

**STATE OF NEVADA
PERSONNEL COMMISSION**

Carson City at the Legislative Building, Room 4100, 401 South Carson Street, and in Las Vegas at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue via videoconferencing

**MEETING MINUTES (Subject to Commission Approval)
Friday, May 21, 2010**

**COMMISSIONERS PRESENT
IN CARSON CITY:**

Ms. Katherine Fox, Chairperson
Mr. David Read, Commissioner
Mr. Mitch Brust, Commissioner

**STAFF PRESENT IN
CARSON CITY:**

Ms. Christine Munro, Deputy Attorney General
Ms. Shelley Blotter, Division Administrator, Department of Personnel
Mr. Mark Evans, Supervising Personnel Analyst, Department of Personnel
Mr. Peter Long, Division Administrator, Department of Personnel

**COMMISSIONERS PRESENT
IN LAS VEGAS:**

Ms. Daryl Ann Moore, Commissioner
Mr. David Sánchez, Commissioner

**STAFF PRESENT
IN LAS VEGAS:**

Ms. Teresa J. Thienhaus, Director, Department of Personnel
Mr. Mark Anastas, Division Administrator, Department of Personnel

I. OPEN MEETING

Chairperson Katherine Fox opened the meeting at 9:02 A.M. There was a roll call and introductions by staff.

II. *ADOPTION OF THE AGENDA

Commissioner Brust: asked for agenda item IV to be moved to after agenda item V.

MOTION: Move to change item IV, Approval of the proposed Personnel Commission Hearing Officer Rules and Procedures down to follow item V and Approval of Proposed Regulations.

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BY: Commissioner Brust
SECOND: Commissioner Read
VOTE: The vote was unanimous in favor of the motion.

Chairperson Fox explained why the reorder was necessary; item V. B, Hearing Officer Regulations, which have to do with the Hearing Officer process in item number IV.

Director Thienhaus gave notice Appellant (Item VIII.) had arrived and was present.

Commissioner Read: asked for item number VIII be moved after item number III.

MOTION: Move to change agenda item VIII, Individual Classification Appeal, Calvin Lemon to be heard immediately after agenda item III.
BY: Commissioner Read
SECOND: Commissioner Moore
VOTE: The vote was unanimous in favor of the motion.

Commissioner Read: asked if the agenda then needed to be adopted and the following motion was made.

MOTION: Move to adopt the agenda as amended.
BY: Commissioner Read
SECOND: Commissioner Brust
VOTE: The vote was unanimous in favor of the motion.

III. *ADOPTION OF MINUTES OF PREVIOUS MEETING

Commissioners Brust and Chairman Fox asked that the adoption of the minutes be separated; due to Commission members' needing to recuse themselves from the voting process.

March 12, 2010

MOTION: Move to adopt the minutes of previous meeting dated March 12, 2010.
BY: Commissioner Read
SECOND: Commissioner Sánchez
Commissioner Brust recused himself and abstained from the vote and discussion.
VOTE: The motion was passed.

March 31, 2010

MOTION: Move to adopt the minutes of previous meeting dated March 31, 2010.
BY: Commissioner Read
SECOND: Commissioner Brust
VOTE: The vote was unanimous in favor of the motion.

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IV. INDIVIDUAL CLASSIFICATION APPEAL (Previously agenda Item VIII)

Calvin Lemon, Facilities Manager
College of Southern Nevada

Commissioner Sánchez: Recusal from any discussion or negotiation in regard to this item due to his employment at College of Southern Nevada.

Chairperson Fox: Requested the appellant spend 10 and no more than 15 minutes to explain to the commission the basis of his appeal, and then the Department of Personnel will then present their findings.

John Tofano, representing the appellant, Calvin Lemon: Thanked the commission for continuing this matter due to his illness on the date it was originally scheduled to be heard. He asked for clarification in regard to notifications by the commission to the appellant.

Chairperson Fox: interrupted Mr. Tofano, and requested he refer to communications with his client in regard to instructions given Mr. Lemon at the previous Commission meeting and asked the other Commissioners if she was clear in her instructions to the appellant.

Mr. Tofano: indicated he was unfamiliar with the Personnel Commission procedures and said that Mr. Lemon did notify him. He asked Mr. Lemon to address the commission.

