

Grievance Number 7386	Grievant GAY, CECILY	Status Step 4 Pending
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Grievant Information	
Name GAY, CECILY	Send Documents to External Rep No
Agency 742	Work Phone [REDACTED]
Organization 4682	Home Phone [REDACTED]
Location LV0277	Email [REDACTED]
Title ADMIN ASSISTANT 3	

Mailing Address
Mailing Address [REDACTED]
Contact Number [REDACTED]

Grievance Details	
Event Date 08/11/2020	Location Las Vegas
Event Time 8:00 AM	Date Aware of Event
Grievant Submission Waiver No	Agency Submission Waiver No
Categories(s) Personnel Conflict, Working Conditions	
Detailed Description On January 22, 2018 I was hired on as an AAIIL supervisor for the NV OSHA enforcement department. I was soon thereafter told by Evelyn Rankin, that I needed to fill out an NPD 4 for equitable pay for a person I was supervising (Rosie Alston). My supervisor at the time, Jimmie Garrett was not the main person handling my paperwork, Evelyn Rankin was. Due to what I believed to be lack of communication, and negligence. The NPD-4 was never submitted. I approached Jimmie Garrett about it and I was told to wait until my annual review. Once my annual review was due, Jimmie Garrett retired and Nick LaFronz took his place. I addressed this with both Nick LaFronz and Jess Lankford and they determined that since there was no paperwork to "go by" it could not be granted at that time. Shortly thereafter, my supervisor duties were taken from me. The reason for my grievance is that an NPD 4 was granted to Evelyn Rankin at the time of her being a supervisor for Rosie Alston, but those same courtesies were withheld from me. Also Evelyn's supervisor duties were withdrawn from her at the same time, and yet her NPD-4 is still in tact. Recently when I resubmitted my request, I was told by Jess Lankford that it should have been submitted prior to hiring. Which I know is true, however 3 other people in my department including my counterpart Evelyn Rankin were granted this request after they were hired. Now I am being told that since I no longer have these duties, I am not allowed to get an approval. however, I have been asking for this increase since 2018. When I was a supervisor. I feel as though my supervisor duties were taken, once I requested this NPD 4 in efforts to keep me from potential eligibility for it. I would like to know how it is fair to grant an NPD4 to someone in the same exact position and not grant it to another.	
NRS or NAC Sections NAC 284.204	
Proposed Resolution At this time, I request a review on unfair work practices and equal pay amongst employees. I propose that the NPD 4 be back dated to my start date, per my initial request, and that my step increase be changed with an effective date of 1/22/18 to Grade 27 step 6.	

