

Chapter 281A of NAC

ADOPTED TEMPORARY REGULATION OF
THE NEVADA COMMISSION ON ETHICS

LCB File No. T003-16

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

AUTHORITY: §§1-4, NRS 281A.290.

A REGULATION relating to ethics in government; revising provisions relating to the procedures of the Commission on Ethics and the staff of the Commission; revising provisions relating to motions that may be filed with the Commission; revising provisions related to jurisdictional appeals to the Commission in Third-Party Requests for Opinion; and providing other matters properly relating thereto.

Section 1. NAC 281A.070 is hereby amended to read as follows:

281A.070 “~~Principal of~~Office of the Commission” means the office of the Commission designated by the Commission pursuant to NAC 281A.190 as the office in which the business of the Commission must be primarily conducted.

Sec. 2. NAC 281A.180 is hereby amended to read as follows:

281A.180 In addition to any other duties of the Executive Director required by this chapter or chapter 281A of NRS, or as otherwise imposed by the Commission, the Executive Director shall:

1. Pursuant to paragraph (e) of subsection 1 of NRS 281A.240, create a curriculum for training and conduct training for public officers and ~~employers of~~ public employees on the requirements of this chapter, chapter 281A of NRS and previous opinions of the Commission that have been determined by the Commission to have broad educational value.

2. At the first meeting of the Commission of each new fiscal year, report to the Commission on the state of the fiscal, regulatory and legislative matters and any other business

matters of the Commission for the prior fiscal year and on the goals for the Commission for the new fiscal year.

3. Adhere to the policies and procedures adopted by the Commission for its internal governance and external dealings.

Sec. 3. NAC 281A.190 is hereby amended to read as follows:

281A.190. ~~{1. The Commission will 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 any requests for an opinion from the Commission.

Sec. 4. NAC 281A.255 is hereby amended to read as follows:

281A.255 1. Each written communication or document filed with the Commission must:

- (a) Be on the form provided by the Commission;
- (b) Be submitted in the manner prescribed on the form; and
- (c) Include any:

- (1) Duplicate copy required to be included with the form, as specified on the form; and
- (2) Necessary exhibits in a form and format, including, without limitation, digital or electronic format, which is reasonably accessible to the Commission.

2. Except as otherwise provided in NRS 281A.410 and 281A.500, 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.

Sec. 5. NAC 281A.265 is hereby amended to read as follows:

281A.265 1. *A subject or the Executive Director may file a motion with the Commission not later than the close of business on the date set by an order issued by the Commission, unless leave is granted otherwise by the Chair.* ~~{Motions related to a third-party request for an opinion may only be made:~~

- ~~(a) After an investigatory panel has made a determination that there is just and sufficient cause for the Commission to render an opinion pursuant to NRS 281A.220; and~~
- ~~(b) Before the hearing on the matter unless the cause for the motion arises for the first time during the hearing on the matter.}~~

2. A motion that is made ~~{before the hearing on the matter}~~ *pursuant to this section* must be in writing and must be filed at the ~~{principal}~~ office of the Commission ~~{not later than the close of business on the date set by an order of the Commission after the investigatory panel has made a determination that there is just and sufficient cause for the Commission to render an opinion.}~~

~~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.}~~3. The Commission, in its discretion, may allow a party making a motion to argue the motion before the Commission.

~~{5.}~~4. The Commission, in its discretion, may allow a party or any other person to respond to a motion.

5. A written motion or response to a 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 service which indicates that the motion was served upon all other parties to the matter.

6. The Chair, in his or her discretion, may accept and rule upon a motion on a matter, except a motion for disposition of a matter, at any time before, during or after the hearing by the Commission on the matter.

7. A motion for rehearing or for the reconsideration of an opinion on a ~~{third-party}~~ request for an opinion issued by the Commission must be filed with the Commission not later than 15 days after the date on which the opinion of the Commission is served.

