

**LCB File No. R102-00**

**PROPOSED REGULATION OF THE COMMISSION ON ETHICS**

STATE OF NEVADA

Kenneth A. Rohrs  
*Executive Director*



Nancy Lee Varnum  
*Commission Counsel*

**COMMISSION ON ETHICS**

**3476 Executive Pointe Way, Suite 16**  
Carson City, Nevada 89706  
(775) 687-5469 • FAX (775) 687-1279

**NOTICE OF PUBLIC MEETINGS**

The Nevada Commission on Ethics will conduct a PUBLIC WORKSHOP and a PUBLIC HEARING, pursuant to NRS 281.471 and NRS 233B.061, to adopt procedural regulations and rules of practice for the Nevada Commission on Ethics, as follows:

**WORKSHOP**

Friday, May 26, 2000 @ 9:00 AM

Room 4401, Grant Sawyer State Office Building  
555 East Washington Avenue  
Las Vegas, Nevada

&

Videoconference connection  
Committee Room 3138, Legislative Building  
401 South Carson Street  
Carson City, Nevada

**PUBLIC HEARING**

Friday, June 16, 2000 @ 9:00 AM

Committee Room 2135, Legislative Building  
401 S. Carson Street  
Carson City, Nevada

&  
Videoconference connection  
Room 4401, Grant Sawyer State Office Building  
555 East Washington Avenue  
Las Vegas, Nevada

### WORKSHOP

The purpose of the WORKSHOP is “to solicit comments from persons on one or more general topics to be addressed in the proposed regulations”.

### PUBLIC HEARING

The purpose of the PUBLIC HEARING is to permit all interested persons “a reasonable opportunity to submit data, views or argument upon a proposed regulation, orally or in writing.”

< Please Note >

- Written and oral statements may be presented at the WORKSHOP on May 26, 2000. Written comments also may be submitted to the Commission on or before May 31, 2000.
- Data, views and arguments regarding the proposed regulations may be presented, in writing or orally, at the PUBLIC HEARING on June 16, 2000. Written materials (data, views and arguments regarding the proposed regulations) also may be submitted to the Commission on or before June 9, 2000.

This Public Notice has been posted on or before 9:00 AM on Wednesday, May 10, 2000, in accordance with NRS 233B.060 and 233B.061, at the following locations:

1. Nevada Commission on Ethics, 3476 Executive Pointe Way, Suite 16, Carson City
2. State Capitol Building, Carson City
3. State Legislative Building, Carson City
4. State Library & Archives Building, 100 North Stewart Street, Carson City
5. Carson City Courthouse, 885 East Musser Street, Carson City
6. Kinkead Building, 505 East King Street, Carson City
7. Blasdel Building, 209 East Musser Street, Carson City
8. Grant Sawyer State Office Building, 555 East Washington Avenue. Las Vegas
9. Bradley Building, 2501 East Sahara Avenue, Las Vegas
10. Washoe County Courthouse, 75 Court Street, Reno
11. Washoe County Administration Building, 1001 East 9<sup>th</sup> Street, Reno

STATE OF NEVADA

Kenneth A. Rohrs  
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COMMISSION ON ETHICS

3476 Executive Pointe Way, Suite 16  
Carson City, Nevada 89706-7946  
(775) 687-5469 • FAX (775) 687-1279

June 21, 2000

**NOTICE OF INTENT TO ACT UPON REGULATIONS**

**Notice of Hearing for the Adoption of Regulations of the  
Nevada Commission on Ethics**

The Nevada Commission on Ethics (the "Commission") will hold a public hearing at 8:30 a.m. on Friday, July 21, 2000, in Room 4412E of the Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas 89101-1049 to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 281 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulations is to conform the Commission's regulations to the Ethics in Government Law contained in Chapter 281 of the Nevada Revised Statutes and the statutes regulating campaign practices contained in Chapter 294A of the Nevada Revised statutes, and legislative changes thereto which became effective October 1, 1999, over which the Commission has jurisdiction.
2. The regulations to be adopted address the administration of the Commission and the Commission's general practice and procedures, practice and procedures relating to first-party advisory opinions and third-party ethics complaints, just and sufficient cause panel proceedings, commission hearings on ethics complaints, campaign practices complaints, opinions, financial disclosure statements, ethics acknowledgments, agency representation disclosure statements, and files and records.
3. The Commission enforces the ethics in government laws as they relate to public officers and public employees. The Commission does not regulate a business industry. The proposed regulations have no economic effect on any business industry or on the public.

4. There is no additional cost to the Nevada Commission on Ethics for enforcement of the proposed regulations.
5. The proposed regulations do not overlap or duplicate any regulations of other state or local governmental agencies.
6. The proposed regulations are not required pursuant to federal law.
7. The proposed regulations do not include provisions which are more stringent than any federal regulation that regulates the same activity.
8. The proposed regulations neither establish any new fee or increase any existing fee.

Persons wishing to comment upon the proposed action of the Nevada Commission on Ethics may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Commission on Ethics. Written submissions must be received by the Nevada Commission on Ethics on or before Friday, July 21, 2000. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Commission on Ethics may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the office of the Nevada Commission on Ethics, 3476 Executive Pointe Way, Suite 16, Carson City, Nevada 89706-7946, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

1. Nevada Commission on Ethics, 3476 Executive Pointe Way, Suite 16, Carson City
2. State Capitol Building, Carson City
3. State Legislative Building, Carson City
4. State Library & Archives Building, 100 North Stewart Street, Carson City
5. Carson City Courthouse, 885 East Musser Street, Carson City

6. Kinkead Building, 505 East King Street, Carson City
7. Blasdel Building, 209 East Musser Street, Carson City
8. Grant Sawyer State Office Building, 555 East Washington Ave., Las Vegas
9. Bradley Building, 2501 East Sahara Ave., Las Vegas
10. Washoe County Courthouse, 75 Court Street, Reno
11. Washoe County Administration Building, 1001 East 9<sup>th</sup> Street, Reno

**Regulations**  
**adopted June 16, 2000**  
Authority: NRS 281.471

The “Commission on Ethics” regulations set forth in Chapter 281 of the Nevada Administrative Code (NAC) (NAC 281.005 through NAC 281.185, inclusive) are hereby amended by replacing them in their entirety with the provisions set forth in the following Section 1 through Section 124, inclusive.

