

Nevada Ethics in Government Law

NRS 281A

- Rules to Live By as a Nevada Public Official



Public Policy



- Public office is a public trust for the sole benefit of the people
- Public officers and employees must avoid conflicts of interest between their private interests and public duties

Duty to Inform About Ethics Law

- ◎ On or before the date on which a public officer swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:
 - For an appointed public officer, the appointing authority of the public officer
 - For an elected public officer of:
 - The county and other political subdivisions within the county except cities, the county clerk;
 - The city, the city clerk;
- ◎ Within 30 days after a public employee begins employment the manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.

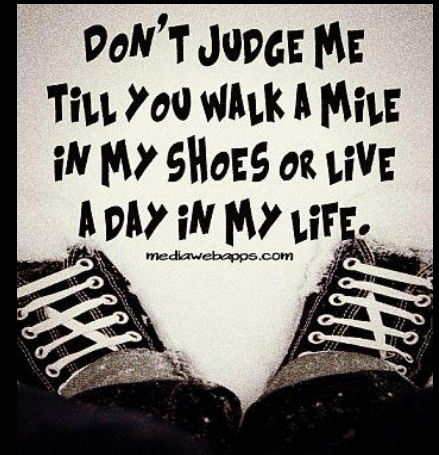
To Whom does the Code of Ethical Standards Apply?

- **Public Officers Elected or Appointed to a position created by**
 - **Constitution**
 - **State Law**
 - **Ordinance**
- **And who exercises public power, trust or duty**
- **Specifically includes county manager, city manager, superintendent of schools**
- **Applies whether employed, appointed or under contract with or without compensation and regardless whether acting, temporary or interim**



Who is NOT a Public Officer?

- Judges
- Justices
- Officers of the Court System
- Members of board, commission or other body that is advisory
- Member of board of GID or special district only if duties do not include budget or expenditure approval
- County Health Officer (per NRS 439.290)



Code of Ethical Standards for Public Officer or Employee

- ⦿ **Shall not seek or accept** any gift, service, favor, employment, engagement, emolument or economic opportunity that would tend improperly to influence the impartial discharge of public duties
- ⦿ **Shall not use public position** to negotiate for, secure or grant unwarranted privileges, preferences, exemptions or advantages for self or any business entity in which he has a pecuniary interest or a commitment in a private capacity to the interests of that person
- ⦿ **Shall not accept** any compensation from any private source for performance of public duties
- ⦿ **Shall not bid on or contract** with agency whom he serves as a public officer (except under limited circumstances)

Code of Ethical Standards for Public Officer or Employee

- Shall not use information not available to public to further his own significant pecuniary interests or the interests of others
- Shall not suppress any official governmental documents because it might tend to affect unfavorably his significant pecuniary interests
- Shall not use governmental time, property, equipment or other facility to benefit his significant personal or pecuniary interest except limited use if authorized
- Shall not use official position to benefit personal pecuniary interests or contracts

Selling Goods or Services to Public Agency

- Prohibits members of public agency board from selling goods or services to public agency. Exceptions:
- The member, or the business entity in which the member has a significant pecuniary interest, offers the sole source of supply of the goods or services within the territorial jurisdiction of the local agency governed by his or her local legislative body
- The local legislative body includes in the public notice and agenda for the meeting a clear and conspicuous statement that it is considering purchasing such goods or services
- At the meeting, the member discloses his or her significant pecuniary interest in the purchase of such goods or services and does not vote upon or advocate the approval of the matter and
- The local legislative body approves the purchase of such goods or services in accordance with all other applicable provisions of law.
- May request Ethics Commission to waive this prohibition under certain circumstances.

Code of Ethical Standards for Public Officer or Employee

- Representation or counseling of private person for compensation before public agency prohibited
- Representation or counseling of private person for compensation before another local agency if the territorial jurisdiction of the other local agency includes any part of the county in which the member serves is prohibited. Exceptions must be requested from Ethics Commission.
- Shall not spend funds to support or oppose a ballot question or a candidate (may provide a public issues forum for discussion and debate)

Disclosure Requirements

- Must provide information sufficient to inform the public of the potential effect of the action or abstention
- Disclosure must be made at the time the matter is considered
- Must make the disclosure in public



Voting by Public Officers

- Shall NOT :
- Approve
- Disapprove
- Vote
- Abstain
- Act
- Advocate passage or failure (but may participate in the consideration)

