



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

MEMO PERD#61/10
December 3, 2010

TO: Personnel Commission Members
Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives
Designees for Rules Distribution
Employee Representatives
Interested Parties

FROM: Teresa J. Thienhaus, Director
Department of Personnel

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

SUBJECT: NOTICE OF WORKSHOP - Amendments to NAC 284

The regulation change included with this memorandum is being proposed for temporary adoption. In order to review the proposed changes in the regulation and solicit comments from interested persons, a workshop will be held at 1:30pm, December 20, 2010, at the Gaming Control Board Conference Room, 1919 College Parkway, Carson City, Nevada, and by video conference at the Grant Sawyer Building, Gaming Control Board Room 2450, 555 East Washington Avenue, Las Vegas, Nevada. An informational note explaining the nature and purpose of the proposed change precedes the regulation.

Please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Regulations* along with the text of the proposed regulation, or otherwise notify your employees.

TJT:vk

Enclosures

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

The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0119, is proposing the temporary adoption, repeal, or amendment of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 1:30pm. on December 20, 2010 at the Gaming Control Board Conference Room, 1919 College Parkway, Carson City, Nevada and by video conference at the Grant Sawyer Building, Gaming Control Board Room 2450, 555 East Washington Avenue, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following general topic that may be addressed in the proposed regulation:

<u>Regulation Leadline:</u>	<u>NAC #</u>
Preparation filing, contents, discussion and distribution of reports: power and duties of employees; review; adjustment of grievances.	NAC 284.470
Appeal of decision of reviewing officer.	NAC 284.478
Submission, form and contents of grievance; informal discussions.	NAC 284.678

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) 684-0119, 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 Bladel Building, 209 E. Musser St. NV State Library and Archives, 100 N. Stewart St. Legislative Building, 401 S. Carson St. Capitol Building, 101 N. Carson St. Gaming Control Board, 1919 College Parkway	LAS VEGAS Grant Sawyer State Office Building 555 E. Washington Ave.
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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 Rennie Brode at (775) 684-0119, no later than five working days before the meeting.

Date: December 3, 2010

REGULATION CHANGES PROPOSED FOR TEMPORARY ADOPTION

File 1:

Explanation of Proposed Change: This regulation change, proposed by the Department of Personnel, adds language stating that the appointing authority has the final decision regarding reviews of contested reports on performance. This change will eliminate confusion over who has final authority for the content of performance evaluations and will make the regulation consistent with NRS 380.340, which states that reports on performance are the responsibility of the appointing authority.

The reviewing officer will make recommendations on whether to uphold or modify the performance evaluation and the appointing authority will have 10 working days to render a final decision on the recommendations. New language states that a grievance about an evaluation relates to the content of the performance evaluation and not the decision of the reviewing officer. Additionally, the change also requires grievances regarding performance evaluations to be submitted to the highest administrator of the department before being filed with the Employee-Management Committee.

NAC 284.470 is hereby amended to read as follows:

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]~~ **contests the content of** 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.

(c) 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 **and the employee shall receive a copy. If the reviewing officer is not the appointing authority, he or she shall submit the form with recommendations to uphold or modify the evaluation to the appointing authority. The appointing authority shall review the reviewing officer's recommendations regarding the contested evaluation and shall render a final decision to the employee within 10 working days after receiving the recommendation. The appointing authority has final decision-making authority in the review process.**

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]~~ **contests the content of** 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.

(c) 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 **and the employee shall receive a copy. If the reviewing officer is not the appointing authority, he or she shall submit the form with recommendations to uphold or modify the evaluation to the appointing authority. The appointing authority shall review the reviewing officer's recommendations regarding the contested evaluation and shall render a final decision to the employee within 10 working days after receiving the recommendation. The appointing authority has final decision-making authority in the review process.** 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, 9-29-2008)

NAC 284.478 is hereby amended to read as follows:

NAC 284.478 Appeal of ~~[decision of reviewing officer]~~ a contested report on performance. (NRS 284.065, 284.155, 284.384) Upon the completion of the review process, ~~[A]~~ a

permanent employee may appeal ~~[a decision of a reviewing officer pursuant to NAC 284.470]~~ **a contested performance evaluation** 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)

NAC 284.678 is hereby amended to read as follows:

NAC 284.678 Submission, form and contents of grievance; informal discussions. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in subsections 3 and 4 and NAC 284.692, an employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.

2. If the employee submits a letter, it must include:

- (a) His name;
- (b) His most recent date of hire;
- (c) His position;
- (d) His department, division and section;
- (e) His mailing address;
- (f) His business telephone number;
- (g) A statement that he is filing a formal grievance;
- (h) The date, time and place of the event or the date the employee learns of the event leading to the grievance;
- (i) A concise statement of his grievance;
- (j) A detailed description of his grievance, including the names of other persons involved in the event, if any;
- (k) A proposed solution of his grievance;
- (l) His signature; and
- (m) The date he signed the statement.

3. Except as otherwise provided in NAC 284.692, if a grievance relates to ~~[a decision of a reviewing officer about]~~ a **contested** 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]~~ **a decision [of the reviewing officer] regarding the review from the appointing authority**. 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.

4. A grievance filed pursuant to subsection 3 must be filed with:

- (a) The person who is at the next appropriate level of the grievance process; or
- (b) If the person who is at the next appropriate level of the grievance process is the reviewing officer or other person who prepared or reviewed the performance evaluation, the person who is at the next appropriate level of the grievance process ~~[who did not prepare or review the performance evaluation]~~.

(c) Grievances regarding performance evaluations must be filed with the highest administrator in the department for a response before being submitted to the Employee-Management Committee.

[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; R191-09, 4-20-10)



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Regulations Workshop*

AGENDA

DATE: December 20, 2010

TIME: 1:30 pm

PLACE: Gaming Control Board
Conference Room
1919 College Parkway
Carson City, Nevada
and
Grant Sawyer Building
Gaming Control Board, Room 2450
555 East Washington Avenue
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. Preparation, filing, contents, discussion and distribution of reports; power and duties of employees; review; adjustment of grievances. NAC 284.470
 - B. Appeal of decision of reviewing officer. NAC 284.478
 - C. Submission, form and contents of grievance; informal discussions. NAC 284.678
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 a description of the 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 item 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:

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

Library and Archives - 100 North Stewart Street, Carson City, Nevada

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

Legislative Building - 401 South Carson Street, Carson City, Nevada

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

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