**NEVADA COMMISSION ON ETHICS**

*General Provisions*

- Section 1.** *Definitions. (NRS 281.471). As used in the “Nevada Commission on Ethics” regulations, unless the content otherwise requires, the words and terms defined in Section 3 through Section 42 below have the meanings ascribed to them in those sections.*
- Section 2.** *Severability. (NRS 281.471).*
- 1. The provisions of Section 1 to Section 124, inclusive, are hereby declared to be severable.*
  - 2. If any provision of Section 1 to Section 124, inclusive, is held invalid, or if the application of any such provision to any person, thing or circumstance is held invalid, such invalidity does not affect any other provision of Section 1 to Section 124, inclusive, that can be given effect without the invalid provision or application.*

*Definitions*

- Section 3.** *“Advisory opinion” defined. (NRS 281.471). “Advisory opinion” means a confidential opinion rendered by the commission upon the request of a public officer or employee pursuant to NRS 281.511, Subsection 1.*
- Section 4.** *“Agency representation disclosure statement” defined. (NRS 281.471). “Agency representation disclosure statement” means the form required to be filed with the commission pursuant to NRS 281.491.*
- Section 5.** *“Campaign practices complaint” defined. (NRS 281.471). “Campaign practices complaint” means a complaint or request for an opinion filed pursuant to NRS 294A.345, 294A.346, and 281.477.*
- Section 6.** *“Candidate” defined. (NRS 281.471). “Candidate” means any person:*
- 1. Who files a declaration of candidacy;*
  - 2. Who files an acceptance of candidacy; or*
  - 3. Whose name appears on an official ballot at any election,*
- For election to any public office, including the office of justice of the supreme court, district judge, justice of the peace and municipal judge.*

- Section 7.** *“Chairperson” defined. (NRS 281.471). “Chairperson” means the chair of the commission.*
- Section 8.** *“Civil penalty” defined. (NRS 281.471). “Civil penalty” means those fines that the commission may impose on the subject or requester of an opinion, or any other person, pursuant to NRS 281.551 and NRS 281.581. See also, “sanctions.”*
- Section 9.** *“Commission” defined. (NRS 281.471). “Commission” means the Nevada Commission on Ethics.*
- Section 10.** *“Commission counsel” defined. (NRS 281.471). “Commission counsel” means legal counsel to the commission, appointed by the commission pursuant to NRS 281.464.*
- Section 11.** *“Compensation” defined. (NRS 281.471). “Compensation” means any money, thing of value or economic benefit conferred on or received by any person in return for services rendered, personally or by another.*
- Section 12.** *“Complaint” defined. (NRS 281.471). “Complaint” means a third-party opinion request submitted to the commission pursuant to NRS 281.511, Subsection 2; NRS 294A.345; or NRS 294A.346. (See also, “ethics complaint” defined, Section 17; and “third party opinion request” defined, Section 39.)*
- Section 13.** *“Credible evidence” defined. (NRS 281.471). “Credible evidence” as used in Section 870 is a 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 the commission panel that the commission should hear the matter and render an opinion. A newspaper article or other media report, by itself, is not “credible evidence” for purposes of Section 87.*
- Section 14.** *“Decision” defined. (NRS 281.471). “Decision” means making a determination through the exercise of governmental power to adopt laws, regulations or standards, render quasi-judicial decisions, establish executive policy or determine questions involving substantial discretion. The term does not include the functions of the judiciary.*
- Section 15.** *“Entitled to receive compensation” defined. (NRS 281.471). For purposes of NRS 281.561, Subsection 1, “entitled to receive compensation” means any remuneration which the public or judicial officer or candidate has a right to receive for serving in the office in question. “Entitled to receive compensation” does not include reimbursement for lodging, meals, and/or travel. (See also, “compensation” defined, Section 11.)*
- Section 16.** *“Ethics acknowledgement” defined. (NRS 281.471). “Ethics acknowledgement” means the form required to be filed with the commission by every public officer acknowledging that he or she has received, read and understands Nevada’s statutory ethical standards pursuant to NRS 281.552.*
- Section 17.** *“Ethics complaint” defined. (NRS 281.471). “Ethics complaint” means a third-party request for opinion submitted to the commission pursuant to NRS 281.511, Subsection 2`.*
- Section 18.** *“Ethics in Government Law” defined. (NRS 281.471). “Ethics in Government Law” means the provisions of NRS Chapter 281.*

- Section 19.** *“Ethics Manual” defined. (NRS 281.471). “Ethics Manual” means the guidebook containing hypothetical opinions, abstracts of selected opinions, and an abstract of the Nevada ethics in government law (NRS Chapter 281) published by the commission for use by public officers and public employees.*
- Section 20.** *“Executive director” defined. (NRS 281.471). “Executive director” means the executive director of the commission, appointed by the commission pursuant to NRS 281.463.*
- Section 21.** *“Financial Disclosure Statement” defined. (NRS 281.471). “Financial Disclosure Statement” means the form every candidate for public or judicial office and public or judicial officer entitled to receive compensation for serving in office must file with the commission pursuant to NRS 281.561.*
- Section 22.** *“Hearing,” “hearing on the matter,” “commission hearing” and “adjudicatory hearing” defined. (NRS 281.471). “Hearing,” hearing on the matter,” “commission hearing” and “adjudicatory hearing” mean the hearing on the merits of a request for an opinion conducted before the commission pursuant to NRS 281.511, Subsection 4, subsequent to the panel proceedings.*
- Section 23.** *“Household” defined. (NRS 281.471). “Household” means an association of persons who live in the same home or dwelling, sharing its expenses, and who are related by blood, adoption or marriage.*
- Section 24.** *“Information related to the complaint” defined. (NRS 281.471). “Information related to the complaint” means the ethics complaint, all investigative materials and information (including any investigation report) related to the complaint, each document in the possession of the commission or its staff that is related to the complaint, and the record of the panel proceedings related to the complaint, excluding any information deemed confidential by law.*
- Section 25.** *“Investigate” defined. (NRS 281.471). “Investigate” means to examine and inquire into a matter, and to marshal evidence, according to those methods and employing those services that the executive director, in his or her discretion, determines are reasonable and necessary under the relevant facts and circumstances.*
- Section 26.** *“Opinion” defined. (NRS 281.471). “Opinion” means a quasi-judicial decision rendered by the commission pursuant to NRS 281.477 or NRS 281.511.*
- Section 27.** *“Panel” defined. (NRS 281.471). “Panel” means the two-commission-member panel appointed by the chairperson pursuant to NRS 281.462 and NRS 281.4357.*
- Section 28.** *“Panel proceeding” defined. (NRS 281.471). “Panel proceeding” means the commission panel’s review of the executive director’s recommendation to determine whether just and sufficient exists for the commission to render an opinion under NRS 281.511, Subsection 2. A “panel proceeding” is not a hearing and seldom requires the testimony of witnesses.*
- Section 29.** *“Party” and “parties” defined. (NRS 281.471). “Party” and “parties” mean the subject of the request for an opinion and any other person the commission determines will be treated as a party to a hearing before the commission. Except for purposes of NRS 281.477 and unless the commission, in its discretion, deems otherwise, a requester is not a “party” (NRS 281.511, Subsection 9).*



