

**PROPOSED REGULATION OF THE  
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD**

**LCB FILE NO. R056-19I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 08/09/2019**

**PROPOSED REGULATION OF THE  
GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

**LCB File No. \_\_\_\_\_**

EXPLANATION - Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

**Section 1.** Chapter 288 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

**Sec. 2.** **“Government employer” means a local government employer as defined in NRS 288.060 or the Executive Department as defined in Section 10 of Senate Bill No. 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_.**

**Sec. 3.** **Any classified clerical personnel employed by the Board pursuant to NRS 288.090 shall be designated as a confidential employee pursuant to Section 18 of Senate Bill No. 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_.**

**Sec. 4. 1.** **For the purpose of determining the number of employees employed by a local government employer pursuant to NRS 288.105 or by the Executive Department pursuant to Section 23 of Senate Bill No. 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_, the Board may:**

**(a) use the most recent information available from PERS for those local government employers who contribute to PERS;**

**(b) use any other information deemed reliable by the Board for any local government employer who does not contribute to PERS, provided that the local government employer certifies that the information regarding the number of employees is correct; and**

**(c) for the Executive Department, use information deemed reliable by the Board from Human Resource Management of the Division of Administration and the Nevada System of**

Higher Education, provided that the entities certify that the information regarding the number of employees is correct.

2. Any information provided under sections 1(b) and (c) above shall be provided to the EMRB no later than May 31<sup>st</sup> of each year.

3. The Board shall have the authority to adjust the amount of the fee assessed against a government employer should the government employer provide reliable information that the number of employees as reported by PERS exceeds by more than two percent the actual number of employees currently employed by the government employer, provided that the government employer certifies that the information is correct and provided that in the interim the government employer pays any amounts not in dispute.

Sec. 5. 1. Upon the filing of an answer pursuant to NAC 288.220 in which the complainant is the Executive Department, a labor organization or an employee, the Commissioner may elect to conduct a preliminary investigation of the complaint to determine whether the complaint has any basis in law or fact.

2. In determining whether to conduct a preliminary investigation, the Commissioner shall weigh whether the complainant is pro se, whether the parties to the case have conducted their own investigation of the facts of this case or to a case related to this one, the type of case based upon the prohibited practices alleged, whether the allegations allegedly affect one or a small number of complainants versus allegations that might involve a significant percentage of a bargaining unit, and the amount of time and resources needed to conduct the preliminary investigation. The presumption shall be not to conduct a preliminary investigation.

3. No preliminary investigation shall be conducted once a party files a motion to dismiss and any preliminary investigation already in progress shall be halted upon receipt of a motion to dismiss.

4. In conducting the investigation the Commissioner may interview one or more parties and witnesses and may also issue a request for records to one or more of the parties, in which the responding party shall provide the requested records within 30 days.

5. Upon conclusion of the preliminary investigation the Commissioner shall file a report detailing whether the complaint has any basis in law or fact and the reasons for that conclusion. The report shall be served upon the parties.

6. Upon receipt of the report and any prehearing statements filed pursuant to NAC 288.250:

(a) If the Board determines that the complaint has no basis in law or fact, the Board shall dismiss the complaint.

(b) If the Board determines that the complaint may have a basis in law or fact, the Board shall order a hearing to be conducted.

7. The Commissioner shall be precluded from conducting any settlement conference pursuant to NAC 288.255 in which he or she issued a report pursuant to subsection 5 of this section.

**Sec. 6. 1.** Pursuant to Section 28(1) of Senate Bill No. 135, chapter 590, Statutes of Nevada, at page \_\_\_\_, the Board may appoint a hearing officer to conduct a hearing that the Board is otherwise allowed to conduct pursuant to Section 27 of said act, which shall be done as part of its decision on whether to grant a hearing in the case.

2. The Board shall use the services of the Hearings Division within the Department of Administration until such time as the Board appoints its own roster of hearing officers pursuant to subsection 3 below.

3. The Board may request that the Commissioner solicit applications for the position of hearing officer. When the Board makes such a request the Commissioner shall have the discretion, after consultation with the Board, to establish the qualifications for the position, determine the materials to be submitted by any applicants and to prescreen any applications. The Board shall have the sole authority to interview the prescreened applicants and to appoint one or more of the applicants to the position, who shall serve at the pleasure of the Board.

4. In selecting a specific hearing officer for a given case the Board shall follow the current practice of the Hearings Division within the Department of Administration.

5. In conducting any hearing, a hearing officer shall follow the procedures found in NAC 288.277 to 288.350, inclusive.

6. The hearing officer shall ensure that the administrative record is complete and is timely forwarded to the Board Secretary.

7. The hearing officer shall render a decision, issuing the findings of fact, conclusions of law and decision, which shall be filed with the Board Secretary, who shall then serve the document on the parties within 3 days.

8. Any decision of a hearing officer may be appealed to the full Board as follows:

(a) Within 10 days after service of the copy of the findings of fact, conclusions of law and decision of a hearing officer, a party may file a notice of appeal with the Board.

