

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

LCB File No. R127-04

Effective November 8, 2004

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

AUTHORITY: §1, NRS 289.510; §2, NRS 289.510 and 289.590.

A REGULATION relating to peace officers; revising various provisions concerning basic and reserve basic certificates; and providing other matters properly relating thereto.

Section 1. NAC 289.200 is hereby amended to read as follows:

289.200 1. The Executive Director shall award a basic certificate to any peace officer who meets the minimum standards for appointment established pursuant to NAC 289.110 and has:

- (a) Satisfactorily completed the basic training course for basic certification;
- (b) Passed the state certification examination with a score at or above the 70th percentile; and
- (c) Passed the state physical fitness examination. To pass the examination, a person must:
 - (1) Complete a vertical jump of not less than 14 inches;
 - (2) Complete not less than 15 sit-ups in 1 minute;
 - (3) Complete not less than 18 push-ups;
 - (4) Run 300 meters in not more than 77 seconds; and
 - (5) Walk or run 1.5 miles in not more than 17 minutes and 17 seconds.

2. The Executive Director may award a basic certificate to any peace officer who has been previously certified by the certifying entity of another state or has successfully completed a

Federal Law Enforcement Training Center training program approved by the Commission and who meets the minimum standards for appointment established pursuant to NAC 289.110 if:

(a) The Commission or its designee 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(b) The certification of the peace officer in the other jurisdiction has not been revoked or suspended;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 60 months have lapsed since the peace officer was employed in the other jurisdiction;

(d) The peace officer has satisfactorily completed a training course that is approved by the Executive Director 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;
 - (17) Cultural awareness;
 - (18) Laws relating to abuse of elderly persons;
 - (19) Laws relating to stalking and aggravated stalking; and
 - (20) Weapons of mass destruction;
- (e) The peace officer passes the state certification examination with a score at or above the 70th percentile; and
- (f) The peace officer passes the state physical fitness examination. To pass the examination, a person must:
- (1) Complete a vertical jump of not less than 14 inches;
 - (2) Complete not less than 15 sit-ups in 1 minute;
 - (3) Complete not less than 18 push-ups;
 - (4) Run 300 meters in not more than 77 seconds; and
 - (5) Walk or run 1.5 miles in not more than 17 minutes and 17 seconds.
3. The Executive Director may award a reserve basic certificate to any reserve officer who meets the minimum standards for appointment pursuant to NAC 289.110 and has:
- (a) Satisfactorily completed the basic training course for a reserve certificate;
 - (b) Passed the state certification examination with a score at or above the 70th percentile; and
 - (c) Passed the state physical fitness examination. To pass the examination, a person must:
 - (1) Complete a vertical jump of not less than 14 inches;
 - (2) Complete not less than 15 sit-ups in 1 minute;

- (3) Complete not less than 18 push-ups;
- (4) Run 300 meters in not more than 77 seconds; and
- (5) Walk or run 1.5 miles in not more than 17 minutes and 17 seconds.

4. Except as otherwise provided in subsection 5 ~~or~~ **or 6**, an officer must pass the state physical fitness examination:

(a) While enrolled in a basic training course certified or approved pursuant to NAC 289.300;

or

(b) Not earlier than 16 weeks before, or not later than 16 weeks after, the date on which he was hired or, if the officer is a reserve officer, the date of activation of his reserve status.

5. If a student enrolled in a basic training course certified or approved pursuant to NAC 289.300 sustains a bona fide physical injury that renders him incapable of completing the requirements of the state physical fitness examination, an agency may submit a request for an extension of time for the student to complete the examination. The agency shall submit such a request to the Executive Director. The request must include, without limitation, written verification by a physician that the student is incapable of completing the requirements of the state physical fitness examination. If the Executive Director determines that an extension of time is warranted, the Executive Director shall authorize an extension of time for a period not to exceed 12 months after the date on which the student was hired or, if the student is a reserve officer, the date of activation of his reserve status.

6. ***If an officer passes the state physical fitness examination:***

(a) While not enrolled in a basic training course certified or approved pursuant to NAC 289.300; and

(b) More than 16 weeks, but less than 12 months after the date on which he was hired or, if the officer is a reserve officer, the date of activation of his reserve status, ↪ the employing agency of the officer may submit a request to the Executive Director to waive the requirements of subsection 4. The request must include, without limitation, the reason the officer was unable to pass the state physical fitness examination within the periods described in subsection 4. The Executive Director may, for good cause shown, grant a request submitted pursuant to this subsection.

7. Upon satisfactory completion of the requirements listed in subsection 1, 2 or 3, the employing agency shall submit a request for certification to the Executive Director. The request must include:

(a) The name, social security number and date of hire of the officer or, if the officer is a reserve officer, the date of activation of his reserve status;

(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 this chapter; and

(d) The statement concerning child support prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520.

