

**ADOPTED REGULATION OF THE
STATE CONTRACTORS' BOARD**

LCB File No. R047-23

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

AUTHORITY: §§ 1 and 5-8, NRS 624.100; §§ 2 and 3, NRS 624.100 and 624.112; § 4, NRS 624.100 and 624.282; §§ 9 and 10, NRS 624.570; § 11, NRS 624.100 and 624.570.

A REGULATION relating to contractors; revising the qualifications required of compliance investigators and criminal investigators employed by the Investigations Office of the State Contractors' Board; revising provisions relating to the expiration of an inactive license; revising provisions relating to disciplinary action by the Board; revising provisions relating to the Commission on Construction Education; removing requirements relating to the election of officers and filling of vacancies; removing requirements concerning the period within which an applicant for a contractor's license must furnish certain security; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Contractors' Board to: (1) establish an Investigations Office which consists of criminal investigators and compliance investigators who enforce the provisions of existing law governing contractors; and (2) adopt regulations setting forth the qualifications for such investigators. (NRS 624.112) Existing regulations include, without limitation, a requirement that each investigator have certain specific combinations of experience and education or some combination of experience and education determined to be sufficient by the Board. (NAC 624.135, 624.136, 624.137) **Sections 2, 3 and 11** of this regulation revise the qualifications for criminal investigators and compliance investigators. For a compliance investigator, **section 2** removes: (1) the requirement that a compliance investigator have a valid certificate in construction skills issued by a nationally recognized organization; and (2) the combination of a bachelor's degree in certain areas and at least 3 years of experience in the construction industry as a specific combination of education and experience for compliance investigators. For a criminal investigator, **section 3** removes the combination of a bachelor's degree in certain areas and at least 4 years of experience in law enforcement or criminal investigations as a specific combination of education and experience for criminal investigators. **Section 11** of this regulation repeals certain existing qualifications for criminal and compliance investigators related to age, citizenship, knowledge, moral character, criminal history, training and examinations, ethical standards and background checks. (NAC 624.137) **Sections 2 and 3** also preserve certain other existing qualifications by reenacting in **sections 2 and 3** requirements that such investigators possess a Nevada driver's license, be insurable as drivers under a motor

vehicle liability insurance policy obtained by the Board and not have an active contractor's license.

Existing law authorizes a contractor to apply to the Board to have his or her license placed on inactive status, and provides that the maximum period for which an inactive status is valid is 8 years after the date that the inactive status is granted. (NRS 624.282) **Section 4** of this regulation makes a conforming change to increase from 5 to 8 years the period after which a license placed on inactive status will expire if the license is not returned to active status. (NAC 624.635)

Existing regulations establish general procedures for disciplinary action and practice before the Board. (NAC 624.6975-624.7296) Existing regulations: (1) deem the address of an applicant or licensee which is on file with the Board to be the correct address; and (2) impose a duty on an applicant or licensee to provide to the Board written notice of any change of address within 30 days. (NAC 624.710) **Section 6** of this regulation provides that if a document related to the imposition of disciplinary action by the Board is authorized to be served by mailing or sending the document to an applicant or licensee at a physical address, the mailing or sending of the document to the address on file with the Board is deemed to be a valid and effective service.

Existing regulations authorize the Executive Officer of the Board to withdraw a complaint against a licensee at any time before the Board holds a hearing on the complaint, but provide that only the Board is authorized to withdraw a complaint once a hearing is commenced. (NAC 624.7259) **Section 7** of this regulation authorizes the Executive Officer to withdraw a complaint at any time, including after a hearing is commenced.

Existing regulations establish procedures for filing written motions with the Board, including that a party who wishes to oppose a motion must file and serve a written response not later than 14 days after receiving the motion. (NAC 624.7273) **Section 8** of this regulation adds requirements for: (1) a party to serve and file the initial written motion not later than 20 days before the date of the hearing at which the motion may be considered; and (2) the moving party to serve and file any written reply to an opposition not later than 2 days before the date of the hearing at which the motion may be considered.