Mr. Lemon: Here to appeal his reclassification from Facility Manager to Construction Coordinator I. "On July 13, 2007, state investigators raided the office of Planning Operations, Maintenance and Facilities at the Cheyenne Campus. At that time I was the Facility Manager for the largest campus of College of Southern Nevada (CSN) which encompassed 80 acres and now has an over 650,000 square feet. In addition to the largest campus I also oversaw off sites that added 70,000 more square feet. The staff I was responsible for was 40-50 employees, which was during the time period of December 2006 through mid December 2008. During that time I was never officially evaluated by my supervisor, Brad Jensen, who reported to Sherry Payne for most of the two years that I was manager at the West Charleston campus".

"The result of that raid that I just mentioned has led to four of my former direct co-workers and supervisors, during the last 17 years, being placed on administrative leave some one and a half years ago. All four former employees have felony charges ranging from theft, obtaining money or property by false pretense, misconduct of public officers, etc. pending in the courts at this time".

"I believe my affiliation and direct working relationship with these individuals tainted my reputation and credibility with my current superiors...."

Chairperson Fox: interrupted Mr. Lemon. She stated, "The role of the commission is narrowly defined by statute and Nevada Administrative Code, and that has to do with your classification appeal". She reminded Mr. Lemon that the Personnel Commission has a limited scope here and "what you have presented so far, if you feel it is factual in terms of us being able to evaluate your classification appeal, then so be it, but I do need to caution you."

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Christine Munro, Deputy Attorney General: Added for the record, “this appeal is on the reclassification issue only, and she instructed the board to deal with that issue in and of itself because that is the only jurisdiction they have to deal with”.

Mr. Tofano: Asked that his client be able to continue presenting a factual background to (the Commissioners) to better understand the context in which this classification took place, and this is how he has elected to use his time.

Mr. Lemon: Continuing, “With my current superiors, along with never being questioned or charged by the Attorney General’s office, is why I was reclassified or demoted to Construction Coordinator I position. My position as Facility Manager was carved into variable pieces for other employees to absorb; for example, there is now a Plumber III that supervises seven (7) maintenance workers and specialists that I once supervised. This position did not exist until October 2009. Before that, Allen Berndsen was given the responsibility once I was moved. Allen was doing a portion of what I do now before the restructure. The litany of new hires and upgrades stated in email, marked exhibit 12 from my submitted packages, is in direct conflict with budget situation one and a half years ago, as noted in the restructure minutes, item 17 in the HR package. One of these classified employees that I just mentioned, Mr. George Cassell, as of July 2009, has returned to work in my department while still awaiting trial on felony charges. Mr. Cassell also was reclassified to a lower position, from grade 35 Building Construction Inspector to the same as I, Construction Coordinator I, both a Grade 33. Both of our positions came into question via the email marked exhibit 15, from HR dated June 30th, 2009, well over 6 months after I was moved to the side. The old positions were Building Inspector II and Facility Manager, but the email fails to mention is the status of the only other Facility Manager in CSN, Mathew Goings, who, at the time was on administrative leave and facing 13 counts of felony charges. When asked by me about his status, he stated emphatically no to the question of being re-classed.

Why the re-class of only one facility manager and not the other? When exhibit 17 from HR package plainly states that the manager roles are to go away. These moves were done with a so called desk audit of my position. Not one individual came to my desk during my 2 and half year tenure as manager to audit my position. I have been a part of two desk audits with Diane Raubaugh, a former HR Employee, so I am aware of how the audit process is to transpire. The process was altered and side stepped for me. Along the lines of the other employees, one custodial supervisor has, Wendell, has resigned in frustration since I was moved. One maintenance specialist, Norman Cata has stepped down seven steps to an 8 position out of frustration, and another specialist, Rudy Dow has asked for a transfer to the HVAC department since I was moved. Once, a very smooth crew is now a wash in disarray. My first job duty assigned to me, on December 17, 2008, the day after I was moved out of my office, was to move trash and old machine equipment from the bone yard, the archived equipment and trash holding spot, into a large recycle bin, which was to be picked up at a later date. The office I occupied was not afforded to me between the dates of early 2006 through mid August of 2007. My desk, for that time, was located in the metal storage building and shop area where there was no privacy, and during the hottest months of the year, and no air conditioning made it quite a challenge, that I found, to be successful. A challenge I never witnessed any other manager of a

