



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

MEMO PERD#05-10
February 5, 2010

TO: Nevada County Libraries
State Library and Archives

FROM: Teresa J. Thienhaus, Director
Department of Personnel

A handwritten signature in cursive script, reading "Teresa J. Thienhaus".

SUBJECT: NOTICE OF WORKSHOP – NAC 284 Regulation Changes

The regulation changes included with this memorandum are being proposed for permanent adoption. In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 1:30 p.m. on February 25, 2010 at the Richard Bryan Building, 2nd Floor, Tahoe Hearing Room, 901 S. Stewart, Carson City, Nevada and by video conference at the Department of Personnel, Grant Sawyer Building, Room 1412, 555 E. Washington Avenue, Las Vegas, Nevada. An informational note explaining the nature and purpose of the proposed change precedes each regulation.

Please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Regulations* along with the text of the proposed regulations. We are asking libraries to post this information to inform the public of the workshop.

TJT:vk

Enclosures



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

Regulations Workshop*

AGENDA

DATE: February 25, 2010

TIME: 1:30 p.m.

PLACE: Richard Bryan Building
901 S. Stewart Street
2nd Floor, Tahoe Hearing Room
Carson City, Nevada
and
Grant Sawyer Building
555 East Washington Avenue, Rm 1412
Las Vegas, Nevada

The sites will be connected by videoconference. The public is invited to attend at either location.

1. Call To Order
2. Review of proposed changes to NAC 284:
Regulation Leadline: NAC # :
 - A. Affirmative action program and equal employment opportunity NAC 284.114
 - B. Confidential records NAC 284.718
 - C. Preparation, filing, contents, discussion and distribution of reports; power and duties of employees; review; adjustment of grievances NAC 284.470
 - D. Warning and written reprimands NAC 284.638
 - E. Training of supervisory and managerial employees NAC 284.498
 - F. Administrative leave with pay NAC 284.589
 - G. Filing of grievance with administrator of department; action by administrator NAC 284.690
 - H. Access to confidential records NAC 284.726
3. Adjournment

* This workshop will be conducted in accordance with the Open Meeting Law (NRS 241.020).

NOTE: Comments by the general public will be taken following each proposed regulation change. Public comment may be limited to 15 minutes per person at the discretion of the staff member conducting the workshop.

If anyone has questions or wish to discuss in further detail, the items scheduled for this regulations workshop, please contact Mark Evans at (775) 684-0149.

Notices have been posted on the Department of Personnel's Website www.dop.nv.gov and at the following locations:

Richard Bryan Building – 901 South Stewart Street, Carson City, Nevada

Department of Personnel - Blasdel Building, 209 East Musser Street, Carson City, Nevada

Library and Archives - 100 North Stewart St., Carson City, Nevada

Capitol Building - 101 North Carson Street, Carson City, Nevada

Grant Sawyer Office Building - 555 East Washington Avenue, Las Vegas, Nevada

We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Mary Kaye Spencer, in writing at 209 East Musser Street, Room 300, Carson City, Nevada 89701, or by calling (775) 684-0135 no later than five working days prior to the meeting.

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS**

The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0135, is proposing the permanent adoption, repeal, or amendment of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 1:30 p.m. on February 25, 2010 at the Richard Bryan Building, 2nd Floor, Tahoe Hearing Room, 901 S. Stewart Street, Carson City, Nevada and by video conference at the Department of Personnel, Grant Sawyer Building, Room 1412, 555 E. Washington Avenue, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

<u>Regulation Leadline:</u>	<u>NAC #</u>
Affirmative action program and equal employment opportunity	NAC 284.114
Confidential records	NAC 284.718
Preparation, filing, contents, discussion and distribution of reports; power and duties of employees; review; adjustment of grievances	NAC 284.470
Warnings and written reprimands	NAC 284.638
Training of supervisory and managerial employees	NAC 284.498
Administrative leave with pay	NAC 284.589
Filing of grievance with administrator of department; action by administrator	NAC 284.690
Access to confidential records	NAC 284.726

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Department of Personnel offices at 209 E. Musser Street, Room 300, Carson City, Nevada, telephone number (775) 684-0135, or 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations.

CARSON CITY

Blasdel Building, 209 E. Musser St.
Bryan Building, 901 S. Stewart St.
NV State Library and Archives, 100 N. Stewart St.
Legislative Building, 401 S. Carson St.
Capitol Building, 101 N. Carson St.

LAS VEGAS

Grant Sawyer State Office Building
555 E. Washington Avenue

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to:
ALL STATE AGENCIES
ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204 or call Mary Kaye Spencer at (775) 684-0135, no later than five working days before the meeting.