Details Attachment
No Attachments

Step 1 Details
Submitted to LAFRONZ, NICHOLAS

<u>Submission Due Date</u> 09/09/2020	<u>Submit Date</u> 08/11/2020
<u>Response Due Date</u> 08/25/2020	<u>Response Date</u> 08/23/2020
<u>Action Due Date</u> 09/08/2020	<u>Action Date</u> 08/24/2020
<u>Grievant extension</u> No	<u>Agency extension</u> No
<u>Response</u> Ms. Gay and I were able to have a discussion regarding this grievance on 8/21/2020.	
Ms. Gay is aware of the staffing changes that occurred, as she described. But I'd like to reiterate some of those details as it relates to my involvement in this process. At the time of Ms. Gay's hire (1/22/2018), I was a Safety Supervisor, and did not supervise her. I became the District Manager on 1/28/2019, and at that time, became Ms. Gay's direct supervisor. In approximately October 2019, the administrative assistant staff was rearranged, which resulted in Ms. Gay reporting directly to a Safety Supervisor.	
I am unable to speak to any of the actions that took place at the time of Ms. Gay's hiring, or any discussions between her, my predecessor, and other staff, as I was not involved in them. The same is true for any pay adjustments that occurred for Evelyn Rankin or any other staff members - I was not involved in them.	
I can confirm that Ms. Gay's supervisory duties were *not* "taken" from her to prevent an adjustment in pay that would be based on those duties. The rearrangement of the administrative assistant staff was done to improve our office's processes.	
With regard to the NAC that applies to the adjustment in pay, that section of the NAC was changed, and the changes have been in effect since 1/30/2019. Specifically, the paragraph that related to pay differential between employees and those they supervise, was deleted. As I understand it, that provision cannot be applied retroactively.	
It does not appear that the NAC is applicable to Ms. Gay's status. Additionally, I do not have the authority to grant an adjustment in pay. I am unable to provide the proposed resolution.	
<u>NRS or NAC Sections</u> The Nevada Register contains the information detailing the changes to the referenced NAC. The current NAC can be found online.	
<u>Grievant Action</u> Escalate to Next Step	
<u>Grievant Comments</u> In regards to Mr. LaFronz's response. I'd like to further my grievance on the basis that the referenced NAC was accurately requested in 2018 and 2019. Also that the most recent request for an NPD-4 still applies to the revised version of the referenced NAC due to the fact that both as a supervisor and as a counterpart I was not given equitable pay. The previous NAC was applicable when it was requested in 2018 and with Mr.Lafronz in 2019. However my request dated 1-29-2020 was denied by Mr. LaFronz and Mr. Langford initially due to the fact that it should have been submitted to personnel prior to me being hired by Mr.Lafronz's predecessor Mr. J Garrett. Now, Mr. Lafronz and his superiors are denying the same request on the basis that I am no longer performing supervisor duties. Duties which were taken from me for "the betterment" of the department. Regardless of these circumstances, the fact still remains, that the NAC does in fact apply to my status due to the fact that when I was hired as an AAIII, my pay not adjusted to a grade 27-6 which is what my counterpart Evelyn Rankins pay was adjusted to when she was hired as an AAIII. At this time I would like a further review into this matter to determine the reasons for an adjustment in pay based on an NPD-4 on behalf of Evelyn Rankin and the denial of the same adjustment for myself this matter should be determined based on equitable relationships between myself and Evelyn Rankin. I can only assume that the adjustment was made on behalf of Evelyn Rankin and no one else due to unethical practices resulting from friendship related nepotism. Previous requests have been made by others in my same position and denied by Alicia Welda and others, however it was approved for Evelyn Rankin. One could argue that this request was not submitted out of lack of concern for any other employee in this position that was not considered a friend. The blame should not be put in the employee, for it is not the employees duty to submit the NPD -4 request, but the supervisors. And if an NPD-4 was granted to one employee, it should be granted to both in identical positions. Please note that I am not requesting this outside of any of the current guidelines. Evelyn Rankin was not granted a pay adjustment based on longevity nor am I requesting to make what she's paid as of this date. My argument is that upon her being appointed into a position, she was given an adjustment that was also applicable when I was hired and for some reason wasn't granted to me. My department failed and continues to fail to ensure equitable relationships between myself and Evelyn Rankin. Reference attached NAC (2016)	

<b>Step 1 Response Attachments</b>
No Attachments

<b>Step 1 Grievant Attachments</b>
No Attachments

## Step 1 Event Log

Date/Time	User	Event Type	Description
08/24/2020	cgay0	Grievance Escalated by Grievant	Step 1 Grievant Response Submitted
08/23/2020	nlafroz	Grievance Response Submitted	Step 1 Response Submitted
08/11/2020	cgay0	Grievance Submitted	Submitted at Step 1

## Step 2 Details

Submitted to <b>CARREON, VICTORIA</b>	
Submission Due Date <b>09/08/2020</b>	Submit Date <b>08/24/2020</b>
Response Due Date <b>09/08/2020</b>	Response Date <b>08/27/2020</b>
Action Due Date <b>09/11/2020</b>	Action Date <b>08/27/2020</b>
Grievant extension <b>No</b>	Agency extension <b>No</b>

## Response

Ms. Gay has filed a grievance stating that she should have received a pay adjustment via an NPD-04 when she was hired on January 22, 2018 as well as when she requested a pay adjustment on January 29, 2019 due to the fact that she was supervising an employee with a higher rate of pay than her. Although she is no longer supervising another employee, she argues that her pay should still be adjusted "as a counterpart" to her coworker, Evelyn Rankin, who is also an Administrative Assistant III.

