



Cindy Pitlock
Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD AND FAMILY SERVICES
4126 TECHNOLOGY WAY, SUITE 300
CARSON CITY, NV 89706
Telephone (775) 684-4400 • Fax (775) 684-4455
dcfs.nv.gov

Public Workshop
Proposing the Adoption of Regulations NAC 62B & 62H
October 4th, 2022

Meeting Minutes

Call to Order:

Meeting Minutes:

Leslie Bittleston: Good morning, everybody. This is a public hearing notice of intent to act upon regulations pertaining to 62 of the administrative code.

My name is Leslie Bittleston. I will be presenting the information today for the regulations. I would also like to introduce the administrator of the Division of Child and Family Services, Dr Cindy Pitlock. Good morning, Dr Pitlock.

Cindy Pitlock: Thank you. Good morning for the record, Doctor Pitlock and hoping to move to approve regulations today after discussion.

Leslie Bittleston: Thank you, doctor Pitlock. For those of you following the agenda, we are on agenda item number 3, which is public comments. This is the first of our two public comments for. Those of you who wish to make public comment, please fully state your name, your organization for the record, and each public comment will be limited to three minutes each.

So, is there any public comments at this time?

OK, hearing none, we are moving on to agenda item number 4, which is to present a regulation, this is attachment. R-055, Dash 22 uh. These regulations were posted and should be available to the public. These regulations were in response to Senate Bill 108, which was signed into law in 2021. And this bill has since been codified into NRS 62 B 607. The draft of these regulations was submitted to the Legislative Council Bureau prior to the enactment or codification of NRS 62 B 607 so language has been adjusted slightly to match that NRS 62 B 607.

The authority for this uh NAC is, as I stated, and ours 62 B 607. This NAC is to add additional information to existing law, not to not to restate its existing law as found in 62 B 607, the state received several comments both in person and in writing for the NAC during and around the two public workshops that were held prior to the submission to the Legislative Council Bureau.

In addition to that public comment, the state received some additional written comment last week that I wanted to address today. Number one, this regulation uses the term his or her rather than a more inclusive term such as their or other or other terms in order to coincide with current Nevada revised statute and NAC language. This type of change would require a seeping, sweeping change throughout the entire NRS and NAC that would be made at the state level, not the agency level.

Number two, NRS 62, in its entirety, governs juvenile justice facilities, juvenile probation and juvenile parole. The juvenile justice system in Nevada is operated independently at all levels. The county and the state are independent of each other. There are no licensing requirements for juvenile detention or Correctional Facility facilities, nor is there a licensing or oversight body to ensure a set of standards or training is provided. There are no requirements for facility inspections or reviews to ensure facility staff are trained in some type of manner. This regulation was written as a guide for all juvenile justice entities to create their own training using a series of experts or to obtain training from a qualified vendor and to provide that training to their staff.

Number three, the requirements of a trainer or and or an expert to develop curriculum or left vague in this regulation. Intentionally trainer and expert qualifications are better outlined in the contracting process rather than a regulation.

Number 4, the only responsibility of the division is to ensure that training curriculum provided to juvenile justice facility, staff, probation staff and parole staff meets legislative requirements as outlined in NRS 62 B 607. This regulation requires juvenile justice entities to submit their curriculum to the division, and the division will ensure that all areas outlined in legislation is addressed. The division is not obligated to assess the quality of the training in NRS 62B.607.

Number 5, NRS 62 B 607 was created out of Senate Bill 108, signed into law in 2021. SP 108 indicated that division take the lead on creating or obtaining training and providing that training statewide. However, the Bill did not come with a fiscal note, nor does the division have the authority to dictate training statewide. The Division may act as a partner in share trainings but not act as an oversight body.

Lastly, number 6, this is a new training requirement. NRS 62 B 607 allows nine months for entities to develop or obtain curriculum and to train all existing staff from the codification of this regulation. Once the nine months is over, NRS 62 B 250 comes into effect. This NRS requires all new employees to be trained within 90 days of hire. This will be noted on the annual Training report, which is already required from juvenile justice detention and correctional facilities. However, NRS 62 B 607 differs from NRS 62B-250 in the frequency of this particular training for existing employees. Current NRS 62B-250 requires annual training in the areas outlined in that NRS annually this training. However, the training in 62 B 607 is required every two years. Again, this will be noted on the training report that is provided to the division from those entities on an annual basis.

