

**REVISED PROPOSED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R076-16

July 21, 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 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.