

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R139-12

Effective October 4, 2013

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

AUTHORITY: §1, NRS 284.065, 284.155 and 284.343.

A REGULATION relating to the State Personnel System; revising provisions relating to the training of supervisory and managerial personnel; and providing other matters properly relating thereto.

Section 1. NAC 284.498 is hereby amended to read as follows:

284.498 1. Except as otherwise provided in this section:

(a) Within 6 months after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend a training class concerning *work performance standards and* the evaluation of the performance of employees.

(b) Within 12 months after an agency appoints an employee to a supervisory position or managerial position, the employee shall attend at least one training class which has been approved by the Division of Human Resource Management in each of the following areas:

- (1) Equal employment opportunity;
- (2) Interviewing and hiring;
- (3) Alcohol and drug testing;
- (4) Progressive disciplinary procedures; and
- (5) Handling grievances.

2. Every 3 years, a supervisor or managerial employee shall ~~attend~~ *complete* training which is approved by the Division of Human Resource Management ~~[-.Such training must include, without limitation, training classes]~~ in each of the topic areas described in subsection 1.

3. The appointing authority, at its discretion, may accept, in lieu of the training required by subsection 1, supervisory or managerial training classes *in each of the topic areas described in subsection 1* which are approved by the Division of Human Resource Management and taken by the employee during the ~~[12 months]~~ *3 years* immediately preceding the employee's appointment.

4. In addition to the training otherwise required by this section, the Division of Human Resource Management or an appointing authority may require a supervisor or managerial employee to retake any part or all of the training required by this section, or to participate in any additional training or other classes deemed necessary by the Division of Human Resource Management or appointing authority.

5. As used in this section:

(a) "Managerial position" means a position which is held by an employee who:

- (1) Formally evaluates supervisors;
- (2) Is involved in the hiring and firing of subordinate staff;
- (3) Determines organizational structure within a component of the organization; and
- (4) Develops, monitors and implements policies to accomplish long-range goals.

(b) "Supervisory position" means a position which is held by an employee who:

- (1) Formally evaluates staff;
- (2) Is involved in the hiring and firing of subordinate staff; and
- (3) Establishes policies which affect the performance or behavior of subordinate staff.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File #R139-12

1. A clear and concise explanation of the need for the adopted regulation.

The change to this regulation was necessary to align the training requirements for developing work performance standards and evaluating employee performance. Prior to this change supervisors were required to receive training regarding evaluating employee performance within 6 months of their appointment but there was no specific requirement to receive training regarding developing work performance standards. This had not been an issue when both topics were covered during one class. They have since been divided into separate classes, allowing for more in-depth coverage of the topics. The adoption of subsection 1 of NAC 284.498 makes it clear that training for both topics must be completed within 6 months of appointment thereby preparing the supervisor to effectively evaluate employee performance.

Additionally, the amendment to subsection 3 of NAC 284.498 was needed to make it consistent with subsection 2, both requiring retraining every 3 years. Previously training provided by the Division of Human Resource Management was required every 3 years and training approved by the Division of Human Resource Management but delivered by another entity regarding the same topics was required every 12 months.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices 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 Division of Human Resource Management's website, e-mailed to all county libraries in Nevada, and posted at the following locations:

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

Attached are pertinent minutes from the workshop and the Personnel Commission meeting.

A Regulation Workshop was conducted by the Division of Human Resource Management on June 18, 2012 and a public hearing was held by the Nevada Personnel Commission on December 7, 2012.

- 3. The number of persons who:**
 - (a) Attended each hearing:** December 7, 2012 – 45
 - (b) Testified at each hearing:** December 7, 2012 – 1
 - (c) Submitted written comments:** 0
- 4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

Michelle Garton, Supervisory Personnel Analyst
Division of Human Resource Management
209 E. Musser St., Rm 101
Carson City, NV 89701
(775) 684-0136
mgarton@admin.nv.gov

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

Comments were not solicited from businesses, as the regulation does not affect businesses. Comments were solicited from effected parties including employees and employee associations. No written comments were received. Comments from the workshop can be obtained from the Division of Human Resource Management by contacting Shelley Blotter at sblotter@admin.nv.gov or calling (775) 684-0105.

- 6. 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 regulation changes in this file are a result of a comprehensive examination conducted by the Division in response to the Governor's request for State agencies to review regulations that are subject to its enforcement.

Initially, meetings were held with State agencies to solicit input regarding which regulations were problematic and/or hampered efficient business. Subsequently, a regulation workshop was held to gain additional input from all interested parties, including employee associations. Based upon the input received, changes were made to the proposed regulations.

Section 1 amends the regulation to include required training regarding work performance standards, consistent with the requirement for training related to evaluating employee performance. Additionally, the subsections related to retraining were aligned.

The Personnel Commission unanimously adopted Section 1.

- 7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.**
- (a) Estimated economic effect on the businesses which they are to regulate.**
 - (b) Estimated economic effect on the public which they are to regulate.**

These regulations do not have a direct economic effect on either a regulated business or the public. The regulation only impact classified employees in the Executive Branch and the Nevada System of Higher Education.

- 8. The estimated cost to the agency for enforcement of the proposed regulation:**

There is no additional cost to the agency for enforcement of these regulations. The required training is offered online and does not require additional staff time to present the material.

- 9. 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 governmental agency regulations that the proposed amendments duplicate.

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

These regulations do not include any provisions that are more stringent than any federal regulation.

- 11. 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 these regulations.

