

**ADOPTED REGULATION OF THE COMMISSION
ON POSTSECONDARY EDUCATION**

LCB File No. R104-03

Effective December 4, 2003

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

AUTHORITY: §1, NRS 394.411.

Section 1. NAC 394.685 is hereby amended to read as follows:

394.685 1. If an institution employs a person in violation of NRS 394.465, the Administrator shall order the institution to terminate immediately the employment of that person.

2. ~~[All sheriffs' investigations are confidential. If the Administrator finds that a person who is required to be certified or investigated has been convicted within the last 10 years of a felony or a crime involving moral turpitude or has ever been denied a work permit, the Administrator shall notify the institution and applicant. If the institution still desires to employ the person, the application will be reviewed by the Commission in a closed meeting to determine whether the person may be employed by the institution. The Commission will vote on the determination in an open meeting.~~

~~—3.— If the Administrator finds that a person who is required to be certified or investigated was convicted more than 10 years ago of a felony or a crime involving moral turpitude, the Administrator shall notify the institution and applicant. If the institution still desires to employ the applicant and the applicant is able to demonstrate to the satisfaction of the Administrator that he is qualified for that employment, the Administrator may allow the institution to employ the applicant.~~

~~—4. Before an institution:~~

~~—(a) Employs a person; or~~

~~—(b) Reemploys a person who has been discharged or voluntarily left employment for 1 year, who is required to be certified or investigated;~~

~~the institution shall furnish the Administrator with his name, social security number and, if applicable, the number of his certificate and its date of expiration. If the person does not have a valid certificate or if the sheriff's investigation has not been received by the Administrator within 90 days after the institution furnishes the Administrator with the required information and the applicant has not requested a certificate or investigation, the Administrator shall order the institution to terminate immediately the person's employment.]~~

If the Administrator receives evidence that a person employed by an institution who is subject to the provisions of NRS 394.465 may have been convicted of a felony or crime involving moral turpitude, the Administrator shall request from the employee verification of the conviction and an explanation. If the employee verifies the conviction, the Administrator shall direct the employee to:

(a) Notify the institution of the conviction; and

(b) Request the institution to submit to the Administrator a request for continued employment of the employee accompanied by a letter of support for continued employment.

3. If the Administrator receives a request for continued employment pursuant to subsection 2 and the conviction of the employee on whose behalf the request is made occurred within the immediately preceding 10 years, the Commission will consider the request for continued employment at its next regularly scheduled meeting during a closed session of that meeting. The Commission will vote upon the request during an open meeting.

4. If the Administrator receives a request for continued employment pursuant to subsection 2 and the conviction of the employee on whose behalf the request is made occurred more than 10 years before the date on which the request is received, the Administrator shall approve or disapprove of the request for continued employment. If the Administrator denies a request, the institution may request a hearing before the Commission.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R104-03**

The Commission on Postsecondary Education adopted regulation assigned LCB File No. R104-03, which pertain to chapter 394 of the Nevada Administrative Code on November 5, 2003.

Notice date: 9/30/2003
Hearing date: 11/5/2003

Date of adoption by agency: 11/5/2003
Filing date: 12/4/2003

INFORMATIONAL STATEMENT

- a. Public comment was solicited through workshops conducted by staff. Public was notified through posting notice of workshops and mailing notices to individual who have requested to be so notified. Notice included information on how to submit any comments to the Commission as well as information on the date, time and location of the workshops. No public comments were received.

Individuals who would like a copy of the summary of public comments should contact the Commission on Postsecondary Education, 1820 East Sahara Avenue, Suite 111, Las Vegas, Nevada, 89104, to request a copy. They may also call 702-486-7330 or send a facsimile to 702-486-7340 or E-mail to dperlman@cpe.state.nv.us and request a copy. There is no charge for a copy.

- b. Five people attended the workshops, and all testified. No written statements were submitted to the Commission. Four people attended the January 9, 2003, workshop and one attended the September 30, 2003, workshop.
- c. Affected businesses were notified of the workshops by mailing notification of the workshop to all licensed schools. Additionally, an email was sent to each licensed school with an email address provided to the administrator of the Commission, and a notice was mailed to individuals who have requested to be notified of such events.

Comments from affected businesses were positive. One individual commented that the change would not have any impact on the way background investigations would be processed and that the change would ensure the Commission was in compliance with federal regulations. There was a question that did not pertain to the change specifically concerning how long a background investigation was valid and that was answered by the administrator. That particular requirement is in NRS 394.465, and did not pertain to the change to NAC 394.685.

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- d. The proposed change to the regulation was adopted without change as there were not comments requesting it be changed.
- e. The proposed amendment will not have any economic effect on businesses regulated by the Commission, either adverse or beneficial, immediate or long term, as the change is clerical in nature and allows the Commission to continue processing background investigations. The cost to businesses will remain the same. The proposed amendment will not have any economic effect on the public, either adverse or beneficial, immediate or long term, as the change is clerical in nature.
- f. The cost to the Commission for enforcement remains the same.
- g. The proposed amendment does not duplicate or overlap the regulations of other state or local government agencies nor any federal regulations.
- h. The proposed amendment does not include provisions more stringent than federal regulations.
- i. The proposed amendment does not establish new fees or increase existing fees.