



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
209 E. Musser Street, Room 101 | Carson City, Nevada 89701
Phone: (775) 684-0150 | www.hr.nv.gov | Fax: (775) 684-0122

MEMORANDUM
HR#42-16

May 05, 2016

TO: DHRM Listserv Recipients

FROM: Peter Long, Administrator *Peter Long*
Division of Human Resource Management

SUBJECT: NOTICE OF WORKSHOP - Amendments to NAC 284

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 9:00 a.m. on Thursday, May 26, 2016, at the Legislative Counsel Bureau, Room 2134, 401 S. Carson Street, Carson City, Nevada and by video conference at the Grant Sawyer Building, Room 4412E, 555 E. Washington Avenue, Las Vegas, Nevada.

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

PL:krh/tp

Enclosures

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

The Division of Human Resource Management, 100 N. Stewart Street, Carson City, Nevada, telephone number (775) 684-0148, is proposing the permanent adoption and amendment of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 9:00 a.m. on Thursday, May 26, 2016, at the Legislative Counsel Bureau, Room 2134, 401 S. Carson Street, Carson City, Nevada and by video conference at the Grant Sawyer Building, Room 4412E, 555 E. Washington Avenue, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following topics that may be addressed in the proposed regulations:

<u>NAC #</u>	<u>Regulation Leadline</u>
NEW	Request for extension of time to notify employee of determination following internal administrative investigation.
NEW	Appeal of refusal to examine or certify.
284.152	Appeal of allocation of position or change in classification.
284.6561	Hearing.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Division of Human Resource Management at 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0148, or 555 E. Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-0034. A reasonable fee for copying may be charged. The agency's small business impact statement is attached.

This Notice of Workshop to Solicit Comments on Proposed Permanent Regulations 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 Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson
Street

LCB website: www.leg.state.nv.us
Division of Human Resource Management
website: www.hr.nv.gov
Nevada Public Notice
website: www.notice.nv.gov

LAS VEGAS

Grant Sawyer State Office Building,
555 E. Washington Avenue

In addition, this Notice of Workshop to Solicit Comments on Proposed Permanent Regulations 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 Division of Human Resource Management, in writing, at 100 N. Stewart Street, Suite 200, Carson City, Nevada 89701-4204 or call Carrie Lee at (775) 684-0135, no later than five working days before the meeting.

Explanation of Proposed Change: The following amendment, proposed by the Division of Human Resource Management, creates the procedures to be followed by an appointing authority or his or her designated representative when an internal administrative investigation cannot be completed and the employee notified of the determination within the 90 day period pursuant to NRS 284.387.

Subsection 2 of this regulation explains the procedures to be followed by an appointing authority or his or her designated representative when an internal administrative investigation cannot be completed during the length of time of an extension granted by the Administrator. This step in the process will only take place if an extension of up to 60 days was granted past the 90 day limitation, and an appointing authority or his or her designated representative has requested an additional extension. Such an extension cannot be granted without the approval of the Governor or his or her designated representative.

NEW Request for extension of time to notify employee of determination following internal administrative investigation.

1. NRS 284.387 requires the appointing authority to notify an employee of the determination of the appointing authority or his or her designated representative within 90 days after the employee is provided notice of an internal administrative investigation. Pursuant to subsection 2 of NRS 284.387, upon good cause shown, the Administrator or his or her designated representative may grant a request by an appointing authority or his or her designated representative to extend the length of time to notify an employee of the determination of the appointing authority or his or her designated representative for an additional 60 days. To request an extension, the appointing authority or his or her designated representative must:

(a) Submit the request to the Administrator on the form prescribed by the Division before the 90th day after the employee was served with the notice of the internal administrative investigation;

(b) Describe the reasons the employee was not notified of the determination within 90 days; and

(c) Provide a copy of the request for the extension to the employee who was served with the notice of internal administrative investigation.

↪ A request submitted to the Administrator after 90 days have passed following the employee being served with the notice of internal administrative investigation may be denied for that reason, rather than because good cause was not shown.

2. Pursuant to subsection 2 of NRS 284.387, an additional extension on the limitation of time to notify an employee of his or her determination must be approved by the Governor or his or her designated representative. An appointing authority or his or her designated representative may request to extend the length of time to notify an employee of the determination of the appointing authority or his or her designated representative after a request was granted by the Administrator pursuant to subsection 1. To request an additional extension, the appointing authority or his or her designated representative must:

(a) Submit the request in writing to the Administrator, for submission to the Governor, on or before the date the initial extension granted by the Administrator is set to expire;

(b) Describe the reasons the employee was not notified of the determination during the initial extension granted by the Administrator; and

(c) Provide a copy of the request for the additional extension to the employee who was served with the notice of internal administrative investigation.

