

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

LCB File No. R085-10

§§1-5 and 7-9 effective December 16, 2010

§6 effective July 1, 2011

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

AUTHORITY: §§1-9, NRS 289.510.

A REGULATION relating to peace officers; revising provisions governing the background investigation required for appointment as a peace officer; revising the minimum requirements for a peace officer to obtain a management certificate; revising the minimum requirements for a peace officer to obtain an executive certificate; and providing other matters properly relating thereto.

Section 1. Chapter 289 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *“Executive level position” means a position held by a peace officer in which the peace officer supervises two or more persons who hold management level positions and is in charge of an entire agency or a major division or bureau within an agency.*

Sec. 3. *“First-line supervisor” means a peace officer who supervises other persons and who is on an organizational level immediately above nonsupervisory officers.*

Sec. 4. *“Management level position” means a position held by a peace officer in which the peace officer supervises two or more persons who are first-line supervisors or who hold a position above the level of a first-line supervisor.*

Sec. 5. NAC 289.010 is hereby amended to read as follows:

289.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 289.015 to 289.085, inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

Sec. 6. 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:

(a) Has undergone a complete and documented investigation of his background which verifies that he 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 his 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 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 ~~may include the use of a lie detector as defined in NRS 613.440 and~~ 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; ~~and~~

(i) A psychological evaluation ~~and~~; *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 has:

(a) Been convicted of a felony in this State or of any offense which would be a felony if committed in this State;

(b) Been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance; or

(c) A documented history of physical violence.

Sec. 7. 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 ~~[as a first-line supervisor]~~ *in a management level position* and a current assignment ~~[as a first-line supervisor.~~

~~—5.]~~ *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 section 4 of this regulation 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 section 4 of this regulation.*

6. Six units of credit from an accredited college or university in addition to the units required for the intermediate and advanced certificates.

~~[6.]~~ 7. Two hundred hours of training which includes courses in the following subjects or their equivalent:

- (a) Introduction to management;

- (b) Public administration or business administration;
- (c) Financial administration;
- (d) Personnel administration;
- (e) Management and labor relations;
- (f) Supervision; and
- (g) Policy formulation.

Sec. 8. NAC 289.270 is hereby amended to read as follows:

289.270 1. The Commission will grant an executive certificate to an officer upon submission of proof satisfactory to the Commission that the officer meets the following minimum requirements:

- (a) A current basic certificate.
- (b) A current intermediate certificate.
- (c) A current advanced certificate.
- (d) *A current supervisor certificate.*
- (e) A current management certificate.

~~[(e)]~~ (f) Six years of experience as a peace officer, including at least 1 year of experience ~~[at the command]~~ *in an executive* level *position* and a current assignment ~~[at the command]~~ *in an executive* level ~~[-~~ *position*.

(g) Two hundred hours of training in advanced management in addition to the training completed for the basic, intermediate, advanced, *supervisor* and management certificates.

~~[(g) Authority to develop and approve policies of the agency.]~~

(h) The applicant must present proof ~~[of such authority]~~ *that the current assignment meets the criteria for an executive level position as set forth in section 2 of this regulation* by submitting a letter *of recommendation* with the application which 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 ~~[he develops and approves policies for the agency.]~~ *the applicant's current assignment meets the criteria for an executive level position as set forth in section 2 of this regulation.*

2. In making a determination pursuant to subsection 1, the Commission will review and consider each applicant individually.

Sec. 9. 1. This section and sections 1 to 5, inclusive, 7 and 8 of this regulation become effective on December 16, 2010.

2. Section 6 of this regulation becomes effective on July 1, 2011.

State of Nevada
Commission on Peace Officers' Standards and Training
Informational Statement
LCB File No. R085-10

1. A description of how public comment was solicited, a summary of public response, and an explanation how persons may obtain a copy of the summary.

The Commission on Peace Officer' Standards and Training noticed its intent to amend certain regulations through notice of one (1) public workshop, held at 9:00 am on Wednesday, July 21, 2010, at the Prospector Hotel and Casino, 1501 East Aultman, Ghost Train Room, Ely, Nevada, one (1) Public Comment Hearing held at 1:30 p.m. on July 22, 201, at the Prospector Hotel and Casino, 1501 East Aultman, Ghost Train Room, Ely, Nevada, all in compliance with NRS 233B.0603.

