



DEPARTMENT OF PERSONNEL
209 East Musser Street, Room 101
Carson City, Nevada 89701-4204
(775) 684-0150
<http://dop.nv.gov>

MEMO PERD #58-08
October 9, 2008

TO: Designees for Rules Distribution

FROM: Shelley Blotter, Interim Director
Department of Personnel

Handwritten signature of Shelley Blotter.

SUBJECT: REVISION #4, RULES FOR STATE PERSONNEL ADMINISTRATION

Attached is Revision # 4 to the *Rules for State Personnel Administration*. All changes resulted from regulation adopted by the Personnel Commission at the June 20, 2008 and September 12, 2008 meetings. The regulation for the "Adjustment of Grievances" section went into effect on August 26, 2008, and the one for "Reports on Performance" on September 29, 2008.

This revision can be added to your rulebooks by replacing the existing page with a similarly numbered page. In addition, the complete text of the *Rules for State Personnel Administration* is available on our website at www.dop.nv.gov. Revisions # 1 - 4 are also available separately on the website for downloading or printing to update an existing hardcopy.

Corrected pages with corresponding section of the rulebook are listed in the chart below:

SECTION	PAGE NOS.
Adjustment of Grievances	3 - 8
Reports on Performance	1 - 4

Please ensure everyone on your distribution list receives a copy. If you have any questions regarding this information, please contact Mark Evans at (775) 684-0149 or mevans@dop.nv.gov.

Thank you for your assistance.

Attachment
SB:vk

cc: Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives

REPORTS ON PERFORMANCE

NRS 284.335 states in part, “Standards; records and ratings for service.

1. The appointing authorities and other supervising officers of the various state departments, agencies and institutions, after consultation with the Director, shall establish standards of work performance for each class of positions. Each appointing authority shall provide each of its employees with a copy of the standards for his position.

The Director shall maintain service records of performance efficiency, character and conduct by a system of service ratings based upon those standards.

3. The Commission shall adopt regulations with respect to service ratings, and prescribe the extent to which service ratings must be considered in determining the advisability of transfers, the promotion of an employee to a higher class, the question of demotion or dismissal of any employee, increases and decreases in salary of an employee within the salary range established under this chapter and in all other decisions relating to the status of employees.”

NAC 284.468 Standards for performance of work. (NRS 284.065, 284.155, 284.335)

1. A standard for the performance of work is a written statement prepared on a form prescribed by the Department of Personnel of the results or behavior, or both, expected of an employee when the job elements of the employee’s position are satisfactorily performed under existing working conditions. Standards are required for all classified positions.

2. The appointing authority is responsible for ensuring that each position has standards and that each employee is evaluated using those standards. The supervisor has responsibility for establishing the initial standards, but the employee must be given the opportunity to provide comments when the standards for his position are revised.

3. The appointing authority has final approval of the standards for a position.

4. Standards must be reviewed annually and amended when appropriate.

5. Each employee must be provided with a copy of the standards for his position.

6. As used in this section, “job elements” means the principal assignments, job tasks, goals, objectives, responsibilities or related factors, or any combination thereof.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 8-28-85; A by Personnel Comm’n by R038-03 & R068-03, 10-30-2003)

NRS 284.337 states, “Reports: Duties of supervisor. An employee whose duties include the supervision of an employee who holds a position in the classified service shall:

1. For filing at the times specified in NRS 284.340, prepare reports on the performance of that employee. In preparing a report, he shall meet with the employee to discuss goals and objectives, to evaluate the employee’s improvement in performance and personal development, and to discuss the report.

2. Provide the employee with a copy of the report.

3. Transmit the report to the appointing authority.”

NRS 284.340 states, “Reports: Duties of appointing authority. Each appointing authority shall:

1. Report to the Director, in writing, the efficiency of his subordinates and employees, and other information, in such manner as the Commission may prescribe by regulation.

2. File reports with the Director on the performance, during the probationary period, of each of his employees who holds a position in the classified service. A report must be filed at the end of the 2nd and 5th months of employment if the probationary period is 6 months, or at the end of the 3rd, 7th and 11th months of employment if the probationary period is 12 months.

3. File a report annually with the Director on the performance of each of his employees

who holds a position in the classified service and has attained permanent status. The report must be filed at the end of the 12th month next following the attainment of permanent status, and at the end of every 12th month thereafter. If the report is not filed on or before the required date, the performance of the employee shall be deemed to be standard.