Existing law creates the Construction Education Account to be used to fund programs of education which relate to building construction. (NRS 624.580) Existing law creates the Commission on Construction Education to: (1) administer the Account; (2) review programs of education which relate to building construction; and (3) distribute grants from the Account for programs that the Commission determines qualify for such a grant. (NRS 624.570, 624.580) Existing law authorizes the Board to adopt regulations which establish the rules of procedure for meetings of the Commission. (NRS 624.570) **Sections 9 and 10** of this regulation revise existing regulations to: (1) establish the principal office of the Commission to be the office of the Board instead of the office of the Secretary of the Commission; and (2) require that all written documents and communications to the Commission be addressed to the Executive Officer of the Board or his or her designee instead of the Secretary of the Commission. (NAC 624.822, 624.826)

Section 11: (1) removes duplicative definitions related to contractors and investigators; (2) eliminates specific procedures for the election of officers of the Board, the filling of vacancies in any office of the Board and notifying the Governor of a vacancy in the membership of the Board; (3) eliminates the requirement that an applicant for a contractor's license furnish the required surety bond or cash deposit within 30 days after receiving notice of approval of the application unless the Board extends that period; and (4) removes the requirement that any filing

made with the Commission include an original and two legible copies. (NAC 624.001, 624.003, 624.070, 624.090, 624.132, 624.133, 624.134, 624.620, 624.6952, 624.6954, 624.6957, 624.828) **Sections 1 and 5** of this regulation make conforming changes related to the elimination of duplicative definitions.

Section 1. NAC 624.005 is hereby amended to read as follows:

624.005 1. ~~“Employee”~~ *As used in this chapter, unless the context otherwise requires, “employee”* means a natural person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, at-will or other, whether lawfully or unlawfully employed.

2. The term does not include an independent contractor.

3. As used in this section, “employer” means a contractor having control or custody over any employee.

Sec. 2. NAC 624.135 is hereby amended to read as follows:

624.135 Each person who is employed by the Board as a compliance investigator must :
~~{have:}~~

1. ~~{A}~~ *Possess a current and* valid ~~{certificate in construction skills issued by}~~ *Nevada driver’s license and be insurable as a driver under a* ~~{nationally recognized organization;}~~ *motor vehicle liability insurance policy obtained by the Board;*

2. *Not have an active contractor’s license issued by the Board or the licensing authority in the District of Columbia or any other state, territory or possession of the United States; and*

3. *Have one of the following:*

(a) A high school diploma and at least 4 years of progressively responsible experience performing field investigations;

~~{3.}~~ (b) A high school diploma and at least 4 years of experience in the construction industry as a contractor, journeyman, foreman or supervising employee, or the equivalent thereof, as determined by the Board; †

~~—4.— A bachelor's degree from an accredited college or university with a major in preengineering, construction inspection or construction technology, or a related area of study as determined by the Board, and at least 3 years of experience in the construction industry as a contractor, journeyman, foreman or supervising employee, or the equivalent thereof, as determined by the Board;}~~ or

~~{5.}~~ (c) Any sufficient combination of education and experience as determined by the Board.

Sec. 3. NAC 624.136 is hereby amended to read as follows:

624.136 Each person who is employed by the Board as a criminal investigator must:

1. Hold valid certification as a peace officer by the Peace Officers' Standards and Training Commission pursuant to chapter 289 of NRS;

2. *Possess a current and valid Nevada driver's license and be insurable as a driver under a motor vehicle liability insurance policy obtained by the Board;*

3. *Not have an active contractor's license issued by the Board or the licensing authority in the District of Columbia or any other state, territory or possession of the United States;* and

~~{2.}~~ 4. Have one of the following:

(a) A high school diploma and ~~{have}~~ at least ~~{5}~~ 4 years of experience in law enforcement or criminal investigations, or equivalent experience, as determined by the Board; *or*

(b) ~~{A bachelor's degree from an accredited college or university with a major in criminal justice, law enforcement, or a related area of study as determined by the Board, and have at least~~

~~4 years of experience in law enforcement or criminal investigations, or equivalent experience, as determined by the Board; or~~

~~(e)~~ Any sufficient combination of education and experience as determined by the Board.

