

State of Nevada

Common-Interest Communities and Condominium Hotels Program

Department of Business & Industry Real Estate Division



Get the NAC of it!

Disclaimer

This is a general education class based on NRS 116 and related laws and regulations. It is not intended to provide a legal opinion or legal advice. If you feel there has been a violation of your governing documents or NRS116 statute you can file a complaint with the Ombudsman's office



Learning Objectives

Upon completion of this class, participants will have a basic understanding of...

Nevada Administrative Code

Rulemaking Policy



NAC vs NRS

Nevada Administrative Code

Nevada Administrative Code (NAC) are the regulations that outline how laws are administered.

VS

Nevada Revised Statutes (NRS) are laws that are enacted by the legislature. Changes to these laws may only be made through legislative action



NAC purpose

NAC codes are created with the commission.

They serve to:

Clarify

Authority to enforce

- * But cannot be in conflict with the NRS Statutes

Three types of regulations

- Permanent regulations adopted in accordance with the Nevada Administrative Procedure Act;
 - Temporary regulations adopted in lieu of permanent regulations immediately prior to and during a legislative session because Legislative Counsel Bureau (LCB) staff is focused on drafting legislation; and
 - Emergency regulations drafted under certain circumstances that do not require public hearings or other procedural formalities; however, copies of emergency regulations are made available to the public if practicable before filing and before any related hearings.
- ▶ (Temporary regulations expire by limitation and emergency regulations are limited to 120 days.)

Rulemaking policy

1. The process begins with an analysis by the agency of the need for a proposed rule or regulatory change
2. Once a decision to proceed is made, a workshop is held to solicit comments from interested persons on general topics addressed in the proposed regulation.





Rulemaking policy

3. Prior to any meeting, the agency must submit a notice of a meeting or workshop relating to the adoption of a regulation to the Director of the LCB (Legislative Counsel Bureau) for posting on the LCB's website.

4. Proposal of draft rule—following a complete analysis of the regulation's impact on stakeholders, including small businesses



Rulemaking policy

5. Submission–submits it to the LCB (Legislative Counsel Bureau)
6. LCB will approve or send back revised draft
7. Notice of intent–agency must issue a 30–day “notice of intent” to act upon the regulation and hold a public hearing on the draft rule.



Rulemaking policy



8. Considerations–After considering all comments, the draft rule may be modified as needed (if the meaning of the regulation is changed, an additional hearing is required).
9. Informational statement–agency required to provide an informational statement, which provides a clear and concise explanation of need for the regulation, describes the process undertaken, the estimated economic benefit of the regulation, and an analysis of any impact to other agencies or regulations
10. Submission to LCB (Legislative Counsel Bureau)–The informational statement is submitted to the LCB when the draft rule is finalized



Approval

- ▶ The Legislative Commission or its Subcommittee to Review Regulations must either affirmatively approve or object to an administrative regulation.
- ▶ Permanent regulations are added to the NAC upon approval by the Legislative Commission or its Subcommittee to Review Regulations
- ▶ Once approved, it is filed with the Secretary of State and codified into the NAC by the LCB (Legislative Counsel Bureau)

<https://www.leg.state.nv.us/Division/Research/Publications/ResearchBriefs/NAC.pdf>

Codification

Definition:

- ▶ to put (laws or rules) together as a code or system
- ▶ : to put (things) in an orderly form
- ▶ The codification process takes 6 months to 24 months, depending on when the regulation is adopted.

<http://www.merriam-webster.com/dictionary/codify>

Posting

- ▶ The regulation is posted to the NAC on the LCB's (Legislative Counsel Bureau)website, and the new or revised regulation is sent to the agency.
- ▶ The chapter will be added to the print edition of the NAC when the NAC is next updated.

NAC

Only permanent regulations become part of the *Nevada Administrative Code* (NAC).

- ▶ If an agency does not adopt a proposed regulation within 2 years, the director of the agency must appear before the Legislative Commission and explain why the proposed regulation has not been adopted.

Additions or Changes to code

- ▶ Additions or changes to the NAC are State agency driven, and the agency keeps associated records.

Effective date

Regardless of its inclusion in the printed NAC, a regulation becomes effective upon filing with the Secretary of State unless a different date is specified in the regulation

Temporary regulation

For a temporary regulation to become permanent, the agency should anticipate the expiration date and submit a permanent regulation under normal procedural guidelines.

Emergency Regulations

Emergency regulations must be endorsed by the Governor, become effective upon filing with the Secretary of State, and are effective for 120 days or less. A regulation may be adopted by this emergency procedure only once.

HOW CAN I GET INVOLVED IN THE RULEMAKING PROCESS OR FIND OUT ABOUT PUBLIC MEETINGS

Anyone interested in a particular regulation is encouraged to contact the agency directly to express their interest and request placement on the agency's mailing list, or visit the LCB's website at:

[http:// www.leg.state.nv.us/App/Notice/A/](http://www.leg.state.nv.us/App/Notice/A/)
for a complete listing of all administrative
regulation notices.

