://www.ethics.nv.gov>; and*
- (c) *Deliver a copy of a written opinion to any person who requests such a copy.*

Sec. 44. NAC 281.227 is hereby amended to read as follows:

281.227 1. A statement of financial disclosure must be filed in proper form ~~;~~ *pursuant to NRS 281.571.*

2. The form for a statement of financial disclosure is available at ~~the~~ *any* office, and on the website, of the Commission.

3. In accordance with subsection 6 of NRS 281.559, a statement of financial disclosure shall be deemed to be filed with the Commission:

(a) On the date that the statement of financial disclosure was mailed if it was sent by certified mail; or

(b) On the date that the statement of financial disclosure was received by the Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

Sec. 45. NAC 281.242 is hereby amended to read as follows:

281.242 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 *principal* office of the Commission or appear personally at ~~the~~ *an* 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 *principal* office of the Commission and make arrangements 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 if the person requesting the copies files a written request for such a waiver at the *principal* 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.

Sec. 46. NAC 281.0153, 281.0154, 281.048, 281.117, 281.202 and 281.204 are hereby repealed.

TEXT OF REPEALED SECTIONS

281.0153 “Complaint” defined. (NRS 281.471) “Complaint” means a request for an opinion submitted to the Commission pursuant to subsection 2 of NRS 281.511, or pursuant to NRS 294A.345 or 294A.346.

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.

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.

281.117 Distribution of opinions. (NRS 281.471)

1. A copy of a written opinion published by the Commission on a matter will be served 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.

3. A copy of each opinion published by the Commission will be delivered to any other person or organization upon request.

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.

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.