

POST

*** NOTICE OF PUBLIC MEETING ***

BOARD OF EXAMINERS

LOCATION: 2nd Floor Chambers of the Laxalt Building
401 N. Carson Street
Carson City, Nevada 89701

VIDEOCONFERENCE: Grant Sawyer State Office Building
555 E. Washington Avenue, Ste. 5100
Las Vegas, Nevada 89101

DATE AND TIME: August 9, 2016 at 10:00 a.m.

Below is an agenda of all items to be considered. **Action will be taken on items preceded by an asterisk (*).** Items on the agenda may be taken out of the order presented, items may be combined for consideration by the public body, and items may be pulled or removed from the agenda at any time at the discretion of the Chairperson.

PENDING BOE AGENDA ITEM

1. PUBLIC COMMENTS

***2. FOR POSSIBLE ACTION – SAM CHANGES**

The Board of Examiners approves additions and revisions to the State Administrative Manual (SAM). Interested parties that wish to provide written comment to BOE for consideration of the proposed action must submit them by mail to:

209 E Musser St
Room 200
Carson City, NV 89701

or online through <http://budget.nv.gov/Feedback/> no later than 5 working days before the proposed meeting at which the BOE will consider the approval.

0000 Introduction

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The **State Administrative Manual** (SAM) is a compilation of policy statements concerning the internal operations of State government. Policies are based on authorizing statute or other approved regulations, although policies may be established in the absence of specific statutes where particular guidance and instructions are necessary for agencies to conduct business. This manual is published for use as a guide in conducting the State's business, and individual departments or divisions within the Executive Branch of state government may not establish policies that contradict or supersede the State Administrative Manual, except where expressly outlined in this document. ~~Users~~ Departments, divisions, agencies, or other organizations of state government that ~~requireing~~ more detailed information should reference the applicable statutes that are cited following many of the policy statements, reference specific statutes pertaining to the department, agency or office, or contact the ~~Department of Administration~~ Budget Division of the Governor's Finance Office.

This edition of SAM replaces all previous editions. ~~New material has been underlined for easy identification.~~

Questions or comments regarding SAM should be directed to:

~~Nevada Department of Administration~~
~~Director's Office~~ Governor's Finance Office

Budget Division
209 E. Musser Street, Room 200
Carson City, NV 89701-4298
(775) 684-0222

~~Julia Teska, Director~~ Department of Administration ~~James R. Wells, Director,~~ Governor's Finance Office

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0002 Purpose

The **State Administrative Manual** (SAM) presents to all State agencies a single reference source for policies, procedures, regulations and information issued by the Legislature, ~~the~~ Board of Examiners ~~Board of Examiners~~, the Governor's Finance Office, the Department of Administration and other contributing agencies.

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0004 Jurisdiction

SAM is an official publication of the ~~Department of Administration~~ Governor's Finance Office and is issued under authority of the Governor and the Board of Examiners (NRS 353.040). The Governor instructs all State executive agencies to comply with the provisions of this manual to promote economy and efficiency in the government of the State of Nevada.

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0006 Exceptions

Deviations from this manual are permitted only upon ~~written exemption~~ approval of the Board of Examiners ~~for~~ the agency ~~requesting the exception~~ concerned. ~~Exceptions approved for one agency may not be used by other agencies without Board of Examiners' approval.~~

Constitutional agencies with broad powers (e.g., the [Nevada System of Higher Education](#)) are expected to follow these regulations when not in conflict with the [Constitution](#), [Nevada Revised Statutes](#) or [Board of Regents'](#) regulations.

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0100 Board of Examiners Policies

0102 Placement of Items on the Agenda

Any Board of Examiners (BOE) member is entitled to place items on the agenda; and any Constitutional Officer of the State of Nevada may request items to be placed on the agenda upon the Clerk of the Board's determination that the item is legal and within the jurisdiction of the Board of Examiners.

0104 Agency Attendance and Notification

BOE agenda action items ~~(items preceded by with an asterisk on the agenda)~~ require ~~mandatory~~ attendance by appropriate agency staff to present their items ~~(NRS 353.035). Agencies must also be prepared to present information regarding with the exception of~~ leases, contracts, and ~~Master Service~~ ~~Agreements~~, which may be pulled on a case by case basis. ~~Any Board member who wishes to pull an agenda item for discussion, particularly items generally taken on a consent basis such as leases, contracts, and Master Service Agreements, shall notify the Clerk of the Board prior to the BOE meeting of the items he/she wishes to be pulled for discussion. The Clerk of the BOE or his or her designee shall notify the appropriate agency of any agenda item(s) that has been identified by a member of the Board as an item for discussion. Any agency with an item pulled for discussion should have the appropriate staff member(s) present at the BOE meeting to respond to Board Members' questions.~~

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~~Any Board member who wishes to pull an agenda item for discussion, particularly items generally taken on a consent basis such as leases, contracts, and master service agreements, shall notify the Clerk of the Board prior to the BOE meeting of the items he/she wishes to be pulled for discussion.~~

~~The Clerk of the BOE or his or her designee shall notify the appropriate agency of any agenda item(s) that has been identified by a member of the Board as an item for discussion. Any agency with an item pulled for discussion should have the appropriate staff member(s) present at the BOE meeting to respond to Board Members' questions.~~

The agency is not required to attend the BOE meeting if an agency's only agenda items are leases, contracts, ~~Master Service~~ ~~Agreements~~, or information items and they are not contacted by the Clerk of the Board or his/~~or~~ her designee regarding additional item(s) identified for discussion.

0106 Distribution of Meeting Materials

The Clerk of the Board must disseminate meeting materials to each member of the Board no less than 5 working days before the meeting unless notified by the Clerk or his designee.

0108 Sole Source Contracts

If a sole source contract is placed on the agenda, the contract materials provided to the Board members must include the sole source or non-competitive procurement approval request. Agencies must attach

this in CETS in the tab marked “Addl. Info” and the document should be attached in the “Supporting Info (Prints on BOE Agenda)” area.

0110 Retroactive Contracts

If an agency has submitted a retroactive contract for inclusion on the action item agenda, the agency must attach a memorandum explaining why the contract should be approved retroactively. The memorandum must be on agency letterhead and must be attached in CETS in the tab marked “Addl. Info” and the memo should be attached in the “Supporting Info (Prints on BOE Agenda)” area.

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0600 Administrative Procedures

0602 General

The Nevada [Administrative Procedure Act](#), ~~Revised Statute~~ [NRS Chapter 233B](#), sets minimum procedures for (1) regulation-making and (2) adjudication by **administrative** agencies of State government. The Nevada Administrative Procedures Act is particularly concerned with providing greater public awareness of and participation in administrative rulemaking. [\[HYPERLINK TO http://www.leg.state.nv.us/NRS/NRS-233B.html\]](http://www.leg.state.nv.us/NRS/NRS-233B.html)

0604 ~~Agencies Affected~~ Application

The Nevada Administrative Procedures Act applies to all agencies in the Executive Branch of State government authorized to make regulations or to determine [contested](#) cases, [with certain statutory exceptions. \(NRS 233B.039\).](#) ~~except:~~

