

# Nevada's Ethics Law at 50

**“I hereby resign the Office of President of the United States.” At 11:35 in the morning on August 9, 1974, Henry Kissinger received President Richard Nixon’s resignation. The resignation followed the long and winding investigation into the break-in at the Watergate Hotel. While the Watergate scandal ended a presidency, it also gave birth to modern American governmental ethics laws, including here in Nevada. In 2025, Nevada’s ethics law turns 50 years old; this article provides a look back over the changes and trends since its inception.**

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## Creation and an Early Stumble

On April 11, 1975, 245 days after Nixon’s resignation, Assembly members Keith Ashworth and Joe Dini introduced Assembly Bill 610. The bill started with the legislative declaration that remains the foundation of the Nevada ethics law today: “It is hereby declared to be the public policy of this state that a public office is a public trust and shall be held for the sole benefit of the people.” The requirements of the first Nevada ethics law look much like those of today with prohibitions on certain gifts, conflicts of interests, and requirements to disclose financial interests (now a duty of the Secretary of State’s office). The Nevada Commission on Ethics itself was only empowered to provide advisory opinions and played no role in enforcement of the requirements. On May 18, 1975, the Nevada ethics law was born; however, less than a year later, it would be dead.

Unhappy with the new financial disclosure requirements, John Sheehan, Jerome Mack, and Harley Harmon, three public officers in various financial roles, challenged the constitutionality of the ethics law based on the financial disclosure requirements and the vagueness of the phrase “jurisdiction of the officer’s public agency.” *Dunphy v. Sheehan*, 92 Nev 259, 549 P.2d 322 (1976). Finding no severability clause, the court found the entirety of the Nevada Ethics Law unconstitutional.

When the Legislature reconvened in 1977, it took up ethics again, successfully revising the ethics law with changes to the unconstitutionally vague financial disclosure language and separating out executive branch and legislative branch ethics. Due primarily to lack of funding, the two separate executive and legislative ethic commissions failed to be effective and during the 1985 Legislative Session, the two commissions were merged and enhanced funding was provided creating the ethics commission in its current form.



# ETHICS

## **Included in the Ethics Law:**

- **Prohibitions on granting oneself improper benefits;**
- **Disclosure and abstention requirements; and**
- **“Cooling off” requirements upon leaving public service.**

## **Not Included in the Ethics Law:**

- **General public official competence/good government;**
- **Open meeting law or public records;**
- **Employment matters; and**
- **Harming others using a public position.**

## **Emphasis on Education**

The ethics commission’s first function, even in the ill-fated 1975 statutory language, was to provide advice to public servants seeking to maintain compliance with the requirements of the ethics law. These “advisory opinions” were, and have always been, tailored to provide individualized advice. That process, as first envisioned in 1975, is largely unchanged today. Public officers and employees can request advisory opinions from the commission. In state fiscal year 2024, the commission received 28 requests—such opinions primarily regarding “cooling off” requirements for public officials leaving office and disclosure and abstention questions from individuals sitting on public boards and commissions.

## **Advisory Opinion Fast Facts:**

- **Available to all public officials;**
- **Request must relate to your own conduct; and**
- **Confidential process.**

Starting in 1999, the ethics law started requiring the executive director to conduct training on the requirements of the ethics law upon request. Since the initial requirement to provide training, the outreach efforts of the commission remained a priority for members of the commission, finally resulting in the creation of an outreach and education officer position in 2023. While early training efforts included the executive director traipsing across the Nevada desert to meeting rooms in various government buildings, the outreach and education today includes classic in-person meetings supplemented by social media outreach, an online training platform – Nevada Ethics Online – a regular newsletter for public officials, and various manuals and toolkits to keep our public officials within the bounds of the ethics law.

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## An Arc Toward Enforcement

While the ethics law as originally enacted had no enforcement powers for the commission, in 1991, the Legislature granted the commission investigation and enforcement powers, allowing subpoenas for documents and witnesses to develop opinions based on complaints. For the first time, the commission could fine individuals who failed to adhere to the requirements of the ethics law.

Various enforcement mechanisms were added throughout the 1990s and early 2000s. The 2009 Legislative Session brought clarity regarding disclosure and abstention requirements, as well as commission procedures, and in 2017, a major overhaul established that “complaints” could be filed, rather than “requests for opinions.” While the primary focus of the commission’s work is education and advice, today the commission has a robust set of tools to enforce the provisions of the ethics law. The enforcement abilities of the commission were curtailed by the Nevada Supreme Court with respect to state legislators in *Commission on Ethics v. Hardy*, 125 Nev. 285 (2009) as it ruled the “core legislative functions” of legislators were protected from oversight by the commission but affirmed the commission’s jurisdiction over other legislator acts.

## Potential Penalties Under the Ethics Law:

- **Required ethics training;**
- **Restrictions on future conduct;**
- **Admonishments, reprimands, and censures;**
- **Financial penalties; and**
- **Petition to have an officer removed from office.**

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## Major Enforcement Cases

- **Michael Carrigan** – the ethics commission acted when a member of the Sparks City Council failed to abstain on the Lazy 8 development project. The commission found Carrigan had a close personal friendship that required abstention and that Carrigan violated the ethics law by not doing so. Carrigan challenged the decision all the way up to the U.S. Supreme Court. In an opinion by Justice Antonin Scalia, the Supreme Court upheld the ethics law requirement of abstention, noting that the power to vote is not a First Amendment right of the public officer but belongs to the constituents. *Nevada Commission on Ethics v. Carrigan*, 564 U.S. 117 (2011).
- **Kathy Augustine** – the ethics commission found violations of the ethics law when State Controller Augustine used state property, equipment, and staff to benefit her campaign for re-election. Because the violation was willful, referral to the Legislature for potential impeachment was required. The Legislature impeached Augustine, but the vote to remove her from office fell short of the total needed to have her removed from office. *In re Kathy Augustine*, Comm’n Op. No. 04-47 (2004).
- **Las Vegas Convention and Visitors Authority cases** – in a series of cases involving public officers taking Southwest Airlines gift cards for themselves and family, the commission issued the highest fiscal penalties ever by the commission. *In re Ralenkotter*,

Comm’n Op. No. 18-061C / 18-139C (2020) / *In re Weekly*, Comm’n Op. No. 18-062C (2019) / *In re Lawson*, Comm’n Op. No. 19-060C (2020) / *In re Tull*, Comm’n Op. No. 19-018C (2019).

## A Look Forward

At 50 years in, the commission’s mission of “striving to enhance the public’s faith and confidence in government by ensuring that public officers and public employees uphold the public trust by committing themselves to avoid conflicts between their private interests and their public duties” remains important. Trust in government and institutions is currently in a precarious place for various reasons. As we work together with state and local governments to restore and enhance that trust, the commission will maintain its focus on its mission to educate, while keeping a watchful eye over compliance matters.

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