

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R023-05

Effective October 31, 2005

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-7, NRS 284.065, 284.155 and 284.384.

A REGULATION relating to the State Personnel System; providing, under certain circumstances, for an extension of time to file a grievance and to take certain other steps in the grievance procedure; making various changes concerning the entities to which and the persons to whom an employee alleging unlawful discrimination may report the alleged discrimination for investigation; and providing other matters properly relating thereto.

Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, the time limit for filing a grievance and for taking any other action required by either party at any step in the grievance procedure may be extended by the mutual agreement of the employee who may file the grievance and the appointing authority or his designated representative.

2. An agreement to an extension of time entered into pursuant to subsection 1 must be:

(a) Made in writing on a form prescribed by the Department of Personnel; and

(b) Signed by:

(1) The employee; and

(2) The appointing authority or his designated representative.

3. The provisions of this section do not apply to a grievance that has been submitted to the Committee.

Sec. 2. NAC 284.658 is hereby amended to read as follows:

284.658 1. As used in NAC 284.341 and 284.658 to 284.697, inclusive, *and section 1 of this regulation*, a “grievance” means an act, omission or occurrence which a permanent employee feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement. The act, omission or occurrence must be established with factual information, including, but not limited to, the date, time and place of the act, omission or occurrence and the names of other persons involved.

2. For the purposes of NAC 284.341 and 284.658 to 284.697, inclusive, *and section 1 of this regulation*, the term “grievance” does not include any grievance for which a hearing is provided by NRS 284.165, 284.376 or 284.390.

Sec. 3. NAC 284.678 is hereby amended to read as follows:

284.678 1. Except as otherwise provided in subsection 3 ~~§~~ *and section 1 of this regulation*, an employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.

2. If the employee submits a letter, it must include:

(a) His name;

- (b) His most recent date of hire;
- (c) His position;
- (d) His department, division and section;
- (e) His mailing address;
- (f) His business telephone number;
- (g) A statement that he is filing a formal grievance;
- (h) The date, time and place of the event or the date the employee learns of the event leading to the grievance;
- (i) A concise statement of his grievance;
- (j) A detailed description of his grievance, including the names of other persons involved in the event, if any;
- (k) A proposed solution of his grievance;
- (l) His signature; and
- (m) The date he signed the statement.

3. ~~HH~~ *Except as otherwise provided in section 1 of this regulation, if* a grievance relates to a decision of a reviewing officer about a performance evaluation, an employee must file a grievance that identifies the specific points of disagreement, if such specificity is provided, not later than 10 working days after the date the employee receives the decision of the reviewing officer. ~~HH~~ *Except as otherwise provided in section 1 of this regulation, if* the grievance relates to the failure of a reviewing officer to respond to a request for a review within the time required by NAC 284.470, an employee must file a grievance not later than 10 working days after the date on which the time for such a response expired. A grievance filed pursuant to this subsection must be filed with:

(a) The appointing authority; or

(b) If the appointing authority is the immediate supervisor of the employee or the reviewing officer, the person who is at the next level of the grievance process.

Sec. 4. NAC 284.682 is hereby amended to read as follows:

284.682 1. If the correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the Department of Personnel determines that the submission of the grievance to the supervisor would be a useless act, the aggrieved employee may appeal directly to the next appropriate level.

2. ~~[An]~~ *Except as otherwise provided in section 1 of this regulation, an* employee has 10 working days to refer his grievance to the next level after:

(a) He receives notification of the action; or

(b) The passage of 10 working days after his grievance is deemed to have been received,

↪ whichever occurs first, at each step in the procedure.

~~[3.—The time limit for the grievance procedure may be extended by agreement of the parties.]~~

Sec. 5. NAC 284.686 is hereby amended to read as follows:

284.686 1. ~~[If,]~~ *Except as otherwise provided in section 1 of this regulation, if,* within 10 working days after the employee's grievance is deemed to have been received by his immediate supervisor, the employee has not received satisfactory relief, he may forward the grievance to the head of the major division of the department in which he works. In those cases where a department is not subdivided into divisions, he may forward his request directly to the highest administrator in the department.

2. Additional managers or supervisors may become involved or a review committee may make a recommendation to the administrator of the agency.

Sec. 6. NAC 284.690 is hereby amended to read as follows:

284.690 1. If the employee has not received satisfactory relief within 10 working days after his grievance is deemed to have been received by the head of the division, he may file his grievance with the highest administrator of the department. ~~[The]~~ *Except as otherwise provided in section 1 of this regulation, the* administrator may hold a hearing within 10 working days after receiving the employee's grievance.

