

**NEVADA STATE REHABILITATION COUNCIL (N.S.R.C.)
MEETING MINUTES**

November 10, 2020 at 9 a.m.

Teleconference only

COUNCIL MEMBERS PRESENT:

Kacy Curry
David Nuestro
Shelley Hendren
Mary Brabant
Judy Swain
Rebecca Rogers
Raquel O'Neill
Marshal Hernandez
C.J. Fields
Alex Goff

COUNCIL MEMBERS ABSENT:

Allison Stephens

GUESTS/PUBLIC:

Jack Mayes, Nevada Disability Advocacy and Law Center
Steven Cohen, Public
Dee Dee Foremaster, Nevada Statewide Independent Living Council
Ted Nagel, Nevada Disability Peer Action Coalition and current client

STAFF:

Justin Taruc, Deputy Attorney General
Jenny Casselman, DETR Deputy Director
Mechelle Merrill, Rehab. Div. Deputy Administrator
Drazen Elez, Rehab. Div. Deputy Administrator
Javier Fernandez, VR Liaison to N.S.R.C.
Linsey LaMontagne, VR Southern District Manager
Sheena Childers, VR Bureau Chief
Rosa Mendez, DETR Public Information Officer
Marla Robinson, Administrative Assistant

1. **CALL TO ORDER, INTRODUCTIONS, AND VERIFY TIMELY POSTING OF AGENDA**

Kacy Curry, Chair called the meeting to order at 9:00 a.m. Javier Fernandez NSRC Liaison called the role.

Mr. Fernandez determined a quorum was present and verified that the posting was completed on time in accordance with Open Meeting Law. Per Governor Sisolak's extension of the Declaration of emergency directive 006, no physical meeting place was determined, and no physical posting of the agenda was done. The only posting required by the Deputy Attorney General's office was displayed on the DETR and Nevada Public Notices website.

New council members were introduced. Marshal Hernandez, VR Counselor, C.J. Fields from the Dept. of Education, Alex Goff, Business, Industry & Labor. The DETR Deputy Director Jenny Casselman also joined the meeting to learn about the council and its' role.

2. **FIRST PUBLIC COMMENT**

Mr. Steven Cohen submitted an emailed public comment prior to the scheduled meeting, and he reviewed his emailed public comment during the meeting. **Public comment attached at end of minutes.** Additional comments were made regarding the meeting materials.

Mr. Cohen provided feedback on the annual report. He withdrew his request on the rewrite of the 700-hour program.

3. **APPROVAL OF THE SEPTEMBER 22, 2020 MEETING MINUTES**

Ms. Curry began the discussion by asking the council if there were any corrections, modifications or changes to the September 22, 2020 meeting minutes. Raquel O'Neill made a motion to approve the minutes as written. Judy Swain seconded the motion. All in favor, none opposed, Alex Goff & C.J. Fields abstained, motion carried, minutes approved.

5. **OTHER REPORTS**

Jack Mayes, Executive Director of the Nevada Disability Advocacy and Law Center (NDALC) reported on the Client Assistance Program (CAP) advocating for individuals seeking services through programs funded under the Rehabilitation Act. NDALC is actively completing their year-end report and will present it at the next scheduled council meeting. Re-applied again for a 3rd time to be on the council and still waiting on the Governor's office for an appointment or a rejection.

Dee Dee Foremaster representing the Nevada Statewide Independent Living Council (SILC) reported that she is new and didn't know what to report. Grants going well.

6. **ADMINISTRATORS REPORT**

Shelley Hendren, Rehabilitation Division Administrator reported on the following topics:

Legislative Update: It is still early to provide any actual updates on the bills Rehabilitation will be tracking so we understand the changes to the law that may affect the VR program or persons with disabilities. VR would like to be able to share that information with our clients. Rehabilitation Division has one bill draft request that is being submitted. A bill draft request (BDR) is a request to change Nevada State Law. The one request the Division has is to change to Nevada Revised Statute (NRS) 426. This law primarily effects the Blind Business Enterprises of Nevada program (BEN). The changes to the bill are to add clarity and to use consistent terms throughout the section of the bill. The changes made are to better align with the Federal Randolph Shephard Act. A section of law has been added affecting the Training Program for our blind entrepreneur's section 426.672. A new dispute resolution process was added to include a hearings officer like in 426.680. A section was added to identify and strengthen the Divisions ability to create regulations around the program.

