

LCB File No. R177-07

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

(These provisions have been removed from R141-07 for separate consideration)

Sec. 1. NAC 284.470 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel removes the ability for an employee to file a grievance related to a performance evaluation as the review process exists which allows an employee to dispute his performance appraisal up to the Agency Director level (NAC 284.478, 284.678 and 284.690).

NAC 284.470 Preparation, filing, contents, discussion and distribution of reports; power and duties of employees; review; ~~adjustment of grievances~~. (NRS 284.065, 284.155, 284.340, 284.384)

1. A person shall not complete a report on performance unless he has completed the training provided or approved by the Director concerning the preparation of a report on performance.

2. A report on performance must be prepared on the form prescribed by the Department of Personnel.

3. A report on performance must be filed at the times prescribed by NRS 284.340, but may be filed more frequently at the discretion of the supervisor of the employee. If a report on performance is not filed on or before the times specified in NRS 284.340, the performance of the employee shall be deemed to be standard.

4. If any information that would have affected the rating of performance of an employee during a period of evaluation becomes available after the date on which the report on performance of the employee is filed for that period, the information may be included in the report on performance for the current period of evaluation and taken into consideration in determining the rating of performance for the current period of evaluation.

5. When a report on performance is given which reports the overall rating of performance of an employee as substandard:

(a) The report must contain a written notice that such reports affect both merit pay increases and the employee's eligibility for longevity pay; and

(b) An additional report on the performance of the employee must, in accordance with subsection 4 of NRS 284.340, be filed at least once every 90 days after the initial report that includes the substandard rating until the performance of the employee improves to standard or disciplinary action is taken against the employee.

6. Except as otherwise provided in subsection 7, the preparation of each report on performance must include a discussion between the employee and his immediate supervisor. Within 10 working days after the discussion takes place:

(a) The employee must complete and sign the appropriate section on the report on performance and return the report to his supervisor for forwarding to the reviewing officer or appointing authority.

(b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify the specific points of disagreement, if such specificity is

provided, and return the response to his supervisor. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request.

7. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 6 because of an extended absence, the immediate supervisor of the employee shall cause the report to be mailed to the employee. Within 10 working days after the date on which the employee receives the report:

(a) The employee must complete and sign the appropriate section on the report on performance and mail the report to his supervisor for forwarding to the appointing authority or reviewing officer.

(b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify any specific point of disagreement, if the report provides such specificity, and mail his response to his supervisor. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request for review from the employee. For the purposes of this paragraph, a report on performance or request for review is deemed to have been received on the third day after the date on which the report or request is postmarked.

8. A copy of each report on performance must be provided to the employee and filed with the Department of Personnel. If any written comments are added to a report on performance after a copy of the report has been provided to the employee pursuant to this subsection:

(a) A copy of the revised report which includes the written comments must be provided to the employee; and

(b) The employee may respond, in writing, to the additional comments in the revised report not later than 10 working days after he receives a copy of the revised report and submit the response to the Department of Personnel for inclusion in his file of employment.

9. An employee and his appointing authority may agree in writing to extend one or more of the periods prescribed in subsection 6 or 7.

10. If a reviewing officer fails to respond to a request for review from an employee within the time required by this section, the employee may ~~[institute the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.]~~ *file for a review with the Agency Director.*

Sec. 2. NAC 284.478 is hereby amended to read as follows:

<p>Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, limits an employee's ability to appeal his performance evaluation above the level of the Agency Director. The purpose of the reviewing officer is to provide an unbiased assessment of the employee's performance evaluation and as such there is already an appeal process in place.</p>
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NAC 284.478 Appeal of decision of reviewing officer. (NRS 284.065, 284.155, 284.384) A permanent employee may *not* appeal a decision of a reviewing officer ~~[pursuant to NAC 284.470 through the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.]~~ *beyond the level of the Agency Director.*

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

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel removes the language that allows an employee to file a grievance related to a performance appraisal consistent with the proposed change in NAC 284.470 and 284.478.

NAC 284.678 Submission, form and contents of grievance; informal discussions. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in ~~subsection 3 and~~ NAC 284.692, 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.— Except as otherwise provided in NAC 284.692, 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. Except as otherwise provided in NAC 284.692, 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:

Explanation of Proposed Change: This amendment, proposed by the Nevada State Law Enforcement Officers Association, requires an appointing authority to provide a copy of a formal agreement settling a grievance with the Employee-Management Committee (EMC). This provision applies to each step in the grievance process.

NAC 284.682 Submission of grievance to next appropriate level. (NRS 284.065, 284.155, 284.384)

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. Except as otherwise provided in NAC 284.692, 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. If during the grievance process a formal agreement is reached by an employee and the appointing authority before the Employee-Management Committee hears the grievance, both parties shall sign the agreement and the appointing authority shall provide a copy of the agreement to the Employee-Management Committee.