

**PROPOSED REGULATION OF THE  
COMMISSION ON ETHICS**

**LCB File No. R108-18**

July 10, 2018

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

AUTHORITY: §§1-66, NRS 281A.290.

A REGULATION relating to ethics in government; revising provisions governing the functions and duties of the Chair and the Executive Director of the Commission on Ethics and the Commission Counsel; revising provisions governing advisory opinions and ethics complaints; revising provisions governing administration of the Nevada Ethics in Government Law and practice before the Commission; revising and repealing certain provisions to conform to statutory amendments made to the Ethics Law; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Under the Nevada Ethics in Government Law (Ethics Law), the Commission on Ethics administers and enforces the Ethics Law and is authorized to issue opinions interpreting the statutory ethical standards established by the Ethics Law and applying those standards to a given set of facts and circumstances. (Chapter 281A of NRS) The Commission generally issues the following two types of opinions: (1) advisory opinions requested by a public officer or employee who is seeking guidance on matters which directly relate to the propriety of his or her own past, present or future conduct under the statutory ethical standards or who is requesting relief from certain provisions of the Ethics Law that allow the Commission to grant such relief; and (2) opinions issued in response to an ethics complaint which has been filed with the Commission or initiated by the Commission on its own motion regarding the propriety of the conduct of a public officer or employee under the statutory ethical standards. (NRS 281A.675, 281A.710)

The Ethics Law also establishes various procedures that the Commission and its staff must follow when processing, handling, investigating, reviewing, evaluating and adjudicating requests for advisory opinions and ethics complaints. (NRS 281A.670-281A.790) Under the Ethics Law, the Commission is required to adopt any necessary procedural regulations to carry out its duties, including regulations: (1) for the filing or withdrawal of an ethics complaint or a request for an advisory opinion with the Commission; (2) to facilitate the prompt rendition of opinions by the Commission; and (3) with regard to proceedings concerning an ethics complaint, to facilitate written discovery requests and the disclosure of evidence. (NRS 281A.290)

Senate Bill No. 84 of the 2017 Regular Session made extensive statutory amendments to the Ethics Law, including reorganizational and substantive changes, particularly with respect to ethics complaints. (Chapter 384, Statutes of Nevada 2017, at page 2475) As a result of those statutory amendments, this regulation revises and repeals various provisions of the Commission's existing regulations to conform those regulations to the statutory amendments made by Senate Bill No. 84.

Existing law sets forth the requirements for properly filing a request for an advisory opinion and also provides that after the request is properly filed, the Commission is required to render an advisory opinion. (NRS 281A.675, 281A.680) If the advisory opinion relates to the present or future conduct of the requester, existing law provides that the advisory opinion is binding upon the requester with regard to the future conduct of the requester and a final decision for purposes of judicial review. (NRS 281A.680) Existing law provides confidentiality for certain materials relating to advisory opinions and exempts meetings, hearings and deliberations of the Commission relating to advisory opinions from the Open Meeting Law. (NRS 281A.685, 281A.690)

**Sections 13-17 and 45-49** of this regulation make conforming changes regarding requests for and the rendering of advisory opinions. **Section 45** of this regulation requires the Executive Director of the Commission and the Commission Counsel to review a request for an advisory opinion that has been filed with the Commission and make a determination whether the Commission has jurisdiction in the matter and whether the request was properly filed with the necessary information for the Commission to render an advisory opinion. If it is determined that the Commission has jurisdiction over a request for an advisory opinion and the request was properly filed, **section 13** of this regulation requires the Executive Director or Commission Counsel to issue a notice regarding jurisdiction to the subject who filed the request. **Section 13** also requires the Executive Director or Commission Counsel to provide notice to the subject if the Commission will hold an advisory-opinion hearing in the matter and to coordinate a list of proposed findings of fact with the subject. **Sections 14 and 15** of this regulation govern motions and subpoenas with respect to requests for an advisory opinion.

**Section 46** of this regulation prescribes the circumstances under which the time limit in existing law for the Commission to render an advisory opinion is deemed waived or in which a request is involuntarily withdrawn. **Section 47** of this regulation revises the manner in which a subject may voluntarily withdraw a request. **Section 48** of this regulation prescribes the procedure if the Executive Director and Commission Counsel determine that the Commission does not have jurisdiction over a request for an advisory opinion or that the request was not properly filed with the necessary information. **Section 49** of this regulation revises some of the procedures used to conduct an advisory-opinion hearing. **Section 16** of this regulation provides that the Commission may stay, continue or dismiss a request for an advisory opinion if the Commission receives information that litigation or an ethics complaint has been filed related to some or all of the same issues presented in the request for an advisory opinion. **Section 16** also addresses the rendering of an oral opinion by the Commission regarding a request for an advisory opinion and the communication of the oral opinion to the subject. **Section 17** of this regulation prescribes the circumstances under which the Commission Counsel will be directed by

the Commission to prepare and issue a written advisory opinion or abstract in a matter and the required contents and publication of written advisory opinions.

Existing law also sets forth the requirements for properly filing an ethics complaint and provides that after an ethics complaint is properly filed, the Commission must determine, based on the evidence submitted with the ethics complaint, whether it has jurisdiction in the matter and whether an investigation is warranted in the matter. (NRS 281A.710, 281A.715) If the Commission determines that it has jurisdiction and an investigation is warranted, existing law provides for an investigation and review of the ethics complaint to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. (NRS 281A.720-281A.740)

In conducting the investigation and review, existing law requires the Executive Director to: (1) provide the public officer or employee an opportunity to submit a response; (2) investigate the facts and circumstances; and (3) prepare and submit a recommendation to a review panel, consisting of three members of the eight-member Commission, that must determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. (NRS 281A.720, 281A.725) If the review panel determines that there is not just and sufficient cause, existing law requires the review panel to dismiss the matter, but the review panel may issue a confidential letter of caution or instruction to the public officer or employee as part of the dismissal. (NRS 281A.730)

If the review panel determines that there is just and sufficient cause but reasonably believes that the conduct at issue may be appropriately addressed through additional training or other corrective action, existing law authorizes the review panel to approve a deferral agreement between the Executive Director and the public officer or employee to defer further proceedings in the matter under the terms and conditions of the deferral agreement. (NRS 281A.730, 281A.740) If the public officer or employee complies with the terms and conditions of the deferral agreement, the matter must be dismissed. However, if the public officer or employee fails to comply with the terms and conditions of the deferral agreement, the deferral agreement may be vacated and further proceedings conducted in the matter before the Commission. If the review panel does not believe that a deferral agreement is appropriate or if the public officer or employee declines to enter into such a deferral agreement, existing law requires the review panel to refer the ethics complaint to the Commission for further proceedings in the matter. (NRS 281A.730)

If the review panel refers the ethics complaint to the Commission for further proceedings in the matter or if the Commission vacates a deferral agreement and conducts further proceedings, existing law requires the Commission to hold an adjudicatory hearing and render an opinion in the matter within 60 days after the date on which the review panel referred the ethics complaint to the Commission or the Commission vacates the deferral agreement, as applicable, unless the subject waives this time limit. (NRS 281A.745) With certain exceptions, existing law provides confidentiality to the investigative file and materials in the possession of the Commission, the review panel and their staff related to an ethics complaint and to the identity of certain requesters, as well as an exemption from the Open Meeting Law for proceedings of

review panels and certain proceedings of the Commission. (NRS 281A.735, 281A.750, 281A.755, 281A.760)

**Sections 18-21, 37-39 and 50-60** of this regulation make conforming changes regarding ethics complaints and the rendering of opinions on those complaints. **Section 50** of this regulation requires: (1) the Executive Director and Commission Counsel to make a determination whether to recommend to the Commission that it accept jurisdiction over an ethics complaint that was filed with the Commission and whether the evidence submitted with the ethics complaint is sufficient to warrant an investigation by the Executive Director; and (2) the Executive Director to submit the recommendation to the Commission. **Section 18** of this regulation prescribes the circumstances under and method by which the requester of an ethics complaint may withdraw the ethics complaint. **Sections 37 and 41** of this regulation govern motions and subpoenas with respect to ethics complaints.

**Section 50** of this regulation revises the procedure when the Commission initiates an ethics complaint on its own motion. **Section 51** of this regulation revises the procedure when the Commission receives an ethics complaint from a third party. **Section 51**: (1) requires the Executive Director and Commission Counsel to make a recommendation to the Commission regarding its jurisdiction over an ethics complaint and whether the evidence submitted with the ethics complaint is sufficient to warrant an investigation; and (2) sets forth the actions of the Commission upon receipt of that recommendation. **Section 52** of this regulation revises the duties of the Executive Director regarding notification of the subject of an investigation and presentation of a written recommendation to a review panel regarding the ethics complaint.

**Section 38** of this regulation prescribes the requirements for discovery relating to an ethics complaint and requires the Executive Director, upon the completion of discovery, to disclose to the subject any evidence obtained during the course of an investigation or during discovery that the Executive Director will present to the Commission at the adjudicatory hearing and to disclose any exculpatory evidence as soon as is reasonably practicable before the adjudicatory hearing. **Section 39** of this regulation prescribes the procedure for the presentation and consideration of proposed stipulations of fact or other stipulated agreements relating to an ethics complaint. **Section 53** of this regulation makes changes regarding the procedure when the Executive Director investigates issues and facts beyond those presented in an ethics complaint and intends to include those issues and facts in the recommendations submitted to a review panel.

**Section 54** of this regulation clarifies that the proceedings of a review panel relating to a deferral agreement are within the confidentiality granted to the proceedings of a review panel under existing law. **Sections 55 and 56** of this regulation prescribe the actions to be taken by a review panel relating to an ethics complaint.

**Section 57** of this regulation revises the procedure for providing notice when the Commission holds certain hearings concerning an ethics complaint and requires the Commission Counsel to issue and serve such notice. **Section 19** of this regulation also requires the Commission Counsel to issue and serve notice and a scheduling order when the Commission holds an adjudicatory hearing concerning an ethics complaint. **Section 19** additionally authorizes

the subject of an ethics complaint to request a stay or continuance of an adjudicatory hearing under certain circumstances. **Sections 58-60** of this regulation revise some of the procedures used to conduct an adjudicatory hearing or other hearing relating to an ethics complaint.

