

**PROPOSED REGULATION OF THE AGING AND DISABILITY
SERVICES DIVISION OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

LCB File No. R111-19

February 12, 2020

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

AUTHORITY: §§1 and 12-36, NRS 427A.070 and 427A.175; §§2 and 10, NRS 427A.070, 427A.135 and 427A.138; §§3 and 5-7, NRS 427A.070 and 427A.125; §4, NRS 427A.070 and 427A.145; §§8 and 11, NRS 427A.070; §9, NRS 427A.070 and 427A.165.

A REGULATION relating to public welfare; expanding the authority of the Office of the State Long-Term Care Ombudsman to advocate for the rights of recipients of services of certain facilities; renaming the Office of Specialist for the Rights of Elderly Persons to the Office of Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition; imposing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Administrator of the Aging and Disability Services Division of the Department of Health and Human Services to adopt rules and regulations, subject to the approval of the Director of the Department, relating to aging persons and persons with disabilities. (NRS 427A.070) Existing law authorizes the State Long-Term Care Ombudsman or an advocate to advocate for the protection of the health, safety, welfare and rights of recipients of the services of a facility for long-term care, day care center, facility for long-term rehabilitation or provider of living arrangement services. (NRS 427A.125, 427A.135, 427A.138, 427A.145, 427A.165) Existing regulations outline various requirements for the Administrator and the Office of the State Long-Term Care Ombudsman in advocating for the rights of residents of facilities for long-term care. (NAC 427A.010, 427A.012, 427A.016, 427A.018, 427A.042-427A.048, 427A.125) **Sections 2-9 and 11** of this regulation include recipients of the services of a day care center, facility for long-term rehabilitation or provider of living arrangement services within the group of persons for whom the Ombudsman or an advocate advocates.

Existing regulations require a facility for long-term care to post certain notices relating to the Ombudsman or an advocate and for making a complaint to the Ombudsman or an advocate. (NAC 427A.048) **Section 9** of this regulation requires the Division to impose a civil penalty not to exceed \$500 for the failure to post such notices by a facility for long-term care, day care center, facility for long-term rehabilitation or provider of living arrangement services.

Existing law establishes the Office of Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition. (NRS 427A.123) The Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition generally ensures the legal rights of such persons are not violated. (NRS 427A.1219-427A.1236) Existing regulations provide for various duties of the Specialist for the Rights of Elderly Persons. (NAC 427A.323, 427A.3235, 427A.3245-427A.3255, 427A.3275, 427A.328, 427A.3295, 427A.330, 427A.331, 427A.3315, 427A.3325, 427A.3335-427A.339) Assembly Bill No. 31 of the 2017 Legislative Session transferred the duties of the Specialist for the Rights of Elderly Persons to the Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition. **Sections 12-35** of this regulation change the name of the “Specialist for the Rights of Elderly Persons” to the “Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.” **Section 36** of this regulation repeals the definition of “Specialist” while **section 1** of this regulation defines “Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.”

Section 1. Chapter 427A of NAC is hereby amended by adding thereto a new section to read as follows:

“Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition” means the person appointed pursuant to NRS 427A.1232.

Sec. 2. NAC 427A.010 is hereby amended to read as follows:

427A.010 As used in NAC 427A.010 to 427A.310, inclusive, unless the context otherwise requires:

1. “Advocate” includes a volunteer advocate appointed by the ~~Administrator~~ *Ombudsman* pursuant to NRS 427A.127.

2. *“Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition” means the person appointed pursuant to NRS 427A.1232.*

3. “Complainant” means a ~~[resident]~~ *recipient* who files a complaint pursuant to NRS 427A.125 to 427A.165, inclusive, or a person who files a complaint on behalf of a ~~[resident.]~~ *recipient*. The term includes a person claiming retaliation for having filed a complaint, a person who provides information regarding a complaint, and an advocate or the representative of an advocate.

~~[3.]~~ 4. “Hearing officer” means the ~~[Specialist for the Rights of Elderly Persons]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* or a person designated by him or her.

~~[4.]~~ 5. “Person” means a natural person, partnership, association, corporation or other public or private entity.

~~[5.—“Resident” means a resident of a facility for long term care who is 60 years of age or older.]~~

6. “Respondent” means a person against whom a complaint has been filed.