- ~~1. The Governor~~
- ~~2. The Department of Corrections~~
- ~~3. The Nevada System of Higher Education~~
- ~~4. The Office of the Military~~
- ~~5. The State Gaming Control Board Except as otherwise provided in NRS 368A.140~~
- ~~6. The Nevada Gaming Commission~~
- ~~7. The State Board of Parole Commissioners with respect to contested cases~~
- ~~8. The Welfare Division of the Department of Human Resources~~
- ~~9. The Board of Examiners in reviewing Victims of Crime Claims~~
- ~~10. The Office of the State Engineer except as otherwise provided in NRS 533.365~~
- ~~11. Any order for immediate action made by any agency in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control~~
- ~~12. The State Board of Pharmacy for an extraordinary regulation concerning the scheduling of a controlled substance to avoid an imminent hazard to public safety. Such regulation may be issued only if the substance is in no other schedule and no exemption or approval is in effect under the federal Food, Drug, and Cosmetic Act. Extraordinary regulations of this nature expire one year after adoption.~~
- ~~13. The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375~~
- ~~14. The board to review claims in adopting resolutions to carry out its duties pursuant to NRS 590.830~~
- ~~15. The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.~~
- ~~16. The Division of Health Care Financing and Policy of the Board of Examiners in reviewing Victims of Crime Claims and Department of Human Resources.~~
- ~~17. Except as otherwise provided in Subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefit Program and the Commission on Professional Standards in Education with respect to contested cases.~~

~~18. The Special Provisions of: Chapter 612 of the NRS for the Distribution of Regulation by and the Judicial Review of Decisions of the Employment Security Division of the Department, Training and Rehabilitation-~~

~~19. Chapters 616A to 617, inclusive of NRS for the Determination of Contested Claims.~~

~~20. Chapter 703 of NRS for the Judicial Review of Decisions of the Public Utilities Commission of Nevada-~~

~~21. Chapter 91 of NRS for the Judicial Review of Decisions of the Administrator of the Securities Division of the Office of the Secretary of state; And~~

~~22. NRS 90.800 for the use of Summary Orders in contested cases, prevail over the general provisions of this Chapter-~~

~~23. The provisions of NRS 233B.122, 233B.124, 233B.125, and NRS 233B.126 do not apply to the Department of Human Resources in the Adjudication of contested cases involving the issuance of letters of approval for Health Facilities and Agencies.~~

0606 Definition of Regulation

Regulation means:

- ~~1. An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency;~~
- ~~2. A proposed regulation;~~
- ~~3. The amendment or repeal of a prior regulation; and~~
- ~~4. The general application by an agency of a written policy, interpretation, process or procedure to determine whether a person is in compliance with a federal or State statute or regulation in order to assess a fine, monetary penalty or monetary interest.~~

The act does not, however, apply to:

- ~~1. A statement concerning only the internal management of an agency and not affecting private rights or procedures available to the public;~~
- ~~2. A declaratory ruling;~~
- ~~3. An intra-agency memorandum;~~
- ~~4. A manual of internal policies and procedures or audit procedures of an agency which is used solely to train or provide guidance to employees and which is not used as authority in a contested case to determine whether a person is in compliance with a federal or State statute or regulation;~~
- ~~5. An agency decision or finding in a contested case;~~
- ~~6. An advisory opinion issued by an agency that is not of general applicability;~~
- ~~7. A published opinion of the Attorney General;~~
- ~~8. An interpretation of an agency that has statutory authority to issue interpretations;~~
- ~~9. Letters of approval, concurrence or disapproval issued in relation to a permit for a specific project or activity;~~
- ~~10. A contract or agreement into which an agency has entered;~~
- ~~11. The provisions of federal law, regulations or guidelines;~~
- ~~12. An emergency action taken by an agency that is necessary to protect public health and safety;~~
- ~~13. The application by an agency of a policy, interpretation, process or procedure to a person who has sufficient prior actual notice of the policy, interpretation, process or procedure to determine~~

~~whether the person is in compliance with a federal or State statute or regulation in order to assess a fine, monetary penalty or monetary interest;~~

~~14. A regulation concerning the use of public roads or facilities which is indicated to the public by means of signs, signals and other traffic control devices that conform with the manual and specifications for a uniform system of official traffic control devices adopted pursuant to the NRS; #The classification of wildlife or the designation of seasons for hunting, fishing or trapping by regulation of the Board of Wildlife Commissioners pursuant to the NRS.~~

~~An agency that takes an emergency action shall file with the legislative counsel within 5 working days after taking the action a statement that describes the action and reason for the action. If federal law, regulation, interpretation or instruction prohibits an agency from describing the action taken or the reason for the action, the statement must cite the federal law, regulation, interpretation or instruction that prohibits such disclosure. The legislative counsel shall include a statement filed pursuant to this requirement in the register of administrative regulations published pursuant to the NRS.~~

0608 Regulation-Making Authority

To the extent authorized by law, each agency may adopt reasonable regulations to aid it in carrying out the functions assigned to it and shall adopt such regulations necessary ~~to~~ for the proper execution of those functions. Regulations implement legislative policy and therefore must be consistent with that policy. Administrative regulations must be within the statutory rulemaking authority of the agency, and cannot contradict or conflict with the statutes they are intended to implement. Furthermore, an agency must have specific authority authorizing it to charge or collect a fee before a regulation imposing any such fee may be enacted.

0609 Effect of Regulations

If adopted and filed in accordance with the provisions of the Nevada Administrative Procedures Act, the following regulations have the force of law and must be enforced by all peace officers:

1. The Nevada Administrative Code; and
2. Temporary and emergency regulations

~~In every instance, the power to adopt regulations to carry out a particular function is limited by the terms of the grant of authority under which the function was assigned.~~

0610 Regulation-Making Procedure

Administrative regulations must be adopted in compliance with statutory rulemaking procedures set forth in the Administrative Procedure Act. Agencies should consult the Attorney General when adopting regulations. The Attorney General's Office publishes the Nevada Administrative Rulemaking Manual that explains the law in greater detail. [HYPERLINK TO [http://ag.nv.gov/uploadedFiles/agnv.gov/Content/Publications/Administrative%20Rulemaking%20Manual%201-15%20\(Edited\).pdf](http://ag.nv.gov/uploadedFiles/agnv.gov/Content/Publications/Administrative%20Rulemaking%20Manual%201-15%20(Edited).pdf)]

~~In addition to other regulation-making requirements imposed by law, each agency shall:~~

- ~~1. Adopt rules of practice, which set forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency.~~
- ~~2. Make available for public inspection all regulations adopted or used by the agency and that part of the Nevada Administrative Code, which contains its regulations.~~
- ~~3. Make available for public inspection all final orders, decisions and opinions except those expressly made confidential or privileged by statute.~~
- ~~4. Make available for public inspection written minutes of each public hearing. The agency may record each public hearing and make the recordings available for public inspection.~~
- ~~5. Review its rules of practice at least every 3 years and file with the Secretary of State a statement showing the date on which the most recent rules review was completed and describing any revisions.~~
- ~~6. Review its regulations at least once every 10 years to determine whether it should amend or repeal any regulations. A report of this review must be filed with the Director of the Legislative Counsel Bureau~~
- ~~7. Submit the informational statement prepared pursuant to NRS 233B.066 and an original and 4 copies of each regulation to the Director of the Legislative Counsel Bureau for review by the Legislative Commission.~~

~~A permanent regulation becomes effective upon filing with the Secretary of State the original of the final draft or revision of a regulation except as otherwise provided in NRS 233B.0665. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change must be sent to the Secretary of State along with the original of the final draft.~~

~~A temporary regulation becomes effective upon filing with the Secretary of State of the original of the final draft or revision of a regulation by the agency, together with the informational sheet prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel Bureau, together with the informational sheet prepared pursuant to NRS 233B.066.~~

~~Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Librarian, to the State Librarian for use by the public.~~

0612 Emergency Regulations

- ~~1. An agency must find an emergency to exist.~~
- ~~2. The Governor must concur in such a finding.~~
- ~~3. The Governor must give his written endorsement of the proposed rule.~~

