



Brian Sandoval, *Governor*

*COMMITTEE*  
Karen Oliver, *Chair, GCB*  
Kent Ervin, *NSHE*  
Scott Sisco, *NDOC*  
Mark Stevens, *Retired*  
Steve C. Woodbury, *GOED*

*STAFF*  
Rob Boehmer, *Program Coordinator*  
Micah Salerno, *Administrative Assistant*

Shane Chesney, *Senior Deputy Attorney General*

## DEFERRED COMPENSATION COMMITTEE NAC WORKSHOP MINUTES

October 27, 2015

The NAC Regulatory Update Workshop was held on Tuesday, October 27, 2015 at 9:00 a.m. in room 2135 of the Legislature Building, 401 S. Carson St., Carson City, Nevada. The meeting was held by videoconference from the Nevada Legislature Building to the Grant Sawyer Building, 555 E. Washington Ave., Suite 4412 E, Las Vegas, Nevada. Attendees participated in person or by teleconference.

A copy of meeting material including this set of meeting minutes, the agenda, the audio recording and other supporting material, is available on the Nevada Deferred Compensation (NDC) website at: <http://defcomp.nv.gov/Meetings/2015>.

### Workshop Attendees

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Rob Boehmer, NDC Program Coordinator  
Shane Chesney, Sr. Deputy Attorney General  
Brian Davie,  
Dianna Patane, Voya  
Frank Picarelli, Segal Rogerscasey (by phone)

Kent Ervin, NDC Committee Member  
Alan Kalt, Churchill County (by phone)  
Karen Oliver, NDC Committee Chair  
Micah Salerno, NDC Admin. Assistant  
Ben Sharit, Tahoe Douglas Fire District

#### 1. Open Meeting

Program Coordinator Mr. Boehmer opened the workshop at 9:01 a.m., on Tuesday, October 27, 2015, and noted the workshop was properly posted. He explained that the purpose of the workshop was to discuss the potential of creating clarifying language regarding the Committee's authority to allow or disallow political subdivisions and/or sub-government entities to participate in the State voluntary 457(b) program and the State FICA Alternative program.

Senior Deputy Attorney General Shane Chesney introduced himself as legal counsel for the NDC Program.

#### 2. Public Comment

Mr. Boehmer welcomed comments and opinions from interested persons regarding future regulations related to the Political Subdivision/Alliance Partnership of Nevada Deferred Compensation (NDC) Participation criteria.

Chief Ben Sharit with Tahoe Douglas Fire Protection District (TDFD) supported allowing local government and Alliance Partners to participate in the Nevada Public Employees' Deferred Compensation Program and FICA Program. Their fire district employs up to 30 seasonal firefighters each year during fire season which is generally a 6 month employment and the FICA portion would be a great program to teach them how to invest in the future by saving for

retirement. Since the FICA Program was an alternative to Social Security it would be important to learn how to invest and manage a 457 account at a young age. The TDFD fire board approved a resolution earlier this year where they would match what the employee would normally put into Social Security into the FICA account. They wanted to encourage early participation for their seasonal employees. Chief Sharit highly encouraged the NDC Committee to allow them to participate in the FICA Program in addition to their current participation of the regular voluntary 457(b) Program.

Mr. Boehmer clarified that TDFD would make a contribution into the FICA account along with the employee contribution.

Chief Sharit confirmed that their Board had already approved a resolution to contribute on behalf of the employee. They hoped to be able to join the FICA Program in the spring when they hired for the next fire season.

DAG Chesney asked Chief Sharit, based on the 3 optional language choices that were provided in the meeting material, what his opinion was on those options. ([Regulation Options](#))

Chief Sharit stated that TDFD was currently enrolled in the regular plan but wanted to add the FICA portion for their seasonal employees so he supported Option 1 which most fit that request.

Mr. Frank Picarelli with Segal Rogerscasey called in to the meeting.

Mr. Alan Kalt, Comptroller for Churchill County, called in to provide his comments. As a current Alliance Partner of the NDC Program he believed being a part of the Plan provided significant benefit to their employees through lower fees, better investment options, great management through NDC staff and Committee. They appreciated their membership and felt they should be able to be allowed to be part of the State Program. He also remarked that an Alliance partner should have representation on the NDC Committee since more than 20 percent of the assets in the Program were from Alliance Partners. Mr. Kalt was in favor of allowing the Alliance Partners to continue with participation in the NDC Program.

DAG Chesney noted it was an interesting suggestion to have an Alliance Partner on the Committee and would require to have a Legislative change to allow that. He asked Mr. Kalt which of the options he supported.

Mr. Kalt and Churchill County supported Option 1 and asserted that Option 3 did not support the spirit of the great state of Nevada.

Mr. Brian Davie, former NDC Committee member commented that he was pleased with the reappointments of Ms. Oliver and Mr. Woodbury, and the new appointments of Mr. Stevens and Dr. Ervin. He provided the following written public comment:

TESTIMONY ON POTENTIAL AMENDMENTS TO REGULATIONS  
REGARDING POLITICAL SUBDIVISION PARTICIPATION CRITERIA  
WITHIN THE NEVADA PUBLIC EMPLOYEES' DEFERRED  
COMPENSATION PROGRAM (NDC)

Personal Background

NDC participant. Former Committee member from Sep. 2003 through Sep. 2015, including four consecutive years as Chair. Retired since July 2014 from the Legislative Counsel Bureau.