~~[7.—“Specialist for the Rights of Elderly Persons” means the person appointed pursuant to NRS 427A.1232.]~~

Sec. 3. NAC 427A.012 is hereby amended to read as follows:

427A.012 For the purposes of NRS 427A.125, the Administrator will interpret the term “family council” to mean a group of family members of ~~[residents]~~ *recipients of the services* of a facility for long-term care , *day care center, facility for long-term rehabilitation or facility*

maintained by a provider of living arrangement services that is formed to discuss concerns about the facility ~~[]~~ *or center*, communicate those concerns to the staff of the facility *or center* and cooperate with the staff in developing solutions to the concerns.

Sec. 4. NAC 427A.016 is hereby amended to read as follows:

427A.016 For the purposes of NRS 427A.145, the Administrator will interpret the phrase “person or persons designated as responsible for decisions regarding the ~~[resident]~~ *recipient*” to mean a person or persons designated by a ~~[resident]~~ *recipient* as able to receive information about the ~~[resident]~~ *recipient* and make decisions on the ~~[resident’s]~~ *recipient’s* behalf, including, without limitation, such a person who is a member of the ~~[resident’s]~~ *recipient’s* family or the ~~[resident’s]~~ *recipient’s* attorney-in-fact.

Sec. 5. NAC 427A.018 is hereby amended to read as follows:

427A.018 For the purposes of NRS 427A.125, the Administrator will interpret the term ~~[“resident”]~~ *“recipient council”* to mean a group of ~~[residents]~~ *recipients of the services* of a facility for long-term care , *day care center, facility for long-term rehabilitation or facility maintained by a provider of living arrangement services* that is formed to discuss concerns about the facility ~~[]~~ *or center*, communicate those concerns to the staff of the facility *or center* and cooperate with the staff in developing solutions to the concerns.

Sec. 6. NAC 427A.042 is hereby amended to read as follows:

427A.042 The training of advocates provided by the Ombudsman pursuant to NRS 427A.125 will include, without limitation:

1. A minimum of 40 hours of initial training which is based on standards of the Administration on Aging of the United States Department of Health and Human Services and which includes, without limitation:

(a) An introduction to the Ombudsman Program administered by the Administration on Aging, including the history of that program and related state programs and the role and responsibilities of ombudsmen; and

(b) Instruction concerning:

(1) Federal, state and local law and policies with respect to the program established in this State by the Ombudsman to assist ~~residents~~ *recipients of the services* of facilities for long-term care, *day care centers, facilities for long-term rehabilitation or facilities maintained by providers of living arrangement services* and with respect to *such* facilities ~~for long-term care~~ *or centers* in this State, including laws and policies concerning confidentiality and consent;

(2) Ethics, advocacy and problem solving with respect to the program established in this State; and

(3) Investigative techniques, periodic visits to *such* facilities ~~for long-term care~~ *or centers* and techniques for resolving complaints with respect to the program established in this State; and

2. At least 8 hours of in-service training on an annual basis.

Sec. 7. NAC 427A.044 is hereby amended to read as follows:

427A.044 The Ombudsman or an advocate may assist in the forming and activities of the ~~residents'~~ *recipients'* councils and family councils in any facility for long-term care ~~[-],~~ *day*

care center, facility for long-term rehabilitation or facility maintained by a provider of living arrangement services.

Sec. 8. NAC 427A.046 is hereby amended to read as follows:

427A.046 1. A volunteer advocate may enter any facility for long-term care , *day care center, facility for long-term rehabilitation or facility maintained by a provider of living arrangement services* and any area within the facility *or center* at reasonable times with or without prior notice. Upon arrival at the facility ~~[.]~~ *or center*, the volunteer advocate shall make his or her presence known to the staff of the facility *or center* and shall present appropriate identification.

2. A volunteer advocate who visits a long-term care facility , *day care center, facility for long-term rehabilitation or facility maintained by a provider of living arrangement services* shall:

- (a) Meet with ~~[residents]~~ *recipients* of the facility *or center* and the staff of the facility *or center* during the visit; and
- (b) Report to the Ombudsman or a designee of the Ombudsman concerning the visit.

Sec. 9. NAC 427A.048 is hereby amended to read as follows:

427A.048 1. Each facility for long-term care , *day care center, facility for long-term rehabilitation or facility maintained by a provider of living arrangement services* shall post a notice which describes the purpose of the Ombudsman and an advocate and sets forth the procedure for making a complaint to the Ombudsman or an advocate if a ~~[resident's]~~ *recipient's* rights have been violated.