~~Emergency regulations may be adopted and become effective immediately upon filing with the Secretary of State pursuant to Subsection 3 of NRS 233B.070. The statement of the emergency endorsed by the Governor must be included as a part of the regulation for all purposes. An emergency regulation adopted is effective for a period of not longer than 120 days. A regulation may be adopted by this emergency procedure only once.~~

~~0614.0 Procedural and Inter-Agency Regulations~~

~~The Administrative Procedures Act requires every agency to adopt procedural regulations and to make these regulations available for public inspection. Orders, decisions and opinions, unless expressly made confidential or privileged, must also be made available for public inspection. If rules and regulations promulgated by State agencies affect other State agencies, then these regulations should be submitted to the Department of Administration, Budget Division, for insertion in SAM.~~

~~An agency, which published any regulations in the Nevada Administrative Code, shall use the exact text of the regulation as it appears in the Code, including the lead lines and numbers of sections. Any material, which an agency includes in a publication with its regulations, must be presented in a form, which clearly distinguishes that material from the regulations. (NRS 233B.070)~~

0700 Open Meeting Law

0702 Intent

Public bodies working on behalf of Nevada citizens must conform to statutory requirements in open meetings under an agenda that provides full notice and disclosure of discussion topics and any possible action. These requirements are set forth in the Nevada Open Meeting Law, NRS Chapter 241. [HYPERLINK TO <http://www.leg.state.nv.us/NRS/NRS-241.html>] "In enacting this chapter, the Legislature finds and declares that all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly." (NRS 241.010).

0704 Definitions

Statutory Definitions

1. ~~Action~~ means:

- ~~a. A decision made by a majority of the members present during a meeting of a public body;~~
- ~~b. A commitment or promise made by a majority of the members present during a meeting of a public body;~~
- ~~c. If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or~~
- ~~d. If all members of public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.~~

~~2. **Meeting** means the gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power. (NRS 241.015(2))~~

~~3. **Public body** means any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including but not limited to any board, commission, committee, subcommittee or other subsidiary. "Public body" does not include the Legislature of the State of Nevada. (NRS 241.015)~~

~~4. **Quorum** means a simple majority of the constituent membership of a public body or another proportion established by law. (NRS 241.015(4))~~

~~5. **Emergency** means an unforeseen circumstance that requires immediate action and includes, but is not limited to:~~

- ~~a. Disasters caused by fire, flood, earthquake or other natural causes; or~~
- ~~b. Any impairment of the health and safety of the public. (NRS 241.020(5))~~

Non-statutory Definitions

~~1. **Working days** include every day of the week except Saturday, Sunday and legal holidays. The actual day of a meeting is not to be considered as one of the three working days referenced in the statute.~~

~~As examples, a Thursday meeting should be noticed on Monday of that same week, while a Tuesday meeting must be noticed no later than Thursday of the preceding week. If the Monday before the meeting were a legal holiday, notice would be posted on Wednesday of the prior week.~~

~~2. A public officer includes all persons elected to governmental positions or any person appointed to a governmental position if their position is created by the constitution or statute, if their duties are specifically set out in the constitution or statute and that person is made responsible, by the constitution or statute for the direction, supervision and control of his/her agency. NRS 281.005(1); Nev. Op. Atty. Gen. No. 193 (September 3, 1975). All positions meeting the criteria just mentioned must be considered "Public Offices" for purposes of NRS 241.030(3)(c).~~

0706 Application

- ~~1. With limited exceptions, "all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies." (NRS 241.020(1)). The Attorney General has concluded the Open Meeting Law applies only to public bodies as defined in statute governed by a multi-member authority as contrasted with an agency headed by a single individual. (NRS 241.015).~~
2. The Nevada Administrative Procedures Act, NRS 233B, requires all workshops and public hearings held for the adoption of regulations to be conducted ~~agencies subject to it to give notice of their intention to adopt rules and regulations at an open public meeting noticed~~ in conformance with the Open Meeting Law. (NRS 233B.061). This ~~special notice of meeting~~ requirement ~~in the Administrative Procedures Act~~ applies to any agency regardless of whether it is a ~~multi-member~~ public body or headed by a single individual.
3. A committee, ~~or~~ subcommittee or advisory body that is given the task of making decisions for or making recommendations to a public body is covered by the Open Meeting Law ~~law whenever a quorum of the committee or subcommittee gathers to deliberate or make a decision.~~
- ~~4. The Attorney General concluded that the Open Meeting Law has no application to the Governor acting in his official executive capacity. Nev. Op. Atty. Gen. No. 241 (August 24, 1961).~~
- ~~5. Since the Legislature as a whole is not covered, none of its various committees or subcommittees are covered by the law either while the full Legislature is in session. [NRS 241.015(3)].~~
- ~~6. NRS 241.015 (2)(b)(2) permits a public body to meet with its legal counsel to receive information regarding potential or existing litigation over which the public body has supervision control or advisory power and to deliberate toward a decision. Such a meeting is a non-meeting for purposes of the Open Meeting Law.~~
- ~~7. The Board of Regents of the University of Nevada shall establish for the student governments within the Nevada System of Higher Education requirements equivalent to the Open Meeting Law and shall provide for their enforcement.~~
- ~~8. The Nevada Open Meeting Law extends to both deliberations and actions taken by the members of a public body. The Attorney General concludes if a majority of the members of a public body should meet, even informally, to consider matters that are within the ambit of that agency's official business, then the at subject to the provisions of the Nevada Open Meeting Law.~~
- ~~9. Attendance at seminars or social functions would not, by itself, require compliance with the open meeting law. But if a quorum of the members of the public body gather together at that seminar or social meeting and begin discussing public business, then there is a possibility that they will be~~

~~meeting or taking "action" as those terms are defined above, and will be required to comply with the open meeting law.~~

~~10. Attendance at seminars or social functions would not, by itself, require NRS 241.010 declares the intent of the law is the actions of all public bodies, as well as their deliberations, will be taken openly. A secret ballot would defeat the accountability factor of individual members of public bodies since their vote would be an **anonymous** vote. The Attorney General has concluded that a secret ballot is not permissible under the law.~~

~~11. A public body that is required to be composed of elected officials only may not take action by vote unless at least a majority of all the members of the public body vote in favor of the action. For purposes of this section, a public body may not count an abstention as a vote in favor of an action.~~

0708 Notice

[NRS 241.020 includes detailed requirements for the contents of a public notice and meeting agenda, together with posting requirements. Agendas must include a clear and complete statement of the topics scheduled to be considered during the meeting. NRS 241.020\(2\)\(d\)\(1\). Agendas must also include a list describing the items on which action may be taken and clearly denoting that action may be taken on those items. NRS 241.020\(2\)\(d\)\(2\)\). Public bodies should submit all public notice and meeting agendas for review by the Attorney General prior to posting.](#)

~~1. All meetings of public bodies must be open and public and all persons must be permitted to attend any of these meetings, except as otherwise excepted by law. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate physically disabled persons desiring to attend. (NRS 241.020)~~

~~2. Except in an emergency, written notice of all meetings must be given at least three working days before the meeting. The posting and mailing must occur not later than 9:00 a.m. three working days before the meeting. The notice must include:~~

~~a. The time, place and location of the meeting.~~

~~b. A list of the locations where the notice has been posted.~~

~~c. An agenda consisting of a clear and complete statement of the topics scheduled to be considered during the meeting and a list and description of the items to be voted on during the meeting which must be clearly denoted as items on which action will be taken. The agenda must also include a period devoted to comments by the general public, if any, and discussion upon these comments. No vote may be taken upon a matter raised under this item until the matter itself has been specifically placed on a subsequent agenda as an item upon which action will be taken.~~

~~3. Minimum public notice is:~~

~~a. A copy of the notice posted at the principal office of the public body, or, if there is no principal office, at the building in which the meeting is to be held, and at least three other separate, prominent places within the jurisdiction of the public body.~~

~~A State agency must post notices in four separate places within the State, a county agency must post at least four notices within the county, etc. The Attorney General suggests the person posting the required notices should routinely execute a simple "certificate of posting" for retention in the files as proof that this requirement of law was satisfied.~~

b. Providing a copy of the notice to any person who has requested notice of the meetings of the body. The public body shall inform the requestor that a request for notice lapses six months after it is made with the first notice sent.