**(b) Within 30 days after filing a notice of appeal, the petitioner shall serve and file a memorandum of points and authorities.**

**(c) The respondent shall serve and file a reply memorandum of points and authorities within 30 days after service of the memorandum of points and authorities.**

**(d) The petitioner shall serve and file reply memoranda of points and authorities within 30 days after service of the reply memorandum.**

**(e) The Commissioner may for good cause extend the time for filing of briefs pursuant to this section.**

**(f) The Board may schedule a time for oral argument before the Board, which time may be fixed at the discretion at the Board.**

**(g) All memoranda of points and authorities filed in proceedings involving the appeal of a hearing officer must be in the form provided for appellate briefs in Rule 28 of the Nevada Rules of Appellate Procedure.**

**(h) The filing of a notice of appeal does not excuse compliance with the decision of the hearing officer nor suspend the effectiveness of a decision unless otherwise ordered by the Board.**

**(i) The Board will modify, reverse or affirm the decision of the hearing officer or remand the case to the hearing officer.**

**(j) A petitioner who applies for a stay of the final decision in a contested case of a decision of a hearing officer shall file and serve a written motion for the stay on the Board and all parties of record to the proceeding at the time of filing the notice of appeal.**

**(k) In determining whether to grant a stay, the Board shall consider the same factors as are considered for a preliminary injunction under Rule 65 of the Nevada Rules of Civil Procedure. However, a stay is not the equivalent of an injunction.**

**Sec. 7. 1. Pursuant to Sections 30 to 32, inclusive of Senate Bill No. 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_, any labor organization seeking to be designated the exclusive representative of a bargaining unit shall file a petition with the Board in accordance with NAC 288.075 and 288.200 to 288.375, inclusive.**

**2. The labor organization shall also immediately thereafter file a membership list or other evidence showing that it has been authorized to serve as a representative of employees within a bargaining unit. A copy of the petition, as well as the membership list or other evidence showing that it has been authorized to serve as the representative of employees within the bargaining unit, shall be served to the Executive Department and any other labor organizations which have filed a petition for recognition for the same bargaining unit.**

**3. If a membership list is submitted that was produced by the labor organization filing the petition, then the labor organization shall also file evidence from an independent source, such as a list from the Executive Department of employees having dues deducted from their paychecks. Other evidence may include signed authorization cards, a dues deduction list separate from a membership list, or other indicia from a source other than the labor organization itself. A labor organization may use other alternative indicia of membership but shall include in its petition the reasons for doing so and why the alternatives listed above were not used.**

**4. Authorization cards shall be good for one year from the date signed by the respective employee. However, an authorization card shall be deemed to have expired if a subsequent**

authorization card has been signed with another labor organization; provided, however, that an authorization card shall not be deemed to have expired after one year if the employee actually has become a member of the labor organization and continues to have dues deducted from his or her paycheck.

5. The Board may order the staff to undertake an evaluation of the membership list or other authorization evidence and to report its conclusions to the Board and the parties. Any other party to the proceeding may also file its own evaluation of the membership list or other authorization evidence and file the same with the Board under terms and timelines as designated by the Board.

6. The Board may order that a hearing be held in accordance with its rules to determine whether there are a sufficient number of employees authorizing the labor organization to be the representative of the bargaining unit, which shall result in an order from the Board either recognizing a labor organization, ordering that an election be held, or that no labor organization received the minimum percentage of employees and thus the bargaining unit is to not be represented.

**Sec. 8. 1.** Upon issuance of an order from the Board after it conducted any hearings pursuant to Section 53(3) of Senate Bill No. 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_, the Division of Human Resource Management of the Department of Administration shall revise its initial list of recommendations submitted to the Government Employee-Management Relations Board based upon that order, changing the designation of the bargaining unit for each job classification as ordered by the Board so that the initial report will conform to the Board's order.

2. The Division of Human Resource Management shall make available on its website an up-to-date list of the job classifications, and for each, the bargaining unit, if any, to which it is assigned. The list shall be updated at least quarterly.

3. Each collective bargaining agreement between the Executive Department and a labor organization shall provide the procedures for the division, merger and elimination of job classifications that are within the scope of the existing bargaining unit.

4. Pursuant to Section 29(2) of Senate Bill No. 135, chapter 590, Statutes of Nevada, at page \_\_\_\_, the parties to a collective bargaining agreement may assign a new job classification to a bargaining unit based upon the similarity of the new job classification to other job classifications within the bargaining unit. The Division of Human Resource Management shall notify every recognized labor organization of the determination, in writing, and any labor organization shall then have 21 days to raise an objection with the Division of Human Resource Management. If there is an objection:

(a) The Division of Human Resource Management and the labor organization(s) so objecting, along with the labor organization representing the bargaining unit recommended for the new job classification, shall meet and confer and attempt to resolve the objection.