NAC of Interest

NAC 116.385 Executive board: Submission to Division of contact information for members.

1. An executive board shall provide to the Division the names, mailing addresses and telephone numbers of the members of the executive board in accordance with [NRS 116.625](#). The information required pursuant to this subsection must be kept confidential by the Division and may only be used by the Division for purposes of notifying a member of the executive board of any action or proceeding involving the association.

2. The executive board shall:

(a) Indicate on a form prescribed by the Division any change in the contact information of a member of the executive board; and

(b) Submit the form to the Division within 30 days of any such change.

(Added to NAC by Comm'n for Common-Interest Communities & Condo. Hotels by R108-08, eff. 4-20-2010)

NAC 116.405 Executive board: Determination by Commission of whether members have performed their duties

In determining whether a member of the executive board has performed his or her duties pursuant to [NRS 116.3103](#), the Commission may consider whether the member of the executive board has:

1. Acted outside the scope of the authority granted in the governing documents;
2. Acted for reasons of self-interest, gain, prejudice or revenge;
3. Committed an act or omission which amounts to incompetence, negligence or gross negligence;
4. Except as otherwise required by law or court order, disclosed confidential information relating to a unit's owner, a member of the executive board or an officer, employee or authorized agent of the association unless the disclosure is consented to by the person to whom the information relates;
5. Impeded or otherwise interfered with an investigation of the Division by:
 - (a) Failing to comply with a request by the Division to provide information or documents;
 - (b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or
 - (c) Concealing any facts or documents relating to the business of the association;
6. Kept informed of laws, regulations and developments relating to common-interest communities;
7. Cooperated with the Division in resolving complaints filed with the Division; and
8. Caused the association to:
 - (a) Comply with all applicable federal, state and local laws and regulations and the governing documents of the association;
 - (b) Uniformly enforce the governing documents of the association;
 - (c) Hold meetings of the executive board with such frequency as to properly and efficiently address the affairs of the association;
 - (d) Obtain, when practicable, at least three bids from reputable service providers who possess the proper licensing before purchasing any such service for use by the association;

Reserve Study

NAC 116.415 Contents of budget to maintain reserve

NAC 116.425 Reserve study: Contents.

NAC 116.430 Reserve study: Required disclosures.

NAC 116.435 Reserve study: Dissemination of summary of results

NAC 116.451 Preparation, contents and distribution of interim financial statements.

1. Include, at a minimum, a month-to-date and year-to-date presentation of:

(a) The balance sheet, including operating and reserve for future repairs and replacement assets, liabilities and fund balances or members' equity if a single-column format is used;

(b) The statement of revenues and expenses for all operating and reserve activities, presenting information about all assessments, revenues and expenses;

(c) A schedule comparing the details of the **actual expenses** of the association with the **expenses budgeted** for the association;

(d) Any changes in the fund balances to be presented on the statement of revenues and expenses if fund accounting is used; and

(e) A footnote which states that the association is in compliance with paragraph (b) of subsection 2 of [NRS 116.3115](#) and that reserve funds have not been used for daily maintenance.

2. Be prepared on a **full accrual basis**.

3. Be prepared by, or the preparation of the interim financial statements must be supervised by, a person with accounting knowledge and experience in the preparation of financial statements.

4. Be distributed monthly, promptly upon completion, to the treasurer of the association, the community manager and each member of the executive board.

Operating Fund & Reserve Fund

NAC 116.453 Presentation and contents of interim financial statements subject to audit or review. ([NRS 116.31142](#), [116.31144](#), [116.615](#)) The financial statements of an association subject to an audit or review must be presented using fund accounting and must include, at a minimum:

1. An operating fund which reflects the accounting transactions surrounding the normal maintenance and service operations of the association; and
2. A reserve fund which reflects the accounting transactions pertaining to the long-term, major repair and replacement requirements of the association and the restrictions of its use as described in paragraph (b) of subsection 2 of [NRS 116.3115](#).

Gifts

NAC 116.480 Restriction on and statements by members of executive boards and officers of associations. ([NRS 116.31185](#), [116.615](#))

1. No member of an executive board or officer of an association shall receive, in the aggregate, any gift, incentive, gratuity, reward or other item of value pursuant to subsection 2 of [NRS 116.31185](#) in any calendar year which exceeds the sum of \$100.

2. On or before the annual distribution to each unit's owner of the budgets of the association pursuant to subsection 1 of [NRS 116.31151](#), each member of an executive board and officer of an association shall deliver to the executive board for inclusion in the annual distribution of the budgets a statement of any gifts, incentives, gratuities, rewards or other items of value which exceed \$15 received pursuant to subsection 2 of [NRS 116.31185](#).

(Added to NAC by Comm'n for Common-Interest Communities by R205-05, eff. 9-18-2006)

Gifts

NAC 116.482 Restriction on and statements by community managers and employees of community managers.

