

**ADOPTED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R057-10

Effective October 15, 2010

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

AUTHORITY: §1, NRS 284.065, 284.155 and 284.343.

A REGULATION relating to the State Personnel System; revising provisions governing the training of supervisors and managerial employees; and providing other matters properly relating thereto.

Section 1. NAC 284.498 is hereby amended to read as follows:

284.498 1. Except as otherwise provided in this section:

(a) Within 6 months after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend a training class concerning the evaluation of the performance of employees.

(b) Within 12 months after an agency appoints an employee to a supervisory position or managerial position, the employee shall attend at least one training class *which has been approved by the Department of Personnel* in each of the following areas:

- (1) Equal employment opportunity;
- (2) Interviewing and hiring;
- (3) Alcohol and drug testing;
- (4) Progressive disciplinary procedures; and
- (5) Handling grievances.

2. ~~[Within 3 years after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend additional supervisory or managerial training which, when added to the amount of training received pursuant to subsection 1, equals at least 40 hours of training.~~

~~—3.— For every 3-year period after the initial 3-year period,] Every 3 years, a supervisor or managerial employee shall attend [at least 40 hours of] training [to enhance his supervisory or managerial skills.] which is approved by the Department of Personnel. Such training must include [at least two of the], without limitation, training classes in each of the topic areas described in subsection 1. [An employee who receives credit for a training class described in subsection 1 for a 3-year period will not receive credit for taking that same training class in the next two following 3-year periods.~~

~~—4.] 3.~~ The appointing authority, at its discretion, may accept, in lieu of the training required by subsection 1, supervisory or managerial training *classes which are approved by the Department of Personnel and* taken by the employee during the ~~[36]~~ 12 months immediately preceding his appointment.

~~[5.] 4.~~ In addition to the training otherwise required by this section, *the Department of Personnel or* an appointing authority may require a supervisor or managerial employee to retake any part or all of the training required by this section, or to participate in any additional training or other classes deemed necessary by the *Department of Personnel or* appointing authority.

~~[6.— To meet the training requirements of this section, the employee may take training from:~~

- ~~—(a) The employee's agency;~~
- ~~—(b) A formal training program;~~
- ~~—(c) The Department of Personnel; or~~

~~—(d) Any combination of paragraphs (a), (b) and (c).~~

~~—7.— An employee will not receive credit for any supervisory or managerial training taken for the purposes of this section unless:~~

~~—(a) For training classes described in subsection 1, the training class is certified by the Department of Personnel; and~~

~~—(b) For all other classes and training, the class or training is certified or otherwise approved by the appointing authority.~~

~~8.]~~ 5. As used in this section:

(a) “Managerial position” means a position which is held by an employee who:

- (1) Formally evaluates supervisors;
- (2) Is involved in the hiring and firing of subordinate staff;
- (3) Determines organizational structure within a component of the organization; and
- (4) Develops, monitors and implements policies to accomplish long-range goals.

(b) “Supervisory position” means a position which is held by an employee who:

- (1) Formally evaluates staff;
- (2) Is involved in the hiring and firing of subordinate staff; and
- (3) Establishes policies which affect the performance or behavior of subordinate staff.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE NO. R057-10**

INFORMATIONAL STATEMENT

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

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

Copies of the proposed regulation, notice of workshop, and notices of intent to act upon a regulation were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel Blasdel Building 209 E. Musser St Carson City, NV 89701	Grant Sawyer State Office Bldg. 555 E. Washington Blvd Suite 4401 Las Vegas, NV 89101
Nevada State Library and Archives 100 Stewart St Carson City, NV 89701	Capitol Building Main Floor Carson City, NV 89701
Legislative Building 401 S. Carson St Carson City, NV 89701	Gaming Control Board 1919 College Parkway Carson City, NV 89701

Attached are excerpts from the minutes from the workshop that apply to this regulation.

A public hearing by the Nevada Personnel Commission was held on September 17, 2010. There were no comments received from the public regarding this regulation.

2. The number of persons who:

- (a) **Attended each hearing:** September 17, 2010, Personnel Commission meeting (hearing), 30 attendees
- (b) **Testified at each hearing:** September 17, 2010, Personnel Commission meeting, 1 testified
- (c) **Submitted written comments:** None

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

Comments were not solicited, as the regulation does not affect businesses.

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

Based on agency comments, the Department of Personnel amended the language of the proposed regulation to require supervisors to take the 6 mandatory classes every 3 years instead of the proposed 2 years. This reflected Kareen Masters' concern (Department of Health and Human Services) that given furloughs and short-staffed agencies, it might not be appropriate to increase training time.

