

**STATE OF NEVADA
PERSONNEL COMMISSION**

Pursuant to Section 1 of Governor Sisolak's Emergency Directives 026 and 029, there was no physical location for this meeting.

**MEETING MINUTES
December 4, 2020**

PERSONNEL COMMISSIONER MEMBERS PRESENT:

Ms. Katherine Fox, Chairperson
Ms. Patricia Hurley, Commissioner
Ms. Priscilla Maloney, Commissioner
Mr. Mark Olson, Commissioner
Mr. Andreas Spurlock, Commissioner
Mr. Armen Asherian, Alternate Commissioner, non-voting
Ms. Dana Carvin, Alternate Commissioner

STAFF MEMBERS PRESENT:

Mr. Peter Long, Administrator, Division of Human Resource Management (DHRM)
Ms. Michelle Garton, Deputy Administrator, DHRM
Ms. Beverly Ghan, Deputy Administrator, DHRM
Ms. Denise Woo-Seymour, Supervisory Personnel Analyst, DHRM
Ms. Carrie Hughes, Personnel Analyst, DHRM
Ms. Patricia Kreymborg, Personnel Analyst, DHRM
Ms. Heather Dapice, Supervisory Personnel Analyst, DHRM
Mr. Ian Carr, Deputy Attorney General, Office of the Attorney General
Ms. Michelle Morgando, Sr. Appeals Office, Hearings Division

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

Chairperson Fox: Called the meeting to order on Friday, December 4, 2020, at approximately 9:00 a.m. She conducted roll and welcomed everyone.

Peter Long: Noted Dana Carvin is in attendance of the meeting as the alternate.

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 the agenda as an item upon which action may be taken under NRS 241.020. She asked if there were any public comments; hearing none, moved onto agenda item III.

III. APPROVAL OF MINUTES OF PREVIOUS MEETING DATED SEPTEMBER 18, 2020

Chairperson Fox: Asked the Commissioners if there were any revisions to the minutes from the September meeting; hearing none, moved to hear a motion

MOTION: Moved to approve.
BY: Chairperson Fox
SECOND: Commission Olson
VOTE: The vote was unanimous in favor of the motion.

IV. DISCUSSION AND POSSIBLE AMENDMENTS TO THE HEARING OFFICER RULES OF PROCEDURE

Michelle Garton: Deputy Administrator at the Division of Human Resource Management and I'll just provide a quick summary of what the Division is reporting to the Commission today. At the beginning of the year on March 6th, Commissioner Olson had made some comments during that commission meeting to ask the Division to go back to the Hearing Officer Rules of Procedure and look to see the usage of the word "days" and see how the different usages throughout affected the Hearing Officer Rules and if any consistency can be created there. What the Division found when working the Deputy Attorney General Tori Sundheim and the Hearings Division Administrator, Michelle Morgando, we found that looking through those rules, the rules for hearing officers comes from several different laws and resources, so when we use the word "working days" that coming from NRS 284 and "days" and "business days" are coming from the Nevada Rules of Civil Procedure (NRCP). So what we have decided is since we haven't heard any negative feedback from any of the parties to any Hearings Officer Division or appeals hearings to leave it as is instead of trying to make it consistent and work with the more challenging for the reader to understand. So we are reporting back that we took your question Commissioner Olson and did some research and came up with the results we will leave as is for now and I will certainly answer any questions you have and I know that Michelle Morgando is on the line as well.

Commissioner Olson: I appreciate you doing the research like that and I certainly hope it wasn't an overwhelming exercise obviously it's smart to let sleeping dogs lie and not pursue a solution for a problem that doesn't exist.

Michelle Garton: It was no trouble at all, thank you. It was a great exercise actually to get us all together and really delving and looking at them.

Michelle Morgando: I'd like to thank Ms. Garton and Ms. Sundheim, it was a pleasure to work with them on this project.

Ian Carr: I'm Ian Carr with the Attorney General's Office. On behalf of Deputy Attorney General Tori Sundheim, who could not appear due to a scheduling conflict, I would thank Michelle and Michelle for their commentary and with the Commission's indulgence, I will convey some comments from DAG Sundheim.

Chairperson Fox: Please do.