Date: February 5, 2010

File 1:

NAC 284.114 is hereby amended to read as follows:

Explanation of Proposed Change: This regulation change, proposed by the Department of Personnel, adds genetic information to the list of items included in the provisions for equal employment opportunity as required by the Genetic Information Nondiscrimination Act that went into effect on November 21, 2009.

NAC 284.114 Affirmative action program and equal employment opportunity. (NRS 284.065)

1. The Department of Personnel is responsible for establishing, coordinating and evaluating an affirmative action program for this State.

2. The Department of Personnel will cooperate and consult with agencies to:

(a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, sexual orientation, religion, color, national origin, age, [Ø] disability *or genetic information*.

(b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for persons to enter the system and progress in it to the extent of their merit.

[Personnel Div., Rule I § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-6-92; R098-99, 9-27-99)

NAC 284.718 is hereby amended to read as follows:

Explanation of Proposed Change: This regulation change, proposed by the Department of Personnel, adds genetic information to the list of items that are considered confidential as required by the Genetic Information Nondiscrimination Act that went into effect on November 21, 2009.

NAC 284.718 Confidential records. (NRS 284.065, 284.155, 284.407)

1. The following types of information, which are maintained by the Department of Personnel or the personnel office of an agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished to the Department of Personnel on the condition that the source remain confidential;

(b) Any document which is used by the Department of Personnel or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(d) Any document which is used by the Department of Personnel or an agency in the process of interviewing an applicant, including, without limitation, a document containing interview questions, evaluation tools used for rating applicants and any notes concerning an applicant that were taken by a person as part of the process of rating an applicant;

(e) Materials used in examinations, including suggested answers for oral examinations;

(f) Records and files maintained by an employee assistance program offered by the State of Nevada;

(g) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;

(h) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;

(i) Any information contained on a person's application or relating to his status as an eligible person; and

(j) Information in the file or record of employment of a current or former employee which relates to the employee's:

(1) Performance;

(2) Conduct, including any disciplinary actions taken against him;

(3) Usage or balance of his or her annual and sick leave;

(4) Race, ethnic identity or affiliation, sex, disability, *genetic information* or date of birth;

(5) Home telephone number; or

(6) Social security number.

2. If the employee has requested that his personal mailing address be listed as confidential, his file must be so designated and list his business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

(a) The employee dies; or

(b) The employee signs a release.

4. Any records in the possession of the Committee on Catastrophic Leave created pursuant to NRS 284.3627 that reveal the health, medical condition or disability of a current or former employee or a member of his immediate family are confidential.

5. Any notes, records, recordings or findings of an investigation conducted by the Department of Personnel relating to sexual harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority are confidential.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93; R058-01, 9-6-2001; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004; R024-05, 10-31-2005; R141-07, 1-30-2008)

File 2:

NAC 284.470 is hereby amended to read as follows:

Explanation of Proposed Change: This regulation change, proposed by the Department of Personnel, moves content from the regulation regarding discipline and places it in the regulation regarding reports on performances. It will help ensure that employees are informed when their performance falls below standard in a timely manner, regardless of whether or not discipline is warranted.

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. If an employee's performance of any job element falls below standard, the supervisor shall inform the employee promptly and specifically of the deficiencies.

~~[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]8. If an employee is unavailable for a discussion of the report on performance pursuant to subsection [6]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 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.

[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, 9-29-2008)

NAC 284.638 is hereby amended to read as follows:

Explanation of Proposed Change: This regulation change, proposed by the Department of Personnel, removes content that is better addressed in the reports on performance regulation and is not relevant to warnings and written reprimands.

NAC 284.638 Warnings and written reprimands. (NRS 284.065, 284.155, 284.383)

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].~~

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.

[Personnel Div., Rule XII § A, eff. 8-11-73; + Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-16-95)

File 3:

NAC 284.498 is hereby amended to read as follows:

Explanation of Proposed Change: This regulation change, proposed by the Department of Personnel, simplifies the training requirements for supervisory and managerial employees and will make it easier for agencies to determine if their employees are in compliance. The change will require supervisors to take refresher training on all topics more frequently, but online course offerings will make meeting the requirements more convenient. More frequent training will help insure that supervisors and managers remain up-to-date on relevant regulations and processes.

NAC 284.498 Training of supervisory and managerial employees. (NRS 284.065, 284.155, 284.343)

1. Except as otherwise provided in this section:

(a) Within 6 months after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend a training class concerning the evaluation of the performance of employees.

(b) Within 12 months after an agency appoints an employee to a supervisory position or managerial position, the employee shall attend at least one training class *approved by the Department of Personnel* in each of the following areas:

- (1) Equal employment opportunity;
- (2) Interviewing and hiring;
- (3) Alcohol and drug testing;
- (4) Progressive disciplinary procedures; and
- (5) Handling grievances.