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40+ person staff have to encounter. Once I emptied my office, it became a satellite office for Allen Berndsen, a construction manager, who had been employed at the college for approximately less than two years as a professional on contract. As I previously stated, Allen was given a 15 man maintenance crew, seven that I had overseen during the time frame of July 2006 through December 2006. From January 1-11th I was given no specific job assignment via email, phone call or work order. For nearly 2 weeks there was no direct or indirect contact with me from my supervisor as to any job to be performed whatsoever. On January 12th, I was advised to purchase a door and frame for the new vet lab at Charleston. This took about four hours of labor time. Other duties assigned to me during January 2009 through August 2009, was to assist locksmith for 8 hours a week: 4 hours on Tuesday and 4 hours on Thursday. The trash moving and locksmith assistant duties I just mentioned are not in the class concept series of the Construction Coordinator I. I was also instructed to buy some materials for two small remodels at the Cheyenne Campus. The remodel assignments totaled approximately 40 labor hours. Additional duties assigned to me was to hire 3 Manpower employees, obtain a large forklift for me to operate and clear out the storage yard which housed archived equipment and to also clear out most of the 40 foot metal storage bin that housed various building materials. This particular job was conducted from February 2009 through July 28, 2009, with this July being the 5th hottest on record in Clark County. The total labor hours were approximately 4 to 5 weeks. I was told there was no one else to do this job and I did it well.

Technically, my assigned duties were approximately ones that did not fit into the class concept series of Manager, Coordinator I or Coordinator III. I stayed at Coordinator III because I was advised by Luis Tristan in 2009 that that position was there for me to laterally move over to. Eight months later this was the farthest from the truth as I was advised and presented with the Coordinator I position and told I have to re-earn the grade 37. If the grade 37 trial period was between January 2009 and August 2009 it is no wonder I was not moved laterally. The jobs I was assigned and completed did not fit into the III position, nor did it meet the Coordinator I position, in fact it was a no where position. The NPD 19 was presented to me some eight months after I was told to evacuate my office. This presentation came right after I questioned the downward re-class and started quoting, via memo, the NRS and NAC. The NPD 19 was also not time stamped from Human Resources, as all other documents of this sort are time stamped. Other various jobs that I completed were to take certain measurements of certain areas for carpet replacement and loading of carpet for installation in the office complex and the auditorium at the Cheyenne campus. These jobs took approximately 40 labor hours time. Thank you.

Chairman Fox: Asked if the Commissioners had questions for Mr. Lemon.

Commissioner Moore: Asked to hear from the Department of Personnel first.

John Mueller, Executive Director of Human Resources, College of Southern Nevada:
Mr. Mueller identified Mr. John Scarborough, Human Resources-Director of Administrative Operations, as the individual that conducted the classification analysis for Mr. Lemon's position as well as Mr. Luis Tristan, CSN Facilities Management, Director of Construction, Mr. Lemon's immediate supervisor. His brief remarks emphasized the numerous times Mr. Lemon was informed he is entitled to retain rate of pay for four years, due to the downward reclassification of his position. He stated for the record, "The effective date of the reclassification to

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Construction Project Coordinator is September 1, 2009, as specified by Mr. Scarborough in his email to Mr. Lemon dated August 25, 2009.”

Mr. Mueller continued, “It is the prerogative of management to change, modify or adjust position duties for classified staff at any time. If significant change occurs to the duties of a classified position and it is subsequently reclassified downward in grade, the affected employee is entitled to retain rate of pay pursuant to NAC regulations”. He stated this is exactly what has happened in this case, and NAC clearly precluded immediate decreases in salary for classified staff as a result of downward reclassification based on classification reviews requested and initiated by management. Mr. Mueller indicated they are in compliance with NAC regulations as it relates to this case.

Mr. Mueller shared that Mr. Lemon could have been laid off, but management saw his value as an employee and elected to find other duties to retain him. He described the types of tasks performed post reclassification and how they differed from his previous duties as Facility Manager, primarily, he no longer supervises staff. Mr. Mueller stated “Responsibility for coordinating major construction projects for CSN is performed by ‘Professional’ level staff in our Finance and Facilities division.” He defined the differences between Construction Coordinator I, Construction Coordinator II, and how Construction Coordinator III requires coordination of statewide projects, which does not exist at CSN.

Mr. Mueller indicated there is another employee at CSN that is classified as Construction Coordinator I and this is the appropriate classification for him based on his duties.