Fair Hearing Requests: Since the September 22nd meeting we have a carryover hearing from March that has been rescheduled a few times. It's currently scheduled for February 4, 2021 and the dispute is case closure. We've had one individual file four Fair Hearing Requests over a short period of time. All four requests were dismissed in October by the Hearings office. We currently have one new Fair Hearing Request received October 13th regarding procedure. This Hearing is scheduled for December 8th.

Mechelle Merrill, Rehabilitation Division Deputy Administrator of Programs reviewed the performance measures for the 4th quarter of FFY20.

Goal # 1 Increase the Number of Successful Employment Outcomes. VR had 453 clients that closed with a successful employment outcome. The goal was 822. The biggest impact in reaching the established goal was due to the COVID-19 virus pandemic. 6 1/2 months of FFY20 the office was closed to the public. VR was sent home on March 15th and could not return to active client service until systems were put in place allowing VR to work from home.

Some of the new enhancements include: DETR Connect which allows staff to remote directly to their desktop computers. DocuSign was also added which enabled tandem connection with VR's case

management system enabling clients to sign documents virtually. The New 8X8 phone system was launched, which is cloud based, allowing staff remote access to their office work phone. VR's physical applications were converted to an online application process. VR added a Global Schedules to schedule appointments for client's statewide.

Goal # 2a Increase Participation and Increase Successful Outcomes in VR Transition Services and Ensure Participants Receive as Appropriate Pre-Employment Transition Services (Pre-ETS) – Participation. Total Transition Student Applications received is 323, the goal was 1,014.

Goal # 2b Increase Participation and Increase Successful Outcomes in VR Transition Services and Ensure Participants Receive as Appropriate Pre-Employment Transition Services (Pre-ETS) – Outcomes. Transition Student Outcomes is 56 and Transition Students with Postsecondary Education is 110 for a total of 166, the goal was 400.

Goal # 2c Increase Participation and Increase Successful Outcomes in VR Transition Services and Ensure Participants Receive as Appropriate Pre-Employment Transition Services (Pre-ETS) – Services. Potential Eligible Transition Students that Received Pre-ETS services were 853, Transition Students with a VR Case that received Pre-ETS services were 300 for a total of 1,153. The goal was 1,898.

A large factor for the lower figures in goal 2 was the fact that all School Districts had closed schools when the pandemic hit which effected our totals. VR's summer internship programs and summer camps were also suspended. VR had to end the contracts with our two Transition Coordinators but have now been reinstated to assist schools virtually.

Goal # 3a Increase Participation and Successful Outcomes of Supported Employment Consumers in a Competitive Integrated Setting – Participation. Total Open Supported Employment Consumers was 529. The goal was 786.

Goal # 3b Increase Participation and Successful Outcomes of Supported Employment Consumers in a Competitive Integrated Setting – Outcomes. Total Supported Employment Consumers with an employment outcome was 80. The goal was 166.

Goal # 3c Increase Successful Outcomes for Students with a Disability who are also Supported Employment Consumers in a Competitive, Integrated Setting – Outcomes. Total was 17. There is no current goal set.

Goal # 4 Collaborate with Other Resources to Support Participants with Mental Health Disabilities to Obtain and Maintain Successful Employment. Total who achieved an employment outcome was 252. The goal was 330.

Goal # 5 Work with Eligible Government and Community Partners to Maximize Utilization of Resources and Federal Funds. Federal Section 110 Generated from Additional Match was \$5,944,103.