Sec. 4. NAC 624.635 is hereby amended to read as follows:

624.635 1. A contractor may apply to the Board to have his or her license placed on inactive status pursuant to NRS 624.282. The contractor must submit to the Board:

- (a) An application on a form provided by the Board; and
- (b) Any unexpired license on active status and any pocket card.

2. A contractor whose license has been placed on inactive status may renew that license on the date that the contractor would have renewed his or her license if it were on active status by submitting to the Board an application on a form provided by the Board and the fee set forth in NAC 624.130. Any license that is not renewed on or before the date for renewal automatically expires.

3. A license on inactive status that is not placed on active status within ~~15~~ 8 years after the date the inactive status is granted will expire.

4. A licensee who holds a license on inactive status that is in good standing may apply for active status by:

- (a) Submitting an application on a form provided by the Board;
- (b) Paying the fee set forth in NAC 624.130 and any applicable assessments; and
- (c) Fulfilling any other requirement for an active licensee.

Sec. 5. NAC 624.695 is hereby amended to read as follows:

624.695 As used in NAC 624.695 to 624.697, inclusive, unless the context otherwise requires, the words and terms defined in NAC 624.69505 ~~to 624.6957, inclusive,~~ and 624.6956 have the meanings ascribed to them in those sections.

Sec. 6. NAC 624.710 is hereby amended to read as follows:

624.710 1. The address of an applicant or licensee which is on file with the Board shall be deemed to be the correct address of the applicant or licensee.

2. Within 30 days after any change of address, an applicant or licensee shall provide to the Board written notice of any change of address of the applicant or licensee.

3. If any document that is required by NAC 624.6975 to 624.7296, inclusive, to be served upon an applicant or licensee may be served by mailing or sending the document to the applicant or licensee at a physical address, the mailing or sending of the document to the address on file with the Board for the applicant or licensee shall be deemed a valid and effective service.

Sec. 7. NAC 624.7259 is hereby amended to read as follows:

624.7259 1. The Executive Officer may add or dismiss a cause for disciplinary action against a respondent before the Board or its designee holds a hearing on that cause of action.

2. The Board or the Executive Officer may amend a complaint at any time. Notice of an amended complaint must be given in the same manner as a notice of an original complaint. The Board will grant a continuance if an amendment materially alters the complaint in such a way that the respondent will be unable to prepare the respondent's case in a timely manner.

3. The Executive Officer may withdraw a complaint at any time . ~~before the Board holds a hearing on the complaint. After the hearing is commenced, only the Board may withdraw a complaint.~~

Sec. 8. NAC 624.7273 is hereby amended to read as follows:

624.7273 1. A party may only make those motions set out in subsection 2 of NRS 622A.360. A motion, unless made at a hearing, must be made in writing ~~+~~ *and must be served and filed not later than 20 days before the date of the hearing at which the motion may be considered.*

2. A written motion must set forth the nature of the relief requested and the grounds for the relief.

3. A party who wishes to oppose a motion must serve and file a written response to the motion not later than 14 days after receiving the motion.

4. The moving party may serve and file a written reply only if an opposition to the motion has been served and filed. *Any such reply must be served and filed not later than 2 days before the date of the hearing at which the motion may be considered.*

5. The Board or its designee may issue a decision on a motion without oral argument.

6. If the Board or its designee wishes to oppose a motion, the Board or its designee is not required to serve or file a written response to the motion.

Sec. 9. NAC 624.822 is hereby amended to read as follows:

624.822 1. Regular meetings of the Commission must be held at:

- (a) The principal office or such other place as the Commission may specify; and
- (b) Such times as the Commission may designate.