Finally, Mr. Mueller stated, the college has no employees in the Facilities Manager or Facilities Supervisor job classifications.

He then respectfully requested that the commission deny this appeal and asked Mr. Scarborough to comment on some of the assertions Mr. Lemon made.

John Scarborough, Human Resources-Director of Administrative Operations: Began by sharing that he was the individual that performed the reclassification study for Mr. Lemon’s position. He continued, in 2008 CSN began a significant restructure of its operations resulting in the phasing out of Facilities Manager and Facilities Supervisor positions. The department sought ways to avoid layoffs and investigated possibilities for the replacement of personnel, including Mr. Lemon who had previously been assigned to one of the phased out positions and reclassified him to Construction Project Coordinator I, submitted the NPD-19 and revised Work Performance Standards. He was interviewed by Ms. Sherry Payne and Mr. Luis Tristan. Mr. Scarborough cited the differences between the three levels of Construction Project Coordinator and identified the NPD-19 submitted by the department. The major purpose of this position is “Under direction, perform the coordination of construction projects such as office remodeling or minor building structures and 60% of the job duties are to perform a variety of building construction coordination and inspection work on remodeling projects for minor building structures. He added the Work Performance Standards list the same duties. He then listed the duties Mr. Lemon does not have, which do not comport with the concepts associated with Construction Project

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Coordinator II or III class. Mr. Scarborough then respectfully requested that this appeal be denied.

Chairperson Fox: then asked if the Commissioners had questions for the appellant or the Department of Personnel.

Commissioner Brust: Asked Mr. Lemon if he is currently performing the duties on the NPD-19?

Mr. Lemon: answered in the affirmative, stating “I did what I was told to do.”

Commissioner Moore: Asked if he was doing anything beyond the scope of his current classification? Mr. Lemon stated, “The classification was nine months later. Nine months after I was moved out of my office.”

Mr. Tofano: Indicated the timeline is very peculiar and is part of the problem with the way this has been handled. He states Mr. Lemon was not meeting ‘any’ of the class concepts for any of these positions. He suggests the intention of his supervisors was to create a situation at the workplace which would have led him to leave his job. He went on to suggest that information was not provided Mr. Lemon in a timely manner. He indicated this is not a salary issue, but about the reclassification of Mr. Lemon and the circumstances surrounding it. He continued the decision to reclassify Mr. Lemon was made prior to the study of Mr. Lemon’s position and predates the signing of the NPD-19 by Patty Carlton. He concluded the documentation, timeframes, and the tasks he was performing just don’t stack up. He suggests the reclassification was a subterfuge to demote Mr. Lemon and cited prior case law.

MOTION: Move to deny the individual classification appeal of Mr. Lemon.
BY: Commissioner Read
SECOND: Commissioner Brust
VOTE: Motion passes, with Commissioner Sánchez abstaining.

V. *APPROVAL OF PROPOSED REGULATION CHANGES TO NEVADA ADMINISTRATIVE CODE, CHAPTER 284

A. LCB File No. R187-09

- Sec. 1 LCB R080-09 Unpaid furlough leave
- Sec. 2 LCB R080-09 Expiration of regulation

Mark Evans, Supervisory Personnel Analyst-Department of Personnel: Stated these changes address furlough requirement for ‘other than classified employees’ and offers more guidance on how furloughs for these employees should be handled. This will help ensure that furloughs are administered equitably for all employees. This is in response to concerns stated by the Legislative Commission when the furlough regulation was initially approved. They wanted to ensure that all State employees, not just classified employees were taking furloughs. He added, this change also adds an expiration date for the furlough regulation of June 30, 2011, which is

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when furloughs are scheduled to end. This will eliminate the need to go through the process to repeal the regulation. Mr. Evans then asked if there were any questions. There were none.

Chairperson Fox: Requested that these items labeled A, B and C, be voted on separately and the Commissioners concurred.

MOTION: Move to approve the proposed regulation changes to Nevada Administrative Code, Chapter 284, LCB File No. R187-09
Sec. 1 LCB R080-09 Unpaid furlough leave, Sec. 2 LCB R080-09
Expiration of regulation
BY: Commissioner Read
SECOND: Commissioner Sánchez
VOTE: The vote was unanimous in favor of the motion.