Renee Travis, Department of Administration, recommended that regulation require FMLA as a training class for managers/supervisors. Shelley Blotter, Department of Personnel, explained that this training requirement could be designated in the Rules of State Administration and sent out as a PERD.

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

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

This regulation does not have a direct economic effect on either a regulated business or the public.

- 6. The estimated cost to the agency for enforcement of the adopted regulation:**

There is no additional cost to the agency for enforcement of this regulation.

- 7. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendment duplicates.

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

This regulation does not include any provisions that are more stringent than any federal regulation.

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

No fees are associated with this regulation.

- 10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

This regulation is specific to State government agencies and has no impact on small businesses.

SUMMARY OF THE WORKSHOP TO SOLICIT COMMENTS ON THE PROPOSED REGULATIONS OF THE STATE DEPARTMENT OF PERSONNEL

February 25, 2009
CARSON CITY, NEVADA

Attendees in Carson City:

Teresa Thienhaus, Director, Department of Personnel
Shelley Blotter, Division Administrator of Employee and Management Services, Department of Personnel
Mark Evans, Supervisory Personnel Analyst, Department of Personnel
Amy Davey, Personnel Analyst III, Department of Personnel
Carrie Hughes, Staff Specialist, Department of Personnel
Ricky Burdick, Administrative Assistant II, Department of Personnel
Colleen Cohan-Scott, Equal Employment Opportunity Officer, Department of Corrections
Renee Travis, Personnel Officer I, Department of Administration
Todd Rich, Administrative Coordinator, Gaming Control Board
Kareen Masters, Deputy Director, Department of Health and Human Services
Teri Hack, Personnel Technician III, Department of Conservation and Natural Resources
Janet Damschen, Employee Relations Manager, Nevada System of Higher Education
Barbara Dieringer, Training Officer II, Department of Personnel
Troy Orosco, Training Officer II, Department of Personnel
Todd Rich, Administrative Coordinator, Gaming Control Board

Attendees in Las Vegas:

Mark Anastas, Division Administrator of Recruitment and Retention, Department of Personnel
Jill Pressman, Training Officer II, Department of Personnel.

The workshop commenced at 1:30 p.m. Shelley Blotter welcomed everyone to the meeting and asked them to sign in.

The purpose of today's workshop is to solicit comments from effected parties with regard to the regulations proposed for permanent adoption. These regulations will be considered for adoption by the Personnel Commission at their May 21, 2010 meeting.

If the regulations are adopted, they will go into effect when filed with the Secretary of State which will be approximately 40 days after the Personnel Commission meeting.

REGULATION CHANGES PROPOSED FOR PERMANENT ADOPTION

LCB File No. R-057-10

NAC 284.498 is hereby amended to read as follows:

Explanation of Proposed Change: This regulation change, proposed by the Department of Personnel, simplifies the training requirements for supervisory and managerial employees and will make it easier for agencies to determine if their employees are in compliance. The change will require supervisors to take refresher training on all topics more frequently, but online course offerings will make meeting the requirements more convenient. More frequent training will help insure that supervisors and managers remain up-to-date on relevant regulations and processes.

NAC 284.498 Training of supervisory and managerial employees. (NRS 284.065, 284.155, 284.343)

1. Except as otherwise provided in this section:

(a) Within 6 months after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend a training class concerning the evaluation of the performance of employees.

(b) Within 12 months after an agency appoints an employee to a supervisory position or managerial position, the employee shall attend at least one training class *approved by the Department of Personnel* in each of the following areas:

- (1) Equal employment opportunity;
- (2) Interviewing and hiring;
- (3) Alcohol and drug testing;
- (4) Progressive disciplinary procedures; and
- (5) Handling grievances.

(c) *Supervisory and managerial employees shall attend any other classes required by the Director of Personnel.*

~~[2.—Within 3 years after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend additional supervisory or managerial training which, when added to the amount of training received pursuant to subsection 1, equals at least 40 hours of training.~~

~~—3.— For every 3-year period after the initial 3-year period, a supervisor or managerial employee shall attend at least 40 hours of training to enhance his supervisory or managerial skills. Such training must include at least two of the training classes described in subsection 1. An employee who receives credit for a training class described in subsection 1 for a 3-year period will not receive credit for taking that same training class in the next two following 3-year periods.]~~

2. Supervisors and managers shall attend training approved by the Department of Personnel on the topics described in paragraphs (a) and (b) of subsection 1 every two years.

[4]3. The appointing authority, at its discretion, may accept, [in lieu of the training required by subsection 1, supervisory or managerial training] *approved courses* taken by the employee during the [36] **12** months immediately preceding his appointment to meet the requirement of paragraphs (a) and (b) of subsection 1.