0710 Emergencies

~~Occasionally an unforeseen circumstance requiring immediate action may arise which require a public body to call an emergency meeting or take up an emergency item that is not on an agenda for a scheduled meeting. The urgency of the situation may be compounded by the existence of statutory or regulatory deadlines or the fact that the particular body meets only infrequently.~~ NRS 241.020(2) allows public bodies to conduct an emergency meeting or consider an emergency item without complying with the statutory requirement of providing public notice at least giving the three working days notice prior to the meeting, but all other aspects requirements of the ~~Open Meeting Law~~ apply, e.g., ~~meeting must be open to public and minutes must be kept. The Attorney General cautions the addition of an item to the meeting agenda should never be used as a subterfuge by a public body in order to avoid giving notice of that agenda item to the public. The emergency rule may be used only when immediate action is required and the circumstances were unforeseen. Examples given in the statute include (but not limited to) taking immediate action required during disasters such as fire, flood, earthquake or other natural causes, or unforeseen situations involving an impairment of the health and safety of the public. See NRS 241.020(510). Public bodies should not hold an emergency meeting or consider an emergency item without first consulting the Attorney General as to whether the basis for an emergency exists.~~

~~Such a situation is compatible with the definition of "emergency," used by the Legislature to indicate its knowledge that under certain conditions a full three days' written notice may not always be possible or practical.~~

~~The Attorney General recommends that any public body which finds itself in this unusual situation provide as much supplementary notice to the public and the news media of an added agenda item as is reasonably possible under all the circumstances.~~

0712 Exemptions

There are specific statutory exemptions and exceptions to the Open Meeting Law; public bodies should consult the Attorney General as to whether an exemption or exception applies.

~~Statutory Exemptions—Any meeting may be closed to the public where a specific Nevada Revised Statute provides for a private meeting for a particular public body. (NRS 241.020(1))~~

~~1. — Nothing in NRS 241 prevents a public body from holding a closed meeting to consider: a. The character, b. Alleged misconduct, c. Professional competence, or d. The physical and mental health of a person.~~

- ~~• A public body may also close a meeting to prepare, revise administer, grade examinations conducted by the public body as well as to consider an appeal by a person of the results. McKay v. Bd. of Supervisors, 102 Nev. 644, 730 P.2d 438 (1986).~~
- ~~• The Nevada Supreme Court, in the case of City Council vs. Reno Newspapers, 105 Nev., 886 784 P.2d 974 (1989) has declared that NRS 241.030 (3)(e) limits the character and competence exception by prohibiting a closed meeting for the discussion of the appointment of any person to public office. The Court stated:~~

~~We believe that the section permitting closed meetings in certain cases and the blanket prohibition against discussing the appointment of a public officer in closed session can be read in harmony. Accordingly, we construe the statute as permitting public bodies to meet in closed session to consider a person's character, alleged misconduct, professional competence or health except when the matter involved is a discussion of the appointment of a public officer. In such situations, any closure of a meeting violates the Open Meeting Law. City Council vs. Reno Newspapers, at 892.~~

- ~~• This exception must not be used to circumvent the spirit or letter of the law.~~
- ~~• Additionally, a public body shall not hold a closed meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of an elected member of a public body.~~

~~2. A public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has given written notice to that person of the time and place of the meeting. The written notice must be:~~

~~The notice must also include:~~

- ~~a. A list of the general topics concerning the person that will be considered by the public body during the closed meeting; AND~~
- ~~b. A statement that the person may: i. Attend the closed meeting, ii. Have a representative of his choosing with him/her, and iii. Present evidence; provide testimony, and present witnesses.~~
- ~~c. Delivered personally to that person at least five working days before the meeting; OR~~
- ~~d. Sent by certified mail to the last known address of that person by at least 21 working days before the meeting. A public body must receive proof of service of the notice before such a meeting may be held.~~

~~3. If any portion of a meeting is to be closed to consider the character, alleged misconduct, professional competence, physical or mental health of a person, or to consider taking administrative action against a person; the name of that person must be placed on the agenda. (241.020(a)(c)(4) and (5). The open meeting law does not apply to any hearing conducted by a school board under NRS 392.467 relating to suspension or expulsion of pupils. See NRS 392.467(3).~~

~~4. A person being considered in a closed meeting may waive the closed meeting, and the public body must re-open the meeting unless another person appearing before the public body does not desire that the meeting be open or his/her relevant portion thereof be open.~~

~~5. A meeting or hearing by the Ethics Commission to receive or deliberate on information or evidence concerning the propriety of the conduct of any public officer or employee under NRS 281.511 are not subject to the open meeting law. See NRS 281.511(10).~~

~~The Open Meeting Law does not apply to internal agency staff meetings where typically staff members make individual reports and recommendations to a superior. The technical requirements of a quorum do not apply and decisions are not reached by a vote or consensus. Nor does the law apply to committees composed exclusively of staff personnel unless those staff committees have been designated to act in an advisory capacity to another public body.~~

~~A public body may close a portion of its meeting to receive information declared by law to be confidential. However, the members of the body may not then privately deliberate upon the~~

information so received with respect to some possible future action of the agency without violating the Open Meeting Law. Nev. Op. Atty. Gen. No. 150 (November 8, 1973).

Not all investigative meetings are exempt from the operation of the Open Meeting Law. The exemption extends only to those meetings where information made confidential by law is to be received.

The Open Meeting Law does not:

1. Apply to judicial proceedings;
2. Prevent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical;
3. Prevent the exclusion of witnesses from a public or private meeting during the examination of another witness;
4. Require that any meeting be closed to the public; or
5. Permit a closed meeting for the discussion of the appointment of any person to public office or as a member of a public body. (NRS 241.030 (4)(e))
6. Permit a closed meeting to consider the character, alleged misconduct, or professional competence of:
 - a. An elected member of a public body; or
 - b. A person who is appointed public officer or who serves at the pleasure of a public body as a chief executive or administrative officer or in a comparable position, including, without limitation, a president of a university or community college within the Nevada System of Higher Education, a superintendent of a county school district, a county manager and city manager. (NRS 244.031(1)(a-b))
 - c. The above prohibition does not apply if the consideration of character, alleged misconduct professional competence of the person does not pertain to his role as an elected member of a public body or appointed public office or other similar officer. (241.631(2)).
 - d. Procedure: A public body may close a meeting upon a motion that specifies the nature of the business to be considered and the statutory authority pursuant to which the public body authorized to close the meeting. This motion should be kept fairly general to ensure the confidentiality contemplated by the law (NRS 241.030 (3)(a-b)). The Attorney General interprets this to mean a meeting may be closed only from an open meeting duly noticed in accordance with law, at which the requisite motion to close the meeting is made and approved. The fact that a closed meeting will be convened must be part of the agenda and notice given by the public body.

0714 Minutes

1. Each public body is required to keep written minutes of each meeting they hold, regardless of whether the meeting was open or closed to the public. The minutes must include:
 - a. The date, time and place of the meeting.
 - b. Those members of the body who were present and those who were absent.
 - c. The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.
 - d. The substance of remarks made by any member of the general public who addresses the public body if he requests that the minutes reflect his/her remarks or if he has prepared written remarks, a copy of his/her prepared remarks if a copy is submitted for inclusion.

e. Any other information that any member of the body requests to be included or reflected in the minutes.

