

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R098-17

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

The proposed new regulation is necessary to set forth the requirements for a supervisor to issue a letter of instruction to an employee. A letter of instruction is a coaching or performance management tool and is generally not part of the formal disciplinary process. The regulation describes what a letter of instruction is, and what it must and must not contain. Also included is the requirement that the supervisor must meet with the employee, and how the supervisor must retain the letter of instruction.

The amendment proposed to NAC 284.458 is necessary in order to clarify that a probationary employee who is rejected from probation may not use the grievance or appeal processes to object to his or her rejection. Additionally, the amendment clarifies that a permanent employee who is rejected from trial status may not use the grievance or appeal processes to object to the rejection. Also included is a process for the Division of Human Resource Management to remove a grievance or appeal that is improperly filed by an employee regarding his or her rejection from probation or trial status.

The amendment proposed to NAC 284.692 is necessary to allow for the waiver of the existing requirement for an agreement to extend the time limit for filing a grievance. The regulation includes situations where this would be appropriate such as an extended leave of absence or there is an investigation pending a report of alleged unlawful discrimination.

The reference to NAC 284.384 has been changed in subsection 1 of section 4 of this LCB File to NAC 284.458, due to an error by the Legislative Counsel Bureau.

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 May 4, 2018, 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

A regulation workshop was conducted by the Division of Human Resource Management on August 30, 2017, and a public hearing was held by the Nevada Personnel Commission on June 8, 2018.

At the workshop held on August 30, 2017, the regulations and amendments were generally supported.

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

Favorable and neutral public comments were received regarding the regulations. Several commenters indicated appreciation for the standardized guidelines for a “letter of instruction”. Both a request for clarification on the length of retention and a recommendation that retention be limited to either a year or the employee’s review period were received. Another commenter felt that it was appropriate to retain letters of instruction in the supervisory file for the period of an employee’s employment to show a full record of the employee’s history, both growth and a pattern of poor performance. Additionally, a recommendation was received that a letter of instruction include a signature from the employee being counseled. The Division of Human Resource Management offered to meet with the commenter on his request to discuss possible amendments to the language in the future. The Personnel Commission did not choose to amend the proposed regulations based upon these comments.

A comment was received regarding the provision being clarified in the amendment to NAC 284.458. The comment was not an objection to the proposed language but rather an expression of concern regarding employees allegedly not being provided required performance evaluations during their probationary period.

A comment was received expressing concern regarding the provision in the amendment in NAC 284.692 allowing for management’s extension of grievance timelines in specific circumstances. Specifically, that it could be used to delay a **grievance due to a pending report of alleged unlawful discrimination by the employee that was not related to the issue of the grievance**. The regulation does allow for the Employee-Management Committee to review the purpose of the extension. In response to another question from a commenter, the Division of Human Resource Management clarified that the whistleblower process would not constitute a basis for an extension of a grievance step.

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 or by calling (775) 684-0105.

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

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- (a) **Attended each hearing:** 28
- (b) **Testified at each hearing:** 5
- (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):**

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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 affected 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.**

The Division of Human Resource Management is currently working with staff from the Nevada State Library, Archives and Public Records to update records retention schedules and will take into consideration suggestions made at the hearing.

The comment received regarding the amendment to NAC 284.458 was in regard to an existing provision.

The proposed new subsection 4 of NAC 284.692 provides the Employee-Management Committee with the ability to review an appointing authority's unilateral extension of the time on a grievance step. This provides a check and balance for the additional authority being granted to appointing authorities in subsection 3 of NAC 284.692.

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.