(c) *Supervisory and managerial employees shall attend any other classes required by the Director of Personnel.*

~~2. Within 3 years after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend additional supervisory or managerial training which, when added to the amount of training received pursuant to subsection 1, equals at least 40 hours of training.~~

~~3. For every 3-year period after the initial 3-year period, a supervisor or managerial employee shall attend at least 40 hours of training to enhance his supervisory or managerial skills. Such training must include at least two of the training classes described in subsection 1. An employee who receives credit for a training class described in subsection 1 for a 3-year period will not receive credit for taking that same training class in the next two following 3-year periods.]~~

2. Supervisors and managers shall attend training approved by the Department of Personnel on the topics described in paragraphs (a) and (b) of subsection 1 every two years.

[4]3. The appointing authority, at its discretion, may accept, [in lieu of the training required by subsection 1, supervisory or managerial training] *approved courses* taken by the employee during the [36] **12** months immediately preceding his appointment to meet the requirement of paragraphs (a) and (b) of subsection 1.

[5]4. In addition to the training otherwise required by this section, an appointing authority may require a supervisor or managerial employee to retake any part or all of the training required by this section, or to participate in any additional training or other classes deemed necessary by the appointing authority.

~~6. To meet the training requirements of this section, the employee may take training from:~~

- ~~—(a) The employee's agency;~~
- ~~—(b) A formal training program;~~
- ~~—(c) The Department of Personnel; or~~
- ~~—(d) Any combination of paragraphs (a), (b) and (c).~~

~~7. An employee will not receive credit for any supervisory or managerial training taken for the purposes of this section unless:~~

- ~~—(a) For training classes described in subsection 1, the training class is certified by the Department of Personnel; and~~
- ~~—(b) For all other classes and training, the class or training is certified or otherwise approved by the appointing authority.~~

5. The Department of Personnel may delegate the authority to teach the course required by paragraphs (a) and (b) of subsection 1.

[8]6. As used in this section:

(a) "Managerial position" means a position which is held by an employee who:

- (1) Formally evaluates supervisors;
- (2) Is involved in the hiring and firing of subordinate staff;
- (3) Determines organizational structure within a component of the organization;

and

(4) Develops, monitors and implements policies to accomplish long-range goals.

(b) "Supervisory position" means a position which is held by an employee who:

- (1) Formally evaluates staff;
- (2) Is involved in the hiring and firing of subordinate staff; and
- (3) Establishes policies which affect the performance or behavior of subordinate staff.

[Personnel Div., Rule X part § F, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; 5-27-86; 10-18-89; 3-23-94; R197-99, 1-26-2000; A by Personnel Comm'n by R182-03, 1-27-2004)

File 4:

NAC 284.589 is hereby amended to read as follows:

Explanation of Proposed Change: This regulation change, proposed by the Department of Conservation and Natural Resources and recommended by the Department of Personnel, requires employees who are placed on administrative leave in conjunction with an investigation or a screening test to be available by phone and to be available to return promptly to the work site or other location upon request. Administrative leave serves to remove the employee temporarily from the worksite because it is in the best interest of the employer and is not intended to be free time for the employee. This change will help insure that the employee is available to answer any questions, attend meetings, or report back to work.

NAC 284.589 Administrative leave with pay. (NRS 284.065, 284.155, 284.345)

1. An appointing authority may grant administrative leave with pay to an employee:
 - (a) To relieve the employee of his duties during the active investigation of a suspected criminal violation or the investigation of alleged wrongdoing;
 - (b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his position;
 - (c) For up to 30 days to remove the employee from the workplace when he has committed or threatened to commit an act of violence;
 - (d) For up to 2 hours to donate blood; or
 - (e) To relieve the employee of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.
2. The appointing authority, upon approval of the Risk Management Division of the Department of Administration, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.
3. *Employees who are placed on administrative leave with pay for a purpose set forth in paragraph (a), (b), (c) or (e) of subsection 1 or subsection 2 must be available by phone to their supervisor during regular business hours and be available to report promptly to the work site or other location if so directed.*
- ~~3~~4. Except as otherwise provided in subsection 4, an appointing authority or the Department of Personnel may grant administrative leave with pay to an employee for any of the following purposes:
 - (a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the State but which do not require him to participate or attend in his official capacity as a state employee.
 - (b) Closure of the employee's office or work site caused by a natural disaster, pandemic or other similar adverse condition when the employee is scheduled and a pandemic, of a school or a center of facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result or a pandemic, or a program attended by the employee's dependent child. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.
 - (d) His appearance as an aggrieved employee or a witness at a hearing of the Committee.
 - (e) His appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the Department of Personnel.
 - (f) His appearance to provide testimony at a meeting of the Commission.