↳ A request submitted past the initial extension granted by the Administrator may be denied for that reason, rather than because good cause was not shown.

Explanation of Proposed Change: The following amendment, proposed by the Division of Human Resource Management, details the procedures for appealing the Administrator's refusal to examine or certify an applicant pursuant to NRS 248.245. Additionally, the new regulation will ensure that the Personnel Commission is provided with information regarding the appellant's rationale for his or her disagreement with the Administrator's decision not to examine an applicant or, after examination, certify an eligible person.

The process contained in the newly proposed regulation is modeled after NAC 284.152, as both types of appeals must be appealed to the Personnel Commission.

NEW Appeal of refusal to examine or certify.

1. Pursuant to subsection 2 of NRS 284.245, an applicant, after having requested and obtained the statement detailed in subsection 1 of NRS 284.245 may, within 30 days after the date of receipt of the written statement, file a written appeal of the action with the Administrator. The appeal must:

(a) Address the points outlined in the Administrator's statement; and

(b) Indicate the points with which the appellant disagrees and express the reasons for the disagreement.

2. The Administrator will issue a decision on the appeal within 30 days after receiving the appeal unless:

(a) He or she is prohibited from doing so because of the number of appeals resulting from a particular recruitment;

(b) There is an agreement with the appellant to extend the limitation of time for the issuance of the determination; or

(c) The Administrator delegates the duty to decide the appeal to a designated representative pursuant to subsection 3.

3. The Administrator may delegate the duty to decide the appeal to a designated representative if the Administrator is unavailable or reasonably believes he or she has a conflict of interest. If the Administrator makes such a delegation, the designated representative shall issue a decision on the appeal within 30 days after the Administrator received the appeal.

4. The appellant affected by the decision may, within 30 days after receipt of written notice of the decision of the Administrator or his or her designated representative, appeal the decision to the Commission. The appeal must:

(a) Be in writing;

(b) Be addressed to the Administrator;

(c) Address the points outlined in the determination for the refusal to examine or certify; and

(d) Indicate the points with which the appellant disagrees and express the reasons for the disagreement.

<p>Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will bring the regulation in line with the time frame requirements of NRS 284.165.</p>

NAC 284.152 Appeal of allocation of position or change in classification. (NRS 284.065, 284.155, 284.384)

1. An employee affected by the allocation of a position to a grade or class or by a change in classification as a result of a study regarding classifications, or the agency where such actions have occurred, may, within ~~{20-working}~~ 30 days after the date of receipt of written notice of the action, file a written appeal of the action with the Administrator. The appeal must:

(a) Address the points outlined in the Division of Human Resource Management's recommendation regarding the proper classification for the position in question; and

(b) Indicate the points with which the appellant disagrees and express the reasons for the disagreement.

2. The Administrator will issue a decision on the appeal within ~~{20-working}~~ 30 days after receiving the appeal unless:

(a) He or she is prohibited from doing so because of the number of appeals resulting from a study regarding classifications;

(b) There is an agreement with the appellant to extend the limitation of time for the issuance of the decision; or

(c) The Administrator delegates the duty to decide the appeal to a designated representative pursuant to subsection 3.

3. The Administrator may delegate the duty to decide the appeal to a designated representative if the Administrator is unavailable or reasonably believes he or she has a conflict of interest. If the Administrator makes such a delegation, the designated representative shall issue a decision on the appeal within ~~{20-working}~~ 30 days after the Administrator received the appeal.

4. The appellant or the agency affected by the decision may, within 30 days after receipt of written notice of the decision of the Administrator or his or her designated representative, appeal the decision to the Commission. The appeal must:

(a) Be in writing;

(b) Be addressed to the Administrator;

(c) Address the points outlined in the decision regarding the proper classification for the position in question; and

(d) Indicate the points with which the appellant or the agency disagrees and express the reasons for the disagreement.

(Added to NAC by Dep't of Personnel, eff. 9-17-87; A 3-1-96; R031-98, 4-17-98; A by Personnel Comm'n by R203-07, 4-17-2008)

Explanation of Proposed Change: S.B. 62 of the 2015 Legislative Session amends NRS 284.385, which is related to the dismissal, involuntary demotion and suspension of State of Nevada employees in the classified service. The requirement for delivery in person or by mail in subsection 3 of NRS 284.385 has been removed. Language has been added to the statute requiring that regulations be adopted setting forth the procedures for properly notifying a classified employee of dismissal, involuntary demotion or suspension.