- Section 30.** *“Person” defined. (NRS 281.471). “Person” means a natural person, a business entity, or a social organization.*
- Section 31.** *“Proper form” defined. (NRS 281.471). “Proper form” means clearly and legibly printed or typed on the form (available from the commission office and on its website) created by the commission for the intended purpose and submitted to the commission with all required information included.*
- Section 32.** *“Public officer” defined. (NRS 281.471). “Public officer” has the meaning ascribed to it in NRS 281.005 and NRS 281.4365.*
- Section 33.** *“Public employee” defined. (NRS 281.471). “Public employee,” as defined in NRS 281.436, means any person who, for compensation, performs public duties under the direction and control of a state, county or local public officer.*
- Section 34.** *“Quorum” defined. (NRS 281.471). “Quorum” means a majority of the appointed and sworn commission members.*
- Section 35.** *“Record of panel proceedings” defined. (NRS 281.471). “Record of panel proceedings” means written documentation memorializing the deliberations of the commission panel resulting in a determination regarding just and sufficient cause.*
- Section 36.** *“Requester” defined. (NRS 281.471). “Requester” means the person or group of persons who files a complaint with the commission requesting an opinion pursuant to NRS 281.511, Subsection 2, or NRS 281.477.*
- Section 37.** *“Sanctions” defined. (NRS 281.471). “Sanctions” means a civil penalty imposed on the subject or requester of an opinion, or any other person, pursuant to NRS 281.551 and NRS 281.581.*
- Section 38.** *“Subject” defined. (NRS 281.471). “Subject” means the public officer or public employee against whom a complaint has been filed with the commission pursuant to NRS 281.511, Subsection 2, and a candidate against whom a campaign practices complaint has been brought alleging a violation of NRS 294A.345 or NRS 281.581.*
- Section 39.** *“Third-party opinion request” defined. (NRS 281.471). “Third-party opinion request” means an ethics complaint filed with the commission pursuant to NRS 281.511, Subsection 2; NRS 294A.345; or NRS 294A.346. See also, “complaint.”*
- Section 40.** *“Vexatious” defined. (NRS 281.471). “Vexatious” means misleading, deceptive, lacking justification, or intended to harass.*
- Section 41.** *“Vice chairperson” defined. (NRS 281.471). “Vice chairperson” means the vice chair of the commission.*
- Section 42.** *“Willful violation” defined. (NRS 281.471). “Willful violation” means that the subject knew or reasonably should have known that his or her conduct violated the provisions of NRS Chapter 281.*

### *Administration*

- Section 43.** *Election of chairperson. (NRS 281.471). The commission shall, at its first meeting each new fiscal year, elect a chairperson from among its members.*

- Section 44.** *Duties of the chairperson. (NRS 281.471).*
- 1. The chairperson shall preside over meetings and hearings of the commission.*
  - 2. The chairperson shall appoint the just and sufficient cause determination panels.*
  - 3. The chairperson may delegate assignments of work to staff as necessary and appropriate.*
- Section 45.** *Election of vice chairperson. (NRS 281.471). The commission shall, at its first meeting each new fiscal year, elect a vice chairperson from among its members.*
- Section 46.** *Duties of vice chairperson. (NRS 281.471). During the chairperson's absence, the vice chairperson shall perform the duties of the chairperson.*
- Section 47.** *Vacancy in office of chairperson. (NRS 281.471). If the office of chairperson becomes vacant, the vice chairperson shall serve as acting chairperson until the commission, at its next meeting, shall elect a successor to fill the unexpired term of the chairperson.*
- Section 48.** *Vacancy in office of vice chairperson. (NRS 281.471). If the office of vice chairperson becomes vacant, the commission shall, at its next meeting, elect a successor to fill the unexpired term of the vice chairperson.*
- Section 49.** *Temporary vacancy in both offices of chairperson and vice chairperson. (NRS 281.471). In the event both the chairperson and the vice chairperson are disqualified or recused from participating in a matter, the commission may appoint a temporary acting chairperson and/or vice chairperson.*
- Section 50.** *Commission meetings: schedule, arrangements and notice. (NRS 281.471). The executive director shall, as necessary and appropriate, schedule, make arrangements for, and provide notice of commission meetings, commission hearings and commission panel proceedings.*
- Section 51.** *Quorum; majority vote of members present sufficient for business of commission. (NRS 281.471). No commission meeting may proceed without a quorum present. Except as may otherwise be provided in Section 1 to Section 124, inclusive, a majority vote of the members of the commission present at a meeting and eligible to vote is sufficient for all business of the commission.*
- Section 52.** *Duties of executive director. (NRS 281.471). Among other duties of the executive director as may be required by statute or these regulations, or as imposed by the commission, the executive director shall:*
- 1. Maintain complete and accurate records of all transactions and proceedings of the commission.*
  - 2. Within appropriate budgetary limits, employ such persons as are necessary to carry out any of his or her duties relating to (a) the administration of the affairs of the commission; (b) the review of statements of financial disclosure; and (c) the investigation of matters under the jurisdiction of the commission.*
  - 3. Recommend to the commission any regulations or legislation that he or she considers desirable or necessary to improve the operation of the commission and maintain high standards of ethical conduct in government.*
  - 4. Pursuant to NRS 281.4635, Subsection 1(e), create training curriculum and conduct training for public officers and employers of public employees on*

