



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
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JOE LOMBARDO
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption and/or Amendment Of Regulations of the Commission on Peace Officer Standards and Training

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Comment Hearing at **8:00 a.m. on Thursday, October 26, 2023, at the Southpoint Hotel and Casino, 9777 Las Vegas Blvd., S., Napa Room B, Las Vegas, NV 89183.** The purpose of the hearing is to receive comments from all interested persons regarding the adoption and/or amendment of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

NAC289.200(4)(a) requires an officer to complete the physical fitness exam not later than 16 weeks after the first day of the officer’s basic academy. This proposed regulation (R006-23) will require the physical fitness exam to be completed during the academy, removing the 16-week requirement. This will allow for better conditioning of cadets without the additional pressure of the 16-week deadline, and will produce better, overall scores with less injuries. This will allow for retention of cadets that would have otherwise been dismissed as they have more time to get into top physical condition.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2023 and clicking the link: <https://www.leg.state.nv.us/Register/2023Register/R006-23P.pdf>, by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

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

(a) Both adverse and beneficial effects; and

(1) Adverse effects: None

(2) Beneficial effects: Retention of cadets/officers that would have been dismissed from the law enforcement academy due to physical fitness limitations. Less risk of injury to cadets in law enforcement academy because this allows for more time to be taken with conditioning and learning the benefits of physical fitness and lifetime fitness.

(b) Both immediate and long-term effects:

(1) The immediate effects: Retention of cadets in the law enforcement academy

(2) The long-term effects: Retention of cadets/officers that would have been dismissed from the academy because of failure to pass the physical fitness test within the 16 weeks, who, by the end of the law enforcement academy, can pass the test at certification level because they received the additional conditioning they needed. There will be less funds spent on new recruiting and backgrounds because they've been able to condition and train cadets throughout the academy, therefore retaining these officers who previously would have been dismissed.

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with certification provisions of the annual continuing education of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

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

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

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

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

N/A

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on October 12, 2023.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

This Notice of Intent to Act Upon Regulations and the proposed regulation will be on file at the State Library, Archives and Public Records Administrator, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and regulations to be adopted, amended or repealed will be available at the Commission on POST Administrative Offices, 5587 Wai Pai Shone Avenue, Carson City, 89701, State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us>, the POST web site at <http://post.nv.gov> and the State of Nevada Department of Administration website at <https://notice.nv.gov>.

Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The Notice of Intent to Act Upon Regulations and the proposed regulation have been sent to all criminal justice agencies on the Commission on POST Listserv list and posted at the following locations:

**Commission on POST Administrative Office
Carson City, NV 89701**

<http://post.nv.gov>

<http://notice.nv.gov>

<http://leg.state.nv.us>

NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Commission on POST, in writing, at 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701, or call Chief Kathy Floyd at (775) 687-7678, Extension 3335, no later than five working days prior to the meeting.

R006-23

**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

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

LCB File No. R006-23

July 17, 2023

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

AUTHORITY: § 1, NRS 289.510, as amended by section 7 of Senate Bill No. 225, chapter 422, Statutes of Nevada 2023, at page 2546, and section 1 of Senate Bill No. 323, chapter 158, Statutes of Nevada 2023, at page 839.

A REGULATION relating to peace officers; requiring certain peace officers to pass the state physical fitness examination during basic training; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing minimum standards for the certification, decertification, recruitment, selection and training of peace officers. (NRS 289.510, as amended by section 7 of Senate Bill No. 225, chapter 422, Statutes of Nevada 2023, at page 2546, and section 1 of Senate Bill No. 323, chapter 158, Statutes of Nevada 2023, at page 839)

Existing regulations require, with certain exceptions, a peace officer to pass the state physical fitness examination not later than 16 weeks after the first day of the officer’s basic training course. (NAC 289.200) This regulation requires, with certain exceptions, a peace officer to instead pass the state physical fitness examination during the officer’s basic training course.

FIRST
PARALLEL
SECTION

Section 1. NAC 289.200 is hereby amended to read as follows:

289.200 1. The Executive Director shall award a basic certificate to any peace officer who meets the minimum standards for appointment established pursuant to NAC 289.110 and has:

- (a) Satisfactorily completed the basic training course for basic certification;
- (b) Passed the state certification examination with a score of at least 70 percent; and
- (c) Passed the state physical fitness examination for the appropriate category of peace officer

as described in NAC 289.205.

2. The Executive Director may award a basic certificate to any peace officer who has been certified by the certifying entity of another state or has successfully completed a Federal Law Enforcement Training Centers of the United States Department of Homeland Security training program approved by the Commission and who meets the minimum standards for appointment established pursuant to NAC 289.110 if:

(a) The Commission or its designee has determined that the course of training required for the certification was at least equivalent to the basic training course for basic certification;

(b) The certification of the peace officer in the other jurisdiction has not been revoked or suspended;

(c) Not more than 60 months have lapsed since the peace officer was employed in the other jurisdiction;

(d) The peace officer has satisfactorily completed a training course that is approved by the Executive Director which consists of a minimum of 80 hours of training that satisfies the requirements established by the Commission pursuant to subsection 1 of NAC 289.300 in:

(1) Abuse of older persons;

(2) Child abuse and sexual abuse of a child;

(3) Civil liability;

(4) Classification and receiving of offenders;

(5) Constitutional law;

(6) Counter-terrorism and weapons of mass destruction;

(7) Crimes against persons;

(8) Crimes against property;

(9) Cultural awareness;

