

**PROPOSED REGULATION OF THE
LABOR COMMISSIONER**

LCB FILE NO. R019-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 01/17/2018**

CHAPTER 607 - LABOR COMMISSIONER

GENERAL PROVISIONS

- [607.010](#) Scope.
- [607.020](#) Definitions.
- [607.030](#) Construction.
- [607.040](#) Deviation from provisions.
- [607.045](#) Computation of time.

ADMINISTRATIVE PROCEEDINGS

Inquiries, Investigations, Claims and Determinations

- [607.060](#) Inquiries and investigations: Authority of Commissioner; issuance of determination.
- [607.065](#) Determination: Contents; service; action by recipient; final order.
- [607.070](#) Objection to determination; action by Commissioner following period for objection.
- [607.075](#) Claim for wages: Review by Commissioner; notice of claim; action by employer; issuance of determination.
- [607.080](#) Claim for wages: Investigation by Commissioner upon objection by employer; issuance of determination.

Parties and Jurisdiction

- [607.085](#) Appearance of party.
- [607.090](#) Representation of party.
- [607.095](#) Complainant: Inquiry into financial condition.
- [607.100](#) Complainant: Relief under collective bargaining agreement.
- [607.105](#) Limitation on acceptance of claim or complaint.
- [607.110](#) Intervention; rights of parties.

Pleadings and Other Documents

- [607.125](#) Communications to Commissioner.
- [607.130](#) Designation of pleadings.
- [607.140](#) Execution of pleadings.
- [607.150](#) Filing and availability of pleadings.
- [607.160](#) Method of service of documents.
- [607.170](#) Proof of service of documents.
- [607.180](#) Amendment and construction of pleadings.
- [607.200](#) Administrative complaints.
- [607.210](#) Answer to complaint.

Hearings

- [607.300](#) Prehearing conference.
- [607.310](#) Presiding officer; notice of hearing.
- [607.320](#) Subpoenas.
- [607.330](#) Failure to appear; orders for conduct of hearings.
- [607.340](#) Conduct and exclusion of persons.
- [607.350](#) Preliminary procedure.
- [607.360](#) Order of proceedings.
- [607.370](#) Testimony under oath.
- [607.380](#) Consolidation of proceedings.
- [607.410](#) Rules of evidence; effect of informality.
- [607.420](#) Stipulations.
- [607.430](#) Depositions.
- [607.440](#) Continuances.
- [607.450](#) Briefs.
- [607.460](#) Official notice.

607.510	Record; transcripts.
607.520	Submission of matter for decision.
607.525	Entry of decision after hearing on determination.
Miscellaneous Proceedings	
607.650	Advisory opinion: Request for issuance; action by Commissioner.
607.660	Advisory opinion: Oral response to request.
607.670	Petition for declaratory order: Filing; contents; action by Commissioner.
607.680	Petition for adoption, filing, amendment or repeal of regulation: Filing; contents; action by Commissioner.

GENERAL PROVISIONS

NAC 607.010 Scope. ([NRS 233B.050](#), [607.160](#)) The provisions of this chapter govern all practice and procedure before the Commissioner, including, without limitation, adopting regulations, issuing declaratory orders, conducting hearings, conducting inquiries and investigations or determining contested cases.

[Labor Comm’r Practice Rules §§ 1.1 & 1.2, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.020 Definitions. ([NRS 233B.050](#), [607.160](#)) As used in this chapter, unless the context otherwise requires, the words and terms defined in [NAC 607.021](#) to [607.029](#), inclusive, have the meanings ascribed to them in those sections.

[Labor Comm’r Practice Rules, supplied in codification, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.021 “Applicant” defined. ([NRS 233B.050](#), [607.160](#)) “Applicant” means a person who is applying for any right or authority from the Commissioner.

(Added to NAC by Labor Comm’r by R134-03, eff. 12-4-2003)

NAC 607.022 “Commissioner” defined. ([NRS 233B.050](#), [607.160](#)) “Commissioner” means the Labor Commissioner or his or her authorized representative.

(Added to NAC by Labor Comm’r by R134-03, eff. 12-4-2003)

NAC 607.023 “Complainant” defined. ([NRS 233B.050](#), [607.160](#)) “Complainant” means a person who has filed a complaint or a claim for wages with the Commissioner. The term includes the Commissioner if he brings a complaint on his own motion.