(b) If the objection has not been resolved within 30 days, any labor organization that raised an objection may then appeal the determination to the Government Employee-Management Relations Board in accordance with the provisions of NAC 288.075 and 288.200 to 288.375, inclusive.

**Sec. 9.** NAC 288.020 is hereby amended to read as follows:

288.020 "Board" means:

1. The full ~~Local~~ Government Employee-Management Relations Board, consisting of all the members serving on the Board; or

2. A panel of the Board, if one or more panels are established pursuant to NAC 288.271.

**Sec. 10.** NAC 288.030 is hereby amended to read as follows:

288.030 “Complainant” or “petitioner” means:

1. A local government employer as defined in NRS 288.060;

2. An employee organization as defined in NRS 288.040; ~~for~~

3. A local government employee as defined in NRS 288.050 ~~for~~;

4. **The Executive Department as defined in Section 10 of Senate No. Bill 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_;**

5. **A labor organization as defined by Section 12 of Senate No. Bill 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_; or**

6. **An employee as defined in Section 19 of Senate No. Bill 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_.**

**Sec. 11.** NAC 288.080 is hereby amended to read as follows:

288.080 1. The issuance and service of process of papers required by this chapter must be in conformity with the Nevada Rules of Civil Procedure and the rules and regulations of the Board.

2. Any written document or other written matter required by this chapter to be filed with the Board or served upon another party shall be deemed to comply with any time deadline if it is mailed and postmarked upon the date specified or filed or transmitted electronically in accordance with subparagraph (3) of paragraph (d) of subsection 1 of NAC 288.070 or NAC 288.075, as applicable, upon the date specified.

3. If any paper is served by delivery of a copy, the delivery may be made by any person of suitable age and discretion, unless otherwise expressly provided by the Nevada Rules of Civil Procedure and the rules and regulations of the Board.

4. Proof of service of all papers required or permitted to be served, other than those for which a particular method of proof is prescribed in the Nevada Rules of Civil Procedure and the rules and regulations of the Board, must be promptly filed in the Board's office before action is to be taken thereon by the Board or the parties. The proof must show the day and manner of service and may be by written acknowledgment of service, by certificate of a member of the bar, by affidavit of the person who served the papers or by any other proof satisfactory to the Board. If an affidavit of mailing or of service is attached to the original pleading, it must be attached underneath the original pleading so that the character of the pleading is easily discernible. Failure to make the proof of service required by this subsection does not affect the validity of the service. The Board may at any time allow the proof of service to be amended or supplied, unless it clearly appears that to do so would result in material prejudice to the substantial rights of any party.

5. A written complaint filed with the Board must be served upon the respondent, ~~local~~ government employer, **labor organization** or employee organization by the complaining party within ~~5~~ **7** days of the filing.

**Sec. 12.** NAC 288.090 is hereby amended to read as follows:

288.090 The computation of any period prescribed by this chapter or by an order of the Board must be made in accordance with Rule~~s~~ 6(a) ~~and 6(e)~~ of the Nevada Rules of Civil Procedure. **No additional 3 days shall be added to any due date for mailing.**

**Sec. 13.** NAC 288.100 is hereby amended to read as follows:

288.100 1. If a matter is significantly related to the subjects enumerated in subsection 2 of NRS 288.150, a ~~local~~ government employer, upon written request by an appropriate **labor organization or** employee organization, shall negotiate the matter unless, in the determination of the **government** employer, the proposed matter to be negotiated would be reserved to the ~~local~~ government employer pursuant to subsection 3 of NRS 288.150.

2. If the **government** employer determines that the proposed matter would be reserved to him or her pursuant to subsection 3 of NRS 288.150, the **labor organization or** employee organization may request the Board to review that determination. If the Board, after reviewing the determination of the **government** employer, agrees that the controversy is a contested matter within the meaning of chapters 233B and 288 of NRS, it may conduct a hearing.

**3. This section shall not be construed to require the Executive Department to collectively bargain over paragraph (f) of subsection 2 of NRS 288.150 or any matter that may be significantly related thereto.**

**Sec. 14.** NAC 288.110 is hereby amended to read as follows:

288.110 1. All elections conducted in accordance with subsection 4 of NRS 288.160 **or conducted in accordance with Sections 31 to 33, inclusive, of Senate No. Bill 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_;** will be conducted under the supervision of the Board or its agent **and the rules and procedures for conducting the election shall be contained in an election plan, which shall be an appendix to an order from the Board authorizing the election.**

2. Any party may be represented at the election by observers selected in accordance with such limitations as the Board may prescribe.

3. Any observer or the Board's agent conducting the election may challenge for good cause the eligibility of any person to vote in the election. The ballots of challenged persons will be impounded.

4. Upon the conclusion of the election, the ballots will be counted in the presence of the parties or their observers and the Board's agent conducting the election. The agent will furnish parties with a tally of the ballots.