Sec. 6. NAC 281A.275 is hereby amended to read as follows:

281A.275 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 a ~~{third-party}~~ request for an opinion, the Commission may, in lieu of holding a hearing, resolve a matter before the

Commission with a stipulation, agreed settlement, consent order or default as authorized pursuant to NRS 233B.121. Such a resolution must be in writing or made by oral statement on the record.

Sec. 7. NAC 281A.285 is hereby amended to read as follows:

281A.285 1. ~~{A}~~ *In accordance with NRS 281A.300, the Commission may issue and the Executive Director or* subject of a ~~{third-party}~~ request for an opinion 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 a ~~{third-party}~~ request for an opinion who requests the issuance of a subpoena pursuant to this section shall serve the subpoena in accordance with NRS 281A.300 and pay the costs related to the service of the subpoena.

Sec. 8. NAC 281A.300 is hereby amended to read as follows:

281A.300 1. A subject may retain legal counsel to represent him or her *related to any request for opinion, including* during:

1. Any investigation of a third-party request for an opinion; or
2. Any hearing.

Sec. 9. NAC 281A.353 is hereby amended to read as follows:

281A.353 1. Except as otherwise provided in subsection 2, a first-party request for an opinion will be heard by the Commission within 45 days after receipt of the first-party request for an opinion by the Commission.

2. If a public officer or public employee who files a first-party request for an opinion cannot appear before the Commission for a hearing on the first-party request for an opinion within 45 days after receipt of the first-party request for an opinion by the Commission, the public officer or public employee may submit a written statement acknowledging that he or she cannot appear before the Commission for the hearing and, if applicable, requesting a waiver of the 45-day period within which the hearing must be held. A request for a waiver must be received not later than 7 business days before the expiration of the 45-day period.

3. If the public officer or public employee does not request a waiver pursuant to subsection 2 and fails to *respond to the notice of hearing as provided in such notice or fails to* appear at the hearing scheduled by the Commission within 45 days after receipt of the first-party request for an opinion, the first-party request for an opinion will be deemed withdrawn by the public officer or public employee making the request.

Sec. 10. NAC 281A.355 is hereby amended to read as follows:

281A.355 1. *Except as otherwise provided in this section, the subject of a first-party request for opinion may withdraw the first-party request for an opinion by providing a written notice of withdrawal to the Commission before the Commission ~~renders an opinion~~ holds any hearing relating to ~~a~~ the first-party request for an opinion~~, the public officer or public employee who filed the first-party request for an opinion may withdraw the first-party request for an opinion by providing a notice of withdrawal to the Commission~~.*

2. *The subject of a first-party request for an opinion may seek a withdrawal of the request for opinion at any time by submitting a motion to the Commission supported by good cause, which may include, without limitation, that the anticipated future circumstances or conduct upon which advice is sought has changed.*

Sec. 11. NAC 281A.360 is hereby amended to read as follows:

281A.360 The Executive Director shall confer with the Commission Counsel to determine jurisdiction concerning a first-party request for an opinion. If ~~the Commission Counsel determines~~ *it is determined* that the Commission lacks jurisdiction in the matter, the Executive Director shall so notify the requesting public officer or public employee *not later than 20 days after the date on which the Commission received the first-party request for an opinion*. 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~~ *was served* notification.

Sec. 12. NAC 281A.365 is hereby amended to read as follows:

281A.365 1. The Chair or presiding officer of a hearing concerning a first-party request for an opinion shall:

(a) Ascertain whether the subject of the first-party request for an 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 281A.280, to the subject of the first-party request for an opinion and all persons whose testimony will be taken.

2. Except as otherwise provided in subsection 3 of NAC 281A.353, the subject of the first-party request for an opinion must be present at the hearing.

3. The Chair or presiding officer shall allow the subject of the first-party request for an opinion to:

- (a) Present opening comments;
- (b) Present any evidence on his or her own behalf; and
- (c) Examine any witnesses on his or her own behalf.