Having said that, I'm going to go over the regulation. This is attachment RO 55 dash 22P. Chapter 62 B of NAC is hereby amended by adding there to the provision set forth in sections two and three of this regulation. Again, NAC 62 B is an existing and information will be added to that existing NAC.

Section 2. The training related to implicit bias and cultural competency that is required to be provided by an employer pursuant to NRS 62 B 607 to the extent applicable be developed with participation of children who are members of a sexual and gender minority population or racial and ethnic minorities, children with disabilities and children who are or were placed with an agency which provides child welfare services. B: must include instruction concerning the elements of NRS 62 B 607 cultural responsiveness to sexual and gender minority populations. Three of the impact of trauma and adverse child experiences on the health and well-being of children, and four, the differences between direct discrimination and indirect discrimination, including without limitation, the differences between direct discrimination and implicit bias. Training may be provided in person or online. #2 pursuant to a contract with or through an entity that provides such training, including, without limitation, a government agency or an accredited college or university, before providing the training described in subsection one initially to any employee, an employer that is required to provide the training shall obtain approval of the training from the division to apply for such approval, the employer shall submit to the division.

The curriculum of the training a statement describing the manner in which the employer has complied with paragraph, a, subsection one, and any additional information or documentation that the division requests #3 the division will review the application submitted to subsection two and if necessary, we'll consult with any person or entity determined by the division. To possess experience or expertise in developing training related to implicit bias and cultural competency, #4 the division will approve training
If the division determines that the training satisfies the requirements of subsection 1 #5 within 60 days after the date of which the division receives the application submitted pursuant to subsection 2, the division will provide written notice of its approval or disapproval of the training to the employer. If the division disapproves the training and notice will state, the reasons for the disapproval #6 if an employer makes any Substantial changes to the training. And after it's approved by the division, the employer shall submit the information required pursuant to subsection two relating to the revised training for approval by the division #7 as used in this subsection.

- “Cultural responsiveness means the ability of a person to adapt to his or her behavior to the cultural needs of other persons.
- “Implicit” bias means bias those results from an unconscious attitude, prejudice, or stereotype regarding a population.
- “Sexual and gender minority population includes without limitations persons who 1. Self-identify as lesbian, gay, bisexual, asexual, transgender, two spirit, queer or intersex or 2. Do not self-identify as lesbian, gay, bisexual, asexual, transgender, 2, spirit, queer, or intersex, but whose sexual orientation, gender identity, or expression or reproductive development is outside of the heterosexual or cisgender constructs of sexual identities.

Section 3. Number one, except as otherwise provided in subsection two, each person who is subject to the requirements of subsection, one of RS 62 B 607 shall complete training and implicit bias and cultural competency as soon as practicable after commencing his or her employment, and once every two years thereafter. Each employee of the Youth Parole Bureau, a Department of Juvenile Services, a local facility for the detention of children or regional facility. For the treatment and rehabilitation of children who are subject to this requirements of subsection one of NRS 62 B 601 shall complete training in implicit bias and cultural competency within 90 days after commencing his or her employment in once every two years thereafter. That concludes the new language as submitted to be included in NAC 62B.

There are no questions to this, so we will move to agenda item number 5, which is public comment, which is the second public comments of this public hearing. As stated before, public comments are limited to three minutes each and please state your name and organization for the record when you provide your public comment. So, with that being said, is there any public comment at this time?

Liz Flores: Miss Bittleston, this is Liz Flores. For the record from Washoe County Juvenile Services, the director, can you hear me?

Leslie Bittleston. Yes.

Liz Flores: Wonderful. Thank you and hello everybody. I did have a point of clarification, Miss Bittleston, when you read the proposed NAC on section 21A, I believe I heard it read differently than how I am reading it from the document that was attached. I'll give you a second to get there. It's 21A.

It says must the extent practicable. I heard must to the extent applicable. Is it? Is it practicable? Maybe I misunderstood?

Leslie Bittleston: It is practical, practicable, if I misstated that that is my apology.

Liz Flores: OK. I appreciate that clarification. And just for comment related to this specific language, I do have some concerns. And perhaps the way its written is so general, and perhaps that's to the benefit to allow for challenges associated with accommodating this. Umm I can just anticipate that. Whatever efforts we take in order to be compliant with this. This provision I certainly wouldn't want any challenges we face in accomplishing this to delay the potential enactment of our training after we proposal it to the division for approval. Thank you.

Leslie Bittleston: Was that a comment or a question?