5. Except as otherwise provided in this subsection, the ballots must be kept for at least 6 months after an election, after which period the ballots may be destroyed. If a timely objection to the election is filed with the Board or a petition for judicial review concerning the election is filed in district court, the ballots must be kept until after the conclusion of any Board or court proceeding concerning the election.

6. Provisions may be made for a nonunion vote and for linguistic assistance.

7. If the results are inconclusive, the Board will conduct a runoff election.

8. Within ~~5~~ 10 days after the election, any party may file with the Board objections to the conduct of the election or conduct affecting the results of the election. The objections must be in writing and contain a brief statement of facts upon which the objections are based. A sworn original and ~~four~~ six copies of the objections must be signed and filed with the Board, **unless the document is electronically filed**. The party filing the objections shall serve a copy upon each of the other parties.

9. If challenges which affect the results of the election or objections raise a substantial question which cannot be resolved without a hearing, the Board may issue and serve notice of a hearing on these issues.

10. An employee organization will be considered the exclusive bargaining agent for employees within a bargaining unit, pursuant to an election, if:

(a) Challenged ballots are insufficient in number to affect the results;

(b) No runoff election is to be held;

(c) No timely objections are filed; and

(d) The election demonstrates that the employee organization is supported by a majority of the employees within the particular bargaining unit.

**11. A labor organization will be considered the exclusive bargaining agent for employees within a bargaining unit, pursuant to an election, if, after resolving any objections and any challenged ballots, the election demonstrates that the labor organization received a majority of the votes cast by those voting. If no option on the ballot received a majority of the votes cast, then the Board shall order a runoff election in accordance with Section 31(2) of Senate Bill No. 135, chapter 590, Statutes of Nevada, at page \_\_\_\_.**

**Sec. 15.** NAC 288.140 is hereby amended to read as follows:

288.140 Before December 1 of each year, each ~~HocaH~~ government employer shall file with the Board:

1. The name and contact information for the person designated by the ~~HocaH~~ government employer to receive all official communications from the Board, except for those communications related to a case before the Board for which an attorney has filed an appearance; and

2. A list of all **labor organizations or** employee organizations that the employer is currently recognizing and a description of the bargaining unit for each **labor organization or** employee organization.

**Sec. 16.** NAC 288.147 is hereby amended to read as follows:

288.147 In addition to the requirements set forth in NRS 288.165, between November 1 and December 1 of each year, each **labor organization and** employee organization shall file with the Board:

1. The name and contact information of the person designated by the **labor organization or** employee organization to receive all official communications from the Board, except for those communications related to a case before the Board for which an attorney has filed an appearance; and

2. A list of its current officers and representatives, including, but not limited to, any and all elected officials and other professional representatives retained to administer the various activities of the **labor organization or** employee organization. The **labor organization or** employee organization may elect, appoint or retain additional or other officers and representatives subsequent thereto.

**Sec. 17.** NAC 288.205 is hereby amended to read as follows:

288.205 1. In lieu of complying with the provisions of NAC 288.200 to 288.370, inclusive, an employee who:

(a) Is a nursing mother described in **paragraph 4(a) of subsection 4 of NRS 281.755, as amended by in Section 2 of Senate Bill No. 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_\_, or** paragraph (d) of subsection 4 of NRS 281.755; and

(b) Complains solely of an alleged violation of paragraph (h) of subsection 1 of NRS 288.270, may elect to file a complaint in the form required by the Board and comply with the provisions of this section.

2. If an employee makes the election and files the complaint described in subsection 1, the respondent shall file an answer in accordance with the provisions of NAC 288.220, except that the

answer must include a statement setting forth the position of the respondent and the reasons for the actions of the respondent.

3. Upon receipt of the answer, the Commissioner shall contact the parties to schedule a hearing on the matter. The hearing:

(a) Must be held before the Commissioner; and

(b) May be conducted in person, by video conference or telephonically, in the discretion of the Commissioner.

4. After the hearing is scheduled, the Commissioner shall promptly prepare and serve upon the parties a notice of hearing setting forth:

(a) The date, time and place of the hearing;

(b) The manner in which the hearing will be conducted, whether in person, by video conference or telephonically; and

(c) The deadline for the submission of copies of proposed exhibits pursuant to subsection 6 or the notice required by that subsection.

5. Upon the request of a party to a proceeding governed by this section, the Commissioner may issue subpoenas requiring the attendance of witnesses before the Commissioner, together with all books, memoranda, papers and other documents relative to the matter. The provisions of subsections 2, 3 and 4 of NRS 288.120 apply to any such subpoena.

6. Each party shall submit to the Commissioner a copy of any exhibit the party proposes to use at the hearing. Each party shall submit the copy so that it is received by the Commissioner not less than 3 business days before the hearing. If a party does not propose to use any exhibits at the hearing, the party shall so notify the Commissioner in writing within that time. Upon receipt of the

copies of the proposed exhibits or the notice described in this subsection, the Commissioner shall forward copies of the proposed exhibits or notice, as applicable, to each other party.

