

Chapter 284 of NAC

LCB File No. T018-04

**ADOPTED TEMPORARY REGULATION OF
THE PERSONNEL COMMISSION**

Filed with the Secretary of State on December 27, 2004.

NAC 284.678 Statement of grievance: Contents; time to file. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in *subsections 3, 4, and 5* an employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.
2. If the employee submits a letter, it must include:
 - (a) His name;
 - (b) His most recent date of hire;
 - (c) His position;
 - (d) His department, division and section;
 - (e) His mailing address;
 - (f) His business telephone number;
 - (g) A statement that he is filing a formal grievance;
 - (h) The date, time and place of the event or the date the employee learns of the event leading to the grievance;
 - (i) A concise statement of his grievance;
 - (j) A detailed description of his grievance, including the names of other persons involved in the event, if any;
 - (k) A proposed solution of his grievance;
 - (l) His signature; and
 - (m) The date he signed the statement.
3. If a grievance relates to a decision of a reviewing officer about a performance evaluation, an employee must file a grievance that identifies the specific points of disagreement, if such specificity is provided, not later than 10 working days after the date the employee receives the decision of the reviewing officer. If the grievance relates to the failure of a reviewing officer to respond to a request for a review within the time required by NAC 284.470, an employee must file a grievance not later than 10 working days after the date on which the time for such a response expired. A grievance filed pursuant to this subsection must be filed with:
 - (a) The appointing authority; or
 - (b) If the appointing authority is the immediate supervisor of the employee or the reviewing officer, the person who is at the next level of the grievance process.

4. *If the parties are engaged in informal discussions in an attempt to resolve the matter, the time limit for filing the grievance may be extended by the mutual agreement of the employee and the appointing authority or his designated representative. Any extension must be reduced to writing and signed by the parties on a form developed by the Department.*
5. *Extensions may be granted at each step of the grievance procedure utilizing the procedures listed in subsection 4.*

NAC 284.682 Appeal of grievance to higher level. (NRS 284.065, 284.155, 284.384)

1. If the correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the Department of Personnel determines that the submission of the grievance to the supervisor would be a useless act, the aggrieved employee may appeal directly to the next appropriate level.
2. An employee has 10 working days to refer his grievance to the next level after:
 - (a) He receives notification of the action; or
 - (b) The passage of 10 working days after his grievance is deemed to have been received, whichever occurs first, at each step in the procedure.

NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:
 - (a) Report the alleged discrimination to the *Department of Personnel Sexual Harassment/Discrimination Unit*, Attorney General, the employee's appointing authority, an equal employment opportunity officer, a personnel representative for his department, *or the appropriate University and Community College System of Nevada Affirmative Action Office* for *investigation*;
 - (b) Use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive; or
 - (c) File a complaint with the Nevada Equal Rights Commission pursuant to NRS 613.405.
2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T018-04**

The Personnel Commission adopted temporary regulations assigned LCB File No. T018-04 which pertain to chapter 284 of the Nevada Administrative Code on December 27, 2004.

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

On November 2, 2004, a “Notice of Workshop” to solicit comments on proposed temporary regulations and “Notice of Hearing” for the adoption and amendment of temporary regulations was posted conspicuously in public buildings. On the same day, copies of the notices and the text of the proposed regulations were filed with the Nevada State Library and the Legislative Counsel Bureau. Also on November 2, 2004, all State agencies were notified by memorandum of the proposed actions. Copies of the notices with the text of the proposed temporary regulations were included with the memorandum for dissemination among State employees. Copies of the notices and text of the proposed temporary regulations were posted on the Department’s website and also sent to all employee organizations, all Nevada county public libraries, all requesting parties, and members of the Personnel Commission.

On November 19, 2004, a workshop was held. Shelley Blotter, Chief, Technical Services Division, Department of Personnel, explained the purpose of the workshop, the process by which the proposed temporary regulations would be reviewed and adopted. Ms. Blotter read the explanation of change for each of the sections and solicited comments.

- a. The following summarizes the comments made at the workshop regarding the proposed temporary regulations:

Sec. 1 – NAC 284.678 Statement of grievance: Contents; time to file.

Ms. Ruth Edsall, DETR, stated that this regulation change is intended to address a problem that DETR experienced. Whenever a grievance or an issue surfaces, employees and management want to work together to solve the problem. The situation that resulted in this proposed change was related to scheduling. DETR employees had an issue that they would have resolved in a grievance, but in trying to meet with them to work out a resolution to the issue, we had to extend the timeframe for filing the grievance. When the actual grievance got to EMC, it was dismissed for lack of timeliness. This regulation change would allow a flexible time frame for resolving issues at the lowest level possible.

