

**ADOPTED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R056-10

Effective October 26, 2011

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

AUTHORITY: §§1-3, NRS 284.065, 284.155 and 284.383.

A REGULATION relating to the State Personnel System; revising provisions relating to disciplinary procedures; and providing other matters properly relating thereto.

Section 1. NAC 284.097 is hereby amended to read as follows:

284.097 “Reviewing officer” means:

1. The supervisor of the person who prepared a report on performance of an employee; or
2. Such other person designated by the appointing authority,

↳ who reviews the report on performance upon the request of the employee pursuant to paragraph (b) of subsection ~~[6]~~ 7 of NAC 284.470.

Sec. 2. NAC 284.470 is hereby amended to read as follows:

284.470 1. A person shall not complete a report on performance unless he has completed the training provided or approved by the Director concerning the preparation of a report on performance.

2. A report on performance must be prepared on the form prescribed by the Department of Personnel.

3. A report on performance must be filed at the times prescribed by NRS 284.340, but may be filed more frequently at the discretion of the supervisor of the employee. If a report on

performance is not filed on or before the times specified in NRS 284.340, the performance of the employee shall be deemed to be standard.

4. *If the performance of an employee falls below standard, his or her supervisor shall inform the employee promptly and specifically of the deficiencies in the performance of the employee regardless of whether a report on performance of the employee is completed or filed.*

5. If any information that would have affected the rating of performance of an employee during a period of evaluation becomes available after the date on which the report on performance of the employee is filed for that period, the information may be included in the report on performance for the current period of evaluation and taken into consideration in determining the rating of performance for the current period of evaluation.

~~5.~~ 6. When a report on performance is given which reports the overall rating of performance of an employee as substandard:

(a) The report must contain a written notice that such reports affect both merit pay increases and the employee's eligibility for longevity pay; and

(b) An additional report on the performance of the employee must, in accordance with subsection 4 of NRS 284.340, be filed at least once every 90 days after the initial report that includes the substandard rating until the performance of the employee improves to standard or disciplinary action is taken against the employee.

~~6.~~ 7. Except as otherwise provided in subsection ~~7.~~ 8, the preparation of each report on performance must include a discussion between the employee and his immediate supervisor.

Within 10 working days after the discussion takes place:

(a) The employee must complete and sign the appropriate section on the report on performance and return the report to his supervisor for forwarding to the reviewing officer or appointing authority.

(b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify the specific points of disagreement, if such specificity is provided, and return the response to his supervisor. The reviewing officer shall respond to the employee in writing on a form prescribed by the Department of Personnel within 10 working days after the supervisor receives the request.

~~7.1~~ 8. If an employee is unavailable for a discussion of the report on performance pursuant to subsection ~~6.1~~ 7 because of an extended absence, the immediate supervisor of the employee shall cause the report to be mailed to the employee. Within 10 working days after the date on which the employee receives the report:

(a) The employee must complete and sign the appropriate section on the report on performance and mail the report to his supervisor for forwarding to the appointing authority or reviewing officer.

(b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify any specific point of disagreement, if the report provides such specificity, and mail his response to his supervisor. The reviewing officer shall respond to the employee in writing on a form prescribed by the Department of Personnel within 10 working days after the supervisor receives the request for review from the employee. For the purposes of this paragraph, a report on performance or request for review is deemed to have been received on the third day after the date on which the report or request is postmarked.

~~[8:]~~ **9.** A copy of each report on performance and, if applicable, any written response to such a report, must be provided to the employee and filed with the Department of Personnel.

~~[9:]~~ **10.** If any written comments are added to a report on performance after a copy of the report has been provided to the employee pursuant to subsection ~~[8:]~~ **9:**

(a) A copy of the revised report which includes the written comments must be provided to the employee; and

(b) The employee may respond, in writing, to the additional comments in the revised report not later than 10 working days after he receives a copy of the revised report and submit the response to the Department of Personnel for inclusion in his file of employment.

~~[10:]~~ **11.** An employee and his appointing authority may agree in writing to extend one or more of the periods prescribed in subsection ~~[6 or 7:]~~ **7 or 8.**

~~[11:]~~ **12.** If a reviewing officer fails to respond to a request for review from an employee within the time required by this section, the employee may institute the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.

Sec. 3. NAC 284.638 is hereby amended to read as follows:

284.638 1. If ~~[an employee's performance falls below standard or if]~~ an employee's conduct comes under one of the causes for action listed in NAC 284.650, the supervisor shall inform the employee promptly and specifically of the ~~[deficiencies.]~~ **conduct.**

2. If appropriate and justified, following a discussion of the matter, a reasonable period of time for improvement or correction may be allowed before initiating disciplinary action.

