

LCB File No. R067-06

**PROPOSED REGULATION OF THE
NEVADA EQUAL RIGHTS COMMISSION**

NOTICE OF PUBLIC MEETING

**To Consider Adoption of Regulations to Amend Chapters 233.070, 233.090, 233.105
233.110 and 233.220 of the Nevada Administrative Code**

The Nevada Equal Rights Commission will hold a public meeting to consider changes to Chapters 233.070, 233.090, 233.105, 233.110 and 233.220 of the Nevada Administrative Code relating to Employment, Public Accommodation, and Housing discrimination. This notice is provided in compliance with **NRS 241.020 and NRS 233B.061.**

Date: Wednesday May 3, 2006

Time: 1:30 PM

Location: Live Meeting:

Department of Employment, Training and Rehabilitation
1325 Corporate Blvd. Rm 130
Reno, NV 89502

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements are necessary, please notify the Nevada Equal Rights Commission in writing at 1325 Corporate Blvd, Room 115, Reno, Nevada 89502 or call Christa Williams at (775) 688-1288 as soon as possible.

This notice has been posted at the following locations:

Nevada State Library, 100 Stewart Street, Carson City, NV 89701
Legislative Building, 401 South Carson Street, Carson City, NV 89701
Grant Sawyer State Building, 555 E. Washington Ave., Las Vegas, NV 89101
Legislative Counsel Bureau Web Site
Department of Employment, Training and Rehabilitation Web Site
All County Libraries in Nevada

This notice has been mailed to:

-Richard Arnold, Executive Director, Las Vegas Indian Center, 2300 W. Bonanza
Road
Las Vegas, NV 89106
-Cathryn Blake, Acting HR Manager, Economic Opportunity Board, P.O. Box 270880

- Las Vegas, NV 89127
- James Yu, President, Asian Chamber of Commerce, 900 E. Karen Ave., Suite C-215, Las Vegas, NV 89109
 - Louis Overstreet, Urban Chamber of Commerce, 1048 W. Owens Ave., Las Vegas, NV 89106
 - Robert Brewer, Dir. Corporate/Administrative Services, Southwest Gas Corp., P.O. Box 98510, Las Vegas, NV 89193-8510
 - Keith Lyons, Attorney at Law, 512 So. 8th Street, Las Vegas, NV 89101
 - Cathleen Katz, Safe House, 921 American Pacific #300, Henderson, NV 89014
 - Gay & Lesbian Community Center, 953 E. Sahara Ave., Suite B-25, Las Vegas, NV 89104
 - Dean Ishman, President, NAACP 3340 So Topaz Street, Suite 150, Las Vegas, NV 89121
 - Latin Chamber of Commerce, 300 No. 13th Street, Las Vegas, NV 89101
 - Rafael Rivera Community Center, 2900 E. Stewart Ave., Las Vegas, NV 89101
 - West Las Vegas Library, 951 W. Lake Mead, 89106
 - Marc Jevack, 732 Morrocco Drive, Henderson, NV 89015
 - Nevada Resort Association, 3773 Howard Hughes Pkwy, Las Vegas, NV 89109
 - Variety Family Resource Center, 990 "D" Street, Las Vegas, NV 89106
 - Cambridge Recreation Center, 3930 Cambridge, Las Vegas, NV 89119
 - Doolittle Community Center, 1950 No. "J" Street, Las Vegas, NV 89106
 - Las Vegas Chamber of Commerce, 3720 Howard Hughes Pkwy, Las Vegas, NV 89109
 - Greater LV Association of Realtors, 1750 E. Sahara, Las Vegas, NV 89104

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CHAPTER 233 - NEVADA EQUAL RIGHTS COMMISSION

NAC 233.070 Complaints: Contents; amendments. (NRS 233.150, 233.160)

1. Each complaint must contain:
 - (a) The full name and mailing address of the person making the complaint;
 - (b) The full name and mailing address of the respondent; ~~and~~
 - (c) A clear and concise statement of the facts and allegations, including pertinent dates, which if true would support a finding that probable cause exists to believe that an unlawful discriminatory practice has occurred; *and*
 - (d) *Be signed by the complainant affirming that the allegations are true under the penalty of perjury. The Commission must receive the signed complaint within 10 working days after the complaint has been transmitted to the complainant.*
2. A complaint may be amended to:
 - (a) Cure technical defects or omissions;
 - (b) Clarify or amplify allegations; or
 - (c) Allege additional unlawful discriminatory practices directly related to or growing out of the subject matter of the original complaint.

