

Chapter 284 of NAC

**ADOPTED TEMPORARY REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. T016-11

Filed with the Secretary of State on June 10, 2011

LCB File No. R063-09, section 2 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, will require requests for appeals regarding dismissals, suspension and demotions to be submitted on a form provided by the Department. The use of a required form is part of the Department's effort to improve the appeal process and its outcomes. The form will eliminate confusion for employees on how to file an appeal and will also provide useful information about the employee's concerns.

NEW. Hearing procedures. (NRS 284.065, 284.155, 284.383, 284.385, 284.390) Except as otherwise provided in section 3 of LCB File No. R063-09, if an appointing authority proposes that a permanent employee be dismissed, suspended or demoted, the following procedure for a hearing before the proposed action must be followed:

1. A hearing must be scheduled on the employee's behalf unless waived in writing by the employee pursuant to subsection 2. The hearing must be scheduled to take place not earlier than 7 working days after the written notice of the proposed action is delivered or deemed received pursuant to subsection 2 of NAC 284.656. The hearing must not be scheduled on a day which is not a regular working day for the employee. If the appointing authority or his or her designated representative and the employee agree, the date of the hearing may be changed.

2. The employee may waive the right to a hearing before the proposed action in writing. If the employee makes such a waiver, the employee may not be dismissed, suspended or demoted before the proposed effective date. The waiver does not waive the employee's right to an appeal after the action is taken.

3. The appointing authority or his or her designated representative shall conduct the hearing. The designated representative must be a person with the authority to recommend a final decision to the appointing authority. The appointing authority shall render the final decision.

4. At any time after receiving the notice and before the hearing, the employee may examine all materials that are to be used by the person conducting the hearing. The employee is entitled to administrative leave with pay as provided in NAC 284.589 to prepare for the hearings regarding his or her suspension, demotion or dismissal.

5. This process is an informal proceeding between the two parties, the appointing authority and his or her designated representative and the employee, who meet together to discuss the proposed action. Witnesses are not allowed to attend, but each party may be accompanied by a person of his choice.

6. The employee may respond both orally and in writing to the appointing authority or his or her designated representative at the hearing.

7. The employee must be:
- (a) Given a copy of the finding or recommendation, if any, resulting from the hearing; and
 - (b) Informed, in writing, of the appointing authority's decision regarding the proposed action on or before the effective date of the action.

8. An employee who has been dismissed, demoted or suspended may request a hearing before the hearing officer of the Department of Personnel pursuant to NRS 284.390 within 10 working days after the effective date of his or her dismissal, demotion or suspension. Such a request must be ~~in writing and addressed to the Department of Personnel or may be~~ *addressed to the Director and* submitted on the form provided by the Department of Personnel.

(Added to NAC by Dep't of Personnel, eff. 10-27-09)

NAC 284.778 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, adds language regarding the use of a required form to request a hearing. This makes the regulation consistent with the changes made to the hearing procedures regulation.

NAC 284.778 Request for hearing and other communication. (NRS 284.065, 284.155, 284.376, 284.390)

1. A request for an appeal must be addressed to the Director *and submitted on the form provided by the Department of Personnel.*
2. A copy of any written communications directed to a hearing officer must be sent to the Hearing Clerk of the Department of Personnel.
3. A party shall not communicate with a hearing officer regarding the merits of a case:
 - (a) Except in the presence of all parties to the hearing; or
 - (b) Unless all parties to the hearing are notified of the communication in advance.
4. Unless otherwise agreed upon in writing by all parties, an offer or demand of settlement made by a party must not be disclosed to or proposed by a hearing officer before the issuance of a final decision by the hearing officer.

[Personnel Div., Hearings Procedures § (A) subsec. (1), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; R192-09, 7-1-10)

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
Uncodified NAC-LCB File #R063-09, NAC 284.778**

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

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.