It is important to note that there is not a duty for a supervisor to request a salary adjustment for an employee as alleged by Ms. Gay. It is discretionary. An NPD-04 must be submitted to be requested. Ms. Gay has not been able to provide any documentation showing that her past supervisor, who has since retired, submitted a request to the Administrator for a pay adjustment. In addition, neither the current District Manager nor the Chief Administrative Officer have submitted a request to the Administrator for a pay adjustment for Ms. Gay.

NAC 284.204 allows salary adjustments to be approved either at the time of hiring or at a later date. The applicability of each of these provisions is analyzed below.

## Pay Adjustment at Initial Hiring: 284.204(1)(a)

Ms. Gay was hired as an Administrative Assistant III in OSHA on January 22, 2018. An NPD-04 was not submitted at the time Ms. Gay was hired. Pursuant to NAC 284.204(1)(a), an NPD-04 can be submitted at the time of hiring in order to: "Meet a difficult recruiting problem in which an effort to recruit a person for a position or class has failed to produce at least five eligible persons who are available to work, or the recruitment for the position or class has been deemed historically difficult..."

2. Employ a person whose education or experience is superior to those of another eligible person and who exceeds the minimum qualifications of the class."

These provisions did not apply because Ms. Gay was hired from an eligibility list that had more than five eligible persons and she applied for the position as a promotion from an Administrative Assistant II, Step 1 in another department, so she did not exceed the minimum qualifications of the class of Administrative Assistant III.

## Pay Adjustment for Supervisory Duties: NAC 284.204(1)(c)

Ms. Gay states that she should have been granted a salary adjustment because she was supervising an employee with a higher rate of pay than her. However, the provision in NAC 284.204(1)(c) that allowed such adjustments was repealed on January 30, 2019 and cannot be applied retroactively. See: <https://www.leg.state.nv.us/Register/2018Register/R164-18AP.pdf>

Therefore, Ms. Gay is not eligible for this adjustment.

## Pay Adjustment for Equitable Relationships: NAC 284.204(1)(b)

NAC 284.204(1)(b) allows an NPD-04 to be submitted to "maintain an equitable relationship in the status of steps among the employees of the appointing authority if a disparity exists." Ms. Gay argues that she should receive equitable pay "as a counterpart" to her coworker, Evelyn Rankin, who is currently at Grade 27 Step 10. Ms. Gay is requesting that her step be adjusted to Grade 27 Step 6 retroactive to her hiring date of 1/22/2018. Ms. Gay has not substantiated why a Grade 27 Step 6 would be appropriate under this provision.

## Allegations of Preferential Treatment

Ms. Gay indicates that she believes that she and her coworker, Evelyn Rankin, were treated differently. In Ms. Gay's response to Mr. LaFronz, she states that Ms. Evelyn Rankin's pay was adjusted at the time of hiring to reflect that she would be supervising an employee with higher pay. This is inaccurate. Ms Rankin was hired as an Administrative Assistant III on 3/25/13 at Step 1. Ms. Rankin submitted a written memo via her supervisor to the OSHA Chief Administrative Officer on 9/11/2014 requesting an adjustment in pay to address the salary differential between herself and the person she supervised. An NPD-04 requesting a salary increase was submitted by the Appointing Authority and approved with an effective date of 9/11/2014.

The supervisor who Ms. Gay indicates submitted the NPD-04 for Evelyn Rankin and told Ms. Gay he would submit an NPD-04 on her behalf after she had completed a year in her position has since retired. The current District Manager is not under an obligation to submit an NPD-04. It is at his discretion. There is no evidence presented that the current District Manager has provided preferential treatment to either Ms. Rankin or Ms. Gay.