- (10) Domestic violence, stalking and aggravated stalking;
- (11) Ethics in law enforcement;
- (12) Fire safety and use of emergency equipment;
- (13) Games offenders play;
- (14) Gangs and cults;
- (15) Juvenile law;
- (16) Laws relating to arrest;
- (17) Laws relating to correctional institutions;
- (18) Laws relating to drugs, including, without limitation, current trends in drugs;
- (19) Miscellaneous crimes;
- (20) Modern correctional philosophy;
- (21) Probable cause;
- (22) Public and media relations;
- (23) Records of offenders in institutions;
- (24) Rights of victims;
- (25) Search and seizure;
- (26) Searches of offender institutions;
- (27) Supervision of offenders;
- (28) Training concerning active assailants; and
- (29) Use of force;

(e) The peace officer passes the state certification examination with a score of at least 70 percent; and

(f) The peace officer passes the state physical fitness examination for the appropriate category of peace officer as described in NAC 289.205.

3. The Executive Director may award a reserve basic certificate to any reserve officer who meets the minimum standards for appointment pursuant to NAC 289.110 and has:

- (a) Satisfactorily completed the basic training course for a reserve certificate;
- (b) Passed the state certification examination with a score of at least 70 percent; and
- (c) Passed the state physical fitness examination described in subsection 1 of NAC 289.205.

4. Except as otherwise provided in subsection 5 or 6, an officer must pass the state physical fitness examination:

(a) If the officer is not eligible for certification pursuant to subsection 2 or for the return of his or her certificate to active status pursuant to subsection 9, ~~not later than 16 weeks after the first day of~~ **during** the officer's basic training course certified or approved pursuant to NAC 289.300; or

(b) If the officer is eligible for certification pursuant to subsection 2 or for the return of his or her certificate to active status pursuant to subsection 9, not sooner than 30 days before the date on which the officer was hired and not later than 16 weeks after:

- (1) The date on which the officer was hired; or
- (2) If the officer is a reserve officer, the date of activation of his or her reserve status.

5. If a student enrolled in a basic training course certified or approved pursuant to NAC 289.300 sustains a bona fide physical injury that renders him or her incapable of completing the requirements of the state physical fitness examination, an agency may submit a request for an extension of time for the student to complete the examination. The agency shall submit such a request to the Executive Director. The request must include, without limitation, written

verification by a physician that the student is incapable of completing the requirements of the state physical fitness examination. If the Executive Director determines that an extension of time is warranted, the Executive Director shall authorize an extension of time for a period not to exceed 12 months after the date on which the student was hired or, if the student is a reserve officer, the date of activation of his or her reserve status.

6. If an officer passes the state physical fitness examination:

(a) While not enrolled in a basic training course certified or approved pursuant to NAC 289.300; and

(b) More than 16 weeks, but less than 12 months, after the date on which the officer was hired or, if the officer is a reserve officer, the date of activation of his or her reserve status, ↪ the employing agency of the officer may submit a request to the Executive Director to waive the requirements of subsection 4. The request must include, without limitation, the reason the officer was unable to pass the state physical fitness examination within the periods described in subsection 4. The Executive Director may, for good cause shown, grant a request submitted pursuant to this subsection.

7. Upon satisfactory completion of the requirements listed in subsection 1, 2 or 3, the employing agency shall submit a request for certification to the Executive Director. The request must include:

(a) The name, social security number and date of hire of the officer or, if the officer is a reserve officer, the date of activation of his or her reserve status;

(b) Documentary evidence that the officer has successfully completed an approved basic training course;

(c) Verification by the administrator of the agency that the officer meets the minimum standards established by this chapter; and

(d) The statement concerning child support prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520.

8. The basic certificate of an officer whose employment is terminated for any reason will be placed on inactive status. If such a person is again employed as a full-time peace officer, the employing agency shall request that the person's basic certificate be returned to active status. Except as otherwise provided in subsection 9, if the certification of such a person is on inactive status for more than 5 consecutive years, the person must renew his or her basic certificate by successfully completing the requirements set forth in subsection 1.

9. Upon the request of the employing agency, the Executive Director may return the basic certificate of a category I or category II peace officer to active status if the peace officer:

(a) Meets the minimum standards for appointment established pursuant to NAC 289.110;

(b) Successfully completes the requirements set forth in paragraphs (d), (e) and (f) of subsection 2; and

(c) Within 5 consecutive years of his or her termination of employment as a category I or category II peace officer, became a full-time employee of the Commission or a full-time law enforcement officer of a federal law enforcement agency approved by the Commission, and subsequently, within 5 consecutive years of his or her termination of employment with the Commission or federal law enforcement agency, as applicable, became employed as a peace officer in the same category of peace officer as he or she held immediately prior to his or her employment with the Commission or the federal law enforcement agency.

10. If a person who successfully completes a basic training course for the purpose of obtaining a basic certificate is not employed by an agency within 24 months after completing the course, the person must repeat all of the requirements for basic certification set forth in subsection 1.

11. Except as otherwise provided in this subsection, to satisfactorily complete a basic training course for the purposes of this section, the person must successfully complete all of the requirements in one course. If a person is discharged from a basic training course for any reason that is not disciplinary, the person may complete any remaining requirements in a later course provided by the same entity if the person has not previously been discharged from a course and if:

(a) The administrator of the basic training course recommends that the person complete the requirements in a later course, the administrator of the employing agency of the person requests that the person be allowed to complete the requirements in a later course and the Executive Director gives approval;

(b) The subsequent course is provided in a manner which ensures that the person completes all of the requirements for a basic training course for which the course is certified; and

(c) The subsequent course begins not later than 120 days after the discharge.