[4]5. An appointing authority or the Department of Personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (d), (e) or (f) of subsection 3 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed for him to testify at the hearing or meeting;

(b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and

(c) The absence of the employee will not cause an undue hardship to the operations of his appointing authority or adversely impact the provision of services to clients or to the public.

[5]6. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:

(a) The initial appointment and one follow-up appointment if the employee receives counseling through an employee assistance program.

(b) His attendance at a health fair which has been authorized by the Board of the Public Employees' Benefits Program.

(c) His participation in an official capacity as a member of a committee or board created by statute on which he serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.

(d) Up to 8 hours for preparation for all hearings regarding a suspension, demotion or dismissal of the employee as provided in section 2 of LCB File No. R063-09.

(e) Up to 8 hours for preparation for all hearings regarding an involuntary transfer of the employee.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; A by Personnel Comm'n by R038-03, 10-30-2003; R183-03, 1-27-2004; R145-05, 12-29-2005; R141-07, 1-30-2008; R061, 10-27-2009; R081-09, 10-27-2009; R063-09, 11-25-09)

File 5:

NAC 284.690 is hereby amended to read as follows:

Explanation of Proposed Change: Based on recommendations from the Employee-Management Committee, this change will ensure that an employee who files a grievance has the opportunity to discuss the issue with the top administrator or a designee. Based on a suggestion from the Office of Veterans Services, section 2 of this regulation is being amended to clarify that the administrator must either resolve the grievance or allow it to be forwarded to the Employee-Management Committee within 10 working days.

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, *within 10 working days after receiving the employee's grievance*, the administrator [~~may hold a hearing within 10 working days after receiving the employee's grievance~~] *or his or her designee shall discuss the grievance with the employee and resolve the grievance or deny it.*

2. Except as otherwise provided in NAC 284.692, [~~the highest administrator may render a decision following the hearing or allow the grievance to~~] *if the highest administrator's decision does not resolve the grievance to the employee's satisfaction, the grievance may* 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)

File 6:

NAC 284.726 is hereby amended to read as follows:

Explanation of Proposed Change: This proposed change eliminates a statement that says that the refusal of the Director to provide certain entities with confidential records can be appealed. There is no established process for this appeal.

NAC 284.726 Access to confidential records. (NRS 284.065, 284.155, 284.335, 284.407)

1. Except as otherwise provided in this subsection, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority's decision to hire that person is limited to the appointing authority or his designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of subparagraph 2 of paragraph (a) of subsection 1 of NAC 284.204, information relating to the education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.

2. Except as otherwise provided in subsections 3 and 4, access to an employee's file of employment containing any of the items listed in paragraphs (g) to (j), inclusive, of subsection 1 of NAC 284.718 is limited to:

- (a) The employee.
- (b) The employee's representative when a signed authorization from the employee is presented or is in his employment file.
- (c) The appointing authority or a designated representative of the agency by which the employee is employed.
- (d) The Director or his designated representative.
- (e) An appointing authority, or his designated representative, who is considering the employee for employment in his agency.
- (f) Persons who are authorized pursuant to any state or federal law or an order of a court.
- (g) The State Board of Examiners if the Board is considering a claim against the State of Nevada filed pursuant to chapter 41 of NRS which involves the employee.
- (h) Persons who are involved in processing records for the transaction of business within and between state agencies.
- (i) Persons who are involved in processing records for the transaction of business that is authorized by the employee.

3. Information concerning the health, medical condition or disability of an employee or a member of his immediate family must be kept separate from the employee's file in a locked cabinet. Except as otherwise provided in subsection 6, access to such information is limited to the employee, his current supervisor, and the appointing authority or his designated representative.

4. Except as otherwise provided in subsection 7, access to information concerning the employee's usage or balance of annual leave and sick is limited to the employee, the employee's immediate supervisor and the employee's appointing authority or his designated representative of the appointing authority.

5. Except as otherwise provided by specific statute, records maintained by an employee assistance program offered by the State of Nevada must not be released without written permission signed by the employee to whom the records pertain.

6. Upon request, the Department of Personnel will provide the personal mailing address of any employee on file with the Department to the State Controller's Office and the Internal Revenue Service.

7. The Director or the appointing authority, or his designated representative, shall authorize the release of any confidential records under his control which are requested by the Employee-Management Committee, a hearings officer, the Commission, the Committee on Catastrophic Leave created pursuant to NRS 284.3627, the Nevada Equal Rights Commission or a court. ~~[If the Director or his designated representative determines that the release of any confidential record is not necessary for those purposes, the decision may be appealed.]~~

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R024-05, 10-31-2005; R141-07, 1-30-2008; R065-09, 10-27-2009)