

**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R051-14

April 25, 2014

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

AUTHORITY: §§1-4, NRS 289.510.

A REGULATION relating to peace officers; revising provisions relating to the qualifications of a peace officer; revising the requirements for the granting of a management certificate to a peace officer; revising provisions governing the suspension, refusal or revocation of a certificate as a peace officer; repealing provisions providing for the issuance and maintenance of an instruction certificate; and providing other matters properly relating thereto.

Section 1. NAC 289.110 is hereby amended to read as follows:

289.110 1. No person may be appointed to perform the duties of a peace officer unless he or she:

(a) Has undergone a complete and documented investigation of his or her background which verifies that the person has good moral character and meets the minimum standards established by the Commission;

(b) Is a citizen of the United States;

(c) Is at least 21 years of age at the time of the appointment;

(d) Has successfully completed the 12th grade or has been certified by an appropriate authority as having an equivalent education; and

(e) Has undergone a medical examination performed by a licensed physician who confirms in writing that no physical condition exists which would adversely affect his or her performance of

the duties of a peace officer. The employing agency shall inform the examining physician of the specific functions required by the position to be filled.

2. The investigation of the background of a person required pursuant to subsection 1 must include, without limitation:

(a) An investigation of the current and past employment history of the person, including, without limitation, an examination of the duties that have been assigned to the person and any performance evaluations of the person;

(b) An inquiry into the criminal history of the person in the State of Nevada and in any other state where the person is known to have resided, which must include, without limitation, any warrants issued for the person and the submission of the person's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(c) An inquiry to the Department of Motor Vehicles and the appropriate entity in each other state in which the person is known to have resided regarding any driver's licenses the person has held and the driving record of the person;

(d) A financial history of the person;

(e) The educational background of the person;

(f) The history of any military service of the person;

(g) A history of each physical address where the person has resided;

(h) A drug screening test;

(i) A psychological evaluation; and

(j) The use of a lie detector as defined in NRS 613.440 for a peace officer being appointed as a category I, category II or reserve peace officer.

3. The investigation of the background of a person required pursuant to subsection 1 may include the use of a lie detector as defined in NRS 613.440 for a peace officer being appointed as a category III peace officer.

4. A person may not be appointed to perform the duties of a peace officer if he or she has:

(a) Been convicted of , *or entered a plea of guilty, guilty but mentally ill or nolo contendere to*, a felony in this State or of any offense which would be a felony if committed in this State;

(b) Been convicted of , *or entered a plea of guilty, guilty but mentally ill or nolo contendere to*, an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance;

(c) A documented history of physical violence; or

(d) Resigned in lieu of termination or been terminated from any civil service employment for substantiated misconduct involving dishonesty, and has not been reinstated as a result of a judicial action or any available appeal or remedy relating to the resignation or termination, including, without limitation, any civil service appeal, direct administrative appeal or collective bargaining remedy. For purposes of this paragraph, “dishonesty” includes untruthfulness, deception, misrepresentation, falsification, and dishonesty by admission or omission.

Sec. 2. NAC 289.260 is hereby amended to read as follows:

289.260 The Executive Director shall grant a management certificate to an officer upon submission of proof satisfactory to the Executive Director that the officer meets the following minimum requirements:

1. A current basic certificate.
2. A current intermediate certificate.
3. A current advanced certificate.

4. A current supervisor certificate.

5. Six years of experience as a peace officer, including at least 1 year of experience in a management level position and a current assignment in a management level position. The applicant must present proof that the current assignment meets the criteria for a management level position as set forth in NAC 289.057 by submitting a letter with the application that is signed by the administrator of the agency. The letter must include an organizational chart which demonstrates the applicant's position within the agency and must describe the manner in which the applicant's current assignment meets the criteria for a management level position as set forth in NAC 289.057.

6. ~~Six units of credit from an accredited college or university.~~

~~7.]~~ Successful completion of 200 hours of training in a management training program certified by the Commission which includes, without limitation, courses in the following subjects:

- (a) Introduction to management;
- (b) Public administration;
- (c) Financial administration;
- (d) Personnel administration;
- (e) Management and labor relations; and
- (f) Policy formulation.

Sec. 3. NAC 289.290 is hereby amended to read as follows:

289.290 1. Each of the following constitutes cause for the Commission to revoke, refuse or suspend the certificate of a peace officer:

- (a) Willful falsification of any information provided to obtain the certificate.

(b) A permanent or chronic physical or mental disability affecting the officer's ability to perform his or her full range of duties.

(c) Chronic drinking or drunkenness on duty.

(d) Addiction to or the unlawful use or possession of narcotics or other drugs.

(e) Conviction of *, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to,* a gross misdemeanor. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed.

(f) Failure to comply with the standards established in this chapter.

(g) Conviction of *, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to,* a felony. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed. Upon conviction ~~or~~ *or entry of a plea of guilty, guilty but mentally ill or nolo contendere,* the certificate will be revoked.