(Added to NAC by Labor Comm’r by R134-03, eff. 12-4-2003)

NAC 607.024 “Determination and Determination Procedures defined” defined. ([NRS 233B.050](#), [607.160](#)) “Determination” means a proposed finding by

the Commissioner as to whether a violation of any statute or regulation subject to the jurisdiction of the Office of the Labor Commissioner has occurred.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.025 “Intervener” defined. ([NRS 233B.050, 607.160](#)) “Intervener” means a person whose petition to intervene in a proceeding has been granted by the Commissioner pursuant to [NAC 607.110](#).

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.026 “Party” defined. ([NRS 233B.050, 607.160](#)) “Party” means an applicant, petitioner, complainant, respondent or intervener.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.027 “Person” defined. ([NRS 233B.050, 607.160](#)) “Person” means a natural person, partnership, association, corporation or other public or private entity.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.028 “Petitioner” defined. ([NRS 233B.050, 607.160](#)) “Petitioner” means a person who has petitioned for affirmative relief, but who is not a complainant or applicant.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.029 “Respondent” defined. ([NRS 233B.050, 607.160](#)) “Respondent” means a person:

1. Against whom a complaint has been filed;
2. Against whom a determination has been issued; or
3. Who has filed with the Commissioner an objection to a determination.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.030 Construction. ([NRS 233B.050, 607.160](#)) The provisions of this chapter will be liberally construed to secure the just, speedy and economical determination of all issues presented to the Commissioner.

[Labor Comm'r Practice Rules § 1.3, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.035 Severability. ([NRS 233B.050, 607.160](#)) Each provision of this chapter is hereby declared to be separable and the invalidity of any provision does not affect the validity of any other provision.

[Labor Comm'r Practice Rules § 10.2, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)—(Substituted in revision for NAC 607.630)

NAC 607.040 Deviation from provisions. ([NRS 233B.050, 607.160](#)) In special cases, upon a showing of good cause or the Commissioner’s own motion, the

Commissioner may permit deviation from the provisions of this chapter with regard to a matter if:

1. The Commissioner determines that:

(a) Deviation from those provisions would not adversely affect the substantial interests of the parties to the matter; and

(b) Parties are provided notice of the Commissioner's decision to deviate from the provisions of this chapter and an opportunity to object within 15 days of such notice.

2. Except when the requested deviation from those provisions is based upon the motion of the Commissioner, the person requesting the deviation provides to the Commissioner a specific reference to each provision of this chapter from which he is requesting deviation.

3. If an objection is received the Commissioner will review to determine if the objection has merit. If the objection has no merit, the Commissioner will issue an Order setting forth the specific provisions and findings that establish good cause for deviation from these provisions.

[Labor Comm'r Practice Rules § 1.4, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.045 Computation of time. ([NRS 233B.050](#), [607.160](#)) The time within which any act must be done will be computed by excluding the first business day and including the last unless the last day is a Saturday, Sunday or legal holiday, in which case the next business day is the last day of the time limit.

[Labor Comm'r Practice Rules § 10.1, eff. 3-30-75]—(Substituted in revision for NAC 607.620)

ADMINISTRATIVE PROCEEDINGS

Inquiries, Investigations, Claims and Determinations

NAC 607.060 Inquiries and investigations: Authority of Commissioner; issuance of determination. ([NRS 233B.050](#), [607.160](#))

1. The Commissioner may inquire into and investigate possible violations of law in all matters relating to his duties.

2. If, after an inquiry or investigation has been completed, the Commissioner concludes that a violation of any statute or regulation subject to his jurisdiction may have occurred, the Commissioner will issue a determination pursuant to [NAC 607.065](#) to the employer or other person who is the subject of the inquiry or investigation.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.065 Determination: Contents; service; action by recipient; final order. (NRS 233B.050, 607.160)

1. A determination issued by the Commissioner will contain:
 - (a) A clear and plain statement of each alleged violation;
 - (b) A citation to the statute or regulation alleged to have been violated;
 - (c) The relevant facts;
 - (d) If applicable, any fines, penalties or other relief being proposed by the Commissioner; and
 - (e) Notice that the employer or other person who was the subject of the inquiry or investigation may object to the determination pursuant to [NAC 607.070](#).
2. The Commissioner will cause a copy of the determination to be served by mail, facsimile, or email upon each party.
3. The employer or other person to whom a determination is issued may:
 - (a) If he does not object to the matters set forth in the determination, resolve the matter by forwarding to the Commissioner an amount equal to any fines and penalties, and complying with the conditions of any other relief, proposed by the Commissioner in the determination; or
 - (b) If he objects to the matters set forth in the determination, file a written objection to the determination with the Commissioner pursuant to [NAC 607.070](#).
4. If the employer or other person to whom a determination is issued fails to respond to the determination as provided in subsection 3, the Commissioner may issue an order affirming the determination. If the Commissioner issues such an order, the Commissioner will provide a copy of the determination and order by mail, facsimile, or email to the employer or other person to whom the determination was issued and on each complainant in the matter. An order issued by the Commissioner pursuant to this subsection constitutes the final order of the Commissioner on the matter.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.070 Objection to determination; action by Commissioner following period for objection. (NRS 233B.050, 607.160)