4. The subject of the first-party request for an opinion, 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 of the first-party request for an opinion and the examination of any witnesses, the Chair or presiding officer shall allow the subject to present closing comments.

6. ~~Upon the conclusion of the closing comments by the subject of~~ *After the conclusion of a hearing related to* the first-party request for an opinion, the Commission will:

- (a) Deliberate the issues of fact presented at the hearing, make a final determination of the findings of fact and apply the applicable law to the findings of fact;
- (b) ~~Render~~ *Issue* an opinion on the matter; and
- (c) ~~Submit a copy of~~ *Provide* the opinion to the subject.

7. The opinion ~~rendered~~ *issued* by the Commission is binding upon the subject of the first-party request for an opinion as to his or her future conduct pursuant to subsection 1 of NRS 281A.440.

8. The Commission may waive any provision of this section if the Commission determines that such a waiver is necessary to expedite the hearing or is in the interest of justice.

9. The first-party request for an opinion and the information presented during the proceedings set forth in this section must be kept confidential, unless the subject of the opinion acts in a manner set forth in subsection 7 of NRS 281A.440 to waive the confidentiality of such information.

Sec. 13. NAC 281A.403 is hereby amended to read as follows:

281A.403 1. If the Executive Director receives evidence that leads the Executive Director reasonably to conclude that a public officer or public employee may have committed a violation of the Nevada Ethics in Government Law as set forth in chapter 281A of NRS, the Executive Director may recommend to the Commission that the Commission initiate a third-party request for an opinion upon its own motion pursuant to paragraph (c) of subsection 2 of NRS 281A.440.

2. A recommendation from the Executive Director pursuant to subsection 1 must:

- (a) Be submitted on a form prescribed by the Commission;
- (b) Contain a written statement setting forth the information that supports the recommendation; and
- (c) Include any reliable and competent form of proof provided by witnesses, public and private records, audio or visual recordings, documents, exhibits, concrete objects and other such forms of proof that support the recommendation. Such forms of proof may include, without limitation, any evidence which is offered that corroborates a newspaper article or other media report but may not include a newspaper article or other media report if the article or report is offered as the only evidence to support the recommendation.

3. The Executive Director shall not submit a recommendation to the Commission pursuant to subsection 1 based solely upon:

- (a) A statement other than a sworn statement; or
- (b) An allegation submitted to the Commission with the intent to avoid disclosure of the identity of the person making the allegation, *except as otherwise provided in subsection 9 of NRS 281A.440.*

4. Upon receiving a recommendation from the Executive Director pursuant to subsection 1, the Commission will:

- (a) Reject the recommendation without prejudice; or
- (b) Accept the recommendation and initiate a third-party request for an opinion upon its own motion pursuant to paragraph (c) of subsection 2 of NRS 281A.440.

Sec. 14. NAC 281A.405 is hereby amended to read as follows:

281A.405 1. The Executive Director shall confer with the Commission Counsel to determine whether:

- (a) The Commission has jurisdiction concerning a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440; and
- (b) The third-party request for an opinion was filed with the Commission in compliance with the requirements of subsections 1, 2 and 3 of NAC 281A.400.

2. If the Executive Director and Commission Counsel determine pursuant to subsection 1 that the Commission has jurisdiction concerning the third-party request for an opinion and that the third-party request for an opinion was filed in compliance with the requirements of subsections 1, 2 and 3 of NAC 281A.400, the Executive Director shall notify the requester and the subject of the request of the determination.

3. The Executive Director shall notify the requester of the determination if the Executive Director and Commission Counsel determine pursuant to subsection 1 that:

(a) The Commission lacks jurisdiction concerning the third-party request for an opinion pursuant to subsection 1; or

(b) The third-party request for an opinion was not filed with the Commission in compliance with the requirements of subsections 1, 2 and 3 of NAC 281A.400.

4. A person who receives a notice pursuant to subsection 2 or 3 may request a review by the Commission of the determination made pursuant to subsection 1. 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~~ *was served* notification.