This amendment, proposed by the Division of Human Resource Management, will provide increased speed of delivery and reliability by modernizing methods by which agencies may provide notice of the disciplinary actions listed above. The amendment will allow agencies to use alternative carriers to the U.S. Postal Service, such as Federal Express or United Parcel Service, as long as the carrier provides proof that the notice was sent and that it was delivered.

NAC 284.6561 Hearing. (NRS 284.065, 284.155, 284.383, 284.385, 284.390) Except as otherwise provided in NAC 284.6563, if an appointing authority proposes that a permanent employee be dismissed, suspended or demoted, the following procedure for a hearing before the proposed action must be followed:

1. A hearing must be scheduled on the employee's behalf unless waived in writing by the employee pursuant to subsection 2. The hearing must be scheduled to take place not earlier than 7 working days after the written notice of the proposed action is delivered or deemed received pursuant to subsection 2 of NAC 284.656. The hearing must not be scheduled on a day which is not a regular working day for the employee. If the appointing authority or his or her designated representative and the employee agree, the date of the hearing may be changed.

2. The employee may waive the right to a hearing before the proposed action in writing. If the employee makes such a waiver, the employee may not be dismissed, suspended or demoted before the proposed effective date. The waiver does not waive the employee's right to an appeal after the action is taken.

3. The appointing authority or his or her designated representative shall conduct the hearing. The designated representative must be a person with the authority to recommend a final decision to the appointing authority. The appointing authority shall render the final decision.

4. At any time after receiving the notice and before the hearing, the employee may examine all materials that are to be used by the person conducting the hearing. The employee is entitled to administrative leave with pay as provided in NAC 284.589 to prepare for the hearings regarding his or her suspension, demotion or dismissal.

5. This process is an informal proceeding between the two parties, the appointing authority and his or her designated representative and the employee, who meet together to discuss the proposed action. Witnesses are not allowed to attend, but each party may be accompanied by a person of his or her choice.

6. The employee may respond both orally and in writing to the appointing authority or his or her designated representative at the hearing.

7. The employee must be:

(a) Given a copy of the finding or recommendation, if any, resulting from the hearing; and

(b) Informed, in writing, of the appointing authority's decision regarding the proposed action, ***and reasons for the decision***, on or before the effective date of the action. ***The notice must be given in person or by means of any delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received. If the notice is sent by means of a delivery service, the notice must be sent to the employee's last known address. The***

notice must not be given by electronic mail, the use of social media or other electronic means. If the notice is returned without having been received by the employee, the employee's date of receipt shall be deemed to be the third day after the date the notice was sent.

8. An employee who has been dismissed, demoted or suspended may request a hearing before the hearing officer of the Division of Human Resource Management pursuant to NRS 284.390 within 10 working days after the effective date of his or her dismissal, demotion or suspension. Such a request must be addressed to the Administrator and submitted on the form provided by the Division of Human Resource Management.

(Added to NAC by Personnel Comm'n by R063-09, eff. 11-25-2009; A by R011-11, 10-26-2011)



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REGULATIONS WORKSHOP

DATE: May 26, 2016

TIME: 9:00 a.m.

PLACE: Legislative Counsel Bureau Grant Sawyer Building
Room 2134 Room 4412E
401 S. Carson Street 555 E. Washington Avenue
Carson City, Nevada Las Vegas, Nevada

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

AGENDA

1. Call To Order
2. Review of proposed changes to NAC 284:

<u>NAC#</u>	<u>Regulation Leadline</u>
NEW	Request for extension of time to notify employee of determination following internal administrative investigation.
NEW	Appeal of refusal to examine or certify.
284.152	Appeal of allocation or position or change in classification.
284.6561	Hearing.

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 changes. 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 wishes to discuss in further detail, the items scheduled for this regulations workshop, please contact Shelley Blotter at (775) 684-0105.

Notices have been posted on the Division of Human Resource Management's website at www.hr.nv.gov and at the following locations:

CARSON CITY

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NV State Library and Archives, 100 N. Stewart Street
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Street

LCB website: www.leg.state.nv.us

Nevada Public Notice

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LAS VEGAS

Grant Sawyer State Office Building,
555 E. Washington Avenue

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Brian Sandoval
Governor



Patrick Cates
Director

Peter Long
Administrator

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May 4, 2016

Regulation Small Business Impact Statement

The Division of Human Resource Management has determined that the adoption of this proposed regulation does not impose a significant economic burden on small businesses, nor will it restrict the formation, operation or expansion of small business.

These regulations only impact the classified service of Executive Branch departments and the Nevada System of Higher Education.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small business and that the information contained in this statement is accurate.


Peter Long, Administrator

5/5/16
Date