*the requirements of NRS Chapter 281, the rules and regulations adopted by the commission, and previous opinions of the commission.*

5. *At the first meeting of each new fiscal year, report to the Commission on the state of the commission's affairs for the prior fiscal year and goals for the new fiscal year.*

**Section 53.** *Duties of commission counsel. (NRS 281.471). Commission counsel is legal adviser to the commission and shall, in addition to duties imposed on him or her by the commission, prepare a written opinion for each complaint and advisory matter heard by the commission following the commission's hearing and within the time provided in NRS 281.511, Subsection 4.*

### ***General Practice and Procedure***

**Section 54.** *Provisions governing practice and procedure; deviation from provisions. (NRS 281.471).*

1. *Except as otherwise provided in subsection 3, the provisions of Section 54 to Section 64, inclusive, govern all practice and procedure before the commission.*
2. *The commission shall liberally construe the provisions of Section 54 to Section 64, inclusive, to determine all matters before the commission in a just, speedy and economical manner.*
3. *For good cause shown, the commission may deviate from the provisions of Section 54 to Section 64, inclusive, if the deviation will not materially affect the interests of the subject of the request for opinion.*

**Section 55.** *Addressing and filing written communications and documents with the commission. (NRS 281.471). Each written communication or document sent to the commission must be clearly and legibly typed or printed on 8 ½ by 11 inch paper, on one side only, addressed to the commission office and, except as may be otherwise provided in these regulations, shall be deemed filed with the commission on the date it is received at the commission's office.*

**Section 56.** *Jurisdiction. (NRS 281.471). The commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of (a) NRS Chapter 281 by a current or former public officer or employee and (b) NRS 294A.345 and NRS 294A.346 by a political candidate, as provided in NRS 281.465.*

**Section 57.** *Matters may be consolidated. (NRS 281.471). The commission may consolidate, in whole or in part, into one proceeding any matters the commission determines share common issues or facts.*

**Section 58.** *Discovery. (NRS 281.471). The civil discovery provisions of N.R.C.P. 26 to 37, inclusive, do not apply to matters before the commission. Upon the request of a party, for good cause shown, the chairperson, in his or her discretion, may allow discovery to the extent deemed appropriate by the chairperson.*

**Section 59.** *Motions. (NRS 281.471)*

1. *All motions related to an ethics complaint must be made before the commission hearing on the matter unless the cause for the motion arises at and during the hearing on the matter.*

2. *A motion that is made before the commission hearing on the matter must be in writing and must be filed with the executive director at the commission's office not later than 12 days before the date of the hearing.*
3. *A written motion must contain (a) a brief statement of the facts and the points and authorities upon which the motion is based; (b) a description of the relief sought; and (c) a certificate of mailing which indicates that the motion was served upon all other parties to the matter.*
4. *The commission may, in its discretion, allow the party making the motion to argue the motion before the commission.*
5. *The commission may, in its discretion, allow a party or any other person to respond to a motion.*
6. *The chairperson, in his or her discretion, may rule upon a motion either before, during or after the commission hearing on the matter.*
7. *A motion for rehearing or reconsideration of an opinion of the commission must be filed within 15 days after the date of service of the final opinion. See, NRS 233B.130, Subsection 4.*

**Section 60.** *Stipulations. (NRS 281.471).*

1. *A party may stipulate to any fact in issue. The stipulation may be in writing or by oral statements on the record.*
2. *At the discretion of the commission, and with the agreement of the subject of an ethics complaint, the commission may resolve a matter before the commission by stipulated agreement rather than by a commission hearing. The stipulated agreement may be in writing or by oral statement on the record.*

**Section 61.** *Continuances. (NRS 281.471). Except as otherwise provided in NRS 281.477, upon the request of the subject of an ethics complaint and for good cause shown, the executive director may continue the hearing in the matter for a period not to exceed thirty (30) days. Upon its own motion, or for good cause shown upon the motion of the subject of an ethics complaint, the commission may continue the hearing in a matter for a period not to exceed thirty (30) days. The notice of continuance shall set forth the reason for the continuance and the new hearing date.*

**Section 62.** *Oaths: persons authorized to administer. (NRS 281.471). Both the chairperson and the vice chairperson (including the acting chairperson and acting vice chairperson) are authorized to administer oaths. In their absence, the court reporter present at proceedings may administer oaths.*

**Section 63.** *Subpoenas and witnesses. (NRS 281.471).*

1. *Upon the request of the executive director, the commission chairperson, or the vice-chairperson in the chairperson's absence, may issue a subpoena to compel the attendance of a witness and the production of books and papers.*
2. *The public officer or public employee who is the subject of the request for an opinion (ethics complaint), may request that a subpoena be issued by filing the request in writing with the commission office. All expenses related to the issuing and service of a subpoena requested by the public officer or public employee shall be the responsibility of the public officer or public employee requesting the subpoena.*

3. *The commission may issue any other subpoenas upon majority vote.*
4. *Service of subpoenas shall be made in the manner provided by Rule 45(c) of the Nevada Rules of Civil Procedure (NRCP).*
5. *No subpoena to a public officer or public employee shall be issued except as provided in NRS 281.475, Subsections 3 and 4.*
6. *If any witness refuses to comply as required by a subpoena served upon him or her by the commission, the commission shall petition the district court for an order compelling the witness to appear pursuant to the provisions of NRS 281.475, Subsections 5, 6 and 7.*