~~7.1~~ 8. 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 5 consecutive years, the

person must renew his basic certificate by successfully completing the requirements set forth in subsection 1.

9. If a person who successfully completes a basic training course for the purpose of obtaining a basic certificate is not employed by an agency within 24 months after he completes the course, the person must repeat all of the requirements for basic certification set forth in subsection 1.

Sec. 2. NAC 289.230 is hereby amended to read as follows:

289.230 1. To maintain a basic certificate or reserve certificate, the officer must annually complete 24 hours of additional training prescribed by the administrator of the employing agency of the officer and approved by the Executive Director. The employing agency shall ensure that its officers receive the required training. *The employing agency shall notify each officer of the requirements of this section and the penalties set forth in subsection 3 for failure to comply with this section.* After an officer completes such training, the employing agency shall submit verification of completion of training to the Executive Director on a form approved by the Commission. Verification must be submitted before January ~~15~~ 31 following the year in which training was required.

2. If the Executive Director has not received verification of completion of training pursuant to subsection 1 before January 31 following the year in which training was required, the Executive Director shall notify the administrator of the employing agency that he has not received the verification required by subsection 1 and that if the verification is not received on or before March 1 of that year, the Executive Director will place the administrator on the agenda for the next scheduled meeting of the Commission to explain the delay in the submission of the verification. If the Executive Director has not received verification of

completion of training pursuant to subsection 1 on or before March 1 following the year in which training was required, the Executive Director shall place the administrator of the employing agency on the agenda for the next scheduled meeting of the Commission.

3. Upon the request of the Commission or its designee, the employing agency shall make available for inspection the records of all officers to verify that they have complied with the continuing education requirement. The Commission will notify each officer and his employing agency of any noncompliance. The Commission will suspend the certificate of any officer who does not obtain the required training within ~~[6 months]~~ *60 days* after the date on which he received the notice of noncompliance. The Commission will reinstate the suspended certificate of an officer upon receiving documentation from the officer which demonstrates that he has complied with the continuing education requirement.

~~[3.]~~ 4. As part of the continuing education required pursuant to subsection 1, an officer must:

(a) If the officer is authorized to use a firearm, at least biannually ~~[review the policy of his agency on the use of force and]~~ demonstrate a minimum level of proficiency in the use of each firearm he is authorized to use. An officer who ~~[is not able to]~~ *does not* demonstrate a minimum level of proficiency with the use of any firearm he is authorized to use may not carry or use the firearm until he participates in a remedial course established by the employing agency to ensure that he achieves and maintains a satisfactory level of proficiency.

(b) If the officer is authorized to use an impact weapon, ~~[annually review the policy of his agency on the use of force and]~~ *chemical weapon, electronic incapacitating device or other less lethal weapon*, demonstrate a minimum level of proficiency in the use of each ~~[impact]~~ *such* weapon *or device* he is authorized to use.

(c) If the duties of an officer require him to use defensive tactics, demonstrate annually a minimum level of proficiency in the use of defensive tactics, including, without limitation, techniques related to applying handcuffs, taking down suspects, self-defense and retention of weapons.

(d) If the employing agency *of the officer* authorizes the use of a carotid restraint or lateral vascular neck restraint, ~~each officer in the agency must~~ demonstrate annually a minimum level of proficiency in those techniques.

~~[4.]~~ (e) *Review each policy of the employing agency which addresses the use of force in any situation in which the agency or the officer may become involved.*

5. Each employing agency shall establish and provide the courses set forth in subsection ~~[3]~~ 4 to its officers and establish the minimum level of proficiency that an officer must demonstrate in each course.

~~[5.]~~ 6. An officer who is certified by the Executive Director to instruct courses in firearms, impact weapons or defensive tactics is not required to comply with the continuing education requirements of subsection ~~[3]~~ 4 if the officer:

(a) Instructs a course in the subject for which his certificate is issued during each calendar year;

(b) Participates at least once every 3 years in a course of training for instructors that is approved by the Executive Director; and

(c) Demonstrates to the Commission or its designee at least once every 3 years proficiency ~~[at the level of an instructor]~~ in the subject that he instructs. ~~[The Commission will establish for each subject the minimum level of proficiency that an instructor must demonstrate.]~~

~~6.]~~ 7. Each agency shall maintain documentation of the courses provided pursuant to subsection ~~[3.]~~ 4. Such documentation must include, without limitation, the qualifications of each instructor who provides training, a description of the training provided and a list on a form that has been approved by the Executive Director of each officer who completes the training.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R127-04

The Peace Officers' Standards and Training Commission adopted regulations assigned LCB File No. R127-04 which pertain to chapter 289 of the Nevada Administrative Code on July 21, 2004.

