

**ADOPTED REGULATION OF  
THE PERSONNEL COMMISSION**

**LCB File No. R076-16**

Effective November 2, 2016

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

AUTHORITY: §1, NRS 284.065, 284.155 and 284.387; §2, NRS 284.065, 284.155 and 284.385.

A REGULATION relating to the State Personnel System; establishing provisions concerning requests for an extension made by an appointing authority to complete an internal administrative investigation and make a determination regarding disciplinary action to be taken against an employee; establishing provisions governing delivery of notice to an employee regarding disciplinary action to be taken against the employee; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the Personnel Commission to adopt regulations to carry out the provisions of chapter 284 of NRS and to adopt regulations for the classified service of the State of Nevada. (NRS 284.065, 284.155)

Existing law requires that an internal administrative investigation that could lead to disciplinary action against a permanent classified employee and any determination made as a result of the investigation be completed and the employee notified of any disciplinary action within 90 days after the employee is provided notice of the allegations against him or her. If the appointing authority is unable to complete the investigation and make a determination within that period, the appointing authority is authorized to request from the Administrator of the Division of Human Resource Management of the Department of Administration an extension of not more than 60 days upon showing good cause for the delay. Any subsequent extension cannot be granted unless approved by the Governor. (NRS 284.387) **Section 1** of this regulation establishes the procedure by which the appointing authority may request such an initial or subsequent extension.

Existing law provides that a dismissal, involuntary demotion or suspension of a permanent classified employee does not become effective until the employee is notified in writing of the dismissal, involuntary demotion or suspension and the reasons therefor. The Commission is required to adopt regulations setting forth the procedures for properly notifying the employee of the dismissal, involuntary demotion or suspension and the reasons therefor. (NRS 284.385) **Section 2** of this regulation establishes the procedure by which such an employee must be notified of the appointing authority’s decision regarding the proposed action to be taken against the employee and the reasons therefor.

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

*1. Pursuant to subsection 2 of NRS 284.387, if an appointing authority wishes to request an initial extension of not more than 60 days from the Administrator to complete an internal administrative investigation that could lead to disciplinary action against an employee pursuant to NRS 284.385 and make a determination as a result of the investigation, the appointing authority must:*

*(a) Submit the request to the Administrator on a form prescribed by the Division of Human Resource Management on or before the 90th day after the employee was provided notice of the allegations against the employee;*

*(b) Explain in the request why the appointing authority is unable to complete the internal administrative investigation and make a determination within 90 days after the employee was provided notice of the allegations; and*

*(c) Provide a copy of the request to the employee who is the subject of the internal administrative investigation.*

*2. If an initial extension is granted pursuant to subsection 1 and the appointing authority is unable to complete the internal administrative investigation and make a determination within the period of the extension, the appointing authority may request an additional extension to be approved by the Governor. If the appointing authority wishes to request an additional extension, the appointing authority must:*

*(a) Submit the request in writing to the Administrator, for submission to the Governor, on or before the expiration date of the initial extension;*

*(b) Explain in the request why the appointing authority is unable to complete the internal administrative investigation and make a determination within the period of the initial extension; and*

*(c) Provide a copy of the request to the employee who is the subject of the internal administrative investigation.*

*3. The Administrator may deny a request for an extension that is not submitted within the period required by paragraph (a) of subsection 1.*

*4. The Governor may deny a request for an extension that is not submitted within the period required by paragraph (a) of subsection 2.*

**Sec. 2.** NAC 284.6561 is hereby amended to read as follows:

284.6561 Except as otherwise provided in NAC 284.6563, 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 or her 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,~~ **Notified** in writing ~~of~~ of the appointing authority's decision regarding the proposed action **and the reasons therefor** on or before the effective date of the action.

