

**PROPOSED REGULATION OF THE BOARD OF  
THE NEVADA ARTS COUNCIL**

**LCB File No. R099-18**

June 12, 2018

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

AUTHORITY: §§1 and 2, NRS 233B.100 and 233C.090; §§3-7, NRS 233C.090.

A REGULATION relating to the Nevada Arts Council; creating provisions governing the procedure for any interested person to petition the Board of the Nevada Arts Council to adopt, file, amend or repeal any regulation; authorizing, in certain situations, the Board to refuse grant approval; requiring the panel selected by the Nevada Arts Council that reviews grant applications to comply with open meeting laws; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law authorizes the Board of the Nevada Arts Council to adopt such regulations as it deems necessary to carry out its powers and duties. (NRS 233C.090)

Existing law authorizes any interested person to petition an agency requesting the adoption, filing, amendment or repeal of any regulation. Existing law requires such a petition to be accompanied with relevant data, views and arguments. Existing law requires, upon the submission of such a petition, an agency to, within 30 days: (1) deny the petition in writing, stating its reasons; or (2) initiate regulation-making proceedings. Existing law requires each agency to prescribe by regulation: (1) the form for such petitions; and (2) the procedure for the submission, consideration and disposition of such petitions. (NRS 233B.100) **Section 2** of this regulation provides that, pursuant to existing law, any interested person may petition the Board for the adoption, filing, amendment or repeal of any regulation. **Section 2** requires such a petition to: (1) be in writing on a form prescribed by the Board; and (2) include certain information, including any relevant data, views and arguments that support the petition. If a petition does not include such information, **section 2** authorizes the Board to refuse to act on a petition. **Section 2** requires the Board to forward a petition to the Division for the Division’s consideration if, upon review, the Board determines that the petition pertains to the regulatory authority of the Division. **Section 2** requires the Board to, within 30 days after the date on which the petitioner filed the petition: (1) notify the petitioner of the Board’s decision regarding the petition; and (2) if the Board approves the petition, initiate regulation-making proceedings.

Existing regulations authorize the Nevada Arts Council, upon a violation or willful avoidance of any provision relating to the Nevada Arts Council, to refuse to approve a grant or to withdraw financial support, in whole or in part, after consultation with the applicant or

subgrantee. (NAC 233C.110) **Section 3** of this regulation authorizes, upon a violation of any provision relating to the Nevada Arts Council, the Board to refuse to approve a grant, in whole or in part, after notifying the applicant in writing.

Existing regulations require a panel that is selected by the Nevada Arts Council to review the application for a grant from the Nevada Arts Council and make a recommendation to the Board regarding that application. (NAC 233C.040) **Section 5** of this regulation requires the panel selected by the Nevada Arts Council to comply with the provisions of the open meeting law and conduct all meetings of the panel to review the application for a grant in accordance with the open meeting law.

Existing regulations provide that a person may obtain on the Internet a copy of the grant guidelines approved by the Board, any proposed substantive changes to the panel review process and the grants management packet. (NAC 233C.030, 233C.040 and 233C.100) **Sections 4, 5 and 6** of this regulation update the Internet address from which a person may obtain such copies.

Existing regulations provide certain procedural rules concerning the scheduled meetings of the Board. (NAC 233C.015) **Section 7** of this regulation repeals these rules.

**Section 1.** Chapter 233C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2. 1.** *Pursuant to NRS 233B.100, any interested person may petition the Board for the adoption, filing, amendment or repeal of any regulation.*

*2. A petition for the adoption, filing, amendment or repeal of a regulation must be in writing on a form prescribed by the Board and must include:*

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

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

*(c) The proposed language of the regulation to be adopted, filed, amended or repealed;*

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

*and*

*(e) Any relevant data, views and arguments that support the petition for the adoption, filing, amendment or repeal of the regulation.*

*3. The Board may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if the petition does not include the information required by subsection 2.*

*4. The Board will review a petition for the adoption, filing, amendment or repeal of a regulation which is filed pursuant to this section and will determine, after conducting such a review, if the petition pertains to the regulatory authority of the Board. If the Board determines that the petition pertains to the regulatory authority of the Division, the Board will:*

*(a) Forward the petition to the Division for consideration by the Division; and*

*(b) Notify the petitioner in writing that the Board forwarded the petition to the Division.*

*5. The Board will notify the petitioner in writing of the Board's decision regarding the petition within 30 days after the date on which the petitioner filed the petition. If the Board approves the petition for the adoption, filing, amendment or repeal of a regulation, the Board will initiate regulation-making proceedings concerning that regulation within 30 days after the date on which the petitioner filed the petition.*

**Sec. 3.** *Upon a violation of any provision contained in this chapter, the Board may refuse to approve a grant, in whole or in part, after notifying the applicant in writing.*

**Sec. 4.** NAC 233C.030 is hereby amended to read as follows:

233C.030 1. The Board will approve grants in accordance with the grant guidelines approved by the Board.

