

LCB File No. T007-99

**TEMPORARY REGULATION OF THE
PEACE OFFICERS' STANDARDS AND TRAINING COMMITTEE**

(Adopted as temporary on January 19, 1999)

EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted

AUTHORITY: NRS 481.053

NAC 481.060 is hereby amended to read as follows:

NAC 481.060 Basic certificate: Requirements; request for certification; placement on inactive status. (NRS 481.053)

1. The committee will award a basic certificate to any peace officer who meets the minimum standards for appointment established pursuant to NAC 481.040 and has:

(a) Satisfactorily completed the basic training course for basic certification or a course of training which the committee determines to be at least equivalent to the basic training course for basic certification;

(b) Passed the state certification examination with a score at or above the 70th percentile;

(c) Passed the state physical fitness examination with a score at or above the 60th percentile of the fitness norm for the single standard of the general population; and

[(d) Satisfactorily completed a period of qualification of 1 year as a peace officer employed by an agency.]

2. A peace officer is deemed to have completed a course of training that is at least equivalent to the basic training course for basic certification if:

(a) The peace officer has been certified by a certifying entity of another state or by the Federal Government to perform the duties of a peace officer and the committee has determined that the course of training required for the certification was at least equivalent to the basic training course for basic certification;

(b) The certification of the peace officer in the other jurisdiction has not been revoked or suspended;

(c) Not more than 24 months have lapsed since the peace officer was employed in the other jurisdiction; and

(d) The peace officer has satisfactorily completed a training course that is approved by the committee which consists of a minimum of 80 hours of training in:

- (1) Constitutional law;
- (2) Probable cause;
- (3) Search and seizure;
- (4) Laws of arrest;
- (5) Crimes against property;
- (6) Crimes against persons;
- (7) Laws relating to narcotics;
- (8) Civil liability;

- (9) Use of force;
- (10) Laws relating to child abuse;
- (11) Laws relating to domestic violence;
- (12) Laws relating to juveniles;
- (13) Miscellaneous crimes;
- (14) Rights of victims;
- (15) Ethics in law enforcement or for correctional officers;
- (16) Sexual harassment; and
- (17) Cultural awareness.

3. Except as otherwise provided in subsection 4, an officer must pass the state physical fitness examination to successfully complete a course:

(a) Within 16 weeks from the date on which he enters a basic training course certified pursuant to NAC 481.080 if he is in training category II or III; or

(b) Within 16 weeks from the date on which he was hired if he has completed a course of training which the committee determines to be at least equivalent to the basic training course for basic certification.

4. If a student enrolled in a basic training course certified pursuant to NAC 481.080 sustains a bona fide physical injury rendering him incapable of performing the physical requirements to successfully complete the course, an agency may submit a request for an extension of time for the student to complete the requirement. The agency shall submit such a request to the committee or its designee. The request must include, without limitation, written verification by a physician that the student is incapable of performing the physical requirements of the course. If the committee or its designee determines that an extension of time is warranted, it shall authorize an extension of time for a period not to exceed 12 months from the date on which it received the request.

5. **[The period of qualification must:**

(a) Begin on the date on which the officer is notified of his passage of the state certification examination; and

(b) Be continuous unless the officer becomes unemployed because of a reduction of employees in the agency, in which case the period may be aggregate but must be completed within 2 years.

6.] Upon satisfactory completion of the requirements listed in subsection 1, the employing agency shall submit a request for certification to the committee. The request must include:

(a) The name, social security number and date of hire of the officer;

(b) Documentary evidence that the officer has successfully completed an approved basic training course;

(c) Verification by the administrator of the agency that the officer meets the minimum standards established by NAC 481.010 to 481.120, inclusive; and

(d) The statement concerning child support prescribed by the welfare division of the department of human resources pursuant to NRS 425.520.

[7.] 6. The basic certificate of an officer whose employment is terminated for any reason will be placed on inactive status. If such a person is again employed as a full-time peace officer, the employing agency shall request that the person's basic certificate be returned to active status. If the certification of such a person is on inactive status for more than 2 consecutive years, the person must renew his basic certificate by successfully completing the

state certification examination, an 80-hour course of training that is approved by the committee and the state physical fitness examination.

