

**STATE OF NEVADA
PERSONNEL COMMISSION**

Held at the Legislative Counsel Bureau, 401 S. Carson Street, Room 3138, Carson City, Nevada 89701; and via video conference in Las Vegas at the Grant Sawyer State Building, Room 4401, 555 East Washington Avenue

**MEETING MINUTES
Monday, March 19, 2018**

**COMMISSIONERS PRESENT
IN CARSON CITY:**

Ms. Katherine Fox, Chairperson
Ms. Patricia Knight, Commissioner
Ms. Mary Day, Commissioner

**COMMISSIONERS PRESENT
IN LAS VEGAS:**

Mr. Gary Mauger, Commissioner
Mr. Andreas Spurlock, Commissioner

STAFF PRESENT IN CARSON CITY:

Mr. Peter Long, Administrator, Division of Human Resource Management (DHRM)
Ms. Shelley Blotter, Deputy Administrator, DHRM
Ms. Justina Cavigilia, Deputy Attorney General, Office of the Attorney General
Ms. Denise Woo-Seymour, Personnel Analyst, DHRM
Ms. Carrie Hughes, Personnel Analyst, DHRM
Ms. Carrie Lee, Executive Assistant, DHRM

STAFF PRESENT IN LAS VEGAS:

Ms. Heather Dapice, Supervisory Personnel Analyst, DHRM

I. CALL TO ORDER, WELCOME, ROLL CALL, ANNOUNCEMENTS

Chairperson Fox: Opened the meeting at approximately 9:00 a.m. She welcomed everyone and took roll, noting that Alternate Commissioner Mary Day was seated for Commissioner David Sanchez, in his absence. Voting members present were: Chairperson Fox, Commissioner Patricia Knight, Commissioner Andy Spurlock, Commissioner Gary Mauger and Alternate Commissioner Mary Day.

II. PUBLIC COMMENT

Chairperson Fox: Advised that no vote or action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. She asked if there were any public comments. None were put forth.

III. APPROVAL OF MINUTES OF PREVIOUS MEETING DATED DECEMBER 7, 2017

Chairperson Fox: Called for revisions or additions. **Commissioner Day:** Noted a correction to page 7. The sentence should read “transitional housing,” not “traditional housing.” **Chairperson Fox:** Entertained a motion.

Held December 7, 2017

MOTION: Moved to approve the minutes of the December 7, 2017, meeting with change noted.
BY: Commissioner Mauger
SECOND: Commissioner Day
VOTE: The vote was unanimous in favor of the motion.

IV. PROHIBITIONS AND PENALTIES: DISCUSSION AND APPROVAL OF SPECIFIC ACTIVITIES CONSIDERED INCONSISTENT, INCOMPATIBLE OR IN CONFLICT WITH EMPLOYEES' DUTIES AND THE PROCESS OF PROGRESSIVE DISCIPLINE - OFFICE OF ATTORNEY GENERAL

Ms. Denise Woo-Seymour: Personnel Analyst for DHRM advised in accordance with NAC 284.742, an agency shall identify specific activities considered inconsistent, incompatible, or in conflict with employees' duties and penalties for such. These prohibitions and penalties are subject to approval of the Personnel Commission.

The Office of the Attorney General has updated their prohibitions and penalties previously approved by the Personnel Commission and in effect since December 10, 2010. Prior to the submitted revised version, department employees and the employee associations were requested to submit comments and suggestions. The impetus for many of the proposed amendments is the Office's incorporation of the Criminal Investigation and IT units.

The discipline levels listed in the materials under recommendation were elevated to a higher level than all other agencies due to violations of these types could comprise the agency's operations and professional conduct. Also, after these documents were submitted to the Commission, it was realized there was a misspelling on the Section C heading, the word "responsibility," which will be corrected on the final version. Otherwise, the items submitted for approval have been reviewed by the Division and are consistent with those already approved by the Commission.

Chairperson Fox: Asked if there were questions or public comment. Hearing none, she entertained a motion.

MOTION: Moved for the approval of Item IV.
BY: Commissioner Mauger
SECOND: Commissioner Knight
VOTE: The vote was unanimous in favor of the motion.

