

LCB File No. R227-05

**PROPOSED REGULATION OF THE DEPARTMENT OF
EMPLOYMENT, TRAINING AND REHABILITATION**

**NOTE: DELETIONS ARE INDICATED BY STRIKETHROUGH (-) AND ADDITIONS
ARE INDICATED BY BOLD-ITALIC PRINT**

Chapter 232 of NAC is hereby amended by adding thereto the provisions set forth as section 1 to 11, inclusive, of this regulation.

Section 1: *“Administrator” defined. “Administrator” has the meaning ascribed to it in NRS 232.945.*

Sec. 2: *“Agency” defined. “Agency” shall mean local government as defined in NRS 332.015 and using agencies as defined in NRS 333.020.*

Sec. 3: *“Competitive employment” defined. “Competitive Employment” means work:*
(a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting by a disabled person; and
(b) For which the disabled person is compensated at or above the federal or state minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled for a period of at least ninety days.

Sec. 4: *“Disabled Person” defined. “Disabled Person” means a person with a physical or mental impairment that substantially limits one or more life activity, has a record of such impairment or is regarded as having such impairment, as defined by the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973 as amended.*

Sec. 5: *“Division” defined. “Division” has the meaning ascribed to it in NRS 426.071.*

Sec. 6: *“Integrated setting” defined. “Integrated setting” means:*
(a) With respect to the provision of services, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals;
(b) With respect to an employment outcome, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

Sec.7: *“Organization” defined. “Organization” means an organization whose primary purpose is the training and employment of mentally or physically disabled persons, including, without limitation, community-based training centers for the care and training of mentally and functionally retarded persons described in chapter 435 of NRS.*

Sec. 8: *Any organization interested in participating in the “Program to Encourage and Facilitate Purchases of Commodities and Services from Organizations for Training and Employment of Mentally or Physically Disabled Individuals” as defined in NRS 334.025, NRS 333.375 and NRS 332.117 shall register with the division, on a form prescribed by the division, prior to contacting any agency in order to procure a contract as established under NRS 334.025, NRS 333.375 and NRS 332.117.*

Sec. 9: *Any organization with an established contract with state or local government as defined in NRS 334.025, NRS 333.375 and NRS 332.117, must provide written quarterly reports, based upon a fiscal year beginning on the first day of July, within 20 days after the ending of the quarter, to the Administrator on each contract including but not limited to:*

(a) The number of disabled persons currently employed by the organization to provide services to an agency;

(b) The number of disabled persons employed by the organization to provide services to an agency who have achieved full time competitive employment;

(c) The number of vocational rehabilitation clients employed by the organization achieving 90 days of competitive employment.

(d) The number of contracts the agency has entered into pursuant to the program which are currently in effect and a list of the organizations with which the agency has entered such contracts;

(e) The type and scope of the service or commodity;

(f) The annual value of the contract;

(g) The ratio of disabled persons versus non-disabled persons providing the service;

(h) The hourly wage for each disabled person employed by the organization; and

(i). The number of days each disabled person was employed by the organization.

Sec. 10: *Advisory opinion: Request for issuance; action by Administrator. (NRS 233B.120; NRS 232.945)*

1. Except as otherwise provided in subsection 3, a person may request that the Administrator issue an advisory opinion concerning the applicability of a statute, regulation or decision of the administrator.

2. A request for an advisory opinion must be in writing and set forth:

(a) The name and address of the person requesting the advisory opinion;

(b) A clear and concise statement of the specific question for which the advisory opinion is being sought; and

(c) A statement of the facts that support the advisory opinion being sought.

3. A person may not request an advisory opinion concerning a question or matter that is an issue in a pending administrative, civil or criminal proceeding in which the person is a party.

4. The administrator will review a request for an advisory opinion and issue a response within 30 days after receiving the request.

5. *An advisory opinion issued by the Administrator will be limited to the facts and circumstances set forth in the request.*

Sec. 11: Advisory opinion: Oral response to request. (NRS 233B.120, NRS 232.945)

The administrator will not render an oral advisory opinion to a request for an advisory opinion. An oral response, including, without limitation, a response given over the telephone, by a member of the staff of the administrator is not a decision or an official advisory opinion of the administrator.

Sec. 12: Petition for declaratory order: Filing; contents; action by Administrator. (NRS 233B.120, NRS 232.945)

1. *Except as otherwise provided in subsection 3, a person may file a petition with the administrator requesting that he issue a declaratory order concerning the applicability of a statute, regulation or decision of the administrator.*

2. *A petition for a declaratory order must include:*

(a) *The name and address of the petitioner;*

(b) *The reason for requesting the declaratory order;*

(c) *A statement of the facts that support the petition for a declaratory order; and*

(d) *A clear and concise statement of the question or matter to be decided by the administrator.*

3. *A person may not file a petition for a declaratory order concerning a question or matter that is an issue in a pending administrative, civil or criminal proceeding in which the person is a party.*

4. *The administrator may refuse to review a petition that requests the issuance of a declaratory order if the original petition is not accompanied by two copies of the petition or the petition does not contain the information required by subsection 2.*

5. *The administrator may:*

(a) *Conduct a hearing to determine issues of fact or to hear arguments relating to a petition for a declaratory order and may enter reasonable orders that govern the conduct of the hearing.*

(b) *Request that the petitioner provide additional information or arguments relating to the petition.*

(c) *Issue a declaratory order based on the contents of the petition and any material submitted with the petition.*

(d) *Consider relevant decisions that have been issued by the administrator or any other entity which apply or interpret the statute, regulation or decision in question.*

(e) *Consider any other information he determines is relevant to the question or matter to be decided by the administrator.*

(f) *Enter any reasonable order to assist his review of the petition.*

6. *The administrator will maintain a record of the declaratory order that is indexed by subject matter and will mail a copy of the declaratory order to the petitioner within 60 days after:*

(a) *The petition is filed;*

(b) *A hearing is conducted concerning the petition; or*

(c) *Any additional information or written argument is received by the administrator, whichever occurs later.*

Sec. 13. *Petition for adoption, filing, amendment or repeal of regulation: Filing; contents; action by Administrator. (NRS 233B.100, NRS 232.945)*

1. Any person who wishes to petition for the adoption, filing, amendment or repeal of a regulation of the administrator must file with the administrator the original and two copies of the petition.

2. A petition for the adoption, filing, amendment or repeal of a regulation must include:

(a) The name and address of the petitioner;

(b) A clear and concise statement, including, if applicable, the proposed language, of the regulation to be adopted, filed, amended or repealed;

(c) The reason for petitioning for the adoption, filing, amendment or repeal of the regulation; and

(d) The statutory authority for the adoption, filing, amendment or repeal of the regulation.

3. The administrator may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if:

(a) The original petition is not accompanied by two copies of the petition; or

(b) The petition does not contain the information required by subsection 2.

4. The administrator will notify the petitioner in writing of his decision with regard to the petition within 30 days after the petition is filed.