**Sections 20 and 21** of this regulation provide that the Commission will: (1) render an oral opinion regarding an ethics complaint within the statutory time limit, unless the time limit is waived by the subject; and (2) after the oral opinion is rendered, direct the Commission Counsel to prepare and issue a written opinion that must include findings of fact, conclusions of law and certain other required components. **Section 21** also provides that the written opinion must be reviewed and approved by the Commission before it is issued and then posted on the Commission's Internet website after it is issued.

**Sections 12, 32-36, 39, 40, 42, 43, 61 and 62** of this regulation revise various administrative and general procedural requirements. **Sections 12 and 33** of this regulation: (1) direct the Chair of the Commission to appoint a member of a review panel to serve as its presiding officer; (2) require the Chair to fill vacancies on a review panel under certain circumstances; and (3) provide for the Executive Director to make recommendations to the Chair regarding the appointment of members of a review panel and the appointment of its presiding officer. **Section 33** also adjusts the deadline for the Executive Director's annual report to the Commission regarding its state of affairs for the prior fiscal year and its goals for the new fiscal year by moving the deadline from the Commission's first meeting of each new fiscal year to its second meeting.

**Section 32** of this regulation requires the Chair of the Commission to monitor and direct litigation, with certain exceptions, unless otherwise directed by the Commission; and (2) authorizes the Chair to delegate his or her duties to other members of the Commission, with certain exceptions.

**Section 34** of this regulation clarifies that any communication between the Executive Director and the Commission Counsel regarding the schedule of the Commission does not constitute an ex parte communication. **Section 35** of this regulation provides that any written communication or document filed with the Commission must be in a form or format authorized or directed by any applicable order.

**Section 36** of this regulation authorizes two or more matters of the same type to be consolidated. **Section 40** of this regulation allows for the administration of oaths by additional persons, including the presiding officer of a review panel. **Section 42** of this regulation authorizes, under certain circumstances, the testimony of a witness to be admitted into evidence through an affidavit or deposition. **Section 43** of this regulation clarifies that the subject of a request for an advisory opinion or an ethics complaint may be represented by legal counsel.

**Section 61** of this regulation revises the duties of the Executive Director and Commission Counsel with respect to providing the Commission with certain information and materials before each meeting. **Section 62** of this regulation authorizes the Executive Director, in addition to the subject of the proceeding, to submit a motion to disqualify a member of the Commission from participating in the matter for good cause.

**Sections 2-11 and 23-31** of this regulation revise various definitions to conform with existing law. **Sections 35, 37 and 63-65** of this regulation delete references to the “principal” office of the Commission because there is only one staffed office of the Commission.

Existing law provides for statutory ethical standards that generally prohibit public officers and employees from engaging in certain unethical conduct which benefits their own private interests or which benefits the interests of other persons to whom the public officer or employee has a commitment in a private capacity. (NRS 281A.400) Existing law defines those other persons to include: (1) the spouse or domestic partner of the public officer or employee; and (2) any other person who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity. (NRS 281A.065) **Section 44** of this regulation clarifies that if a person who is related to the public officer or employee within the third degree of consanguinity or affinity has a spouse or domestic partner, that spouse or domestic partner will be deemed to be within the same degree of relationship for the purposes of the statutory ethical standards.

**Section 65** of this regulation makes revisions as a result of changes to existing law that eliminated the requirement for certain public officers to file annual disclosure statements regarding representation or counseling of private persons before public agencies. (NRS 281A.410) **Section 66** of this regulation repeals procedures and requirements that are obsolete as a result of changes to existing law.

**Section 1.** Chapter 281A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this regulation.

**Sec. 2.** *“Adjudicatory hearing” has the meaning ascribed to it in NRS 281A.032.*

**Sec. 3.** *“Advisory opinion” has the meaning ascribed to it in NRS 281A.033.*

**Sec. 4.** *“Corrective action” means any action that:*

*1. The Commission determines is sufficient to mitigate or otherwise correct an action taken by a public officer or employee or former public officer or employee in violation of chapter 281A of NRS or the inaction of a public officer or employee or former public officer or employee where the provisions of chapter 281A of NRS required the public officer or employee or former public officer or employee to act; or*

*2. A review panel approves as a term or condition of a deferral agreement.*

**Sec. 5.** *“Credible evidence” means the minimal level of any reliable and competent form of proof, including, without limitation, statements of witnesses, public or private records, audio or visual recordings, documents, exhibits, concrete objects or another form of proof, that supports a reasonable belief by a review panel that there is just and sufficient cause for the review panel to refer an ethics complaint to the Commission for further proceedings or for the review panel to approve a deferral agreement.*

**Sec. 6.** *“Deferral agreement” has the meaning ascribed to it in NRS 281A.082.*

**Sec. 7. 1.** *“Jurisdiction” means the jurisdiction of the Commission prescribed in chapter 281A of NRS.*

**2.** *The term includes, without limitation, the authority of the Commission to:*

*(a) Interpret and apply the provisions of chapter 281A of NRS to specific facts and circumstances presented by a public officer or employee or former public officer or employee regarding his or her past, present or future conduct in an advisory opinion; or*

*(b) Investigate and take action regarding an ethics complaint.*

**Sec. 8.** *“Just and sufficient cause” means just and sufficient reason, based on credible evidence, for a review panel to refer an ethics complaint to the Commission for further proceedings or for a review panel to approve a deferral agreement.*

**Sec. 9.** *“Letter of caution” means a confidential letter issued by the Commission or a review panel to a public officer or employee pursuant to NRS 281A.780 to warn the public officer or employee that his or her conduct as alleged in an ethics complaint is sufficient to implicate a violation of chapter 281A of NRS.*

**Sec. 10.** *“Letter of instruction” means a confidential letter issued by the Commission or a review panel to a public officer or employee pursuant to NRS 281A.780 to advise the public officer or employee regarding the applicability of chapter 281A of NRS to his or her conduct.*

**Sec. 11.** *“Sufficient evidence to support the allegations in an ethics complaint” means any reliable and competent form of proof, including, without limitation, statements of witnesses, public or private records, audio or visual recordings, documents, exhibits, concrete objects or another form of proof, that supports a reasonable belief in the truth of the allegations made in the ethics complaint.*

**Sec. 12. 1.** *The Chair shall appoint a member of a review panel to serve as the presiding officer of the review panel.*

*2. Except as otherwise provided in subsection 4, if a single vacancy occurs in the membership of a review panel after the Executive Director has presented his or her written recommendation in a matter to the review panel pursuant to NRS 281A.725 but before the review panel has approved a deferral agreement in the matter or referred the ethics complaint to the Commission, the remaining panel members shall continue to serve on the review panel and act upon any pending issues in the matter before the review panel.*

*3. Except as otherwise provided in subsection 4, if a vacancy occurs in a majority of the membership of a review panel after the Executive Director has presented his or her written recommendation in a matter to the review panel pursuant to NRS 281A.725 but before the review panel has approved a deferral agreement in the matter or referred the ethics complaint to the Commission, the Chair shall appoint an additional member of the Commission to serve as a member of the review panel to establish a majority of the membership of the review panel.*

*4. If only two members remain on a review panel after a vacancy or as a result of only one member being appointed to fill a vacancy pursuant to subsection 3 and the two members take a vote on a proposed action in a matter pending before the review panel but the vote results in a tie, the Chair shall appoint an additional member of the Commission to serve as a member of the review panel, and the review panel shall reconsider the proposed action.*

*Sec. 13. 1. If the Executive Director and Commission Counsel determine that the Commission has jurisdiction over a request for an advisory opinion and the request for an advisory opinion was properly filed with the necessary information for the Commission to render an advisory opinion in the matter, the Executive Director or Commission Counsel shall issue a notice to the subject who filed the request for an advisory opinion on behalf of the Commission stating that the Commission has jurisdiction in the matter and whether the Commission will hold an advisory-opinion hearing in the matter or take the matter under submission without holding an advisory-opinion hearing.*

*2. If the Executive Director and Commission Counsel determine that the Commission will hold an advisory-opinion hearing in the matter, the Executive Director or Commission Counsel shall prepare and serve on the subject a notice of hearing that identifies the date, time and location of the advisory-opinion hearing.*

*3. The Executive Director or Commission Counsel shall, if feasible, coordinate a list of proposed findings of fact with the subject to be presented to the Commission based on the information provided by the subject with the request for an advisory opinion, any information received from the subject after the Commission received the request for an advisory opinion and any publicly available information obtained by the Executive Director or Commission*

*Counsel relating to the request for an advisory opinion. The subject must consent to a proposed finding of fact before the finding of fact will be presented to the Commission.*

**Sec. 14.** *1. Except as otherwise provided in subsection 5 and NAC 281A.360 and 281A.505, the subject who filed the request for an advisory opinion may not file any written motion with the Commission relating to the request for an advisory opinion unless the Commission or the Chair or, in the absence of the Chair, the Vice Chair approves a written request by the subject to file the motion.*

*2. If the subject is authorized to file a written motion, the Commission or the Chair or, in the absence of the Chair, the Vice Chair may authorize the subject to argue the motion before the Commission. If oral argument is so authorized, the Executive Director or Commission Counsel shall prepare and serve on the subject a notice of hearing that identifies the date, time and location of the hearing on the motion.*

*3. The Chair or, in the absence of the Chair, the Vice Chair may rule on the motion, except a motion for disposition of the matter, at any time before, during or after an advisory-opinion hearing by the Commission on the matter:*

*(a) Based solely on the written motion filed with the Commission; or*

*(b) After the presentation of oral argument by the subject, if authorized pursuant to subsection 2.*

*4. The Commission may rule on the motion, including a motion for disposition of the matter, at any time before, during or after an advisory-opinion hearing by the Commission on the matter:*

*(a) Based solely on the written motion filed with the Commission; or*

*(b) After the presentation of oral argument by the subject, if authorized pursuant to subsection 2.*

*5. The subject may file a written motion for rehearing or for the reconsideration of an advisory opinion if the motion is filed with the Commission:*

*(a) Not later than 15 days after the date on which the oral advisory opinion of the Commission is communicated to the subject pursuant to section 16 of this regulation; or*

*(b) If a written opinion is issued pursuant to section 17 of this regulation, not later than 15 days after the written opinion is issued.*

*Sec. 15. 1. In accordance with NRS 281A.300, the Commission may issue a subpoena to compel the attendance of a witness and the production of any books and papers for any hearing before the Commission to consider any matter related to a request for an advisory opinion.*