THE FOLLOWING SECTION IS SUSPENDED:

481.036 Exemption for elected officers. An elected peace officer is not required to meet the standards established by NAC 481.040 and 481.050.

Informational Statement
1/19/99

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.

The P.O.S.T. Committee noticed its intent to adopt the temporary regulations through one (1) public workshop held at 9:00 a.m. on July 22, 1998, and one (1) Public Hearing held at 10:00 on July 22, 1998, at the Bristlecone Convention Center in Ely, Nevada, and a second Public Comment hearing was held at 10:00 a.m. on September 02, 1998, at the Henderson Police Department in Henderson, Nevada, all in compliance with NRS 233B.0603.

Notice of the public comment hearings were sent via U.S. or inter-departmental mail, to all identified law enforcement agencies.

Notice was posted at all Nevada county libraries, all county courthouses, DMV&P/S headquarters and field offices in Henderson and Ely, State Personnel, Henderson Police Department, Carson City Post Office, P.O.S.T. Administrative offices, Grant Sawyer Building, Capitol Press Corp, White Pine County Sheriff's Office, Nevada Capitol Building.

Persons who wished to comment on the proposed action of the Peace Officer Standards and Training Committee, were invited to appear at the scheduled public hearings or were invited to address their comments, data, views or arguments, in written form, to Richard Clark, %Nevada POST, 2101 Snyder Avenue, Carson City, NV 89701.

A copy of written comments may be obtained by calling the P.O.S.T. Committee (702) 687-3283, or writing to the P.O.S.T. Committee at 2101 Snyder Avenue, Carson City, Nevada 89701.

2. The number of persons who:

(a) Attended each hearing;

July 22, 1998, Ely - three (3) guests
September 02, 1998, Henderson - one (1) guest

(b) Testified at each hearing;

July 22, 1998, Ely - one (1) Chief Mike Murrell, Lovelock Police Department.

September 02, 1998, Henderson - one (1) Constable Herb Brown, North Las Vegas Township.

(c) **Submitted to the agency written comments:** Comments were

Submitted by: Sheriff Neil Harris - Incumbent - Elko County Sheriff
Mr. Daley - Candidate for Sheriff - White Pine County

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

Interested agencies or person employed by law enforcement agencies, had an opportunity to testify at the public hearing workshop and the public comment hearing.

Written responses were received from two (2) individuals. One employed by a law enforcement agency and one a retired law enforcement officer and candidate for the Sheriff's seat of White Pine County.

Sheriff Neil Harris (Summary) - Did not feel there should be a requirement for elected sheriffs to meet the academic P.O.S.T. requirements within one year if the individual has prior law enforcement experience. Sheriff Harris disagreed with requiring elected peace officers to conform to P.O.S.T. physical standards and requirements. He believes that requiring elected sheriffs to pass the physical fitness requirements would eliminate a portion of society that the citizens may want, or need, and that older and retired law enforcement individuals from throughout the country may have the leadership, experience and business skills to manage the office and to restrict them would be a travesty.

Mr. Brown (Summary) - Mr. Brown mainly had questions regarding the effect of the proposed regulations. He asked if incumbents would be grandfathered in if the regulations were to change. He also asked if there would be any other alternatives and whether specific dates or times would be established as a starting point to not effect current elected peace officers. Mr. Brown also wanted to advise the committee that the Constable in North Las Vegas is a working position, and not just an administrator, and questioned if they should expand their hiring process to allow for persons to be P.O.S.T. certified prior to being hired.

Mr. Daley (Summary) - Mr. Daley expressed concern that the requirements to obtain basic certification is ill-advised and would not enhance the professionalism of elected officers in Nevada. He also comment that the will of the public should remain the determining factor of the suitability of a candidate who seeks an elected peace officer position. The certification requirement under

Nevada Administrative Code flies in the face of the intent of the framers of the original Nevada Constitution establishing the office of sheriff.

