

**LCB FILE No. R117-02**

**PROPOSED REGULATION OF THE  
STATE CONTROLLER**

- 1. An agency may submit to the Controller pursuant to NRS 353C.190 a request to offset any amount owed to a debtor by any agency against any amount the debtor owes an agency.*
- 2. An agency must submit a request in the format provided by the Controller*
- 3. An agency shall be responsible for verifying and certifying the accuracy of the name of any debtor and the amount of the debt. The agency is responsible for immediately correcting any inaccurate data.*
- 4. The Controller will not offset any Child Care Payment or Public Welfare Assistance Act Payment of a debtor*
- 5. The Controller will not offset any payment of a debtor who filed for bankruptcy.*
- 6. The Controller may suspend any payment owed to a debtor within three (3) working days of receipt of a request to offset.*
- 7. Prior to offsetting any amount owed to a debtor, the Controller will notify the requesting agency and the agency processing the payment to the debtor that the payment has been intercepted and is being held for potential offset.*
- 8. Upon receipt of instruction from the holding agency to withhold the payment from the debtor, the Controller will notify the debtor in writing that he/she intends to offset the payment. The debtor shall have 10 days to request a hearing with the Controller on the issue as to why the offset should not occur.*
- 9. If the debtor fails to request a hearing within 10 days, the offset will be processed and the dollar amount of the payment will be transferred to the agency requesting the hold.*
- 10. When two or more agencies submit requests for an offset against the same debtor's payment, the amount payable to the agencies will be prorated based first on the amount of the original debt and second on the amount of any additional interest or penalties owed the agencies.*

NAC \_\_\_\_\_ *Scope; construction; deviation.*

1. NAC \_\_\_\_\_ to \_\_\_\_\_ *inclusive:*

(a) *Governs the practice and procedure of hearings before the State Controller.*

(b) *Will be liberally construed to secure the just, speedy and economical determination of all issues presented to the State Controller.*

2. *The scope of the hearing shall exclude review of the final determination of amount owed by the petitioner.*

3. *In special cases, where good cause appears, not contrary to statute, deviation from these rules, if stipulated to by all parties of record, will be permitted.*

NAC \_\_\_\_\_ *Communications.*

1. *All pleadings, including but not limited to complaints, petitions, answers, briefs, motions, affidavits and applications, should be addressed to the State Controller. All pleadings are deemed to be officially received by the State Controller when a true copy of the paper or document, properly addressed and stamped, is deposited in the United States mail.*

NAC \_\_\_\_\_ *Testimony must be under oath. Oral evidence will be taken only upon oath or affirmation administered by the State Controller. Before taking the witness stand, each person must swear, or affirm, that the testimony he is about to give will be the truth, the whole truth and nothing but the truth.*

NAC \_\_\_\_\_ *Certificate of service. With all documents required to be served, an acknowledgment of service or a certificate in substantially the following form must be included:*

*I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy thereof in person to ..... ) (by mailing a copy thereof, properly addressed, with postage prepaid, to ..... )*

*Dated at ....., this .....(day) of .....(month) of .....(year)*

*Signature*

NAC \_\_\_\_\_ *Transcripts.*

*If a transcript of any hearing held before the Controller is desired by the petitioner, he must furnish the reporter, pay for the transcript and deliver a copy of the transcript to the Controller within 20 days after requesting a rehearing or filing a petition for judicial review of the matter pursuant to Chapter 233B of the NRS.*

NAC \_\_\_\_\_ *Meetings and hearings: Conduct required; smoking prohibited.*

*A person appearing in a proceeding shall conform to the recognized standards of ethical and courteous conduct.*

NAC \_\_\_\_\_. *“Petitioner” defined. “Petitioner” means any person who requests a hearing before the State Controller.*

NAC \_\_\_\_\_ *“Staff” defined. “Staff” means the staff of the Controller.*

NAC \_\_\_\_\_ *Rights of petitioner and staff at hearing. At any hearing, the petitioner and staff may:*

1. *Call and examine witnesses.*
2. *Introduce exhibits relevant to the issues of the case.*
3. *Cross-examine opposing witnesses on any matter relevant to the issues of the case, even though that matter was not covered in the direct examination.*
4. *Impeach any witness regardless of which party first called him to testify.*
5. *Offer rebuttal evidence.*
6. *Call any person who, because of his relationship to any other party, may be an adverse witness, and examine him as an adverse witness.*

NAC \_\_\_\_\_ *Representation of parties; qualifications of attorneys. Appearances and representation of parties must be made as follows:*

