

**PROPOSED REGULATION OF THE  
PSYCHOLOGICAL REVIEW PANEL OF  
THE BOARD OF PAROLE COMMISSIONERS**

**LCB File No. R127-12**

**Initial Draft of Regulations for the Psychological Review Panel**

Authority: NRS 213.1214

Chapter 213 of NAC is hereby amended by adding thereto new sections to read as follows:

**Section 1. Definitions:** *As used in Section 1 to Section 9, inclusive, unless the context otherwise requires, the words and terms defined in Section 1 to Section 9, inclusive, have the following meanings ascribed to them in those sections.*

*Section 1a. "Administrator" means the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his or her designee pursuant to subsection 1(a) of NRS 213.1214.*

*Section 1b. "Director" means the Director of the Department of Corrections, or his designee pursuant to subsection 1(b) of NRS 213.1214.*

*Section 1c. "Division of Mental Health" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.*

*Section 1d. "Department" means the Department of Corrections.*

*Section 1e. "Board" means the State Board of Parole Commissioners.*

*Section 1f. "Panel" means a Psychological Review Panel created pursuant to NRS 213.1214.*

*Section 1g. "Instrument" means a risk assessment used to determine a prisoner's likelihood to re-offend in a sexual manner.*

*Section 1h. "Standards of Assessment" means one or more approved instruments used in conjunction with other assessment tools and factors used to arrive at a determination of the risk of a prisoner to re-offend in a sexual manner.*

**Section 2. Appointment of Designees by the Administrator and the Director:**

*1. The Administrator and the Director may appoint a designee to represent them on a panel created pursuant to NRS 213.1214. An appointment shall be made in writing and shall*

*remain active until the appointee resigns or until it is rescinded by the Administrator or Director.*

*2. The Administrator and the Director may appoint more than one designee to represent them on a panel created pursuant to NRS 213.1214, but only one appointee may serve on a panel at any one time.*

*3. The Administrator and the Director shall appoint a psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State to serve as a member of a panel created pursuant to subsection 1(c) of NRS 213.1214. The Administrator and the Director may appoint more than one psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State to serve on a panel created pursuant to NRS 213.1214, but only one appointee may serve on a panel at any one time.*

**Section 3. Panel Management:**

*1. The Department shall manage the operations of the Panel to include, but not limited to:*

- a. Determining eligible prisoners who must be evaluated by the panel in accordance with NRS 213.1214.*
- b. Preparing any necessary forms, instruments and documents to be reviewed in advance of a meeting by a panel and provide those forms and documents to the panel members.*
- c. Scheduling and facilitating meetings to consider prisoners for review by a panel.*
- d. Provide the results of each case considered by a Panel to the Board in advance of a scheduled hearing to consider the prisoner for parole.*
- e. Conduct or facilitate any training necessary to ensure forms and documents provided to the Panel or the Board are properly prepared.*

**Section 4. Materials:**

*1. The Department shall provide to each Panel member scheduled to conduct a final assessment, at least two weeks prior to the scheduled meeting, the following information on each scheduled prisoner:*

- a. information regarding the prisoner's participation in any program administered by the Department;*
- b. comments of observations made by any treating psychiatrist and/or psychologist while the prisoner has been confined;*
- c. results of the initial risk assessments prepared by Department staff;*
- d. the disciplinary history of the prisoner and information related to institutional adjustment;*
- e. the pre-sentence report on the case(s) being considered;*
- f. police reports related to the offense if available; and*

- g. any other information deemed necessary by the Panel in order for the Panel to make an informed decision.*

**Section 5. Meetings:**

- 1. Meetings by a Panel shall be conducted in accordance with Chapter 241 of NRS.*
- 2. The Panel shall meet monthly, or as needed, to ensure the timely evaluation of prisoners in accordance with NRS 213.1214.*
- 3. Meetings may be conducted with a prisoner in person, through the use of video teleconferencing, or by telephone if conducting a hearing in person or with the use of video teleconferencing is not practicable.*

