

**PROPOSED REGULATION OF THE  
PERSONNEL COMMISSION**

**LCB FILE NO. R139-22I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 06/29/2022**



**Explanation of Proposed Change:** The following amendments, proposed by the Division of Human Resource Management (DHRM), will require a resolution conference prior to the submission of a grievance or complaint for consideration by the Employee-Management Committee (EMC). Adding the requirement of a resolution conference at Step 4 of the grievance process in NAC 284 will bring the process into line with the grievance process followed by employees covered by collective bargaining agreements. Since the addition of the resolution conference regulation, NAC 284.6562, over a decade ago has proven to be a very successful option in resolving grievances and complaints prior to a hearing by the EMC.

One particular reason implementing the requirement of a resolution conference is beneficial is because it is always best to reach a resolution to a grievance or complaint as quickly as possible. Another benefit is that if a resolution conference is successful, an open, public meeting of the EMC creates a significant administrative burden on all parties involved. These amendments are intended to address these issues.

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

*NEW Submission of grievance or complaint for resolution conference.*

*1. If an employee is not satisfied with the decision rendered by the highest administrator in the department pursuant to NAC 284.690, the employee may request a resolution conference to meet informally in the presence of neutral facilitator to discuss the grievance and possible resolutions.*

*2. If an employee is not satisfied with the response of the department or agency pursuant to NAC 284.5243 and submits a request for consideration of a complaint by the Committee pursuant to NAC 284.6951, the employee or the department or agency or a designee thereof may request a resolution conference to meet informally in the presence of a neutral facilitator to discuss the complaint and possible resolutions.*

*3. If either party requests a resolution conference, the Division shall appoint a neutral facilitator to conduct the resolution conference and require both parties to participate. The facilitator must not be affiliated with either party.*

*4. If an employee submits a request for a resolution conference, the Division shall arrange a resolution conference before the scheduled hearing. If the Division is unable to arrange a resolution conference in the period between the request for the resolution conference and the scheduled hearing, the Division shall provide to the Committee, upon request, the reason that the Division was unable to arrange the resolution conference.*

**Sec. 2. NAC 284.695 is hereby amended to read as follows:**

**NAC 284.695 Submission of grievance to Employee-Management Committee. (NRS 284.065, 284.155, 284.340, 284.384)** If ~~an employee is not satisfied with the decision rendered by the highest administrator in the department pursuant to NAC 284.690,~~ *pursuant to Section 1 of this LCB File:*

*(a) The parties are unable to reach an agreement for the resolution of the grievance or complaint at the resolution conference;*

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*(b) The parties reach an agreement for the resolution of the grievance or complaint at the resolution conference, but the employee subsequently notifies the Committee that the agreement has failed; or*

*(c) The Division is unable to arrange a resolution conference as described in Section 1 of this LCB File,*

↳ the employee may request consideration of the grievance by the Committee pursuant to its rules. The employee must submit the request to the Committee within 10 working days following *an unsuccessful resolution conference or* his or her receipt of ~~the decision from the highest administrator~~ *an agreement resulting from a successful resolution conference*. The request must include all appropriate documentation, a citation of the statutes and regulations pertinent to the grievance, if any, the specific points of disagreement or contention and supporting evidence. The Committee will, within 45 working days after the receipt of the employee's request:

1. Answer the request without a hearing if the case is based upon the Committee's previous decisions or does not fall within its jurisdiction; or

2. Hold a hearing to determine the proper disposition of the request. If a hearing is held, the Committee will:

(a) Except as otherwise provided in paragraph (b), provide at least 21 working days' written notice to all parties concerned.

(b) Provide notice to the employee by:

(1) Sending a written notification by certified mail, return receipt requested, at least 21 working days before the hearing; or

(2) Personally delivering a written notification to the employee at least 5 working days before the hearing, if the Chair approves of such notice.

(c) Render a decision within 45 days after the closure of the hearing.

