

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

**LCB File No. R055-98**

April 30, 1998

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

AUTHORITY: §§2-6, NRS 616C.310; §7, NRS 233B.100 and 616C.310; §§8-10, NRS 616C.310.

**Section 1.** Chapter 616C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, 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.** *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:*

- 1. The senior appeals officer must assign an appeals officer or special appeals officer to conduct the hearing or adjudication.*
- 2. The agency requesting the hearing or adjudication must 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 must, 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 must, 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 616D, inclusive, of NAC.*

**Sec. 4.** *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 must ensure that the official record of the proceeding contains a notation that sets forth the results of such a conference.*

**Sec. 5.** *1. All parties to a hearing or other proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, of NRS or regulations adopted pursuant to those chapters, their counsel or representative and spectators shall conduct themselves in a respectful manner.*

*2. Attorneys representing parties in a hearing or proceeding described in subsection 1 shall conduct themselves in accordance with the rules of professional conduct adopted by the supreme court of Nevada.*

*Sec. 6. 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:*

- 1. The senior appeals officer; and*
- 2. The appeals officer who rendered the opinion for which judicial review was sought.*

*Sec. 7. 1. A petition requesting that the hearings division of the department of administration adopt, file, amend or repeal a regulation must include:*

- (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 of a regulation, the full text of that proposed regulation.*

*2. A person filing a petition shall file an original and three copies of the petition and any supporting documentation with the chief of the hearings division.*

*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 division receives the petition.*

**Sec. 8.** NAC 616C.282 is hereby amended to read as follows:

616C.282 If a party or his counsel fails or refuses to comply with NAC 616C.274 to 616C.336, inclusive, *and sections 3 to 7, inclusive, of this regulation*, the hearing or appeals officer may make such orders as are necessary to direct the course of the hearing, including, but not limited to, the following:

1. Continue the hearing until the party or counsel complies with the requirements.
2. Restrict or prohibit the introduction of evidence.
3. Dismiss the matter.

**Sec. 9.** 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. If an appeals officer [directs] *orders* a party to prepare such a document, the party shall [serve, at least 5 days before submission of the document] *submit the document directly* to the appeals officer [, 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 with the appeals officer within 5 days after service on the party of the document.] *within 14 days after receiving the order.*

**Sec. 10.** 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 7, 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 points and authorities, copies of which must be served upon all parties.