

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE NO R199-22**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 645.

1. A clear and concise explanation of the need for the adopted regulation.

The onset of new technologies to coordinate and conduct education classes has created a need for regulation regarding these practices. Language is being proposed to define ‘live-instruction’ and ‘classroom’ methods to provide some guidelines for education sponsors. In order to provide education sponsors with more flexibility in scheduling classes, language is being proposed to register instructors which will provide sponsors access to a larger pool of instructors which may increase availability of courses. Regulations are also proposed to increase the time required for sponsors to submit class rosters, which will cut down on errors in submission.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Real Estate Commission posted the notice of proposed changes to NAC 645 on the Division’s website, Nevada Public Notice website, Nevada Legislature Administrative Regulation Notices website and sent proposed changes to licensees, organizations, associations, interested parties and businesses related to this profession on November 14, 2022. Along with the proposed changes to NAC 645, a Small Business Impact Survey was posted for small businesses to complete, to explain how the proposed changes will affect their business.

The Division received comments regarding the number of continuing education credits required at each renewal period. A suggestion was made to reduce the number of hours.

The Division received comments in support of the proposed changes to improve the course approval process.

The Division received comments in support of removing continuing education requirements in consideration of additional study materials and/or exams.

The Division received comments in support of virtual classroom instruction as an approved method of instruction.

The Division received comments in support of the live-streaming process to remain as an approved method.

The Division received comments regarding the instructor registration process along with suggestions to modify current forms to reduce paperwork.

The Division received a completed small business impact survey with comments citing better and more strict standards for educators will help improve the industry.

The Division received comments questioning why there is a cost for continuing education courses, especially those taught by former commissioners.

The Division received comments not in favor of the approval of hybrid education platforms. The comment suggested only the approval of classroom and/or live-streaming methods.

The Division received comments in support of the approval of hybrid education platforms, as long as the right rules and procedures are in place.

The Division received comments expressing concern with proposed instructor workshop requirements due to the potential limited availability of schedules by Division staff. A comment was also made to encourage the Division to hold workshops in Northern and Southern Nevada. A comment was also made to suggest a fee for the workshop to improve the quality of information provided. A suggestion was made to reduce the time of discipline from 10 years to 7 years to allow instructors to be eligible.

Regarding the qualifications to become an instructor, the Division received comments with concern that the proposed language makes it more difficult for instructors to be deemed eligible. Comments were received that the level of experience required may not be attainable, as the language requires. The Division received several requests for clarification on the language.

The Division received comments suggesting the addition of email notification as well as US Mail.

The Division received comments asking for clarification of 'material change' updates in course curriculum.

The Division received a comment that the submission of an advanced calendar may be cumbersome for staff and sponsors as the schedules may change. A suggestion was made to create a

The Division received a suggestion that post-licensing curriculum be reviewed for relevance every 3-4 years.

The Division received a suggestion that post-licensing education be required to be completed in 6 months rather than 12 months as currently written.

The Division received a comment concerning whether the Division has sufficient staff to approve classes. A comment was made that a course should not be marketed prior to approval by the Division.

The Division received a suggestion that there be a bank of 20 random questions for the passage of internet continuing education courses. A suggestion was also made to increase the passing rate to 80%.

The Division received a comment in support of the proposed maximum of 25% of pre-recorded material for a live session.

The Commission conducted a second public workshop and adoption hearing on February 20, 2024, with notice of proposed changes to NAC 645 posted on the Division's website, Nevada Public Notice website, Nevada Legislature Administrative Regulation Notices website and sent proposed changes to licensees, organizations, associations, interested parties and businesses related to this profession on January 10, 2024.

The Division received a suggestion that online students be required to be in full view, be seated and pay attention during instruction to receive credit, no distractions of any kind should be allowed.

The Division received comments in support of the proposed language as submitted.

The Division received a small business impact survey citing a negative impact to a small business due to the instructor registration process.

The Division received a comment in support of the proposed instructor workshop. A question was raised about who was teaching the workshop, who is writing the curriculum and what the quality mechanism is for improvement.

The Division received comments suggesting that a monitor be required for classes with 25 or more students to allow the instructor to focus on instructing and not class monitoring.

The Division received comments with concerns of the potential for irregular scheduling of instructor workshops, further delaying registration. The Division also received comments that some associations have their own instructor workshop and would the Division allow those to count towards the requirement.

The Division received comments in support of virtual classroom instruction, especially for those in rural and Northern Nevada.

The Division received comments in opposition to mandatory training for instructors, with concerns that nationally approved instructors, would not want to comply.

The Division received a suggestion that it create a rubric with standardized methods of assessment, to encourage better instructor practice.

The Division received comments asking for clarification between the formal and informal processes of approval for courses.

The Division received a comment that the language would help restrict last minute instructor changes and require more planning.

The Commission conducted an adoption hearing on February 20, 2024. The Commission voted to adopt LCB File No. R199-22.

Interested persons may obtain a copy of the small business impact statement and/or summary of the public response by contacting:

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3. The number of persons who:

(a) Attended each hearing:

December 13, 2022: 21 in person (North and South) / 50 virtual attendees (approx.)