#### Discussion with Ms. Gay

Prior to Ms. Gay filing this grievance, I spoke to her about her request on August 11, 2020 and followed up with the attached email. I wrote, "The Deputy Director, Budd Milazzo, is the person authorized to sign NPD-04 forms. He indicated to me that we need to have some documentation showing that an NPD-04 form was previously submitted and was lost somewhere in the process in order to move forward with this request. Otherwise, because Ceci is no longer supervising staff, she does not currently meet the criteria under NAC 284.204 (attached). Ceci indicated that she does not have any documentation. Therefore, we are unable to move forward with an NPD-04 at this time."

#### Conclusion

I do not recommend that a salary adjustment be made for Ms. Cecily Gay at this time because she is no longer supervising another employee and the provision in NAC 284.204(1)(c) allowing for salary adjustments to correct disparities between supervisors and their employees has been repealed. In addition, a pay adjustment under NAC 284.204(1)(b) is discretionary and is not recommended at this time.

Lastly, under NAC 284.204(3), "A retroactive adjustment must not exceed 6 months from the date on which the Division of Human Resource Management receives the request." Therefore, it is not possible to adjust Ms. Gay's pay back to 1/22/2018.

#### NRS or NAC Sections

NAC284.204 Adjustment of steps within same grade: Conditions for approval; request; effective date; revocation. (NRS 284.065, 284.155, 284.175)

1. Subject to the provisions of subsection 2, the Division of Human Resource Management may approve an adjustment of steps within the same grade to:

(a) Allow an appointing authority the flexibility to adjust the rate of pay for a position that will be filled by a person from a pool of eligible persons who are applying for the position on an open competitive basis in order to:

(1) Meet a difficult recruiting problem in which an effort to recruit a person for a position or class has failed to produce at least five eligible persons who are available to work, or the recruitment for the position or class has been deemed historically difficult. Such an adjustment of steps may be approved by the Division of Human Resource Management for a class for a period of 1 year.

(2) Employ a person whose education or experience is superior to those of another eligible person and who exceeds the minimum qualifications of the class. Any experience or education which is considered by the appointing authority pursuant to this subparagraph must be given a greater weight for those areas which are directly related to the position than general education and experience.

(b) Maintain an equitable relationship in the status of steps among the employees of the appointing authority if a disparity exists. An adjustment will not be granted pursuant to this section if the disparity in steps is:

(1) Among employees of different departments or agencies; or

(2) A result of:

(I) The length of service of employees;

(II) An adjustment in pay which was attained in a former class; or

(III) An adjustment in pay for an employee who resides in a particular geographical area.

2. Before the Division of Human Resource Management may approve an adjustment of steps pursuant to subsection 1, the appointing authority must submit a request on a form prescribed by the Division of Human Resource Management to the Division of Human Resource Management which:

(a) Specifies the qualifying conditions and justification for the request; and

(b) Certifies that the appointing authority has, where applicable:

(1) Considered the requirements for the pay required to meet the need described in subparagraph (1) of paragraph (a) of subsection 1;

(2) Considered the qualifications of any other eligible person who is available for work for the purposes of subparagraph (2) of paragraph (a) of subsection 1;

(3) Ensured that the adjustment is feasible on the basis of its fiscal effects; and

(4) Prepared and maintained an accurate record of the consideration of the factors listed in this section.

3. If an adjustment of steps is approved by the Division of Human Resource Management pursuant to subsection 1, the effective date of such an adjustment is the date on which a request that complies with subsection 2 is received by the Division of Human Resource Management or the personnel office of the department or agency at which the employee who is receiving the adjustment is employed. If a request for an adjustment of steps is delayed because an administrative or clerical error prevented the delivery of the request, the effective date must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment must not exceed 6 months from the date on which the Division of Human Resource Management receives the request.

Grievant Action  
**Escalate to Next Step**

Grievant Comments  
 At this time, I wish to move forward with my grievance and submit my original request.

