

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R056-10

June 16, 2011

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-3, NRS 284.065, 284.155 and 284.383.

A REGULATION relating to the State Personnel System; revising provisions relating to disciplinary procedures; and providing other matters properly relating thereto.

Section 1. NAC 284.097 is hereby amended to read as follows:

284.097 “Reviewing officer” means:

1. The supervisor of the person who prepared a report on performance of an employee; or
2. Such other person designated by the appointing authority,

↳ who reviews the report on performance upon the request of the employee pursuant to paragraph (b) of subsection ~~[6]~~ 7 of NAC 284.470.

Sec. 2. NAC 284.470 is hereby amended to read as follows:

284.470 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 the performance of an employee falls below standard, his or her supervisor shall inform the employee promptly and specifically of the deficiencies in the performance of the employee regardless of whether a report on performance of the employee is completed or filed.*

5. 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.~~ 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.

~~7.1~~ 8. If an employee is unavailable for a discussion of the report on performance pursuant to subsection ~~6.1~~ 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:]~~ **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.

Sec. 3. NAC 284.638 is hereby amended to read as follows:

284.638 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.]~~ **conduct.**

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.