

**ADOPTED REGULATION OF
THE CHIEF OF THE HEARINGS DIVISION OF
THE DEPARTMENT OF ADMINISTRATION**

LCB File No. R055-98

Effective August 12, 1998

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

AUTHORITY: §§2-7, 9, 10 and 11, NRS 616C.310; §8, NRS 233B.100 and 616C.310.

Section 1. Chapter 616C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *1. Each special appeals officer appointed by the governor pursuant to subsection 4 of NRS 616C.340 must be an attorney who has been licensed to practice law before all the courts of this state for at least 2 years.*

2. The senior appeals officer shall:

(a) Create and maintain a list of persons who have been appointed as special appeals officers by the governor pursuant to subsection 4 of NRS 616C.340.

(b) Assign cases to special appeals officers from the list described in paragraph (a).

(c) If he assigns a particular case to a special appeals officer, provide to each party involved in that case the name of the special appeals officer to whom the case has been assigned.

(d) In determining the particular special appeals officer to whom a case will be assigned, consider:

- (1) The venue in which the case will be heard;*
- (2) The relative workloads of the special appeals officers who are otherwise available to hear the case;*
- (3) Whether the special appeals officers who are otherwise available to hear the case have promptly settled and decided cases that have been assigned to them in the past;*
- (4) The particular expertise of the special appeals officers who are otherwise available to hear the case; and*
- (5) Any other factor that the senior appeals officer determines to be relevant.*

Sec. 3. *As used in NAC 616C.265 to 616C.336, inclusive, and section 2 of this regulation, unless the context otherwise requires, “licensed representative” means a person who is licensed pursuant to NAC 616C.350 to 616C.377, inclusive.*

Sec. 4. *If the hearings division of the department of administration, pursuant to chapter 277 of NRS, enters into an agreement with another agency in which the hearings division agrees to hold a hearing in a contested case or to conduct a fair hearing or impartial adjudication in regard to a matter that is not a contested case pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS:*

- 1. The senior appeals officer shall assign an appeals officer or special appeals officer to conduct the hearing or adjudication.*
- 2. The agency requesting the hearing or adjudication shall reimburse the hearings division for the cost of conducting the hearing or adjudication, including, without limitation, the cost of interpreting, recording and reporting the proceedings of the hearing or adjudication.*

3. *The appeals officer or special appeals officer to whom the hearing or adjudication is assigned shall, in conducting the hearing or adjudication, follow the procedures set forth in any statutes or regulations that apply specifically to such a hearing or adjudication. If no statutes or regulations set forth the procedures that apply specifically to such a hearing or adjudication, the appeals officer or special appeals officer to whom the hearing or adjudication is assigned shall, in conducting the hearing or adjudication, follow the procedures set forth in:*

(a) Chapter 233B of NRS; and

(b) The regulations of the hearings division that are set forth in chapters 616A to 617, inclusive, of NAC.

Sec. 5. *In addition to a prehearing conference authorized pursuant to NAC 616C.277, an appeals officer may, in regard to any proceeding that is being heard before him:*

1. Call the parties to the proceeding together for a conference to be held before the taking of testimony; and

2. Recess the proceeding to hold a conference, to address any matter that, in the opinion of the appeals officer, will assist in securing the just, speedy and economical determination of the issues that are in question in the proceeding. If an appeals officer conducts a conference pursuant to this section, the appeals officer shall ensure that the official record of the proceeding contains a notation that sets forth the results of such a conference.

Sec. 6. *All parties to a hearing or other proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or regulations adopted pursuant to*

those chapters, their counsel or licensed representative and spectators shall conduct themselves in a respectful, appropriate and professional manner.

Sec. 7. *If a party to an appeal seeks judicial review of the opinion of an appeals officer pursuant to NRS 616C.370, the party shall, within 10 days after receiving the final decision of the court in which judicial review was sought, provide copies of the decision of the court to the appeals officer who rendered the opinion for which judicial review was sought.*

Sec. 8. *1. A petition requesting that the hearings division of the department of administration adopt, file, amend or repeal a regulation must include, without limitation:*

(a) The name and address of the petitioner;

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

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

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

(e) If the petition is requesting the adoption or amendment of a regulation, the full text of that proposed regulation or amendment.

2. A person filing such a petition shall file an original and three copies of the petition and any supporting documentation with the senior appeals officer.

3. A petition filed without:

(a) The information required pursuant to subsection 1; or

(b) The number of copies required pursuant to subsection 2,

will be returned to the petitioner and no action will be taken by the hearings division.

4. *The hearings division will notify the petitioner in writing of its decision concerning his petition within 30 days after the hearings division receives the petition.*

Sec. 9. *1. As used in NRS 616D.065, the hearings division of the department of administration will interpret:*

(a) "Costs that are incurred by the hearings division of the department of administration for a court reporter" to include, without limitation, costs associated with the recording and transcription of a hearing or other proceeding.

(b) "Order of the appeals officer" to include, without limitation:

(1) An order that directs a party to provide in a timely manner medical reports, videotapes or other evidence that the party proposes to introduce at a hearing or other proceeding;

(2) An order that directs a party to provide or allow discovery;

(3) A prehearing order; and

(4) An order granting or denying a stay.

2. If an appeals officer orders an attorney or licensed representative of a party to pay costs pursuant to NRS 616D.065, the appeals officer may direct the attorney or licensed representative to pay the costs to:

(a) The department of administration; or

(b) The person or entity that provided the service for which the costs were incurred.

Sec. 10. NAC 616C.306 is hereby amended to read as follows:

616C.306 1. An appeals officer may [**direct**] *order* a party to prepare proposed findings of fact and conclusions of law . [**and decision.**]

2. If an appeals officer [directs] orders a party to prepare [such a document,] proposed findings of fact and conclusions of law, the party shall [serve, at least 5 days before submission of the document] , within 10 days after the appeals officer issues the order or as otherwise specified by the appeals officer:

(a) Submit the proposed findings of fact and conclusions of law to the appeals officer [,] ;
and

(b) Serve upon the opposing party or, if the opposing party is represented, upon the counsel or licensed representative of the opposing party, a copy of the [document upon all parties who have appeared at the hearing.

2. Any party who opposes any matter contained in a document prepared pursuant to an order of the appeals officer shall file notice of his opposition] proposed findings of fact and conclusions of law.

3. If a party who has been served proposed findings of fact and conclusions of law pursuant to paragraph (b) of subsection 2 desires to oppose one or more of the findings or conclusions, that party shall, within 5 days after receiving the proposed findings of fact and conclusions of law:

(a) File with the appeals officer [within 5 days after service on the party of the document.] a motion to amend the proposed findings of fact and conclusions of law; and

(b) Serve upon the party who prepared the proposed findings of fact and conclusions of law or, if that party is represented, upon the counsel or licensed representative of that party, a copy of the motion to amend the proposed findings of fact and conclusions of law.

Sec. 11. NAC 616C.336 is hereby amended to read as follows:

616C.336 To the extent not elsewhere provided in NAC 616C.274 to 616C.336, inclusive, *and sections 3 to 9, inclusive, of this regulation*, clarification of those sections or relief from the strict application of any of their terms may be obtained by filing with the appeals officer a written motion supported by affidavit **[and]** *or* points and authorities, copies of which must be served upon all parties.