

**LIST OF REGULATIONS TO AMEND  
To Ensure They Are Streamlined, Clarified, Reduced  
or Otherwise Improved  
Pursuant to Executive Order 2023-008**

**Number 1**

**NAC 288.220 Answer, *Counterclaim, and Crossclaim.* (NRS 288.110)**

1. A respondent may file an answer in the form of a pleading and not later than 21 days after the receipt of a complaint.

2. An answer must contain a clear and concise statement of the facts which constitute a defense. The respondent must specifically admit, deny or explain each of the allegations in the complaint unless he or she is without knowledge, in which case the respondent shall so state and the statement shall be deemed a denial. Any allegation in the complaint not specifically denied in the answer, unless it is stated in the answer that the respondent is without knowledge, shall be deemed to be admitted to be true.

3. If an answer is not made within the prescribed time, the dilatory party is precluded, except with the consent of the opposing party or the Board, from asserting any affirmative defense in the proceeding.

4. An answer must be signed and filed with the Board.

5. Except as otherwise specifically provided by this chapter or chapter 288 of NRS, a respondent shall not attach any document, including, without limitation, an exhibit, to an answer.

*6. A respondent may file a counterclaim or crossclaim along with their answer to a complaint. The pleading must state as a counterclaim or crossclaim any claim that— at the time of its service—the pleader has against the petitioner, a co-party, or any additional parties if the claim arises out of the transaction or occurrence that is the subject matter of the petition, or if the claim relates to the subject matter of the original action.*

*7. A party must serve an answer to a counterclaim or crossclaim within 21 days after being served with the pleading that states the counterclaim or crossclaim.*

[Local Gov't Employee-Mgt. Rel. Bd., No. 2.06, eff. 11-12-71; A 1-10-73; No. 2.07, eff. 11-12-71]—(NAC A 9-30-88; R135-03, 10-30-2003; R043-13, 10-24-2014; R010-15, 10-27-2015; R034-16, 9-9-2016)

**RATIONALE:**

Historically, parties have been permitted to file counterclaims and cross-claims, and the Board has accepted such filings as a matter of practice, notwithstanding the absence of express authorization in the current regulations. This regulation codifies that existing practice by expressly authorizing the filing of counterclaims and cross-claims. Clarifying the permissibility of these filings promotes procedural consistency, transparency, and fairness for all parties appearing before the Board.

## **Number 2**

### **NAC 288.250 Prehearing statement. ([NRS 233B.040](#), [288.110](#))**

1. Not later than 21 days after the service of the answer *to the complaint, counterclaim, or crossclaim, whichever document is filed later* unless otherwise ordered by the Board or Commissioner, each party shall file with the Board the prehearing statement of the party which includes:

(a) A plain and concise statement of the issues of fact and law to be determined by the Board which have not been resolved by negotiation or otherwise;

(b) A memorandum of law or points and authorities in support of the party's position, including a list of significant differences or close similarities of the issue or issues to any prior determinations of the Board;

(c) A statement of whether there are any pending or anticipated administrative, judicial or other proceedings related to the subject of the hearing and, if so, a description of the manner in which those proceedings may affect the hearing and an opinion concerning whether the hearing should be stayed pending the outcome of any such proceedings;

(d) A list of witnesses and their qualifications, including a brief summary of their expected testimony; and

(e) An estimate, to the nearest hour, of the time needed for the presentation of the party's position.

2. Except as otherwise specifically provided by this chapter or [chapter 288](#) of NRS, a party shall not attach any document, including, without limitation, an exhibit, to a prehearing statement.

[Local Gov't Employee-Mgt. Rel. Bd., No. 3.01, eff. 11-12-71; A 1-10-73; 7-1-74; 12-15-75]—(NAC A by R135-03, 10-30-2003; R010-15, 10-27-2015; R034-16, 9-9-2016; R074-17, 2-27-2018; A by Gov't Employee-Mgt. Rel. Bd. by R056-19, 12-30-2019)

#### **RATIONALE:**

**Allowing prehearing statements to be filed before an answer to a counterclaim or cross-claim is filed would create uncertainty in the procedural timeline. This regulation establishes a clear limitation by providing that prehearing statements may be filed only after all responsive pleadings have been filed.**

## **Number 3**

### **NAC 288.235 Amendment of pleadings and motions; liberal construction. ([NRS 288.110](#))**

1. If not otherwise prohibited by law and if substantial rights of the parties will not be prejudiced, *a party may amend its initial pleading once as a matter of course within:*

*(a) 14 days after serving it; or*

*(b) if the pleading is one to which a responsive pleading is required, within 14 days after service of a responsive pleading.*

2. *In all other cases, a party may amend its pleading only with the opposing party's written consent or the Board's leave by filing a motion, and the Board may allow any pleading or motion to be amended or corrected, or any omission in the pleading, motion or other papers to be cured.*

~~[-2.]~~ 3. Pleadings, motions and other papers will be liberally construed, and any defects which do not affect substantial rights of any party may be disregarded by the Board.