4. **NSRC ANNUAL REPORT FINAL DRAFT**

Rosa Mendez, DETR Public Information Officer began her review of the proposed NSRC 2020 Annual Report draft and solicited from the council their comments, suggestion, corrections to the 2nd final draft. The statistical data and the fact sheet data will be updated with the current totals for the 2020 year. The quality of the cover page has been updated along with the changes suggested by staff. Page 4 there are 3 images listed at the bottom of the page. The council voted on the first image of the word "Mission" with the hand and pencil. Page 20, there are 2 images listed at the bottom right hand corner of

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the page. The council voted on the image of the book spine with the words "Success Stories" written across it. The section on the Success Stories that begin on page 18 to 22 have images of client's above the stories. The images have been made larger without compromising the layout. The statistical data beginning on page 24 to 31 will be updated for FFY20 data. Raquel O'Neill suggested for future reports to include more emphasis and possibly a success story on a Blind or Visually Impaired person. Page 19 success story for James Altman, the last paragraph is repeated from page 18. It should be removed. The darker colors will be lighted. Page 10, employee profile, Michael is missing his last name Adragna. Page 14, Boulder Station symbol to be removed as there have been no collaborations for several years and the placement rate should be changed from 88% to 96%.

A motion was made by Alex Goff to make the changes discussed and VR to do non substantive corrections as they are discovered; Rebecca Rogers seconded the motion. All in favor, none opposed, motion carried.

7. COMMENTS BY THE COUNCIL

Ms. Curry asked if there were any comments by the council. Ms. Hendren will have a legislative update on the next scheduled council meeting on February 9, 2021 at 9 a.m. Ms. Hendren will also discuss the governor's recommended budget for VR.

8. SECOND PUBLIC COMMENT

Ted Nagel, public member and current VR client, requested copies of draft meeting minutes. Dee Dee Foremaster also asked for a copy. They will both be emailing Javier Fernandez the council liaison for a copy to be emailed.

9. ADJOURNMENT

Meeting adjourned at 11:30 a.m.

Edited By:

Javier Fernandez

Javier Fernandez, N.S.R.C. Liaison

Approved By:



David Nuestro, Vice-Chair

My name is Steven Cohen, and I am a disability self-advocate. In the event questions arise based upon my comments, I am always more than happy to address questions offline at Steven.Cohen@Alumni.UNLV.edu. Council and Department staff are authorized, effective as of this revision, to share my recently updated cell phone number with legitimately interested parties to discuss any matter mentioned herein, with deference to Open Meeting Law requirements, Robert's Rules of Order meeting etiquette, etc.

If you have been around the block over the past several quarters' SRC meetings

In Summer 1998, my father took early retirement from an Accounting role in private industry. It was always his dream to relocate to Las Vegas. At that time in my life, we had known I was different than other age-appropriate children since preschool but did not yet have a diagnostic criterion to associate my idiosyncratic behaviors with. We did a thorough investigation of Clark County School District's resources, and ultimately determined that relocating from Central New Jersey to Southern would be a more appropriate decision at that time. It was there that I was formally diagnosed with Asperger's Syndrome, now known in the clinical manuals as Autism Spectrum Disorder, along with several other co-morbid diagnoses, such as Mood Disorder with Aggression, and Major Depressive Disorder.

In the 5 years we spent in Southern New Jersey, the local police department ended up knowing us by name, because we were struggling to cope as a family with this new terminology, which continues to affect all of us almost 20 years later. During the first 3 years, I was verbally and physically aggressive toward those that were closest to me, my parents, attempted to self-harm, and came within inches of being institutionalized for "mental health" reasons. As I entered high school, the disconnect from reality set in when my assigned social worker stated, "We had another Aspie, and they didn't do that," with that representing whatever "behaviors" I was experiencing at that moment in time. In lieu of suing that school district to provide a Free and Appropriate Education, or FAPE, as some educators may know it; we were lucky to have toured an alternative upper middle and high school environment in a suburb of St. Louis, where I ended up spending my junior and senior years. While said school was not where it could have been academically, in handling both local school district and private pay referrals for middle and high school aged pupils, without its robust, near immediate therapeutic model, I may not be here testifying before the Council today. The month after I graduated with "good grades," as some schools justify getting out of their legal responsibilities with, we were finally able to realize my father's dream to move to Las Vegas.