V. DISCUSSION AND APPROVAL OF ADDITION OF CLASSES AND POSITIONS APPROVED FOR PRE-EMPLOYMENT SCREENING FOR CONTROLLED SUBSTANCES AND REVISIONS TO CLASS SPECIFICATIONS

A. The Attorney General's Office requests the addition of positions to the list approved for pre-employment screening for controlled substances and requests approval of class specification amendments to include pre-employment screening for controlled substances:

1. Classes and positions requested for approval of pre-employment screening for controlled substances:

- 13.237 AG Cybercrime Investigator II – All PCNs
- 13.238 AG Cybercrime Investigator I – All PCNs

Ms. Carrie Hughes: Personnel Analyst with the Division of Human Resource Management, advised NRS 284.4066 provides for the pre-employment screening for controlled substances of candidates for positions affecting public safety prior to hire. The statute requires an appointing authority to identify the specific positions that affect public safety, subject to the approval of the Personnel Commission. Additionally, federal courts have indicated that pre-employment drug screening by public entities may constitute a search under the Fourth Amendment, and if so, must be justified by a special need that outweighs a reasonable expectation of privacy. The Office of the Attorney General has requested to add the requirement of pre-employment screening for controlled substances to the AG Cybercrime Investigator class series. It is being recommended to approve these positions as safety-sensitive, as these positions will be required to obtain and maintain Peace Officer Standards and Training (P.O.S.T.) Category II Certification, which requires a pre-employment drug screening test.

Chairperson Fox: Asked if there were questions or public comment. Hearing none, she made a motion.

MOTION: Moved for approval of classes and positions requested for pre-employment screening for controlled substances in Item V-A-1.
BY: Chairperson Fox

SECOND: Commissioner Knight
VOTE: The vote was unanimous in favor of the motion.

2. Request for approval of class specification change to include pre-employment screening for controlled substances for some positions:

13.237 AG Cybercrime Investigator II
13.238 AG Cybercrime Investigator I

Ms. Hughes: As pre-employment screening was approved for positions in the AG Cyber Crime Investigator class series, a change is being requested to the class specifications for this class series to reflect the approval of the requirement for pre-employment screening for controlled substances.

Chairperson Fox: Asked if there were questions or public comment. Hearing none, she entertained a motion.

MOTION: Moved to approve Item V-A-2 to change the class specification to include pre-employment screening for controlled substances for the AG Cybercrime Investigator I and II.
BY: Commissioner Knight
SECOND: Chairperson Fox
VOTE: The vote was unanimous in favor of the motion.

VI. DISCUSSION AND APPROVAL OR DENIAL OF INDIVIDUAL CLASSIFICATION APPEAL

Mr. Daniel Marks: Joined by Attorney Teletha Zupan and Appellant James Reynolds, introduced himself and provided an overview of why they believed Mr. Reynolds should be reclassified as a Grade 37. Mr. Marks noted that while he as the attorney would be presenting the case, Mr. Reynolds would be available to answer questions.

Mr. Reynolds is a Grade 35 and believes he is doing the work of a Grade 37, working outside his class from 2009 through 2015. He had taken the job of a 37 when that position was vacant and is required to train and supervise six different people. He was told these vacancies were temporary, or this training is temporary, and that at some point, it would change.

During his appeal, the State admitted that Mr. Reynolds was performing the work of a 37, but that it wasn't permanent because it was on a temporary basis, but it's gone on for years; the State said he was doing the job but there was no money to pay back-pay. The State in their latest documentation concedes Mr. Reynolds is doing the job but claims that it's less than 50% of the time. There's no evidence to suggest it's less. He has been performing the duties of a Grade 37 for years now and he is asking that he be compensated at that level.

Commissioner Mauger: Asked Chairperson Fox whether the State would present their case prior to questions from the Commission. **Chairperson Fox:** Confirmed the State would present their case and then questions could be asked.

Ms. Heather Dapice: Supervisory Personnel Analyst with the State of Nevada's Division of Human Resource Management, Compensation, Classification and Recruitment section, presented the State's side of the case. On December 14, 2015, during a resolution conference, the DHRM requested that the Mr. Reynolds submit an NPD-19 in order to determine if his current duties and responsibilities warranted reclassification based on discussions that occurred during the meeting on that date. On April 4, 2016, the NPD-19 was received requesting reclassification from a Compliance/Audit Investigator III to a Chief Compliance/Audit Investigator; however, duty statements were not detailed. The duty statements were received on September 23, 2016, and a desk audit was scheduled. On October 11, 2016, I conducted the desk audit for the Individual Classification Study on the Appellant's position. The study included an in-depth review of the submitted NPD-19, the original NPD-19 creating the position, work performance standards, and applicable class specifications. The review determined that there had been no significant change as defined in NAC 284.126, and therefore the request for reclassification was denied.

