

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R100-16

August 18, 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 284.245; §2, NRS 284.065 and 284.155.

A REGULATION relating to the State Personnel System; setting forth the procedure for an appeal to the Personnel Commission relating to a refusal by the Administrator of the Division of Human Resource Management of the Department of Administration to examine an applicant or certify an eligible person; revising provisions concerning appeals to the Commission relating to state employee classifications; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that an employee who is aggrieved by a decision of the Administrator of the Division of Human Resource Management of the Department of Administration concerning an allocation or change in classification is entitled to have the decision reviewed by the Personnel Commission if the employee submits a written request to the Commission for such a review not later than 30 days after the Administrator’s decision. (NRS 284.165)

Under existing law and regulations, a state employee is authorized to appeal such a decision first to the Administrator and then to the Commission. (NRS 284.165; NAC 284.152) **Section 2** of this regulation changes the specified time frames in existing regulations for: (1) a state employee to file an appeal of such a decision with the Administrator; and (2) the Administrator or his or her designated representative, if any, to issue a decision on the appeal.

Existing law authorizes an applicant or eligible person to appeal to the Commission if the Administrator refuses to examine the applicant or refuses to certify the eligible person. (NRS 284.245) **Section 1** of this regulation sets forth a procedure for an applicant or eligible person to appeal such an action by the Administrator which is similar to the procedure set forth in existing regulations for a state employee to appeal an allocation of position or change in classification.

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

1. An applicant affected by the refusal of the Administrator to examine the applicant or an eligible person affected by the refusal of the Administrator to certify the eligible person may file a written appeal of the action with the Administrator not later than 30 days after the applicant or eligible person receives from the Administrator, in accordance with subsection 1 of NRS 284.245, a statement of the reasons for the refusal to examine or the refusal to certify, as applicable. The appeal must:

(a) Address the points outlined in the statement; and

(b) Indicate the points in the statement with which the applicant or eligible person disagrees and express the reasons for the disagreement.

2. The Administrator will issue a decision on the appeal within 30 working days after receiving the appeal unless:

(a) He or she is prohibited from doing so because of the number of appeals resulting from other determinations regarding his or her refusal to examine or certify;

(b) There is an agreement with the applicant or eligible person to extend the limitation of time for the issuance of the decision; or

(c) The Administrator delegates the duty to decide the appeal to a designated representative pursuant to subsection 3.

3. The Administrator may delegate the duty to decide the appeal to a designated representative if the Administrator is unavailable or reasonably believes he or she has a conflict of interest. If the Administrator makes such a delegation, the designated representative shall issue a decision on the appeal within 30 working days after the Administrator received the appeal.

4. An applicant or eligible person may, within 30 working days after receipt of written notice issued pursuant to subsection 2 or 3 of the decision of the Administrator or his or her designated representative, appeal the decision to the Commission. The appeal must:

(a) Be in writing;

(b) Be addressed to the Administrator;

(c) Address the points outlined in the decision issued pursuant to subsection 2 or 3 regarding the refusal to examine or certify the applicant or eligible person; and

(d) Indicate the points in the decision with which the applicant or eligible person disagrees and express the reasons for the disagreement.

Sec. 2. NAC 284.152 is hereby amended to read as follows:

284.152 1. An employee affected by the allocation of a position to a grade or class or by a change in classification as a result of a study regarding classifications, or the agency where such actions have occurred, may, within ~~{20-working}~~ 30 days after the date of receipt of written notice of the action, file a written appeal of the action with the Administrator. The appeal must:

(a) Address the points outlined in the Division of Human Resource Management's recommendation regarding the proper classification for the position in question; and

(b) Indicate the points with which the appellant disagrees and express the reasons for the disagreement.

2. The Administrator will issue a decision on the appeal within ~~{20-working}~~ 30 days after receiving the appeal unless:

(a) He or she is prohibited from doing so because of the number of appeals resulting from a study regarding classifications;

(b) There is an agreement with the appellant to extend the limitation of time for the issuance of the decision; or

(c) The Administrator delegates the duty to decide the appeal to a designated representative pursuant to subsection 3.

3. The Administrator may delegate the duty to decide the appeal to a designated representative if the Administrator is unavailable or reasonably believes he or she has a conflict of interest. If the Administrator makes such a delegation, the designated representative shall issue a decision on the appeal within ~~20 working~~ 30 days after the Administrator received the appeal.

4. The appellant or the agency affected by the decision may, within 30 days after receipt of written notice of the decision of the Administrator or his or her designated representative, appeal the decision to the Commission. The appeal must:

(a) Be in writing;

(b) Be addressed to the Administrator;

(c) Address the points outlined in the decision regarding the proper classification for the position in question; and

(d) Indicate the points with which the appellant or the agency disagrees and express the reasons for the disagreement.