Liz Flores: That was a comment. However, if it sparks any conversation or clarification, I would welcome that. Thank you.

Leslie Bittleston: Thank you, Miss Flores. Uh, Mr. Wade?

Andre Wade: Hi, I'm Andre wade. Server set of quality. For the record, I have a couple of questions before public comment. Is that, OK?

Leslie Bittleston: Please proceed.

Andre Wade: Thank you. You sort of went over it already, but just to clarify, so far section. Uh, three, number one. When we talk about the training requirements and time frame. Section 3. One for I guess this class of employees is as soon as practicable. And just wanted to know what class of employees are these and why it's so general as opposed to being specific and Section 3, two with 90 days for those particular employees?

Leslie Bittleston: This NAC pertains only to probation, juvenile probation staff, juvenile parole staff and juvenile facility staff. The staff in that is governed by NRS 62. NRS 62 B.250 that talks about training requirements specific to this population training requirements. Currently state that all new employees are trained within 90 days of hire and then annual refresher trainings in certain areas.

With this regulation, NRS 62 B 607. Gives some leeway to the agencies to have Nine months for the creation or purchase of the training, specific to meet the requirements to get the folks trained. So that's nine months for the initial training after that initial training, every individual that I named falls under NRS 62B-250 and must be trained within 90 days of hire and biannually thereafter. I hope that answers your question.

Andre Wade: If we could just be more specific around the I guess how is it currently written? When we look at in RS52B607 shell complete training and explicit bias and cultural competency, as soon as practicable after commencing his or her employment.

So, what is that getting at? Just unclear like is as soon as possible also 90 days or is that something else?

Leslie Bittleston: I don't have any way to determine why they put as soon as possible, since existing law already states new employees have 90 days to be trained. So as soon as possible would mean as soon as possible, but no later than 90 days is really the best way to describe that as soon as possible, as soon as possible, but based on NRS 62 B 250 already in law no later than 90 days.

Andre Wade: OK. Thank you for that clarification. I have more questions that I'm happy to let someone else ask the question if they're ready.

Leslie Bittleston; Mr. Cafferata?

Jay Cafferata: Good morning. Thank you. This is Jay Cafferata. It's spelled CAFF, as in Frank ERATA for the record. Umm, I wanted to call out or ask a question about Umm, something that you said when you were answering the questions for the other stuff that was submitted and it you said that the division will ensure that the training curriculum meets the legislative requirements but is not required to assess the quality of the training. So why, why bother if we're not going to ensure that there's quality training, if just anyone can do it, why are we going to all this trouble?

Leslie Bittleston: This one has been an internal discussion amongst staff internally within the division and really it comes down to the fact that SB 108 was written to allow the division to approve trainings. However, the division does not have administrative over oversight nor regulatory oversight over these agencies, so we can assess that the training meets.

The requirement so as we already do for various other trainings as indicated or outlined in in NRS 62B-250, it's just allowing the division to ensure that staff are trained in certain requirements and that those trainings meet certain requirements within. NRS so all we are assessing is they are talking about cultural competency. They're doing this, they're doing this, they're doing this. So that is the only authority that the division has.

Dr. Pitlock, do you want to say anything else on top of that or?

Cindy Pitlock: Thank you for the record, Cindy Pitlock, I serve as the administrator of the Division of Child and Family Services. So, Mr. Cafferata, that's an excellent question. I feel that the language that is presented here really encompasses the authority that we have been given and we have not been given authority to gauge quality of the training and that's why the language I not as specific as you would perhaps like to see.

Leslie Bittleston: I'm not hearing anything else from Mr. Cafferata.

Jay Cafferata: Sorry, sorry I was having trouble unmuting myself and I apologies and my kid walk behind me, and I didn't want you too anyway. So, thank you for that clarification. So, I guess that in terms of understanding what the limits of the authority of DCFS and creating these regulations is part of what is hamstringing all the enforcement, because, as you also noted that you don't have any oversight and you don't have any way to enforce any of this stuff. And so again, I'm just unclear as to. It it's kind of like the request, the requirements of the trainer. Umm I I don't understand. How is this going to actually work? Because of the vagueness and the breadth of? Umm, what I refer to in my submitted testimony are these gaps and these huge. Places where it's like the division could say you know what, in 30 minutes you can cover all these topics and that's good enough for us. And so there's no. Again, I you haven't answered the question. Is there going to be a curriculum? Is there going to be a checklist or anything about the submission process? So, I'm curious about how that sort of plays back into this recognizing of course that there are limits to authority, you can only have authority over the state-run facilities, but these regulations apply to everyone in the state because ultimately the person who is going to suffer are the children that are in these facilities and that is actually my concern is the direct service provided. To the children who are incarcerated, which are enduring a traumatic adverse childhood experience. So, if you can help me understand what criteria the state or DCFS will then be using to approve these trainings, that would be really helpful. Thank you.