NAC 284.126, subsection (1) (b) defines significant change as "a change in duties and responsibilities assigned to a position in a class that: 1) is outside the scope of the class as described by the class specification; 2) is not part of the scope of responsibility of the position; and 3) results in the preponderance of duties and responsibilities being allocated to a different class." In short, significant change means that the duties assigned to a position have changed to such a

degree that the current class concept no longer fairly describes the preponderance of responsibilities.

Taking into consideration all the information gathered during this study, the only discernable difference between when the position was classified as a Compliance/Audit Investigator III, effective July 17, 2003, and the NPD-19 requesting reclassification was the removal of "supervision" from the position in March of 2015. In fact, the Work Performance Standards, located in Exhibit 7 and signed by Mr. Reynolds dating from 2009 through 2014, and the Work Performance Standards that he declined to sign dated May 4, 2015, are identical except for the removal of "supervision." As such, it was determined that significant change had not occurred to warrant reclassification to the Chief Compliance/Audit Investigator and that the current duties and responsibilities continue to align with Compliance/Audit Investigator III. Also, Mr. Reynolds concurs with the removal of supervision in Appellant Exhibit 1, page 2.

In the appeal, Mr. Reynolds' attorney indicated that Mr. Reynolds administers investigative activities on a statewide basis by assigning investigative activities in Southern and Northern Nevada; reviewing and evaluating efficiency and compliance with policy and procedures; supervising a staff of subordinate Compliance/Audit Investigators; working with the Program Administrator and agency heads; overseeing the training of staff based on the needs of investigations; preparing and approving work schedules; assigning cases based on assessed needs; and maintaining reporting procedures and reviewing status reports to determine whether objectives were met and that there was compliance with applicable laws.

The class concept for the Chief Compliance/Audit Investigator states, in part, "incumbents are responsible for the administration of investigative activities on a statewide basis; they establish and direct investigative activities based on department goals and objectives; review and evaluate operational efficiency and compliance with program policy and procedures; directly supervise a staff of subordinate Compliance/Audit Investigators; assist in the planning and development of the program budget, internal policy and procedure, and the implementation or introduction of State legislation; work directly with the Program Administrator, agency heads, business representatives, violators, the complainant and judicial system regarding complaint resolution, regaining compliance, pursuing criminal prosecution, imposing administrative sanctions or penalties or addressing a hearings board or commission; oversee the training of staff based on projected or identified needs in the area of investigations, audit inspection, community relations, program rules and regulations and related laws; review and approve training programs to ensure compliance with program goals and objectives; maintain reporting procedures and review status reports to determine achievement of objectives and compliance with applicable laws and regulations; identify program needs, research and develop policy and procedures, and develop written proposals for presentation to management; submit requests for procedural changes in order to improve compliance, audit and enforcement activities to the agency head." These responsibilities belong to the Audit Supervisor, who functions as the Regional Audit Manager within the Employment Security Division of the Department of Employment, Training and Rehabilitation and is evidenced by the Position Description Questionnaire or PDQ completed July 26, 2007, located in Exhibit 8. The Audit Supervisor performs these duties in coordination with, and under the general direction of, the Audit Manager as evidenced by the PDQ located in Exhibit 9.

Mr. Reynolds, as detailed in his NPD-19, Work Performance Standards and verified during the desk audit, does not administer investigative activities on a statewide basis nor does he establish and direct investigative activities based on department goals and objectives. He implements investigative activities by assigning and reviewing work at the direction of the Audit Manager and Audit Supervisor as evidenced in the Appellant's Exhibits 14, 16, 17, 19, 20, 21, 30, 33, 36, 38, and 42. Mr. Reynolds, under the limited supervision of the Audit Supervisor, assists in implementing investigative activities by making determinations on the level and intent of investigations, coordinating the work of lower level Compliance/Audit Investigators, training new hires, and reviewing final audit reports to ensure policy and procedures were followed. These duties are associated with a position functioning as a lead worker, not a Chief, and are clearly defined in the class concept for the Compliance/Audit Investigator III, located in Exhibit 10.