B. LCB File No. R192-09

Sec. 1 New section Assignment of Hearing Officer
Sec. 2 NAC 284.774 Scope
Sec. 3 NAC 284.778 Request for hearing and other communications
Sec. 4 NAC 284.786 Continuances

Amy Davey, Personnel Analyst, Department of Personnel: LCB File No. R 192-09 proposes to establish new procedures for the assignment of Hearing Officers and clarify responsibilities of Hearing Officers and parties when an employee has filed an appeal of a dismissal, suspension, demotion, involuntary transfer, or a “Whistle Blower” complaint. The regulations are intended to promote timeliness and address concerns of potential bias.

She then asked the Commissioners if they would like to hear the proposed regulations individually or as a group. Chairperson requested they be heard individually.

Ms. Davey continued, Section 1 proposed by the Department of Personnel describes the method for the assignment of a Hearing Officer. The intent of these regulations is to establish a process whereby both parties in an appeal, participate in the selection of a Hearing Officer. This process is modeled after court mandated arbitration programs.

Ms. Davey continued. Section 2 amends language contained in NAC 284.774 to establish that Hearing Officers must use procedures provided by the Department of Personnel. These procedures will be presented to you shortly. A Hearing Officer may adopt supplementary procedures that are not inconsistent with those provided by the Department and must make them available in writing to all parties in advance of the hearing.

The language proposed in section 3 for NAC 284.778 describes prohibited communication between parties in an appeal and a Hearing Officer and specifies that any communication be provided to the Hearing Clerk of the Department of Personnel. For purposes of clarity in the proposed language, staff requests that you amend the word “sent” in paragraph 2 to “copied”.

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Section 4 describes the conditions under which a continuance of a hearing shall be granted, the process for requesting or contesting a continuance and how notifications of a continuance is provided to the parties involved.

Ms. Davey asked for questions or comments after each section was introduced. With no questions or comments, Chairperson Fox asked her to continue with each section.

Shelley Blotter indicated that these regulations would become effective on July 1, 2010.

MOTION: Move to the approval of Item V. B, LCB File No. R192-09, Section 1, Assignment of Hearing Officers, Sec. 2 NAC 284.774 Scope, Sec. 3 NAC 284.778 Request for hearing and other communications and include the change of the word ‘sent’ to ‘copied’, Sec. 4 NAC 284.786 Continuances.
BY: Commissioner Read
SECOND: Commissioner Sánchez
VOTE: The vote was unanimous in favor of the motion

C. LCB File No. R055-10

Carrie Hughes, Personnel Analyst, Department of Personnel: Addressed several regulation changes pertaining to Title II, of the Genetic Information Nondiscrimination Act of 2008, a.k.a. GINA, which became effective on November 21, 2009. She then asked the Commissioners if they preferred to hear as a group or individually.

Chairperson Fox asked that they be presented individually, and Ms. Hughes proceeded as follows:

Sec. 1 New Section “Genetic Information” defined. This regulation will provide a definition for the term “genetic information” as used in Nevada Administrative Code 284 and is consistent with the definition in the Genetic Information Nondiscrimination Act of 2008. This new regulation was proposed by the Legislative Counsel Bureau and is supported by the Department of Personnel. She then asked for questions. With no questions, Ms. Hughes was asked to proceed to Section 2.

Ms. Hughes continued Sec. 2 NAC 284.114 Affirmative action program and equal employment opportunity, proposes a permanent amendment to NAC 284.114 and adds genetic information to the list of items included in the provision for equal employment opportunity as required by the Genetic Information Nondiscrimination Act of 2008. She then asked for questions. With no questions, Ms. Hughes was asked to proceed to Section 3.

Ms. Hughes continued Sec. 3 NAC 284.718 Confidential records, proposes a permanent amendment to NAC 284.718 which would add genetic information to the list of items that are considered confidential records as required by the Genetic Information Nondiscrimination Act of 2008. She then asked for questions. With no questions, Chairperson Fox entertained a motion.