[5]4. In addition to the training otherwise required by this section, an appointing authority may require a supervisor or managerial employee to retake any part or all of the training required by this section, or to participate in any additional training or other classes deemed necessary by the appointing authority.

~~6.—To meet the training requirements of this section, the employee may take training from:~~

- ~~—(a) The employee’s agency;~~
- ~~—(b) A formal training program;~~
- ~~—(c) The Department of Personnel; or~~
- ~~—(d) Any combination of paragraphs (a), (b) and (c).~~
- ~~7. An employee will not receive credit for any supervisory or managerial training taken for the purposes of this section unless:~~
 - ~~—(a) For training classes described in subsection 1, the training class is certified by the Department of Personnel; and~~
 - ~~—(b) For all other classes and training, the class or training is certified or otherwise approved by the appointing authority.~~

5. *The Department of Personnel may delegate the authority to teach the course required by paragraphs (a) and (b) of subsection 1.*

[§]6. As used in this section:

- (a) “Managerial position” means a position which is held by an employee who:
 - (1) Formally evaluates supervisors;
 - (2) Is involved in the hiring and firing of subordinate staff;
 - (3) Determines organizational structure within a component of the organization; and
 - (4) Develops, monitors and implements policies to accomplish long-range goals.
- (b) “Supervisory position” means a position which is held by an employee who:
 - (1) Formally evaluates staff;
 - (2) Is involved in the hiring and firing of subordinate staff; and
 - (3) Establishes policies which affect the performance or behavior of subordinate staff.

[Personnel Div., Rule X part § F, eff. 1-18-82]—(NAC A by Dep’t of Personnel, 10-26-84; 5-27-86; 10-18-89; 3-23-94; R197-99, 1-26-2000; A by Personnel Comm’n by R182-03, 1-27-2004)

Mark Evans read the following statement:

I will be reviewing Item E, a proposed change to NAC 284.498 which relates to training for supervisory and managerial employees. The current training regulation is complicated and difficult to track. We are recommending simplifying the regulation by requiring supervisors to take the 6 mandatory topics every two years. Requiring supervisors and managers to take the mandatory classes every two years will ensure that they are updated more frequently on the required topics and related regulation changes. On-line training options will ensure that supervisors and managers have ready access to the classes. We are also eliminating the requirement of 40 hours of training every three years since this may not be possible for agencies to provide given current budget constraints. Finally, the changes to this regulation will make it easier for agencies to track the training requirements for supervisors and managers.

Shelley Blotter requested public comments.

Kareen Masters commented that her concern is that this may not be the appropriate time to increase training due to agencies already being short staffed, as well as, having to take furlough leave from work.

Mark Evans responded that the online classes are not as time consuming as the live classes.

Shelley Blotter remarked that the classes previously took nine years to complete, in addition to a 40 hour requirement which will be stricken, and that supervisors will only be required to take the refresher training every two years, instead.

Kareen Masters recommend a change to the language in subsection 2 stating, “supervisors and managers shall attend training approved by Personnel by two of the topics described in paragraphs “A & B,” every three years.”

Shelley commented that supervisors were having a hard time tracking the two topics every three years and to having training on a more consistent basis of two years would be easier for the supervisor to track and remember. Another reason we choose two years, rather than three years, is that the sexual harassment class is every two years and we thought it might be easier for the supervisors to remember that everything is on a two year cycle.

Mark Evans commented that he often receives comments from supervisors, during an EMC or an Appeals Hearing, that it has been a while since they have taken their last class and that a lot of the content has changed.

Kareen Masters commented that perhaps training flexibility should be left to the Divisions and individual supervisors as to what training is most valuable to them in the workplace.

Renee Travis commented most supervisors in the course of their duties are going to run into health issues more than discipline issues and with all of the recent changes to FMLA; recommends that FMLA become a mandatory training class.

Shelley Blotter responded that, as a result of a recent Legislative Audit, there may be some flexibility in 1(c) to add in FMLA training for supervisors who approve timesheets and ESMTs.

Renee Travis asked if the language would be modified later to end up in regulation or would if it be written in somewhere else as a requirement.

Shelley Blotter commented that it would be written as a requirement.

Mark Evans asked if it were posted with the other mandatory classes on the website, if that would help; or does it have to be in regulation.

Renee Travis commented that supervisors have to deal with FMLA issues more frequently than some of the other classes and it should be in regulation. Also, she recommended adding an information note about the requirement in S.A.M. (State Administrative Manual), which requires supervisors and managers to have a certain amount of workers’ compensation and safety training.

Shelley Blotter commented that it can be done in the Rules of State Administration as an informational note and the when other required classes are designated they will be sent out as a PERD to inform everyone.

There were no other questions, comments, opposition or discussion on this section.

Shelley Blotter called the workshop closed at 1:54 P.M.