Since relocating to Southern Nevada, with reasonable accommodations, I am proud to report to the Council that I graduated with a bachelor's degree in Accounting from UNLV in Fall 2016. I will formally begin exploring the possibility of returning to school for further education in Autism Spectrum Disorders, Intellectual and Developmental Disabilities, and/or Applied Behavior Analysis and/or Special Education Law later this fall. Despite my best efforts to be politically correct, New Jersey natives aren't known for that. As a result, my attempts to "fit in" with mainstream society continue to be an issue, as recently as a few months ago. As an original 700 Hour program hire by Medicaid, I was released from my probationary period without much warning, after having entered the reasonable accommodation interactive negotiation process with the employer. Because most of Nevada's personnel statutes favor permanent employees, I appealed that wrongful termination as a whistleblower, but received a dismissal order less than 48 hours prior to trial, because the original complaint form wasn't filled out properly, or so the Hearing Officer said. I am presently in the lengthy process of initiating Federal mediation and settlement of that matter, to protect what I thought would have been a secure livelihood, State governmental employment. While recently passed Senate Bills 31 and 50 (2019) addressed some issues with the 700 Hour Program, and overall State governmental personnel processes, the common courtesies afforded to human beings with and without disabilities have disappeared in the current societal climate. If Nevada, or Las Vegas, will not provide me a sustainable retirement-capable livelihood for what society deems as basic necessity items, such as food, clothes, and shelter, the Honorable Chris Smith's district, a few short minutes from my childhood homes in New Jersey, is sure to. While our delegation has always ended personal meetings with words to the effect of, "We'll let you know," when the same concerns I present here today have been summarized, Rep. Smith is constantly featured within mainstream disability publications, as being a lead and/or co-sponsor of pro-disability systemic navigation legislation, for one primary reason. While the national statistics concerning autism, diagnosis are difficult enough for any human being to swallow, New Jersey's specific statistics are at least half the national average, if not worse. While many disability-based issues have the potential to turn into partisan nightmares, people with disabilities just want to be treated like people. I wish life was that easy, but it has been far from for our family for the past 27 years. By pure luck, the

teacher who gave us the first clues to investigate, when autism was far from a national conversation, will end up being my realtor. As the wildest State session in recent memory recently unfolded, I was often reminded of a quote I received as part of my high school graduation present, many moons ago. In part, "Life is not always black and white. Remember to embrace the grey." (Stork, 2006).