Notice date: 6/16/2004

Date of adoption by agency: 7/21/2004

Hearing date: 7/21/2004

Filing date: 11/8/2004

INFORMATIONAL STATEMENT

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

The Commission on Peace Officer' Standards and Training noticed its intent to amend certain regulations through notices of one (1) public workshop held at 1:00 p.m. and one (1) Public Comment Hearing held at 1:30 p.m. on July 21, 2004, at the Holiday Inn Hotel, 1501 East Aultman, Ghost Train Room, Ely, Nevada, all in compliance with NRS 233B.0603.

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

Notice for the Public Hearing was posted at all Nevada county libraries, POST Administrative Offices, Carson City; Nevada State Capitol Building, Carson City; State Personnel-Blasdel Building, Carson City; Nevada State Library, Carson City; Grant Sawyer Building, Las Vegas; White Pine County Sheriff's Office, Ely; and posted on the Nevada POST website at www.post.state.nv.us.

Persons who wished to comment on the proposed action of the Commission on Peace Officers' Standards and Training 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 P. Clark c/o POST Commission, 3476 Executive Pointe Way, Suite 12A, Carson City, Nevada 89706. Comments from interested persons included, Assistant Director Fritz Reese of the Clark County Juvenile Services and Clark County Coroner P. Michael Murphy, representative for the Clark County POST Consortium.

The comments from interested persons focused on the need for increasing the minimum training hours for Category I, II and III basic training courses, and the continuing education agency reporting requirements. Interested persons proposed that the reporting dates be extended due to the holidays and the press of business at the end of the year.

One written comment was received by the Commission prior to the hearing from Director Kirby Burgess of the Clark County Juvenile Justice Services, and read into the meeting minutes by

POST Secretary Sharon Daniels. The focus of Mr. Burgess' comments were on the reporting deadlines in the proposed regulations.

2. The number of persons who:

(a) Attending the hearing;

July 21, 2004, 1:00, (19)

(b) Testified at the hearing:

July 21, 2004, 1:30, (02)

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;

Comment was solicited as provided in section one.

Interested agencies or persons employed by law enforcement agencies had an opportunity to submit written comments or testify at the public workshop and the public comment hearing. One written response was received by the Commission prior to the hearing.

Persons wishing to obtain a copy of any written comments, may request copies by calling (775) 684-7678 or by writing to the Commission on Peace Officers' Standards and Training, Executive Director, 3476 Executive Pointe Way, Suite 12A, Carson City, Nevada 89706.

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 permanent regulation changes were adopted by the POST Commission at its meeting on July 21, 2004. Based on public comments and commission deliberations, the proposed regulations included the following changes:

1. The commission voted to replace the language in subsection (9) of NAC 289.200 with language that did not refer to renewal of a basic certificate.
2. The commission voted not to amend subsection (1) of NAC 289.230 with language that required the agency to inform its officers of the continuing education requirements before December 31 of each year.
3. The commission voted to replace the January 15th continuing education reporting date with a January 31st reporting date. Additionally the commission replaced the February 15th agency notification date with a March 01 date.

4. The commission removed the proposed language that required the employing agency to provide the residential address of each peace officer who had not complied with the continuing education requirement.

5. The commission voted to replace the proposed term “non-lethal” weapon with “less-lethal” weapon.

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

(a) Both adverse and beneficial effects;

Adverse effects:

Sections 1, 2, and 3 were not adopted by the commission.

Sec. 4, If a person who does not become employed within 24-months of their completion of a basic training course, they must repeat all of the requirements for basic certification.

Sec. 5, The agency administrator will be required to appear before the commission if he fails to submit the continuing education form by March 1st. Additionally, the time to remedy a continuing education deficiency is reduced from six (6) months to sixty (60) days.

Beneficial effects:

Sections 1, 2, and 3 were not adopted by the commission.

Sec. 4, The amendment establishes a 24-month time period during which a person, who is not employed by a Nevada criminal justice agency when they complete their basic training course, must become employed or they must repeat all of the certification requirements. This requirement ensures that these individuals training and education does not become stale prior to them obtaining employment as a peace officer.

Sec. 5, The amendment provides for an improved tracking system for POST to identify and take action against officers who have not met the annual 24-hour continuing education requirement and shorten the administrative processing time for the commission to act upon deficient officers. The amendment increases the accountability of agency administrators to ensure they report continuing education in a timely manner. Additionally, the amendment requires the annual review of the employing agency’s use of force policies by all officers in areas such as firearms, defensive tactics, and impact weapons thereby affording the agency, officers and public with a greater level of understanding and potential legal protection.

(b) Both immediate and long-term effects.

Same as stated above.

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

regulations.

There are no anticipated cost associated with change to these regulations.

7. A description of any regulation of other state or government agencies which the 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 Commission 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 Commission 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 regulations neither establish nor increase any existing fee.