2. Minutes of public meetings are public records and must be made available for inspection by the public within 30 working days after the adjournment of the meeting at which taken. In the case of a public body that meets infrequently, formal approval of the minutes of the previous meeting may be delayed several months. In such circumstances, the Attorney General advises that copies of the minutes that have not been approved be made available to any person who requests them, together with a written statement that such minutes have not yet been approved and are subject to revision at the next meeting of the public body.

a. Minutes of meetings closed pursuant to NRS 241.030 become public records whenever a public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was discussed has consented to their disclosure. That particular person is always entitled to a copy of the minutes of the meeting upon request, whether or not they ever become public records.

b. Minutes of meetings are permanent records and must be retained by the public body for at least five years and then transferred for archival preservation pursuant to NRS 239.080 to 239.125, inclusive.

3. Each public body must record on audiotape or another means of sound reproduction or cause the meeting to be transcribed by a court reporter who is certified pursuant to NRS Ch. 656 (NRS 241.035(4)) each of its meetings. This record must be retained for at least one year after adjournment of the meeting, and be made available to the Attorney General upon request. The record is public if the meeting was open. If a public body elects to record the open portions of its meeting it must also record the closed portions.

4. As the minutes and tapes of open meetings are public records, NRS Chapter 239 contains guidelines regarding the charging of fees for providing copies.

0716 Void Actions

The action of any public body taken in violation of the Open Meeting Law is void (NRS 241.036).

0718 Enforcement

The Attorney General has the statutory authority to investigate and prosecute violations of the Open Meeting Law. (NRS 241.039). Complaints alleging a violation can be filed with the Attorney General. [HYPERLINK TO http://ag.nv.gov/Complaints/File_Complaint/] By law, the Attorney General is required to investigate and, in appropriate cases, prosecute alleged violations of the Open Meeting Law (NRS 241.040). Complaints of such violations should be filed at the **Office of the Attorney General, Capitol Complex, 100 N. Carson Street, Carson City, Nevada 89701**. All such complaints must be in writing, signed by the complaining person and contain a full description of the facts known to the complainant.

The Attorney General may sue in any court of competent jurisdiction to have an action taken by a public body declared void or for an injunction against any public body or person to require compliance with or prevent violations of the Open Meeting Law. The injunction:

1. May be issued without proof of actual damage or other irreparable harm sustained by any person.

~~2. Does not relieve any person from criminal prosecution for the same violation (NRS 241.037(1)(a)and(b)).~~

~~Any person denied a right conferred by the law may sue in the district court of the district in which the public body ordinarily holds its meetings or in which the plaintiff resides. A suit may seek to have an action taken by the public body declared void, to require compliance with or prevent violations of the Open Meeting Law or to determine the applicability of the law to discussions or decisions of the public body. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff (NRS 241.037)(2)).~~

~~Any suit brought against a public body to require compliance with the provisions of the law must be commenced within 120 days after the action objected to was taken by that public body. Any such suit brought to have an action declared void must be commenced within 60 days after the action objected to was taken (NRS 241.037)(3)).~~

~~A member of a public body who is convicted for knowingly attending a meeting in violation of the Open Meeting Law or for wrongfully excluding a person from a meeting will also have his/her office declared vacant by operation of law.~~

0720 Penalties, Remedies

~~Each member of a public body who attends a meeting of that body and knows it is in violation of the Open Meeting Law is guilty of a misdemeanor. Likewise, wrongful exclusion of any person or persons from a meeting is a misdemeanor. Upon conviction, punishment may include a jail term up to six months, a fine not to exceed \$1000, or both (NRS 241.040(1))~~

~~A member of a public body who attends a meeting of that public body at which action is taken in violation of this chapter is not the accomplice of any other member so attending (NRS 241.040(3)).~~

0722 Miscellaneous

~~Reasonable rules and regulations which insure orderly conduct of a public meeting and insure orderly behavior on the part of those attending the meeting may be adopted by any public body subject to the Open Meeting Law.~~

~~All or part of any meeting of a public body may be recorded on audio tape or any other means of sound or video reproduction by a member of the general public if it is a public meeting so long as this in no way interferes with the conduct of the meeting. (NRS 241.035(3))~~

~~Although not specifically mentioned in the law, the use of cameras by news and television media, so long as their presence does not disrupt the meeting, should be allowed generally since they aid in making an accurate report to members of the public who could not be present at the particular meeting. In every case, reasonableness must be the governing standard.~~

0724 Conclusion

The Nevada Open Meeting Law is clearly intended to further open government in Nevada. This objective is essential to a democratic society that depends upon a well-informed citizenry. Every public body in this State has both a legal and moral duty to faithfully observe the Open Meeting Law and to take all reasonable steps to insure public access to its deliberations and actions. Sometimes

the particular facts surrounding a meeting will present a close question of law. In those cases, the Attorney General offers the following advice:

"If in doubt, open the meeting."

The Attorney General's Office ~~makes available~~ publishes the Nevada Open Meeting Law Manual that explains the law in greater detail. ~~If you require additional information concerning the Open Meeting Law, contact the Attorney General's Office to request a copy of the Nevada Open Meeting Law Manual or go online to <http://ag.state.nv.us> [HYPERLINK TO http://ag.nv.gov/uploadedFiles/agnv.gov/Content/About/Governmental_Affairs/OML_Portal/2016-01-25_OML_12TH_AGOMANUAL.pdf]~~

~~0726 Compliance Checklist – Open Meeting Law~~

~~Open Meeting Law: Compliance Checklist~~

~~This is a checklist to follow when applying the Open Meeting Law. References in parentheses are to the NRS and sections of the Nevada Open Meeting Law Manual.~~

~~Does The Open Meeting Law Apply?~~

- ~~• Is the entity a public body? (NRS 241.015(3), 3.01-3.08)~~
- ~~• Is the activity exempt from the Open Meeting law? (4.01-4.06)~~
- ~~• Is a meeting going to occur? ([NRS 241.015(2), 5.01-5.10)~~
- ~~• Will a quorum of the members of the public body be present? (5.01)~~
- ~~• To deliberate toward a decision or take action? (5.01)~~
- ~~• On any matter over which the public body has supervision, control, jurisdiction or advisory power? (5.01)~~

~~Agenda~~

- ~~• Has a clear and complete agenda of all topics to be considered been prepared? (NRS 241.020(2)(c), 6.02, 7.02)~~
- ~~• Does it list all topics scheduled to be considered during the meeting? (6.02, 7.02)~~
- ~~• Have all the topics been clearly described in order to give the public adequate notice?(6.02, 7.02)~~
- ~~• Does the agenda include a designated period for public comments? Does the agenda state that action may not be taken on the matters considered during this period until specifically included on an agenda as an action item? (6.02, 7.04, 8.04)~~
- ~~• Does the agenda describe the items on which action may be taken and clearly denote that action may be taken on those items? (6.02, 7.01)~~
- ~~• Has each closed session been denoted, including the name of the person being considered and if action is to be taken in an open session after the closed session, was it indicated on the agenda? (7.02, 9.06)~~

~~Notice, Posting And Mailing~~

- ~~• Has written notice of the meeting been prepared? (NRS 241.020(2), 6.01)~~
~~Does it include~~
- ~~• The time, place and location of the meeting? (6.02)~~
- ~~• An agenda as prepared in accordance with the above standards?~~
- ~~• A list of places where the notice was posted? (6.02)~~