While interpersonal communication, as some of us in the room and on the phone remember it, free after 9:00 at night and on weekends, has gotten somewhat lost in the digital age, a few months ago, the nationally syndicated court show "Hot Bench," had a case with a witness with a hearing disability, for which CBS had the financial resources necessary to provide a sign language interpreter, based upon the witness' request. In the course of processing that case via my DVR, I clapped twice, once as Judge Patricia DiMango expressed the very point that I have been trying to make since January, "Without opportunities for inclusion as a way of life, we may as well be back in the dark ages, when people in protected civil rights classifications, such as disability, could be discriminated against, just for the heck of it." As a long-standing client, when I want to go into Taurus tiger mode, I *should* utilize these recent experiences to sit on how I'm feeling in the moment for 1-2 business days, but often instead make waves, when there are more adult ways to solve the issue. In closing the case, the Plaintiff shared this life lesson, which will transition nicely into the theme of my next paragraph. Whether Federal and/or State, systems change doesn't happen overnight. As much time as we have spent fighting over the past decade-plus, with the passage of time, I have become even more sympathetic and thankful to Bureau staff, as, since the implementation of WIOA, Bureau staff's jobs have gotten much more difficult. While not quite person-first, the Plaintiff's take-away was words to the effect of, "Just because someone is deaf, they can still work." Tooting my horn has never been my true style, but, whether Legislatively and/or project-wise, I want to be Nevada's "Nothing About Us Without Us" test case to increase employer understanding of the concept of neurodiversity. In brief, everyone has their own unique gifts, and weaknesses. No human is perfect, even those who claim otherwise. When that dreaded question is asked in a job interview, it is done for the employer to gauge a candidate's level of personal development and accountability. Sometimes, people make the same mistake more than once, before the epiphany turns on, and the intended lesson is learned (Section 107 fair use/FOIA request). By the same token, while national companies have begun to see the value of such a concept, as the overall labor market tightens, rarely have I read and/or heard of their Nevada franchisors following suit. How can Las Vegas claim to be "The Land of Tourism," without discussing a customer behavioral metric, as part of consumer satisfaction? In almost 2020 America, which has become consumed by a desire for technology, but, more importantly, offensiveness, over things which would not have seen such pettiness a few short years ago, it would take the same few seconds for an overly satisfied customer to positively brag, about something as simple as the diversity of a business' workforce. While not dispositive to make decisions in our most prevalent industries, consumers and customers alike have informed choice. In a person-centered human services marketplace, a cost/benefit/risk analysis is enough, but it is *there* that staff's involvement in the decision-making process should *end*. As long as the consumer can provide sufficient evidence of the transferability of soft skills developed through prior experiences, why should the labor market tool, O*NET control?

Nationally, estimates are that 75% of working age people with Asperger's or another autism spectrum disorder are either unemployed or underemployed. I can only provide the consumer perspective concerning New Jersey, Missouri, and Nevada's available Federally mandated social "welfare" programs, but, without one of the key indicators of a quality of life, competitive, integrated employment alongside people without disabilities, working aged people with Asperger's and on the autism spectrum are left to find other ways to occupy a 24-hour day. Unfortunately, with no 2 people with Asperger's or on the autism spectrum being identical, no "catch all" legislation can possibly meet every family's unique needs. Why this "rough draft memoir" document has been circulated through countless public meetings over the past half-year, and revised multiple times, has equally as much been about the most confusing Legislative session for Nevada policy veterans in recent memory, as to provide other families who have or will walk in our shoes with hope. With that said, as will be demonstrated later, for the Council's at least fourth consecutive meeting, it is not enough to conduct consumer satisfaction surveys, across a wide spectrum of disability needs, without taking into account what the consumer wants, and, when deficiencies exist, not providing consumers with lip service. Human beings self-discover mistakes in what will wake them up daily all the time, and the forced poverties associated with the complexities of the Workforce Investment Opportunity Act must end, today. As a taxpayer, the management of any Vocational Rehabilitation program in this country who continues to permit the enrollment of Section 14 (c) Fair Labor Standards Act vendor contracts deserve to be put in the nearest Federal penitentiary, until they are willing to stand up to the 535 geniuses in Congress, who placed them in this unfortunate circumstance to begin with. Human services wake me up daily, not accounting. Unfortunately, for those who are intimately involved in our biannual Legislative process, Rocky has retired, but this revision will be

sent to Bullwinkle, absent management's commitment to hear my concerns, on behalf of the consumer class.