4. *Any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later.*

(Added to NAC by Local Gov't Employee-Mgt. Rel. Bd., eff. 9-30-88)

#### **RATIONALE:**

**This amendment clarifies the rule authorizing the filing of an amended complaint and explains the circumstances under which amendments may be made. It also clarifies the procedures governing amendments to subsequent pleadings, promoting procedural efficiency by reducing uncertainty, minimizing unnecessary filings, and ensuring a clear and orderly progression of cases.**

#### **Number 4**

**NAC 288.324 Documentary evidence and exhibits; amendments to exhibits. ([NRS 233B.040](#), [288.110](#))**

1. Unless otherwise permitted, exhibits submitted to the Board must be limited in size to 8 1/2 by 11 inches. Except as otherwise provided in subsection 2, a copy of each documentary exhibit must be furnished to each party of record, and, if the case has been assigned to:

(a) The full Board, ~~[eight]~~ *six* copies must be furnished to the Board.

(b) A panel, ~~[six]~~ *four* copies must be furnished to the panel.

*(c) Additional copies will be furnished by the parties as instructed by the Commissioner prior to the hearing.*

2. The Board may waive the requirements of subsection 1 and require the parties to furnish documentary exhibits in an electronic format. If the Board does so, the Board will notify each party of this requirement when it notifies the party of the hearing.

3. If relevant evidence is included in a written or printed statement, book or document of any kind, containing other matters not relevant and not intended to be put into evidence, the statement, book or document containing that other matter may not be received or admitted in whole. Counsel or other parties offering evidence or exhibits shall present, in convenient and proper form for filing, a copy of the relevant portions or, at the discretion of the Board, read these portions into the record. Any documentary

evidence offered, whether in the form of an exhibit or introduced by reference is subject to appropriate and timely objection.

4. If documents are numerous or voluminous, and a party desires to offer into evidence more than a limited number of these documents as typical of the others, an orderly abstract of relevant data contained in these documents may be prepared and offered as an exhibit. Other parties of record will be given a reasonable opportunity to examine both the abstract and the documents.

5. In any proceeding involving detailed accounting exhibits, the Board may require each party to file with the Board, and to serve on each party of record, a copy of these exhibits within a specified time before the hearing to enable the parties of record to study the exhibits and to prepare cross-examination with reference to them.

6. Amendments to exhibits may be made after filing with the Board if the amendments do not prejudice the rights of any party or if the amendments contain a clerical or mathematical error.

(Added to NAC by Local Gov't Employee-Mgt. Rel. Bd., eff. 9-30-88; A by R135-03, 10-30-2003; A by Gov't Employee-Mgt. Rel. Bd. by R056-19, 12-30-2019)

#### **RATIONALE:**

**This amendment clarifies the number of exhibits that must be submitted to the Board or the panel in advance of a hearing. While the Commissioner currently discusses and confirms exhibit requirements with the parties during the prehearing conference, this clarification formalizes that practice in regulation. Doing so provides greater transparency and consistency for the parties, reduces uncertainty regarding submission requirements, and supports more efficient hearing preparation and case management.**

#### **Number 5**

**NAC 288.2715 Scheduling of meetings of panel; assignment of cases and stipulations to dismiss; assignment of cases involving statewide significance to full Board. ([NRS 233B.040](#), [288.090](#), [288.110](#))**

1. The Commissioner shall schedule the meetings of each panel in consultation with the members of the panel.

2. Except as otherwise provided in this section and [NAC 288.211](#), whenever a case is commenced before the Board by the filing of a complaint, petition or other pleading, the Commissioner shall[:

~~(a) Assign the case to the full Board; or~~

~~(b) Appoint an initial panel;~~

~~→ to consider whether a hearing should be held in the case.]~~

*keep the case before the full Board for all matters until such time that the full Board decides whether a hearing should be held in the case.*

3. If the Board ~~[or panel, as applicable,]~~ decides pursuant to subsection 2 that a hearing should be held in a case, the Board ~~[or initial panel]~~ will, during the same meeting, randomly assign the case to ~~[itself or another]~~ *an unassigned* panel for hearing.