7. The Commissioner shall conduct the hearing in accordance with the provisions of NAC 288.280 to 288.335, inclusive, but may depart or authorize a departure from those provisions as necessary to expedite and minimize the expense of the proceedings. Except as otherwise provided in this subsection, in lieu of using a court reporter, the Commissioner may cause the hearing to be recorded by tape recorder. In the case of a hearing conducted telephonically, each party must consent to the recording of the hearing. Upon the request of any party, the Commissioner shall cause the recording to be transcribed at the expense of the party making the request. If both parties request that the recording be transcribed, the expense of transcription must be shared equally by the parties unless they otherwise agree.

8. After the hearing, the Commissioner shall render a decision in writing. The decision is not subject to review by the Board and is a final decision for the purposes of NRS 233B.130.

**Sec. 18.** NAC 288.231 is hereby amended to read as follows:

288.231 1. Pleadings and written motions filed with the Board, including, without limitation, a complaint, petition, application or request, must:

- (a) Be properly titled;
- (b) Be signed by an authorized person;
- (c) State the name and, unless the pleading is a complaint, address of each party;
- (d) Clearly identify the proceeding by title;
- (e) Include the case number if a case number has been assigned;
- (f) Include an appropriate caption, if applicable;

(g) Set forth a clear and concise statement of the matters relied upon as a basis for the action or relief requested and an appropriate prayer;

(h) Be clear, legible and typewritten or printed by a computer on white, unglazed paper that is 8 1/2 by 11 inches in size and that is not lighter than 16 pounds, **unless the document is electronically filed**;

(i) Be firmly bound together at the upper left-hand corner of the document, **unless the document is electronically filed**; and

(j) Not exceed 30 pages, except with the permission of the Board.

2. The type used in a pleading or written motion described in subsection 1 must be black in color and must not be smaller than 11 characters per inch. The lines on each page of the pleading or written motion must be numbered consecutively on the left margin. Each page of the pleading or written motion must:

(a) Have a top margin that is 1 inch from the top edge of the paper and a bottom margin that is 1 inch or more from the bottom edge of the paper; and

(b) Be numbered consecutively at the bottom of the page.

3. A pleading initiating a new proceeding must have space for the case number on the pleading.

**Sec. 19.** NAC 288.240 is hereby amended to read as follows:

288.240 1. Any request for an order by the Board, except for an order to permit intervention, concerning any matter that has been assigned a case number and that has not been finally decided by the Board must be styled a “motion.”

2. All motions made before or after a hearing must be filed in writing with the Board. Motions made at a hearing must be stated orally and must be included in the stenographic report of the hearing.

3. A motion directed at a complaint or petition must be written and filed before the answer or response is due.

4. Within ~~10~~ 14 days after service of any motion, all parties wishing to respond to the points raised in the motion shall file their opposition to the motion. That opposition must be in writing, unless made during the hearing. Within ~~10~~ 14 days after service of the opposition to the motion, the moving party may respond to the points raised in the opposition.

5. A certificate of service must be attached to the original opposition or response, indicating that the opposition or response has been served on the opposing party, unless the opposition or response is made during a hearing.

6. If a party fails to file and serve a written opposition to a motion, that failure to respond may be construed as an admission that the motion is meritorious and as consent to granting the motion.

**Sec. 20.** NAC 288.245 is hereby amended to read as follows:

288.245 1. Any person or governmental entity claiming an interest in a dispute or controversy that is the subject of a hearing before the Board may, by motion, request leave of the Board to file an amicus brief. If the Board grants the motion, it may impose terms and conditions related to the brief.

2. The Board may request in writing that one or more ~~Heal~~ government employers, **labor organizations** and employee organizations file amicus briefs in any contested case on such terms and conditions as are specified in the request.

**Sec. 21.** NAC 288.250 is hereby amended to read as follows:

288.250 1. Not later than ~~20~~ 21 days after the service of the answer, unless otherwise ordered by the Board or Commissioner, each party shall file with the Board the prehearing statement of the party which includes:

(a) A plain and concise statement of the issues of fact and law to be determined by the Board which have not been resolved by negotiation or otherwise;

(b) A memorandum of law or points and authorities in support of the party's position, including a list of significant differences or close similarities of the issue or issues to any prior determinations of the Board;

**(c) A statement as to whether there are any pending or anticipated contractual, administrative, or court proceedings related to the case filed with the Board, and if so, a description as to how those proceedings might affect the case filed with the Board, including whether the case filed with the Board should be stayed pending the outcome of any such proceedings.**

~~(e)~~ (d) A list of witnesses and their qualifications, including a brief summary of their expected testimony; and

~~(d)~~ (e) An estimate, to the nearest hour, of the time needed for the presentation of the party's position.

2. Except as otherwise specifically provided by this chapter or chapter 288 of NRS, a party shall not attach any document, including, without limitation, an exhibit, to a prehearing statement.