Unfortunately, without systems in place which can provide an appropriate quality of life, having been close to that point we, one of these needs often involves the criminal justice system. In everyday life, many times, without the appropriate supports, such as family or close friends, people with Asperger's or autism spectrum disorder will provide a false sense of security regarding the subject matter being discussed, in that they will confirm understanding, when, in fact, they do not understand. In a criminal justice situation, I don't want to imagine the techniques that law enforcement officers have been trained to employ to ensure compliance. With the appropriate societal trainings, people with Asperger's and autism spectrum disorder, and intellectual and developmental disabilities more broadly, can live productive lives, free from the government's interference, whether in the "social welfare" or criminal justice context. As I have continued to dually refine these remarks throughout the past several months, I have been continually reminded of the traumas I experienced during the darkest 5 years of my life, prior to this year, our time in Southern New Jersey. Bullying is the word that is commonly thrown around in mainstream media, but, to this day, I will be the first to speak out against national attempts to abuse, neglect, exploit, etc. any person with Asperger's or autism spectrum disorder, or intellectual and developmental disabilities more broadly. Imagine, for just a moment, having your neighbor in your small community impersonate another individual, explicitly to torment the "different" new guy in the neighborhood. In conjunction with the below request for cameras in special education classrooms, now is the time for the Legislature to make these traumatic events criminals, from the very beginning. If any individual, governmental associated or otherwise, is allowed to traumatize an individual without felonious consequences, they will continue to do so, until someone takes an outspoken stance.

In conjunction with the unofficial agency public meeting Legislative subcommittees/work groups/task forces statewide, the projects I hope to bring forward during the next Legislative session's preparation process, through Legislative, designated state agency representative, provider, and consumer collaboration follow below. Some have come up in previous sessions. Where appropriate, I have added a historical status parenthetical by each project, to allow senior Legislators and/or agency staff an opportunity to locate or request historical information, which is often available via Nevada's Electronic Legislative Information System, or NELIS for short.

- 1) An additional appropriation for the Bureau of Vocational Rehabilitation, or BVR for short, to meet its Federal mandate to provide transition services from local public-school systems to "real life"
- 2) An appropriation to create State, city, county, and private industry employment opportunities for young adults with intellectual and/or developmental disabilities, known to consumers and Vocational Rehabilitation staff as the 700 Hour program, with a focus on customizing opportunities for young adults with autism spectrum disorder {700 Hour program - AB 192 (2017) and SB 50 (2019), SB 202 (2019); amended out}
- 3) A thorough review of the State Personnel and related statutes to ensure that protections exist appropriately for protected Federal civil right class individuals, which would include candidates with intellectual and/or developmental disabilities {700 Hour program - SB 202 (2019); amended out}
- 4) A joint resolution urging Congress to end the business practice of sub-minimum wage environments, previously known to senior Legislators, people with intellectual and developmental disabilities, and service providers, as sheltered workshops {700 Hour program - AB 192 (2017) and SB 50 (2019)}
- 5) A quality assurance review of the case management models deployed by the Department of Health and Human Services and Vocational Rehab to determine whether duplicity exists, and whether agencies may be able to consolidate/share case management personnel, etc.
- 6) Regular staff, management, and provider training for all personnel Statewide who may interact with people with autism spectrum disorder, as well as intellectual and developmental disabilities more broadly, as well as technological investments in ensuring that interactions with people with autism spectrum disorder, and intellectual and developmental disabilities more broadly, are as smooth as possible. For example, it has been my long-standing understanding that the Metropolitan Police Department's dispatch system is too old to allow for any autism spectrum disorder and/or intellectual and developmental disability information to be kept on file, for

families who may regularly interact with law enforcement; by contrast, Northern Nevada has already been retaining this information for several years (School District training passed via SB 225 during 2017 session; community law enforcement training passed via AB 129 during 2019 session)

7) An additional appropriation for the State to meet its Federal mandate to provide a free and appropriate education, or FAPE for short, to students with autism spectrum disorder, and intellectual and developmental disabilities more broadly, pursuant to the recent U.S. Supreme Court decision in *Endrew F. vs. Douglas County*, as well as the historical U.S. Supreme Court decision in *Olmstead vs. L.G.*

8) A standard operating protocol concerning like-minded Gubernatorial appointments (See NRS 427A)

9) An annual Legislative Counsel Bureau Audit Division reporting of unduplicated caseload statistics concerning the Home and Community Based Waiver, Supportive Living Arrangement, and Jobs and Day Training, Rehabilitation, Employment Security, and program internal controls