↪ Any such amendment relates back to the original filing date.
3. *A request for amendment to a complaint must be in writing and must be approved by the Administrator or his designee.*

NAC 233.090 Petition for reconsideration of dismissal of complaint. (NRS 233.150, 233.157)

1. A complainant may petition *the Administrator or his designee* for reconsideration of a dismissal of his complaint.
2. The petition must:
 - (a) Be in writing;
 - (b) ~~Be notarized~~; and
 - ~~(c)~~ State specifically the grounds upon which it is based.
3. The petition must be filed in the office of the Commission within 15 days after the day on which the complainant received notice of the dismissal.
4. If the complainant fails to comply with the provisions of this section, the Commission will dismiss his petition.

NAC 233.105 Informal meeting to attempt settlement. (NRS 233.150, 233.170)

1. At an informal meeting to attempt a settlement of the case, the Commission or any of the participating parties may take verbatim notes. The informal meeting may not be recorded electronically.
2. Statements which pertain to the allegations in the complaint or proposals for settlement may not be introduced as evidence of liability at a subsequent public hearing.

3. ~~[A party is not required to submit physical or documentary evidence at the informal meeting. If a party offers any physical or documentary evidence that pertains to the allegations in the complaint at the informal meeting, the Commission may use this evidence in a subsequent investigation and a party may introduce this evidence at a public hearing.]~~

4. A party who participates in the informal meeting may represent himself or may be represented by an attorney. An attorney appearing as counsel at the informal meeting must be an attorney at law, admitted to practice and in good standing before the highest court of any state. If the attorney is not admitted and entitled to practice before the Supreme Court of Nevada, he must be associated with an attorney so admitted and entitled to practice.

5. During the informal meeting, each party is entitled to be heard personally or through counsel regarding the allegations in the complaint or to discuss settlement of the case. All questions and statements must be addressed to the Commission. Not more than three persons, including any attorney appearing as counsel, may participate in the informal meeting on behalf of either party. *The presence of non-party representatives, excluding counsel, must be consented to by the parties.*

6. ~~[If a complainant fails or refuses to participate in an informal meeting when scheduled, or fails or refuses to cooperate with the Commission at the informal meeting, the Commission may terminate its efforts and dismiss the complaint.]~~ *Either party may waive participation in the informal meeting. Failure to cooperate with the Commission regarding the informal meeting, constitutes a waiver of said meeting.*

7. The informal meeting may be conducted by means of a telephone conference or similar method of communication by which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection constitutes presence in person at the meeting.

NAC 233.110 Investigation of discriminatory practices. (NRS 233.150, 233.170)

1. If the parties do not settle the case and the Administrator conducts an investigation into the alleged discriminatory practice, the Administrator may request any information from a party or witness that he deems necessary to conduct and conclude the investigation.

2. During an investigation, the Administrator, *on behalf of the Commission*, may *issue* ~~[apply to the Chairman of the Commission for the issuance of]:~~

(a) A subpoena duces tecum requiring the production of books, records, papers, documents or other tangible items which are relevant to the investigation; or

(b) A subpoena requiring the attendance of a witness who is relevant to the investigation during the investigation.

3. During an investigation, the Administrator may utilize the services of state and local agencies charged with the administration of housing and fair employment practices or the services of appropriate federal agencies. To the extent relevant, he may utilize information gathered by such agencies.