**Sec. 22.** NAC 288.255 is hereby amended to read as follows:

288.255 1. Except as otherwise provided in subsection 3, the Board may order the parties to participate in a settlement conference upon the motion of any party or its own motion.

2. The Commissioner shall conduct any settlement conference ordered by the Board pursuant to subsection 1.

3. The Board will not order a settlement conference for any matter that is:

(a) An appeal of the determination of a bargaining unit brought pursuant to subsection 5 of NRS 288.170;

(b) A proceeding relating to an application for the recognition of an employee organization filed pursuant to NRS 288.160 **or a labor organization pursuant to Sections 30 or 31 of Senate Bill No. 135, chapter 590, Statutes of Nevada 2019, at page \_\_\_\_**; or

(c) A proceeding commenced upon a petition for a declaratory order filed pursuant to NAC 288.380.

4. A party or the Board may file a motion for a settlement conference at any time:

(a) After all parties have submitted prehearing statements pursuant to NAC 288.250; and

(b) Not later than 60 days before the date of a scheduled hearing.

5. The Commissioner may establish reasonable guidelines to conduct a particular settlement conference, except that the Commissioner may not:

(a) Require the parties to submit additional statements or briefs in advance of a settlement conference; or

(b) Establish guidelines that will impose any undue expense on a party.

6. The Commissioner may not be called as a witness in any proceeding in which a settlement conference has taken place.

**Sec. 23.** NAC 288.260 is hereby amended to read as follows:

288.260 1. Any person claiming an interest in a dispute or controversy which is the subject of a hearing may be made by a party upon timely petition and a showing satisfactory to the Board of the person's interest in the controversy.

2. A petition to intervene must include the following information:

- (a) The nature of the petitioner's statutory or other right;
- (b) The nature and extent of the petitioner's interest;
- (c) The effect of any decision in the proceedings on the petitioner's interest;
- (d) Other means available whereby the petitioner's interest may be protected;
- (e) The extent to which the petitioner's interest may be represented by existing parties;
- (f) The extent to which the petitioner's participation can assist in the development of a sound record;
- (g) The extent to which the petitioner's participation will broaden the issues or delay the proceedings;
- (h) The extent to which the petitioner's interest in the proceedings differs from that of the general public;
- (i) How the petitioner's intervention would serve the public interest;
- (j) If affirmative relief is sought, the type and basis of that relief;
- (k) A statement as to whether the petitioner intends to present evidence in the proceeding; and
- (l) The name and address of the petitioner.

3. A petition is not timely filed unless it is filed with the Board and served upon all parties by certified mail at least 30 days before the time set for the hearing. A response to the application or petition may be made by any party not later than ~~5~~ 7 days after receipt of the application or petition.

4. Except as otherwise specifically provided by this chapter or chapter 288 of NRS, a person filing a petition pursuant to this section shall not attach any document, including, without limitation, an exhibit, to the petition.

**Sec. 24.** NAC 288.262 is hereby amended to read as follows:

288.262 1. A petition for leave to intervene and proof of service of a copy of the petition on each party of record must be filed with the Board at least 30 days before the time set for the hearing. A response to the petition may be made by any party not later than ~~5~~ 7 days after receipt of the petition.

2. If a petition for leave to intervene is filed after the applicable period, the petition must state to the satisfaction of the Board a substantial reason for the delay. If a reason is not stated, the petition may be summarily denied by the Board.

**Sec. 25.** NAC 288.271 is hereby amended to read as follows:

288.271 1. The Commissioner may establish one or more panels as the Commissioner deems necessary. Each panel must be designated “Panel A,” “Panel B” and so forth according to the number of panels established.

2. To the extent consistent with the provisions of subsection 3 of NRS 288.090, if two or more panels are established:

(a) The Commissioner shall assign each member of the Board to a panel or panels.

(b) Each member of the Board must be assigned to the same number of panels as every other member of the Board.

(c) If the absence of one or more members of a panel would otherwise require the postponement of a hearing **or deliberation on any case that may be on the agenda for that panel**, the Commissioner may ~~[, with the written consent of all the parties to the hearing,]~~ randomly assign

another member or members of the Board to the panel ~~[for the purposes of the hearing and disposition of the matter]~~. **The agenda for the meeting of that panel shall mention that a member has been randomly assigned to substitute for an absent member. Any member so randomly assigned that is present for a hearing on a case shall continue to be the member for any subsequent deliberations on that case, even if such deliberations shall be at a future meeting of that panel.**

3. Except as otherwise provided in subsection 4:

(a) If the Chair of the Board is a member of a panel, he or she shall serve as the presiding officer of the panel.

(b) If the Chair of the Board is not a member of a panel, the Vice Chair of the Board shall serve as the presiding officer of the panel.

(c) If the Chair or the Vice Chair of the Board is not a member of a panel, the most senior member of the Board assigned to the panel shall serve as the presiding officer of the panel. For the purposes of this paragraph:

(1) The seniority of a member must be determined on the basis of the date of the appointment of the member to the Board.