1. An employer or other person to whom a determination has been issued may file a written objection to the determination with the Commissioner within 15 days after the date of service of the determination to request a hearing on the matter.
2. The written objection must be accompanied by a short statement that identifies the specific findings within the determination upon which the objection is based and facts to substantiate the objection.
3. Within 15 days after the last date on which an objection may be filed, the Commissioner will:
 - (a) Schedule a hearing on the matter if:
 - (1) The objection is timely filed and the Commissioner determines that the objection is not frivolous or lacking merit; or

(2) The Commissioner determines that a hearing on the matter is merited on other grounds; or

(b) Dismiss the objection and issue an order affirming the findings and proposed penalties set forth in the determination. Such an order constitutes the final order of the Commissioner on the matter.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.075 Claim for wages: Review by Commissioner; notice of claim; action by employer; issuance of determination. ([NRS 233B.050](#), [607.160](#), [607.170](#))

1. Upon the filing with the Commissioner of a claim for wages, the Commissioner will review the claim to determine whether to take jurisdiction of the claim.

2. If the Commissioner, after reviewing the claim and conducting such further inquiry as he deems necessary, determines that the complainant has the ability to employ private counsel or that the information submitted with the claim is insufficient to substantiate the claim, the Commissioner may decline to take jurisdiction of the claim or may return the claim to the complainant for further information necessary to substantiate the claim.

3. If the Commissioner takes jurisdiction of the claim, the Commissioner will issue a notice of claim for wages to the employer who is the subject of the claim and cause a copy of the notice of claim for wages to be served upon the employer.

4. A notice of claim for wages will set forth the claim of the employee and include:

(a) The name of the employer;

(b) The name of the employee;

(c) A copy of the claim for wages;

(d) A citation to the statute or regulation alleged to have been violated;

(e) The hourly wage or commission rate claimed by the employee;

(f) The wages alleged to be owed to the employee;

(g) The basis on which the wages alleged to be owed to the employee were calculated;

and

(h) Notice to the employer that he may object to the notice of claim for wages.

5. Upon receiving a notice of claim for wages pursuant to this section, the employer may:

(a) If the employer does not object to the claim, settle the claim by forwarding to the Commissioner for disbursement to the employee the amount due the employee, including any penalties, as set forth in the notice of claim for wages; or

(b) If the employer objects to the claim, provide written notice of the objection to the Commissioner within 15 days after the date of service of the notice of claim for

wages. The written notice must provide the specific reasons upon which the employer is objecting to the claim and the facts that substantiate those reasons.

6. If the employer fails to respond to the notice of claim for wages by either settling or asserting a valid objection with merit to the claim as provided in subsection 5, the Commissioner may issue a determination to the employer based on the facts as set forth in the claim. If the Commissioner issues such a determination, the Commissioner will cause service of the determination to be effected in accordance with the provisions of subsection 2 of [NAC 607.065](#).

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.080 Claim for wages: Investigation by Commissioner upon objection by employer; issuance of determination. ([NRS 233B.050](#), [607.160](#))

1. Upon receiving written notice from an employer of a valid objection, as provided in subsection 5 of NAC 607.075, to a notice of claim for wages, the Commissioner will commence an investigation into the facts and circumstances in dispute to determine whether a violation of [chapter 608](#) of NRS or any regulation adopted pursuant thereto has occurred in the course of an employment relationship.

2. The Commissioner may request from the parties to the dispute any information that the Commissioner believes is necessary to determine the facts of the dispute. If any party fails to provide such information as requested, the Commissioner may choose to disregard that information in any future proceeding concerning the claim.

3. Upon completing the investigation, the Commissioner will issue a determination, and cause service thereof to be effected, pursuant to subsection 2 of [NAC 607.065](#).

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

Parties and Jurisdiction

NAC 607.085 Appearance of party. ([NRS 233B.050](#), [607.160](#)) A party may enter an appearance at the beginning of a hearing or at any time designated by the presiding officer by giving his name and address and stating his position or interest to the presiding officer. The appearance will be recorded in the transcript of the hearing.