5. Upon receipt of a request for a review pursuant to subsection 4, the ~~Executive Director shall notify the subject if the request for a review was made by the requester of the third-party request for an opinion, or the requester of the third-party request for an opinion if the request for a review was made by the subject. Such notification must include, without limitation:~~

~~(a) The third-party request for an opinion;~~

~~(b) The determination of the Executive Director and Commission Counsel made pursuant to subsection 1;~~

~~(c) The request for a review made pursuant to subsection 4;~~

~~(d) The date on which the Commission will conduct its review; and~~

~~(e) Instructions for filing a response to the request for a review, which must be filed not less than 5 business days before the date on which the Commission will conduct its review.~~

~~6. The~~ Commission will *hold a confidential hearing to* review ~~the~~ *a* the determination made by the Executive Director and the Commission Counsel pursuant to subsection 1. ~~on the date provided in the notification made pursuant to subsection 5. Action taken by the Commission pursuant to this subsection is a final decision.~~ The Commission will:

(a) Dismiss the matter without prejudice upon a finding that the third-party request for an opinion was not filed in compliance with the requirements of subsections 1, 2 and 3 of NAC 281A.400;

(b) Dismiss the matter upon a finding that the Commission lacks jurisdiction concerning the third-party request for an opinion pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440; or

(c) Accept jurisdiction of the matter upon a finding that the third-party request for an opinion was filed in compliance with the requirements of subsections 1, 2 and 3 of NAC 281A.400 and that the Commission has jurisdiction concerning the third-party request for an opinion pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440.

~~7~~6. The Executive Director shall:

(a) Notify the subject and the requester of the third-party request for an opinion, *as applicable*, of the action taken by the Commission pursuant to subsection ~~5~~7; and

(b) If the Commission accepts jurisdiction of the matter, provide the notification required by NAC 281A.410.

Sec. 15. NAC 281A.410 is hereby amended to read as follows:

281A.410 1. Once a third-party request for an opinion has been filed with the Commission by a requester in compliance with the requirements of subsections 1, 2 and 3 of NAC 281A.400 or initiated on the motion of the Commission and the Commission ~~have~~ *has* determined that the Commission has jurisdiction over the matter presented in the third-party request for an opinion pursuant to NAC 281A.405, the Executive Director shall forthwith:

(a) Notify the public officer or public employee who is the subject of the third-party request for an Opinion;

(b) Provide the public officer or public employee an opportunity to respond to the allegations contained in the third-party request for an opinion; and

(c) Investigate and proceed in the matter pursuant to NRS 281A.440.

2. A notification made pursuant to subsection 1 must:

(a) Be in writing and sent to the subject of the third-party request for an opinion by:

(1) Personal delivery;

(2) Certified mail, return receipt requested; or

(3) Overnight delivery service in which proof of delivery is documented.

(b) Include, without limitation:

(1) All information filed by the requester or information upon which the Commission based its motion, as appropriate;

(2) An outline of the process used by the Commission to resolve third-party requests for opinions; and

(3) A form prescribed by the Commission for waiving the time limits set forth in subsections 4, 5 and 6 of NRS 281A.440.

3. The subject of a third-party request for an opinion may, within the time limit set forth in subsection 3 of NRS 281A.440, file with the Commission a written response to the allegations contained in the third-party request for an opinion. If the subject of a third-party request for an opinion files with the Commission a waiver of the time limits set forth in subsections 4, 5 and 6 of NRS 281A.440, the Executive Director may, for good cause shown, authorize one or more extensions, of not more than 30 days each, of the time limit set forth in subsection 3 of NRS 281A.440 for the subject to file a written response to the allegations contained in the third-party request for an opinion.

Sec. 16. NAC 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in NRS 281A.440, until the conclusion of the proceedings of an investigatory 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 a third-party request for an opinion 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 the third-party request for an opinion in the possession of the Commission and its staff is confidential.