*2. If a witness fails or refuses to comply with the provisions of a subpoena issued pursuant to this section, the Chair or, in the absence of the Chair, the Vice Chair may petition the district court for an order compelling the witness to comply with the subpoena in accordance with the applicable requirements set forth in subsection 8 of NRS 281A.300.*

*3. If the district court enters an order directing the witness to comply with the subpoena issued pursuant to this section, the Executive Director or Commission Counsel, on behalf of the Chair or, in the absence of the Chair, the Vice Chair, shall serve the court order on the witness. If the witness does not comply with the court order, the Chair or, in the absence of the Chair, the Vice Chair may petition the district court for an order of contempt of court pursuant to subsection 10 of NRS 281A.300.*

**Sec. 16. 1. *The Commission may, by order, stay, continue or dismiss a request for an advisory opinion if the Commission receives information confirmed by the Executive Director that litigation or an ethics complaint has been filed related to some or all of the same issues presented in the request for an advisory opinion.***

**2. *Except as otherwise provided in subsection 1 and NAC 281A.353 and 281A.355, within 45 days after receipt of a request for an advisory opinion, the Commission will:***

***(a) Render an oral opinion regarding the request for an advisory opinion; and***

***(b) Direct the Executive Director or Commission Counsel to communicate the oral opinion rendered by the Commission to the subject who filed the request for an advisory opinion.***

**3. *If the Commission renders an oral opinion after taking the matter under submission without holding an advisory-opinion hearing on the matter, the oral opinion will be based on:***

***(a) The information submitted by the subject with the request for an advisory opinion;***

***(b) Any information submitted by the subject after the Commission received the request for an advisory opinion;***

***(c) Any publicly available information obtained by the Executive Director or Commission Counsel relating to the request for an advisory opinion; and***

***(d) Any proposed findings of fact coordinated between the Executive Director or Commission Counsel and the subject.***

**4. *If the Commission renders an oral opinion after holding an advisory-opinion hearing on the matter, the oral opinion will be based on:***

***(a) The information submitted by the subject with the request for an advisory opinion;***

***(b) Any information submitted by the subject after the Commission received the request for an advisory opinion;***

*(c) Any publicly available information obtained by the Executive Director or Commission Counsel relating to the request for an advisory opinion;*

*(d) Any proposed findings of fact coordinated between the Executive Director or Commission Counsel and the subject; and*

*(e) Any additional evidence or information requested by or presented to the Commission during the hearing, including, without limitation, any documentary or testimonial evidence provided by the subject or any witness.*

*5. An oral opinion rendered by the Commission pursuant to this section:*

*(a) Constitutes the advisory opinion rendered by the Commission pursuant to NRS 281A.680; and*

*(b) May be issued as a written advisory opinion pursuant to section 17 of this regulation.*

**Sec. 17. 1. The Commission:**

*(a) Will direct the Commission Counsel to prepare a written advisory opinion for an oral opinion rendered by the Commission pursuant to section 16 of this regulation in a matter that constitutes a contested case under chapter 233B of NRS or for which the Commission deems a written advisory opinion is necessary or appropriate. A written advisory opinion prepared and issued in a matter that constitutes a contested case under chapter 233B of NRS is a final decision for the purposes of judicial review.*

*(b) May direct the Commission Counsel to prepare a written advisory opinion for an oral opinion rendered by the Commission pursuant to section 16 of this regulation upon the written request of the subject who filed the request for an advisory opinion.*

*(c) May direct the Commission Counsel to prepare an abstract if the materials in the matter are confidential pursuant to subsection 1 of NRS 281A.685.*

2. *A written advisory opinion or abstract prepared pursuant to this section must:*

*(a) State each question for which the subject sought guidance concerning the interpretation of a statutory ethical standard or any relevant circumstances in the matter that did or did not justify relief from the strict application of NRS 281A.410, 281A.430 or 281A.550, as applicable, and the determination of the Commission relating thereto;*

*(b) Include a reference to any published opinions issued by the Commission, including, without limitation, any published abstract, that the Commission deems relevant to the request for an advisory opinion; and*

*(c) Include findings of fact, conclusions of law and specific guidance provided by the Commission to the subject who filed the request for an advisory opinion concerning the interpretation of the statutory ethical standard or any circumstances regarding which the Commission determined did or did not justify relief from the strict application of NRS 281A.410, 281A.430 or 281A.550, as applicable.*

3. *The Commission will review any written advisory opinion prepared by the Commission Counsel pursuant to this section and, upon its approval of the written advisory opinion, direct the Commission Counsel to issue the written advisory opinion to the subject who filed the request for an advisory opinion.*

4. *Each written advisory opinion and abstract must be:*

*(a) Numbered and dated; and*

*(b) Signed by the Commission.*

5. *The Commission will publish a copy of each written advisory opinion which is not confidential and each abstract on the Internet website of the Commission at <http://ethics.nv.gov>.*

6. *As used in this section, “abstract” means a version of a confidential written advisory opinion that has been redacted or amended to keep the identity of the subject who filed the request for an advisory opinion confidential.*

**Sec. 18.** *1. Except as otherwise provided in subsection 3, a requester of an ethics complaint may submit a written request to the Commission to withdraw the ethics complaint:*

*(a) Without the consent of the Executive Director, at any time before the Commission has determined that it has jurisdiction in the matter pursuant to NAC 281A.405; or*

*(b) With the consent of the Commission, at any time after the Commission has determined that it has jurisdiction in the matter pursuant to NAC 281A.405 and until the presentation of the written recommendation of the Executive Director to the review panel pursuant to NAC 281A.410.*

*2. A request to withdraw an ethics complaint pursuant to subsection 1 must set forth the specific reasons for requesting the withdrawal of the ethics complaint.*

*3. If a requester of an ethics complaint asks the Commission to keep his or her identity confidential pursuant to NRS 281A.750 but the Commission denies the request for confidentiality, the requester may submit a written request to the Commission to withdraw the ethics complaint.*

**Sec. 19.** *1. Unless the subject of an ethics complaint waives the time limit set forth in NRS 281A.745, if a review panel refers the ethics complaint to the Commission pursuant to NRS 281A.730 or the Commission vacates a deferral agreement pursuant to NRS 281A.740, the Commission Counsel, on behalf of the Commission, shall issue and serve on the parties:*

*(a) A written notice of an adjudicatory hearing in the matter which must be held not less than 60 days after the date on which the review panel refers the ethics complaint to the*

*Commission pursuant to NRS 281A.730 or the Commission vacates the deferral agreement pursuant to NRS 281A.740, as applicable. The written notice must meet the requirements of NRS 281A.745. Service of the notice on the subject will be deemed complete upon delivery to the last known address of the subject in any manner in which receipt by the subject can be confirmed by the Commission Counsel.*

*(b) A scheduling order regarding the time limits and requirements for the submission and service of documents related to the adjudicatory hearing.*

*2. If the subject waives the time limit set forth in NRS 281A.745:*

*(a) Not later than 10 business days before the adjudicatory hearing, unless leave is otherwise granted, a party may submit a written request to the Commission Counsel to stay or continue the adjudicatory hearing in the matter for good cause shown, including, without limitation, to accommodate a scheduling conflict or otherwise provide additional time for the parties to engage in discovery, file a motion or negotiate and present a proposed stipulation of fact or stipulated agreement to the Commission regarding the ethics complaint.*

*(b) Not later than 5 business days after a party submits a request to the Commission Counsel pursuant to paragraph (a), unless leave is otherwise granted, any other party may submit:*

*(1) A written consent to the Commission Counsel for a stay or continuance of the adjudicatory hearing; or*

*(2) A written response to the Commission Counsel opposing the request for a stay or continuance of the adjudicatory hearing if the party can show that the stay or continuance is sought merely for delay or by reason of inexcusable neglect by the Executive Director or the*

*subject, as applicable, creates an unjust or undue delay in the final resolution of the ethics complaint or otherwise unfairly prejudices the interests of the party before the Commission.*

*3. Except as otherwise provided in subsection 4, if the Commission Counsel receives a request from a party to stay or continue an adjudicatory hearing or any response to such a request pursuant to subsection 2, the Commission Counsel may, after consulting with the parties regarding scheduling, issue a stay or continuance of the adjudicatory hearing and a revised notice of hearing or scheduling order, as appropriate.*

*4. The Commission Counsel shall deny a request pursuant to subsection 2 if the Commission Counsel determines that the stay or continuance is being requested merely for delay or by reason of inexcusable neglect by the Executive Director or the subject, as applicable, creates an unjust or undue delay in the final resolution of an ethics complaint or otherwise unfairly prejudices the interests of the party before the Commission.*

*Sec. 20. 1. Unless the subject of an ethics complaint waives the time limit set forth in NRS 281A.745, within 60 days after the date on which a review panel refers an ethics complaint to the Commission pursuant to NRS 281A.730 or the Commission vacates a deferral agreement pursuant to NRS 281A.740, as applicable, the Commission will render an oral opinion in the matter.*

*2. An oral opinion rendered by the Commission pursuant to this section:*

*(a) Constitutes the opinion rendered by the Commission pursuant to NRS 281A.745; and*

*(b) Must be issued as a written opinion pursuant to section 21 of this regulation.*

*Sec. 21. 1. The Commission will direct the Commission Counsel to prepare a written opinion for any ethics complaint regarding which the Commission renders an oral opinion pursuant to section 20 of this regulation.*

2. *A written opinion prepared pursuant to this section must state:*

*(a) Each violation alleged against the subject of the ethics complaint and the determinations of the Commission relating thereto;*

*(b) A reference to any published opinions issued by the Commission, including, without limitation, any published abstract, that the Commission deems relevant to the ethics complaint, if any;*

*(c) The findings of fact and conclusions of law as required by NRS 281A.765; and*

*(d) Any penalty, corrective action or other remedy imposed on the subject of the ethics complaint.*

3. *The Commission will review any written opinion prepared by the Commission Counsel pursuant to this section and, upon its approval of the written opinion, will direct the Commission Counsel to issue the written opinion to the parties.*

4. *Each written opinion issued pursuant to this section must be:*

*(a) Numbered and dated; and*

*(b) Signed by the Commission.*

5. *The Commission will post a copy of each written opinion issued pursuant to this section on the Internet website of the Commission at <http://ethics.nv.gov>.*

**Sec. 22.** NAC 281A.010 is hereby amended to read as follows:

281A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 281A.020 to 281A.105, inclusive, *and sections 2 to 11, inclusive, of this regulation* have the meanings ascribed to them in those sections.