Notices of workshop and intent to act upon regulations were sent via U.S. mail, inter-departmental mail or faxed to all identified law enforcement agencies.

Notice of intent to act upon regulations was posted at all Nevada county libraries, POST Administrative Offices, Carson City; Nevada State Capitol Building, Carson City; State Personnel-Blasdel Building, Carson City; Nevada State Library, Carson City; Grant Sawyer Building, Las Vegas; Carson City Sheriff's Office, Carson City; White Pine County Sheriff's Office, Ely; emailed to all Nevada criminal justice agency administrators, and posted on the Nevada POST website at www.post.state.nv.us pursuant to NRS 241.020(4).

Persons who wished to comment on the proposed action of the Commission on Peace Officers' Standards and Training were invited to appear at the scheduled public hearings or were invited to address their comments, data, views or arguments, in written form, to Richard P. Clark c/o POST Commission, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701.

No written comments were received by the Commission prior to the hearing.

Summary of public response addressed the requirement for lie detector as outlined in NAC 289.110 and the related increase in costs that they are not currently budgeted for. It was suggested that an effective date for this requirement of July 1, 2011 would allow agencies time to add this cost into their budgets. A copy of the minutes from the workshop and public comment may be obtained from the Commission on Peace Officers' Standards and Training at 5587 Wa Pai Shone Avenue Carson City, NV 89701, 775-687-7678.

2. The number of persons who:

(a) Attended the Workshop

July 21, 2010 (17)

(b) Testified at the Workshop

July 21, 2010 (4)

(c) Attended the Public Comment Hearing;
July 22, 2010 (8)

(d) Testified at the Public Comment Hearing;
July 22, 2010 (3)

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

Comment was solicited as provided in section one. The responses all addressed the requirement for lie detector as outlined in NAC 289.110 and the related increase in costs that they are not currently budgeted for. It was suggested that an effective date for this requirement of July 1, 2011 would allow agencies time to add this cost into their budgets.

Interested agencies or persons employed by law enforcement agencies had an opportunity to submit written comments or testify at the workshop and the public comment hearing. Persons wishing to obtain a copy of any written comments may request copies by calling (775) 687-7678 or by writing to the Commission on Peace Officers' Standards and Training, Executive Director, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701.

4. 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 regulations were adopted at the POST Commission meeting on July 22, 2010 to be adopted as Permanent Regulations. The regulations were adopted with change to the Legislative Counsel Bureau version. The public comments did not suggest or recommend modifications to the Legislative Counsel Bureau language. Based on public comments and commission deliberations, the proposed regulation included the following changes:

Sec. 2 the definition of executive level position added "or bureau".

Sec. 3 the definition of first-line supervisor deleted nonmanagerial and added nonsupervisory.

Sec. 8 the requirements for the executive certificate added letter "of recommendation".

Sec. 9 is a new section added to include an effective date for section six to include July 1, 2011.

5. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These reasons must be stated separately, and in each case must include:

(a) Both adverse and beneficial effects;

Adverse effects:

Those agencies that hire category I, II, and reserve officers that do not currently perform a lie detector examination as part of a pre-hire background investigation will incur increased costs related to the mandatory lie detector examination. Peace officers will be required to obtain a

supervisor certificate before they will be eligible for a management certificate and an executive certificate.

Beneficial effects:

The amendment to the regulations will establish higher standards for law enforcement pre-employment background investigations, higher standards for the achievement of the management and executive certificates.

(b) Both immediate and long-term effects.

Same as stated above.

6. The estimated cost to the agency for enforcement of the proposed adopted regulations.

There is no anticipated cost associated with change to this regulation with the exception of NAC 289.110 standards for employment background investigation. This would generally apply to those agencies that currently are not performing one or more of the areas required.

7. A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Commission has no knowledge of any regulations imposed by other state, government or federal agencies, which overlap or duplicate this regulation.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The Commission is not aware of any Federal regulation that may be associated with this same activity.

9. 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.

The adopted regulation neither establishes nor increases any existing fee.