2. The notice described in subsection 1:

(a) Must be posted in ~~prominent~~ *accessible* locations throughout the facility for long-term care ~~including, without limitation:~~

~~(1) The entry area;~~

~~(2) The dining area; and~~

~~(3) An area where residents convene for activities;],~~ *day care center, facility for long-term rehabilitation or facility maintained by a provider of living arrangement services; and*

(b) Must include, without limitation:

(1) The name of the program established in this State by the Ombudsman to assist ~~residents~~ *recipients* of *the services of such* facilities ~~for long-term care;] or centers;~~ and

(2) The address and telephone number of each office of the Aging and Disability Services Division in this State.

3. ~~[As used in this section, “resident’s rights” includes the rights of a resident of a facility for long-term care as set forth in 42 C.F.R. § 483.10.]~~ *The Division will impose a civil penalty of not more than \$500 on a facility for long-term care, day care center, facility for long-term rehabilitation or facility maintained by a provider of living arrangement services that fails to comply with this section.*

Sec. 10. NAC 427A.120 is hereby amended to read as follows:

427A.120 1. The Administrator of the Aging and Disability Services Division of the Department of Health and Human Services shall appoint an investigator to investigate each complaint concerning an alleged violation of NRS 427A.135 or 427A.138.

2. The complaint must be in writing and signed and verified by the complainant, and two copies must be filed with the ~~Specialist for the Rights of Elderly Persons]~~ *Attorney for the*

Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition within 1 year after the act complained of was committed.

3. A complaint must be stated with sufficient particularity to enable the respondent to prepare a defense.

4. If, from the complaint, it appears that the charges may be well founded, the ~~[Specialist for the Rights of Elderly Persons]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* shall send written notice to the person charged by certified mail at least 20 days before the date set for the hearing. The notice must set forth the charges and the date of the hearing.

Sec. 11. NAC 427A.125 is hereby amended to read as follows:

427A.125 In attempting to resolve a complaint made by or on behalf of a ~~[resident]~~ *recipient* of *the services of* a facility for long-term care, *day care center, facility for long-term rehabilitation or facility maintained by a provider of living arrangement services*, the Ombudsman or an advocate, upon request, may advocate for and assist a ~~[resident]~~ *recipient* or a member of a ~~[resident's]~~ *recipient's* family during the process of discharging the ~~[resident]~~ *recipient* from *such* a facility ~~[for long-term care,]~~ *or center*, including, without limitation, any appeal from a notice of discharge given to the ~~[resident.]~~ *recipient*.

Sec. 12. NAC 427A.320 is hereby amended to read as follows:

427A.320 As used in NAC 427A.320 to 427A.3395, inclusive, *and section 1 of this regulation*, the words and terms defined in NAC 427A.3205 to ~~[427A.323,]~~ *427A.3225*, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 13. NAC 427A.3235 is hereby amended to read as follows:

427A.3235 The provisions of NAC 427A.320 to 427A.3395, inclusive ~~[]~~, *and section 1 of this regulation:*

1. Govern all practice and procedure for a complaint filed by an older patient for damage to property pursuant to NRS 427A.175 and for the investigation and hearing of that complaint; and
2. Must be liberally construed to secure a just, speedy and economical determination of all issues presented to the Administrator of the Division and the ~~[Specialist.]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.*

Sec. 14. NAC 427A.3245 is hereby amended to read as follows:

427A.3245 In special cases, upon a showing of good cause, the ~~[Specialist.]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* may permit deviation from the requirements set forth in NAC 427A.320 to 427A.3395, inclusive, *and section 1 of this regulation* if compliance is impractical or unnecessary.

Sec. 15. NAC 427A.325 is hereby amended to read as follows:

427A.325 Formal written communications and documents must be addressed to the ~~[Specialist.]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* and shall be deemed to be received officially only when delivered to the ~~[Specialist.]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.*

Sec. 16. NAC 427A.3255 is hereby amended to read as follows:

427A.3255 Notices, findings of fact, opinions and decisions of the ~~[Specialist,]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition*, and any document filed by a party, may be served by mail. Service shall be deemed to be complete when a true copy of the document, properly addressed and with postage paid, is deposited with the United States Postal Service.

Sec. 17. NAC 427A.3275 is hereby amended to read as follows:

427A.3275 1. An original and two legible copies of each pleading must be filed with the ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* in all matters before him or her.

2. The ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* may direct that the party who filed a pleading make copies of it available to any other person who has requested copies, if the ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* first determines that the person making the request may be affected by the proceeding.