**Sec. 23.** NAC 281A.034 is hereby amended to read as follows:

281A.034 ~~{“First party request”}~~ **“Request** for an *advisory* opinion” ~~{means a request for an opinion filed pursuant to subsection 1 of NRS 281A.440.}~~ *has the meaning ascribed to it in NRS 281A.161.*

**Sec. 24.** NAC 281A.035 is hereby amended to read as follows:

281A.035 ~~{“Hearing”}~~ **1. “Advisory-opinion hearing”** means a hearing ~~{concerning:~~  
~~—1. The merits of a third party request for an opinion;~~  
~~—2. A first party request for an opinion; or~~  
~~—3. A request for an opinion filed pursuant to subsection 6 of NRS 281A.550.}~~ *that the Commission may hold to receive evidence concerning a request for an advisory opinion.*  
**2. The term does not include a hearing held on a motion relating to a request for an advisory opinion.**

**Sec. 25.** NAC 281A.047 is hereby amended to read as follows:

281A.047 ~~{“Investigatory”}~~ **“Review** panel” or “panel” has the meaning ascribed to it in NRS ~~{281A.108.}~~ **281A.162.**

**Sec. 26.** NAC 281A.050 is hereby amended to read as follows:

281A.050 **1. “Opinion”** ~~{means an oral or written quasi-judicial decision rendered by the Commission pursuant to NRS 281A.440 or 281A.550.~~  
~~—2. The term includes, without limitation, the disposition of a third party request for an opinion by stipulation, agreed settlement, consent order or default as authorized by NRS 233B.121.}~~ *has the meaning ascribed to it in NRS 281A.135.*  
**2. The term includes:**  
**(a) An oral advisory opinion rendered pursuant to section 16 of this regulation; and**

*(b) An oral opinion rendered on an ethics complaint pursuant to section 20 of this regulation.*

**Sec. 27.** NAC 281A.060 is hereby amended to read as follows:

281A.060 “Party” means the subject ~~for his or her counsel, any staff of the Commission who investigate a third-party request for an opinion~~ *of an ethics complaint, the Executive Director* and any other person who the Commission reasonably determines will be treated as a party in a matter ~~before the Commission.~~ *if the matter has been referred to the Commission by a review panel pursuant to NRS 281A.730 or the Commission vacates a deferral agreement pursuant to NRS 281A.740, as applicable.*

**Sec. 28.** NAC 281A.065 is hereby amended to read as follows:

281A.065 “Presiding officer” means *the Chair or* a member of the Commission appointed by the Chair to preside over a hearing ~~and~~, *review panel or meeting of the Commission.*

**Sec. 29.** NAC 281A.090 is hereby amended to read as follows:

281A.090 “Requester” means a *specialized or local ethics committee or* person who files with the Commission ~~a third-party request for an opinion.~~ *an ethics complaint pursuant to paragraph (a) or (b) of subsection 1 of NRS 281A.710.*

**Sec. 30.** NAC 281A.100 is hereby amended to read as follows:

281A.100 “Subject” means a public officer or public employee:

1. With respect to whom ~~a third-party request for an opinion~~ *an ethics complaint* has been filed; *or*
2. Who files a ~~first-party~~ request for an *advisory* opinion. ~~or~~
- ~~3. Who files a request for an opinion pursuant to subsection 6 of NRS 281A.550.~~

**Sec. 31.** NAC 281A.103 is hereby amended to read as follows:

281A.103 ~~{“Third-party request for an opinion” means a request for an opinion:~~

~~—1. Filed with the Commission pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440; or~~

~~—2. Initiated by the Commission on its own motion pursuant to paragraph (c) of subsection 2 of NRS 281A.440.] “Ethics complaint” has the meaning ascribed to it in NRS 281A.088.~~

**Sec. 32.** NAC 281A.155 is hereby amended to read as follows:

281A.155 The Chair:

1. ~~{Shall}~~ *Except as otherwise provided in this chapter, shall* preside over the meetings and hearings of the Commission.

2. *Unless otherwise directed by the Commission, shall monitor and direct litigation except decisions regarding litigation that the Commission is required to make in a meeting, including, without limitation, the decision to initiate or settle a case or to appeal an adverse determination in a case.*

3. *Except as otherwise provided in NRS 281A.220, 281A.240 and 281A.300, may delegate his or her duties to other members of the Commission.*

4. May delegate assignments of work to the staff of the Commission as necessary and appropriate, including, without limitation, the scheduling of ~~{investigatory}~~ *review* panels.

**Sec. 33.** 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)}~~ *(f)* 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~~ *Not later than* the ~~first~~ *second* 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.

4. *Recommend to the Chair the appointment of members of the Commission to review panels and to serve as presiding officers of such review panels.*

**Sec. 34.** NAC 281A.195 is hereby amended to read as follows:

281A.195 1. If any member of the Commission participates in an ex parte communication, the member must disclose to the Commission that he or she participated in an ex parte communication.

2. If a member of the Commission discloses that he or she 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~~ :

*(a) Means* any written or oral communication between a party or a person who has any interest in a matter pending before the Commission, or any agent of such party or person, and a member of the Commission which:

- ~~[(a)]~~ (1) Is communicated outside the presence of the entire Commission;
- ~~[(b)]~~ (2) Is not communicated during a formal proceeding of the Commission; and
- ~~[(c)]~~ (3) Includes any comment, response or argument regarding any:
  - ~~[(1)]~~ (I) Ongoing investigation by the Commission; or
  - ~~[(2)]~~ (II) Matter that is pending before the Commission.

*(b) Does not include any communication between the Executive Director and Commission Counsel regarding the schedule of the Commission.*

**Sec. 35.** 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 ~~[(3)]~~ *or be in a form or format authorized or directed by an order issued by the Commission, a review panel, the Chair, the Executive Director or the Commission Counsel, as applicable;*
- (b) Be submitted in the manner prescribed on the form ~~[(3)]~~ *or in such an order;* and
- (c) Include any:
  - (1) Duplicate copy required to be included with the form, as specified on the form; ~~[(and)]~~
  - (2) *Document specified on the form or in the order; and*
  - (3) Necessary exhibits in ~~[(a)]~~ *the* form and format ~~[(, including, without limitation, digital or electronic format, which is reasonably accessible to the Commission.)]~~ *specified on the form or in the order.*

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. 36. NAC 281A.260 is hereby amended to read as follows:

281A.260 The Commission *or the Chair* may consolidate, in whole or in part, two or more ~~[matters into one hearing]~~ *requests for an advisory opinion or two or more ethics complaints* if the Commission *or the Chair* determines that the ~~[matters]~~ *requests for an advisory opinion or the ethics complaints, as applicable,* share common facts and issues.

Sec. 37. NAC 281A.265 is hereby amended to read as follows:

281A.265 1. ~~[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.]~~ *Except as otherwise provided in subsection 7 and NAC 281A.270 and 281A.505, a party may file a written motion with the Commission relating to an ethics complaint:*

*(a) If a scheduling order has been issued in the matter by the Commission or the Chair or, in the absence of the Chair, the Vice Chair or by the Commission Counsel, not later than the close of business on the date set in the order, unless leave is otherwise granted.*

*(b) If a scheduling order has not been issued in the matter by the Commission or the Chair or, in the absence of the Chair, the Vice Chair or by the Commission Counsel or if the circumstances are outside the scope of the scheduling order, upon approval by the Chair or, in the absence of the Chair, the Vice Chair of a written request by the party to file the motion.*

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 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.†~~ The Commission ~~[, in its discretion,]~~ *or the Chair or, in the absence of the Chair, the Vice Chair* may ~~[allow a party making a motion]~~ *authorize the parties* to argue ~~[the]~~ *a* motion before the Commission . ~~†~~

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

~~—6.†~~ *If oral arguments are so authorized, the Commission Counsel shall prepare and serve on the parties a notice of hearing that identifies the date, time and location of the hearing on the motion.*

*3. If a party files a motion in accordance with the requirements set forth in this section, any other party in the matter may file a response in opposition to the motion. The Chair or, in the absence of the Chair, the Vice Chair may authorize the moving party to file a reply to a response.*

*4. A motion, response or reply filed pursuant to this section must contain:*

*(a) A brief statement of the facts and the points and authorities upon which the motion, response or reply is based, including, without limitation, any relevant opinions published by the Commission;*

*(b) A description of the relief sought; and*

*(c) A certificate of service which indicates that the motion, response or reply was served on all other parties to the matter.*

5. The Chair ~~is, in his or her discretion, may accept and rule upon~~ *or, in the absence of the Chair, the Vice Chair may rule on* a motion , ~~on a matter,~~ except a motion for disposition of ~~the~~ *the* matter, at any time before, during or after ~~the~~ *an adjudicatory* hearing by the Commission on the matter ~~is~~:

~~—7.1 :~~

*(a) Based solely on the written motion and any opposition or reply filed with the Commission; or*

*(b) After the presentation of oral argument by the parties, if authorized pursuant to subsection 2.*

6. *The Commission may rule on a motion, including a motion for disposition of the matter, at any time before, during or after an adjudicatory hearing by the Commission on the matter:*

*(a) Based solely on the written motion and any opposition or reply filed with the Commission; or*

*(b) After the presentation of oral argument by the parties, if authorized pursuant to subsection 2.*

7. A *party may file a written* motion for rehearing or for the reconsideration of ~~{an}~~ *a written* opinion ~~{on a third party request for an opinion issued by}~~ *of* the Commission ~~{must be}~~ *relating to an ethics complaint if the motion is* filed with the Commission not later than 15 days after the date on which the *written* opinion of the Commission is ~~{served}~~ *issued pursuant to section 21 of this regulation.*

**Sec. 38.** NAC 281A.270 is hereby amended to read as follows:

281A.270 *1.* The provisions for civil discovery set forth in N.R.C.P. 26 to 37, inclusive, do not apply to ~~{matters before the Commission}~~ *ethics complaints.* Upon the request of a party, for good cause shown, the ~~{Chair}~~ *Commission Counsel, on behalf of the Commission,* may allow discovery ~~{on a matter before the Commission}~~ *relating to an ethics complaint* to the extent which he or she deems appropriate.