[Labor Comm'r Practice Rules § 4.3, eff. 3-30-75]—(Substituted in revision for NAC 607.120)

NAC 607.090 Representation of party. ([NRS 233B.050](#), [607.160](#)) The representation of a party in any proceeding before the Commissioner is subject to the following:

1. A party may represent themselves or designate one of their employees to represent them.

2. An attorney representing a party must be either a member in good standing of the State Bar of Nevada or associated with such a member of the State Bar of Nevada. Said attorney must submit a letter of representation to the Commissioner.

3. Upon the request of a party and a showing of good cause, the Commissioner may permit any other person the party designates to represent the party.

4. A representative wishing to withdraw from a proceeding before the Commissioner must:

(a) Provide to the Commissioner and to each party to the proceeding written notice of the intent of the representative to withdraw; and

(b) Provide to the Commissioner the current address and telephone number of the party from whose representation the representative wishes to withdraw.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.095 Complainant: Inquiry into financial condition. ([NRS 233B.050](#), [607.160](#)) If it appears to the Commissioner that a complainant can afford to employ private counsel, the Commissioner may inquire into the financial condition of the complainant and can decline jurisdiction of the matter.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.100 Complainant: Relief under collective bargaining agreement. ([NRS 233B.050](#), [607.160](#))

1. Except as otherwise provided in subsection 2, if it appears to the Commissioner that a complainant has relief under the terms of a collective bargaining agreement, the Commissioner may decline to take the matter under consideration until all remedies under the collective bargaining agreement have been exhausted.

2. If the complainant clearly demonstrates that the relief provided under the collective bargaining is inadequate or unavailable, the Commissioner will take jurisdiction of the matter.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.105 Limitation on acceptance of claim or complaint. ([NRS 233B.050](#), [607.160](#)) Except as otherwise provided by specific statute, the Commissioner will not accept any claim or complaint based on an act or omission that occurred more than 24 months before the date on which the claim or complaint is filed with the Commissioner.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.110 Intervention; rights of parties. ([NRS 233B.050](#), [607.160](#))

1. A person who demonstrates a substantial, but not necessarily a direct, interest in the outcome of a proceeding may petition the Commissioner to intervene in the proceeding.

2. A petition to intervene must include:

(a) The nature and extent of the interest of the petitioner in the outcome of the proceeding;

(b) The potential effect that a decision in the proceeding may have on the interest of the petitioner;

(c) Whether any other means are available by which the interest of the petitioner may be protected;

(d) The extent to which the interest of the petitioner may be represented by the other parties to the proceeding;

(e) The extent to which the participation of the petitioner would assist in the development of a full and complete record;

(f) The extent to which the participation of the petitioner would broaden the issues or delay the proceeding;

(g) The extent to which the interest of the petitioner differs from the interest of the general public;

(h) The extent to which the intervention of the petitioner would serve the public interest;

(i) If the petitioner is seeking affirmative relief, the type of and basis for that relief;

(j) Whether the petitioner intends to present evidence in the proceeding; and

(k) The name and address of the petitioner.

(l) The petition must be served on all parties as provided in NAC 607.160.

3. The granting of a petition to intervene by the Commissioner shall be consistent with the provisions of Nevada Rules of Civil Procedure (NRCPP) 24.

4. At any hearing, all parties, including, without limitation, interveners, may enter appearances, introduce evidence, examine and cross-examine witnesses, make arguments and generally participate in the proceeding.

[Labor Comm'r Practice Rules § 4.2, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

Pleadings and Other Documents

NAC 607.125 Communications to Commissioner. ([NRS 233B.050](#), [607.160](#)) Formal written communications and documents must be addressed to the Commissioner and will be deemed to be officially received only when delivered to the office of the Commissioner through mailing or electronic filing.

[Labor Comm'r Practice Rules § 2.2, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)—(Substituted in revision for NAC 607.050)

NAC 607.130 Designation of pleadings. ([NRS 233B.050](#), [607.160](#)) Every pleading before the Commissioner must be designated as an application, petition, complaint, answer, determination or objection to a determination.

[Labor Comm'r Practice Rules § 5.1, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.140 Execution of pleadings. (NRS 233B.050, 607.160) Every pleading, except a complaint brought by or on behalf of the Commissioner, must be signed and dated by the party submitting it.

[Labor Comm'r Practice Rules § 5.2, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.150 Filing and availability of pleadings. (NRS 233B.050, 607.160)

The Commissioner may direct that the party who filed a pleading make copies of it available to any other person who has requested copies, if the Commissioner first determines that the person making the request may be affected by the proceeding.