8. ***The notice given pursuant to paragraph (b) of subsection 7 may be given in person or by means of any delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received. If the notice is sent by means of a delivery service, the notice must be sent to the employee's last known address. The notice must not be given by electronic mail, the use of social media or other electronic means. If the notice is returned without having been received by the employee, the employee's date of receipt shall be***

*deemed to be the third day after the date the notice was sent. As used in this subsection, “social media” has the meaning ascribed to it in subsection 7 of NAC 284.656.*

9. An employee who has been dismissed, demoted or suspended may request a hearing before the hearing officer of the Division of Human Resource Management 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 addressed to the Administrator and submitted on the form provided by the Division of Human Resource Management.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R076-16**

**1. A clear and concise explanation of the need for the adopted regulation.**

Due to recent conflicting hearing officer decisions, the newly proposed amendment in Section 1 of this LCB File creates a process for the deadlines outlined in NRS 284.387. This amendment clarifies the timelines and requires the use of a prescribed form when an appointing authority requests an extension of time to notify an employee of his or her determination following an internal administrative investigation.

The amendment in Section 2 of this regulation is in response to the passage and approval of Senate Bill 62 of the 2015 Legislative Commission which amended NRS 284.385. The amendment of NRS 284.385 requires that the Commission adopt regulations related to providing notice to a classified employee of his or her dismissal, involuntary demotion or suspension of State of Nevada employees in the classified service. The preferred method of delivery is in-person but if the employee is not available the proposed regulation would allow for delivery services other than just the U.S. Postal Service.

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

On August 31, 2016, copies of the proposed regulation amendments 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 via Listserv. These documents were also made available on the Division of Human Resource Management's website, the Nevada Public Notice website, the Legislative Counsel Bureau's website, and mailed to all county libraries in Nevada, and posted at the following locations:

Blasdel Building  
209 E. Musser Street  
Carson City, NV

Legislative Counsel Bureau  
401 S. Carson Street  
Carson City, NV

Nevada State Library and Archives  
100 N. Stewart Street  
Carson City, NV

Grant Sawyer Office Building  
555 E. Washington Avenue  
Las Vegas, NV

Nevada State Capitol Building  
101 N. Carson Street  
Carson City, NV

A regulation workshop was conducted by the Division of Human Resource Management on May 26, 2016. A public hearing was held by the Nevada Personnel Commission on September 30, 2016.

At the workshop, comment was received from the Personnel Officer III, Department of Transportation, however the comments related to the use of the proposed form rather than the regulation itself. Comment was received from the Personnel Officer II, Department of Motor Vehicles, who expressed agreement with the requirement to notify the employee who is the subject of an internal administrative investigation of the status of that investigation.

At the public hearing, staff provided information regarding the intent and need for the regulations.

Written minutes and comments from the regulation workshop and public hearing can be obtained from the Division of Human Resource Management by contacting Shelley Blotter at [sblotter@admin.nv.gov](mailto:sblotter@admin.nv.gov) or by calling (775) 684-0105.

**3. The number of persons who:**

- (a) Attended each hearing: - 37**
- (b) Testified at each hearing: - 1**
- (c) Submitted written comments: - 0**

**4. Following is a list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3(b):**

Michelle Garton, Supervisory Personnel Analyst  
State of Nevada  
Department of Administration  
Division of Human Resource Management  
100 N. Stewart Street  
Carson City, NV 89701  
(775) 684-0136  
[mgarton@admin.nv.gov](mailto:mgarton@admin.nv.gov)

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

Comments were not solicited from businesses, as the regulation does not affect businesses. Comments were solicited from effected parties including employees and employee associations. Written minutes and comments from the workshop and public hearing can be obtained as instructed in the response to question #2.

- 6. 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 was no opposition to the regulation at the Personnel Commission hearing.

- 7. 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.**

This regulation does not have a direct economic effect on either a regulated business or the public.

- 8. The estimated cost to the agency for enforcement of the proposed regulation:**

There is no additional cost to the agency for enforcement of this regulation.

- 9. A description of any regulations of other State or governmental agencies which the proposed 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.**

This regulation does not overlap or duplicate any State or federal regulations.

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

The regulation does not include any provisions that are covered by any federal regulations.

- 11. 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 this regulation.