*2. The Commission Counsel shall set forth any requirements for discovery relating to an ethics complaint in a scheduling order of the Commission. A party must comply with the requirements for discovery set forth in this section and any scheduling order issued pursuant to this subsection.*

*3. Any requests for discovery that are not addressed in a scheduling order must be filed with the Commission Counsel by means of a motion. The Commission Counsel shall consider and issue an order regarding any such motion in accordance with the provisions of NAC 281A.265.*

*4. Except as otherwise provided in NRS 281A.750 and 281A.755, upon the completion of discovery, the Executive Director shall disclose to the subject any evidence obtained during the course of the investigation, including, without limitation, during discovery conducted pursuant*

*to this section, that the Executive Director intends to present as evidence for consideration by the Commission at the adjudicatory hearing or in rendering an opinion in the matter.*

*5. The Executive Director shall disclose to the subject any evidence obtained by or on behalf of the Executive Director that the Executive Director determines affirmatively and substantively disproves any alleged violation of chapter 281A of NRS related to the ethics complaint by the subject. Such disclosure must be made as soon as is reasonably practicable after the determination.*

*6. As used in this section, “affirmatively and substantively disproves any alleged violation of chapter 281A of NRS” means indisputably, dispositively and definitively establishes that the subject did not engage in conduct or otherwise fail to act in a manner required by the provisions of chapter 281A of NRS as alleged in the ethics complaint or the notice of additional issues and facts provided by the Executive Director pursuant to NAC 281A.415, or that such conduct or failure to act could not, under any circumstances, establish a violation of chapter 281A of NRS.*

**Sec. 39.** 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 *Executive Director and the* subject of ~~a third party request for an opinion,~~ *an ethics complaint*, the Commission may, in lieu of holding ~~a~~ *an adjudicatory* hearing, ~~resolve a matter before the Commission with~~ *dispose of the ethics complaint by* 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.

3. *If the parties agree to present any proposed stipulation of fact or other stipulated agreement to the Commission, the parties shall:*

*(a) Jointly inform the Commission Counsel in writing of their intent to present such a stipulation;*

*(b) If necessary, request a stay or continuance of the adjudicatory hearing; and*

*(c) Comply with any notice of hearing or scheduling order issued for the joint submission and consideration of the proposed stipulation of fact or stipulated agreement.*

4. *The Commission may hold a hearing to consider a proposed stipulated agreement submitted pursuant to this section.*

5. *The Commission will approve or deny a proposed stipulated agreement submitted pursuant to this section.*

6. *A proposed stipulated agreement is confidential until the proposed stipulated agreement is included as an item on an agenda posted for a hearing or meeting of the Commission.*

**Sec. 40.** NAC 281A.280 is hereby amended to read as follows:

281A.280 1. The ~~Chair and Vice Chair, including an Acting Chair and Acting Vice Chair, if any,~~ *presiding officer* may administer oaths.

2. A court reporter present at meetings and hearings may administer oaths.

**Sec. 41.** NAC 281A.285 is hereby amended to read as follows:

281A.285 ~~A~~ 1. *In accordance with NRS 281A.300, the Commission may issue a subpoena to compel the attendance of a witness and the production of any books and papers for any hearing before the Commission to consider any matter relating to an ethics complaint.*

2. *The Executive Director or the subject of  ~~{a third-party request for an opinion}~~  an ethics complaint* may request that a subpoena be issued *relating to the ethics complaint* by filing a written request for a subpoena at the  ~~{principal}~~  office of the Commission.  ~~{A}~~  *The Executive Director or the subject, as applicable, must show good cause for the issuance of the subpoena, including, the purported relevance of the testimony of the witness or documentary evidence. If the Commission or the Chair or, in the absence of the Chair, the Vice Chair issues the subpoena pursuant to the request, the Executive Director or the 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.*

3. *Except as otherwise provided in subsection 4, the Executive Director may submit a request to the Chair or, in the absence of the Chair, the Vice Chair for the issuance of a subpoena to compel:*

*(a) The participation of a potential witness and the production of any books and papers during the course of any investigation.*

*(b) The attendance of any witness and the production of any books and papers in the possession of the witness for any hearing before the Commission.*

4. *The Executive Director shall not submit a request for the issuance of a subpoena pursuant to subsection 3 to the subject of an ethics complaint unless:*

*(a) The Executive Director submitted to the subject the written request required pursuant to subsection 5 of NRS 281A.300 requesting the subject to voluntarily participate, voluntarily attend as a potential witness or witness or voluntarily produce any books and papers in the*

*possession of the subject relating to the ethics complaint during the course of an investigation or for a hearing of the Commission; and*

*(b) Except as otherwise provided in this paragraph, the subject failed or refused to respond to the written request within 5 business days after receipt of the written request or failed to comply with the written request on or before the time specified in the written request. The subject may submit a written application to the Executive Director for additional time or other reasonable accommodation to comply with the written request. The Executive Director may grant such additional time or other reasonable accommodation within the time limit set forth for the investigation in NRS 281A.725 or the time limit for the hearing before the Commission, as applicable. If the subject fails to comply with the written request of the Executive Director within the additional time or with any reasonable accommodation granted by the Executive Director pursuant to this paragraph, the Executive Director may request a subpoena pursuant to subsection 3, and the subject is deemed to have waived the time limits set forth in NRS 281A.710 to 281A.760, inclusive.*

*5. If the subject or any other witness fails or refuses to comply with the provisions of a subpoena issued pursuant to this section relating to an ethics complaint, the Executive Director or the subject, as applicable, may submit a request to the Chair or, in the absence of the Chair, the Vice Chair to petition the district court for an order compelling the subject or other witness to comply with the subpoena. The Chair or Vice Chair may petition the district court for such an order in accordance with the applicable requirements set forth in subsection 8 of NRS 281A.300.*

*6. If the district court enters an order that the subject or other witness comply with the subpoena issued pursuant to this section, the Commission Counsel, on behalf of the Chair or,*

*in the absence of the Chair, the Vice Chair, must serve the court order on the subject or other witness. If the subject or other witness does not comply with the court order, the Executive Director or subject, as applicable, may submit a request to the Chair or, in the absence of the Chair, the Vice Chair to petition the district court for an order of contempt of court pursuant to subsection 10 of NRS 281A.300.*

**Sec. 42.** NAC 281A.290 is hereby amended to read as follows:

281A.290 A subject or *other* witness before the Commission shall testify in person, except that the Commission may, for good cause shown ~~allow~~:

1. *Allow* a witness to testify by telephone or videoconference ~~H~~; *or*
2. *If the witness is not available or if the parties agree by stipulation, admit an affidavit signed by the witness under the penalty of perjury or the testimony of the witness taken at a deposition.*

**Sec. 43.** NAC 281A.300 is hereby amended to read as follows:

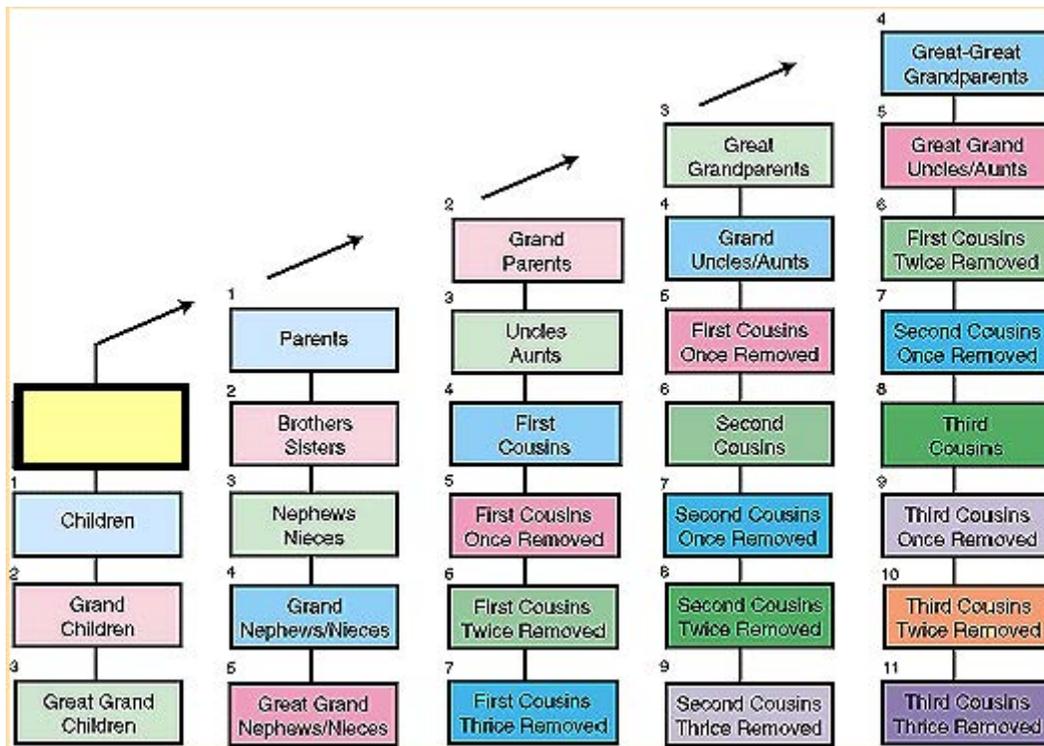
281A.300 A subject may retain legal counsel to represent him or her *concerning any request for an advisory opinion or ethics complaint, including, without limitation*, during:

1. Any investigation of ~~a third party request for an opinion;~~ *an ethics complaint;* or
2. Any hearing.

**Sec. 44.** NAC 281A.310 is hereby amended to read as follows:

281A.310 1. For the purposes of NRS 281A.065, the Commission will determine the relationships of a public officer or employee, or the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity pursuant to the following chart and instructions:

<b>Consanguinity/Affinity Chart</b>
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**INSTRUCTION:**

**For Consanguinity (relationship by blood) calculations:**

Place the public officer ~~†~~ or employee for whom you need to establish relationships by consanguinity in the blank box. The labeled boxes will then list the relationship by title to the public officer ~~†~~ or employee and the degree of distance from the public officer ~~†~~ or employee.