Ian Carr: Thank you. Having convened with Deputy Attorney General Sundheim, I would convey the following recommendations in accordance with what Michelle and Michelle have brought forward this morning. The hearing officer rules reference "working days" in the days to days should in theory not be altered at this time because those terms are defined in the Nevada Revised Statutes. So modifying the usage of those terms and the rules may cause statutory definitions of usage and that, in theory can lead to the rules and definitions being superseded therefor, I would convey a recommendation to preserve the semantic meaning of those terms and leave the applicable sections as rules of status quo I would also convey commentary as to a subpoena issue that was raised earlier; the Hearing Officer Rules do cross reference Nevada Rule of Civil Procedure 4 for Service Provision, that rule controls the method and mechanism service but I would comment that the Personnel Commission isn't necessarily bound by the traditional rules of civil procedure. The Commission is free to specify different deadlines for service, such as 14 days rather than 7 days, prior to a scheduled hearing therefore it is not problematic to cross reference the judicial civil rules because those rules in this context are merely guidance for service and therefore I can convey the recommendation to preserve those citations in the Hearing Officer Rules. Thank you very much.

Chairperson Fox: Thank you. Asked the Commissioners for questions.

Commissioner Maloney: Not a question, but I do have a comment. I realized that our substitute DAG is reading from Ms. Sundheim's assessment; I was the one who raised the issue or at least an issue apparent to me, possible or potential inconsistency between and subpoena NRCP 45 I believe, and then service of process under NRCP 4 and I just very much appreciate the effort to clarifying that. Thank you for all of the hard work from the Deputy Attorney General's office and the others who participated in clearing that up. Thank you.

Chairperson Fox: Asked for anything else? Moving on. The next item for possible action is the discussion and approval of proposed regulation changes to the Nevada Administrative Code 284.

Peter Long: Madam Chair, I'd just like to point out that we skipped item V.

Chairperson Fox: I'm sorry, it's my glasses fault.

V. PROHIBITIONS AND PENALTIES: DISCUSSION AND APPROVAL OF SPECIFIC ACTIVITIES CONSIDERED INCONSISTENT, INCOMPATIBLE OR IN CONFLICT WITH EMPLOYEE DUTIES AND THE PROCESS OF PROGRESSIVE DISCIPLINE

Denise Woo-Seymour: Good morning Madame Chair and members of the Commission. I am Denise Woo-Seymour, a Supervisory Personnel Analyst for the Division of Human Resource Management. In accordance with NAC 284.742, an agency shall identify specific activities considered inconsistent, incompatible or in conflict with employees' duties, and identify the penalties for such activities. These Prohibitions and Penalties are subject to the approval of the Personnel Commission. The Department of Administration has updated their Prohibitions and Penalties previously approved by the Personnel Commission and in effect since December 9, 2011. Prior to the submitted revised version, department employees and the employee associations were requested to submit comments and suggestions. Please note deleted prohibitions #B-9, #B-11, #D-2, #D-4 were incorporated into other prohibitions. Also, deleted prohibitions #B-25 and #H-1 were relocated under more appropriate sections. Otherwise, the items submitted for approval have been reviewed by the Division and are consistent with those already approved by the Commission. Revisions have been tracked with new matter in blue font and deletions as red strikethroughs. On behalf of the Department of Administration, Personnel Officer, Gennie Hudson from Agency HR Services is available to answer any questions.

Chairperson Fox: You answered the question I had. Asked Commissioners for questions; hearing none, entertained a motion.

MOTION: Moved to approve.

BY: Commissioner Olson

SECOND: Commissioner Hurley

VOTE: Vote was unanimous in favor of the motion.

Chairperson Fox: That motion passes. The next item is V-b, Prohibitions and Penalties for the Department of Sentencing Policy.

Denise Woo-Seymour: Again, for the record, Denise Woo-Seymour from the Division of Human Resource Management. The Department of Sentencing Policy is a new agency, therefore the Prohibitions and Penalties before you for approval are newly created. Input was requested from the two department employees and the employee associations. Please note Prohibition #H-12, highlighted in yellow, is at a higher penalty level than the one other agency, Military, listing this prohibition. A violation of this type could compromise the Department of Sentencing Policy's security and professional conduct. Otherwise, these new Prohibitions and Penalties have been reviewed by the Division and are consistent with those already approved by the Commission. From the Department of Sentencing Policy, Victoria Gonzalez, Executive Director and Gennie Hudson, Personnel Officer of Agency HR Services are available to answer any questions.

Chairperson Fox: Thank you. Asked the Commissioners for questions; hearing none, entertained a motion.

MOVED: Moved to approve.

BY: Commissioner Maloney

SECOND: Commissioner Hurley

VOTE: Vote was unanimous in favor of the motion.

VI. DISCUSSION AND APPROVAL OF PROPOSED REGULATION CHANGES TO THE NEVADA ADMINISTRATIVE CODE, CHAPTER 284

Chairperson Fox: We'll first hear from the Division.