(2) If two or more members were appointed on the same date, they shall draw lots to determine which of them will serve as the presiding officer of the panel.

4. Notwithstanding the provisions of subsection 3, with the consent of the presiding officer of the panel and the member so designated, the Commissioner may designate any member of a panel as the acting presiding officer for a meeting of the panel.

**Sec. 26.** NAC 288.2715 is hereby amended to read as follows:

288.2715 1. The Commissioner shall schedule the meetings of each panel in consultation with the members of the panel.

2. Except as otherwise provided in this section, whenever a case is commenced before the Board by the filing of a complaint, petition or other pleading, the Commissioner ~~shall~~ **may assign the case to the full Board or** randomly assign the case to ~~the next available~~ a panel ~~for which a meeting agenda has not yet been posted pursuant to NRS 241.020~~ , **to be designated as the initial panel.**

3. If **the full Board or** a panel decides that a hearing should be held in a case, **the full Board or** panel , **as the case may be**, will, during the same meeting, randomly assign the case to ~~itself or another~~ a panel for hearing, **to be designated as the hearing panel.**

4. Except as otherwise provided in this subsection, after a case has been assigned to a panel pursuant to subsection 2 or 3, as applicable, any motion or other matter relating to the case will be decided by that panel. If a stipulation to dismiss all or any part of a complaint or petition is filed, the Commissioner shall assign the stipulation to the next available panel as provided in subsection 2 for consideration and disposition.

5. If the Commissioner determines that a case involves an issue of statewide significance, the Commissioner may so designate the case and assign it to the full Board instead of a panel for all further proceedings. If such a designation is made, the Commissioner shall prepare and file written notice of the designation, stating the reasons for the designation, and serve a copy of the notice upon each party to the case.

**Sec. 27.** NAC 288.277 is hereby amended to read as follows:

288.277 Hearings may be held at any location in the State that the Board designates in the notice of the hearing. To the extent possible, hearings will be held in the geographical area which

is affected by the proceeding. **Hearings may be video-conferenced and the Board, agency staff, parties, witnesses and court reporter may be located at one or more locations as may be detailed in the notice of the hearing.**

**Sec. 28.** NAC 288.278 is hereby amended to read as follows:

288.278 1. Except as otherwise provided in this subsection, representation before the Board in a contested case is limited to representation in proper person or by an attorney who is licensed to practice law in the State of Nevada. The Board may:

(a) Upon a motion **or by stipulation of the parties**, waive the limitation on representation; and

(b) Require an attorney who is not licensed to practice law in the State of Nevada and who is licensed to practice in any other jurisdiction of the United States to associate with an attorney who is licensed to practice law in the State of Nevada.

2. The representation shall be deemed to be in proper person if the representation is by a currently elected or appointed official of the employee organization or union or local government, a local government employee or an employee of the employee organization or union. In the case of an employee organization or union, the official or employee must also be a member of the employee organization or union.

**Sec. 29.** NAC 288.290 is hereby amended to read as follows:

288.290 Any request for the postponement of a scheduled hearing must be in writing and signed by the parties or their counsel. The request must include a statement of the reasons for the requested postponement and must be filed with the Board at least ~~10~~ **14** days before the time the hearing is scheduled unless good cause is shown to excuse the untimely filing of the request. In no case will a request for postponement be granted within 30 days after the running of the ~~90-day~~

period for hearing a complaint, **unless the parties in the request agree to waive the time period.**  
**The Commissioner shall have the authority to grant or deny any such request.**

**Sec. 30.** NAC 288.306 is hereby amended to read as follows:

288.306 1. The Board may, following the filing of briefs or upon contested motions:

(a) Set the matter for oral argument upon ~~[10]~~ **14** days written notice to each party of record, unless the Board considers a shorter time advisable; and

(b) Limit the amount of time available to each party for oral argument.

2. If the Board limits the amount of time available for oral argument pursuant to subsection 1, the Board will allow each party an equal amount of time for oral argument.

**Sec. 31.** NAC 288.324 is hereby amended to read as follows:

288.324 1. Unless otherwise permitted, exhibits submitted to the Board must be limited in size to 8 1/2 by 11 inches. A copy of each documentary exhibit must be furnished to each party of record, and ~~[six]~~ **eight** copies must be furnished to the Board, **if the case has been assigned to the full Board, and six copies, if the case has been assigned to a panel. The Board may require the parties to a hearing to provide the documentary exhibits electronically in lieu of furnishing copies, and if required, the requirements for doing so shall be provided in the notice of hearing.** If relevant evidence is included in a written or printed statement, book or document of any kind, containing other matters not relevant and not intended to be put into evidence, the statement, book or document containing that other matter may not be received or admitted in whole. Counsel or other parties offering evidence or exhibits shall present, in convenient and proper form for filing, a copy of the relevant portions or, at the discretion of the Board, read these portions into the record. Any documentary evidence offered, whether in the form of an exhibit or introduced by reference is subject to appropriate and timely objection.