~~†Anyone~~ *Any person whose relationship to the public officer or employee is listed in a box numbered 1, 2, or 3 is within the third degree of consanguinity ~~†~~ to the public officer or employee, and if that person has a spouse or domestic partner, that spouse or domestic partner will be deemed to be within the same degree of relationship for the purposes of NRS 281A.065.*

**For Affinity (relationship by adoption, marriage or domestic partnership)**

**calculations:**

Place the spouse or domestic partner of the public officer ~~†~~ or employee for whom you need to establish relationships by affinity in the blank box. The labeled boxes will then list the relationship by title to the spouse or domestic partner and the degree of distance from the public officer ~~†~~ or employee by affinity. *Any person whose relationship to the spouse or domestic partner of the public officer or employee is listed in a box numbered 1, 2, or 3 is within the third degree of affinity to the public officer or employee, and if that person has a spouse or domestic partner, that spouse or domestic partner will be deemed to be within the same degree of relationship for the purposes of NRS 281A.065.*

Spouses *of public officers or employees* are related in the first degree of affinity by marriage , and domestic partners *of public officers or employees* are related in the first degree of affinity by domestic partnership. For adoption and other relationships by marriage or domestic partnership, the degree of relationship is the same as the degree of underlying relationship by blood.

2. As used in this section:

- (a) “Domestic partner” has the meaning ascribed to it in NRS 281A.085; and
- (b) “Domestic partnership” has the meaning ascribed to it in NRS 281A.086.

**Sec. 45.** NAC 281A.350 is hereby amended to read as follows:

281A.350 ~~{The Commission will only consider a first party}~~

1. *A request for an advisory opinion must be filed on the form and with the information required pursuant to subsection 2 of NRS 281A.675.*

2. *Upon receipt of a request for an advisory opinion filed ~~by a public officer or public employee that is on the form provided by the Commission and submitted in the manner prescribed on the form.~~ pursuant to NRS 281A.675, the Executive Director and the Commission Counsel shall review the matter and make a determination whether the Commission has jurisdiction in the matter and whether the request for an advisory opinion was properly filed with the necessary information for the Commission to render an advisory opinion in the matter.*

Sec. 46. NAC 281A.353 is hereby amended to read as follows:

281A.353 1. Except as otherwise provided in ~~subsection 2, a first-party~~ *this section, a request for an advisory opinion will be ~~heard~~ considered by the Commission within 45 days after receipt of the ~~first-party~~ request ~~for an opinion~~ by the Commission ~~+~~, unless the subject who filed the request for an advisory opinion waives the time limit set forth in NRS 281A.680 in writing.*

2. *If ~~a public officer or public employee who files a first-party request for an opinion~~ the subject cannot appear before the Commission for ~~a~~ an advisory-opinion hearing ~~on the first-party request for an opinion~~ that is scheduled by the Executive Director or Commission Counsel within 45 days after receipt of the ~~first-party~~ request for an advisory 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.] subject will be deemed to have waived the time limit set forth in NRS 281A.680.~~

3. If the ~~public officer or public employee does not request a waiver pursuant to subsection 2 and fails to~~ *subject does not waive the time limit set forth in NRS 281A.680 and:*

*(a) Fails to respond to a notice of hearing that is served on the subject pursuant to section 13 of this regulation within the time limit specified in the notice and the advisory-opinion hearing is cancelled; or*

*(b) Fails to appear at the advisory-opinion hearing ~~scheduled by the Commission within 45 days after receipt of the first-party request for an opinion,~~*

*↪ the ~~first-party~~ request for an advisory opinion will be deemed withdrawn by the ~~public officer or public employee making the request.~~ subject.*

Sec. 47. NAC 281A.355 is hereby amended to read as follows:

281A.355 At any time before the Commission ~~renders an opinion relating to a first-party request for an opinion, the public officer or public employee~~ *holds an advisory-opinion hearing in the matter or takes the matter under submission without holding an advisory-opinion hearing, the subject* who filed the ~~first-party~~ request for an *advisory* opinion may withdraw the ~~first-party~~ request for an *advisory* opinion by providing a *written* notice of withdrawal to the Commission.

Sec. 48. NAC 281A.360 is hereby amended to read as follows:

281A.360 ~~The~~

*1. If the* Executive Director ~~shall confer with the~~ *and* Commission Counsel ~~to determine jurisdiction concerning a first-party request for an 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.}~~ *determine that the Commission does not have jurisdiction over the request for an advisory opinion or that the request for an advisory opinion was not properly filed with the necessary information for the Commission to render an opinion in the matter, the Executive Director or Commission Counsel shall notify the subject who filed the request for an advisory opinion in writing of the determination and, if applicable, provide an opportunity within a specified period set forth in the notice for the subject to submit sufficient supplemental information for the Commission to render an advisory opinion in the matter.*

*2. The subject may:*

*(a) If applicable, submit the supplemental information for the Commission to render an advisory opinion in the matter within the period specified in the notice sent pursuant to subsection 1.*

*(b) Within 5 business days after receiving the notice sent pursuant to subsection 1, file a motion with the Commission to review the determination of the Executive Director and Commission Counsel, which must include information establishing that the Commission has jurisdiction over the matter or that the request for an advisory opinion was properly filed with the necessary information for the Commission to render an advisory opinion in the matter, as applicable.*

3. *The Commission may hold a hearing on the motion filed pursuant to paragraph (b) of subsection 2 or take the motion under submission without holding a hearing. If the Commission determines that it will hold a hearing on the motion, the Executive Director or Commission Counsel shall prepare and serve on the subject a notice of hearing that identifies the date, time and location of the hearing on the motion.*

4. *The Commission will deliberate and issue an order on a motion filed pursuant to paragraph (b) of subsection 2.*

5. *If the Executive Director or Commission Counsel provides an opportunity to the subject to supplement the request for an advisory opinion and the subject submits the supplemental information, the time limit set forth in NRS 281A.680 for the Commission to render an advisory opinion in the matter commences on the date on which the Commission receives the supplemental information from the subject.*

6. *If the subject does not submit supplemental information for the request for an advisory opinion or file a motion pursuant to this section, as applicable, the Executive Director or Commission Counsel shall issue an order dismissing the request for an advisory opinion.*

**Sec. 49.** NAC 281A.365 is hereby amended to read as follows:

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

(a) Ascertain whether the subject ~~{of}~~ *who filed* the ~~{first-party}~~ request for an *advisory* opinion and all persons requested by the subject to testify , *including, without limitation, persons commanded to appear under subpoena*, are present and whether all documents, books, records and other evidence *requested to be made available, including, without limitation,*

*evidence* under subpoena ~~{are present in the hearing room before the hearing begins.}~~ , *have been provided to the Commission.*

(b) Ensure that an oath is administered ~~{, in accordance with NAC 281A.280,}~~ to the subject ~~{of}~~ *who filed* the ~~{first-party}~~ request for an *advisory* opinion and all persons whose testimony will be taken.

2. ~~{Except as otherwise provided in subsection 3 of NAC 281A.353, the}~~ *The* subject ~~{of}~~ *who filed* the ~~{first-party}~~ request for an *advisory* opinion must be present at the hearing.

3. The ~~{Chair or}~~ presiding officer shall allow the subject ~~{of}~~ *who filed* the ~~{first-party}~~ request for an *advisory* 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}~~ *who filed* the ~~{first-party}~~ request for an *advisory* 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}~~ *who filed* the ~~{first-party}~~ request for an *advisory* 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 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 an opinion on the matter; and~~

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

~~—7. The opinion rendered 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 *advisory-opinion* 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. 50.** NAC 281A.403 is hereby amended to read as follows:

281A.403 1. If the Executive Director receives ~~{evidence}~~ *information* 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}~~ *an ethics complaint* upon its own motion pursuant to paragraph (c) of subsection ~~{2} 1~~ of NRS ~~{281A.440.}~~ *281A.710.*

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)}~~ (b) Include any reliable and competent form of proof ~~{provided by}~~, *including, without limitation, statements of* witnesses, public ~~{and}~~ *or* private records, audio or visual recordings,

documents, exhibits, concrete objects ~~{and other such forms}~~ *or another form* of proof , that ~~{support}~~ *supports* 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.~~

~~—4.}~~ **3.** 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}~~ *an ethics complaint* upon its own motion pursuant to paragraph (c) of subsection ~~{2}~~ **1** of NRS ~~{281A.440.}~~ **281A.710. Such a motion:**

*(1) Is a determination by the Commission that it has jurisdiction in the matter and the evidence is sufficient to warrant an investigation in the matter; and*

*(2) Will direct the Executive Director to investigate the ethics complaint as required pursuant to NRS 281A.720.*

**Sec. 51.** NAC 281A.405 is hereby amended to read as follows:

281A.405 1. ~~[The]~~ *An ethics complaint filed pursuant to paragraph (a) or (b) of subsection 1 of NRS 281A.710 must be filed on the form and with the evidence required pursuant to subsection 2 of NRS 281A.710.*

2. *Upon receipt of an ethics complaint filed pursuant to paragraph (a) or (b) of subsection 1 of NRS 281A.710, the Executive Director ~~[shall confer with the]~~ and 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 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 review a 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. The Executive Director shall:~~

~~—(a) Notify the subject and the requester of the third-party request for an opinion of the action taken by the Commission pursuant to subsection 6; and~~

~~—(b) If the Commission accepts jurisdiction of the matter, provide the notification required by NAC 281A.410.] *shall make a determination regarding whether to recommend that the Commission accept jurisdiction in the matter and whether the evidence submitted with the ethics complaint is sufficient to warrant an investigation in the matter. The Executive Director shall submit the recommendation, in writing, to the Commission.*~~

*3. Except as otherwise provided in section 18 of this regulation or unless the subject waives the time limit set forth in NRS 281A.715, within 45 days after the Commission has received an ethics complaint pursuant to paragraph (a) or (b) of subsection 1 of NRS 281A.710, the Commission will:*

*(a) Review the written recommendation submitted by the Executive Director pursuant to subsection 1; and*

*(b) Make a determination regarding:*

*(1) Whether it has jurisdiction in the matter;*

*(2) Whether the matter is submitted with evidence that is sufficient to warrant an investigation in the matter; and*

*(3) If the requester asked the Commission to keep his or her identity confidential pursuant to NRS 281A.750, whether it will keep the identity of the requester confidential.*

*4. After making the determinations pursuant to subsection 3, the Commission will, by order:*

*(a) If the Commission determines that it does not have jurisdiction in the matter, dismiss the ethics complaint.*

*(b) If the Commission determines that it has jurisdiction in the matter but the evidence submitted with the ethics complaint is not sufficient to warrant an investigation in the matter, dismiss the matter, with or without issuing a letter of caution or instruction to the subject of the ethics complaint.*

*(c) If the Commission determines that it has jurisdiction in the matter and the evidence submitted with the ethics complaint is sufficient to warrant an investigation in the matter:*