2. The principal office of the Commission is located at the office of the ~~person designated as the Secretary of the Commission.~~ *Board.*

3. The principal office of the Commission must be open during regular business hours.

Sec. 10. NAC 624.826 is hereby amended to read as follows:

624.826 All written communications and documents to the Commission must be addressed to the ~~{Secretary}~~ *Executive Officer* of the ~~{Commission}~~ *Board or his or her designee*.

Sec. 11. NAC 624.001, 624.003, 624.070, 624.090, 624.132, 624.133, 624.134, 624.137, 624.620, 624.6952, 624.6954, 624.6957 and 624.828 are hereby repealed.

TEXT OF REPEALED SECTIONS

624.001 Definitions. (NRS 624.100) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 624.003 and 624.005 have the meanings ascribed to them in those sections.

624.003 “Board” defined. (NRS 624.100) “Board” has the meaning ascribed to it in NRS 624.010.

624.070 Election of officers and changes in organization. (NRS 624.100) At the first regular meeting of each fiscal year, the Board will elect its officers and make any changes in or additions to its permanent organization of the Board.

624.090 Vacancies. (NRS 624.100)

1. If a permanent vacancy occurs in any office, the remaining members of the Board shall, at the next meeting after the vacancy occurs, elect a successor to serve the unexpired term.

2. If a vacancy occurs on the Board, the Chair shall notify the Governor requesting him or her to appoint a new member.

624.132 Definitions. (NRS 624.100, 624.112) As used in NAC 624.132 to 624.137, inclusive, unless the context otherwise requires, the words and terms defined in NAC 624.133 and 624.134 have the meanings ascribed to them in those sections.

624.133 “Compliance investigator” defined. (NRS 624.100, 624.112) “Compliance investigator” means a person employed by the Board who is authorized to perform duties pursuant to NRS 624.112 and subsection 3 of NRS 624.115.

624.134 “Criminal investigator” defined. (NRS 624.100, 624.112) “Criminal investigator” means a person employed by the Board who is authorized to perform duties pursuant to NRS 624.112 and subsection 2 of NRS 624.115.

624.137 Additional qualifications of investigators. (NRS 624.100, 624.112) In addition to the qualifications set forth in NAC 624.135 and 624.136, each compliance investigator and each criminal investigator who is employed by the Board must:

1. Be at least 21 years of age;
2. Be a citizen of the United States or lawfully entitled to remain and work in the United States;
3. Possess a Nevada driver’s license and be insurable as a driver under a motor vehicle liability policy obtained by the Board;
4. Demonstrate knowledge of the provisions of this chapter, chapter 624 of NRS and the building codes adopted for use in this State;
5. Be of good moral character;
6. Not have been convicted of or pleaded nolo contendere to a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon or drug;
7. Not have a license issued by the Board on active status;

8. Pass the Construction Management Survey Examination not later than 1 year after beginning employment with the Board;
9. Complete annually at least 16 hours of training relating to law enforcement or construction;
10. Comply with the code of ethical standards as prescribed in NRS 281A.400; and
11. Submit to the Board a complete set of his or her fingerprints and written permission authorizing the Board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

624.620 Notice of approval; security bond or cash deposit. (NRS 624.100, 624.240, 624.270) Following the acceptance, investigation and approval of an application, the Board will issue to the applicant a notice of approval. If the applicant does not furnish the required surety bond or cash deposit within 30 days after receiving the notice of approval, the application shall be deemed withdrawn unless the applicant requests and the Board grants an extension of time not to exceed an additional 30 days.

624.6952 “Contract” defined. (NRS 624.100) “Contract” has the meaning ascribed to it in NRS 624.905.

624.6954 “Contractor” defined. (NRS 624.100) “Contractor” has the meaning ascribed to it in NRS 624.910.

624.6957 “Work concerning a residential pool or spa” defined. (NRS 624.100) “Work concerning a residential pool or spa” has the meaning ascribed to it in NRS 624.915.

624.828 Filings with Commission. (NRS 624.570) When a filing with the Commission is made, an original and two legible copies of the document, application or other paper must be filed.