

**PROPOSED REGULATION OF THE  
PERSONNEL COMMISSION**

**LCB File No. R076-16**

**Explanation of Proposed Change:** The following amendment, proposed by the Division of Human Resource Management, creates the procedures to be followed by an appointing authority or his or her designated representative when an internal administrative investigation cannot be completed and the employee notified of the determination within the 90 day period pursuant to NRS 284.387.

Subsection 2 of this regulation explains the procedures to be followed by an appointing authority or his or her designated representative when an internal administrative investigation cannot be completed during the length of time of an extension granted by the Administrator. This step in the process will only take place if an extension of up to 60 days was granted past the 90 day limitation, and an appointing authority or his or her designated representative has requested an additional extension. Such an extension cannot be granted without the approval of the Governor or his or her designated representative.

*NEW Request for extension of time to notify employee of determination following internal administrative investigation.*

*1. NRS 284.387 requires the appointing authority to notify an employee of the determination of the appointing authority or his or her designated representative within 90 days after the employee is provided notice of an internal administrative investigation. Pursuant to subsection 2 of NRS 284.387, upon good cause shown, the Administrator or his or her designated representative may grant a request by an appointing authority or his or her designated representative to extend the length of time to notify an employee of the determination of the appointing authority or his or her designated representative for an additional 60 days. To request an extension, the appointing authority or his or her designated representative must:*

*(a) Submit the request to the Administrator on the form prescribed by the Division before the 90th day after the employee was served with the notice of the internal administrative investigation;*

*(b) Describe the reasons the employee was not notified of the determination within 90 days; and*

*(c) Provide a copy of the request for the extension to the employee who was served with the notice of internal administrative investigation.*

*↪ A request submitted to the Administrator after 90 days have passed following the employee being served with the notice of internal administrative investigation may be denied for that reason, rather than because good cause was not shown.*

*2. Pursuant to subsection 2 of NRS 284.387, an additional extension on the limitation of time to notify an employee of his or her determination must be approved by the Governor or his or her designated representative. An appointing authority or his or her designated representative may request to extend the length of time to notify an employee of the determination of the appointing authority or his or her designated representative after a*

*request was granted by the Administrator pursuant to subsection 1. To request an additional extension, the appointing authority or his or her designated representative must:*

*(a) Submit the request in writing to the Administrator, for submission to the Governor, on or before the date the initial extension granted by the Administrator is set to expire;*

*(b) Describe the reasons the employee was not notified of the determination during the initial extension granted by the Administrator; and*

*(c) Provide a copy of the request for the additional extension to the employee who was served with the notice of internal administrative investigation.*

*↪ A request submitted past the initial extension granted by the Administrator may be denied for that reason, rather than because good cause was not shown.*

**Explanation of Proposed Change:** S.B. 62 of the 2015 Legislative Session amends NRS 284.385, which is related to the dismissal, involuntary demotion and suspension of State of Nevada employees in the classified service. The requirement for delivery in person or by mail in subsection 3 of NRS 284.385 has been removed. Language has been added to the statute requiring that regulations be adopted setting forth the procedures for properly notifying a classified employee of dismissal, suspension or involuntary demotion.

This amendment, proposed by the Division of Human Resource Management, will provide increased speed of delivery and reliability by modernizing methods by which agencies may provide notice of the disciplinary actions listed above. The amendment will allow agencies to use alternative carriers to the U.S. Postal Service, such as Federal Express or United Parcel Service, as long as the carrier provides proof that the notice was sent and that it was delivered.

**NAC 284.6561 Hearing. (NRS 284.065, 284.155, 284.383, 284.385, 284.390)** 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, in writing, of the appointing authority's decision regarding the proposed action, ***and reasons for the decision***, on or before the effective date of the action. ***The notice must 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, as defined in NAC 284.656, 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.***

8. 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.

(Added to NAC by Personnel Comm'n by R063-09, eff. 11-25-2009; A by R011-11, 10-26-2011)