2. The Division shall make any proposed substantive change to the grant guidelines available for public review and comment at least 2 weeks before the approval of the changes by the Board.

3. An application for a grant must be completed in accordance with the grant guidelines approved by the Board for the type of grant for which the applicant is applying. The ***Board will***

*make available the* grant guidelines ~~{will be available}~~ not less than 3 months before the announced deadline for filing the application.

4. If an application is received by the Division after the announced deadline for filing, the *Board will not consider the* application ~~{will not be considered}~~ and ~~{will be returned}~~ *the Division shall return the application* to the applicant.

5. A copy of the grant guidelines approved by the Board may be obtained from the Nevada Arts Council, 716 North Carson Street, Suite A, Carson City, Nevada 89701, at no cost, or on the Internet at ~~{<http://www.culturegrants-nv.org/>}~~ <http://nvculture.org.nevadaartscouncil/grants/>.

**Sec. 5.** NAC 233C.040 is hereby amended to read as follows:

233C.040 1. The Division will examine each application for completeness, accuracy and compliance with the grant guidelines applicable to the type of grant for which the applicant is applying.

2. A panel selected by the Division will review the application and make a recommendation to the Board in accordance with the grant guidelines and the panel review process approved by the Board for the type of grant for which the applicant is applying.

3. The panel shall base the review solely on the application materials submitted by the applicant, including the application form, narrative, budget and any supplemental material that conforms to the grant guidelines applicable to the type of grant for which the applicant is applying.

4. An applicant is not required to attend the meeting of a panel to review the application of the applicant, and an absence from the meeting will not prejudice the review of the application by the panel.

5. *The panel selected by the Division shall comply with the provisions of chapter 241 of NRS and shall conduct all meetings of the panel to review the application of the applicant in accordance with that chapter.*

6. The Division shall make any proposed substantive change to a panel review process available for public review and comment at least 4 weeks before the Board acts to approve the change. A copy of the proposed substantive change may be obtained from the Nevada Arts Council, 716 North Carson Street, Suite A, Carson City, Nevada 89701, at no cost, or on the Internet at ~~http://www.culturegrants-nv.org/~~.

~~6.~~ <http://nvculture.org/nevadaartscouncil/grants/>.

7. The Board will review the recommendation of the panel and the review process used by the panel, and the Board will vote to determine whether to approve the grant and the amount of any grant so approved.

**Sec. 6.** NAC 233C.100 is hereby amended to read as follows:

233C.100 1. A grantee must comply with all requirements set out in the grants management packet provided by the Division.

2. The Division will make any proposed substantive change to the grants management packet available for public review and comment at least 2 weeks before the Board acts to approve the change. A copy of the grants management packet may be obtained from the Nevada Arts Council, 716 North Carson Street, Suite A, Carson City, Nevada 89701, at no cost, or on the Internet at ~~http://www.culturegrants-nv.org/~~.

<http://nvculture.org/nevadaartscouncil/grants/>.

3. A grantee must file a final report form with the Division in accordance with the grant guidelines and the grants management packet. If a grantee fails to file a final report form, the

Division will notify the grantee in writing that the grant application does not comply with the grant guidelines and the grants management packet. The Division will not accept a new grant application from an applicant that does not comply with the grant guidelines and the grants management packet.

4. A grantee shall notify the Division of any proposed change to a program or project that was outlined in the application of the grantee. The Division must give approval for the proposed change before the grantee may make the proposed change.

5. A grantee shall notify the Division of any change in the essential personnel involved in a program or project.

6. A grant may be terminated or reduced by the Division 15 days after the Division gives notification to the grantee that the grant application does not comply with the grant guidelines and the grants management packet, that there have been changes to the budget of the Division or as directed by the Office of the Governor. The termination or reduction does not affect any commitment which, in the judgment of the Division, has become firm before the effective date of the termination.

7. The records of a project or program, including, without limitation, a copy of the original application, financial records, supporting documents and any other record related to the grant, must be retained by a grantee and made available for review by the Division for at least 3 years after the completion of the project.

**Sec. 7.** NAC 233C.015 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**233C.015 Scheduled meetings of the Board: Mailing of agenda to members; consideration of material submitted after mailing of agenda.** 1. The Administrator shall mail a copy of the agenda and any supporting documents to each member of the Board at least 10 days before a scheduled meeting of the Board.

2. The Board may wait until the next meeting of the Board to consider any material that is submitted to the Administrator after the Administrator has mailed a copy of the agenda for a scheduled meeting to the members of the Board.