Pertinent Testimony from Regulation Workshop Held June 18, 2012

Larry Hamilton: We wanted to make comment with respect to 284.498, the Subsection 2, which changes the refresher requirement on supervisor training from three years to two years. To kind of set the stage for our position, I think we would all agree that requiring refresher training every six months would be insane and probably requiring refresher training every 10 years would probably border on negligence. But we think, at UNLV, that staff, our colleagues and the Personnel Commission got it right when they made changes back in September of 2010. That's the current regulations that we see in front of us without the change from three years to

two years. We think it was right. We think that's an appropriate balance between the supervisors' responsibilities towards maintaining their edge with respect to those skills and keeping those fresh, and then also other responsibilities that they have on their job. So we're supportive of that staying the same at three years and not being modified to two years.

Shelley Blotter: I remember that conversation and we talked about moving it to two years at that time. I guess the feeling, again, is still trying to simplify what the requirements are under all sections. The thought behind the proposal is to make the refresher training for the supervisory classes the same as for the sexual harassment training.

Larry Hamilton: We're not asking or we're not supportive of changing the sexual harassment to a three-year refresher. We believe it's an important topic. We believe that it needs to be at the two-year threshold. But we think, given all of the other items that have happened in the State in the last few years, given that we're seeing a flattening of our organizations, we're seeing supervisors actually supervising more employees than they did previously, that that three-year threshold strikes the right balance.

Kimberley King: We would also support leaving this at three years. We think that is a good balance. We still do classroom training for our supervisors, so it is not just online and going over the rules. We actually go through the exercises. It is one of our performance measures for the department as well that we report on. We are trying to make sure all of our supervisors are in compliance and we are reporting on that. The concern is if we go to two years with the workload that our employees and our supervisors have that they might just give up because, basically, it takes a good week for them to get all the refresher training. The explanation for the proposed change states allowing managers to be updated more frequently with current developments. I agree. We have regulation changes. We have different requirements that get implemented. Maybe we can find a different method or mechanism for making sure that all of our supervisors are updated of those changes each time that they happen.

Jim Wells: I have comments very similar to Ms. King's, although from a small agency standpoint. We don't have a training officer that can go out and do classroom training for our individuals, but between the agency trainings that all of the State agencies are requiring now it is becoming burdensome for small agencies in that our people are being out of the office more and more when we are not getting more and more people to do the work. So you're really putting us in kind of a Catch 22. Do we take the people off the workload and get training or do we get the work done? Even with the three-year requirement, we have at times had problems keeping up with the three-year requirement. I also actually liked Ms. King's comments about whether or not we could do this in a different way. I absolutely agree that there are changes that come out that would be beneficial for all of our supervisors to know without going through necessarily a formal class. The other thing that I would suggest, if it goes through at two years or it stays at three is that there be a delineation or a differentiation between the training classes that are required at initial and those that are required as kind of refresher similar for what you have on the sexual harassment side and if the training has not changed since the person took it the last time, they don't have to keep taking the same training over and over again.

Shelley Blotter: Our training section is actually working on differentiation of the training. So their online training is pretty much on the rules and regulations related to a particular topic. They're in the process of developing workshops to add a practical element to actually carrying out those particular functions. So they don't have to go to the same exact training each time.

Janet Damschen: Just want to echo what has been said by the other speakers. We support having this remain at three years.

Kareen Masters: Our preference would be to leave it at three years, as well. I would also propose that we could look at Subsection 3 and where it says the appointing authority, at its discretion, may accept, in lieu of the training required by Subsection 1 at/or Subsection 2 supervisory managerial training, which are approved by the Division of Human Resource Management period. So that would give the Department some flexibility to give credit for other managerial training.

Shelley Blotter: Let me see if I follow you. In Subsection 3, what you're suggesting is it would read in the first sentence, "The appointing authority, at its discretion, may accept in lieu of the training required by Subsection 1 or 2, and then are you recommending deleting other pieces of this?"

Kareen Masters: I was suggesting inserting a period after Human Resource Management, so you'd be deleting "and taken by the employee during the 12 months immediately preceding the employee's appointment".

Shelley Blotter: So it could go back as far as you wanted to?

Kareen Masters: Yes. Or you could establish some other time limit, but since we're talking about refresher training, by its nature, it would be exceeding the 12 months.

Alys Dobel: I would agree with everybody so far that has spoken. We're a little larger agency. We're not the biggest agency, but we have had a hard time getting a handle on getting our supervisors and managers trained within the three-year period alone. So I could not support a two-year at this time.

Pertinent Testimony from Personnel Commission Meeting Held Dec. 7, 2012

Michelle Garton, Supervisory Personnel Analyst, DHRM: Referred to Item X. G. LCB File No. R139-12 and stated that the DHRM was proposing a permanent amendment to NAC 284.498. She stated they were proposing adding training regarding work performance standards be completed within 6 months of appointment to a supervisory position as an understanding that these were required to evaluate performance. She added that they were also proposing a change to NAC 284.498 that would expand the timeframe of supervisory or managerial training accepted by an appointing authority to 3 years preceding the appointment rather than 12 months in order to avoid unnecessary repetitiveness of training.

G. LCB File No. R139-12

Sec 1 NAC 284.498 – Training of supervisory and managerial Employees

MOTION: Moved to approve changes to NAC 284.498 to include training on work performance standards as identified in LCB File No. R139-12
BY: Commissioner Brust
SECOND: Commissioner Mauger
VOTE: The vote was unanimous in favor of the motion