[Labor Comm'r Practice Rules § 6.1, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.160 Method of service of documents. (NRS 233B.050, 607.160)

Except as otherwise provided by a specific regulation, notices, determinations, findings of fact, opinions and orders of the Commissioner, and any document filed by a party, may be personally served upon a party, served by mail, fascicle, or email. If served by mail, service shall be deemed to be complete when a true copy of the document, properly addressed and with postage paid, is deposited in the United States mail.

[Labor Comm'r Practice Rules § 6.2, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.170 Proof of service of documents. (NRS 233B.050, 607.160) Each document that is required to be served must contain an acknowledgment of service, certificate of mailing, or other documentation that is was filed electronically or by facsimile.

[Labor Comm'r Practice Rules § 6.3, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.180 Amendment and construction of pleadings. (NRS 233B.050, 607.160) The Commissioner may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects which do not affect a substantial right of a party will be disregarded.

[Labor Comm'r Practice Rules § 5.3, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.200 Administrative complaints. (NRS 233B.050, 607.160)

1. Upon the filing with the Commissioner of an administrative complaint by any person alleging a violation or remedy under Nevada Revised Statutes sections 607 and 608 and/or violations of Nevada Administrative Code sections 607 and 608, the

Commissioner may investigate and conduct hearings concerning possible violations of law in all matters relating to his duties.

2. Matters alleging violations of NRS 338 and NAC 338 shall be filed pursuant to the provisions of NAC 338.107.

3. The complaint must include:

(a) The full name and address of the complainant;

(b) The full name and address of the respondent;

(c) A clear and concise statement of facts sufficient to establish that an alleged violation of law occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved;

(d) A citation to the statute or regulation alleged to have been violated; and

(e) The relief requested by the complainant.

3. The complaint must be in writing and signed by the person making it..

4. The complaint must include a certification that the facts stated in the complaint are true to the best knowledge and belief of the complainant.

5. The complainant shall serve a copy of the complaint on the respondent and every other party identified in the complaint.

6. If, from the complaint, it appears to the Commissioner that the charges may be well founded, the Commissioner will send written notice to the respondent at least 15 days before the date fixed for the hearing. The notice must itemize the charges and set forth the date of the hearing.

[Labor Comm'r Practice Rules § 5.5, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.210 Answer to complaint. (NRS 233B.050, 607.160)

1. A respondent, within 15 days after being served with a copy of a complaint, shall file his answer to the complaint with the Commissioner and serve a copy of the answer on the complainant and every other person who is a party to the proceeding.

2. Matters that are alleged as an affirmative defense must be separately stated and numbered.

3. If the respondent fails to answer within 15 days, the Commissioner may determine that the respondent is in default and issue a decision and order based solely on the facts as presented in the complaint. A decision issued by the Commissioner pursuant to this subsection constitutes the final order of the Commissioner on the matter.

[Labor Comm'r Practice Rules § 5.6, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

Hearings

NAC 607.300 Prehearing conference. (NRS 233B.050, 607.160)

1. If any party disputes a claim or complaint, the Commissioner may require the parties to appear before the Commissioner at a prehearing conference at a time and place designated by the Commissioner to establish the issues to be resolved at the hearing and discuss the settlement of the matter.

2. The Commissioner may enter reasonable orders governing the conduct of the prehearing conference and, for good cause, allow a party to appear via telephone.

3. The parties may be represented by counsel at the prehearing conference. Representation by counsel must comply with subsection 2 of [NAC 607.090](#).

4. The parties shall present all evidence then known to them that substantiates their respective positions during the prehearing conference.

5. A prehearing conference conducted pursuant to this section may not be recorded.

6. Offers of settlement discussed at the prehearing conference may not be used as an admission at any subsequent hearing, and the Commissioner will so inform the parties at the beginning of the prehearing conference.

7. At the prehearing conference, the parties shall make a good faith effort to resolve the matter through settlement or stipulation.

8. If the Commissioner determines that the matter cannot be resolved at the prehearing conference, the Commissioner may issue a determination in the matter pursuant to [NAC 607.065](#).

9. Claims, Complaints, and any other pleadings that have been filed alleging violations of NRS section 338 and NAC 338 will be governed by the provisions of NRS 338 and NAC 338.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.310 Presiding officer; notice of hearing. (NRS [233B.050](#), [607.160](#), [607.207](#))

1. Hearings of a matter before the Commissioner will be held before the Commissioner or his authorized representative.

2. Notice of the place, date and hour of a hearing must be served, pursuant to [NAC 607.160](#), at least 15 days before the date set for the hearing.