Sec. 18. NAC 427A.328 is hereby amended to read as follows:

427A.328 The ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings must be liberally construed and defects that do not affect a substantial right of a party must be disregarded.

Sec. 19. NAC 427A.3295 is hereby amended to read as follows:

427A.3295 1. A respondent has 10 days after being served a complaint in which to file his or her answer with the ~~[Specialist,]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition*, regardless of whether a settlement conference is scheduled pursuant to NAC 427A.329.

2. If the respondent fails to answer within 10 days, the respondent shall be deemed to have denied generally the allegations contained in the complaint.

3. If no answer is filed and a hearing is requested pursuant to NAC 427A.330, the hearing will proceed solely upon the issues set forth in the complaint, unless the hearing is continued to a future date by order of the ~~[Specialist,]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition*.

Sec. 20. NAC 427A.330 is hereby amended to read as follows:

427A.330 1. If a settlement is not reached pursuant to subsection 2 of NRS 427A.175 and the complainant or respondent requests a hearing, the hearing must be before the ~~[Specialist,]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition*.

2. Notice of the place, date and hour of a hearing must be served at least 20 days before the date set for the hearing.

3. A hearing which has previously been continued may be rescheduled with at least 10 days' notice.

4. Each hearing must be held at a place in the State designated by the ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* in the notice of hearing.

Sec. 21. NAC 427A.331 is hereby amended to read as follows:

427A.331 A party may enter an appearance at the beginning of a hearing or at any time designated by the ~~{Specialist}~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* by giving his or her name and address and stating his or her position or interest to the ~~{Specialist.}~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition*. The appearance must be recorded in the transcript of the hearing.

Sec. 22. NAC 427A.3315 is hereby amended to read as follows:

427A.3315 1. If the complainant or the respondent fails to appear at a scheduled hearing and no continuance has been requested or granted, the ~~{Specialist}~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* may hear the evidence of witnesses who have appeared and may proceed to consider the matter and dispose of it on the basis of the evidence before him or her.

2. Any person who fails to appear for a scheduled hearing or to request a continuance because of accident, sickness or other reasonable cause may, within 15 days after the failure, apply to the ~~{Specialist}~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* to reopen the proceedings.

3. The ~~{Specialist.}~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition*, upon finding the cause to reopen the proceedings sufficient and reasonable, will immediately fix a time and place for the rescheduled hearing and give notice thereof.

4. At the time and place fixed, a second hearing must be held at which the person who requested the second hearing may testify in his or her own behalf or present other evidence beneficial to his or her cause.

5. Witnesses who have previously testified are not required to appear at a second hearing on the same matter unless so directed by the **[Specialist.] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.**

Sec. 23. NAC 427A.3325 is hereby amended to read as follows:

427A.3325 The **[Specialist.] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** will call the proceeding to order, take the appearances and make any introductory remarks. Each party may then make an opening statement.

Sec. 24. NAC 427A.3335 is hereby amended to read as follows:

427A.3335 1. In conducting a hearing, the **[Specialist.] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** is not bound by the Nevada Rules of Civil Procedure and an informality in any proceeding or in the manner of taking of testimony does not invalidate any decision the **[Specialist.] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** issues.

2. The Nevada Rules of Civil Procedure may be generally followed, but may be relaxed by the **[Specialist.] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** if deviation from those rules of evidence will aid in ascertaining the facts.

3. If an objection is made to the admissibility of evidence, the evidence may be received but it is subject to any subsequent ruling of the ~~Specialist~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition*.

4. The ~~Specialist~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* may exclude inadmissible, incompetent, cumulative or irrelevant evidence.

5. A party objecting to the introduction of evidence shall briefly state the grounds of the objection at the time the evidence is offered.

6. Evidence admitted at hearings must be material and relevant to the issues.

Sec. 25. NAC 427A.334 is hereby amended to read as follows:

427A.334 All testimony to be considered in a hearing must be taken under oath. Before taking the witness stand, each person must swear before the ~~Specialist~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* to the truthfulness of the testimony the person is about to give in the hearing.

Sec. 26. NAC 427A.3345 is hereby amended to read as follows:

427A.3345 1. The ~~Specialist~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* may consolidate two or more proceedings into one hearing if it appears that the issues are substantially the same and the interests of the parties will not be prejudiced by consolidation.

2. The ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* will determine the order of procedure in a consolidated hearing.

Sec. 27. NAC 427A.335 is hereby amended to read as follows:

427A.335 The ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* may, before or during a hearing, and on a proper showing, grant continuances for submission of further proof of any matter or for any other just cause.