### Summary Conclusion and Recommendations

The need for these possible regulation changes is questionable. If regulations are adopted by the NDC Committee, Option 1 should be the preferred choice to allow for inclusion, rather than exclusion. The old terminology, "Alliance Partner," should be eliminated and replaced with Political Subdivisions or Local Government Entities.

### Discussion

The political subdivisions within the NDC account for approximately 21 percent of total plan assets (June 30, 2015 data), which contribute significantly to the size of the Program and its ability to obtain more favorable interest rates, lower fees, and program enhancements.

It is my understanding that the "Alliance Partner" portion of the Program was initiated many years ago by the recordkeepers through separate agreements to allow for local government entities to share in the benefits of the larger State program. With the advent of NDC staff and more control exercised by the NDC Committee, these agreements and their contracts were updated, and the participating entities were better and more completely integrated within the overall NDC program.

The issue concerning some kind of limit or exclusion, particularly on smaller local government entities, has been a recent item of discussion on the Committee. Previous Committee members viewed the "Alliance Partners" as a positive aspect of the Program and actively sought to solicit and include more local government entities as a way to continue to grow the Program for the enhanced benefit, through economies of scale, of current and other public employee participants. The primary argument for exclusion, especially of the smaller entities, appears to be that current State participants somehow pay an unspecified cost for such participation due to the need for more recordkeeping assets with the additional payroll centers. However, the only evidence that has been presented related to such an effect appears to be simply anecdotal and speculative. Despite repeated requests at recent Committee meetings for information from the contracted investment consultant and recordkeeper, no empirical evidence concerning an effect has been provided or seems to be available. I believe it is more intuitively obvious that such possible effects would be extremely minimal, if any, given the ongoing improvements and enhancements in electronic recordkeeping capabilities within the financial and deferred compensation fields.

The statutory name of the NDC Program is the "Public Employees' Deferred Compensation Program," not just the "State's" program. I believe that the "Alliance Partner" terminology is a relic of the past from when the recordkeepers accounted separately for those entities. It is now outmoded, however, with the full integration in recent years of the current participating entities within the overall NDC Program.

While I understand the possible need by the Attorney General's Office for regulatory clarity, I think it is unfair and unnecessary to change the rules, or to establish any kind of arbitrary limit or exclusion, on local government participation in the NDC Program; and, absent any definitive, data-driven evidence to the contrary, it would not be in the best interests of the current and future participants to do so.

Thank you for your attention and consideration.  
Sincerely,  
Brian Davie

Mr. Davie noted that subparagraph 2 of Option 1 should be deleted or have some language included such as "give adequate notice of possible termination and due consideration of fiduciary responsibility" since the current language was too arbitrary and sounded like allowing entities to join or leave the Program was at the whim of the Committee.

DAG Chesney responded to comments from Mr. Davie noting that the current regulation language addressed State and NSHE participants but not all Public Employees. They needed to clarify adding Alliance Partners because it would keep coming up. If they moved forward adding an Alliance Partner as a Committee member it would be awkward if they were not included in the current regulation language. Regarding the language suggestion for of Option 1, subparagraph 2 he noted they could use the exact language from the current Alliance Partner Interlocal contract.

Dr. Kent Ervin, active participant, UNR employee, and newly appointed NDC Committee member echoed most of Mr. Davie's comments about the value of the local government partnership which represent a substantial portion of NDC assets and participants. NDC provides a valuable service to public employees. The incremental cost of Alliance Partner participation should be quite low since they are already established in the recordkeeping system. The additional assets provide some pricing leverage for NDC when going out to bid. Probably the only way to find out an accurate cost to the Program would be to do an RFP that has both options. In the absence of complaints from recordkeepers about high costs or complaints from local governments about issues he did not see any reason to make a change. In the past, local plans were added to the Program by recordkeepers without explicit approval, but that could create potential liabilities for the Program being an IRS 457 and FICA social security replacement plan, so the Interlocal agreement was needed. Dr. Ervin favored Option 1 for the regulation change but suggested adding the provision to the effect that Plans might be added with approval of the Committee and recordkeepers would do that only under direction of the Committee so it was clear that a recordkeeper did not go out as a free agent without the knowledge or approval of the Program.

3. Discussion, comments, and/or direction to the NDC Administrative Staff.

DAG Chesney proposed incorporating the suggestions they had received with regard to clause 2 in Option 1 to more closely mimic the actual language in the contract as well as adding subsection 3 to allow Alliance Partners to be added only on approval of the Committee. Then they could submit the proposed changes to LCB for their review. As legal counsel he was advising the Committee to move forward with this for clarity and to confirm that what they had been doing was something they actually had authority to do.

Mr. Boehmer indicated with that legal recommendation, NDC staff would draft changes as indicated, have DAG Chesney review, and then submit the proposed language to LCB.

Mr. Picarelli commented that political subdivisions added additional assets into the Program but the responsibility and message to recordkeepers was to be proactive in assisting Alliance Partners in facilitating the flow of data to make it more cost effective and efficient.

4. Adjournment

The meeting was adjourned at 9:48 a.m.

Respectfully submitted,

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Micah Salerno  
NDC Administrative Assistant