- A statement regarding assistance and accommodations for physically handicapped people? (6.02)
- Was the written notice (NRS 241.020(3)(a), 6.03)
- Posted at the principal office of the public body (or if there is no principal office, at the building in which the meeting is to be held)? (6.03)
- Posted at not less than three other separate, prominent places within the jurisdiction of the public body? (6.03)
- Posted no later than 9 a.m. of the third working day before the meeting (don't count day of meeting)? (6.03, 6.05)
- Was the written notice (NRS 241.020(3)(b), 6.04)
- Provided at no charge to those who requested a copy? (6.04, 6.07)
- Delivered to the postal service used by the body or transmitted to the requestor no later than 9:00 a.m. of the third working day before the meeting? (6.04)
- Have persons who requested notices of the meeting been informed with the first notice sent to them that their request lapses after six months? (NRS 241.020(3)(b), 6.04)
- If a person's character, alleged misconduct, professional competence, or physical or mental health is going to be considered at the meeting, has that person been given written notice of the time and place of the meeting? (NRS 241.033(1), 6.09)
- Does the notice contain a list of the general topics concerning the person, inform the person that he/she may attend the closed session, bring a representative, and present evidence, provide testimony and present witnesses? (NRS 241.033(4)). [Does the notice inform the person that the public body may take administrative action against the person? If so, then the requirements of NRS 241.034 have been met. (NRS 241.033(2)(b).]
- Have the requirements of NRS 241.034 been met according to NRS 241.033(2)(b)?
- Was it personally delivered to the person at least five working days before the meeting or sent by certified mail to the last known address of that person at least 21 working days before the meeting? (Nevada Athletic Commission is exempt from these timing requirements.) (NRS 241.033(1) (2))
- Did the public body receive proof of service of the notice before holding the meeting? (Nevada Athletic Commission not exempt from this requirement.) (NRS 241.033(1) (2))

Agenda Support Material Made Available To Public

- Upon request, has at least one copy of an agenda, a proposed ordinance or regulation which will be discussed at the meeting, and any other supporting material (except confidential material as detailed in the statute) been provided at no charge to each person who so requests? (NRS 241.020(4), 6.06.607)

Emergency Meeting

- Is this an emergency meeting? (NRS 241.020(1) and (5), 6.08)
- Were the circumstances giving rise to the meeting unforeseen?
- Is immediate action required?
- Has the entity documented the emergency?
- Has an agenda been prepared limiting the meeting to the emergency item?
- Has an attempt been made to give public notice?

- While the notice and agenda requirements may be relaxed in an emergency, are other provisions of the Open Meeting Law complied with (e.g., meeting open and public, minutes kept, etc.)?

Closed Session

- Is a closed session specifically authorized by statute? (NRS 241.030(1), 9.01-9.07)
- Have all the requirements of that statute been met?
- If a closed session is being conducted to consider character, misconduct, competence, or physical or mental health of a person under NRS 241.033:
 - Is the subject person an elected member of a public body? If so, a closed session is not authorized. (NRS 241.031, 9.03)
 - Is the closed session to consider the character, alleged misconduct, or professional competence of an appointed public officer or a chief executive of a public body (i.e. president of a university or community college within the UCCSN System, a county school superintendent or a city or county manager)? If so, a closed meeting is prohibited. (NRS 241.030(1)(b)).
 - Is the closed session to discuss the appointment of any person to public office or as a member of a public body? If so, a closed session is not authorized. (NRS 241.030(3)(e), 9.03)
 - Has the subject been notified as provided above? Is there proof of service? (6.09)
 - If a recording was made of the open session, was a recording also made of the closed session? (9.06)
 - Has the subject requested the meeting be open? If so, public body must open the meeting unless another person appearing before the public body requests that the meeting remains closed. (NRS 241.030(2)(a) and (b)).
 - Was the subject person given a copy of the recording of the closed session if requested? (NRS 241.033(3), 9.06)
 - Have minutes been kept of the closed session? (10.02)
 - Have minutes and recordings of the closed session been retained and disposed of in accordance with NRS 241.035(2)? (10.03)
 - Was a motion made to go into closed session which specifies the nature of the business to be considered and the statutory authority present to which the public body is authorized to close the meeting? (NRS 241.030(2), 9.06)
 - Was the discussion limited to that specified in the motion? (§ 9.06)
 - Did the public body go back into open session to take action on the subject discussed (unless otherwise provided in a specific statute?) (9.06)

Meeting Open to Public; Accommodations

- Have all person been permitted to attend? (NRS 241.020(1), 8.01)
- Was exclusion of witnesses at hearings during the testimony of other witnesses handled properly? (NRS 241.030(2)(c), 8.06)
- Was exclusion of persons who willfully disrupt a meeting to the extent that its orderly conduct is made impractical handled properly? (NRS 241.030(3)(b), 8.05)
- Have members of the public been given an opportunity to speak during the public comment period? (NRS 241.020(2)(c)(3), 8.04)
- Are facilities adequate and open? (8.02)

- Have reasonable efforts been made to assist and accommodate physically handicapped persons desiring to attend? (NRS 241.020(1), 8.03)
- If the meeting is by telephone or video conference, can the public hear each member of the body? (5.05)
- Have members of the general public been allowed to record public meetings on audiotape or other means of sound reproduction as long as it in no way interferes with the conduct of the meeting? (NRS 241.035(3), 8.08)

Stick To Agenda; Emergency Agenda Items

- Have actual discussions and actions at the meeting been limited to only those items on the agenda? (7.03)
- If an item has been added to the agenda as an emergency item: (NRS 241.020(2) and (5); 6.08)
 - Was it due to an unforeseen circumstance?
 - Was immediate action required?
 - Has the emergency been documented in the minutes?
 - Did the body refrain from taking action on discussion items or public comment items? (NRS 241.020(2)(c)(3), 7.04)

Recordings

- The public body must make its best efforts to record the meeting. (NRS 241.035(5), 9.06).
- Have they been made of the closed session as well as open sessions? (NRS 241.035(5), 9.06)
- Have recordings of open sessions been made available to the public within 30 working days? (NRS 241.035(2))
- Have all recordings been retained for at least one year after the adjournment of the meeting? (NRS 241.035(4)(a))
- Have recordings of open sessions been treated as public records in accordance with public records statutes? (NRS 241.035(4)(b))
- Have recordings of closed sessions been made available to the subjects of those sessions, if requested? (NRS 241.033(3))

Minutes

- Have minutes been prepared of both the open and closed sessions? (NRS 241.035(1), 10.02)
- Do they include at a minimum the material required by NRS 241.035(1)? (10.02)
- Are minutes of open sessions kept as public records under the public record statutes and NRS 241.035(2)?
- Have minutes of open sessions been made available for inspection by the public within 30 working days after the adjournment of the meeting, retained for at least five years, and otherwise treated as provided in NRS 241.035(2)?
- Have minutes of closed sessions been made available to the subjects of those sessions if requested? (NRS 241.035(2))

Non-Compliance

- Have any areas of noncompliance been corrected? (11.01, 11.02, 11.03, 11.04)

• If litigation is brought to void an action or seek injunctive or declaratory relief, was it brought within the time periods in NRS 241.037(2)? (11.07)

1700 Attorney General

1702 General Responsibility

The Attorney General and his/her duly appointed deputies are the attorneys for all State elected and appointed officials, boards, departments, agencies, commissions and institutions except when other counsel is specifically authorized by special legislation. (NRS 228.110). [The authority and duties of the Attorney General are generally set forth in NRS Chapter 228 but can be found throughout the Nevada Revised Statutes. \[HYPERLINK TO <http://www.leg.state.nv.us/NRS/NRS-228.html>\]](#) Prior to the imposition of any suspension, demotion or termination of an employee, an appointing authority must first consult with the Attorney General regarding the proposed discipline.