4. As a part of each investigation, the respondent may:

(a) Submit any evidence that the Administrator deems material or relevant to the investigation;

(b) Identify any witness; or

(c) Submit a statement from a witness.

NAC 233.220 Closure of case; reopening of closed case. (NRS 233.150)

1. A case may be closed if:
 - (a) The Commission determines that the complainant is uncooperative in the settlement, investigation or determination of his case. For purposes of this paragraph, a complainant will be deemed uncooperative if:
 - (1) The Commission cannot locate or communicate with the complainant at the mailing address provided in the complaint;
 - (2) The complainant verbally or physically abuses or threatens a member of the Commission;
 - (3) The complainant consistently misses appointments, meetings or hearings scheduled by the Commission; or
 - (4) The complainant exhibits any other behavior that the Commission deems to hinder the resolution or determination of his case.
 - (b) The complainant requests the Commission to close the case.
 - (c) The parties settle the case.
 - (d) The Commission finds that no probable cause exists to believe that an unlawful discriminatory practice has occurred.
 - (e) The attempt to ~~mediate~~ *conciliate* between the parties fails and the Commission determines that the facts of the case do not warrant a public hearing.
 - (f) A party files a lawsuit involving any of the allegations in the complaint.
 - (g) There is any other final disposition of the case.
2. Any ground for early closure of a case must be documented and will be made a part of the file.
3. The Administrator shall, by mail, notify each party of the closing of a case pursuant to this section.
4. *Except for good cause*, ~~FF~~ the Commission will not reopen a case that was closed based on facts and allegations which are the same as or similar to those facts and allegations set forth in the original complaint.

Amend NAC Chapter 233 by adding the following sections as follows:

Unlawful Acts: Willfully resists, prevents, impedes or interferes with the Commission. (NRS 233.150)

Any person who fails to respond to a request for information from the Commission or its staff or who unreasonably delays an investigation may be subject to penalty pursuant to NRS 233.210.

Practice before the Commission: (NRS 233.150)

An attorney must be a licensed member of the State Bar of Nevada or associated with such an attorney to represent a party before Commission or the Commission's staff.

An attorney must provide a letter of representation to the Commission prior to his participation in any phase of a matter before the Commission.

Records of Commission: (NRS 233.150)

Except as provided in NRS 233.190, all records of the Commission are confidential. Records sought after an action has been filed in accordance with NRS 233.190 may be obtained only through a court issued subpoena and payment of the subpoena fee proscribed by the Nevada Rules of Civil Procedure.

Advisory opinion: Request for issuance; action by Commission. (NRS 233B.120,)

1. Except as otherwise provided in subsection 3, a person may request that the Commission issue an advisory opinion concerning the applicability of a statute, regulation or decision of the Commission.

2. A request for an advisory opinion must be in writing and set forth:

(a) The name and address of the person requesting the advisory opinion;

(b) A clear and concise statement of the specific question for which the advisory opinion is being sought; and

(c) A statement of the facts that support the advisory opinion being sought.

3. A person may not request an advisory opinion concerning a question or matter that is an issue in a pending administrative, civil or criminal proceeding in which the person is a party.

4. The Commission will review a request for an advisory opinion and issue a response within 30 days after receiving the request.

5. An advisory opinion issued by the Commission will be limited to the facts and circumstances set forth in the request.

Advisory opinion: Oral response to request. (NRS 233B.120) The Commission will not render an oral advisory opinion to a request for an advisory opinion. An oral response, including, without limitation, a response given over the telephone, by a member of the staff of the Commission is not a decision or an official advisory opinion of the Commission.

Petition for declaratory order: Filing; contents; action by Commission. (NRS 233B.120)

1. Except as otherwise provided in subsection 3, a person may file a petition with the Commission requesting that he issue a declaratory order concerning the applicability of a statute, regulation or decision of the Commission.

2. A petition for a declaratory order must include:

(a) The name and address of the petitioner;

(b) The reason for requesting the declaratory order;

(c) A statement of the facts that support the petition for a declaratory order; and

(d) A clear and concise statement of the question or matter to be decided by the Commissioner.