3. A hearing that has previously been continued may be reset on at least 10 days' notice.

4. Every hearing will be held at a place in this State designated by the Commissioner in the notice of hearing.

[Labor Comm'r Practice Rules § 7.1, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.320 Subpoenas. (NRS [233B.050](#), [607.160](#), [607.207](#), [607.210](#))

1. Upon proper application, the Commissioner will issue subpoenas for the attendance of witnesses or the production of documents, books or other records at a hearing conducted by the Commissioner.

2. Applications for subpoenas must be made to the Commissioner in writing.

3. Applications for subpoenas for the production of documents, books or other records must be made in writing specifying as clearly as possible the documents, books and records desired.

4. A party that submits an application for a subpoena must submit a copy of the requested subpoena in a form that is suitable for execution by the Commissioner.

5. The Commissioner may:

(a) Deny or revoke an unreasonable or oppressive subpoena; or

(b) Grant a subpoena for the production of documents, books or other records upon the condition that the party making the application deposit with the Commissioner enough money to cover the reasonable cost of producing the materials, upon a motion by the respondent to the subpoena at or before the time specified in the subpoena for compliance.

6. If the Commissioner issues a subpoena, the party who requested the subpoena is responsible for the proper service of the subpoena.

[Labor Comm'r Practice Rules § 7.10, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.330 Failure to appear; orders for conduct of hearings. ([NRS 233B.050](#), [607.160](#), [607.207](#))

1. If the complainant or respondent fails to appear at a scheduled hearing and no continuance has been requested or granted, the Commissioner may:

(a) Hear the evidence of the witnesses who have appeared; and

(b) Consider the evidence before the Commissioner on the matter.

2. Any person who failed to appear for a scheduled hearing or to request a continuance because of accident, sickness or other reasonable cause may, within 15 days after the failure, apply to the Commissioner to reopen the proceedings.

3. The Commissioner, upon finding the cause sufficient and reasonable, will immediately fix a time and place for the hearing and give notice thereof.

4. At the time and place fixed, a hearing will be held at which the person may testify in his own behalf or present other evidence beneficial to his cause.

5. Witnesses who have previously testified need not appear at any subsequent hearing on the same matter to have their testimony considered unless so directed by the Commissioner.

6. The Commissioner may enter reasonable orders governing the conduct of hearings before the Commissioner.

[Labor Comm'r Practice Rules § 7.2, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.340 Conduct and exclusion of persons. (NRS 233B.050, 607.160, 607.207)

1. Any person appearing in a proceeding shall conform to recognized standards of ethical and courteous conduct required before the courts of this State. Every party to a hearing, his representative and all spectators shall conduct themselves in a respectful manner.

2. Contumacious conduct by any person at a hearing before the Commissioner is a ground for the exclusion of the person from the hearing and for the summary exclusion of the person from further participation in the proceedings during which such conduct occurred and future matters related thereto. The Commissioner will bar any person excluded pursuant to this subsection from attending any further proceedings during which such conduct occurred and future matters related thereto of the Commissioner unless the Commissioner grants a petition to rescind the exclusion pursuant to subsection 3.

3. A person excluded from proceedings by the Commissioner pursuant to subsection 2 may petition the Commissioner to rescind the exclusion. The Commissioner will grant the petition if he finds sufficient evidence that the contumacious conduct that led to the exclusion of the person will not reoccur.

[Labor Comm'r Practice Rules §§ 4.4 & 7.4, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.350 Preliminary procedure. (NRS 233B.050, 607.160, 607.207) The Commissioner or his authorized representative will call the proceeding to order, take the appearances of the parties, hear and rule upon showings of direct and substantial interests from interested parties and make any introductory remarks.

[Labor Comm'r Practice Rules § 7.3, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.360 Order of proceedings. (NRS 233B.050, 607.160, 607.207) Following a statement of the case and consideration of any preliminary matters by the Commissioner, testimony and argument will be heard at a hearing in the following order unless otherwise set forth in the notice of hearing or the Commissioner determines at the time of the hearing that a more expeditious order is warranted:

1. Presentation of any determination made by the Commissioner in the proceeding.

2. Examination of the person presenting the determination of the Commissioner.

3. Cross-examination of the person presenting the determination of the Commissioner.

4. Presentation of the case of the applicant, petitioner or complainant.

5. Examination of the witnesses of the applicant, petitioner or complainant by the Commissioner.
 6. Cross-examination of the witnesses of the applicant, petitioner or complainant.
 7. Presentation of the case of the respondent, if any.
 8. Examination of the witnesses of the respondent by the Commissioner.
 9. Cross-examination of the witnesses of the respondent.
 10. Rebuttal testimony by the complainant, if any.
 11. Rebuttal testimony by the respondent, if any.
 12. Closing arguments as follows:
 - (a) Argument for the complainant.
 - (b) Argument for the respondent.
 - (c) Rebuttal argument for the complainant.
- [Labor Comm'r Practice Rules § 7.6, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.370 Testimony under oath. ([NRS 233B.050](#), [607.160](#), [607.207](#)) All testimony to be considered in hearings will be taken under oath. Before taking the witness stand, each person shall swear before the Commissioner to the truthfulness of the testimony the person is about to give in the hearing.

