

**ADOPTED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R051-14

Effective October 24, 2014

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

AUTHORITY: §§1-3, NRS 289.510.

A REGULATION relating to peace officers; revising the requirements for the granting of a management certificate to a peace officer; revising provisions governing the suspension, refusal or revocation of a certificate as a peace officer; repealing provisions providing for the issuance and maintenance of an instruction certificate; and providing other matters properly relating thereto.

Legislative Counsel’s Digest

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing minimum standards for the certification and training of peace officers. (NRS 289.510) Under existing regulations, the requirements a peace officer must satisfy to obtain a management certificate include, without limitation, a requirement that the officer obtain intermediate and advanced certificates. (NAC 289.260) An officer may obtain intermediate and advanced certificates by satisfying certain requirements, including, without limitation, the completion of a certain number units of credit at a college or university, a certain number of years of experience or certain combinations of both. (NAC 289.240 and 289.250, as amended by sections 2 and 3, respectively, of LCB File No. R188-12) **Section 1** of this regulation removes the requirement that an officer must successfully complete at least six units of college or university credit to obtain a management certificate. Thus, under **section 1**, an officer who obtained the intermediate and advanced certificates through obtaining years of experience would not be required to successfully complete college or university credits to obtain a management certificate.

Under existing regulations, a certificate as a peace officer may be suspended, refused or revoked if the peace officer is convicted of a crime. (NAC 289.290) **Section 2** of this regulation provides that a certificate as a peace officer may be suspended, refused or revoked if the peace officer pleads guilty, guilty but mentally ill or nolo contendere to a felony or gross misdemeanor. Thus, under **section 2**, a peace officer’s certificate may be suspended, refused or revoked if he or she: (1) is convicted of, or pleads guilty, guilty but mentally ill or nolo contendere to, a felony or gross misdemeanor; or (2) is convicted of a misdemeanor.

Section 3 of this regulation repeals provisions of existing regulations which establish requirements for the issuance and maintenance of instruction certificates.

Section 1. NAC 289.260 is hereby amended to read as follows:

289.260 The Executive Director shall grant a management certificate to an officer upon submission of proof satisfactory to the Executive Director that the officer meets the following minimum requirements:

1. A current basic certificate.
2. A current intermediate certificate.
3. A current advanced certificate.
4. A current supervisor certificate.
5. Six years of experience as a peace officer, including at least 1 year of experience in a management level position and a current assignment in a management level position. The applicant must present proof that the current assignment meets the criteria for a management level position as set forth in NAC 289.057 by submitting a letter with the application that is signed by the administrator of the agency. The letter must include an organizational chart which demonstrates the applicant's position within the agency and must describe the manner in which the applicant's current assignment meets the criteria for a management level position as set forth in NAC 289.057.

6. ~~Six units of credit from an accredited college or university.~~
- 7. Successful completion of 200 hours of training in a management training program certified by the Commission which includes, without limitation, courses in the following subjects:

- (a) Introduction to management;
- (b) Public administration;
- (c) Financial administration;

- (d) Personnel administration;
- (e) Management and labor relations; and
- (f) Policy formulation.

Sec. 2. NAC 289.290 is hereby amended to read as follows:

289.290 1. Each of the following constitutes cause for the Commission to revoke, refuse or suspend the certificate of a peace officer:

- (a) Willful falsification of any information provided to obtain the certificate.
- (b) A permanent or chronic physical or mental disability affecting the officer's ability to perform his or her full range of duties.
- (c) Chronic drinking or drunkenness on duty.
- (d) Addiction to or the unlawful use or possession of narcotics or other drugs.
- (e) Conviction of , *or entry of a plea of guilty, guilty but mentally ill or nolo contendere to*, a gross misdemeanor. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed.
- (f) Failure to comply with the standards established in this chapter.
- (g) Conviction of , *or entry of a plea of guilty, guilty but mentally ill or nolo contendere to*, a felony. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed. Upon conviction ~~H~~ *or entry of a plea of guilty, guilty but mentally ill or nolo contendere*, the certificate will be revoked.
- (h) Conviction of a misdemeanor. If the employing agency recommends suspension or revocation following conviction of the employee for a misdemeanor, suspension or revocation may be imposed. In determining whether to suspend or revoke the certificate, the Commission will consider the type of conviction and other information provided by the agency indicating

unprofessional conduct or similar undesirable activity by the officer that resulted in disciplinary action.

2. Denial, suspension or revocation procedures will not be considered by the Commission in cases where the employment of an officer is terminated for violations of the policies, general orders or similar guidelines of operation of the employing agency which do not constitute any of the causes for denial, suspension or revocation specified in subsection 1.

3. The employing agency shall notify the Commission any time that it becomes aware that one of its officers has been charged with a crime that could result in denial, suspension or revocation procedures. Upon receipt of information alleging any of the causes enumerated in subsection 1, the Commission will determine whether to pursue revocation or suspension of the certificate of the officer.