*(1) Dismiss the matter, with or without issuing a letter of caution or instruction to the subject; or*

*(2) Direct the Executive Director to investigate all or a portion of the ethics complaint pursuant to NRS 281A.720.*

*(d) If the requester asked the Commission to keep his or her identity confidential pursuant to NRS 281A.750, state whether it will keep the identity of the requester confidential.*

*5. The Executive Director or Commission Counsel shall notify the requester of the determinations of the Commission pursuant to this section.*

*6. If the Commission determines that it has jurisdiction in the matter and it will issue a letter of caution or instruction, the Executive Director or Commission Counsel shall serve the*

*order on the subject of the ethics complaint with a copy of the ethics complaint and the letter of caution or instruction.*

*7. If the Commission determines that it has jurisdiction in the matter and it directs the Executive Director to investigate all or a portion of the ethics complaint, the Executive Director shall provide notification and documentation to the subject of the ethics complaint in the manner required pursuant to NAC 281A.410.*

*8. If the Commission determines that it does not have jurisdiction in the matter or determines that it has jurisdiction in the matter but dismisses the matter without a letter of caution or instruction, the Executive Director or Commission Counsel may provide to the subject, upon written request, a copy of the ethics complaint.*

*9. If the Commission determines that the identity of the requester will be kept confidential pursuant to NRS 281A.750, the Executive Director shall redact any identifying information from any document provided to the subject pursuant to this section.*

**Sec. 52.** 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 has determined that the Commission has jurisdiction over the matter presented in the third-party request for an opinion}~~ *If the Executive Director has been directed to investigate a matter pursuant to NAC **281A.403** or 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~~ *ethics complaint of the investigation and of the* 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.~~ *ethics complaint regarding which the Commission has directed an investigation, as required pursuant to NRS 281A.720; and*

*(b) Except as otherwise provided in this paragraph, provide the subject with a copy of the ethics complaint or the information upon which the Commission based its motion to initiate an ethics complaint, as applicable. If the Commission determines that the identity of the requester will be kept confidential pursuant to NRS 281A.750, the Executive Director shall redact any identifying information from any document provided to the subject pursuant to this paragraph.*

2. A notification made pursuant to subsection 1 must:

(a) Be in writing and ~~{sent}~~ *provided* to the subject ~~{of the third party request for an opinion}~~ *in any manner in which receipt by the subject can be confirmed by the Executive Director, including, without limitation, by:*

(1) Personal delivery;

(2) Certified mail, return receipt requested; ~~{or}~~

(3) Overnight delivery service in which proof of delivery is documented ~~{}~~;

*(4) Regular mail delivery with tracking receipt; or*

*(5) If authorized by the subject, electronic delivery via electronic mail or facsimile.*

(b) Include, without limitation:

(1) ~~{A}~~ *Except as otherwise provided in NRS 281A.750, all* information filed by the requester or information upon which the Commission based its motion ~~{}~~ *to initiate the ethics complaint*, as appropriate;

(2) An outline of the process used by the Commission to resolve ~~{third party requests for opinions;}~~ *ethics complaints*; and

(3) A form prescribed by the Commission for waiving ~~{the}~~ :

*(I) The right to a determination by a review panel pursuant to NRS 281A.730 whether there is just and sufficient cause for the Commission to render an opinion in the matter; and*

*(II) The time limits set forth in ~~{subsections 4, 5 and 6 of NRS 281A.440.}~~ NRS 281A.725 and 281A.730.*

3. The subject ~~{of a third party request for an opinion may, within}~~ *may file with the Commission:*

*(a) A waiver of the right to a determination by a review panel pursuant to NRS 281A.730 whether there is just and sufficient cause for the Commission to render an opinion in the matter;*

*(b) A waiver of the time limits set forth in NRS 281A.725 and 281A.730; or*

*(c) Within the time limit set forth in ~~{subsection 3 of}~~ NRS ~~{281A.440, file with the Commission}~~ 281A.730, 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,}~~ *ethics complaint regarding which the Commission has directed an investigation.**

4. *If the subject files with the Commission a waiver of the right to a determination by a review panel pursuant to paragraph (a) of subsection 3, the subject is deemed to consent that the allegations set forth in the ethics complaint and any notice of additional issues and facts served by the Executive Director pursuant to NAC 281A.415 are supported by credible evidence to establish just and sufficient cause for the Commission to render an opinion in the matter.*

5. *If the subject files with the Commission a waiver of the time limits set forth in NRS 281A.725 and 281A.730 pursuant to paragraph (b) of subsection 3, 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~~ 281A.720 for the subject to file a written response to the allegations contained in the ~~third-party request for an opinion.~~ *ethics complaint regarding which the Commission has directed an investigation.**

6. *Except as otherwise provided in section 18 of this regulation or unless the subject waives the time limit set forth in NRS 281A.725, not later than 70 days after the Commission directs the Executive Director to investigate the ethics complaint, the Executive Director shall complete the investigation of the ethics complaint and present a written recommendation to the review panel that complies with the requirements of NRS 281A.725.*

**Sec. 53.** NAC 281A.415 is hereby amended to read as follows:

281A.415 1. The Executive Director may investigate relevant issues and facts beyond those presented in ~~the third-party request for an opinion~~ *an ethics complaint* in determining his or her written recommendation ~~of whether there is just and sufficient cause for the Commission to render an opinion on the third-party request for an opinion.~~ *to a review panel pursuant to NRS 281A.725.*

2. If the Executive Director ~~{includes}~~ *intends to include* issues and facts beyond those presented in the ~~{third party request for an opinion}~~ *ethics complaint regarding which the Commission has directed an investigation* in his or her written recommendations *to a review panel* which are not included in the notice issued to the subject pursuant to NAC 281A.410, 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}~~ NRS ~~{281A.440.}~~ *281A.720.*

**Sec. 54.** NAC 281A.425 is hereby amended to read as follows:

281A.425 *1.* The proceedings of ~~{an investigatory}~~ *a review* 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}~~, *including, without limitation, proceedings relating to a deferral agreement,* are confidential ~~{and}~~ *pursuant to NRS 281A.735.*

*2. Except as otherwise provided in this subsection, the proceedings of a review panel are closed to all persons except the staff of the Commission. If the review panel holds a hearing to consider a proposed deferral agreement, the subject may be present.*

**Sec. 55.** NAC 281A.430 is hereby amended to read as follows:

281A.430 *1.* At the proceedings of ~~{an investigatory}~~ *a review* panel on ~~{a third party request for an opinion,}~~ *an ethics complaint,* the ~~{investigatory}~~ *review* panel shall consider:

~~{1.}~~ *(a)* The ~~{results of the investigation of the Executive Director and the}~~ *written* recommendation of the Executive Director ~~{regarding whether there is just and sufficient cause for the Commission to render an opinion;~~

~~—2.—~~ *The third party request for an opinion} *presented pursuant to NAC 281A.410;**

*(b) 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.}~~ *(c) The response, if any, of the ~~[public officer or public employee who is the]~~ subject of the ~~[third party request for an opinion.]~~ ethics complaint submitted pursuant to NRS 281A.720 or NAC 281A.415.*

*2. Unless the subject waives the time limit set forth in NRS 281A.730, within 15 days after being presented the written recommendation of the Executive Director pursuant to NAC 281A.415, the review panel shall make a determination to:*

*(a) Dismiss the ethics complaint, with or without prejudice, and with or without issuing a letter of caution or instruction to the subject, if the review panel determines that there is not just and sufficient cause for the Commission to render an opinion in the matter;*

*(b) Approve or authorize the development of a deferral agreement between the Executive Director and the subject, if the review panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter but reasonably believes that the conduct at issue may be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement; or*

*(c) Refer the ethics complaint to the Commission for further proceedings if:*

*(1) The review panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter but reasonably believes that the conduct at issue may not be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement;*

*(2) The review panel does not approve a deferral agreement relating to the ethics complaint; or*

*(3) The subject refuses to develop or declines to agree to a deferral agreement.*

Sec. 56. NAC 281A.440 is hereby amended to read as follows:

281A.440 1. *The Executive Director shall prepare, in writing, the determination made by the review panel pursuant to NAC 281A.430.*

2. A determination ~~issued by an investigatory~~ *of a review* panel *prepared* pursuant to ~~NRS 281A.220 which specifies that there is just and sufficient cause for the Commission to render an opinion on a third party request for an opinion~~ *subsection 1* must ~~be recorded in writing and~~ include, without limitation:

~~1.~~ (a) The findings of the ~~investigatory~~ *review* panel; ~~and~~

~~2.~~ (b) The statutes upon which the ~~investigatory~~ *review* panel based its determination ~~that there is just and sufficient cause for the Commission to render an opinion.~~ ; *and*

*(c) If the review panel:*

*(1) Has determined to refer the matter to the Commission for further proceedings, an order of referral; or*

*(2) Authorizes the development of a deferral agreement between the Executive Director and the subject, the date by which the deferral agreement must be presented to the review panel.*

3. *Upon approval of the written determination by the review panel, the Executive Director shall serve the written determination on the subject.*

Sec. 57. 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,~~ *an ethics complaint other than an adjudicatory hearing*, the Commission ~~must~~ *Counsel shall issue and* serve the ~~subject~~ *parties* with advance written notice of the hearing ~~at~~

~~least 10 days before the date on which the hearing is scheduled to commence which~~ *that* includes the date, time and location of the hearing.

2. ~~{The written}~~ *Service of the* notice required pursuant to this section ~~{must comply with:~~
  - ~~—(a) The requirements for notice set forth in subsection 10 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~~ *on the subject of the ethics complaint will* 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 ~~{}~~ *in any manner in which receipt by the subject can be confirmed by the Commission Counsel.*

**Sec. 58.** 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}~~ *an adjudicatory hearing* shall:

(a) Ascertain whether all persons ~~{commanded to appear under subpoena}~~ *identified in the witness lists submitted by the parties* are present , *including, without limitation, any witnesses under subpoena,* and whether *all exhibits required for the adjudicatory hearing pursuant to the scheduling order, including, without limitation,* all ~~{documents,}~~ books ~~{, records}~~ and

~~{other evidence}~~ *papers* under subpoena ~~{are present in the hearing room before the hearing begins.}~~, *have been submitted to the Commission.*

(b) Ensure that an oath is administered in accordance with NAC 281A.280 to all persons whose testimony will be taken.