3. In situations where an oral warning does not cause a correction of the condition or where a more severe initial action is warranted, a written reprimand prepared on a form prescribed by

the Department of Personnel must be sent to the employee and a copy placed in the employee's personnel folder which is filed with the Department of Personnel.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB File #R056-10

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

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.

Copies of the proposed regulations, notices of workshop, and notices of intent to act upon a regulation were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel	Grant Sawyer State Office Bldg.
Blasdel Building	555 E. Washington Blvd
209 E. Musser St	Suite 4401
Carson City, NV 89701	Las Vegas, NV 89101
Nevada State Library and Archives	Capitol Building
100 Stewart St	Main Floor
Carson City, NV 89701	Carson City, NV 89701
Legislative Building	Gaming Control Board
401 S. Carson St	1919 College Parkway
Carson City, NV 89701	Carson City, NV 89701

Attached are excerpts from the minutes from the workshop that apply to these regulations.

A Regulation Workshop was conducted by the Department of Personnel on February 25, 2010 and a public hearing was held by the Nevada Personnel Commission on September 28, 2011. There were no comments received from the public regarding this regulation.

2. The number of persons who:

- (a) **Attended each hearing:** February 25, 2010 – 17; September 28, 2011 – 57
- (b) **Testified at each hearing:** February 25, 2010 – 1; September 28, 2011 – 2
- (c) **Submitted written comments:** None

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

Comments were not solicited, as the regulations do not affect businesses.

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

There were positive comments from AFSCME; no opposition to the proposed language changes.

5. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

These regulations do not have a direct economic effect on either a regulated business or the public.

6. The estimated cost to the agency for enforcement of the adopted regulation:

There is no additional cost to the agency for enforcement of these regulations.

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

There are no other state or government agency regulations that the proposed amendments duplicate.

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 do not include any provisions that are more stringent than any 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.

No fees are associated with these regulations.

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

These regulations are specific to State government agencies and has no impact on small businesses.

SUMMARY OF THE WORKSHOP TO SOLICIT COMMENTS ON THE PROPOSED
REGULATIONS OF THE STATE DEPARTMENT OF PERSONNEL

February 25, 2010
CARSON CITY, NEVADA

Attendees in Carson City:

Teresa Thienhaus, Director, Department of Personnel
Shelley Blotter, Division Administrator of Employee and Management Services, Department of Personnel
Mark Evans, Supervisory Personnel Analyst, Department of Personnel
Amy Davey, Personnel Analyst III, Department of Personnel
Carrie Hughes, Staff Specialist, Department of Personnel
Ricky Burdick, Administrative Assistant II, Department of Personnel
Colleen Cohan-Scott, Equal Employment Opportunity Officer, Department of Corrections
Renee Travis, Personnel Officer I, Department of Administration
Todd Rich, Administrative Coordinator, Gaming Control Board
Kareen Masters, Deputy Director, Department of Health and Human Services
Teri Hack, Personnel Technician III, Department of Conservation and Natural Resources
Janet Damschen, Employee Relations Manager, Nevada System of Higher Education
Barbara Dieringer, Training Officer II, Department of Personnel
Troy Orosco, Training Officer II, Department of Personnel
Todd Rich, Administrative Coordinator, Gaming Control Board

Attendees in Las Vegas:

Mark Anastas, Division Administrator of Recruitment and Retention, Department of Personnel
Jill Pressman, Training Officer II, Department of Personnel.

The workshop commenced at 1:30 p.m. Shelley Blotter welcomed everyone to the meeting and asked them to sign in.

The purpose of today's workshop is to solicit comments from effected parties with regard to the regulations proposed for permanent adoption. These regulations will be considered for adoption by the Personnel Commission at their May 21, 2010 meeting.

If the regulations are adopted, they will go into effect when filed with the Secretary of State which will be approximately 40 days after the Personnel Commission meeting.

Amy Davey read the following statement:

Items C & D (NAC 284.638 & 284.470) propose to move existing language regarding employee performance problems to a more relevant location in regulation. I will address these items together.

NAC 284.638 instructs supervisors to promptly and specifically discuss performance deficiencies with their employees. This is an important and effective tool towards performance

management. However, this language is currently within regulations that describe the progressive disciplinary process, specifically NAC 284.638 “Warnings and written reprimands”.

The Department of Personnel is proposing to move this language to NAC 284.470 which addresses reports on performance. This change recognizes that addressing employee performance deficiencies does not necessarily warrant a disciplinary warning or written reprimand, but it does not preclude a supervisor from doing so when appropriate.

Item D (NAC 284.470) removes the aforementioned employee performance language from the regulations that describe warnings and written reprimands.

Following her explanation, Shelley Blotter requested public comments.

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

Shelley Blotter called the workshop closed at 1:54 P.M.