Mr. Daley states that a recommendation for suspension of the elected official exemption not serve the public interest nor the will of the people in Nevada and such a regulation could not survive a court challenge on constitutional grounds and would surely result in protracted an expensive litigation for the state.

Mr. Daley states that the suspension of the regulation is tainted by the conflicts of interest that are manifested. He believes that at least one of the P.O.S.T. Committee members vigorously advances the question of suspension of NAC 481.036 with an agenda largely political and personal.

Mr. Daley points out his disagreement that Committee member Bernie Romero, current sheriff of White Pine County, advances the item and to advocate for the suspension while actively engaged in a campaign for elections is clearly a conflict of interest, a violation of public trust of his committee oath, and violation of ethical campaign practices.

Mr. Daley alleges that Mr. Romero, Sheriff of White Pine County, armed with knowledge communicated to him in confidence, knew in 1996 that one of the likely challengers for his office was under medical advice not to attempt to complete the run portion of the P.O.S.T. physical agility requirements. He believes that Sheriff Romero should not have advocated or voted for or against this proposal, since the local field of candidates was determined after the end of the filing date in May, 1998.

Mr. Daley urges the Committee to not take discretion away from voters who seek otherwise qualified peace officers through the ballot; and further asks that the Committee abandon the quest for suspension of NAC 481.036; and in closing, asks the Committee to examine the fitness of Mr. Romero to continue to sit on the P.O.S.T. Committee.

Persons wishing to obtain copies of the three (3) written comments, may request copies by calling (775) 687-3283 or by writing to Nevada P.O.S.T., Records and certification Section, 2101 Snyder Avenue, Carson City, Nevada 89701.

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.

The temporary regulations were adopted or suspended by the P.O.S.T. Committee with the consideration of the oral and written comments received. The Committee did not make any substantive change to the original proposal.

The P.O.S.T. Committee removed the one year qualification period to allow peace officers the ability to become Nevada P.O.S.T. certified upon the completion of all requirements outlined in NAC 481. The Committee did not receive any oral or written comment on this amendment.

The P.O.S.T. Committee removed an inconsistency between the Nevada Revised Statute requirement for P.O.S.T. certification of elected peace officers and the committee's regulation exempting elected peace officers from those statutory requirements. The Committee did not adopt a regulation requiring elected peace officers to comply with P.O.S.T. requirements. Instead, the committee suspended their regulation exempting elected peace officers from already existing statutory requirements.

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 in each case must include:

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

Adverse effects: there are no anticipated adverse effects associated with requiring elected officers to meet the standards of chapter 481.

Beneficial effects: The suspension of NAC 481.036 will strengthen the credibility of peace officers throughout the state by requiring all peace officers to meet the same certification standards.

The amendment of NAC 481.060 will allow for the removal of the one year qualification period which require an officer to wait a period of one year before becoming certified as a Nevada peace officer. This is anticipated in reduced liability for employing agencies and

- (b) Immediate and Long-Term effects:

Immediate effects: The suspension of NAC 481.036 will have no immediate effect on incumbent elected officers, the requirements will not effect their current peace officer status.

The amendment of NAC 481.060 will allow peace officers the ability to become certified as a Nevada peace officer if all other requirements have been satisfied.

Long term effects: The suspension of NAC 481.036 will have a long term effect whereby any incumbent now serving out their elected term will be required to meet the standards of NAC 481.040 and 481.050 if re-elected.

No long term effects are anticipated with the amendment of NAC 481.060.

6. The estimated cost to the agency for enforcement cost to the agency for enforcement of the proposed adopted regulation.

There are no anticipated costs associated with the enforcement of the proposed regulation changes.

7. **A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The P.O.S.T. Committee has no knowledge of any regulations imposed by other state, government or federal agencies which overlap or duplicate these regulations.

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

The P.O.S.T. Committee is not aware of any Federal regulation that may be associated with this same activity.

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.**

The adopted regulation neither establishes nor increases any existing fee.