Mr. Wally Tarantino, legal representative for several employee associations, suggested eliminating the language in 284.682 that addresses the other steps of

the grievance procedure. He suggested that language be included requiring the agreement between the parties to be a written agreement on a form provided by the department.

Mr. Bruce Breslow, Chairman of the EMC, stated this is a very good proposal. The only suggestion he would propose was that a timeframe be added to ensure expeditious resolution and avoid potential delays in the process.

There were no further questions, comments, opposition or discussion on this section.

Sec. 2 – NAC 284.682 Appeal of grievance to higher level.

This section was not presented at the workshop but added as a result of comments made at the workshop.

Mr. Wally Tarantino, legal representative for several employee associations, suggested eliminating the language in 284.682 that addresses the other steps of the grievance procedure. He stated that the language currently reads, “extensions may be granted at any step of the grievance procedure.” He suggested eliminating that language and adding language to NAC 284.678 to include every step of the grievance procedure. He suggested the language state, “conforming extensions may also be granted at each subsequent step of the grievance procedure.”

Sec. 3 – NAC 284.696 Unlawful discrimination.

Ms. Debra Olson, Director BCN Human Resources, UCCSN, requested clarification because UCCSN has their own affirmative action officers and all complaints from or allegations against UCCSN employees go directly to these officers.

There were no further questions, comments, opposition or discussion on this section.

Regulations presented at the workshop are attached for reference.

2. **The number of persons who:**
 - (a) **Attended the hearing:** 21 in Carson City and 7 in Las Vegas
 - (b) **Testified at the hearing:** 4
 - (c) **Submitted written comments:** No written comments were submitted.**A summary of the workshop is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada, 89701-4204.**

3. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

The temporary regulations do not affect businesses; therefore, their comments were not solicited.

4. If the temporary regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

An amendment to NAC 284.678 was revised at the Personnel Commission meeting to address interested parties concerns.

5. The estimated economic effect of the temporary regulation on the business which it is to regulate and on the public.

These regulations do not have a direct economic effect on any business.

6. The estimated cost to the agency for enforcement of the temporary regulations:

Enforcement of these regulations should not result in any increased cost to the Department of Personnel.

7. A description of any regulations of other State or governmental agencies which the temporary regulations overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, provide the name of the regulating federal agency.

There is no duplication or overlapping created by these regulations.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

These regulations are not more stringent than a federal regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

These regulations do not provide new or increase existing fees; therefore, no monies will be collected or used.

**Temporary Regulations
Presented at Workshop**

November 19, 2004

Section 1. NAC 284. 678 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Employment, Training, and Rehabilitation, allows the appointing authority or his designated representative and the employee to enter into an agreement to extend the time to file a grievance. Both parties must agree to the extension.

NAC 284.678 Statement of grievance: Contents; time to file. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in ~~[subsection]~~ *subsections 3 and 4*, an employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.
2. If the employee submits a letter, it must include:
 - (a) His name;
 - (b) His most recent date of hire;
 - (c) His position;
 - (d) His department, division and section;
 - (e) His mailing address;
 - (f) His business telephone number;
 - (g) A statement that he is filing a formal grievance;
 - (h) The date, time and place of the event or the date the employee learns of the event leading to the grievance;
 - (i) A concise statement of his grievance;
 - (j) A detailed description of his grievance, including the names of other persons involved in the event, if any;
 - (k) A proposed solution of his grievance;
 - (l) His signature; and
 - (m) The date he signed the statement.
3. If a grievance relates to a decision of a reviewing officer about a performance evaluation, an employee must file a grievance that identifies the specific points of disagreement, if such specificity is provided, not later than 10 working days after the date the employee receives the decision of the reviewing officer. If the grievance relates to the failure of a reviewing officer to respond to a request for a review within the time required by NAC 284.470, an employee must file a grievance not later than 10 working days after the date on which the time for such a response expired. A grievance filed pursuant to this subsection must be filed with:
 - (a) The appointing authority; or

(b) If the appointing authority is the immediate supervisor of the employee or the reviewing officer, the person who is at the next level of the grievance process.

4. *If the parties are engaged in informal discussions in an attempt to resolve the matter, the time limit for filing the grievance may be extended by the mutual agreement of the employee and the appointing authority or his designated representative.*

Sec. 2. NAC 284. 696 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, allows an employee to report alleged discrimination directly to the Department of Personnel Sexual Harassment/Discrimination Unit.

Additionally, the wording is changed to clarify that the report of alleged discrimination would result in an investigation of the allegations.

NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:
 - (a) Report the alleged discrimination to the Attorney General, the employee's appointing authority, an equal employment opportunity officer, ~~or~~ a personnel representative for his department, *or the Department of Personnel Sexual Harassment/Discrimination Unit* for ~~corrective action~~ *investigation*;
 - (b) Use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive; or
 - (c) File a complaint with the Nevada Equal Rights Commission pursuant to NRS 613.405.
2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.

**Temporary Regulations Presented At
The Personnel Commission Meeting**

December 17, 2004

Section 1. NAC 284. 678 is hereby amended to read as follows:

Explanation of Proposed Change: The Department of Employment, Training, and Rehabilitation, requested an amendment to allow the appointing authority or his designated representative and the employee to enter into an agreement to extend the time to file a grievance.

At the workshop, Walter Tarantino legal counsel for the Nevada Correctional Officers' Association proposed an additional amendment to this section that allows for an appointing authority and a grievant to agree to extensions at each step of the grievance process. Extensions are limited to no more than 20 working days at each level in the grievance process. This limit is recommended to ensure the timely processing of grievances.

NAC 284.678 Statement of grievance: Contents; time to file. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in ~~[subsection]~~ *subsections 3, 4, and 5* an employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.
2. If the employee submits a letter, it must include:
 - (a) His name;
 - (b) His most recent date of hire;
 - (c) His position;
 - (d) His department, division and section;
 - (e) His mailing address;
 - (f) His business telephone number;
 - (g) A statement that he is filing a formal grievance;
 - (h) The date, time and place of the event or the date the employee learns of the event leading to the grievance;
 - (i) A concise statement of his grievance;
 - (j) A detailed description of his grievance, including the names of other persons involved in the event, if any;
 - (k) A proposed solution of his grievance;
 - (l) His signature; and
 - (m) The date he signed the statement.

3. If a grievance relates to a decision of a reviewing officer about a performance evaluation, an employee must file a grievance that identifies the specific points of disagreement, if such specificity is provided, not later than 10 working days after the date the employee receives the decision of the reviewing officer. If the grievance relates to the failure of a reviewing officer to respond to a request for a review within the time required by NAC 284.470, an employee must file a grievance not later than 10 working days after the date on which the time for such a response expired. A grievance filed pursuant to this subsection must be filed with:
 - (a) The appointing authority; or
 - (b) If the appointing authority is the immediate supervisor of the employee or the reviewing officer, the person who is at the next level of the grievance process.
4. *If the parties are engaged in informal discussions in an attempt to resolve the matter, the time limit for filing the grievance may be extended by the mutual agreement of the employee and the appointing authority or his designated representative. Any extension must be reduced to writing and signed by the parties on a form developed by the Department. In no case may an extension to the filing period be granted for more than 20 working days.*
5. *Extensions may be granted at each step of the grievance procedure utilizing the procedures listed in subsection 4. Extensions are limited to no more than 20 working days at each level in the grievance process.*

Sec. 2. NAC 284. 682 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by Walter Tarantino legal counsel for the Nevada Correctional Officers' Association, removes language in this section related granting extensions to grievance deadlines. More general language regarding this issue has been proposed for inclusion in NAC 284.678.

NAC 284.682 Appeal of grievance to higher level. (NRS 284.065, 284.155, 284.384)

1. If the correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the Department of Personnel determines that the submission of the grievance to the supervisor would be a useless act, the aggrieved employee may appeal directly to the next appropriate level.
2. An employee has 10 working days to refer his grievance to the next level after:
 - (a) He receives notification of the action; or
 - (b) The passage of 10 working days after his grievance is deemed to have been received, whichever occurs first, at each step in the procedure.

~~[3. The time limit for the grievance procedure may be extended by agreement of the parties.]~~

Sec. 3. NAC 284. 696 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, allows an employee to report alleged discrimination directly to the Department of Personnel Sexual Harassment/Discrimination Unit. Additionally, the Director of BCN Human Resources requested specific reference to the appropriate contact for UCCSN employees.

Other wording has been changed to clarify that the report of alleged discrimination would result in an investigation of the allegations.

NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:
 - (a) Report the alleged discrimination to the *Department of Personnel Sexual Harassment/Discrimination Unit*, Attorney General, the employee's appointing authority, an equal employment opportunity officer, ~~or~~ a personnel representative for his department, *or the appropriate University and Community College System of Nevada Affirmative Action Office* for ~~corrective action~~ *investigation*;
 - (b) Use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive; or
 - (c) File a complaint with the Nevada Equal Rights Commission pursuant to NRS 613.405.
2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.