4. If any report he files with the Director on the performance of an employee who holds a position in the classified service includes a rating of substandard, file with the Director an additional report on the performance of the employee at least every 90 days until the performance improves to standard or until any disciplinary action is taken.

5. Provide the employee with a copy of each report filed.”

NAC 284.470 Preparation, filing, contents, discussion and distribution of reports; power and duties of employees; review; adjustment of grievances. (NRS 284.065, 284.155, 284.340, 284.384)

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 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. 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. Except as otherwise provided in subsection 7, 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. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 6 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. 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. 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*:

(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. An employee and his appointing authority may agree in writing to extend one or more of the periods prescribed in subsection 6 or 7.

11. 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.

[Personnel Div., Rule IX § A, eff. 8-11-73; A 12-28-75]—(NAC A by Dep't of Personnel, 10-26-84; 9-17-87; 10-18-89; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R197-99, 1-26-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002; R096-03, 10-30-2003; R144-05, 12-29-2005; **R174-08, 9-29-08**)

NAC 284.474 Employee entitled to copy of report. (NRS 284.065, 284.155, 284.340)
Each employee must be given a copy of the report prepared by the supervisor measuring his performance and development on the job. The report will not become official until signed by the rater. If requested, a copy must be provided to the employee at the time of the discussion between the supervisor and the employee. After the processing has been completed, a copy with all appropriate signatures will be provided the employee.

[Personnel Div., Rule IX § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.478 Appeal of decision of reviewing officer. (NRS 284.065, 284.155, 284.384)
A permanent employee may appeal a decision of a reviewing officer pursuant to NAC 284.470 through the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.

[Personnel Div., Rule IX § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-18-89; R197-99, 1-26-2000)

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- (l) His signature; and
- (m) The date he signed the statement.

3. Except as otherwise provided in NAC 284.692, 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. Except as otherwise provided in NAC 284.692, 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.

[Personnel Div., Rule XV § A part subsec. 1, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 3-23-94; R197-99, 1-26-2000; A by Personnel Comm'n by R023-05, 10-31-2005)

NAC 284.680 Date of receipt of grievance. (NRS 284.065, 284.155, 284.384) For the purposes of NAC 284.682, 284.686 and 284.690, a grievance is deemed to have been received at each step in the grievance procedure:

1. On the date on which the employee or his chosen representative personally delivers the grievance, transmits it by facsimile machine *or submits it via the Internet using the Employee Incident Tracking System within the Nevada Employee Action and Timekeeping System developed by the Department of Personnel, which is available at*

<https://nvapps.state.nv.us/NEATS/admin/Home.aep>; or

2. If the employee mails the grievance, 3 days after:

- (a) The date on which the grievance was postmarked; or
- (b) The date on the return receipt if sent by certified mail.

(Added to NAC by Personnel Comm'n by R065-98, 7-24-98; A by *Personnel Comm'n by R044-08, 8-26-08*)

NAC 284.682 Submission of grievance to next appropriate 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. Except as otherwise provided in NAC 284.692, 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.

[Personnel Div., Rule XV § A part subsec. 1, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005)

NAC 284.686 Submission of grievance to head of division or department. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in NAC 284.692, if, within 10 working days after the employee's grievance is deemed to have been received by his immediate supervisor, the employee has not received satisfactory relief, he may forward the grievance to the head of the major division of the department in which he works. In those cases where a department is not

subdivided into divisions, he may forward his request directly to the highest administrator in the department.

2. Additional managers or supervisors may become involved or a review committee may make a recommendation to the administrator of the agency.

[Personnel Div., Rule XV § A subsecs. 2 & 3, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005)

NRS 284.068 states, "Employee-Management Committee... Creation; appointment and terms of members.

1. The Employee-Management Committee, consisting of six members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Committee:

(a) Three persons to represent management within the Executive Department of State Government, and three persons to serve as alternates for them.

(b) Three persons to represent employees within the Executive Department of State Government, and three persons to serve as alternates for them.

3. The representatives of employees and their alternates must be selected from a list, supplied by state employees or one or more state employees' groups, or any combination of these, containing twice as many names as there are vacancies to be filled.