1704 Services Available

~~The Attorney General's office will give oral and written legal advice, issue official opinions at the request of constitutional officers, heads of State agencies, boards and commissions, district attorneys and city attorneys, prosecute and defend litigation against State employees and officers, prepare legal documents such as contracts and leases and conduct administrative hearings. (NRS 228.150)~~

[The Office of the Attorney General provides a broad range of legal services pursuant to its statutory authority. The Governor, the Secretary of State, the State Controller, the State Treasurer, the Director of the Department of Corrections or the head of any State department, agency, board or commission may request an opinion on a question of law relating to his or her respective offices, departments, agencies, boards or commissions. \(NRS 228.150\). The decision whether to issue a formal Attorney General Opinion rests with the Attorney General. State agencies should be proactive in consulting the Attorney General on potential legal issues.](#)

[The Attorney General also publishes numerous manuals, resource materials, and official opinions on questions of law. These materials are available at the Attorney General's website. \[HYPERLINK TO \[www.ag.nv.gov\]\(http://www.ag.nv.gov\)\]](#)

[State officers and employees should not seek legal advice or representation in personal matters from the Attorney General. Nevada law generally prohibits the Attorney General and deputy attorneys general from engaging in the private practice of law. \(NRS 228.070\(3\); NRS 228.080\(3\)\). Limited exceptions exist for \(1\) the Attorney General's Office of Military Legal Assistance, which facilitates pro bono legal assistance in civil matters to current and former military personnel in this state \(NRS 288.660\); and \(2\) the uncompensated representation of indigent persons in non-criminal legal matters \(NRS 7.065; 7.105\).](#)

1706 Requests for Services

Requests for any service requiring a written statement by the Attorney General should be made in writing. All facts should be included as clearly and concisely as possible. Be clear as to what service is requested.

1708 Reimbursement for Services

The Attorney General may charge all State agencies not supported by the State General Fund for all service and costs his/her office provides to those agencies. This is accomplished either through the Attorney General Cost Allocation Plan or through direct billings to the agency. (NRS 228.113)

~~Each State agency which has a Deputy Attorney General assigned to it shall:~~

- ~~1. Make payments for legal services to the Attorney General's administration budget as required, but at least annually.~~
- ~~2. Pay the Deputy Attorney General's travel expenses and subsistence allowances as provided by law for State officers and employees and furnish office space with appropriate equipment, supplies and clerical assistance satisfactory to the Attorney General and the head of the agency.~~

1710 Service of Process ~~Investigation and Prosecution~~

~~The Attorney General has primary jurisdiction to investigate and prosecute criminal offenses committed by State officers or employees in the course of their duties or arising out of circumstances related to their positions. (NRS 228.175)~~

~~A District Attorney may investigate an offense if:~~

- ~~1. The Attorney General has stated in writing to the District Attorney that the Attorney General does not intend to act in the matter; or~~
- ~~2. The District Attorney has inquired in writing of the Attorney General whether the Attorney General will act in the matter, and: a. The District Attorney has not received an answer in writing to the inquiry within 30 days after making it; or~~
~~b. The Attorney General has stated in writing to the District Attorney that he will act in the matter and has not filed a criminal action in the matter within 90 days after making the statement.~~
- ~~3. When acting pursuant to this section, the Attorney General may commence an investigation and file a criminal action without leave of court, and he has exclusive charge of the conduct of the prosecution.~~
- ~~4. The fact that the Attorney General or a District Attorney has not complied with any provision of this section is not a defense in a criminal action. (NRS 228.175).~~

~~The Attorney General investigates and prosecutes inmates and those who assist inmates in committing criminal acts. (NRS 228.170).~~

~~The Attorney General may prosecute offenses committed by county officers or employees. (NRS 228.177)~~

Fraud

~~The Attorney General has jurisdiction to investigate and prosecute Medicaid fraud (NRS 228.410), insurance fraud (NRS 228.412), and workers' compensation (industrial insurance) fraud (NRS 228.420)~~

Miscellaneous

~~The Attorney General has jurisdiction over proceedings involving public water, public land, dams and power plants. (NRS 228.190 et seq.)~~

~~The Attorney General has various responsibilities concerning domestic violence, including appointing the members of the Committee on Domestic Violence and appointing the Domestic Violence Ombudsman. (NRS 228.430 et seq.)~~

~~The Bureau of Consumer Protection is located within the Office of the Attorney General, and has powers concerning public utilities, telecommunications, and consumer protection. (NRS 228.300 et seq.) The Bureau is administered by the Consumer Advocate, who is appointed by the Attorney General for four-year terms.~~

The Attorney General should be immediately notified whenever any State department, agency, board or commission is served with a complaint in federal or state court, or served with a petition for judicial review, or otherwise presented with legal documents, since service must be effected in strict compliance with FRCP 4(j)(2), NRS 41.031(2) or NRS 233B.130(2), which includes service upon the Attorney General. This is necessary to allow a prompt determination of any counterclaims and defenses that may be asserted and to ensure a timely response and/or appearance.

3500 Group Insurance

3502 Public Agency Contributions to Group Insurance

The monthly employer subsidy ~~which may be applied to for~~ group life, accident or health coverage for participating public officers and their dependents, ~~if any~~, is funded by an assessment ~~on all filled positions~~ to each State department, commission or public agency which employs an officer or employee ~~where the position is filled and the incumbent is enrolled in the program who is eligible for benefits~~. The monthly assessment is \$481.19 from July 1, 2005 to June 30, 2006 and \$500.20 from July 1, 2006 to June 30, 2007.

~~Retired individuals who elect to enroll in the Public Employees' Benefits Program (PEBP) may have their contribution toward their total insurance premium withheld from their retirement payments by notifying the Executive Secretary of the Retirement Board. Retirees whose pensions are not large enough to have their contributions withheld from their retirement payments will pay premiums directly to PEBP. The Budget Division of the Governor's Finance Office Department of Administration shall determines the methodology and calculates the allocation amount and determine the methodology by which the allocation must to be paid by each budget account to finance the State contribution for retiree premiums, equivalent to:~~

- ~~1. For those persons who retire before January 1, 1994, 100 percent of the base amount provided by law for that fiscal year.~~
- ~~2. For those persons who retire on or after January 1, 1994, with at least 5 years of State service, 25 percent plus an additional 7.5 percent for each year of service in excess of 5 years to a maximum of 137.5 percent, excluding service purchased pursuant to NRS 286.300, of the base amount provided by law for that fiscal year. (NRS 287.046)~~

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3504 Coverage Optional for State Officers and Employees

Nothing in the group insurance law makes it compulsory for any officer or employee to accept or join the Public Employees' Benefits Program, or to assign wages or salary or to authorize deductions from wages or salary in payment for the program. (NRS 287.048)

If ~~an~~the employee ~~wants to declines coverage for himself or his dependents~~, he must ~~notify both complete and sign the PEBP and the employee's agency human resources staff and complete an enrollment form and an employment status transaction to decline coverage give reason for declining~~. Reasons include, but are not limited to:

- ~~1. Dependent child marries.~~
- ~~2. Dependent loses full-time student status.~~
- ~~3. Divorce.~~

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~~4. Commencement of leave:~~

When ~~an~~the employee declines group insurance coverage, he is declining coverage for medical, dental, vision, life insurance, ~~accidental death and dismemberment,~~ ~~and~~ long-term disability ~~and business travel accident~~ benefits.