[Labor Comm'r Practice Rules § 7.5, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.380 Consolidation of proceedings. ([NRS 233B.050](#), [607.160](#), [607.207](#))

1. The Commissioner may consolidate two or more proceedings into one hearing whenever it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by consolidation.

2. The Commissioner will determine the order of procedure in a consolidated hearing.

[Labor Comm'r Practice Rules § 7.7, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.410 Rules of evidence; effect of informality. ([NRS 233B.050](#), [607.160](#), [607.207](#))

1. In conducting an investigation, inquiry or hearing, the Commissioner is not bound by the technical rules of evidence and no informality in any proceeding or in the manner or order of taking of testimony invalidates any order, decision or regulation adopted, approved or confirmed by the Commissioner.

2. Rules of evidence used in the courts of this State will be generally followed along with the provisions of NRS 233B, but may be relaxed in the discretion of the Commissioner if deviation from the technical rules of evidence will aid in ascertaining the facts.

3. Evidence admitted at a hearing must be material and relevant to the issues.
 4. If an objection is made to the admissibility of evidence, the evidence may be received but it is subject to any subsequent ruling of the Commissioner.
 5. The Commissioner may, with or without objection, exclude inadmissible, incompetent, cumulative or irrelevant evidence.
 6. A party objecting to the introduction of evidence shall briefly state the grounds of objection at the time the evidence is offered.
- [Labor Comm'r Practice Rules § 7.9, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.420 Stipulations. ([NRS 233B.050](#), [607.160](#), [607.207](#))

1. With the approval of the Commissioner, the parties may stipulate to any fact at issue by written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record.
2. Any stipulation is binding upon all parties to it, and may be treated as evidence at the hearing.
3. The Commissioner may demand proof by requiring evidence of facts stipulated.

[Labor Comm'r Practice Rules § 7.8, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.430 Depositions. ([NRS 233B.050](#), [607.160](#), [607.207](#)) The Commissioner or any party to any proceeding may depose witnesses in the manner prescribed by the Nevada Rules of Civil Procedure.

[Labor Comm'r Practice Rules § 7.11, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.440 Continuances. ([NRS 233B.050](#), [607.160](#), [607.207](#)) The Commissioner may, before or during a hearing, and on a proper showing, grant continuances for submission of further proof of any matter, or for any other just cause.

[Labor Comm'r Practice Rules § 7.12, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.450 Briefs. ([NRS 233B.050](#), [607.160](#), [607.207](#))

1. The Commissioner may order briefs to be filed and specify a page limit and time limit for their filing.
2. One copy of any requested brief must be filed with the Commissioner in matters before the Office of the Labor Commissioner..
3. An acknowledgment of service or a certificate of mailing must accompany each brief to other parties of record.

4. Following the filing of briefs and after deciding contested motions, the Commissioner may set the matter for oral argument and give reasonable notice to all parties.

[Labor Comm'r Practice Rules § 7.13, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.460 Official notice. ([NRS 233B.050](#), [607.160](#), [607.207](#)) The Commissioner may take official notice of:

1. Rules, regulations, official reports, decisions, and orders of the Commissioner and of any regulatory agency of this State;

2. The contents of decisions, orders, standards or records of the Commissioner;

3. Matters of common knowledge and established technical or scientific facts; and

4. Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference if:

(a) Proper and definite reference to the documents was made by the party offering them; and

(b) The documents are published and generally circulated so that the parties in interest are given an opportunity to examine the documents and present rebuttal evidence.

[Labor Comm'r Practice Rules § 7.14, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.510 Record; transcripts. ([NRS 233B.050](#), [607.160](#), [607.207](#)) The Commissioner will work with the parties for a record to be made of all formal hearings.

[Labor Comm'r Practice Rules § 7.16, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.520 Submission of matter for decision. ([NRS 233B.050](#), [607.160](#), [607.207](#), [607.215](#)) Unless otherwise ordered, a proceeding stands submitted for decision by the Commissioner after the taking of evidence, the filing of briefs or the presentation of oral argument required by the Commissioner.