**Step 2 Response Attachments**  
 Email.pdf

**Step 2 Grievant Attachments**  
 No Attachments

**Step 2 Event Log**

Date/Time	User	Event Type	Description
08/27/2020	cgay0	Grievance Escalated by Grievant	Step 2 Grievant Response Submitted
08/27/2020	vcarreo1	Grievance Response Submitted	Step 2 Response Submitted
08/24/2020	cgay0	Grievance Submitted	Submitted at Step 2

**Step 3 Details**

Submitted to  
**REYNOLDS, TERRY**

<u>Submission Due Date</u> 09/11/2020	<u>Submit Date</u> 08/27/2020
<u>Response Due Date</u> 09/11/2020	<u>Response Date</u> 09/02/2020
<u>Action Due Date</u> 09/17/2020	<u>Action Date</u> 09/03/2020
<u>Grievant extension</u> No	<u>Agency extension</u> No

Response  
 I have reviewed the grievance submitted by Ms. Gay and the responses of Supervisor LaFronz and DIR Administrator Carreon. Administrator Carreon states:  
 "Ms. Gay indicates that she believes that she and her coworker, Evelyn Rankin, were treated differently. In Ms. Gay's response to Mr. LaFronz, she states that Ms. Evelyn Rankin's pay was adjusted at the time of hiring to reflect that she would be supervising an employee with higher pay. This is inaccurate. Ms. Rankin was hired as an Administrative Assistant III on 3/25/13 at Step 1. Ms. Rankin submitted a written memo via her supervisor to the OSHA Chief Administrative Officer on 9/11/2014 requesting an adjustment in pay to address the salary differential between herself and the person she supervised. An NPD-04 requesting a salary increase was submitted by the Appointing Authority and approved with an effective date of 9/11/2014. The supervisor who Ms. Gay indicates submitted the NPD-04 for Evelyn Rankin and told Ms. Gay he would submit an NPD-04 on her behalf after she had completed a year in her position has since retired. The current District Manager is not under an obligation to submit an NPD-04. It is at his discretion. There is no evidence presented that the current District Manager has provided preferential treatment to either Ms. Rankin or Ms. Gay. Discussion with Ms. Gay Prior to Ms. Gay filing this grievance, I spoke to her about her request on August 11, 2020 and followed up with the attached email. I wrote, "The Deputy Director, Budd Milazzo, is the person authorized to sign NPD-04 forms. He indicated to me that we need to have some documentation showing that an NPD-04 form was previously submitted and was lost somewhere in the process in order to move forward with this request. Otherwise, because Ceci is no longer supervising staff, she does not currently meet the criteria under NAC 284.204 (attached). Ceci indicated that she does not have any documentation. Therefore, we are unable to move forward with an NPD-04 at this time."  
 " I do not recommend that a salary adjustment be made for Ms. Cecily Gay at this time because she is no longer supervising another employee and the provision in NAC 284.204(1)(c) allowing for salary adjustments to correct disparities between supervisors and their employees has been repealed. In addition, a pay adjustment under NAC 284.204(1)(b) is discretionary and is not recommended at this time. Lastly, under NAC 284.204(3), "A retroactive adjustment must not exceed 6 months from the date on which the Division of Human Resource Management receives the request." Therefore, it is not possible to adjust Ms. Gay's pay back to 1/22/2018."  
 I concur with the finding of Administrator Carreon. Therefore, I am denying the Grievance.

NRS or NAC Sections

NAC 284.204(3), "A retroactive adjustment must not exceed 6 months from the date on which the Division of Human Resource Management receives the request." Therefore, it is not possible to adjust Ms. Gay's pay back to 1/22/2018. NRS or NAC Sections NAC284.204 Adjustment of steps within same grade: Conditions for approval; request; effective date; revocation. (NRS 284.065, 284.155, 284.175)