- On any matter in which the independence of judgment of a reasonable person would be materially affected by his
 - acceptance of a gift or loan
 - significant pecuniary interest
 - commitment in private capacity to the interests of others (household members, relatives, employer or business or similar relationships)



Abstention

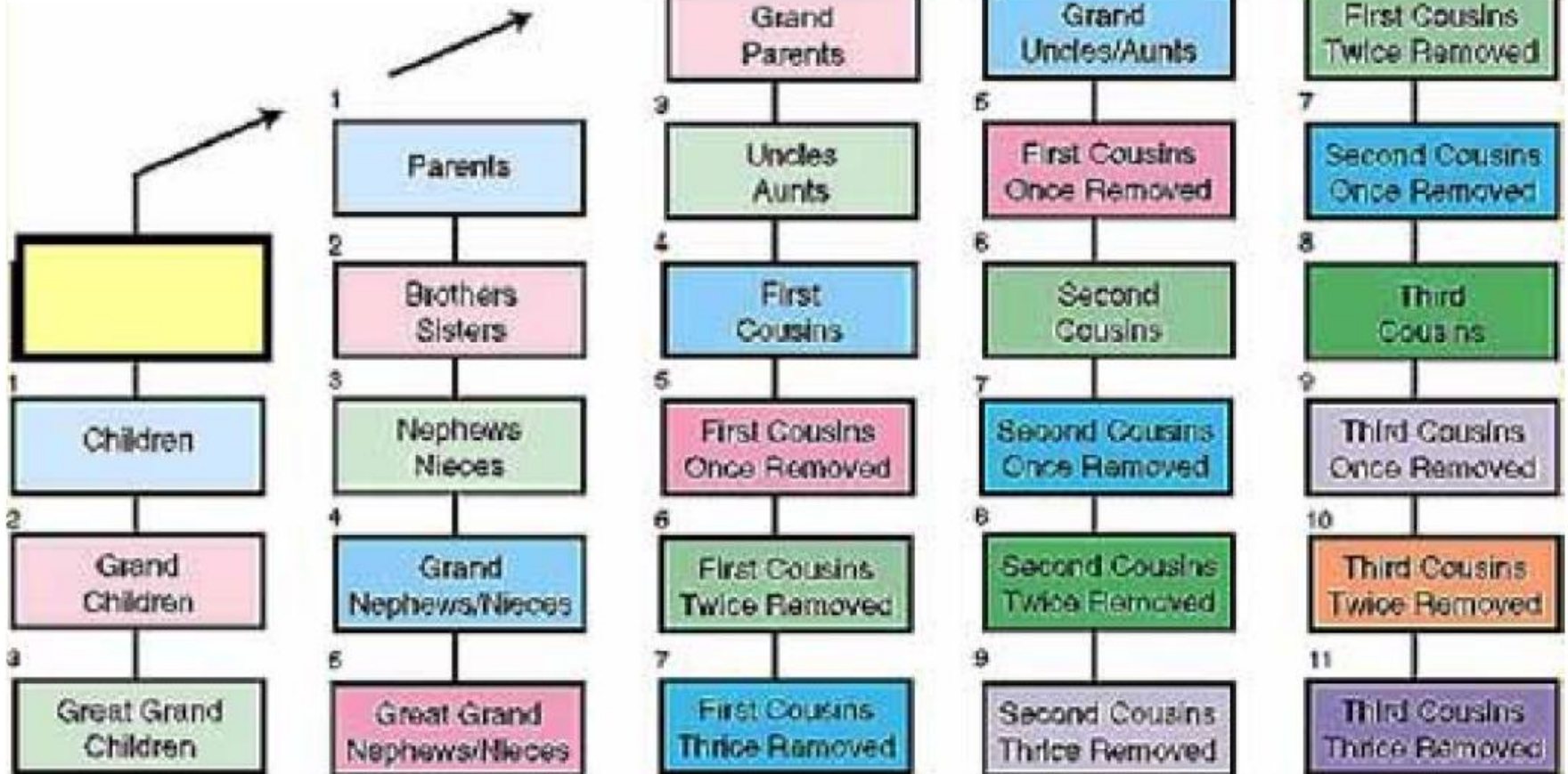
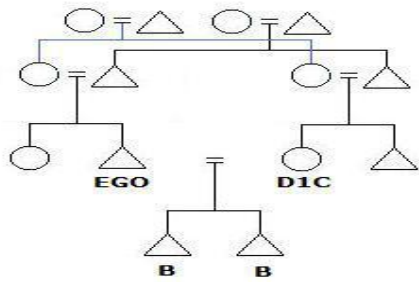
- Requires abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected



Commitment in a Private Capacity Defined

- Commitment, interest or relationship to a party includes:
 - Spouse or domestic partner
 - Member of the household
 - Related by blood, marriage, adoption, domestic partnership within 3rd degree of consanguinity
 - Employer of you, your spouse, domestic partner, household member
 - With whom you have a substantial and continuing business relationship
 - Anyone with whom you have any other commitment that is a substantially similar relationship to those listed above

Consanguinity Chart



Pecuniary Interest Defined

- Beneficial or detrimental interest involved in, measured in or related to money, including:
 - Economic value
 - Payments or money owed by law, regulation, contract or agreement



Voting by Public Officers



- MAY VOTE if the benefit or detriment to public officer is not greater than that accruing to any other member of the general business, profession, occupation or group affected by the matter before the board

Independent Judgment

- Judgment NOT affected if the benefit or detriment accruing to him/her is no greater than to any other member of the group, business, profession or occupation
- MAY VOTE AFTER DISCLOSURE
- IF Judgment WOULD BE affected, the individual shall NOT vote or advocate passage or failure, but may participate in consideration of the matter IF FULL DISCLOSURE IS MADE
- DISCLOSURE must provide sufficient information to inform the public of the potential effect of the conflict of interest

Role of Ethics Commission

- ⦿ Investigation of alleged violations
- ⦿ Inform the Attorney General or district attorney of all cases of noncompliance with ethics law
- ⦿ Conduct hearings on requests for an opinion and render decisions
- ⦿ Recommend legislation to strengthen law
- ⦿ Publish ethics law manual

Consequences of Ethics Law Violations – Role of Ethics Commission

- Reviews, conducts hearing and makes determination of violation or no violation
- May impose civil fines
 - \$5,000 for first willful violation
 - \$10,000 for second willful violation
 - \$25,000 for third willful violation
 - \$5,000 for person who interferes with investigation
 - **If a financial gain occurred, an additional penalty of up to 2 times the gain**
- May report willful violations for purpose of initiating impeachment proceedings
- May report willful violations to court for removal from office
- Violation not willful if obtained legal counsel advice and if not contrary to prior Ethics Commission opinions

On Becoming an Ethical Board

- Recognize the Value of Input from Others
- Release Biases to See Other Viewpoints
- Respect Varying Voices
- Resolve Conflict by Extending Courtesy
- Review the Information Carefully
- Reserve Judgment Until the Facts Are In
- Reach Decisions in the Highest and Best Interests of the Organization and Citizens
- Revisit Policies Regularly



Ethics Management As Cultural Change

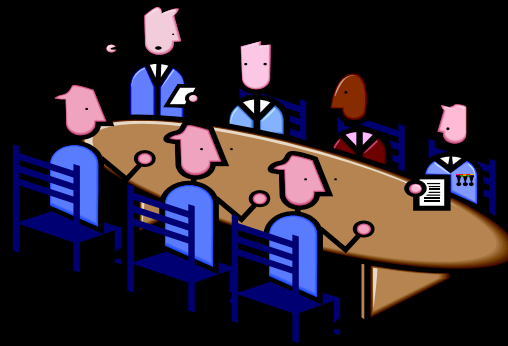
PLUS Ethical Decision Making Filters

- **P=Policy L=Legal U=Universal S=Self**
- **Universal Principles and Values**
- **E - Empathy - understanding the thoughts and needs of others**
- **P - Patience - taking the time to understand before we act**
- **I - Integrity - honesty and truth in all situations**
- **C - Courage - doing what is right even when it is difficult**
- **The Ethics Resource Center: www.ethics.org**

Six Steps to Ethical Decision Making

- Step 1: Define the problem PLUS
- Step 2: Identify alternatives
- Step 3: Evaluate the alternatives PLUS
- Step 4: Make the decision
- Step 5: Implement the decision
- Step 6: Evaluate the decision PLUS

Ethics Simplified



- Follow the law and ethical standards
- Authority to act comes from official board action
- Personal goals are subordinate to board's goals
- Act collectively, not individually
- Focus on the highest and best interests of all whom you serve

The Leadership Test

- Am I Doing the Right (Ethical) Thing
- at the Right (Ethical) Time
- the Right (Ethical) Way
- and for the Right (Ethical) Reason?

MISSION



“A board must ultimately be judged...by how effectively (*and ethically*) it achieves the mission of the institution.”

— Cyril Hoole