

PROPOSED REGULATION OF THE PERSONNEL COMMISSION

LCB File No. R011-11

(This regulation was previously adopted as LCB File No. T016-11)

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)