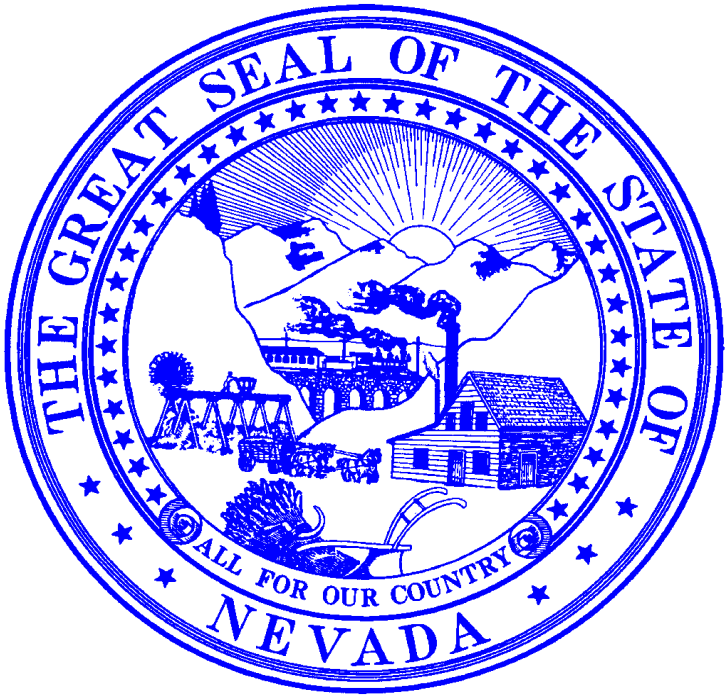
Rules for State Personnel Administration



State of Nevada
Division of Human Resource Management
Department of Administration

Rules for State Personnel Administration
NRS and NAC 284
and Other Selected Sections

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CHAPTER 284

STATE PERSONNEL SYSTEM

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Regulations in bold italicized signify those that are not yet codified at this time.

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GENERAL PROVISIONS

NRS 284.010 states, "Legislative declaration of purpose.

1. The Legislature declares that the purpose of this chapter is:

(a) To provide all citizens a fair and equal opportunity for public service;

(b) To establish conditions of service which will attract officers and employees of character and ability;

(c) To establish uniform job and salary classifications; and

(d) To increase the efficiency and economy of the agencies in the Executive Department of the State Government by the improvement of methods of personnel administration.

2. The Legislature declares that, in its considered judgment, the proper administration of the Executive Department of our State Government requires the enactment of this chapter."

NRS 284.013 states in part, "Applicability; terms and conditions of employment of exempted persons; written contracts required for certain services.

1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, Commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS; or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute."

NRS 284.022 states, "Inclusion of employees of certain governmental agencies in State Personnel System The Division may include within the Personnel System all employees of any governmental agency acquired for administration by the State."

NAC 284.010 Definitions. (NRS 284.065) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 284.021 to 284.1125, inclusive, ***and section 1 of LCB File No. R137-12*** have the meanings ascribed to them in those sections.

(Supplied in codification; A by Dep't of Personnel, 10-26-84; 4-19-88; 8-1-91; 7-6-92; 3-23-94; 10-27-97; R031-98, 4-17-98; R043-99, 9-27-99; R197-99, 1-26-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R038-03, 10-30-2003; R142-05, 12-29-2005; R147-06, 12-7-2006***; R137-12, 10-23-2013)***

NAC 284.021 "Administrator" defined. (NRS 284.065) "Administrator" means the Administrator of the Division of Human Resource Management.

[Personnel Div., Rule I § D subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)—(Substituted in revision for NAC 284.056)

NAC 284.022 "Appointing authority" defined. (NRS 284.065) "Appointing authority" means an official, board or commission having the legal authority to make appointments to positions in the state service, or a person to whom the authority has been delegated by the official, board or commission.

[Personnel Div., Rule I § D subsec. 3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.023 "Appointment" defined. (NRS 284.065) "Appointment" means the acceptance by an applicant of an offer of employment by an appointing authority and their mutual agreement as to a date of hire.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.025 "Base rate of pay" defined. (NRS 284.065) "Base rate of pay" means the dollar value of an employee's grade and step.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.026 "Break in service" defined. (NRS 284.065) "Break in service" means any separation from state service except for those separations listed in NAC 284.598.

[Personnel Div., Rule I § D subsec. 4, eff. 8-11-73]

NAC 284.027 "Budget Division" defined. "Budget Division" means the Budget Division of the Department of Administration.

(Supplied in codification)

NAC 284.028 "Center for assessment" defined. (NRS 284.065) "Center for assessment" means a method of examination based upon an assessment and rating process which uses a series of oral, written and performance exercises.

(Added to NAC by Dep't of Personnel, eff. 11-12-93)

NAC 284.030 "Class" defined. (NRS 284.065) "Class" means a group of positions sufficiently similar with respect to their duties and responsibilities that the same title may be reasonably and fairly used to designate each position allocated to the class, substantially the same tests of fitness may be used, substantially the same minimum qualifications may be required and the same schedule of compensation may be applied with equity.