2. Upon the conclusion of the proceedings of an investigatory panel on a third-party request for an opinion, any information related to the third-party request for an opinion, except the investigative file of the Commission as described in subsection ~~16~~17 of NRS 281A.440, is a public record available for public review during normal business hours at the ~~principal~~ office of the Commission.

Sec. 17. NAC 281A.425 is hereby amended to read as follows:

281A.425 ~~The~~ All proceedings of an investigatory panel to determine whether there is just and sufficient cause for the Commission to render an opinion on a third-party request for an opinion are confidential and closed to all persons except the staff of the Commission.

Sec. 18. NAC 281A.450 is hereby amended to read as follows:

281A.450 1. Before the Commission holds a hearing concerning a third-party request for an opinion, the Commission must serve the subject with advance written notice of the hearing at least 10 days before the date on which the hearing is scheduled to commence which includes the date, time and location of the hearing.

2. The written notice required pursuant to this section must comply with:

- (a) The requirements for notice set forth in subsection ~~10~~11 of NRS 281A.440; and
- (b) Except as otherwise provided in this chapter and chapter 281A of NRS, the requirements for notice set forth in provisions concerning the adjudication in contested cases in chapter 233B of NRS.

3. A written record of the final determination of the investigatory panel issued pursuant to NAC 281A.440 may serve as the written notice required pursuant to this section if it includes the date, time and location of the hearing and otherwise complies with the requirements set forth in this section.

4. 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. 19. NAC 281A.455 is hereby amended to read as follows:

281A.455 The procedures for obtaining and granting a continuance of a hearing concerning a third-party request for an opinion are as follows:

1. The date or time of the hearing may be continued for a reasonable time by the ~~Executive Director~~ *Chair*:

(a) Upon the written petition of the *Executive Director or his/her designee or the* subject for good cause shown; or

(b) By stipulation of the subject and the ~~Commission, acting through the~~ Executive Director *or his/her designee*.

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

Sec. 20. NAC 281A.460 is hereby amended to read as follows:

281A.460 1. The Chair or presiding officer of a hearing concerning a third-party request for an opinion 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 281A.280 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. To preserve the integrity of the process and the evidence presented

during a proceeding, the Chair or presiding officer may request all witnesses not to discuss the case with any person *other than the legal counsel of the witness* during the pendency of the proceeding.

(d) Hear and rule on any procedural motions, approve any stipulations and address any administrative details.

(e) ~~{Designate a member of the staff of the Commission}~~ *Direct the Executive Director or his/her designee* to present the third-party request for an opinion, the response to the third-party request for an opinion by the subject and the determination of the investigatory panel concerning whether there is just and sufficient cause for the Commission to render an opinion in the matter.

(f) Allow the subject to present opening comments.

(g) *Direct the Executive Director or his/her designee to* ~~{C}~~call and question any witnesses~~{}~~ *and* present any evidence on behalf of the Commission concerning the third-party request for an opinion~~{, and allow any member of the Commission to question such witnesses}~~.

2. The subject may remain present during the hearing.

3. The subject may question any witnesses.

4. Upon the conclusion of the presentation of any evidence and the examination of any witnesses *by the Executive Director or his/her designee* on behalf of the Commission, the Chair or presiding officer shall request the subject to proceed with the introduction of evidence and calling of witnesses on his or her behalf.

5. ~~{The}~~ *Any member of the Commission may question the Executive Director or his/her designee, the* subject, any witnesses or any counsel retained by the subject ~~{may be questioned by the member of the Commission}~~ at any time during the proceeding.

6. Upon the conclusion of the presentation of evidence *and the examination of any witnesses by the Executive Director or his/her designee, the* subject *and any member of the Commission,* ~~{and the examination of any witnesses,}~~ the Chair or presiding officer shall allow the *Executive Director or his/her designee and the* subject to present closing comments.