[Personnel Div., Rule XV § A part subsec. 6, eff. 8-11-73; A 6-9-74; 7-3-76; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 10-18-89; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 3-27-92; 11-12-93; 3-23-94; 11-16-95; A by Personnel Comm'n by R118-10, 5-5-2011; R007-11, 10-26-2011)

### **Sec. 3. NAC 284.6951 is hereby amended to read as follows:**

**NAC 284.6951 Submission of complaint to Employee-Management Committee. (NRS 281.755, 284.065, 284.384)**

1. If:

(a) An ~~employee is not satisfied with the response of the department or agency to a request is made~~ *agreement resulting from a resolution conference* pursuant to NAC 284.5243 *and Section 1 of this LCB File is not reached*, including, without limitation, a reasonable alternative selected in accordance with subsection 2 of NRS 281.755;

(b) The department or agency fails to respond to a request made pursuant to NAC 284.5243; or

(c) The employee alleges that the employee was retaliated against in violation of subsection 3 of NRS 281.755,

↳ the employee may request consideration of a complaint by the Committee pursuant to its rules and this section.

2. The employee must submit the complaint, on a form provided by the Division of Human Resource Management, to the Committee within 10 working days following:

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(a) Receipt of the response from the department or agency to the request made pursuant to NAC 284.5243;

(b) The passage of 8 working days after the request is deemed to have been received by the department or agency; or

(c) The date of the alleged retaliation.

3. The complaint submitted pursuant to subsection 2 must include the specific points of disagreement or contention and supporting evidence.

4. The Committee shall, within 28 working days after the receipt of a request for consideration of a complaint submitted by an employee pursuant to subsection 2:

(a) Answer the request without a hearing if the case is based upon the Committee's previous decisions or does not fall within its jurisdiction; or

(b) Hold a hearing to determine the proper disposition of the request. If a hearing is held, the Committee shall:

(1) Except as otherwise provided in subparagraph (2), provide at least 21 working days' written notice to all parties concerned.

(2) Provide notice to the employee by:

(I) Sending a written notification by certified mail, return receipt requested, at least 21 working days before the hearing; or

(II) Personally delivering a written notification to the employee at least 5 working days before the hearing, if the Chair of the Committee approves of such notice.

(3) Render a decision within 10 days after the closure of the hearing.

5. For the purpose of determining placement on the agenda for consideration by the Committee at a meeting, a complaint has priority over a grievance.

(Added to NAC by Personnel Comm'n by R033-17, eff. 10-31-17)

**Explanation of Proposed Change:** The following amendments, proposed by the Division of Human Resource Management (DHRM), are intended to alleviate the administrative and financial burden on employees and State of Nevada agencies associated with preparing documents for a meeting of the Employee-Management Committee. Mailing or sending 12 hard copy versions of documents can take a lot of time and is often very costly.

The amendment also limits the number of pages that can be submit to 50 which will also assist all parties with submitting as well as absorbing the information.

**Sec. 4. NAC 284.6955 is hereby amended to read as follows:**

**NAC 284.6955 Hearing before Employee-Management Committee: Procedure. (NRS 281.755, 284.065, 284.155, 284.384)** If a hearing is held to determine the proper disposition of a grievance pursuant to NAC 284.695 or of a complaint pursuant to NAC 284.6951, the following procedure must be followed:

1. Each party shall submit to the Clerk of the Committee ~~12 copies of the~~ a set of documents and materials, *not to exceed 50 pages*, to be presented at the hearing or any rescheduled hearing. ~~These copies must be submitted~~ *This set of documents may be submitted electronically via email or in hard copy form* not less than 15 working days before the scheduled date of the hearing. The Clerk of the Committee shall forward ~~one copy of~~ the set of the documents and materials of each party to the other party.

2. If the employee fails to comply with subsection 1, the Chair or a member of the Committee designated by the Chair may reschedule the hearing to the next time designated for such hearings, but in no case earlier than 20 working days after the originally scheduled date of the hearing. If the employer fails to comply with subsection 1, the Chair or a member of the Committee designated by the Chair may reschedule the hearing at his or her discretion. If the employee fails to comply with the provisions of subsection 1 for a rescheduled hearing, the grievance or complaint must be dismissed with prejudice unless he or she can show in writing to the Committee's satisfaction that the reason for noncompliance was beyond his or her control.