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MOTION: Move to approve LCB File No. R055-10. Genetic information defined Affirmative action program and equal employment opportunity, and confidential records.
BY: Commissioner Brust
SECOND: Commission Read
VOTE: The vote was unanimous in favor of the motion

VI. *APPROVAL OF PROPOSED NEVADA PERSONNEL COMMISSION HEARING OFFICER RULES OF PROCEDURE (Previously agenda item IV)

Amy Davey, Personnel Analyst, Employee & Management Services, Department of Personnel, presented for consideration by the commission the Hearing Officer Rules of Procedure. She shared; these procedures will guide and govern Hearing Officers appointed by the Personnel Commission when conducting appeals for employee dismissals, suspensions, demotions, involuntary transfers or whistleblower allegations. We have conducted extensive research and study of existing practices and the administrative law processes used to conduct similar hearings by States such as Illinois, North Carolina and Texas in the development of these procedures. Principles from the Nevada Administrative Procedure Act, Nevada Supreme Court Rules Governing Alternative Dispute Resolution and the Nevada Rules of Civil Procedure were considered and incorporated where appropriate. We expect these procedures to provide consistency and efficiency and to promote equitable treatment for those involved in appeal hearings. If approved, these Rules of Procedure will be provided to all Hearing Officers at an upcoming Hearing Officer orientation. She then asked for questions or comments.

Chairperson Fox: Identified a correction in item 2.2 and suggested the word ‘provided’ should read ‘provide’. Ms. Davey indicated the error would be corrected. Also, Chairperson Fox clarified the intent of Item 2.3, the setting of cases, to schedule the hearing within 20 days after receipt of the request to conduct a hearing and affirmed by Ms. Davey. She went on to clarify that the Hearing Officers are to hear appeals related to dismissals, suspensions, demotions, and involuntary transfers and hearings related to claims of reprisal or retaliatory action for disclosing improper governmental action, more commonly known as ‘Whistleblower’. Again, Ms. Davey affirmed this statement. Chairperson Fox requested public comment.

Catherine Thayer, Deputy Attorney General, representing the Department of Transportation: had a comment regarding Item 2.3 suggesting it was a bit ambiguous. She requested clarification and asked if the hearing would take place in 20 working days or just be scheduled in 20 working days and cited in Item 2.3 ‘...in the case of conflict, the hearing must be scheduled for the earliest possible date’ seems to support that we are going to try and schedule it (a hearing) within the 20 days.

Mr. Evans: stated that his understanding is that appeals and grievances that go before the EMC is that they are scheduled within the 20 days, meaning a date would be set. He continued, not that the hearing is actually held in 20 days.

Chairperson Fox: clarified; that the Department of Personnel that Item 2.3 to mean that the hearing is ‘scheduled’ within 20 days, and does not necessarily occur in 20 days. Ms. Thayer

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asked if the last sentence "...in the case of conflict, the hearing must be scheduled for the earliest possible date", should be changed?

Mr. Evans: indicated the word 'Scheduled' does create confusion, and part of the reason for this Strike method is to schedule hearings in a timely basis.

Commissioner Brust: suggested changing the last sentence to "The hearing must be scheduled for the earliest possible date", and was reiterated by Chairperson Fox.

Chairperson Fox: asked for questions from the south.

Dan Hussey, Hearing Officer: Stated, when he first became a Hearing Officer, it was his practice to send out letters scheduling the hearing 3 weeks from the date that he received the file. He indicated invariable (100%) everyone asked for a continuance, which required him to go through that process again, suggesting that reasons people want more time than 20 day or 30 days. Mr. Hussey extended a compliment the person/persons that were involved in putting these rules together because they are comprehensive and good.

Commissioner Sánchez asked Mr. Hussey, being a Hearing Officer, if 30 days is ample time to render written decision. Mr. Hussey answered in the affirmative.

Kareen Master, Deputy Director, Department of Health and Human Services: Concurred with Ms. Thayer in regard to the wording, and suggested an employee's hearing be scheduled within 20 working days. She gave an example of an employee being terminated and not upheld, and the liability of back pay, suggesting the sooner a decision is rendered, the better. Chairperson Fox then entertained a motion.

MOTION: Move to approve Hearing Officer Rules of Procedures, amending Section 2.2, changing the word 'provided' to 'provide, amend Section 2.3, removing "in case of conflict", the last sentence to read "The hearing must be scheduled for the earliest possible date".

BY: Commissioner Brust

SECOND: Commissioner Read

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

Teresa Thienhaus: commended the Employee and Management Services Division, the group that worked on this, particularly Amy Davey, for putting these rules together and agreed with Hearing Officer Hussey.