In the appeal, Mr. Reynolds' attorney states that the desk audit should not have been considered nor relied upon for the purpose of the determination because it reflects the State's subsequent remedial measures, rather than the facts that existed prior to the removal of supervision, which they consider to be outside the scope of Mr. Reynolds' classification and after his work performance standards had been revised. The appeal further contends that Mr. Reynolds was required to perform supervisory duties from 2009 to November 2017 and that Mr. Reynolds should be re-classified as a Chief Compliance/Audit Investigator retroactively from January 13, 2015, forward. The NPD-19 classification process determines the correct classification of a position based on current duties and responsibilities; not on duties and responsibilities that may have been performed in the past. As such, the desk audit process is an

absolute requirement and must be considered in the determination of an incumbent's current classification.

With regard to supervision, NAC 284.498 subsection (5)(b) states: "Supervisory position" means a position which is held by an employee who: 1) Formally evaluates staff; 2) Is involved in the hiring and firing of subordinate staff; and 3) Establishes policies which affect the performance or behavior of subordinate staff. The NPD-19 classifying the position currently held by Mr. Reynolds established duties and responsibilities that provided for supervision of Compliance/Audit Investigator IIs to include evaluation of performance. The class concept for the Compliance/Audit Investigator III, dated October 19, 1990, which is located in Exhibit 12, details supervision as a function of the class. As such, Mr. Reynolds was working within the duties and responsibilities of a Compliance/Audit Investigator III when he was appointed to the position on February 9, 2009.

On December 10, 2010, the Personnel Commission approved amended class specifications which removed the language for supervision from the concept for the Compliance/Audit Investigator III. Supervision could have been removed from Mr. Reynolds' position when the amended class specifications were approved; however, neither the agency nor the incumbent submitted an NPD-19 to evaluate his position as a result of this change. Mr. Reynolds stated during the desk audit that he was aware that supervision was removed from the concepts for his position; however, he chose not to submit an NPD-19 at that time. Mr. Reynolds confirms this in Appellant's Exhibit 1, page 5.

The performance of supervision in and of itself would not have justified reclassification to the Chief level. In order to be classified the Chief Compliance/Audit Investigator, Mr. Reynolds would need to perform the full range of duties and responsibilities of the class. In comparing the duties and responsibilities of the position when it was classified, to its current duties and responsibilities, Mr. Reynolds has never functioned in the capacity of a Chief Compliance/Audit Investigator, as evidenced by the NPD-19 establishing the position, the submitted Work Performance Standards and PDQs for the Audit Supervisor and Audit Manager (Exhibits 5 through 9). Again, Mr. Reynolds reports to an Audit Supervisor, who reports to an Audit Manager and while Mr. Reynolds may assist, the responsibility for the performance of duties and responsibilities ascribed to the Chief Compliance/Audit Investigator and the authority for the program itself reside with the Audit Supervisor and Audit Manager.

If Mr. Reynolds had submitted an NPD-19 when he became aware of supervision being removed from his current classification in 2010, the duties would have either been immediately removed or a study could have been conducted to determine if an additional level could be added to the series. When DETR Human Resources became aware that Mr. Reynolds was performing supervision in February 2015, the duty was immediately removed.

In conclusion, I would like to reiterate that while Mr. Reynolds performs a valuable service, there has been no significant change in the duties and responsibilities as required by NAC 284.126, nor has he ever performed the full range of duties associated with the Chief Compliance/Audit Investigator class. Mr. Reynolds continues to, and currently performs, duties consistent with the Compliance/Auditor III class. Also, granting Mr. Reynolds' appeal to reclassify his position to a Chief based on his current duties and responsibilities as a lead Compliance/Audit Investigator would affect additional Compliance/Audit Investigator III positions who are performing lead work similar to Mr. Reynolds.

Chairperson Fox: Asked the Commission if there were any questions of the Appellant or of DHRM. **Commissioner Spurlock:** Asked whether there were any representatives other than Ms. Dapice representing Personnel. **Mr. Peter Long:** Advised he was in attendance. **Ms. Dapice:** Advised there were also additional representatives from the agency in attendance.