7. ~~{Upon the conclusion of the closing comments by the subject,}~~ *After the conclusion of the hearing, the* Commission will:

(a) ~~{d}~~Deliberate the issues of fact presented at the hearing, make a determination of the findings of fact, *and* apply the applicable law to the findings of fact; ~~{and}~~

(b) ~~render an~~ *Issue an* opinion concerning whether the subject ~~has~~ violated any of the provisions of chapter 281A of NRS *and whether any violation was a willful violation; and*

(c) *Issue the opinion to the subject.*

8. Upon a finding of a willful violation of any of the provisions of chapter 281A of NRS, the Commission may impose any civil penalties authorized pursuant to NRS 281A.480 and will impose any other statutory remedies required pursuant to NRS 281A.480.

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

Sec. 21. NAC 281A.465 is hereby amended to read as follows:

281A.465 1. In conducting any hearing concerning a third-party request for an opinion, the rules of evidence of the courts of this State will be followed generally but may be relaxed at the discretion of the Commission.

2. The Chair or presiding officer may exclude immaterial, incompetent, cumulative or irrelevant evidence or order that the presentation of such evidence be discontinued.

3. ~~A~~ *The Executive Director or his/her designee and the* subject may object to the introduction of evidence if *the Executive Director or his/her designee or the* subject:

(a) Objects to such evidence promptly; and

(b) Briefly states the grounds of the objection at the time the objection is made.

4. If an objection is made to the admissibility of evidence, the Chair or presiding officer 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 any subsequent ruling of the Commission.

Sec. 22. NAC 281A.480 is hereby amended to read as follows:

281A.480 1. Except as otherwise provided in subsection 2, a request for an opinion filed pursuant to subsection 6 of NRS 281A.550 will be heard by the Commission within 45 days after receipt of the request by the Commission.

2. If a public officer or public employee who requests an opinion pursuant to subsection 6 of NRS 281A.550 cannot appear before the Commission for a hearing on the request within 45 days after receipt of the request by the Commission, the public officer or public employee may submit a written statement acknowledging that he or she cannot appear before the Commission for the hearing and, if applicable, requesting a waiver of the 45-day period within which the

hearing must be held. Such a request must be received not later than 7 business days before the expiration of the 45-day period.

3. If the public officer or public employee does not request a waiver pursuant to subsection 2 and fails to *respond to the notice of hearing as provided in such notice or fails to* appear at the hearing scheduled by the Commission within 45 days after receipt of the request for an opinion, the request for an opinion will be deemed withdrawn by the public officer or public employee making the request.

Sec. 23. NAC 281A.485 is hereby amended to read as follows:

281A.485 ~~{At any time before}~~ *1. Except as otherwise provided in this section, the subject of a request for opinion filed pursuant to subsection 6 of NRS 281A.550 may withdraw the request for the opinion by providing a written notice of withdrawal to the Commission before the Commission renders an opinion holds any hearing relating to a the request for an opinion filed pursuant to subsection 6 of NRS 281A.550, the public officer or public employee who filed the request for the opinion may withdraw the request by providing a notice of withdrawal to the Commission}.*

2. The subject of a request for an opinion filed pursuant to subsection 6 of NRS 281A.550 may seek a withdrawal of the request for the opinion at any time by submitting a motion supported by good cause, which may include, without limitation, that the anticipated future circumstances or conduct upon which advice is sought has changed.

Sec. 24. NAC 281A.490 is hereby amended to read as follows:

281A.490 The Executive Director shall confer with the Commission Counsel to determine jurisdiction concerning a request for an opinion filed pursuant to subsection 6 of [NRS 281A.550](#). If ~~the Commission Counsel determines~~ *it is determined* that the Commission lacks jurisdiction in the matter, the Executive Director shall so notify the requesting public officer or public employee *not later than 20 days after the date on which the Commission received the request for the opinion*. 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 filed 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~~ *was served* notification.

Sec. 25. NAC 281A.495 is hereby amended to read as follows:

281A.495 1. The Chair or presiding officer of a hearing concerning a request for an opinion filed pursuant to subsection 6 of NRS 281A.550 shall:

(a) Ascertain whether the subject of the request for an 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 281A.280, to the subject of the request for an opinion and all persons whose testimony will be taken.