1. No community manager or employee of the community manager shall receive, in the aggregate, any gift, incentive, gratuity, reward or other item of value pursuant to subsection 2 of [NRS 116.31185](#) in any calendar year which exceeds the sum of \$500.

2. On or before the date of renewal of a license for a community manager, each community manager shall disclose to the Division, in the renewal form, a statement of any gifts, incentives, gratuities, rewards or other items of value which exceed \$15 received pursuant to subsection 2 of [NRS 116.31185](#) during each of the years following the last renewal.

Subsidization by Division

NAC 116.520 Subsidization of proceedings for mediation.

1. The Division may subsidize proceedings for mediation conducted pursuant to [NRS 38.300](#) to [38.360](#), inclusive, to the extent that funds are available in the Account for Common-Interest Communities and Condominium Hotels in the State General Fund for that purpose.
2. A party who wishes to have a proceeding for mediation subsidized must:
 - (a) Submit an application to the Division on a form prescribed by the Division;
 - (b) File a claim for mediation **within 1 year after the date of discovery of the alleged violation**; and
 - (c) If the applicant is an association, be registered and in good standing with:
 - (1) The Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels; and
 - (2) The Secretary of State, if the association is required to register with the Secretary of State pursuant to title 7 of NRS.
3. A unit's owner is eligible to have one proceeding for mediation subsidized per fiscal year for each unit that he or she owns.
4. An association is eligible to have one proceeding for mediation subsidized per fiscal year against the same unit's owner for each unit that he or she owns.
5. The funds used to subsidize a proceeding for mediation pursuant to this section must not:
 - (a) Be applied to the fee required when filing a written claim pursuant to [NRS 38.320](#) or any attorneys' costs or fees associated with the claim; and
 - (b) Exceed \$500 or \$250 for each party who is eligible to have the proceeding for mediation subsidized pursuant to this section, whichever is less.

**not full NAC

Administrative Proceedings

NAC 116.550 – NAC 116.635

Investigation and audit of financial accounts of association; remedial and disciplinary action.

- **Complaint or disciplinary hearing concerning provisional community manager**
- **Responsibilities of respondent**
- **Failure of party to appear**
- **Procedure for hearings; date of decision**
- **Appeal of final order of hearing panel; filing of briefs.**

Summary

Nevada Administrative Code (NAC) are the regulations that outline how laws are administered.

NEVADA LEGISLATIVE COUNSEL BUREAU

<https://www.leg.state.nv.us/Division/Research/Publications/ResearchBriefs/NAC.pdf>

- ▶ WHAT IS THE BASIC RULEMAKING PROCESS?
- ▶ ARE LEGISLATIVE HISTORIES AVAILABLE FOR REGULATIONS?
- ▶ • WHAT RECORDS MUST AN AGENCY KEEP AND HOW LONG?
- ▶ • WHAT IS THE *NEVADA REGISTER*?
- ▶ • HOW AND WHEN DOES A REGULATION IN THE *REGISTER* BECOME OFFICIALLY ADDED TO THE NAC?
- ▶ • WHY AREN'T ALL AGENCY REGULATIONS IN THE NAC?

QUESTIONS?



- ▶ Web Site
 - www.red.nv.gov
- ▶ Phone
 - 702.486.4480/877.829.9907/775.687.4280
- ▶ FAX
 - 702.486.4520/775.687.4868
- ▶ E-Mail
 - OMBCLASSES@red.nv.gov
- ▶ Office Locations
 - 2501 East Sahara Ave, Suite 202, Las Vegas, NV 89104

Cartoon Art Resources

- ▶ https://images.search.yahoo.com/yhs/search;_ylt=AwrTcX1RYmhWdaEAIEI2nIIQ;_ylu=X3oDMTBsZ29xY3ZzBHNIYwNzZWFiY2gEc2xrA2J1dHRvbG-- island cartoon, signs
- ▶ http://search.tb.ask.com/search/AJimage.jhtml?searchfor=approval+cartoon&p2=%5EZO%5Exdm161%5EYYA%5Eus&n=780D139E&ss=sub&st=hp&ptb=6F193CA9-9BA4-4525-ABA3-8751B3ED54B8&si=EL_UTUS_13&tpr=sbt&ts=1449683502348 Approval process

NRS 116.31185 Prohibition against certain personnel soliciting or accepting compensation, gratuity or remuneration under certain circumstances ■

1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager **shall not solicit or accept** any form of compensation, gratuity or other remuneration that:

(a) Would **improperly influence** or would appear to a reasonable person to **improperly influence** the decisions made by those persons; or

(b) Would result or would appear to a reasonable person to result in a **conflict of interest** for those persons.

2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association, a community manager or any person working for a community manager **shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value** from:

(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable community or association which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a community or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such member, officer, community manager or person.

Resource for information on this power point

This power point has been created with the information listed from the following resource:

NEVADA LEGISLATIVE COUNSEL BUREAU

<https://www.leg.state.nv.us/Division/Research/Publications/ResearchBriefs/NAC.pdf>