Commissioner Mauger: Asked when did Mr. Reynolds start with the State of Nevada? **Mr. Reynolds:** Answered 2007. **Commissioner Mauger:** Asked whether there was a reduction in force in 2009. **Mr. Reynolds:** Confirmed a lay-off had taken place and it was due to budget constraints. Mr. Reynolds stated he was part of a reemployment list and when a job opened with the proper classification, he was called to DETR. **Commissioner Mauger:** Asked, did you file a grievance because of the increase in work standards? **Mr. Reynolds:** Answered that the cause of filing the grievance was the language in the specification for the job. It's very vague, but it does say, statewide. He continued he had begun doing statewide work as early as 2012 and was told that it was temporary and not lasting; today, it's still the same. **Commissioner Mauger:** Asked when you first began the job, were those job duties the same as when you filed your grievance or did they increase? **Mr. Reynolds:** Answered the statewide came later. **Commissioner Mauger:** Stated the reason I asked about job duties is I did note that there were far more job duties than the State has said you were doing. At least one supervisor concurred that Mr. Reynolds was performing the job of a Grade 37 when the State removed the supervisory duties. **Mr. Reynolds:** Confirmed and noted that a lead position is a supervisory

position and it is his belief that it is impossible to actually perform a lead position and not supervise. **Commissioner Mauger:** Asked was that an adjustment by the State to satisfy whatever job duties you were doing up until that time? **Mr. Reynolds:** Answered in 2015 when the State decided that I was working out of class, they did remove the official supervisory duties which was the actual typing up of personal evaluations, while I gathered the statistical information for my boss to type up the formal evaluation, I was actually doing the evaluation myself. **Commissioner Mauger:** Asked Mr. Reynolds if he was performing supervisory duties from 2009 to November of 2017? **Mr. Reynolds:** Answered from 2009 to when I filed the grievance in 2015, when the supervisory duties were officially removed. **Commissioner Mauger:** Asked whether Mr. Reynolds continued to perform supervisory duties. **Mr. Reynolds:** Confirmed he continued performing supervisory duties.

Chairperson Fox: Noted supervision was removed from the position via the Personnel Commission meeting in 2010. There were class specification changes done at that time and the Appellant and DETR were informed about that change to the class specification. She asked Ms. Dapice where the employee may have continued supervisory duties, that supervision in and of itself would not lend itself to reclassification because the position was not performing the duties of a Chief of Compliance. **Ms. Dapice:** Responded in the affirmative. For a position to be reclassified into a higher-level series, positions must perform the preponderance of those duties. Supervision is mandated by statute to include formally evaluating staff, hiring and firing of subordinate staff, and the work performance standards. With regard to duties and performance of a Chief, those duties and responsibilities belong the Audit Supervisor and Audit Manager who this position reports to. When the supervision was removed, that was the only thing in the duties that were different from the original NPD-19. Nothing has changed.

Mr. Marks: Advised in 2015 Mr. Reynolds had a badge that said, "Chief," detailed in Exhibit 2. That is the Edgar Roberts response, where the State conceded that Mr. Reynolds was doing duties that would have fallen within the Grade 37, but then said, you won't have to formally do the evaluations anymore. Reynolds continued to collect the data information, only did not type the evaluations. In 2015 the State conceded he was working out of class but said, we're not going to provide remedial compensation, we will change that by saying you don't have to sign-off on evaluations. However, Mr. Reynolds continued to perform the duties of a Grade 37 throughout the process, even after 2015.

Ms. Dapice: Stated when Mr. Reynolds indicates that he has statewide responsibilities, the Chief administrates on a statewide basis; employees can do work statewide. For example, Personnel Analysts that report to me may perform class specifications studies on positions here in the south, that does not make them a Supervisory Personnel Analyst. With regard to the duties and responsibilities being performed, Compliance/Audit Investigator IIIs, as stated in the class specifications, function as a lead worker by performing training, or coordinating work, of Compliance/Audit Investigator IIs and Is, while conducting investigative and/or audit functions. They review final investigative or audit reports for accuracy, clarity, format, and to ensure policy and procedures are followed. They provide assistance to lower-level Investigators regarding case preparation and presentations in a court of law. They recommend or develop and/or, revise policies, procedures and proposed legislation to aide in the compliance and control of program areas.