February 20, 2024: 27 in person / 86 virtual attendees

(b) Testified at each hearing:

December 13, 2022: 9

February 20, 2024: 9

(c) Submitted to the agency written comments: 9 (December 13, 2022) / 8 (February 20, 2024)

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit A.

Please see attached.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

The Real Estate Commission posted the notice of proposed changes to NAC 645 on the

Division's website and sent proposed changes to licensees, organizations, associations, interested parties and businesses related to this profession on November 14, 2022 and subsequently on January 10, 2024 for the second public workshop and adoption hearing.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The proposed regulation was adopted on February 20, 2024. The initial draft of the proposed regulation was amended after the Division received public comment before, during and after the December 13, 2022, workshop. The amended proposed regulation was presented on February 20, 2024, during the second public workshop where additional public comment was received. The drafted regulation has been sent to LCB for revision of the final draft.

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

Business which it is to regulate

(a) Both adverse and beneficial effects:

(I) Adverse effects:

The definitions of Classroom and Live instruction are being expanded. There should be no adverse effect on small businesses as there is no additional cost to the business or a requirement to change their current practices. The regulations are also proposing a monitor be used for classes with more than 5 participants to assist with class monitoring. This may cause a change to how the small business ensures compliance and will require some changes to their current operations. For very small operators offering virtual classes of 5 to 10 students this change may increase the cost of the class offerings. However, most small businesses providing digital learning and hybrid teaching modes have class sizes over 20 students already have monitors to assist in class monitoring. The requirement to register instructors will increase the pool of eligible instructors for a sponsor to choose from. This allows the instructors to then teach courses offered by sponsors for Pre, Post and Continuing education. There should be little to no adverse effect on small businesses as there is no additional cost associated with business to register for instructor registration. The public should have no adverse effects from any of the changes to the definitions of Classroom and Live instruction, nor the monitoring requirements or instructor registration. The ability of the provider to have assistance during instruction of larger classes, will allow the monitor to assist with technical issues and respond to questions, allowing the instructor to maintain order of the class.

(II) Beneficial effects:

The definition of Classroom is being expanded to include digital platforms and interactive media. The definition of Live instruction is also being expanded to include digital platforms and hybrid teaching modes. The changes to Classroom and Live instruction definitions will significantly benefit education sponsors as this allows them to take their existing courses and offer it in different live and classroom formats. Changes to the instructor registration enables the instructors to receive approved certification by the Division prior to submitted course applications. This will streamline the course approval process and reduce the paperwork submitted with each course approval for the sponsors. The public should benefit from the regulation because sponsors will be able to offer more classes in multiple platforms with their

choice of registered instructors, increasing the opportunity for the public to attend courses, especially for those in rural parts of the state.

(b) Both immediate and long-term effects.

(I) Immediate effects:

Based on the changes to classroom and live instruction definitions, the Division anticipates a significant increase in courses submitted for approval and an increase in the number of courses offered in Pre, Post and Continuing Education. Changes to the instructor registration will also increase the number of instructors applying to register with the Division. This will allow a larger pool of qualified instructors for the sponsor to choose from, thereby increasing their ability to advertise and increasing revenue. A more flexible schedule may also attract more students with varied schedules. Less regulation on the sponsor to submit documentation within specific timeframes may also allow the sponsor more time to ensure accurate information is submitted to the Division. The increase in course offerings will greatly benefit the public, giving them more options to choose from. They can now attend virtually or in a classroom and meet the Live instruction requirements allowing more flexibility in scheduling classes. The class information submitted by the sponsors to the Division, will be provided more frequently and more accurately. This will allow Division staff to verify class attendance and participation, providing a timelier application renewal process.

Long-term effects:

These proposed changes will potentially increase the different options for business to provide education to licensees. This should increase the number of businesses in the education space and also attract new business into the industry. An increase in different teaching formats may increase visibility and student participation from licensees throughout the state. A hybrid classroom may contribute to greater shared learning of practices between licensees in rural and urban areas of the state. There are differences in real estate practices in rural and urban areas. The opportunity for students throughout the state to participate in classes together will increase their knowledge of statewide practices. This may allow some licensees to consider expanding their geographical service area and may improve their business practices. The public will have more protection since Instructors are now registered with the Division and bad actors can be reported to the Division to take action.

8. The estimated cost to the agency for enforcement of the adopted regulation.

No additional estimated costs to the agency for enforcement of LCB File No. R199-22.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that LCB File No. R199-22 duplicates.

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

LCB File No. R199-22 does not include any provisions which duplicate or are more stringent than federal, state or local standards.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

LCB File No. R199-22 does not establish any new or increased fees.

EXHIBIT A

DECEMBER 13, 2022 – Submitted Public Comment

- Robert Stiles – captrim99@hotmail.com
- Cody Lewis – 8101993@gmail.com
- Robert Dickerson – robert@buylaketahoe.com
- Joe Fitzpatrick – joe@fitzpatrickschool.com
- Georgia Purpura – georgiapurpura@gmail.com
- Neil Schwartz/Tiffany Banks/ April Labrie – tiffany@nvrealtors.org
- Scott Beaudry – broker@universalrealty.com

FEBRUARY 20, 2024 – Submitted Public Comment

- Bob Sateren – bob@loanslv.com
- Debbie Warner – dwarner@gastonwilkerson.com
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