Sec. 28. NAC 427A.3355 is hereby amended to read as follows:

427A.3355 1. With the approval of the ~~[Specialist,]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition*, the parties may stipulate to any fact at issue by a written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record.

2. Any stipulation is binding upon all parties to it and may be treated as evidence at the hearing.

3. The ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* may demand proof by requiring evidence of the facts stipulated.

Sec. 29. NAC 427A.336 is hereby amended to read as follows:

427A.336 1. The ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* may order briefs to be filed and specify a time limit for their filing.

2. Three copies of any requested brief must be filed with the **[Specialist] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** in matters before him or her.

3. Each brief must be accompanied by an acknowledgment of service or a certificate of mailing to the other parties of record.

4. After the filing of briefs and the deciding of contested motions, the **[Specialist] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** may set the matter for oral argument and give reasonable notice to all parties.

Sec. 30. NAC 427A.3365 is hereby amended to read as follows:

427A.3365 The **[Specialist] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** may take official notice of:

1. The rules, regulations, official reports, decisions and orders of any regulatory agency of the State.
2. Matters of common knowledge and established technical or scientific facts.
3. Official documents, if relevant and properly introduced into the record of formal proceedings by reference. A proper and definite reference to the documents must be made by the party offering them, and the documents must be published and generally circulated so that the parties in interest may examine the documents and present rebuttal evidence.

Sec. 31. NAC 427A.337 is hereby amended to read as follows:

427A.337 The ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* will cause a record to be made of all formal hearings. Any party who wishes to secure a copy of the record may obtain it from the ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* upon payment of the proper fee.

Sec. 32. NAC 427A.3375 is hereby amended to read as follows:

427A.3375 Unless otherwise ordered, a proceeding stands submitted for decision by the ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* after the taking of evidence, the filing of briefs or the presentation of oral argument required by the ~~[Specialist.]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.*

Sec. 33. NAC 427A.338 is hereby amended to read as follows:

427A.338 1. The ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* will issue a decision not later than 60 days after the hearing.

2. The ~~[Specialist]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* will mail or personally deliver a copy of the decision to the Administrator of the Division and each party of record or his or her representative.

3. Additional copies of the decision may be obtained by making a written request to the ~~[Specialist.]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.*

Sec. 34. NAC 427A.3385 is hereby amended to read as follows:

427A.3385 1. The ~~[Specialist.]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition* shall summarize the proceedings in a written report using the following format:

A. INTRODUCTION—The date, time and place of the hearing and the name of each person present at the hearing.

B. NATURE OF CASE—Overview of the issues presented during the hearing.

C. FINDINGS OF FACT—The facts of the case as determined by the ~~[Specialist.]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.*

D. CONCLUSIONS OF LAW—The laws, regulations, procedural rules and policies which support the findings and decision of the ~~[Specialist.]~~ *Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition.*

E. DECISION—The decision of whether the respondent is liable for damages to the complainant and, if the respondent is liable for damages, the amount of the surety bond pursuant to NRS 449.065 or the substitute for the surety bond necessary to pay for the damages pursuant to NRS 449.067 to be released to the Division.

2. The **[Specialist] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** shall submit the written report prepared pursuant to this section to the Administrator of the Division with the case record required pursuant to NAC 427A.339.

Sec. 35. NAC 427A.339 is hereby amended to read as follows:

427A.339 1. The **[Specialist] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** shall keep the record of each hearing that he or she conducts which contains:

(a) All correspondence that the **[Specialist] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** has received regarding the subject matter of the hearing;

(b) All exhibits presented and accepted during the hearing; and

(c) A narrative log of all contacts that the **[Specialist] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** has had with the complainant or the complainant's representative, the respondent, members of the staff of the Division, or legal counsel for any of the participants in the hearing.

2. The case record established by the **[Specialist] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** constitutes the official record of the hearing.

3. After the **[Specialist] Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability or a Related Condition** has rendered a decision,

he or she shall submit the case record and the audiotape recording of the hearing to the office of the Division in Carson City. That office shall retain the record of the hearing and the audiotape recording for:

- (a) Four years after the date of the decision; or
- (b) Until the resolution of a judicial review of the decision,

↳ whichever occurs later.

Sec. 36. NAC 427A.323 is hereby repealed.

TEXT OF REPEALED SECTION

427A.323 “Specialist” defined. “Specialist” means the Specialist for the Rights of Elderly Persons appointed pursuant to NRS 427A.1232.