4. The members of the Committee and the alternates shall serve for 2 years."

NRS 284.071 states, "Employee-Management Committee... Chairman; rules; meetings; secretarial services.

1. The Chairman of the Employee-Management Committee must be chosen by a majority vote of the members.

2. The Committee shall adopt such rules as it deems necessary for its own management.

3. The Committee shall meet at least once every 3 months and at such other times as the Chairman may designate.

4. The Department shall provide secretarial services for the Committee."

NRS 284.073 states, "Employee-Management Committee: Duties. The Employee-Management Committee shall:

1. Serve in an advisory capacity to the Governor, the Commission and the department with respect to all matters of personnel administration and relations between management and employees.

2. Receive, consider and make recommendations on matters relating to personnel administration, policy and procedures.

3. Provide a forum for the hearing of employees' suggestions, complaints or disciplinary problems.

4. Provide a means of communication for disseminating information to employees regarding the personnel program.

5. Hold hearings, when requested, and make final decisions for the adjustment of grievances as provided by the regulations of the Commission."

NAC 284.690 Filing of grievance with administrator of department; action by administrator. (NRS 284.065, 284.155, 284.384)

1. If the employee has not received satisfactory relief within 10 working days after his grievance is deemed to have been received by the head of the division, he may file his grievance with the highest administrator of the department. Except as otherwise provided in NAC 284.692, the administrator may hold a hearing within 10 working days after receiving the employee's grievance.

2. Except as otherwise provided in NAC 284.692, the highest administrator may render a decision following the hearing or allow the grievance to be forwarded directly to the Committee within 10 working days.

3. In rendering a decision concerning a performance evaluation, an administrator shall address the findings of fact to the specific points of disagreement referred to in the grievance of the employee.

4. Within the established time limitations, including any extensions to those time limitations obtained pursuant to NAC 284.692, the highest administrator may appoint a person or committee composed of managers and employees to assist in the finding of facts and recommending a course of action.

[Personnel Div., Rule XV § A subsec. 4, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005)

NAC 284.692 Agreement for extension of time to file grievance or take required action. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in subsection 3, the time limit for filing a grievance and for taking any other action required by either party at any step in the grievance procedure may be extended by the mutual agreement of the employee who may file the grievance and the appointing authority or his designated representative.

2. An agreement to an extension of time entered into pursuant to subsection 1 must be:

(a) Made in writing on a form prescribed by the Department of Personnel; and

(b) Signed by:

(1) The employee; and

(2) The appointing authority or his designated representative.

3. The provisions of this section do not apply to a grievance that has been submitted to the Committee.

(Added to NAC by Personnel Comm'n by R023-05, eff. 10-31-2005)

NAC 284.695 Submission of grievance to Employee-Management Committee. (NRS 284.065, 284.155, 284.384) If an employee has not received satisfactory relief within 10 working days after his receipt of the decision from the highest administrator in the department, he may request consideration of the grievance by the Committee pursuant to its rules. The employee must submit his request to the Committee within 10 working days following his receipt of the decision from the administrator. The request must include all appropriate documentation, a citation of the statutes and regulations pertinent to the grievance, if any, the specific points of disagreement and supporting evidence. The Committee will, within 45 working days after the receipt of the employee's request:

1. Answer the request without a hearing if the case is based upon the Committee's previous decisions or does not fall within its jurisdiction; or

2. Hold a hearing to determine the proper disposition of the request. If a hearing is held, the Committee will:

(a) Except as otherwise provided in paragraph (b), provide at least 21 working days' written notice to all parties concerned.

(b) Provide notice to the employee by:

(1) Sending a written notification by certified mail, return receipt requested, at least 21 working days before the hearing; or

(2) Personally delivering a written notification to the employee at least 5 working days before the hearing, if the Chairman approves of such notice.

(c) Render a decision within 45 days after the closure of the hearing.

[Personnel Div., Rule XV § A part subsec. 6, eff. 8-11-73; A 6-9-74; 7-3-76; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 10-18-89; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 3-27-92; 11-12-93; 3-23-94; 11-16-95)

NAC 284.6955 Hearing before Employee-Management Committee: Procedure. (NRS 284.065, 284.155, 284.384) If a hearing is held to determine the proper disposition of a grievance pursuant to NAC 284.695, the following procedure must be followed:

1. Each party shall submit to the Chairman of the Committee or his designated representative 10 copies of the set of documents and materials to be presented at the hearing or any rescheduled hearing. These copies must be submitted not less than 12 working days before the scheduled date of the hearing. The Chairman or his designated representative shall forward one copy of the set of the documents and materials of each party to the other party.