(h) Conviction of *, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to,* a misdemeanor. If the employing agency recommends suspension or revocation following conviction of *, or entry of a plea of guilty, guilty but mentally ill or nolo contendere by,* the employee for a misdemeanor, suspension or revocation may be imposed. In determining whether to suspend or revoke the certificate, the Commission will consider the ~~{type of conviction}~~ *crime for which the officer was convicted, or entered a plea of guilty, guilty but mentally ill or nolo contendere,* and other information provided by the agency indicating unprofessional conduct or similar undesirable activity by the officer that resulted in disciplinary action.

2. Denial, suspension or revocation procedures will not be considered by the Commission in cases where the employment of an officer is terminated for violations of the policies, general

orders or similar guidelines of operation of the employing agency which do not constitute any of the causes for denial, suspension or revocation specified in subsection 1.

3. The employing agency shall notify the Commission any time that it becomes aware that one of its officers has been charged with a crime that could result in denial, suspension or revocation procedures. Upon receipt of information alleging any of the causes enumerated in subsection 1, the Commission will determine whether to pursue revocation or suspension of the certificate of the officer.

4. The Commission will notify the officer by certified mail at the officer's last known address of any pending revocation or suspension action and of the nature of the charges and the officer's right to appear and answer the charges. The officer shall, within 15 days after the date on the certified mail receipt, respond in writing, notifying the Commission of his or her intended action with reference to the charges.

5. If the officer fails to notify the Commission within the specified time of his or her intention to appear in answer to the pending action, the Commission will:

(a) Consider the case on its own merits, using the statement from the head of the employing agency or the substantiated information derived from any independent investigation it deems necessary;

(b) Take no action pending the outcome of possible criminal action which may be filed against the officer; and

(c) Take no action pending the outcome of an appeal.

➔ The Commission's decision will be determined by a majority vote of the members of the Commission present.

6. When an officer notifies the Commission of his or her intention to appear and answer the charges pending against him or her, the Commission will elect to sit as a whole at a hearing or designate an independent hearing officer to hear the matter and make recommendations in writing to the Commission. The Commission will review the recommendations of any such hearing officer and arrive at a decision by majority vote of the members present.

7. The Commission will notify the officer of its decision within 15 days after the hearing.

8. An applicant for a certificate who has not been previously certified, but who would be subject to revocation for any cause set out in subsection 1, will not be granted a certificate.

9. If, upon receiving a written allegation that a peace officer is in violation of any provision of subsection 1 and that the facts and circumstances indicate that suspension rather than revocation would be in the best interests of the agency and law enforcement in general, the Commission will suspend the officer's certificate.

10. The Commission will provide each peace officer whose certificate is suspended with written notice of the suspension by certified registered mail. The suspension becomes effective 24 hours after receipt of the certified notice. The notice will contain a statement advising the officer of the right to a hearing.

11. Suspension of a certificate is not a bar to future revocation of the certificate and any prior suspensions may be considered as a factor if revocation is being considered by the Commission.

12. Five years after the revocation of a certificate, an officer may submit a written request to the Commission to allow him or her to reinstate his or her certificate. The Commission will schedule a hearing to consider whether to reinstate the officer's certificate. The Commission will notify the agency that requested the revocation of the date and time of the hearing. After the

hearing, the Commission will determine whether to reinstate the certificate. If the certificate is reinstated, the Commission may establish a probationary period during which any misconduct by the officer would result in revocation.

Sec. 4. NAC 289.280 is hereby repealed.

TEXT OF REPEALED SECTION

289.280 Instruction certificate. (NRS 289.510)

1. The Executive Director shall grant an instruction certificate in a specific subject to an officer upon submission of proof satisfactory to the Executive Director that the officer meets the following minimum requirements:

- (a) Two years of experience in the subject for which the certificate is issued or 2 years of education and 1 year of experience in the subject for which the certificate is issued.
- (b) Successful completion of a formal course of instruction in the:
 - (1) Subject for which the certificate is issued; and
 - (2) Development of instructors.
- (c) Development and submission for approval by the Executive Director of a detailed lesson plan for the subject for which the certificate is issued, including, without limitation, objectives for the performance of the students that can be measured with a written or practical examination.
- (d) Submission to the Executive Director of a current written résumé covering the areas of:
 - (1) Personal identification;

- (2) Educational experience;
- (3) Work experience;
- (4) Teaching experience; and
- (5) Recommendation of the employing agency.

↳ Instructors may also be certified on the basis of extraordinary experience, education or expertise in an unusually technical subject area.

2. To maintain an instructor certificate, an instructor must teach at least one class in the subject for which the certificate is issued during the year immediately preceding each anniversary date of the issuance of the certificate. An instructor must provide evidence of compliance with this requirement upon the request of the Executive Director.