- Section 64.** *Witness to testify in person; for good cause shown, witness may testify by telephone or by videoconference. (NRS 281.471). Witnesses before the commission shall testify in person; however, for good cause shown, the commission may allow a witness to testify by telephone or by videoconference.*
- Section 65.** *Conduct of party and persons at commission proceedings. (NRS 281.471). All persons appearing before the commission, and all persons attending a commission proceeding, shall conduct themselves in a polite, respectful and orderly manner. Smoking shall not be allowed at any commission proceeding.*
- Section 66.** *Consequences of inappropriate conduct at commission proceedings. (NRS 281.471). Any person who shall not comply with Section 65 shall be required to leave and shall be barred from the remainder of the commission's proceeding.*
- Section 67.** *Effect of open meeting law on commission proceedings. (NRS 281.471). Commission meetings, hearings, and proceedings held to receive information or evidence concerning the propriety of the conduct of a public officer or public employee pursuant to NRS 281.511 and NRS 281.477 and the deliberations of the commission and the panel on such information or evidence are not subject to the provisions of NRS Chapter 241.*

### *Advisory Opinions*

- Section 68.** *Request for an advisory opinion: form. (NRS 281.471). A request by a public officer or public employee for an advisory opinion must be submitted to the commission in proper form.*
- Section 69.** *Consequence of incomplete opinion request. (NRS 281.471). The commission may decline to render an opinion in a matter if the requester fails to submit all necessary information to the commission and declare by oath or affirmation that he or she will testify truthfully.*
- Section 70.** *Consequence of false or misleading statement. (NRS 281.471). The commission shall inform the attorney general or the district attorney of any case in which a public officer or public employee submits a request for an advisory opinion in which he or she has provided any statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce the commission to render an opinion or to take any action related to the rendering of an opinion. See, NRS 281.525.*
- Section 71.** *Withdrawal of request. (NRS 281.471). At any time prior to the commission rendering its opinion in the matter, the public officer or employee who filed the request for an advisory opinion may withdraw the request by filing a written*



*notice of withdrawal with the commission. The notice of withdrawal may be in the form of a letter to the commission.*

**Section 72.** *Determining question of jurisdiction. (NRS 281.471). The executive director shall confer with commission counsel to determine questions of jurisdiction in the matter of a request for advisory opinion. If commission counsel determines that the commission lacks jurisdiction in the matter, the executive director shall so notify the requesting public officer or employee in writing sent certified mail, return receipt requested. The public officer or employee may request the commission to review the determination regarding jurisdiction. Such request must be submitted to the commission office in writing no later than ten (10) days from the date of receipt of such notification.*

**Section 73.** *Confidential unless waived; abstract of confidential opinion published. (NRS 281.471). Unless the requesting public officer or employee waives confidentiality, expressly or by conduct described in NRS 281.511, Subsection 5, all advisory opinion requests, advisory opinions issued by the commission, and any motion, determination, evidence or record of a hearing relating to an advisory opinion request shall remain confidential. The commission will publish an abstract of each confidential advisory opinion.*

**Section 74.** *Questions that advisory opinions may address. (NRS 281.471). The commission may render an advisory opinion interpreting the statutory ethical standards and applying them to a given set of facts and circumstances, and may provide guidance to a public officer or public employee on such questions as:*

- 1. Conflict between personal interest and official duty.*
- 2. Exercise of discretionary judgment in an official capacity having a significant effect upon a matter's disposition.*
- 3. Conflicts in which the independence of judgment of a reasonable person would be materially affected.*
- 4. Possession of special knowledge that is an indispensable asset to and needed by the public agency to reach a sound decision.*
- 5. Personal interest that may require disclosure and abstention from participation as a public officer or employee.*

*The commission may not provide guidance on questions regarding the provisions of NRS Chapter 294A, except as otherwise provided in NRS 281.477, NRS 294A.345 and NRS294A.346.*

**Section 75.** *Written opinion. (NRS 281.471).*

- 1. If an advisory opinion rendered by the commission is confidential and confidentiality has not been expressly or impliedly waived, the commission shall provide a confidential written advisory opinion to the public officer or public employee requesting the opinion within 30 days after the date the commission has rendered the opinion.*
- 2. For each confidential advisory opinion, the commission shall issue and publish a written hypothetical opinion abstracted from the confidential advisory opinion. The commission shall publish the abstracted hypothetical opinion within 45 days after the date that the confidential advisory opinion is issued to the party requesting the advisory opinion.*

3. *Commission counsel shall prepare the written confidential advisory opinion and the abstracted hypothetical advisory opinion.*

### *Ethics Complaints*

- Section 76.** *Proper form and filing required. (NRS 281.471). The commission will consider only those third-party ethics complaints submitted in proper form and filed with the executive director at the commission office. The person filing an ethics complaint with the commission must affirm (a) that the allegations and information in the complaint are true; (b) that he or she did not file the complaint in bad faith or with a vexatious purpose; and (c) that he or she understands the consequences of filing a complaint contrary to (a) and/or (b).*
- Section 77.** *Consequence of incomplete opinion request. (NRS 281.471). For failure of the requester to submit all necessary information to the commission or to declare by oath or affirmation that he or she will testify truthfully, the commission may decline to render an opinion in the matter.*
- Section 78.** *Consequence of filing complaint in bad faith or with a vexatious purpose. (NRS 281.471). If the commission finds that a person has, in bad faith or with a vexatious purpose (as determined pursuant to NRS 281.551, Subsection 10), filed a complaint against a public officer or public employee that contains an accusation or information that is false, the commission may, in addition to other penalties provided by law, impose against the requester a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the subject of the opinion request. (See, NRS 281.551, Subsection 2(a)).*
- Section 79.** *Consequence of interfering with commission's investigation. (NRS 281.471). If the commission finds that a person prevents or interferes with, or attempts to prevent or interfere with, the discovery or investigation of an alleged violation of NRS Chapter 281, the commission may, in addition to other penalties provided by law, impose against the person a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the subject of the opinion request. (See, NRS 281.551, Subsection 2(b)).*
- Section 80.** *No withdrawal once filed without commission's consent. (NRS 281.471). Once an ethics complaint has been filed with the commission, the requester may not withdraw the complaint without the consent of the commission. A request to withdraw a complaint must be in writing and must set forth specific reasons for the request.*
- Section 81.** *Commission may initiate proceedings on its own motion. (NRS 281.471). The commission may, in closed session, initiate an ethics complaint on its own motion pursuant to NRS 281.511, Subsection 2(c). A complaint initiated by the commission on its own motion may not be based solely on an anonymous complaint.*
- Section 82.** *Notice to subject of ethics complaint and opportunity to respond. (NRS 281.471).*

