

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R194-09

Effective April 20, 2010

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

AUTHORITY: §1, NRS 284.065 and 284.407.

A REGULATION relating to the State Personnel System; revising provisions governing the treatment of an applicant who tests positive for the use of a controlled substance; and providing other matters properly relating thereto.

Section 1. NAC 284.894 is hereby amended to read as follows:

284.894 1. An applicant who tests positive for the use of a controlled substance must not be considered by an appointing authority for employment in any position which requires such testing *and must be removed from all lists of eligible persons established from a recruitment that requires such testing* until:

- (a) One year ~~[has passed from]~~ *after* the time of the positive test; or
- (b) The applicant provides evidence that he has successfully completed a rehabilitation program for substance abuse.

2. An employee who tests positive for the use of a controlled substance or alcohol for the second time within a 5-year period is subject to disciplinary action by the appointing authority and may be terminated at the discretion of the appointing authority.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE NO. R194-09**

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

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.

Copies of the proposed regulation, notice of workshop, and notices of intent to act upon a regulation were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel	Grant Sawyer State Office Bldg.
Blasdel Building	555 E. Washington Blvd
209 E. Musser St	Suite 4401
Carson City, NV 89701	Las Vegas, NV 89101
Nevada State Library and Archives	Capitol Building
100 Stewart St	Main Floor
Carson City, NV 89701	Carson City, NV 89701
Legislative Building	Gaming Control Board
401 S. Carson St	1919 College Parkway
Carson City, NV 89701	Carson City, NV 89701

Attached are excerpts from the minutes from the workshop that apply to this regulation.

A public hearing by the Nevada Personnel Commission was held on March 12, 2010. There were no comments received from the public regarding this regulation.

2. The number of persons who:

- (a) **Attended each hearing:** March 12, 2010, Personnel Commission meeting (hearing), 35 attendees
- (b) **Testified at each hearing:** March 12, 2010, Personnel Commission meeting, 2 testified.
- (c) **Submitted written comments:** 1

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

Comments were not solicited, as the regulation does not affect businesses.

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.

A written comment was received suggesting the regulation be changed so that applicants who test positive are removed from all recruitment lists. The Personnel Commission requested that staff investigate if the Commission had the authority to do this. The proposed language was approved, but consideration will be given in the future to the written suggestion.

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 each case must include:

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

This regulation does not have a direct economic effect on either a regulated business or the public.

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

There is no additional cost to the agency for enforcement of this regulation.

7. 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 state or government agency regulations that the proposed amendment duplicates.

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

This regulation does not include any provisions that are more stringent than any federal regulation.

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.

No fees are associated with this regulation.

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

This regulation is specific to State government agencies and has no impact on small businesses.