~~3506 Board of the Public Employees' Benefits Program, a Statutory Group~~

~~The Board of the Public Employees' Benefits Program shall:~~

- ~~1. Establish and carry out a program to be known as the Public Employees' Benefits Program.~~
- ~~2. Ensure that the program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.~~
- ~~3. Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.041 to 287.049, inclusive.~~
- ~~4. Approve written requests of State officers and employees to withhold amounts of salaries and wages in payment of insurance.~~
- ~~5. Adhere to the Code of Ethical Standards as provided in NRS 281A.400.~~

~~By statute (NRS 287.041) the Board of the Public Employees' Benefits Program is composed of nine members.~~ ~~3508 Carrier~~

~~The Board of the Public Employees' Benefits Program oversees a self insured group insurance fund and uses premium revenues to fund current and future benefits payments. The Public Employees' Benefits Program provides additional information regarding booklets describing the plan and benefits (State of Nevada Summary Plan Description (Plan Document)). These which can be obtained from the Public Employees' Benefits Program by calling:~~

~~For questions or problems you may have regarding your insurance call Public Employees' Benefits Program Member Services at 775-684-7000 or (800) 326-5496 or by visiting their website at <http://pebp.state.nv.us>.~~

~~3510 Eligibility Requirements~~

~~See NRS Chapter 287 or the State of Nevada Summary Plan Description (Plan Document) for further information.~~

~~3512 Effective Dates of Insurance~~

~~Requests for changes in coverage must be received in the Public Employees' Benefits Program office before the first day of the month to be effective for that month. See NRS Chapter 287 or the State of Nevada Summary Plan Description (Plan Document) for further information.~~

3514 Enrollment Procedure

~~Information regarding enrollment and eligibility for both Employees and Dependents is available from the Division of Human Resources Management in the State of Nevada Employee Handbook:~~

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~~http://hr.nv.gov/uploadedFiles/hrnv.gov/Content/Resources/Publications/Employee_Handbook.pdf~~

~~or from the PEBP Member Services:~~

~~[775-694-7000](tel:775-694-7000) or [800-326-5496](tel:800-326-5496) or <http://pebp.state.nv.us>~~

~~Insurance:~~

- ~~1. Each new employee may enroll in the Group Insurance Plan of his choice (State Self-Funded Plan or Health Maintenance Organization option, if available in his area) by attending an Employee Benefits Orientation and/or returning a Benefits Enrollment and Change Form to the Public Employees' Benefits Program (PEBP) within the required time period pursuant to NAC 287.~~

~~All employees paying a contribution toward health insurance will automatically be enrolled in the IRS Section 125, Premium Only Plan pre tax option. An employee may choose to decline pre-taxing his health insurance premium by completing a form provided by PEBP.~~

- ~~2. The employee's signature is required on all enrollment forms to authorize payroll deductions, enrollment changes, and life insurance beneficiary designation(s). This requirement is met when enrollment forms are completed online through electronic signatures.~~
- ~~3. The enrollment forms are sent by the employee directly to their Agency Representative for immediate submission to the Public Employees' Benefits Program for processing. Completed forms and any required documents must be submitted to the employee's Agency Representative within 5 business days after attending an Employee Benefits Orientation.~~

~~See the State of Nevada Summary Plan Description (Plan Document) for further information.~~

3516 Changes in Life Status

~~If an employee has a change that affects his or his dependent's coverage, a Benefits Enrollment and Change Form (BECF) or Benefits Change Form (BCF) must be completed and forwarded to the Public Employees' Benefits Program. Changes requiring notification include, but are not limited to:~~

- ~~1. Transfers (agency to agency) — BCF.~~
- ~~2. Terminations — BCF.~~
- ~~3. Leave Without Pay — BCF.~~
- ~~4. Workman's Compensation Leave — BCF.~~
- ~~5. Family Medical Leave Act Leave — BCF.~~
- ~~6. Military Leave — BCF.~~
- ~~7. Death of employee — BCF.~~
- ~~8. Retirement — BCF and BECF.~~
- ~~9. Name change — BECF.~~
- ~~10. Address change — BECF.~~
- ~~11. Adding or deleting dependent coverage — BECF.~~
- ~~12. Return from leave — BCF.~~
- ~~13. Reduction in hours (less than 80 hours per month) — BCF.~~

~~To update a life insurance beneficiary, the change form is provided by and sent to the Life Insurance carrier.~~

~~3518 Termination of Insurance~~

~~See the State of Nevada Summary Plan Description (Plan Document) for further information.~~

~~3524 Reinstatement of Insurance~~

~~If an employee terminates employment with the State and is rehired within one year, the employee is eligible for coverage on the first day of the month that coincides with or follows the date of rehiring. The employee may enroll in a different plan than they were previously enrolled.~~

~~Any employee rehired after more than one year will be treated as a new employee.~~

~~3534 Continuation of Coverage for Employee and/or Dependents~~

~~A Federal law called Public Health Services Act requires governmental employers sponsoring group health plans to offer employees and their families the opportunity for a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where coverage under the plan would otherwise end.~~

~~See the State of Nevada Summary Plan Description (Plan Document) for further information.~~

3538 Payment of Premiums

1. An overpayment of premium may occurs due to:
 - a. Clerical error.
 - b. Employee or retiree reportings changes, ~~but~~ after the payroll center's cutoff for changes on current month's deduction on their paycheck.
 - c. Employee or retiree failings to make timely notification that a dependent is no longer eligible for coverage or a new dependent is eligible for coverage~~due to an age change or student status change.~~
 - d. ~~An overpayment of premium does not include the payment of premiums for the month in which a participant's employment terminates, regardless of the date on which the termination occurs.~~
 - e. ~~There will be no refund of premium if a retiree fails to notify the Public Employees' Benefits Program when they or their dependent become eligible for Medicare. The premium will be adjusted for Medicare coverage on the first of the month following notification to the Public Employees' Benefits Program.~~
2. When an overpayment of premium occurs, credit may only be taken at the same rate at which the overpayment occurred and is:
 - a. Credited to the payroll center on their next month's premium statement during the current policy year if the participant is an active employee. The payroll center will be responsible for returning ~~the~~ money to the employee.
 - b. Refunded directly to the payer if the participant is a retiree or other qualified self-paying party.
 - c. Not pro-rated. Coverage is based on a full calendar month beginning on the first and ending on the last day of the month, and premiums paid for a month during which the employee terminates service on any date, for any reason are not considered an overpayment.

3540 Employee Responsibility

- ~~1. Employees who participate in the Public Employees' Benefits Program (PEBP) are responsible for understanding and following the plan rules outlined in the State of Nevada Summary Plan Description (Plan Document).~~
- ~~2. Employees who participate in the PEBP are responsible for notifying PEBP of any address changes.~~

3. BOARD MEMBERS' COMMENTS/PUBLIC COMMENTS

***4. ADJOURNMENT**

Notice of this meeting was posted in the following locations:

Blasdel Building, 209 E. Musser St., Carson City, NV

Capitol Building, 101 N. Carson St., Carson City, NV

Legislative Building, 401 N. Carson St., Carson City, NV

Nevada State Library and Archives, 100 Stewart Street, Carson City, NV

Notice of this meeting was emailed for posting to the following location:

Capitol Police, Grant Sawyer State Office Building, 555 E. Washington Ave, Las Vegas, NV

Capitolpolice-lasvegas@dps.state.nv.us

Notice of this meeting was posted on the following websites:

<http://budget.nv.gov/Meetings>

<https://notice.nv.gov/>

Supporting material for this meeting may be requested from Director Wells at (775) 684-0222 or budget@finance.nv.gov, and is available at the Governor's Finance Office, 209 E. Musser St. Room 200 Carson City, NV 89701. We are pleased to make reasonable accommodations for members of the public who are disabled and would like to attend the meeting. If special arrangements for the meeting are required, please notify the Governor's Finance Office at least one working day before the meeting at (775) 684-0222 or you can fax your request to (775) 684-0260.