Michelle Garton: Thank you. Deputy Administrator with the Division of Human Resource Management. LCB File #R123-19 is intended to bring NAC 284.650, which is Causes for Disciplinary Action, into alignment with NRS 202.3673. The regulation amendment was initiated by two employees petitioning for an amendment and so we responded to that petition and set it for a workshop; workshop revisions are in your binder. We went through the process of that and submitted it to the Legislative Counsel Bureau for pre-adoption review, and they came back with an additional regulation in section 1 of the LCB File to set out into regulation the requirement that employees who are permitted to carry a concealed firearm in the public building where they work, they are required to notify their appointing authority to do so. That portion will be in regulation, setting that

requirement out and in section 2 of the file in NAC 284.650, subsection that adds to causes for disciplinary to employee who are required notification pursuant to section 1 of the file. Taking in considering what the employees had to say and what the Division took from that and recommended to submitted to LCB Legal Division, what they came back with as far as the Division of Human Resource Management is concerned is appropriate for what the employees were requesting. I will be happy to answer any questions.

Chairperson Fox: Thank you. Asked the Commissioners for questions; hearing none, entertained a motion.

Motion: Moved to approve.
BY: Commissioner Olson
SECOND: Chairperson Fox
VOTE: 4 Aye, 1 Nay

VII. DISCUSSION AND APPROVAL OF PROPOSED EMERGENCY REGULATION CHANGES TO THE NEVADA ADMINISTRATIVE CODE, CHAPTER 284

Michelle Garton: Again, this is Michelle Garton, Deputy Administrator with the Division of Human Resource Management. This regulation is an emergency regulation based on Assembly Bill 3 of the 31st special legislative session. The regulation itself is intended to assist agencies and constituents with the Administration of furlough leave. So, employees are required to take furlough leave except for the few exceptions as outlined in the bill. The regulation will address things that happen on a regular basis in terms of administration of furlough. For example, when a new employee begins work, how it will affect them; a person who is on approved FMLA, how it may affect them. So, the regulation is intended to address the sentencing and is based on and is essentially identical, other than a couple small changes and references to this bill to other current date as the furlough regulations we've used in the past; the 2013-2015 and even prior to that. Its real similar and should be helpful for agencies to administer.

Chairperson Fox: Thank you. Asked the Commissioners for questions.

Commissioner Olson: I wonder if I may, referring to agenda item VI, I understood that section a section 1 would be taken as one vote and section 2 a separate vote. Was it intended of the chair to combine both of those into that vote?

Chairperson Fox: That was my intention. I will ask for somebody, probably the Deputy Attorney General to see if we have to go back to item VI.

Michelle Garton: Chair Fox, an LCB file may only be adopted or not adopted as a single file so those have to be all on item A as opposed to the section, in this instance. I would ask the same question, but I believe, the way it was voted on was appropriate.

Chairperson Fox: My intent was for the entire item that included section 1 and 2.

Peter Long: I believe Commissioner Olson in his motion, moved that LCB file #R123-19 be approved so unless the DAG disagrees, I think his motion covered that. Even though he specifically said section 1.

Ian Carr: Ian Carr, with the Deputy Attorney General's Office. I do agree with Peter and Michelle and the Commission that the vote taken encompassed all the items assumed within that section 6-A. The entirety of the LCB file number, as such the vote taken did comply with Nevada's open meeting law chapter NRS chapter 2.1, therefor I do agree. Thank you.

Chairperson Fox: Thank you for that clarification Commissioner Olson, but I believe our motion did encompass both section 1 and 2.

Commissioner Olson: Thank you, I'm sorry to interrupt, I just want to make sure we didn't have an issue with that.

Chairperson Fox: Item VII, specifically addressing furloughs. Asked the Commissioners for questions; hearing none, moved to approve.

MOTION: Move to approve.

BY: Chairperson Fox
SECOND: Commissioner Olson
VOTE: Vote was unanimous in favor of the motion.

VIII. DISCUSSION AND APPROVAL OF ADDITION OF CLASSES OR POSITIONS FOR PRE-EMPLOYMENT SCREENING FOR CONTROLLED SUBSTANCES

Chairperson Fox: We only have items VIII-A and the classes are for the Office of the Military. We will first hear from the Division.