**Section 6. Assessments and Instruments:**

- 1. At least one every three years, the Panel will review and/or approve the standards of assessments used to evaluate the risk of a sex offender to reoffend in a sexual manner. The Panel will make a finding regarding the validity of the use of any standard of assessment, and any instruments used as part of any standard of assessment, following the review.*
- 2. If a standard of assessment includes more than one instrument for use in evaluating a prisoners risk to reoffend in a sexual manner, the Panel shall create a written policy that resolves any conflicts which may result from using more than one instrument. The policy shall outline each possible result from each instrument, and indicate the initial risk of a sex offender to reoffend in a sexual based on the results of the completed instruments.*
- 3. The Panel may approve the use of a separate instrument for use in an assessment on prisoners who have have been returned for parole violation proceedings. If the Division of Parole and Probation of the Department of Public Safety uses such an instrument, they shall provide a copy of a recently completed instrument to the Panel when the parolee is returned to custody pending violation proceedings.*
- 4. The Panel shall determine an initial risk of “low,” “moderate” or “high” based upon the instruments used in accordance with subsection 2 or 3.*
- 5. If the Panel does not agree with the initial risk, the Panel will determine a final risk of “low,” “moderate” or “high” and indicate its reasons for deviating from the initial risk set in accordance with subsection 3.*
- 6. The final assessment by the Panel will indicate the date of the Panel assessment, the name and prison number of the prisoner assessed, the name of the offense(s) for which the assessment is required, the result of the initial assessment, reasons for deviating from the initial assessment if the Panel deviates, the final assessment result, and the name and decision of each Panel Member.*

7. *A copy of the final assessment by the Panel will be provided to the Board as soon as practicable, but no later than five working days following the meeting which was held to assess the risk of the prisoner.*

**Section 7. *Deviation from the initial risk:***

1. *If the Panel does not agree with the result of the initial risk established using one or more instruments, the Panel shall indicate its reasons for deviating from the initial risk. The Panel shall establish a written policy which explains the possible use of each reason to deviate from an initial risk. Reasons include, but are not limited to:*

- a. *the sexual preoccupation by the prisoner;*
- b. *deviant sexual interests by the prisoner;*
- c. *the prisoner makes statements which support sexual offending behaviors;*
- d. *the prisoner's attitude suggest emotional congruence with children;*
- e. *there is an indication of adult intimate relationship deficits;*
- f. *there is an indication of a pattern of general self-regulation deficits;*
- g. *there is an indication of poor cognitive problem solving;*
- h. *inadequate treatment for sex offenders of substance abuse;*
- i. *the prisoner is resistant to rules and supervision;*
- j. *the prisoner's age is such that would limit the reoffending ability or sexual desire;*
- k. *the prisoner has successfully completed a treatment program which has been determined to reduce the risk of a sex offender from re-offending in a sexual manner;*
- l. *a medical condition exists that would normally reduce the physical and/or psychological ability or desire to engage in sexual situations;*
- m. *planned living arrangements are such that would limit contact with potential victims and add supportive persons who may mitigate risk; and*
- n. *any additional factor which may aggravate the low or moderate risk of a prisoner to reoffend in a sexual manner based on an initial risk established pursuant to section 5, or mitigate the moderate or high risk of a prisoner to re-offend in a sexual manner based on the initial risk established pursuant to section 5.*

**Section 8. *Panel member decisions and split votes:***

- 1. *The Panel will determine a final risk of "low," "moderate" or "high" of the prisoner to re-offend in a sexual manner.*
- 2. *If the Panel members do not agree in a final risk assessment, a final assessment will be determined based upon the finding of a majority of the members of the panel. Any remarks by the dissenting member may be made part of the record if the dissenting member wishes to state its reason for dissenting in writing.*
- 3. *If a majority decision can not be made by the panel, the Director and the Administrator shall designate alternate members in their place, and appoint an alternate psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State, to establish a panel of three new members to conduct the meeting on the prisoner in question.*

**Section 9: *Policies and procedures:***

*1. The Department may create policies, procedures or administrative regulations related to the internal management of the Panel specified in Section 3 of this regulation. Any such policies, procedures or administrative regulations shall be made available to the public upon request.*

*2. The Division of Mental Health may create policies or procedures related to the appointment of a designee or designees to the Panel, and a designee's participation thereto. Any such policies or procedures shall be made available to the public upon request.*