Leslie Bittleston: So internally, the way that we approve curriculums is like I said, we do it already for. Trainings outlined in 62B-250 and NAC100, there are already in the way that we do. That is, we do have a checklist to say these things are addressed within the training curriculum. I am actually the one that does that, and I read all of these things. And that is how we assess whether it addresses what it needs to address. I don't hear anything else from Mr. Cafferata.

Andre Wade: ANDRE WADE Silver state of quality. Asking the same question, a little differently, you've already gone over it. We're going to ask again about it, so you don't have the authority to go over the quality of the. Trainings and it's best that the minimum requirements of a trainer be outlined in a contract. So, wondering If there are sort of. Minimal non-negotiable requirements that could be outlined in regulation and have more granular. Requirements outlined in the contract. Kind of repair I've come into what was already stated that. Getting folks that aren't qualified to provide the training. And not being aware of what your checklist is for those requirements, just wondering like. What could be some sort of regulatory oversight? To protect everyone involved. That's my question. Thank you.

Cindy Pitlock: So, it seems that the I don't want to say contention. That's not the right word. I'm trying to use the. We. Uh, sticky point. I guess I would say of this regulation is, is there a way and please reframe me and restate me if I'm not hitting the nail on the head here, please because I want to get it on record because I want our dog team to be able to review the transcript. So, what you're really hoping for is an answer to is there a way to outline sheer minimum requirements? For trainers, is that what I'm hearing?

Andre Wade: Uh, yes, ma'am.

Cindy Pitlock: OK. Thank you. Please let's proceed on with Ethan Rice and Mr. Cafferata's questions and comments and keep this robust discussion going for the record.

Leslie Bittleston: Mr. Rice.

Ethan Rice: I thank you so much. I'm Ethan rice. I pronouncer he, him, his and I'm a senior attorney with the Fair Courts project at Lambda Legal. And I just wanted to thank you for giving us the opportunity to be here today to talk about this. And I'm here for Curry Cook, who's been involved a lot in this in this process, our youth and out of Home Care Project director. So really in line with Mr. Wade and Mr. Cafferata. I just, I wondered. I was going to ask the same question as Mr. Wade. So, I'm just going to add a little bit to that.

Which was which is. Is there any way to at least include in contracts that the trainers have some experience working with sexual and gender minority youth or racial minority youth, or whoever the target audience is? So, is there some way that we can at least ensure that that's a qualification that we have that type of experience? And thank you again.

Cindy Pitlock: Thank you, Ethan so much for joining us today. I want to make sure that our authority is clarified and is clear for our DAG team to review and agree and supplement or whatever when they review the transcript. So, we don't necessarily have authority over contracts that entities may enter into agreement with to provide such services, but once again, I'm tying your comment back to be there any Ave for a minimum set of requirements that may be agreed upon, so I want to separate the two issues in that. DCFS is responsibility is to produce.

Draft regulations that are in alignment with our authority and our aligned with Nevada revised statutes and within those parameters, and I'm not sure contractual language lands there, but I hear your point and I'm tying it back to Mr. Wade point about, is there a way, is there authority, can we clarify if there is authority to establish minimum requirements? Thank you for your comment.

Ethan Rice: Thank you.

Leslie Bittleston: Mr. Cafferata.

Jay Cafferata: Thank you. This is Jay Cafferata. For the record, I would like to go back to a different part here and that is in let's see it's in number, it's section 2.2 number 7 and that is the definitions that are used within this regulation and the first one is a cultural responsiveness means the ability of a person to adapt his or her behavior to the cultural needs of other persons. This is not a complete definition of cultural responsiveness. The additional words are in a manner that recognizes, affirms, and values their worth, just singling out that someone is different is not enough to say that we're going to respect a firm or value that particular person. It just says we're going to call you out for who you are, which is not. I don't think the intention of this. So, adding the words in a manner that recognizes a firms and values their worth is kind of the whole point of cultural responsiveness.