1. *Once an ethics complaint has been properly filed with the commission or submitted on the commission's own motion, the executive director shall immediately notify the public officer or public employee who is the subject of the complaint in writing by certified mail, return receipt requested, and provide the subject of the complaint an opportunity to respond to the allegations therein.*
2. *The notice shall include all information filed by the requester, a copy of the Nevada Ethics in Government Law and the commission's regulations, and an outline of the commission's process.*
3. *The public officer or public employee who is the subject of the complaint shall have 10 days from the date of receipt of notice to file a written response with the commission. The executive director may extend the time for an additional 10 days for good cause shown.*

**Section 83.** *Executive director to investigate alleged ethical violation and provide written recommendation to commission panel. (NRS 281.471).*

1. *The executive director shall investigate each ethics complaint filed with the commission and each complaint submitted on the commission's own motion and provide to the commission panel a written recommendation on whether just and sufficient cause exists for the commission to render an opinion thereon.*
2. *The executive director may investigate relevant issues and facts beyond those presented in the complaint.*
3. *The executive director shall complete the investigation and present the recommendation relating to just and sufficient cause to the panel within 15 days after the receipt of the response from the subject of the complaint. For good cause shown, the panel may extend the time for a period not to exceed 30 days upon the request of the executive director or the public officer or employee who is the subject of the complaint.*
4. *The executive director's recommendation regarding just and sufficient cause must be in writing and must include, without limitation, the specific evidence that supports the recommendation.*

**Section 84.** *Confidentiality. (NRS 281.471).*

1. *Confirmation of an ethics complaint and all information in the possession of the commission and/or its staff related to the complaint shall remain confidential until the conclusion of the panel proceedings to determine whether there is just and sufficient cause for the commission to render an opinion in the matter. At that time, confirmation of the complaint and the panel's finding regarding just and sufficient cause shall be reported by the commission at the same time, and information related to the complaint shall thereafter be open for public review.*
2. *Nothing in this section modifies the rights of requesters and witnesses under NRS 281.511, Subsection 7.*



## *Just and Sufficient Cause Panel Proceedings*

- Section 85.** *Just and sufficient cause panel proceedings confidential. (NRS 281.471). The panel proceedings to determine whether just and sufficient cause exists for the commission to render an opinion on an ethics complaint are confidential and shall be closed to all but the parties and any other person or persons the panel deems necessary to the proceedings.*
- Section 86.** *Panel proceedings. (NRS 281.471). At its proceedings, the commission panel shall consider the executive director's recommendation regarding just and sufficient cause, the ethics complaint and all related information and material filed with the commission or submitted on the commission's own motion, and the response of the public officer or public employee who is the subject of the complaint.*
- Section 87.** *Standard on which to support finding. (NRS 281.471).*
- 1. A panel finding of just and sufficient cause must be supported by some credible evidence.*
  - 2. A panel shall not determine that there is just and sufficient cause for the commission to render an opinion unless the subject of the complaint has been provided an opportunity to respond to the allegations against him or her. See also, Section 82.*
  - 3. A panel finding of "no just and sufficient cause" must be unanimous.*
- Section 88.** *Record of panel proceedings. (NRS 281.471). The executive director shall provide for a record of the panel proceedings. The panel proceedings shall remain confidential until after the panel determines whether just and sufficient cause exists for the commission to render an opinion on the matter. At that time, the record of the panel proceedings shall be open for public review. (See also, Section 84).*

## *Commission Hearing on Ethics Complaint*

- Section 89.** *Time in which to hold hearing and render opinion. (NRS 281.471). If the commission panel determines that just and sufficient cause exists for the commission to render an opinion, the commission shall hold a hearing and render an opinion in the matter within 30 days after the panel determination. The commission may extend the time for a period not to exceed 30 days for good cause shown or upon the request of the subject of the complaint. The hearing may be held no sooner than 10 days after notice is given pursuant to Section 900, unless the subject of the hearing agrees to a shorter time.*
- Section 90.** *Executive director to provide notice of hearing. (NRS 281.471). The executive director shall notify the subject of the hearing of the place and time of the commission's hearing on the matter.*
- Section 91.** *Executive director to provide information concerning the matter to be heard. (NRS 281.471). The executive director shall provide to the commission, at least one week before the commission hearing, a statement of the case setting forth the issues to be determined, a list of witnesses and their expected testimony (if*

- any), and any other information which the executive director deems necessary to assist the commission in hearing the matter.
- Section 92.** *Order of proceedings. (NRS 281.471). Except as otherwise provided in NRS 281.477 and NRS 281.511, the commission will determine, as it deems appropriate, the order of proceedings for the hearing and will inform the parties thereof prior to commencing the hearing.*
- Section 93.** *Testimony to be given under oath. (NRS 281.471). All testimony received at the hearing must be given under oath or affirmation.*
- Section 94.** *Rights of party at hearing. (NRS 281.471). Except as otherwise provided in NRS 281.477 and 281.511, at the hearing, a party may, to the extent required by the commission, appear and testify before the commission and participate in the proceedings. 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.*
- Section 95.** *Commission to question witnesses. (NRS 281.471). The commission shall question witnesses at the hearing. If a person who is not a party to the proceeding wishes to ask a question of a witness at the hearing, the person must submit the question to the executive director in writing. The executive director may submit the question to the commission if the executive director deems the question relevant and appropriate. The commission shall not be required to ask any question submitted by a person who is not a party to the proceeding.*
- Section 96.** *Standard of proof. (NRS 281.471). The commission must support a finding that a public officer or employee has violated a provision of NRS Chapter 281 by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.*
- Section 97.** *Imposition of civil penalties. (NRS 281.471). The commission may impose civil penalties as provided in NRS 281.551.*