Carrie Hughes: Good morning Madam Chair and Members of the Commission. My name is Carrie Hughes and I am a Personnel Analyst with the Division of Human Resource Management. The State of Nevada Office of the Military is requesting the addition of the requirement of pre-employment screening for controlled substances for the positions listed in agenda item VIII. The Office of the Military has outlined various reasons for identifying these positions for pre-employment screening for controlled substances in their request. NRS 284.4066 indicates that the basis for determining whether a position should be approved for pre-employment screening for controlled substances is whether a position "affects the public safety". For this reason, the most notable basis for these positions is that the incumbents will have contact with 16 to 18-year-old youths at a residential academy and may be required to transport the youths in a motor vehicle. The Office of the Military has indicated that a representative would be available to answer questions. Thank you for your consideration of this item.

Chairperson Fox: Asked for questions from the Commissioners.

Commissioner Spurlock: I would like clarification, I have always been struggling with the drug testing, as you know, I've brought these up frequently as these meetings but I believe it's kind of a test everybody or have really fair criteria on the testing otherwise. I just want to be sure, on the agencies basis for request, I can understand once you get into the potentially driving, I can see it passing a threshold but I would like to hear from somebody otherwise; is contact with, in and of itself, somebody under 18 years old, whether it's a citizen or like an hourly worker, does contact in and of itself allow for contact with a minor allow for drug testing. I'm thinking with something more with local agencies that have, like a parks and recreation building or a community center, where the person comes in for a class. I'm thinking at a state-level, does the state kind of assume that any contact with a minor warrant drug testing?

Peter Long: Mr. Spurlock, this is Peter Long. Not necessarily and I'll certainly defer to the representative from the office; is that a youth challenge program is dealing with strictly at-risk youth and so that's part of what their request is based on.

Commissioner Spurlock: When it comes to this particular action today, based on what you just said about at-risk youth and potential all of these to drive, I have no problem with it at all. I don't mean to keep pushing you guys on that but I'm kind of wondering when fresh criteria are being used. I have no problems with this one today and thank you for the clarification.

Peter Long: Absolutely.

Chairperson Fox: Asked for questions; hearing none, entertained a motion.

MOTION: Move to approve.
BY: Commissioner Hurley
SECOND: Chairperson Fox
VOTE: Vote was unanimous in favor of the motion.

IX. DISCUSSION AND APPROVAL OF PROPOSED CLASS SPECIFICATION MAINTENANCE REVIEW OF CLASSES RECOMMENDED FOR REVISIONS

Chairperson Fox: I think we can hear all of the classes and then entertain a motion.

Heather Dapice: Good Morning Madam Chair and members of the Commission. For the record, my name is Heather Dapice, Supervisory Personnel Analyst with the Division of Human Resource Management, Classification Unit. As part of the Biennial Class Specification Maintenance Review Process, I am here to present for your approval this date item 9-A-1-a on the agenda.

The Chief, Hydrology Section; from the Engineering & Allied Occupational group, sub-group Environmental & Land Use Services. In consultation with Subject Matter Experts from the Division of Water Resources and Analysts within the Division of Human Resource Management, it was determined that the Series Concept met current expectations and no changes were required at this time; however, minor changes were made to the Minimum Qualifications, Education & Experience section to maintain consistency with formatting and structure. I will now turn this item over to Analyst Patty Kreymborg to present item 9-B-1-a on the agenda.

Patricia Kreymborg: Good morning Madam Chair and members of the Commission. For the record, my name is Patricia Kreymborg, Personnel Analyst with the Division of Human Resource Management, Classification Unit. As part of the Biennial Class Specification Review Process, I am here to present for your approval, this date, recommended changes to the Mechanical & Construction Trade Occupational group, subgroup: Equipment Operator, Item 9-B-1-a on the agenda, Special Equipment Operator Series. In consultation with Subject Matter Experts from the Nevada Department of Transportation and Analysts within the Division of Human Resource Management, it was determined that the Series Concept and the Class Concepts are consistent with current expectations and no changes were required at this time; however, minor changes were made to the Minimum Qualifications/Informational Note to clarify that a commercial driver's license is required at the time of appointment and as a condition of continuing employment, at both special equipment Operator III and II levels and within six months of appointment at the I level. Additionally, a revision was made to clarify that positions at any level may require a certificate of training in operating a bridge inspection unit within twelve months of appointment. Minor changes were also made to maintain consistency with verbiage, formatting and structure. Supervisory Personnel Analyst Heather Dapice will now present Item 9-B-2-a on the agenda.