4. The Commission will notify the officer by certified mail at the officer's last known address of any pending revocation or suspension action and of the nature of the charges and the officer's right to appear and answer the charges. The officer shall, within 15 days after the date on the certified mail receipt, respond in writing, notifying the Commission of his or her intended action with reference to the charges.

5. If the officer fails to notify the Commission within the specified time of his or her intention to appear in answer to the pending action, the Commission will:

(a) Consider the case on its own merits, using the statement from the head of the employing agency or the substantiated information derived from any independent investigation it deems necessary;

(b) Take no action pending the outcome of possible criminal action which may be filed against the officer; and

(c) Take no action pending the outcome of an appeal.

↳ The Commission's decision will be determined by a majority vote of the members of the Commission present.

6. When an officer notifies the Commission of his or her intention to appear and answer the charges pending against him or her, the Commission will elect to sit as a whole at a hearing or designate an independent hearing officer to hear the matter and make recommendations in writing to the Commission. The Commission will review the recommendations of any such hearing officer and arrive at a decision by majority vote of the members present.

7. The Commission will notify the officer of its decision within 15 days after the hearing.

8. An applicant for a certificate who has not been previously certified, but who would be subject to revocation for any cause set out in subsection 1, will not be granted a certificate.

9. If, upon receiving a written allegation that a peace officer is in violation of any provision of subsection 1 and that the facts and circumstances indicate that suspension rather than revocation would be in the best interests of the agency and law enforcement in general, the Commission will suspend the officer's certificate.

10. The Commission will provide each peace officer whose certificate is suspended with written notice of the suspension by certified registered mail. The suspension becomes effective 24 hours after receipt of the certified notice. The notice will contain a statement advising the officer of the right to a hearing.

11. Suspension of a certificate is not a bar to future revocation of the certificate and any prior suspensions may be considered as a factor if revocation is being considered by the Commission.

12. Five years after the revocation of a certificate, an officer may submit a written request to the Commission to allow him or her to reinstate his or her certificate. The Commission will schedule a hearing to consider whether to reinstate the officer's certificate. The Commission will notify the agency that requested the revocation of the date and time of the hearing. After the hearing, the Commission will determine whether to reinstate the certificate. If the certificate is reinstated, the Commission may establish a probationary period during which any misconduct by the officer would result in revocation.

Sec. 3. NAC 289.280 is hereby repealed.

TEXT OF REPEALED SECTION

289.280 Instruction certificate. (NRS 289.510)

1. The Executive Director shall grant an instruction certificate in a specific subject to an officer upon submission of proof satisfactory to the Executive Director that the officer meets the following minimum requirements:

(a) Two years of experience in the subject for which the certificate is issued or 2 years of education and 1 year of experience in the subject for which the certificate is issued.

(b) Successful completion of a formal course of instruction in the:

(1) Subject for which the certificate is issued; and

(2) Development of instructors.

(c) Development and submission for approval by the Executive Director of a detailed lesson plan for the subject for which the certificate is issued, including, without limitation, objectives for the performance of the students that can be measured with a written or practical examination.

(d) Submission to the Executive Director of a current written résumé covering the areas of:

- (1) Personal identification;
- (2) Educational experience;
- (3) Work experience;
- (4) Teaching experience; and
- (5) Recommendation of the employing agency.

↳ Instructors may also be certified on the basis of extraordinary experience, education or expertise in an unusually technical subject area.

2. To maintain an instructor certificate, an instructor must teach at least one class in the subject for which the certificate is issued during the year immediately preceding each anniversary date of the issuance of the certificate. An instructor must provide evidence of compliance with this requirement upon the request of the Executive Director.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R051-14

1. A clear and concise explanation of the need for the adopted regulation.

The NRS and NAC provide for the authority and responsibility of POST which includes, adopt regulations establishing minimum standards for the certification of peace officers. Nevada POST and law enforcement leaders are making every attempt to increase professionalism amongst law enforcement officers.

NRS Chapter 289 authorizes the Commission to adopt regulations setting the minimum standards for the certification, decertification and selection of peace officers. See, NRS 289.510. The Commission has adopted regulations establishing the grounds for the suspension or revocation of a peace officer's POST certification. See, NAC 289.290. The proposed regulation will add grounds for suspension or revocation when a peace officer has entered a plea of guilty, guilty but mentally ill or nolo contendere to a gross misdemeanor or felony. The proposed regulation will authorize the Commission to suspend or revoke a peace officer's POST certificate upon entry of a plea even if there is no conviction entered for the gross misdemeanor or felony conviction. The proposed regulation also removes the requirement that a peace officer complete six units of credit from an accredited college or university to obtain a Management Certificate. See, NAC 289.260. Finally, the proposed regulation repeals the regulation providing for the issuance of an Instruction Certificate. See, NAC 289.280. The need for the proposed regulation changes is to provide the Commission with another tool to ensure peace officers who commit acts constituting a felony or gross misdemeanor may have their POST certification suspended or revoked. Additionally, through this proposed regulation, the Commission and law enforcement leaders are attempting to increase professionalism amongst law enforcement officers, and provide clarity and consistency in those regulations.