[Personnel Div., Rule I § D subsec. 5, eff. 8-11-73]

NAC 284.034 "Class series" defined. (NRS 284.065) "Class series" means the normal line of progression from training, entry or preparatory levels to supervisory or administrative levels within a job specialty so that the minimum qualifications, tests of fitness and the duties and responsibilities of each class are similar but different in level.

[Personnel Div., Rule I § D subsec. 6, eff. 8-11-73]

NAC 284.036 "Class specification" defined. (NRS 284.065) "Class specification" means a written description of a class, consisting of a title, a definition, examples of duties, and the minimum qualifications which are required.

[Personnel Div., Rule I § D subsec. 7, eff. 8-11-73]

NAC 284.038 "Classification" defined. (NRS 284.065) "Classification" means the systematic process of analytically grouping and allocating positions to classes based on the similarity of actual duties and responsibilities.

[Personnel Div., Rule I § D subsec. 8, eff. 8-11-73]

NAC 284.042 "Classification plan" defined. (NRS 284.065) "Classification plan" means a listing of all the classes which have been established, the class specifications, and the grade to which each is assigned.

[Personnel Div., Rule I § D subsec. 9, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NRS 284.150 states in part, "Classified service: Composition;…

1. The classified service of the State of Nevada is comprised of all positions in the public service now existing or hereafter created which are:

(a)Lawfully designated as being in classified service; and

(b)Filled according to merit and fitness from eligible lists prepared upon the basis of examination, which must be open and competitive, except as otherwise provided in this chapter and NRS 209.161."

NAC 284.050 "Commission" defined. (NRS 284.065) "Commission" means the Personnel Commission.

(Supplied in codification; A by Dep't of Personnel, 10-26-84)

NAC 284.051 "Committee" defined. "Committee" means the Employee-Management Committee.

(Supplied in codification)

NAC 284.0525 "Continuous service" defined. (NRS 284.065) "Continuous service" means service which is not broken by a separation except for those separations listed in NAC 284.598.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.053 "Date of hire" defined. (NRS 284.065) "Date of hire" means the date an employee begins or, after a break in service, resumes his or her paid employment with the State.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.0533 "Dating relationship" defined. (NRS 284.065) "Dating relationship" means an intimate association primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

(Added to NAC by Dep't of Personnel by R058-01, eff. 9-6-2001; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.0535 "Day" defined. (NRS 284.065) "Day" means a calendar day.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.054 "Demotion" defined. (NRS 284.065) "Demotion" means any movement of an employee to a class having a lower grade than the class previously held.

[Personnel Div., Rule I § D subsec. 11, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.055 "Department" defined. (NRS 284.065) "Department" means:

1. An agency in the Executive Branch of State Government which is designated as a department by statute;
2. The Nevada System of Higher Education; and
3. Any state board or commission which employs classified workers.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.057 "Division of Human Resource Management" defined. "Division of Human Resource Management" means the Division of Human Resource Management of the Department of Administration.

(Supplied in codification)

NAC 284.058 "Eligible person" defined. (NRS 284.065) "Eligible person" means any person who applies, is eligible, competes and successfully passes all phases of an examination and is placed on an appropriate eligible list.

[Personnel Div., Rule I § D subsec. 12, eff. 8-11-73]

NAC 284.062 "Employee" defined. (NRS 284.065) "Employee" means a person legally holding a position in the public service as defined in NRS 284.015.

[Personnel Div., Rule I § D subsec. 13, eff. 8-11-73]

NAC 284.063 "Entry level" defined. (NRS 284.065) "Entry level" means a class in which supervision is not a required duty or responsibility of the positions allocated to the class. The term includes any trainee level and the journey level.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R024-05, 10-31-2005)

INFORMATIONAL NOTE: NRS 284.148 "Unclassified and classified service: Persons exempt pursuant to Federal Fair Labor Standards Act of 1938; determination of exempt positions by division." may be found preceding NAC 284.242.

NAC 284.0637 "Exempt classified employee" defined. (NRS 284.065) "Exempt classified employee" means an employee in the classified service described in subsection 2 of NRS 284.148.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by R147-01, 1-22-2002)

NAC 284.0638 "Exempt unclassified employee" defined. (NRS 284.065) "Exempt unclassified employee" means an employee in the unclassified service described in subsection 1 of NRS 284.148.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by R147-01, 1-22-2002)

NAC 284.0639 "Full-time employee" defined. (NRS 284.065) "Full-time employee" means an employee whose work schedule is 100 percent of the full-time equivalent established for the employee's pay class designation.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.064 "Full-time employment" defined. (NRS 284.065) "Full-time employment" means a work schedule that is 100 percent of the full-time equivalent established for the pay class designation.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-13-91; R147-01, 1-22-2002)

NAC 284.065 "Full-time equivalency" and "full-time equivalent" defined. (NRS 284.065) "Full-time equivalency" or "full-time equivalent" means:

1. For a nonexempt employee, the number of hours authorized by the Division of Human Resource Management for the nonexempt employee's position, divided by the number of base hours established for the position's pay class designation.
2. For an exempt classified employee or an exempt unclassified employee, the number of days authorized by the Division of Human Resource Management for the employee's position, divided by the number of base days established for the position's pay class designation.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.0655 "Genetic information" defined. (NRS 284.065) "Genetic information" means information:

1. That is obtained from genetic testing of a person;
2. That is obtained from genetic tests of a family member of a person; or
3. Relating to the manifestation of a disease or disorder in a family member of a person.