1. Subject to the provisions of subsection 2, the Division of Human Resource Management may approve an adjustment of steps within the same grade to: (a) Allow an appointing authority the flexibility to adjust the rate of pay for a position that will be filled by a person from a pool of eligible persons who are applying for the position on an open competitive basis in order to: (1) Meet a difficult recruiting problem in which an effort to recruit a person for a position or class has failed to produce at least five eligible persons who are available to work, or the recruitment for the position or class has been deemed historically difficult. Such an adjustment of steps may be approved by the Division of Human Resource Management for a class for a period of 1 year. (2) Employ a person whose education or experience is superior to those of another eligible person and who exceeds the minimum qualifications of the class. Any experience or education which is considered by the appointing authority pursuant to this subparagraph must be given a greater weight for those areas which are directly related to the position than general education and experience. (b) Maintain an equitable relationship in the status of steps among the employees of the appointing authority if a disparity exists. An adjustment will not be granted pursuant to this section if the disparity in steps is: (1) Among employees of different departments or agencies; or (2) A result of: (I) The length of service of employees; (II) An adjustment in pay which was attained in a former class; or (III) An adjustment in pay for an employee who resides in a particular geographical area.

2. Before the Division of Human Resource Management may approve an adjustment of steps pursuant to subsection 1, the appointing authority must submit a request on a form prescribed by the Division of Human Resource Management to the Division of Human Resource Management which: (a) Specifies the qualifying conditions and justification for the request; and (b) Certifies that the appointing authority has, where applicable: (1) Considered the requirements for the pay required to meet the need described in subparagraph (1) of paragraph (a) of subsection 1; (2) Considered the qualifications of any other eligible person who is available for work for the purposes of subparagraph (2) of paragraph (a) of subsection 1; (3) Ensured that the adjustment is feasible on the basis of its fiscal effects; and (4) Prepared and maintained an accurate record of the consideration of the factors listed in this section.

3. If an adjustment of steps is approved by the Division of Human Resource Management pursuant to subsection 1, the effective date of such an adjustment is the date on which a request that complies with subsection 2 is received by the Division of Human Resource Management or the personnel office of the department or agency at which the employee who is receiving the adjustment is employed. If a request for an adjustment of steps is delayed because an administrative or clerical error prevented the delivery of the request, the effective date must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment must not exceed 6 months from the date on which the Division of Human Resource Management receives the request.

Grievant Action  
**Escalate to Next Step**

Grievant Comments  
 Mr. Reynolds states in his response that Evelyn Rankins request for NPD-4 was submitted more than 1 year after her hire date. Due to my lack of access to these records I would not have the dates in which her adjustment was made. However, the adjustment was submitted and approved by Jess Lankford at the time of the request. I'd like to note that at the time of my 1 year review I submitted the same NPD-4 request to my supervisor Mr.Lafronz. Mr. Lafronz submitted my request to CAO Jess Lankford who then denied the request on the basis of it not being submitted prior to my hiring. This is not equal treatment because as I stated before the law was the same at the time of both requests and above that the circumstances were identical. The issue here is unfair and unequal pay and granting one employee an adjustment yet denying another without reason. I wish to proceed with my request.

**Step 3 Response Attachments**  
 No Attachments

**Step 3 Grievant Attachments**  
 No Attachments

**Step 3 Event Log**

Date/Time	User	Event Type	Description
09/03/2020	cgay0	Grievance Escalated by Grievant	Step 3 Grievant Response Submitted
09/02/2020	treynol2	Grievance Response Submitted	Step 3 Response Submitted
08/28/2020	ghudso1	Recipient Reassignment	Reassigned from user: treynol4 to user: treynol2 Reassigning to B&I Director Reynolds.
08/27/2020	cgay0	Grievance Submitted	Submitted at Step 3

**Step 4 Details**

Submitted to	
COORDINATOR, EMC	
Submission Due Date	Submit Date
09/17/2020	09/03/2020
Response Due Date	Response Date
11/09/2020	

Action Due Date	Action Date
Decision Hearing Schedule Due Date 11/09/2020	Hearing Date
Hearing Decision Due Date	In Abeyance No
In Conference No	Decision N/A
Description/Comments	
Grievant Action N/A	
Grievant Comments	

Step 4 Attachments
No Attachments

Step 4 Event Log			
Date/Time	User	Event Type	Description
09/03/2020	cgay0	Grievance Submitted	Submitted at Step 4