10) A joint resolution urging Congress to permit people with intellectual and developmental disabilities to exercise the same rights as people without intellectual and developmental disabilities, without risking their benefit eligibility (e.g., marriage)

11) An additional appropriation for the Autism Treatment Assistance Program, to permit for transitioning young adults from high school to “real life” to have a seamless transition from ATAP case management to Vocational Rehab and/or the geographically-appropriate Regional Center (Discussion has been occurring at least since 2014)

12) An appropriation increasing the Registered Behavior Technician and related Medicaid service reimbursement rates, to reduce the waiting list of families for early intervention through young adult Applied Behavior Analysis services

13) Functional cameras in special education classrooms, which can speak for those students with intellectual and/or developmental disabilities who may have limited functioning capabilities, and cannot say words to the effect of, “Parent, Johnny hurt me today, and here’s why.” (Discussion has been occurring since at least 2004)

14) An additional appropriation for the Autism Court

15) A bill of rights related to the criminal justice system for people with Asperger’s and autism spectrum disorder, as well as intellectual and developmental disabilities more broadly, including those persons who may not be able to communicate effectively

16) An appropriation to increase the minimum wage for direct support professionals who are certified through an agency, and largely paid by the geographically appropriate Regional Center and/or Medicaid to provide independence skill development services to young adults with intellectual and/or developmental disabilities

17) An appropriation to or programmatic restructuring of the Aging and Disability Services Regional Centers and Medicaid, ultimately increasing the Home and Community Based Waiver, Supportive Living Arrangement, and Jobs and Day Training reimbursement rates

18) An appropriation allowing for additional per-account holder savings in Achieving a Better Life Experience accounts

19) An appropriation to continue the Money Follows the Person program operations

20) An appropriation to transition Money Follows the Persons’ positions from grant-funded to State-funded (Concept currently continued for 3 months by recent Congressional vote; status beyond 3 months unclear due to recently suspended Federal shutdown)

People with autism spectrum disorder, as well as intellectual and developmental disabilities, are people first. Thank you for your consideration, and I look forward to working with relevant parties during the interim. Some of these subjects have been passed previously, but need improvement and/or protection, and some are newly conceived, or requested for review for the first time in many years, per the available Legislative historical functions available. I hope that the highlighted relevant subjects and narrative has been informative to the Council. I thank you for your time, and welcome any questions at my contact information, which was provided at the beginning of these prepared remarks, and/or is available via agency staff.

NRS 284.327 Temporary limited appointment of persons with disabilities: limitations: regulations

Proposed Amendments:

Subsection 1: Delete "if possible" after shall. Replace "700" with "1,000." Add at the end, "In no case shall an appointing authority make an appointment pursuant to this chapter for greater than 0.50 full-time equivalency (FTE)."

Subsection 2: Replace "must" with "shall."

Subsection 3: Replace "must" with shall."

Subsection 4: Add "financial or client" before "benefits." Clarify that an agency within the same Department and/or Division may appoint an affected candidate (e.g., other agencies within DETR besides Vocational Rehab, which is part of DETR's Rehab Division, which also contains the Bureau of Services for Persons Who Are Blind or Visually Impaired and the Bureau of Disability Adjudication). Define circumstances which would create a "conflict of interest."

Subsection 5: Replace "that there is at least one person on the staff..." with "all persons with responsibility for supervision of employees and personnel administration." Add at the end of subsection b, "including, but not limited to, requests for reasonable accommodations, which would permit the candidate..."

Subsection 7: Replace "does not" with shall not." Remove "permanent."

Subsection 8: Replace "700" with "1,000." Replace "counts toward" with "shall represent." Add "If the appointing authority does not intend to retain the candidate, after consultation with the appointing authority's relevant legal counsel, the appointing authority shall provide a minimum of 60 days' notice to the candidate" and "if the appointing authority is providing such notice because of an inability of the appointing authority to provide reasonable accommodations to the candidate, after first having engaged in a good faith interactive process with the candidate, and having evaluated the candidate for reassignment to a vacant position or soon to be vacant position ..., the candidate shall be construed to have separated from service without prejudice, and shall be eligible for reemployment" at the end.