Heather Dapice: Again, for the record, my name is Heather Dapice, and I am presenting the recommended changes to the Mechanical & Construction trades occupational group; sub-group Equipment Management, Maintenance & Repair, for the Fleet Service Work series. This is item 9-B-2-a on the agenda. As part of the Class Specification Maintenance Review process, and upon review by Subject Matter Experts from The Department of Transportation (NDOT), and the Department of Administration (DOA), Fleet Services Division, it was determined that the Class Concepts and Minimum Qualifications for the Fleet Service Worker series are consistent with current expectations and do not require revisions at this time. It is recommended that minor revisions be made to the Education and Experience section of the Minimum Qualifications at all levels to maintain consistency with verbiage, formatting, and structure. Moving on to Item 9-B-3-a and 3-b on the agenda, The Painter and Plumber Class Specifications from the Occupational Group Mechanical & Construction Trades, Skilled Trades & Allied sub- group. Beginning with item 9-B-3-a, the Painter Series. As part of the Biennial Class Specification Maintenance Review process and in consultation with Subject Matter Experts from various agencies that utilize this series, and Analysts within the Division of Human Resource Management, it is recommended that revisions be made to the Series and Class Concepts and Minimum Qualifications to clarify respective duties and to maintain consistency with verbiage, formatting and structure. Moving on to item 9-B-3-b, the Plumber series. As part of the Biennial Class Specification Maintenance Review process and in consultation with Subject Matter Experts from multiple agencies that utilize this series and analysts within the Division of Human Resource Management, it is recommended that changes be made to the Series and Class Concepts and Minimum Qualifications to update occupational language, clarify respective duties, reflect current methods and practices being utilized, and to maintain consistency with verbiage, formatting, and structure. In addition, a third functional area was added to the Plumber II class concept to account for duties and responsibilities related to overseeing a large agency's backflow program. Furthermore, the licensing requirement related to this program area was added to the Special Requirements. Thank you, we will be happy to answer any questions you may have.

Chairperson Fox: Thank you so much. Asked the Commissioners for questions; hearing none, moved to hear a motion.

MOTION: Move to approve.

BY: Commissioner Olson

SECOND: Commissioner Hurley

VOTE: Vote was unanimous in favor of the motion.

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

The following items were posted for at least 20 working days. No written objections were received by the Administrator before the end of the posting period; therefore, the changes automatically went into effect.

Posting #26-20

XI. DISCUSSION AND ANNOUNCEMENT OF DATES FOR UPCOMING MEETINGS. NEXT MEETING SCHEDULED FOR MARCH 19, 2021

Chairperson Fox: We are scheduled for March 19th, 2021, the next meeting would then be in June. I think Peter, you had suggested mid-month.

Peter Long: Yes, the optimal date for the Division would be June 18th. Second request, if that's not good for the commissioners, would be June 11th. There is a potential that we would have to make some regulation changes or present new regulations on an emergency basis based on when session ends at the beginning of June. The 18th would give us time to review everything and resolve discussion and still get everything approved and over to the Governor's office if it was an emergency regulation. The 25th would really put a prime being approved if necessary by July 1st on the governor's office, the 11th might not give us enough time to review everything but we would commit that we would get it all reviewed on the 11th but the 18th would be preferable.

Chairperson Fox: Okay, well, I'm available on the 18th.

Commissioners: All agreed that the 18th would be okay.

Chairperson Fox: June 18th, 2021 and remain hopeful that we can meet in person.

XII. COMMISSION COMMENTS

Commissioner Spurlock: Chair Fox, I just want to make a reference, either the DAG or Peter might want to instruct the person typing up the minutes, when we go back to items 4 and 5, when Peter corrected Chair Fox that we had skipped item V, probably one and the same. I had remembered that Chair Fox had referred to item IV as item V. So, the person typing up the minutes may want to report that.

Chairperson Fox: Thank you for that clarification. I apologize to the person that is doing these minutes that it might be a little difficult.

Missy Stanford: No worries, it's no issue.

Commissioner Maloney: I just want to wish everybody a happy and peaceful holiday season in these trying times it's been an honor to ride with you this last year and looking forward to riding with you in the future; in-person or virtually.

Chairperson Fox: I think it goes without saying how difficult this has been and I do thank the Commission and Division and the agencies for being able to muddle through all of this with the level of professionalism that I have noticed.

Commissioner Olson: Thank you madam chair for your leadership, again, this has been difficult but your steady hand on the chair is way helpful.

Chairperson Fox: Thank you for saying that, Commissioner Olson.

XIII. PUBLIC COMMENT

Chairperson Fox: Called for public comment; hearing none, moved on.

XIV. ADJOURNMENT

Chairperson Fox: Before we adjourn, happy holidays to all of you. I hope you enjoy a very healthy and safe holiday season.

Michelle Garton: Did you pass the public comment?

Chairperson Fox: No, I didn't but I'll go back. Is there anyone wishing to provide public comment at this time? Hearing none. Move to item XIV. Adjourned and thanked everyone.