### ***Campaign Practices Complaints***

- Section 98.** *Proper form and filing required. (NRS 281.471). The commission will consider only those requests for opinion concerning violations of NRS 294A.345 and NRS 294A.346 (“campaign practices complaints”) submitted in proper form and pursuant to NRS 281.477. The complaint must be filed with the executive director at the commission office and must be accompanied by all evidence and argument to be offered by the requester concerning the issues related to the complaint.*
- Section 99.** *Consequences of failure to submit all evidence and arguments with request for opinion. (NRS 281.471). If the requester fails to submit all evidence and argument with the request for opinion, the commission may (a) draw any conclusions therefrom it deems appropriate, other than a conclusion that a person alleged to have violated NRS 294A.345 acted with actual malice; and/or (b) decline to render an opinion. However, the commission may consider evidence or arguments presented by the requester after submission of the*

*request for opinion if the commission determines that consideration of such evidence or arguments is in the interest of justice.*

**Section 100.** *Notice to subject of complaint. (NRS 281.471). Upon receipt of a campaign practices complaint, the executive director shall notify the subject of the complaint by the most expedient means possible. If verbal notice is given, written notice must also be provided by facsimile or overnight delivery no later than the next calendar day following receipt of the complaint. The notice must include the time and place of the commission's hearing on the matter.*

**Section 101.** *Response by subject of complaint. (NRS 281.471). The subject of the complaint may respond to the complaint. The response must include all evidence and argument relating to the issues addressed in the complaint which the subject of the complaint has in his or her possession or may obtain without undue financial hardship and must be received by the commission no later than close of business on the second business day following receipt of notice.*

**Section 102.** *Consequences of failure to submit all evidence and arguments with response. (NRS 281.471). If the subject of the complaint fails to submit all evidence and argument with the response as provided in Section 101, the commission may (a) draw any conclusions therefrom it deems appropriate; and/or (b) prohibit the subject of the complaint from responding and presenting evidence at the hearing. However, the commission may consider evidence or arguments presented by the subject of the complaint after the close of business on the second business day if the commission determines that consideration of such evidence or arguments is in the interest of justice.*

**Section 103.** *Hearing. (NRS 281.471). The commission shall conduct a public hearing on the matter as expeditiously as possible, but not later than 15 days after the receipt of the complaint. Except as provided in Section 102, the subject of the complaint may be represented by counsel and may hear the evidence presented to the commission and respond and present evidence on his or her own behalf.*

**Section 104.** *Continuances. (NRS 281.471). At the request of either the requester or the subject of the complaint, the commission may grant a continuance of the hearing for not more than 15 days upon a showing of the existence of extraordinary circumstances that would prohibit the commission from rendering a fair and impartial opinion. The commission may grant no more than one continuance.*

**Section 105.** *Burden of proof; no presumption of malice. (NRS 281.471). As provided in NRS 281.477, Subsection 7, the requester has the burden of proving the elements of the offense by clear and convincing evidence, including that a person alleged to have violated NRS 294A.345 acted with actual malice. The existence of actual malice may not be presumed.*

**Section 106.** *Commission's opinion. (NRS 281.471).*

- 1. The commission's final opinion must be supported by clear and convincing evidence.*
- 2. The commission shall not render a final opinion determining that a person has violated NRS 294A.345 unless the commission makes specific findings that (a) the person caused to be published a false statement of fact concerning a candidate; (b) the person acted with actual malice in causing*

*the false statement to be published; (c) the person acted with the intent to impede the success of the campaign of the candidate in causing the false statement to be published; and (d) the publication of the false statement did in fact impede the success of the campaign of the candidate.*

3. *The commission shall not render a final opinion determining that a person has violated NRS 294A.346 without a vote of two-thirds of the commission affirming a finding that each of the elements of the offense has been proven. (See, NRS 281.477, Subsection 7.)*
4. *The commission shall render its opinion, or decline to render an opinion, as expeditiously as possible, but not later than 3 days after the date of the hearing. The commission may continue its jurisdiction to investigate and determine the state of mind or the intent of the subject of the complaint or to determine the amount of any civil penalty that may be imposed pursuant to NRS 281.551, but shall render its opinion (a) as to the truth or falsity of the statement made concerning the candidate or the ballot question, or (b) as to whether the person impeded the success of the campaign or induced another person to impede the success of the campaign. If the commission continues its jurisdiction, it may render a final opinion later than 3 days after the date of the hearing.*
5. *The commission's final opinion is subject to judicial review pursuant to NRS 233B.130.*

**Section 107.** *Penalty. (NRS 281.471). In addition to any other penalty provided by law, the commission may, by an affirmative vote of two-thirds of the commission, impose a civil penalty not to exceed \$5,000 for a violation of NRS 294A.345 and NRS 294A.346. The commission shall not impose a civil penalty for a violation of NRS 294A.345 unless the commission has made specific findings required by NRS 281.477, Subsection 7. (See, NRS 281.551, Subsection 4.)*

**Section 108.** *Public information. (NRS 281.471). The record in a campaign practices matter filed with the commission is open for public inspection at the commission's office.*

### **Opinions**

**Section 109.** *Commission counsel to prepare written opinion. (NRS 281.471). Commission counsel shall prepare for the chairperson's signature the written opinion for each opinion rendered by the commission.*

**Section 110.** *Content of opinions. (NRS 281.471).*

1. *The commission's written opinion shall plainly state (a) each violation alleged against the public officer or public employee who is the subject of the opinion, (b) the commission's determination with regard to each alleged violation, (c) findings of fact, and (d) conclusions of law.*
2. *Each opinion shall be numbered, dated, and signed by the chairperson.*

**Section 111.** *Opinion to be issued expeditiously. (NRS 281.471). Except as otherwise provided in Section 106, the commission shall render an opinion in the matter within 30 days after the commission panel determines just and sufficient cause exists for the commission to render an opinion in the matter. The commission*