3. A person may not file a petition for a declaratory order concerning a question or matter that is an issue in a pending administrative, civil or criminal proceeding in which the person is a party.

4. The Commission may refuse to review a petition that requests the issuance of a declaratory order if the original petition is not accompanied by two copies of the petition as required by _____ or the petition does not contain the information required by subsection 2.

5. The Commission may:

(a) Conduct a hearing to determine issues of fact or to hear arguments relating to a petition for a declaratory order and may enter reasonable orders that govern the conduct of the hearing.

(b) Request that the petitioner provide additional information or arguments relating to the petition.

(c) Issue a declaratory order based on the contents of the petition and any material submitted with the petition.

(d) Consider relevant decisions that have been issued by the Commission or any other entity which apply or interpret the statute, regulation or decision in question.

(e) Consider any other information he determines is relevant to the question or matter to be decided by the Commission.

(f) Enter any reasonable order to assist his review of the petition.

6. The Commission will maintain a record of the declaratory order that is indexed by subject matter and will mail a copy of the declaratory order to the petitioner within 60 days after:

(a) The petition is filed;

(b) A hearing is conducted concerning the petition; or

(c) Any additional information or written argument is received by the Commission, whichever occurs later.

Petition for adoption, filing, amendment or repeal of regulation: Filing; contents; action by Commission. (NRS 233B.100,)

1. Any person who wishes to petition for the adoption, filing, amendment or repeal of a regulation of the Commission must file with the Commission the original and two copies of the petition as required by _____.

2. A petition for the adoption, filing, amendment or repeal of a regulation must include:

(a) The name and address of the petitioner;

(b) A clear and concise statement, including, if applicable, the proposed language, of the regulation to be adopted, filed, amended or repealed;

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

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

3. The Commission may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if:

(a) The original petition is not accompanied by two copies of the petition; or

(b) The petition does not contain the information required by subsection 2.

4. The Commission will notify the petitioner in writing of his decision with regard to the petition within 30 days after the petition is filed.

Rules of evidence; effect of informality. (NRS 233B.050,)

1. In conducting an investigation, inquiry or hearing, the Commission is not bound by the technical rules of evidence and no informality in any proceeding or in the manner or order of taking of testimony invalidates any order, decision or regulation adopted, approved or confirmed by the Commission.

2. Rules of evidence used in the courts of this State will be generally followed, but may be relaxed in the discretion of the Commission if deviation from the technical rules of evidence will aid in ascertaining the facts.

3. Evidence admitted at a hearing must be material and relevant to the issues.

4. If an objection is made to the admissibility of evidence, the evidence may be received but it is subject to any subsequent ruling of the Commission.

5. The Commission may, with or without objection, exclude inadmissible, incompetent, cumulative or irrelevant evidence.

6. A party objecting to the introduction of evidence shall briefly state the grounds of objection at the time the evidence is offered.

Stipulations. (NRS 233B.050,)

1. With the approval of the Commission, the parties may stipulate to any fact at issue by written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record.

2. Any stipulation is binding upon all parties to it, and may be treated as evidence at the hearing.

3. The Commission may demand proof by requiring evidence of facts stipulated.

Continuances. (NRS 233B.050) The Commission may, before or during a hearing, and on a proper showing, grant continuances for submission of further proof of any matter, or for any other just cause.

Briefs. (NRS 233B.050,)

1. The Commission may order briefs to be filed and specify a time limit for their filing.

2. Three copies of any requested brief must be filed with the Commission in matters before it.

3. An acknowledgment of service or a certificate of mailing must accompany each brief to other parties of record.

4. Following the filing of briefs and after deciding contested motions, the Commission may set the matter for oral argument and give reasonable notice to all parties.

Record; transcripts. (NRS 233B.050,) *The Commission will cause a record to be made of all formal hearings. Parties desiring a copy of a transcript may obtain it from the Commission upon payment of the proper fee.*