2. If documents are numerous or voluminous, and a party desires to offer into evidence more than a limited number of these documents as typical of the others, an orderly abstract of relevant data contained in these documents may be prepared and offered as an exhibit. Other parties of record will be given a reasonable opportunity to examine both the abstract and the documents.

3. In any proceeding involving detailed accounting exhibits, the Board may require each party to file with the Board, and to serve on each party of record, a copy of these exhibits within a specified time before the hearing to enable the parties of record to study the exhibits and to prepare cross-examination with reference to them.

4. Amendments to exhibits may be made after filing with the Board if the amendments do not prejudice the rights of any party or if the amendments contain a clerical or mathematical error.

**Sec. 32.** NAC 288.345 is hereby amended to read as follows:

288.345 In any proceeding, the presiding officer may order briefs to be filed within a reasonable time. Each brief must be filed with the Board and must be accompanied by a certificate showing service on each party of record as provided in NAC 288.200 **unless the Board orders the submission of simultaneous briefs, which shall only be filed with the Board, and which shall then be served by the Board upon the parties upon receipt of the last brief to be submitted.**

**Sec. 33.** NAC 288.360 is hereby amended to read as follows:

288.360 1. Either party may, within ~~15~~ **14** days after service of a final decision of the Board, file a petition for a rehearing stating the reasons therefor.

2. The Board may order a rehearing by requiring the parties to submit any additional evidence or data in support of their respective positions. The Board will not require the repetition of evidence

or data previously submitted. Further proceedings and deliberations will be conducted in accordance with the provisions of this chapter.

3. The failure of either party to submit a petition for rehearing within ~~[15]~~ 14 days constitutes an agreement that the Board's decision is a final decision for the purposes of NRS 233B.130.

**Sec. 34.** NAC 288.362 is hereby amended to read as follows:

288.362 Answers to a petition for rehearing will not be entertained by the Board. If a rehearing is granted by the Board, a response in the nature of an answer may be filed by any party of record within ~~[15]~~ 14 days after the issuance of the order granting a rehearing. The response must be confined to the issues upon which rehearing has been granted and the responding party must serve a copy of the response on each party of record.

**Sec. 35.** NAC 288.380 is hereby amended to read as follows:

288.380 1. Any recognized **labor organization**, employee organization or ~~[local]~~ government employer may petition the Board for a declaratory order regarding the applicability or interpretation of any statutory provision or of any regulation or decision of the Board. A copy of the petition must be filed with the Board.

2. If the petitioner is a ~~[local]~~ government employer, it shall file a copy of its petition with each of the **labor organizations or** employee organizations which it has recognized. If the petitioner is a recognized **labor organization or** employee organization, it shall file a copy of its petition with the employer which afforded it recognition.

3. The petition must contain:

(a) The name, address, zip code and telephone number of the petitioner;

(b) A statement of the nature of the petitioner's interest, including the reasons for the submission of the petition;

- (c) The designation of the specific provision, regulation or decision in question;
  - (d) A clear and concise statement of the position of, or contention of, the petitioner;
  - (e) A memorandum of authorities, containing a full discussion of their reasons, including legal authorities in support of such a position or contention; and
  - (f) The signature of each petitioner.
4. Any petition which does not conform to these requirements may be rejected.

**Sec. 36.** NAC 288.390 is hereby amended to read as follows:

288.390 1. Any recognized **labor organization**, employee organization or ~~Health~~

1. Any party served with a petition for a declaratory order may respond to the petition within ~~20~~ **21** days by filing his or her response with the Board. The responding party shall also serve a copy of the response upon the petitioner.

2. The response must include:

- (a) The full name and address of the petitioner;
- (b) The full name and address of the respondent;
- (c) A clear and concise statement of the facts, including the time and place of the occurrence of the particular acts described in the petition and the names of persons involved; and

(d) A memorandum of authorities, including legal authorities in support of or in opposition to any position or contention raised by the petitioner.

3. A party requesting a petition for a declaratory order may file a reply to any response filed pursuant to this section within ~~10~~ **14** days after the date on which the response is served.

**Sec. 37.** NAC 288.400 is hereby amended to read as follows:

288.400 1. Any petitioner who desires a hearing on a petition for a declaratory order shall set forth in detail in his or her request the reason why the matters alleged in the petition and the

supporting affidavits or other written evidence in briefs or memorandum of legal authorities do not permit the fair and expeditious disposition of the petition.

2. A request for a hearing filed pursuant to this section must be filed within ~~[20]~~ 21 days after service of any response to the petition. Failure to file a request for a hearing may be construed as consent for the Board to issue a declaratory order without holding a hearing.

3. The parties shall not file the prehearing statements which are otherwise required by NAC 288.250 unless a request for a hearing filed pursuant to this section is granted by the Board.