Mr. Long: Stated that Mr. Marks indicated the State has conceded that the Appellant was working out of class. The Deputy at the time, Mr. Roberts at DETR, in good faith, removed the supervisory duties and indicated that the employee was working out of class, but Mr. Roberts is not the final authority, nor is he an expert on classification. At that point in time is when a NPD-19 could have, and should have, been submitted to the Department of Human Resource Management for review to see if the employee was actually working out of class. NAC 284.126, the portion that addresses significant change that Ms. Dapice has talked about, also indicates in paragraph two that if an appointing authority or employee requests or suggests a reclassification, that request may be submitted and the Division of Human Resource Management will review the position and allocate it appropriately. It goes on to say that that reclassification cannot go back more than six months, even if it is approved. At no point did the employee submit a NPD-19 until DHRM requested one. While it is still being submitted that the employee did not work out of class, the dates and times of these duties being done are, per regulation, not allowed to be considered because we cannot consider anything until the 19 was submitted.

Commissioner Spurlock: Asked Ms. Dapice regardless if Mr. Reynolds prepares evaluations, he does not sign them? **Ms. Dapice:** Acknowledged this is correct since 2015. **Commissioner Spurlock:** Stated that seems like a small matter to some people in government where we are very risk adverse, that is a huge deal from a liability standpoint. Likewise, to give Mr. Reynolds some credit, the report from staff that says that they are only involved in the hiring and firing of subordinate staff. That's pretty realistic because also in government, we're so risk adverse that formally,

from a hiring and firing standpoint, it really is left up to the division manager no matter how much is done below that division head, or department head. He agreed with Mr. Long and used the analogy of being a photographer. Pictures are taken in the here and now, not what existed in 2010. In addition, he noted that just because a class is set up in the public sector, that does not mean it's intended to be used everywhere. Just because the class exists, does not mean that the department, in the way that they design the department, intended for that class to exist in that Department. He asked Ms. Dapice whether the Chief Compliance/Audit Investigator was meant to be used in this particular organization, are there any other examples that you know of? If so, is it the majority, or the high majority, or all of the cases, where we have, or would have, a Chief Compliance/Audit Investigator reporting to a class as low as an Audit Supervisor? **Ms. Dapice:** Answered, no, we do not. Currently, we have 13 Chief Compliance/Audit Investigators; they report to the likes of the Chief of Enforcement for the Secretary of State, which is unclassified; for Business and Industry, they report to the Deputy Director of Programs; the Insurance Division, they report to an unclassified Council; Industrial Relations, they report to the Deputy Division Administrator; Housing reports to a Deputy Division Administrator; Real Estate reports to the Division Administrator; Mortgage and Lending reports to the Deputy Commissioner; and the Department of Transportation reports to their unclassified Civil Rights Officer. There is one other agency that we have a Compliance/Audit Investigator III without a Chief, and that's the Nevada Transportation Authority, but that position reports to the Transportation Chief, which is also unclassified. This position reports to the Audit Supervisor who is the Regional Audit Manager, who reports to an Audit Manager, and I believe the Audit Manager reports to an Employee Division Manager, who then reports to a Deputy.

Commissioner Spurlock: Asked about the Transportation Chief; that's a high-level job. Is that the top job in Transportation? **Ms. Dapice:** Responded that is accurate; that is an unclassified Transportation Chief. When I spoke to that agency, in some instances they report to the Division Administrator. **Commissioner Spurlock:** Asked besides Mr. Reynolds, are there other Compliance/Audit Investigator IIIs currently in the same Department? **Ms. Dapice:** Answered in the affirmative. There is a Compliance/Audit Investigator III that is located up north; I believe she was just recently hired, so she would have had to have been trained by Mr. Reynolds. **Commissioner Spurlock:** Asked who the Audit Manager reports to. **Ms. Dapice:** Responded I believe the Audit Manager reports to an ESD manager. **Commissioner Spurlock:** Asked we would have other Compliance/Audit Investigator IIIs, a Chief, an Audit Supervisor, an Audit Manager, and who the Audit Manager reports to? **Ms. Dapice:** Acknowledged this is correct and that the Audit Manager reports to the Division Administrator. **Commissioner Spurlock:** Noted Ms. Dapice named off other classifications and asked whether in all, or nearly all these other cases, a Chief would report to something higher than an Audit Supervisor? **Ms. Dapice:** Confirmed this is correct; they all report to an unclassified position.