VII. *PROPOSED CLASS SPECIFICATIONS

A. AG Investigator series

Mary Day, Classification Supervisor, Department of Personnel: presented the class specifications for the Attorney General Criminal Investigator Series for approval. She stated, Criminal investigators in the Attorney General's office conduct fraud investigations involving

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alleged violations of state and/or federal laws related to areas such as Medicaid fraud, workers' compensation fraud, consumer protection, and alleged offenses committed by state officers or employees.

In September of last year, the Department of Personnel was asked by chairpersons of the legislative money committees to conduct a study of the unclassified Criminal Investigators of The Attorney General's Office. More specifically, we were asked to determine whether the positions could be accommodated in an existing class series, or if a new class specification would have to be developed.

Following our review, it was determined that a new series would need to be created as no existing series fit the organizational structure and duties performed in the Attorney General's Office. Because the Legislature will have to approve funding for moving the positions to the classified service, we are asking that the commission approve the class series with an effective date of 7/1/11.

Ms. Day: brought to the attention of the commission the requirement for pre-employment drug screening for all positions in this series. You may wish to approve that in a separate motion, or include it in the motion to approve the class specifications. She noted Greg Smith; Chief Investigator from the office of the Attorney General was present to answer any questions.

Chairperson Fox: Read and reviewed for the Commissioners NRS 284.4066, then asked for questions. She then entertained a motion to include an effective date of July 1, 2011 and to specify the pre-employment drug testing.

MOTION: Move to approve the recommended changes to the AG Investigator Series, to be effective July 1, 2011, and includes the requirement for pre-employment drug testing.
BY: Commissioner Moore
SECOND: Commissioner Sánchez
VOTE: The vote was unanimous in favor of the motion.

Gregory Smith, Nevada Attorney General's Office: Thanked Mary Day, Brenda Harvey and Director Thienhaus for assistance in putting the paperwork together, and they were extremely helpful throughout.

B. Traffic Center Technician Series

Mary Day also presented the Traffic Center Technician series for approval, effective, May 21, 2010.

Positions in this series work in a regional traffic center that operates 24/7. The incumbents operate, control and conduct routine tests of traffic software, signs and devices; record and track data and prepare reports. They also deploy appropriate personnel to traffic incidents to ensure protection of the traveling public.

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We aligned this series with the Transportation Technician series with comparable grade levels based on the similarity of knowledge, skills and abilities required. The duties assigned to positions in the two series were sufficiently different to warrant a separate class series.

Again, Ms Day noted the requirement for pre-employment drug screening for all positions in this series. The Commission may wish to approve that in a separate motion, or include it in the motion to approve the class specifications. She noted there were several representatives of the Department of Transportation to answer any questions the commission may have.

With no public comment, Chairperson Fox entertained a motion.

MOTION: Move to approve the class series for Training Center Technician, effective May 21, 2010 to include the requirement for pre-employment drug testing.

BY: Commissioner Brust

SECOND: Commissioner Read

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

VIII. *APPROVAL OF OCCUPATIONAL GROUP STUDY REVISED CLASS SPECIFICATION

A. Education Occupational Group

1. Subgroup: Program & Planning

a. 5.210 - Administrator, Commission on Postsecondary Education

b. 5.227 - Postsecondary Education Specialist

Heather Dapice, Personnel Analyst, Department of Personnel, presented the class specification for the Administrator, Commission on Postsecondary Education and Postsecondary Education Specialist, to be effective today. She continued, working with a subject matter expert from the Commission on Postsecondary Education, the Department of Personnel recommends minor revisions to the duty statements and knowledge, skills and abilities of the Administrator class.

Under general direction of the Commission on Postsecondary Education, the Administrator provides leadership and plans, organizes and directs the agency to accomplish the goals of the commission. Upon review of the current class specification for the Administrator, it was determined that the requirements of NRS 369.625 were not addressed. This statute gives the Commission on Postsecondary Education the responsibility for the development and certification of alcoholic beverage awareness programs. At this time, the department recommends that the duty statement for this class be revised to reflect this responsibility. We also recommend that the knowledge, skills and abilities be updated to reflect the responsibilities of the position.

Ms. Dapice described the changes for Postsecondary Education Specialist: Working with a subject matter expert, the department of personnel recommends minor revisions to the minimum qualifications and knowledge, skills and abilities.

Under general supervision of the Administrator, the Postsecondary Education Specialists process licensure requests for non-degree granting postsecondary institutions and applications for

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veteran's benefits. They also approve, monitor and evaluate licensed institutions and investigate and resolve student complaints.