2. Except as otherwise provided in subsection 3 of NAC 281A.480, the subject of the request for an opinion must be present at the hearing.

3. The Chair or presiding officer shall allow the subject of the request for an opinion to:

(a) Present opening comments;

(b) Present any evidence on his or her own behalf; and

(c) Examine any witnesses on his or her own behalf.

4. The subject of the request for an opinion, 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 of the request for an opinion and the examination of any witnesses, the Chair or presiding officer shall allow the subject to present closing comments.

6. ~~{Upon the conclusion of the closing comments by the subject of}~~ *After the conclusion of a hearing related to* the request for an opinion, the Commission will:

(a) Deliberate the issues of fact presented at the hearing, make a final determination of the findings of fact and apply the applicable law to the findings of fact;

(b) ~~{Render}~~ *Issue* an opinion on the matter; and

(c) ~~{Submit a copy of}~~ *Provide* the opinion to the subject.

7. The Commission may waive any provision of this section if the Commission determines that such a waiver is necessary to expedite the hearing or is in the interest of justice.

8. The request for an opinion and the information presented during the proceedings set forth in this section must be kept confidential, unless the subject of the request for an opinion acts in a manner set forth in subsection 7 of NRS 281A.550 to waive the confidentiality of such information.

Sec. 26. NAC 281A.500 is hereby amended to read as follows:

281A.500 ~~{A}~~ *Unless directed by the Chair otherwise, at* least 1 week before the date on which the Commission is scheduled to hold a hearing ~~{on a matter}~~ *related to a request for an opinion pursuant to this Chapter*, 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

Sec. 27. NAC 281A.505 is hereby amended to read as follows:

281A.505 ~~{A}~~ *The Executive Director or his/her designee or the* subject may submit a motion to disqualify a member of the Commission from participating in a hearing for good cause.

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 281A.265. 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. In considering a motion to disqualify a member of the Commission, the Commission will consider any grounds that would justify the disqualification of a judge pursuant to Rule 2.11 of the Nevada Code of Judicial Conduct.

4. 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. 28. NAC 281A.510 is hereby amended to read as follows:

281A.510 Except as otherwise provided in NRS 281A.440 and NAC 281A.365, 281A.460 and 281A.495, the ~~{Commission}~~ *Chair* will determine~~{, as it deems appropriate,}~~ the order of proceedings for a hearing and will inform the parties thereof before the hearing commences.

Sec. 29. NAC 281A.520 is hereby amended to read as follows:

281A.520 1. Except as otherwise provided in NRS 281A.440 and NAC 281A.365, 281A.460 and 281A.495, the Commission will provide the subject of a hearing before 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 or her own behalf, examine and cross-examine witnesses, and make arguments.

2. The ~~{Commission}~~ *Executive Director or his/her designee* will question witnesses at the hearing, *and any member of the Commission may question witnesses, the Executive Director, or his/her designee, and counsel for the subject at the hearing.*

Sec. 30. NAC 281A.555 is hereby amended to read as follows:

281A.555 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. 31. NAC 281A.560 is hereby amended to read as follows:

281A.560 1. Except as otherwise provided in this section, the Commission will make public records of the Commission available for inspection and copying in accordance with the provisions of chapter 239 of NRS.

2. 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.

3. The Commission will not authorize a court reporter to provide copies of a transcript concerning a matter that was recorded by the Commission to a person seeking such a transcript pursuant to subsection 2 unless the contents of the proceedings concerning that matter may be disclosed to that person pursuant to the provisions of chapter 281A of NRS and NAC 281A.250 to 281A.310, inclusive.