4. Except as otherwise provided in this subsection, after a case has been assigned to a panel pursuant to subsection ~~[2 or]~~ 3~~[, as applicable,]~~ any motion or other matter relating to the case, *or a stipulation, including, but not limited to dismiss all or any part of a complaint or petition is filed* will be decided by that panel *for consideration and disposition*. ~~[If a stipulation to dismiss all or any part of a complaint or petition is filed, the Commissioner shall assign the stipulation to the next available panel for consideration and disposition.]~~

5. If the Commissioner determines that a case involves an issue of statewide significance, the Commissioner may so designate the case and assign it to the full Board instead of a panel for all further proceedings. If such a designation is made, the Commissioner shall prepare and file written notice of the designation, stating the reasons for the designation, and serve a copy of the notice upon each party to the case.

(Added to NAC by Local Gov't Employee-Mgt. Rel. Bd. by R074-17, eff. 2-27-2018; A by Gov't Employee-Mgt. Rel. Bd. by R056-19, 12-30-2019)

#### **RATIONALE:**

This amendment will streamline the assignment of panels. Since its amendment in 2019, Section 2(b), which provides for the assignment of cases to an initial panel, has not yielded any tangible benefits to case management. Eliminating the requirement for an initial panel assignment and instead providing for the automatic assignment of cases to the full Board will simplify and clarify case administration, reduce unnecessary procedural steps, and allow cases to be scheduled and managed more efficiently.

#### **Number 6**

##### **NAC 288.340 Decisions and orders. (NRS 288.110)**

1. Any *Board or panel* decision or order announced outside of a hearing will be in writing. The Board will serve a copy upon each of the parties.

2. Decisions and orders *from the Board or panel* announced at a hearing may be stated orally and must be included in the stenographic report of the hearing.

3. *Any dissenting or concurring opinions wished to be made by any Board member(s) or panel member(s) may be stated orally at the hearing during the time of the vote. Such an order shall not be administered in writing unless submitted individually by the dissenting Board member(s) or panel member(s).*

4. *Any Board member or panel member may abstain from voting. The Board member or the panel member is not required to explain their purpose for abstaining unless the purpose stems from a potential conflict.*

[Local Gov't Employee-Mgt. Rel. Bd., No. 3.05, eff. 11-12-71]

**RATIONALE:**

The Board has the option of issuing split decisions; however, there is no current mechanism for drafting or issuing the dissenting decision. Historically dissents have been drafted by the board member so dissenting. Right now, the assigned Deputy Attorney General (“DAG”) is responsible for drafting the Board’s decision and representing the Board in the event of a Petition for Judicial Review. If the assigned DAG drafts both the dissent and the Board’s decision, it could create a conflict for the DAG in the event of representing the agency at the PJR level, especially if the PJR is based on upholding the dissenting decision and not that of the quorum’s majority. Additionally, because deliberations are held in closed session, the participating parties are not always made aware of the basis of a Board member’s dissent. Here, this will allow any dissenting Board members the opportunity to explain their position on record but not create a conflict for the DAG.

**Number 7**

***NAC 288.X. Limited deferral doctrine; stay of proceedings; joint status reports.***

- 1. The Board follows the limited deferral doctrine. When a case is stayed pursuant to that doctrine, the Board **may** require the parties to file periodic joint status reports.*
- 2. Each joint status report **must** describe the status of any related proceedings in other forums, including the anticipated date or timeframe for the conclusion of those proceedings.*
- 3. If the parties are unable to agree on the contents of a joint status report, each party **may** submit its own section within the joint filing.*
- 4. Upon receipt of a joint status report, the Board or an assigned panel **shall** review the filing and **shall** determine whether the stay will remain in effect.*
- 5. If the stay is continued, the Board or assigned panel **shall** establish the due date for the next joint status report.*
- 6. If the stay is lifted, the Board or assigned panel **shall** issue appropriate orders directing the parties as to further proceedings in the case.*

**RATIONALE:**

This regulation codifies the Board’s existing practice under the limited deferral doctrine when a case is stayed pending proceedings in another forum. It authorizes the Board to require periodic joint status reports to ensure continued oversight of stayed cases, promote transparency regarding related proceedings, and allow the Board to assess whether a stay should remain in effect. The regulation also clarifies the required contents of joint status reports, provides a mechanism when parties cannot agree on report language, and establishes a clear process for Board review and further direction following submission of each report.