Mr. Marks: Stated my client, in filing his appeal, was assigned to Edgar Roberts, and certainly Edgar Roberts' analysis, which is part of the record, should be taken seriously. We don't get to choose who reviews the issue and Mr. Roberts reviewed it. I think there are two things going on. First, we're talking about timing. You wouldn't want an employee to do statewide, or feel he's out of class for a month, or two months, or three months, and file these appeals because there are vacancies, sick leave; things happen. Mr. Reynolds should not be penalized for waiting. In 2015 when the State said we're going to correct this by removing responsibilities, they didn't really remove anything other than the evaluative process, the actual signing off on the reports; the other duties continued through, and including, the present. In terms of the State's response, normally the preponderance of the evidence as we use it legally is 51%. We think by the totality of evidence in the book, we've shown more likely than not, Mr. Reynolds has been doing the job. He waited until it was clear that it was more of a permanent than transitory basis; he shouldn't be penalized for that. Exhibit 2 shows the State conceded in 2015 he was doing it and their corrective measures were removing a badge and saying don't sign the evaluations. And after 2015, the exhibits show he continued to do the majority of those functions on a statewide basis.

Ms. Dapice: Stated by NAC 284.126 we are mandated to determine significant change. In reviewing all the duties and responsibilities again, comparisons with the original NPD-19, the work performance standards and the current work performance standards, there has been no significant change other than the removal of supervisory responsibilities. As Administrator Long stated, NAC 284.126 specifically states in paragraph three the effective date of the classification decision will be the date on which Form NPD-19 is received by Division of Human Resource Management or Agency Personnel Officer, unless information that substantially affects the decision concerning the creation, reclassification or reallocation is received after this date. Classification is the process of looking at the duties and responsibilities in the now, not in the past, and that's mandated by statute.

Chairperson Fox: Asked if there were questions or public comment. Hearing none, she entertained a motion.

MOTION: Moved for the approval of Mr. Reynolds' appeal.
BY: Commissioner Mauger
SECOND:
VOTE: There was no second and the motion failed.

Chairperson Fox: Asked if there was another motion from the Commission.

MOTION: Moved for the denial of Mr. Reynolds' appeal.
BY: Commissioner Spurlock
SECOND: Commissioner Knight
VOTE: Four Commissioners voted in favor of denial; Commissioner Mauger voted in opposition.
The motion passed.

VII. DISCUSSION AND APPROVAL OF PROPOSED CLASS SPECIFICATION MAINTENANCE REVIEW OF CLASSES RECOMMENDED FOR REVISIONS OR ABOLISHMENT

- A. Agriculture & Conservation/Agriculture & Related
 - 1. Subgroup: Parks
 - a. 1.907 Parks Regional Manager (Non-Commissioned)
 - b. 1.967 Park Supervisor Series (Non-Commissioned)

Ms. Dapice: Presented the recommendation for changes to the Agricultural & Conservation/Agriculture & Related occupational group, Subgroup Parks, Parks Regional Manager and Parks Supervisor series. As part of the biennial class specification maintenance review process, and in consultation with SMEs [Subject Matter Experts] from the Nevada Division of State Lands, it was determined that the class concepts, minimum qualifications, and knowledge skills and abilities are consistent with the current expectations and require no changes at this time; however, minor revisions were made to the minimum qualifications in order to maintain consistency with formatting and structure.

MOTION: Moved for approval of the amended class specifications in Item VII-A-1-a and VII-A-1-b.
BY: Chairperson Fox
SECOND: Commissioner Knight
VOTE: The vote was unanimous in favor of the motion.

- B. Fiscal Management & Staff Services
 - 1. Subgroup: Administrative & Budget Analysis
 - a. 7.644 Fatality File Analyst
 - 2. Subgroup: Actuarial/Research/Grants Analysis
 - a. 7.704 Tort Claims Manager
 - 3. Subgroup: Public Information
 - a. 7.843 Technical Production Editor

Ms. Dapice: Presented the recommendation for changes to the Fiscal Management & Staff Services, Subgroups Administrative & Budget Analysis, Actuarial/Research/Grants Analysis, and Public Information. Beginning with VII-B-1-a, Fatality File Analyst, as part of the biennial class specification review process and in consultation with Subject Matter Experts, it is recommended that revisions be made to the series concept to expand the duties statements to reflect additional representative duties, as well as clarify existing duties and responsibilities. An informational note was added to include the requirement that the incumbent must obtain and maintain NCJIS Certification as a condition of employment. Also, minor revisions were made to the minimum qualifications in order to maintain consistency with formatting and structure.