2. ~~[The]~~ *Except as otherwise provided in section 1 of this regulation, the* highest administrator may render a decision following the hearing or allow the grievance to be forwarded directly to the Committee within 10 working days.

3. In rendering a decision concerning a performance evaluation, an administrator shall address the findings of fact to the specific points of disagreement referred to in the grievance of the employee.

4. Within the established time limitations, *including any extensions to those time limitations obtained pursuant to section 1 of this regulation,* the highest administrator may appoint a person or committee composed of managers and employees to assist in the finding of facts and recommending a course of action.

Sec. 7. NAC 284.696 is hereby amended to read as follows:

284.696 1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:

(a) Report the alleged discrimination to ~~[the]~~ :

(1) The division of the Department of Personnel that investigates sexual harassment and discrimination;

(2) The Attorney General ~~[, the]~~ ;

(3) The employee's appointing authority ~~[, an]~~ ;

(4) An equal employment opportunity officer ~~[, or a]~~ ;

(5) A personnel representative ~~[for corrective action;]~~ *of the department in which the employee is employed; or*

(6) The office charged with enforcing affirmative action within the appropriate university, state college or community college which is part of the Nevada System of Higher Education;

(b) Use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive; or

(c) File a complaint with ~~[the]~~ :

(1) The Nevada Equal Rights Commission pursuant to NRS 613.405 ~~[,]~~ ; *or*

(2) The United States Equal Employment Opportunity Commission.

2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R023-05

The Department of Personnel adopted regulations assigned LCB File No. R023-05 which pertain to chapter 284 of the Nevada Administrative Code on September 23, 2005.

Notice date: 8/8/2005
Hearing date: 9/23/2005

Date of adoption by agency: 9/23/2005
Filing date: 10/31/2005

INFORMATIONAL STATEMENT

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

On August 12, 2005, a "Notice of Workshop" to solicit comments on proposed regulations and "Notice of Hearing" for the adoption and amendment of regulations were posted conspicuously in public buildings. On the same day, copies of the notices and the text of the proposed regulations were filed with the Nevada State Library and the Legislative Counsel Bureau. Also on August 12, 2005, all State agencies were notified by memorandum of the proposed actions. Copies of the notices with the text of the proposed regulations were included with the memorandum for dissemination among State employees. Copies of the notices and text of the proposed regulations were posted on the Department's website and also sent to all employee organizations, all Nevada county public libraries, all requesting parties, and members of the Personnel Commission.

On August 29, 2005, a workshop was held. Tracy Walters, Personnel Analyst III, Technical Services Division, Department of Personnel, explained the purpose of the workshop and the process by which the proposed regulations would be reviewed and adopted. Ms. Walters read the explanation of change for each of the sections and solicited comments.

- a. The following summarizes the comments made at the workshop regarding the proposed temporary regulations:

Ms. Walters read new language into the record for sections 5 and 11 of the temporary regulations previously approved by the Commission proposed for permanent adoption. There were no comments, questions, opposition, or discussion on any other sections.

Regulations presented at the workshop are attached for reference.

- 2. The number of persons who:**
 - (a) Attended the hearing:** 37 in Carson City and 12 in Las Vegas
 - (b) Testified at the hearing:** 0

(c) Submitted written comments: A summary of the workshop is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada, 89701-4204.

3. **A description of how comments were solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

The regulations do not affect businesses; therefore, their comments were not solicited.

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Sections 5 and 11 of the temporary regulations previously approved by the Commission proposed for permanent adoption had language changes that more closely reflect the intent of the regulation. Sections 5 and 11 were adopted with the language changes. There was no opposition or discussion on the other sections and all were adopted without change to the proposed regulation.

5. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

These regulations do not have a direct economic effect on any business or on the public.

6. **The estimated cost to the agency for enforcement of the regulations:**

Enforcement of these regulations should not result in any increased cost to the Department of Personnel.

7. **A description of any regulations of other State or governmental agencies which the regulations overlap or duplicate and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, provide the name of the regulating federal agency.**

There is no duplication or overlapping created by these regulations.

8. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.**

These regulations are not more stringent than a federal regulation.

9. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

These regulations do not provide new or increase existing fees; therefore, no monies will be collected or used.