(c) ~~{Exclude}~~ *Except for the subject, 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}~~, *including, without limitation, the admissibility of or objections to any proffered documentary evidence*, and address any administrative details.

(e) ~~{Designate a member of the staff of the Commission}~~ *Direct the Executive Director* to present *opening comments regarding* the ~~{third party request for an opinion,}~~ *ethics complaint*, the response to the ~~{third party request for an opinion}~~ *ethics complaint* by the subject and the determination of the ~~{investigatory}~~ *review* 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) ~~{Call}~~ *Direct the Executive Director to 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.]~~ *ethics complaint.*

2. Upon the conclusion of the presentation of any evidence and the examination of any witnesses ~~{on behalf of the Commission,}~~ *by the Executive Director,* 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}~~

3. *Any member of the Commission may question the Executive Director, the* subject, any witnesses or any counsel ~~{retained by}~~ *who represents the Executive Director or the* subject ~~{may be questioned by any member of the Commission}~~ at any time during the proceeding.

~~{6.}~~ 4. Upon the conclusion of the presentation of evidence *and the examination of witnesses* by the *Executive Director, the* subject and ~~{the examination of any witnesses,}~~ *any member of the Commission,* the ~~{Chair or}~~ presiding officer shall allow the *Executive Director and the* subject to present closing comments.

~~{7.—Upon the conclusion of the closing comments by the subject, the Commission will deliberate the issues of fact presented at the hearing, make a determination of the findings of fact, apply the applicable law to the findings of fact and render an opinion concerning whether the subject has violated any of the provisions of chapter 281A of NRS.~~

~~—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.]~~ 5. The Commission may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.

**Sec. 59.** NAC 281A.465 is hereby amended to read as follows:

281A.465 1. In conducting any *adjudicatory* hearing concerning ~~{a third-party request for an opinion,}~~ *an ethics complaint*, 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 and the* subject may object to the introduction of evidence if the *Executive Director 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. 60.** NAC 281A.470 is hereby amended to read as follows:

281A.470 1. *Unless otherwise directed by the Commission or the presiding officer, as applicable, the subject of an ethics complaint is not required to appear personally at any hearing relating to the ethics complaint except an adjudicatory hearing.*

2. If ~~{a}~~ *the* subject fails to appear at ~~{a}~~ *an adjudicatory* hearing ~~{concerning a third-party request for an opinion which is}~~ scheduled by the Commission *or fails to reply to the notice provided pursuant to NAC 281A.410* 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 *consider*

*the alleged violations specified in the determination of the review panel to be true or may proceed to consider the case without the presence 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 281A.410, the alleged violations specified in the determination of the investigatory panel that there is just and sufficient cause for the Commission to render an opinion may be considered as true.~~*

**Sec. 61.** NAC 281A.500 is hereby amended to read as follows:

281A.500 ~~{A}~~ *Unless otherwise directed or authorized by the Chair, at least 1 week before the date on which the Commission is scheduled to hold a ~~hearing on a matter,~~ meeting, the Executive Director **and Commission Counsel** 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~~ *any* information **or materials** which the Executive Director **or Commission Counsel** deems necessary to assist the Commission in ~~hearing the matter.~~ **conducting the meeting.**

**Sec. 62.** NAC 281A.505 is hereby amended to read as follows:

281A.505 1. ~~{A}~~ *The Executive Director 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 ~~{}~~ **or section 14 of this regulation, as applicable.** 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 *Revised* 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. 63.** 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. 64.** 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. *The form for requesting a public record from the Commission is available on the Internet website of the Commission at <http://ethics.nv.gov>.*

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. 65.** 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 *prescribed by the Commission* for ~~{each document specified in subsection 1}~~ *filing an acknowledgment of the statutory ethical standards required by NRS 281A.500* is available at the ~~{principal}~~ office of the Commission and on the Internet website of the Commission ~~{}~~ *at <http://ethics.nv.gov>.*~~

**Sec. 66.** NAC 281A.070, 281A.075, 281A.190, 281A.400, 281A.420, 281A.435, 281A.445, 281A.455, 281A.475, 281A.480, 281A.485, 281A.490, 281A.495, 281A.510, 281A.515, 281A.520 and 281A.550 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**281A.070 “Principal office of the Commission” defined. (NRS 281A.290)** “Principal 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.

**281A.075 “Proceedings of an investigatory panel” defined. (NRS 281A.290)** “Proceedings of an investigatory panel” means a review pursuant to NAC 281A.430 and determination by an investigatory panel as to whether there is just and sufficient cause for the Commission to render an opinion on a matter presented in a third-party request for an opinion. For the purposes of this chapter, the proceedings of an investigatory panel do not constitute a hearing.

**281A.190 Principal office of Commission: Designation; primary location for conduct of business. (NRS 281A.290)**

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.

**281A.400 Requirements for consideration by Commission; contents; withdrawal.**

**(NRS 281A.290)**

1. The Commission will only consider a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440 which is on the form provided by the Commission and submitted in the manner prescribed on the form.

2. A third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440 must contain:

- (a) The original completed form for a third-party request for an opinion;
- (b) Two copies of the completed form; and
- (c) Three copies of all supporting documents and evidence.

3. A third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440 must be accompanied by evidence which supports the allegation that the subject has violated a statutory ethical standard set forth in the third-party request for an opinion and demonstrates that the alleged conduct of the subject would constitute a violation of chapter 281A of NRS.

4. Once a third-party request for an opinion has been filed with the Commission pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440, the requester may only withdraw the third-party request for an opinion with the consent of the Executive Director.

5. A request to withdraw a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440 must be in writing and set forth the specific reasons for requesting the withdrawal of the third-party request for an opinion.

6. As used in this section, “evidence which supports the allegation” means 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 a reasonable belief in the truth of the allegation made in the third-party request for an opinion. The term includes any evidence which is offered that corroborates 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 as the only evidence to support the allegation.

**281A.420 Confidentiality of request; confidentiality and availability of information related to request. (NRS 281A.290)**

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 of NRS 281A.440, is a public record available for public review during normal business hours at the principal office of the Commission.

**281A.435 Basis for finding by investigatory panel; unanimous finding required for determination that there is not just and sufficient cause to render opinion. (NRS 281A.290)**

1. A finding by an investigatory panel as to whether there is just and sufficient cause for the Commission to render an opinion on a third-party request for an opinion must be based on credible evidence.

2. A finding by an investigatory panel that there is not just and sufficient cause for the Commission to render an opinion on a third-party request for an opinion 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 an investigatory panel that the Commission should hear the matter and render an opinion on the third-party request for an opinion. The term does not include a newspaper article or other media report if the article or report is offered as the only evidence to support the allegation.

**281A.445 Record of proceedings of investigatory panel. (NRS 281A.290)** The Executive Director shall provide and make arrangements for a written record or audio recording to be made of any proceedings of an investigatory panel.

**281A.455 Hearings: Continuance. (NRS 281A.290)** 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:

- (a) Upon the written petition of the subject for good cause shown; or
- (b) By stipulation of the subject and the Commission, acting through the Executive Director.

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.

**281A.475 Requirements for consideration by Commission. (NRS 281A.290)** The Commission will only consider those requests for an opinion filed pursuant to subsection 6 of NRS 281A.550 that are on the form provided by the Commission and submitted in the manner prescribed on the form.

**281A.480 Scheduling of hearing; effect of failure to appear at hearing. (NRS 281A.290)**

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 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.

**281A.485 Withdrawal. (NRS 281A.290)** At any time before the Commission renders an opinion on a 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.

**281A.490 Determination regarding jurisdiction: Conduct by Executive Director and Commission Counsel; notification; request for review by Commission. (NRS 281A.290)**

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 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 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 notification.

**281A.495 Conduct of hearings; action by Commission; waiver of provisions; confidentiality. (NRS 281A.290)**

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 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 an opinion on the matter; and

- (c) Submit a copy of 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.

**281A.510 Commission to determine order of proceedings. (NRS 281A.290)** Except as otherwise provided in NRS 281A.440 and NAC 281A.365, 281A.460 and 281A.495, the Commission will determine, as it deems appropriate, the order of proceedings for a hearing and will inform the parties thereof before the hearing commences.

**281A.515 Testimony: Oath or affirmation required. (NRS 281A.290)** All testimony received at a hearing before the Commission must be given under oath or affirmation.

**281A.520 Participation by subject of hearing; questioning of witnesses. (NRS 281A.290)**

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 will question witnesses at the hearing.

**281A.550 Written opinions and abstracts: Contents; dissemination. (NRS 281A.290)**

1. The Commission Counsel shall, if directed by the Commission, prepare:

(a) A written opinion of the Commission regarding a first-party request for an opinion, a third-party request for an opinion or a request for an opinion submitted pursuant to subsection 6 of NRS 281A.550; and

(b) An abstract of any written opinion which is confidential pursuant to subsection 7 of NRS 281A.440 or subsection 7 of NRS 281A.550.

2. A written opinion or abstract of the Commission must plainly state:

(a) If the opinion concerns a third-party request for an opinion, each violation alleged against the public officer or public employee who is the subject of the third-party request for an opinion;

(b) Except as otherwise provided in subsection 7 of NRS 281A.440, if the opinion concerns a first-party request for an opinion, each question for which the public officer or employee seeks guidance concerning the interpretation of a statutory ethical standard;

(c) If the opinion concerns a request for an opinion filed pursuant to subsection 6 of NRS 281A.550, the relevant facts in the case that do or do not justify relief from the strict application of the provisions of subsection 3 or 5 of NRS 281A.550, as applicable;

(d) The determination of the Commission with regard to each allegation, question or fact, as applicable; and

(e) The applicable findings of fact and conclusions of law and any specific guidance concerning the interpretation of a statutory ethical standard provided by the Commission to a public officer or public employee who is the subject of a first-party request for an opinion.

3. Each written opinion and abstract must be numbered, dated and signed by the Chair or presiding officer.

4. The Commission will:

(a) Provide a copy of each written opinion and abstract to each person who is a party;

(b) Post a copy of each written opinion which is not confidential and each abstract on the Internet website of the Commission at <http://ethics.nv.gov>; and

(c) Deliver a copy of a written opinion which is not confidential or an abstract, as applicable, to any person who requests such a copy.

5. As used in this section, “abstract” means a version of a confidential written opinion that has been redacted or amended to keep the identity of the requester of the opinion confidential.