1. *A party may appear in person, as provided in subsection 2, or may be represented by an attorney, an accountant or an authorized representative.*
2. *A party, if other than a natural person, may appear:*
  - (a) *If a partnership, by a partner.*
  - (b) *If a corporation, by an officer or other authorized representative or regular employee.*
  - (c) *If a municipal corporation, by an authorized officer, agent or employee.*
  - (d) *If an unincorporated association, by an authorized representative, officer or employee.*
3. *If a party chooses to be represented by an attorney, the attorney must be one who is admitted to practice and in good standing before the highest court of any state of the United States. If the attorney is not admitted to practice and in good standing before the supreme court of Nevada, an attorney so admitted and in good standing must be associated with the attorney appearing before the commission or department.*

NAC \_\_\_\_\_ *Notice; location.*

1. *Hearings will be held before the State Controller. Except as provided in subsection 3, notice of the place, date and hour of the hearing will be served at least fifteen (15) days before the date set for the hearing.*
2. *Hearings will be held at the offices of the State Controller in Carson City, Nevada, or at such other place in the state as may be designated in the notice of hearing.*
3. *In all hearings ordered to be held by the State Controller, the hearing date may be set with less than 10 days' notice if the petitioner, or his counsel, and staff agree in writing.*

NAC \_\_\_\_\_ *Prehearing Statements. The Petitioner and the Staff shall each submit a prehearing statement to the State Controller at least five (5) days prior to the date of the hearing. The Prehearing statement shall include a statement of the issues to be presented and a list of witnesses and evidence to be presented at the hearing.*

NAC \_\_\_\_\_ *Continuances; recesses. The Controller may, in her discretion, either before or during a hearing, grant continuances or recesses.*

NAC \_\_\_\_\_ *Failure of party to appear. At the time and place set for the hearing, if a party fails to appear, the State Controller may, in his discretion, dismiss the proceeding with or*

*without prejudice or may recess the hearing for a period of time to be set by the State Controller to enable the party to attend.*

*NAC \_\_\_\_\_ Burden of proof; presentation of evidence.*

*1. The Petitioner has the burden of proof in any hearing ordered or noticed for that purpose.*

*2. Evidence may be received in any manner ordered by the State Controller, but will ordinarily be received from the parties in the following order:*

*(a) Brief orientation by the staff;*

*(b) The petitioner;*

*(c) The staff; and*

*(d) Rebuttal by the petitioner.*

*NAC \_\_\_\_\_ Admission of evidence; depositions; affidavits.*

*1. The hearing will not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted, except where precluded by law, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs, even though the evidence might be subject to objection in civil actions.*

*2. Hearsay evidence, as that term is used in civil actions, may be admitted for the purpose of supplementing or explaining other evidence, but it is not sufficient to support findings of fact unless it would be admissible over objection in civil actions.*

*3. The rules of privilege will be applied as they are applied in civil actions.*

*4. Irrelevant, cumulative and unduly repetitious evidence is not admissible, nor is incompetent evidence, as that term is used in civil trials, with the exception of hearsay evidence as above provided.*

*5. The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, even though the evidence would otherwise be subject to objection.*

*6. The State Controller or any party to any proceeding may cause the depositions of witnesses to be taken in the manner prescribed by law and the rules of the court for depositions in civil actions.*

*7. The affidavit of any person may be admitted in evidence if all the parties stipulate and consent to its admission.*

*NAC \_\_\_\_\_ Official notice. The State Controller may take official notice of the following matters:*

*1. Rules, regulations, official reports, decisions and orders of the State Controller and any regulatory agency of the state.*

*2. Matters of common knowledge and technical or scientific facts of established character.*

*3. Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference if proper and definite reference to the document is made by the party offering it and it is published and generally circulated so that all of the parties of interest at the hearing have an opportunity to examine it and present rebuttal evidence.*

*4. Matters which may be judicially noticed by the courts of the state.*

*NAC \_\_\_\_\_ Briefs.*

*1. In any hearing, the State Controller may order briefs filed within such time as he allows.*

*2. Briefs must be filed with the State Controller and be accompanied by an acknowledgment of or an affidavit showing service on all other parties of record.*

*NAC \_\_\_\_\_ Duties of State Controller after hearing.*

*1. After the hearing of a contested case, the State Controller shall prepare findings of fact, conclusions of law and his final decision on the issues presented at the hearing.*

*2. The State Controller shall serve a copy of his findings of fact, conclusions of law and decision upon all the parties of record.*