So that was one thing. The other thing I would like to go back to is that. Umm, Miss Bittleston said that she is the one who is the final authority on whether or not these requirements are met. In the regulations that says that you may seek out an additional third party, but you didn't respond to my question about what is going to trigger that review of an outside third party or someone who has qualifications to review whether or not a training meets these minimum requirements. So, what happens if? Heaven forbid something happens to you, Leslie. Then what happens to this process? Thank you.

Cindy Pitlock: Hi, Mr. Cafferata. Thank you so much for the question. So, let's take them one at a time. Mr. Cafferata for the record. So, there's clarity for our review. So, when you are talking about your definition of seven, a culturally cultural responsiveness, what site are you using or accepted definition? Are you using? So, our DAG team can review that definition.

Jay Cafferata: This is Jay Cafferata; this is standard language. I don't have a specific resource that I can point you to. However, I would imagine that Andre Wade might have one at his very fingertips. Andre, is that a possibility?

Andre Wade: I didn't hear you. I just heard a bus coming. So just kidding. I can find a definition if the administration would like that.

Cindy Pitlock: So, I think if we are going to use a standard definition. Uh, that we should really pull a standard definition that is widely accepted and make sure the source of that is acceptable to all of us. So, I

think I would ask for that of the group and we will also. Uh research that standard definition us as well. While I realize that not. All situations or people or cultures or whatever fall into a specific definition that there must be some widely accepted definition. I don't want us to get so bogged down in the widely accepted definition that that we really hamstring ourselves to progress. But if the definition of seven A is. Really not adequate. We could certainly be responsible for coming up with something. That would be more widely accepted.

The other comment. To Doctor Jay Cafferata' s comment, with Miss Bittleston being the approver and the checklist process, what happens if she gets promoted and goes somewhere else and makes double the money for half the work? What happens to the process in her stead? So, I'll let her answer that.

Leslie Bittleston: I probably should have phrased that statement a little differently. My position as chief of the Juvenile Services Programs Office is the one responsible. There are other members within the programs Office staff that May also. Do this as well, so it's not me, the person, it's me, the position. So, the position that chief of the juvenile Justice Programs Office is responsible, whoever is in that position would be responsible for this. And, to answer another question is when would somebody in my position or in the program's office reach out? For expertise. It does happen. Those of us in the programs office, we do write policy, we are versed in policy, federal and state law. However, we don't know everything and yes, we do reach out and generally when we reach out, it is usually to one of our university partners, whether it be the University of Nevada, Reno or the University of Nevada, Las Vegas. To help with us, we may reach out to counties. Uh, we do have relationships with prosecutors, public defenders. So, there's a wide network of folks that we can go to if there are questions concerning a curriculum or something of that nature.

Cindy Pitlock: All right. Are there any other questions or public comment at this time or shall I move? Going once. Going twice. OK. So, thank you, everyone. I am thrilled to partner with everyone today to make sure that we are landing at something that is certainly meaningful for the state of Nevada.

I find that I have the authority to approve this draft regulation. It is when the within the authority of the division, but I do not find that I want to approve this today. What I would like to do is re circle back with our DAG team to see one if we can. And if we have the authority to outline any minimum requirements for trainers, and two, if we can land at a more widely accepted definition of cultural responsiveness, so at this point I would like to table it. I would not like to approve this, and I would like to recycle with our dog team to get these questions answered. It is my intent to ultimately come to something that we can approve and move forward with.

But I need to make sure with our legal team that we are within our parameters of our authority not exceeding that authority, but fully utilizing that authority as well. So, thank you all for your input today and I apologize, we were not able to land to success today, but I want to make sure that we're using our authority appropriately and not exceeding it and accomplishing something great for the state of Nevada. So, I apologize for our lack of success. Today.

Leslie Bittleston: Thank you, Doctor Pitlock, and just to provide some additional information. Since the regulations were not approved today, if there are changes necessary for these regulations, they will have to go back to the Legislative Council Bureau for redrafting. And once we DCFS, the division, receives that those redrafted regulations, another public hearing will be held at that time.

If there are no redrafting. If if we are not going to change the language at all, we will come back to public hearing with the draft we presented today for Doctor Pitlock to approve. So, one of two things will happen. We will either bring the same draft back for approval or we will have some additional language redrafted by the Legislative Council Bureau and bring that. For approval at a future public hearing.

Anything else, doctor Pitlock?

Cindy Pitlock: I have nothing else for the good of the group. Should we adjourn?

Leslie Bittleston: Yes.

Cindy Pitlock: All right. Have a good day everyone.