[Labor Comm'r Practice Rules § 8.1, eff. 3-30-75]—(NAC A by R134-03, 12-4-2003)

NAC 607.525 Entry of decision after hearing on determination. ([NRS 233B.050](#), [607.160](#), [607.207](#), [607.215](#)) After holding a hearing on a determination issued by the Commissioner, the Commissioner will enter a decision in accordance with [NRS 607.215](#).

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.650 Advisory opinion: Request for issuance; action by Commissioner. (NRS 233B.120, 607.160)

1. Except as otherwise provided in subsection 3, a person may request that the Commissioner issue an advisory opinion concerning the applicability of a statute, regulation or decision of the Commissioner.

2. A request for an advisory opinion must be in writing and set forth:

(a) The name and address of the person requesting the advisory opinion;

(b) A clear and concise statement of the specific question for which the advisory opinion is being sought; and

(c) A statement of the facts that support the advisory opinion being sought.

3. A person may not request an advisory opinion concerning a question or matter that is an issue in a pending administrative, civil or criminal proceeding in which the person is a party.

4. The Commissioner will review a request for an advisory opinion and issue a response within 30 days after receiving the request.

5. An advisory opinion issued by the Commissioner will be limited to the facts and circumstances set forth in the request.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.660 Advisory opinion: Oral response to request. (NRS 233B.120, 607.160) The Commissioner will not render an oral advisory opinion to a request for an advisory opinion. An oral response, including, without limitation, a response given over the telephone, by a member of the staff of the Commissioner is not a decision or an official advisory opinion of the Commissioner.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.670 Petition for declaratory order: Filing; contents; action by Commissioner. (NRS 233B.120, 607.160)

1. Except as otherwise provided in subsection 3, a person may file a petition with the Commissioner requesting that he issue a declaratory order concerning the applicability of a statute, regulation or decision of the Commissioner.

2. A petition for a declaratory order must include:

(a) The name and address of the petitioner;

(b) The reason for requesting the declaratory order;

(c) A statement of the facts that support the petition for a declaratory order; and

(d) A clear and concise statement of the question or matter to be decided by the Commissioner.

3. A person may not file a petition for a declaratory order concerning a question or matter that is an issue in a pending administrative, civil or criminal proceeding in which the person is a party.

4. The Commissioner may refuse to review a petition that requests the issuance of a declaratory order if the original petition is not accompanied by two copies of the

petition as required by [NAC 607.150](#) or the petition does not contain the information required by subsection 2.

5. The Commissioner may:

(a) Conduct a hearing to determine issues of fact or to hear arguments relating to a petition for a declaratory order and may enter reasonable orders that govern the conduct of the hearing.

(b) Request that the petitioner provide additional information or arguments relating to the petition.

(c) Issue a declaratory order based on the contents of the petition and any material submitted with the petition.

(d) Consider relevant decisions that have been issued by the Commissioner or any other entity which apply or interpret the statute, regulation or decision in question.

(e) Consider any other information he determines is relevant to the question or matter to be decided by the Commissioner.

(f) Enter any reasonable order to assist his review of the petition.

6. The Commissioner will maintain a record of the declaratory order that is indexed by subject matter and will mail a copy of the declaratory order to the petitioner within 60 days after:

(a) The petition is filed;

(b) A hearing is conducted concerning the petition; or

(c) Any additional information or written argument is received by the Commissioner,

↳ whichever occurs later.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)

NAC 607.680 Petition for adoption, filing, amendment or repeal of regulation: Filing; contents; action by Commissioner. ([NRS 233B.100](#), [607.160](#))

1. Any person who wishes to petition for the adoption, filing, amendment or repeal of a regulation of the Commissioner must file with the Commissioner the original and two copies of the petition as required by [NAC 607.150](#).

2. A petition for the adoption, filing, amendment or repeal of a regulation must include:

(a) The name and address of the petitioner;

(b) A clear and concise statement, including, if applicable, the proposed language, of the regulation to be adopted, filed, amended or repealed;

(c) The reason for petitioning for the adoption, filing, amendment or repeal of the regulation; and

(d) The statutory authority for the adoption, filing, amendment or repeal of the regulation.

3. The Commissioner may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if:

- (a) The original petition is not accompanied by two copies of the petition; or
- (b) The petition does not contain the information required by subsection 2.

4. The Commissioner will notify the petitioner in writing of his decision with regard to the petition within 30 days after the petition is filed.

(Added to NAC by Labor Comm'r by R134-03, eff. 12-4-2003)