At this time the department recommends that the doctorate degree be removed from the minimum qualifications for education and experience. The agency has never recruited at this education level.

We also recommend that general knowledge of Veteran Administration rules and regulations be added at the entry level due to the complexity of the program and the responsibility the position has in processing and approving VA applications for veteran's benefits. Ms. Dapice respectfully requested the Commissioners approve this class specification, thanked the Commissioners and asked for questions.

Chairperson Fox asked for questions, hearing none, she entertained as motion.

MOTION: Move to approve the recommended changes for the classifications series for Administrator, Commission on Postsecondary Education and Postsecondary Education Specialist, effective May 21, 2010
BY: Commissioner Moore
SECOND: Commissioner Sánchez
VOTE: The vote was unanimous in favor of the motion.

B. Regulatory & Public Safety Occupational Group

1. Subgroup: Safety Inspections

- a. 11.540 – Safety Specialist, Railway – Tracks
- b. 11.541 – Safety Specialist, Railway – Motive Power
- c. 11.542 – Safety Specialist, Railway – Hazardous Materials
- d. 11.543 – Safety Specialist, Railway – Operating Practices

Rachel Baker, Personnel Analyst, Department of Personnel-Compensation & Classification: presented the revisions for the class specifications for the Safety Specialist railway options classes. She stated the existing class specification for the Safety Specialist series is long and cumbersome, so, in an attempt to avoid the confusion reported by applicants at the time of recruitment, the Department of Personnel is recommending the Safety Specialist series be separated into individual class specifications, and each option to be re-titled.

Although these classes are very similar, each discipline has some specific railway-related operations duties. Ms. Baker then asked if the commission would like to hear and vote on each one separately or vote on them as a group.

Commissioner Fox: asked they be presented as a group.

Ms. Baker continued. Working with a railway subject matter expert from the Public Utilities Commission, the Department of Personnel recommends minor revisions to the duty statements of each class.

Overall, Safety Specialists in the railway classes promote recognized safety practices among businesses covered by state and federal safety and health laws and regulations. Incumbents

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identify or train others to identify safety and health hazards and violations. They recommend reasonable and feasible means of abatement; research specific technology and industry applications; prepare written reports and make public presentations to promote knowledge of safety issues among the public and industry groups. Additionally, incumbents review and advise on changes in grade crossings and transportation; and maintain current knowledge of new technologies, standards, codes, rules and regulations. At this time, the department also recommends that the minimum qualifications and knowledge, skills and abilities be updated to reflect the type of certification and experience necessary. She then respectfully requested the commission approve these class specifications, to be effective today and asked for questions.

Chairperson Fox: asked about the minimum qualifications for the Tracks Class and noted that maintaining the Federal Railroad Administration Certificate as a Track Safety Inspector is required within one year of appointment and for continued employment. She continued, for Motive Power, the Certification is Motive Power and Equipment Inspector and for Hazardous Materials, Federal Railroad Administration Certification, Hazardous Materials Inspector within one year and for continued employment. The Operating Practices Inspector requires Federal Railway Administration Certification within one year and is required condition of continued employment.

Chairperson Fox: asked for questions, hearing none, she entertained as motion to include pre-employment drug testing for all class specifications.

MOTION: Move to approve of the specifications for Safety Specialist, Railway – Tracks; Safety Specialist, Railway – Motive Power; Safety Specialist, Railway – Hazardous Materials; Safety Specialist, Railway – Operating Practices and to include a requirement for pre-employment screening for banned substances to be effective May 21, 2010.

BY: Commissioner Sánchez

SECOND: Commissioner Read

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

IX. SPECIAL REPORTS

Director Thienhaus indicated that there were no reports, but at the September meeting, it will be addressed and presented related to items to the Governor’s executive order and upcoming Legislative session.

X. COMMENTS BY THE GENERAL PUBLIC- Action may not be taken on the matters considered during this period until specifically included on the agenda as an action item.

No one came forward for public comments.

XI. SUGGEST DATES FOR NEXT MEETING

- September 17, 2010
- Friday, December 10, 2010 was tentatively scheduled

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XII. *ADJOURNMENT

MOTION: Move to adjourn at 10:47 A.M.
BY: Commissioner Read
SECOND: Commissioner Moore
VOTE: The vote was unanimous in favor of the motion.