4. A court reporter shall 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.

5. The Commission may waive all or a portion of the cost of obtaining copies of public records made available pursuant to subsection 1 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. 32. NAC 281A.615 is hereby amended to read as follows:

281A.615 1. The following documents must be on the form provided by the Commission and submitted in the manner prescribed on the form:

(a) A disclosure of representation and counseling required pursuant to NRS 281A.410; and

(b) An acknowledgment of the statutory ethical standards required pursuant to NRS 281A.500.

2. The form for each document specified in subsection 1 is available at the ~~principal~~ office of the Commission and on the Internet website of the Commission.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NEVADA ADMINISTRATIVE PROCEDURE ACT, NRS 233B.066**

The Nevada Commission on Ethics (“Commission”) submits the following informational statement for its adopted amendments to Nevada Administrative Code (NAC) 281A.

1. A clear and concise explanation of the need for the adopted regulation.

The proposed regulation reflects amendments to NRS Chapter 281A made pursuant to Assembly Bill 60 of the 2015 Legislative Session (Chapter 186, 2015 Statutes of Nevada), which includes provisions relating to Commission procedures for jurisdiction, notice and investigations of third-party requests for opinion, confidentiality of certain information and documents, and other matters related thereto. The proposed regulation will also amend various provisions of NAC Chapter 281A to streamline case management and investigatory processes related to first-party and third-party requests for opinion, including without limitation, jurisdictional reviews, motion practice before the Commission and requirements for withdrawing, reconsidering or rehearing matters.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

In accordance with NRS Chapters 233B and 241, the Commission posted the proposed temporary regulation, the notice of workshop and the notice of intent to act upon the proposed temporary regulation on the Commission’s website at <http://ethics.nv.gov>, and in various other public locations, including the county libraries. In addition to the Commission’s website and public libraries, the locations included:

- The Nevada Legislature’s Administrative Regulations Notices website: <http://www.leg.state.nv.us/App/Notice/A/>
- Nevada Public Notice Website: <http://notice.nv.gov>
- State Library & Archives Building, 100 North Stewart Street, Carson City
- Blasdel Building, 209 E. Musser Street, Carson City
- Washoe County Administration Building, 1001 East 9th Street, Reno
- Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas

The Commission conducted a public workshop on June 15, 2016 in Carson City and Las Vegas, Nevada, and a public hearing on August 17, 2016 in Carson City and Las Vegas, Nevada. The Commission solicited public comment on the proposed temporary regulation via written comment in advance of the respective hearings and/or personal appearance during the hearings. The Commission received no public comment.

3. The number of persons who:

Attended each hearing: None
Testified at each hearing: None
Submitted written comments: None

- 4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency.**

No persons attended the workshop or public hearing or submitted written comments to the Commission.

- 5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

In accordance with NRS 233B.0608, the Commission determined that the proposed temporary regulation would not affect any small businesses because it would not impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. The provisions of NRS 281A govern only the conduct of public officials and employees to ensure that they commit themselves to avoid conflicts between their private interests and the interests of the public that they serve.

The Commission issued a statement in accordance with NRS 233B.0608(3) outlining its concerted effort to determine no impact on small business. *See* Statement Regarding Small Business Impact. Accordingly, small businesses were solicited in the same manner as the general public identified in Question No. 2 and a copy of this summary may be obtained as identified in Question No. 2.

- 6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was adopted without changing any part of the proposed temporary regulation because no public or small business comments were made before or during the workshop or public hearing.

- 7. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- a. Both adverse and beneficial effects; and**

Adoption of this regulation does not create any known adverse economic or beneficial effects on the public or public officers and employees under the jurisdiction of the Commission.

- b. Both immediate and long-term effects.**

Adoption of this Regulation does not create any known immediate or long-term economic effects on the public or the public officers and employees under the jurisdiction of the Commission.

8. The estimated cost to the agency for enforcement of the adopted regulation.

None.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates federal regulation, the name of the regulating federal agency.

The proposed temporary regulation does not duplicate or overlap any other state, federal or other governmental agency's regulations.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

N/A

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed temporary regulation does not establish any new fees or increase any existing fees.