Regarding Item VII-B-2-a, Tort Claims Manager, in consultation with Subject Matter Experts, it was determined that the class concepts, minimum qualifications, and knowledge, skills and abilities were consistent with current expectations and required no changes at this time; however minor revisions were made to the minimum qualifications to maintain consistency with formatting and structure. Regarding Item VII-B-3-a, Technical Production Editor, after coordinating with various State departments and the Nevada System of Higher Education, it was determined that this series is currently not being utilized, nor will it be utilized in the future. It is therefore recommended that the Technical Production Editor series be abolished.

Chairperson Fox: Asked if there were questions. Hearing none, she entertained a motion.

MOTION: Moved for approval of the recommended changes to Item VII-B-1 through 3.
BY: Commissioner Spurlock
SECOND: Chairperson Fox
VOTE: The vote was unanimous in favor of the motion.

- C. Mechanical & Construction Trades
 - 1. Subgroup: Skilled Trades and Allied
 - a. 9.407 Precision Machinist
 - b. 9.438 Computer Facility Technician

Ms. Dapice: Presented the recommendation for changes to the Mechanical & Construction Trades, subgroups, Skilled Trades and Allied. These are Items VII-C-1-a and 1-b on the agenda. Beginning with VII-C-1-a, Precision Machinist, as part of the biennial class specification review process and in consultation with Subject Matter Experts, it is recommended that revisions be made to the series concept to expand the duty statements to reflect additional representative duties related to welding, fabrication and equipment utilized. It is also recommended that skill in AutoCAD software be added to the entry level knowledge skills and abilities to reflect the use of this software in development, design, fabrication and repair. Minor revisions were made to the minimum qualifications in order to maintain consistency with formatting and structure.

Regarding Item VII-C-1-b, Computer Facility Technician, in consultation with Subject Matter Experts, it was determined that the class concepts, minimum qualifications, and knowledge, skills and abilities are consistent with current expectations and required no changes at this time, however minor revisions were made to the minimum qualifications in order to maintain consistency with formatting and structure.

Chairperson Fox: Asked if there were any questions or public comments. Hearing none, she made a motion.

MOTION: Moved for approval of the recommended changes to the Mechanical & Construction Trades, specifically subgroup Skilled Trades and Allied for Precision Machinist and Computer Facility Technician.
BY: Chairperson Fox
SECOND: Commissioner Day
VOTE: The vote was unanimous in favor of the motion.

VIII. REPORT OF UNCONTESTED CLASSIFICATION PLAN CHANGES NOT REQUIRING PERSONNEL COMMISSION APPROVAL PER NRS 284.160

Chairperson Fox: Stated Item VIII does not require action by the Commission.

IX. DISCUSSION AND ANNOUNCEMENT OF DATES FOR UPCOMING MEETINGS. NEXT MEETING SCHEDULED FOR JUNE 8, 2018.

Chairperson Fox: After deliberation advised the Commission that the next meeting is scheduled for Friday, September 7, 2018.

X. COMMISSION COMMENTS

Chairperson Fox: Advised the Commission that the Division of Human Resource Management has been successful in getting two Alternate Commissioners, so the Commission is now fully staffed. The Alternate Commissioners will be introduced at the June meeting. In the interim, DHRM will provide an orientation for the new Commissioners.

Commissioner Mauger: Stated he felt blindsided by Mr. Reynolds' appeal and hadn't been informed on what the issues were that necessitated the mediation with State mediators prior to the meeting. **Ms. Shelley Blotter:** Responded that the Hearings Division of the Department of Administration took on appeals of disciplinary actions, so they are the individuals handling those appeals. In this situation, though it is separate, this is not an appeal of discipline, so Mr. Reynolds had hired outside counsel at his own discretion. This is a classification appeal, so there are two separate

processes. All of the information related to Mr. Reynolds' appeal is handled through his own representation and we also provide our information. She ensured she will confirm all Commissioners are on the email list to receive information in the future regarding other processes, Hearing Officer Decisions, and Employee-Management Committee decisions. **Commissioner Mauger:** Inquired whether Mr. Charlie Cockerill was still on contract and when he heard his last arbitration or case. **Ms. Blotter:** Advised Mr. Cockerill was still contracted and that she did not have that information readily available but would obtain it and provide it to the Commissioners.

XI. PUBLIC COMMENT

Chairperson Fox: Advised that no vote or action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. She asked if there were any public comments. None were put forth.

XII. ADJOURNMENT

Chairperson Fox: Adjourned the meeting.