*may extend the time for a period not to exceed 30 days for good cause shown or upon the request of the subject of the complaint.*

**Section 112.** *Distribution of opinions. (NRS 281.471).*

- 1. A copy of the commission's written opinion in each matter shall be served, by certified mail, upon each party.*
- 2. A copy of each opinion published by the commission shall be made available for downloading from the commission's website.*
- 3. A copy of each opinion published by the commission shall be delivered to:*
  - a. The secretary of state.*
  - b. The state library, each law library, and each public library located in the state.*
  - c. The Reno Gazette-Journal, the Las Vegas Review-Journal, the Las Vegas Sun, the Nevada Appeal, and, upon request, any other newspaper in the state.*
  - d. Any other person or organization upon request and payment in advance of a reasonable fee.*

***Financial Disclosure Statements; Ethics Acknowledgments; and Agency Representation Disclosure Statements***

**Section 113.** *Financial Disclosure Statements. (NRS 281.471). Candidates for public and judicial office and public and judicial officers who are entitled to receive compensation for their office must file a statement of financial disclosure in proper form with the commission. The Financial Disclosure Statement form is available at the commission office and on the commission's website.*

**Section 114.** *Retention of Financial Disclosure Statement forms. (NRS 281.471). The commission shall retain all Financial Disclosure Statement forms filed with the commission for at least 6 years from the date of filing.*

**Section 115.** *Civil penalty for failure to file financial disclosure. (NRS 281.471). The commission shall impose a civil penalty as provided in NRS 281.581 against a candidate or public or judicial officer who fails to file a Statement of Financial Disclosure in a timely manner pursuant to NRS 281.561. The commission may, for good cause shown, reduce or waive the civil penalty*

**Section 116.** *Ethics Acknowledgement. (NRS 281.471). Every public officer shall file with the commission a form acknowledging that the public officer has received, read and understands Nevada's statutory ethical standards pursuant to NRS 281.552. The Ethics Acknowledgement form is available at the commission office and on the commission's website.*

**Section 117.** *Retention of Ethics Acknowledgement forms. (NRS 281.471). The commission shall retain all Ethics Acknowledgment forms filed with the commission for at least 6 years from date of filing.*

**Section 118.** *Willful refusal to execute and file Ethics Acknowledgment form. (NRS 281.471). Willful refusal by a public officer to execute and file the Ethics Acknowledgement form constitutes nonfeasance in office and is ground for removal from office pursuant to NRS 283.440.*

**Section 119.** *Agency representation disclosure statement. (NRS 281.471).*



*Any legislator or public officer who, during the previous calendar year, has represented or counseled a private person for compensation before a state agency of the executive branch shall, not later than January 10, file with the commission a disclosure of such representation including the name of the client, the nature of the representation, and the name of the state agency pursuant to NRS 281.491, Subsection 3. The proper form for such disclosure filing is available at the commission office and on the commission's website.*

**Section 120.** *Retention of agency representation disclosure statements. (NRS 281.471). The commission shall retain all agency representation disclosure statements filed with the commission for at least 6 years from date of filing.*

**Section 121.** *Financial disclosure statement forms, ethics acknowledgement forms, and agency representation disclosure statement forms available for public inspection. (NRS 281.471). All financial disclosure statement forms, ethics acknowledgement forms, and agency representation disclosure statement forms shall be available for public inspection at the commission office.*

### ***Files And Records***

**Section 122.** *Commission to maintain files. (NRS 281.471). The commission will maintain the following files:*

- 1. Files that are confidential pursuant to NRS 281.511, Subsections 1, 2, 4, 5, 6 and 7;*
- 2. Files that are confidential pursuant to NRS 281.477;*
- 3. Files that are not confidential pursuant to NRS 281.477 and NRS 281.511, Subsections 4, 6, 7 and 8;*
- 4. Financial Disclosure Statements pursuant to NRS 281.573;*
- 5. Ethics Acknowledgments pursuant to NRS 281.551; and*
- 6. Agency representation disclosure statements pursuant to NRS 281.491, Subsection 3.*

**Section 123.** *Public records: obtaining copies; cost; payment of cost; waiver of cost. (NRS 281.471).*

- 1. Except as otherwise provided in this section, to obtain copies of public records from the commission, a person must:
  - a. File a written request at the commission office or appear personally at the commission office; and*
  - b. Before the copies are made, pay the actual costs of the copies or an estimate of the actual cost, as determined by commission staff, unless commission staff, in its discretion and based upon its experience with the person requesting the copies, allows the person to pay the actual costs of the copies when the copies are provided to the person.**
- 2. Except as otherwise provided in this section, the cost of obtaining copies of public records from the commission is 25 cents (\$0.25) for each page of the public record that is copied.*
- 3. Except as otherwise provided in this section, to obtain copies of a transcript of the record of a hearing or proceeding before the commission, or any*

*other commission matter, a person must file a written request at the office of the commission or appear personally at the commission office and:*

- a. If the record was prepared by commission staff, pay for copies of the transcript pursuant to the provisions of subsections 1 and 2 above at the time of the request; or*
  - b. If the record was prepared by a court reporter, pay for copies of the transcript pursuant to the provisions of NRS 239.053 or, with the approval of the commission, pursuant to arrangements made directly with the court reporter.*
- 4. A person may not obtain copies of a transcript of the record of any commission matter unless the contents of the record may be disclosed to that person pursuant to the provisions of NRS 281.411 to 281.581.*
  - 5. A court reporter may not provide to a person copies of a transcript of any commission matter or any other documents unless the court reporter has received written permission therefor from the commission.*
  - 6. The commission may waive all or a portion of the cost of obtaining copies of public records or a transcript of the person requesting the copies files a written request for such a waiver at the commission office and the commission determines that (a) the copies requested are reasonable in quantity; and (b) the person requesting the copies is a party in 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.*

### *Miscellaneous*

**Section 124.** *Commission's actions discretionary. (NRS 281.471). For the purposes of NRS 41.032, the members of the commission and its employees are deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to NRS 281.511 and NRS 281.477. (See, NRS 281.511, Subsection 12; and NRS 281.477, Subsection 11.)*