2. If the employee fails to comply with subsection 1, the Chairman or his designated representative may reschedule the hearing to the next time designated for such hearings, but in no case earlier than 20 working days after the originally scheduled date of the hearing. If the employer fails to comply with subsection 1, the Chairman or his designated representative may reschedule the hearing at his discretion. If the employee fails to comply with the provisions of subsection 1 for a rescheduled hearing, his grievance must be dismissed with prejudice unless he can show in writing to the Committee's satisfaction that the reason for noncompliance was beyond his control.

3. Each document or material offered in evidence must be marked as follows:

(a) Documents or materials presented by the employee must be marked at the bottom of the page as "Exhibit____" indicated by consecutive arabic numerals, beginning with the number "1."

(b) Documents or materials presented by the employer must be marked at the bottom of the page as "Exhibit____" indicated by consecutive letters of the English alphabet, beginning with the letter "A." If the employer offers more than 26 exhibits, the 27th exhibit must be marked as "Exhibit AA," the 28th exhibit as "Exhibit BB," and so forth.

4. All evidence offered at the hearing must be relevant and bear upon the grievance.

5. Each person who testifies at the hearing shall state his name, address, and occupation for the record before testifying.

6. It is the responsibility of each party to arrange for the appearance of all necessary witnesses. The Committee may request additional witnesses or information as it deems necessary.

7. The grievance must be heard in the following order:

(a) Opening statement for the employee.

(b) Opening statement for the employer.

(c) Presentation of employee's case, followed by cross-examination.

(d) Presentation of employer's case, followed by cross-examination.

(e) Closing statement for the employee.

(f) Closing statement for the employer.

8. Upon proper recognition by the Chairman or his designated representative, any member of the Committee may ask a question of a party or witness at any time during the hearing.

(Added to NAC by Personnel Comm'n, eff. 8-1-91; A by Dep't of Personnel, 11-16-95)

NAC 284.6957 Hearing before Employee-Management Committee: Continuance. (NRS 284.065, 284.155, 284.384)

1. A party may request a continuance of a hearing to determine the proper disposition of a grievance pursuant to NAC 284.695 by submitting a request for a continuance to the Chairman of the Committee or his designated representative at least 12 working days before the scheduled hearing, unless the party received personal notice of the hearing less than 21 working days before the hearing pursuant to subsection 2 of NAC 284.695, in which case he may request a continuance as long as the request is made at least 4 working days before the scheduled hearing.

2. The Committee may grant a request for a continuance if good cause is shown.

(Added to NAC by Dep't of Personnel, eff. 3-27-92; A 11-16-95)

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:
 - (1) The division of the Department of Personnel that investigates sexual harassment and discrimination;
 - (2) The Attorney General;
 - (3) The employee's appointing authority;
 - (4) An equal employment opportunity officer;
 - (5) A personnel representative of the department in which the employee is employed; or
 - (6) The office charged with enforcing affirmative action within the appropriate university, state college or community college which is part of the Nevada System of Higher Education;
 - (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:
 - (1) The Nevada Equal Rights Commission pursuant to NRS 613.405; or
 - (2) The United States Equal Employment Opportunity Commission.
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.
 (Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95; R023-05, 10-31-2005)

NAC 284.697 When resolution of grievance becomes binding. (NRS 284.065, 284.155, 284.384)

- 1. Except as otherwise provided in subsection 2, the resolution of a grievance is binding when:
 - (a) There is an agreement between the person filing the grievance and the appointing authority or the designated representative of the employing agency; or
 - (b) The Committee renders a final decision.
- 2. The appointing authority or the designated representative of the employing agency shall submit each proposed resolution of a grievance which has a fiscal effect to the Budget Division of the Department of Administration for a determination of whether the resolution is feasible on the basis of its fiscal effects. The resolution is binding only if it is so found.
 (Added to NAC by Dep't of Personnel, eff. 8-28-85; A by Personnel Comm'n by R030-02, 5-2-2002)

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