Copies of the proposed regulations, notices of workshop, and notices of intent to act upon a regulation were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel Blasdel Building 209 E. Musser St Carson City, NV 89701	Grant Sawyer State Office Bldg. 555 E. Washington Blvd Suite 4401 Las Vegas, NV 89101
Nevada State Library and Archives 100 Stewart St Carson City, NV 89701	Capitol Building Main Floor Carson City, NV 89701
Legislative Building 401 S. Carson St Carson City, NV 89701	Gaming Control Board 1919 College Parkway Carson City, NV 89701

Attached are excerpts from the minutes from the workshop that apply to these regulations.

A Regulation Workshop was conducted by the Department of Personnel on March 17, 2011 and a public hearing was held by the Nevada Personnel Commission on May 6, 2011. There were no comments received from the public regarding these regulations.

2. The number of persons who:

- (a) **Attended each hearing:** March 17, 2011 – 21; May 6, 2011 – 40
- (b) **Testified at each hearing:** March 17, 2011 – 1; May 6, 2011 – 1
- (c) **Submitted written comments:** None

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

Comments were not solicited, as the regulations do not affect businesses.

- 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.**
There were no comments or opposition to the proposed language changes.
- 5. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**
 - (a) Both adverse and beneficial effects; and
 - (b) Both immediate and long-term effects.

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

- 6. The estimated cost to the agency for enforcement of the adopted regulation:**

There is no additional cost to the agency for enforcement of these regulations.

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

There are no other state or government agency regulations that the proposed amendments duplicate.

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

These regulations do not include any provisions that are more stringent than any 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.**

No fees are associated with these regulations.

- 10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

These regulations are specific to State government agencies and has no impact on small businesses.

**SUMMARY OF THE WORKSHOP TO SOLICIT COMMENTS ON THE PROPOSED
REGULATIONS OF THE STATE DEPARTMENT OF PERSONNEL
March 17, 2011**

CARSON CITY, NEVADA
And via Video Conferencing in
LAS VEGAS, NEVADA

Attendees in Carson City:

Shelley Blotter, Division Administrator, Department of Personnel
Mark Evans, Supervisory Personnel Analyst, Department of Personnel
Peter Long, Division Administrator, Department of Personnel
Adam Drost, Central Payroll Manager, Department of Personnel
Kimberley King, Personnel Officer III, Department of Transportation
Denise Woo-Seymour, Personnel Analyst II, Department of Personnel
Carrie Hughes, Personnel Analyst, Department of Personnel
Norma Mallett, Personnel Officer III, Department of Health & Human Services-MHDS
Valerie Kneefel, Executive Assistant, Department of Personnel
Vicky Cummins, Division of Mortgage Lending
Kirsten Hettrick, State Parks
Jamie Pruneser, Rural Services
Sue Dunt, NSHE
Tracy Walters, Health Division
Kate Hinton-Burnette, DHCFP
Susie Bargmann, NDOC
Karen Caterino, Risk Management

Attendees in Las Vegas:

Mark Anastas, Division Administrator, Department of Personnel
J. C. Scarborough, Director-Administrative Operations, College of Southern Nevada
Tracy Townsend, Administrative Assistant, Department of Personnel
Rudy Lednicky, Office of the Military

Shelley Blotter:

Opened the meeting at 9:00 a.m. and welcomed everyone. She asked everyone in attendance to sign the sign in sheet and stated the purpose of the workshop was to solicit comments from affected parties with regard to a newly proposed temporary regulation. These regulations will be considered for adoption by the Personnel Commission at their May 6, 2011 meeting.

Mark Evans:

Presented Section 4, Hearing Procedures and Section 5, Request for hearing and other communications are being changed to require requests for appeals regarding dismissals, suspensions and demotions to be submitted on a form provided by the Department of Personnel. The required form includes information that may help the agencies resolve appeals before they go to the hearing officer and will also be helpful with the Department of Personnel's effort to improve the appeal process. We do have copies of the forms available and have already

requested feedback from our Deputy Attorney General, the agency personnel liaisons, and employee association representatives.

No comments.

Shelley Blotter: Closed the workshop.