Important Note: The Commission voted the newly adopted grounds for revocation or suspension would not be applied retroactively.

The proposed regulation, referenced as LCB File No. R051-14, contain the following sections:

Section 1. Amending NAC 289.260(6) which contains the requirements for a Management Certificate to remove the requirement for six *units of credit from an accredited college or university*. The Intermediate and Advanced Certificates already have higher education requirements. The removal of this wording is needed to remove a conflict with the new standards. Making this change will properly align the Management Certificate with the Intermediate and Advanced Certificates.

Section 2. Amending NAC 289.290(1)(e) and (1)(g), which identify circumstances which constitute causes for the Commission to revoke, refuse or suspend the certificate of a peace officer.

1. Change subsection (1)(e) to include having been convicted of, *or entry of a plea of guilty, guilty but mentally ill or nolo contendere to*, a gross misdemeanor.
2. Change subsection (1)(g) to include having been convicted of, *or entry of a plea of guilty, guilty but mentally ill or nolo contendere to*, a felony.

Section 3. Repeal NAC 289.280 which establishes the standards for an Instruction Certificate. The Commission is repealing this regulation because an Instruction Certificate has been found to be unnecessary to improve the quality of instruction of peace officers.

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

Public comment was solicited as follows pursuant to NRS 233B.0603:

Amended Notice of Workshop to Solicit Comment on Proposed Regulations was held 1:00 pm March 5, 2014, at the Carson city Sheriff’s Office, Ormsby Room, 911 E. Musser Street, Carson City, Nevada.

Notice Of Intent To Act Upon A Regulation; Public Comment Hearing was held at 1:00 pm, on July 24, 2014 at the Prospector Hotel and Casino, Ghost Train Room, 1501 E. Aultman, Ely, Nevada. In addition to the meeting locations listed below, the Public Comment Hearing was posted at all county library main branches.

Notices were sent to all listed meeting locations, all law enforcement agencies, law enforcement training academies, all county library main branches, and posted on the POST web site, Public Notice web site and the LCB web site.

POST Administrative Office, Carson City
 Nevada State Capitol, Carson City
 Blasdel State Building, Carson City
 Nevada State Library and Archives, Carson City
 Grant Sawyer Building, Las Vegas
 White Pine County Sheriff’s Office, Ely
 Carson City Sheriff’s Office
<http://post.state.nv.gov>
<http://leg.state.nv.us>
<https://notice.nv.gov>

There was one public response to section 2 amending NAC 289.290. Mr. Laity asked if this amendment is retroactive and requires employers to conduct another background investigation on existing employees. It was clarified that this would not be retroactive.

3. The number of persons who:

- (a) Attended each hearing:**
- | | |
|-----------------------------------|----|
| 03/05/2014 Workshop | 14 |
| 07/24/2014 Public Comment Hearing | 5 |

- (b) **Testified at each hearing:**
 - 03/05/2014 Workshop 0
 - 07/24/2014 Public Comment Hearing 1

- (c) **Submitted written comments:**
 - 03/05/2014 Workshop 0
 - 07/24/2014 Public Comment Hearing 0

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing: N/A

- (a) **Name;** David Laity
- (b) **Telephone number;** 775-688-1421 x 224
- (c) **Business address;** 560 Mill Street Ste 250 Reno, Nevada 89502
- (d) **Business telephone number;** 775-688-1421 x 224
- (e) **Electronic mail address; and** dlaity@dcsf.nv.gov
- (f) **Name of entity or organization represented.** Nevada Youth Parole Bureau

5. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary. N/A

This regulation has no application toward businesses and only applies to Nevada law enforcement agencies. See #2 notice.

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

The Commission accepted and adopted the recommended language provided by the Legislative Counsel Bureau without revisions.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

- (a) **Estimated economic effect on the businesses which they are to regulate.**

N/A

- (b) **Estimated economic effect on the public which they are to regulate.**

N/A

8. The estimated cost to the agency for enforcement of the proposed regulation:

There should be no extra costs. It is projected that with changes to the Management Certificate and properly aligning it with the Intermediate and Advanced Certificates, and repealing of the Instructor Certificate it is feasible this could result in being fiscally efficient in the amount of time needed to process and validate qualifications for the certificates.

9. 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 regulations which overlap or duplicate the proposed regulations.

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

There are no federal regulations that regulate the same activity.

11. 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.

None