

LCB File No. R192-09

PROPOSED REGULATION OF THE  
PERSONNEL COMMISSION

REGULATION CHANGES PROPOSED FOR PERMANENT ADOPTION

File 6

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

**Explanation of Proposed Change:** This new section, proposed by the Department of Personnel, describes the method for the assignment of a hearing officer when an employee has filed an appeal of a dismissal, suspension, demotion, involuntary transfer, or a “Whistle Blower” complaint.

*New Section. Assignment of hearing officer.*

1. *Upon notice of request for appeal, the Director shall provide both parties with an identical selection list of hearing officers.*
2. *The parties shall return the selection list to the Department within 10 days, as specified on the selection list, with no more than two names stricken each.*
  - (a) *If both parties respond within the 10-day period, the Department shall appoint a hearing officer from those names not stricken from the selection list;*
  - (b) *If only one party responds within the 10-day period, the Department shall appoint a hearing officer from among those names not stricken from the selection list; or*
  - (c) *If neither party responds within the 10-day period, the Department shall appoint a hearing officer from among the names on the selection list.*
3. *If the selection process outlined above fails for any reason, including a recusal by the hearing officer, the Department shall repeat the process to select an alternate hearing officer, where practicable, or assign the first available hearing officer.*

NAC 284.774 is hereby amended to read as follows:

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies that the hearing officers may only adopt supplementary procedures to those established in regulation and by the Department of Personnel.

**NAC 284.774 Scope. (NRS 284.065, 284.155, 284.376, 284.390)**

1. NAC 284.774 to 284.818, inclusive, governs hearings *before the hearing officer* in all cases relating to dismissals, suspensions, demotions , ~~[and]~~ involuntary transfers , *and in accordance with NRS 281.641. ~~[before the hearing officer.]~~*
2. The hearing officer ~~[may modify or alter the hearings]~~ *shall use the* procedures established in NAC 284.774 to 284.818, inclusive, ~~[if experience and circumstances indicate such action and~~

~~interested parties have proper notice of any procedural changes or are not prejudiced thereby.] and the procedures provided to the hearing officer by the Department of Personnel.~~

3. Each hearing officer may ~~[from time to time]~~ adopt supplementary rules governing practice before him not inconsistent with ~~[NAC 284.774 to 284.818, inclusive.]~~ *those provided for in subsection 2 of this regulation. Such rules must be available in writing to all parties in advance of any hearing.*

NAC 284.778 is hereby amended to read as follows:

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, addresses communications between parties in an appeal and the hearing officer.

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

1. A request for an appeal ~~[and other pertinent]~~ *must be addressed to the Director.*
2. *All written* communications directed to the hearing officer must be ~~[addressed to the Director.]~~ *sent through the hearing clerk of the Department of Personnel.*
3. *Parties to an appeal hearing shall not communicate directly with the hearing officer regarding the merits of the case, except in the presence of, or with reasonable notice to, all of the other parties.*
4. *Unless otherwise agreed in writing by all parties, no offer or demand of settlement made by any party shall be disclosed to or proposed by the hearing officer prior to the issuance of a decision.*

NAC 284.786 is hereby amended to read as follows:

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the procedure for requesting a continuance and when it is appropriate for a continuance to occur.

**NAC 284.786 Continuances.** (NRS 284.065, 284.155, 284.376, 284.390) ~~[Hearings may be continued beyond the period originally scheduled or recessed until a future date which is agreeable to the hearing officer and the parties if good cause is shown.]~~ *No continuance of a hearing shall be granted except for good cause.*

1. *At least 5 working days in advance of the hearing date, a written motion or stipulation for continuance may be filed with the hearing officer and copies sent to the opposing party and the Department of Personnel. Within two working days of receiving the requested continuance, the opposing party may contest the request for a continuance by filing a written opposition with the hearing officer and provide a copy of the opposition to the requesting party and the Department of Personnel. Whether contested or not, the hearing officer will determine if the hearing will proceed as scheduled.*
2. *On the day of the scheduled hearing, a continuance will only be allowed when:*
  - a. *An emergency occurs and either the hearing officer, either party or his or her legal counsel, or a primary witness cannot attend the hearing;*
  - b. *The hearing exceeds the allotted time for the day; or*

- c. The hearing officer recesses the hearing until a future date.*
- 3. When a hearing is continued to a future date, the hearing shall occur within 20 working days unless there is a conflict with the hearing officer's calendar.*