3. Each document or material offered in evidence must be marked as follows:

(a) Documents or materials presented by the employee must be marked at the bottom of the page as "Exhibit \_\_\_\_" indicated by consecutive Arabic numerals, beginning with the number "1."

(b) Documents or materials presented by the employer must be marked at the bottom of the page as "Exhibit \_\_\_\_" indicated by consecutive letters of the English alphabet, beginning with the letter "A." If the employer offers more than 26 exhibits, the 27th exhibit must be marked as "Exhibit AA," the 28th exhibit as "Exhibit BB," and so forth.

4. All evidence offered at the hearing must be relevant and bear upon the grievance or complaint.

5. Each person who provides a statement at the hearing shall state his or her name, address, and occupation for the record.

6. It is the responsibility of each party to arrange for the appearance of all necessary witnesses. The Committee may request additional witnesses or information as it deems necessary.

7. If a subpoena is issued for a document and the person named in the subpoena determines that the document contains confidential information, the person must provide to the Committee by the date specified in the subpoena:

(a) Two copies of the original document, submitted under seal; and

(b) One copy of the document with the confidential information redacted.

8. For good cause shown, the Committee may take testimony from a person by telephone or video conference whether or not the person is at a location designated on the agenda as a location for the hearing.

9. Upon proper recognition by the Chair or the member of the Committee designated to act as the Chair during the hearing, any member of the Committee may ask a question of a party or witness at any time during the hearing.

(Added to NAC by Personnel Comm'n, eff. 8-1-91; A by Dep't of Personnel, 11-16-95; A by Personnel Comm'n by R026-11, 12-30-2011, eff. 1-1-2012; R076-15, 4-4-2016; R033-17, 10-31-2017)

**Sec. 5. NAC 284.6952 is hereby repealed.**

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### TEXT OF REPEALED SECTION

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**NAC 284.6952 Request for resolution conference; appointment of facilitator; effect of request for resolution conference on jurisdiction of Employee-Management Committee; arrangement. (NRS 281.755, 284.065, 284.155, 284.384)**

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1. If an employee is not satisfied with the decision rendered by the highest administrator of the department pursuant to NAC 284.690 and submits a request for consideration of the grievance by the Committee pursuant to NAC 284.695, the employee or the highest administrator or his or her designee may request a resolution conference to meet informally in the presence of a neutral facilitator to discuss the grievance and possible resolutions.

2. If an employee is not satisfied with the response of the department or agency pursuant to NAC 284.5243 and submits a request for consideration of a complaint by the Committee pursuant to NAC 284.6951, the employee or the department or agency or a designee thereof may request a resolution conference to meet informally in the presence of a neutral facilitator to discuss the complaint and possible resolutions.

3. Except as otherwise provided in this subsection, a request for a resolution conference may be submitted to the Division at any time after the employee submits his or her request for consideration of the grievance or complaint by the Committee. If the Committee has notified the parties of the date on which it will hold a hearing to consider the grievance or complaint, the request for a resolution conference may not be submitted less than 15 working days before that date.

4. If either party requests a resolution conference, the Division shall appoint a neutral facilitator to conduct the resolution conference and require both parties to participate. The facilitator must not be affiliated with either party.

5. The submission of a request for a resolution conference does not deprive the Committee of jurisdiction to consider the grievance or complaint if:

(a) The parties are unable to reach an agreement for the resolution of the grievance or complaint at the resolution conference;

(b) The parties reach an agreement for the resolution of the grievance or complaint at the resolution conference, but the employee subsequently notifies the Committee that the agreement has failed; or

(c) The Division is unable to arrange a resolution conference as described in subsection 6.

6. Except as otherwise provided in this subsection, if a party to a complaint submits a request for a resolution conference, the Division shall arrange a resolution conference before the scheduled hearing. If the Division is unable to arrange a resolution conference in the period between the request for the resolution conference and the scheduled hearing, the Division shall provide to the Committee, upon request, the reason that the Division was unable to arrange the resolution conference.

(Added to NAC by Personnel Comm'n by R026-11, 12-30-2011, eff. 1-1-2012; A by R033-17, 10-31-2017)

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