What these changes will do:

Many of these changes are being brought back, after having been attached to a bill with a significant fiscal note, SB 202, last session. Beyond standardizing language used in other sections of the chapter, the remaining changes, some of which were intended to have been included in the section of bill last session, seek to improve outcomes of the program. As of 4-6 weeks ago, since the program was mandated in the 2017 Session, only 58% of candidates originally appointed through It have achieved permanent employee status, and many of the position types that candidates were appointed to have subsequently been excluded from consideration under the program. The Legislature should note that the Federal threshold to determine that an employment policy negatively impacts a particular group of candidates or employees is 80%.

NRS 284.215 Examination of persons with disabilities

Proposed Amendments:

Replace “notwithstanding...” with “with or without reasonable accommodations.”

Add new subsection at the end, “At such time as the Division may resume the examination requirement, the Division shall promulgate regulations for the purposes of a candidate requesting reasonable accommodations for the examination.”

What these changes will do:

These changes will standardize language used in other sections of the chapter, and also provide a process to fully include employment candidates with disabilities in pre-employment activities.

NRS 284.290 Probationary period; Length; dismissal or demotion; notification by appointing authority regarding permanent status

Proposed Amendments:

Subsection 2: Add “and which are not related to a candidate’s Federally protected status (e.g., disability, race, gender, sexual orientation, etc.)” at the end.

NRS 284.330 Reinstatement of permanent appointee after separation without prejudice

Proposed Amendment:

Remove “permanent.”

NRS 284.376 Involuntary transfer; hearing; remedies

Proposed Amendments:

See amendments requested to NRS 284.390, and either duplicate or consolidate

NRS 284.385 Dismissals, demotions and suspensions; regulations

Proposed Amendments:

Subsection 1: Remove “permanent.”

Subsection 2: Remove “permanent.”

Subsection 4: Add all remaining Federally protected status types (as the concept was previously defined within the NRS 284.290 amendment request) at the end.

NRS 284.390 Hearing to determine reasonableness of dismissal, demotion, or suspension; production of documents; representation; evidence; written decision; reinstatement; judicial review

Proposed Amendment:

Subsection 8: Add “except in cases related to Federally protected statuses” at the end.

Subsection 9: Remove “judicial.” Replace “30” with “90.” Add “or with the Equal Employment Opportunity Commission (EEOC) or Nevada Equal Rights Commission (NERC) in cases related to Federally protected status” and “For purposes of determining timeliness of an EEOC or NERC filing, the time spent resolving a hearing request shall toll the requirement until receipt of the hearing officer’s decision” at the end.

What these changes will do:

This group of changes (those to subsections 290 through 390) will create identical sets of rules for both probationary and permanent employees, provide appropriate remedy carve-outs for cases involving Federally protected statuses, standardize the timing requirements to match Federal law, and stop the timely filing requirements while other administrative remedies are pending.

NRS 233B.039 Applicability

Add a new subsection at the end, “In no case shall any agency of the Executive Department of State Government outlined in this chapter be exempt when the issue in controversy is an individual’s Federally protected status.”

What this change will do:

This change will create a liability carve-out for cases involving Federally protected statuses.

NRS 608.250 Requirement of employer to pay; incremental annual increase; penalty

Proposed Amendment:

Add at the end, "It shall be unlawful to pay a person with an intellectual, developmental, or physical disability receiving or eligible for jobs and day training services wages which are less than as proscribed within this subsection."

NRS 608.255 Relationships which do not constitute employment relationships for purposes of minimum wage

Proposed Amendment:

Subsection 1: Delete in its entirety.

What these changes will do:

While Federal consideration of the same is pending, these changes will immediately end the payment of sub-minimum wages to people with disabilities in Nevada.