(Added to NAC by Personnel Comm'n by R055-10, eff. 6-30-2010)

NAC 284.066 "Grade" defined. (NRS 284.065) "Grade" means the number assigned by the Division of Human Resource Management to identify the range of pay for a class.

[Personnel Div., Rule I § D subsec. 15, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; R147-01, 1-22-2002)

NAC 284.0663 "Holiday" defined. (NRS 284.065) "Holiday" means a day that is designated to be a legal holiday pursuant to NRS 236.015.
(Added to NAC by Dep't of Personnel by R147 01, eff. 1-22-2002)

NAC 284.0665 "Individual classification study" defined. (NRS 284.065) "Individual classification study" means a classification study initiated by an employee of this State, an agency of this State or the Division of Human Resource Management which is based upon a new position or a significant change that has occurred in an existing position.
(Added to NAC by Dep't of Personnel, eff. 10-27-97)

NAC 284.067 "Innovative workweek" defined. (NRS 284.065) "Innovative workweek" means a work schedule that differs from a standard or nonstandard workweek.
(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.068 "Insurer" defined. (NRS 284.065) "Insurer" has the meaning ascribed to it in NRS 616A.270.
(Added to NAC by Dep't of Personnel by R197-99, eff. 1-26-2000)

NAC 284.069 "Journey level" defined. (NRS 284.065) "Journey level" means the level of performance within an occupational specialty that requires a degree of knowledge and proficiency sufficient to perform work independently with little or no additional training.
(Added to NAC by Dep't of Personnel, eff. 10 26 84; A by Personnel Comm'n by R024-05, 10-31-2005)

NAC 284.070 "Nonclassified employee" defined. (NRS 284.065) "Nonclassified employee" means an employee in the office of the Governor or the Judicial or Legislative Branch of State Government.
[Personnel Div., Rule I § D subsec. 17, eff. 8-11-73]—(NAC A by Dep't of Personnel by R098-99, 9-27-99)

NAC 284.071 "Nonexempt employee" defined. (NRS 284.065) "Nonexempt employee" means an employee who is not subject to the provisions of NRS 284.148.
(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.072 "Nonstandard workweek" defined. (NRS 284.065) "Nonstandard workweek" means a work schedule of five shifts with the same number of hours each day and a maximum of 40 hours per week throughout the year. The work schedule is other than Monday through Friday.
(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.0725 "Normal rate of pay" defined. (NRS 284.065) "Normal rate of pay" means the dollar value of an employee's base rate of pay plus any adjustment that has been made pursuant to the provisions of NAC 284.206.
(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.073 "Occupational study" defined. (NRS 284.065) "Occupational study" means a classification study of a group of positions or related classes and class series, or any combination thereof, which is initiated by the Division of Human Resource Management and subsequently approved by the Commission.
(Added to NAC by Dep't of Personnel, eff. 10-27-97; A by Personnel Comm'n by R038-03, 10-30-2003)

NEW: "Organizational climate study" defined. (NRS 284.065) "Organizational climate study" means an independent study conducted by the Division of Human Resource Management to assess and evaluate the culture, effectiveness of management, employee morale and internal communication of an organization through a variety of methods, including, without limitation:

1. Surveys;

2. Interviews, including, without limitation, exit interviews;

3. Review of policies, procedures and internal communications;

4. Review of issues related to recruitment;

5. Review of data relating to employees, including, without limitation, statistics relating to turnover; and

6. Review of grievances filed by employees.

(Added to NAC by Personnel Comm'n by R137-12, eff. 10-23-2013)

NAC 284.0742 "Paid status" defined. (NRS 284.065) "Paid status" means the time that an employee is:

1. Working;
2. On leave with pay, except catastrophic leave; or
3. On a leave of absence due to a fiscal emergency declared pursuant to NAC 284.580.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.0745 "Part-time employee" defined. (NRS 284.065) "Part-time employee" means an employee whose work schedule is less than 100 percent of the full-time equivalent established for the employee's pay class designation.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.0746 "Part-time employment" defined. (NRS 284.065) "Part-time employment" means a work schedule that is less than 100 percent of the full-time equivalent established for an employee's pay class designation.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.0748 "Pay class designation" defined. (NRS 284.065) "Pay class designation" means the designation set by the Division of Human Resource Management for a group of employees whose pay is calculated in a similar manner, including, without limitation, the maximum number of full-time equivalent hours in a biweekly or semimonthly pay period, the method of reporting hours worked and whether pay is calculated on the basis of hours worked or an annual salary.

(Added to NAC by Dep't of Personnel by R147 01, eff. 1-22-2002)

NAC 284.075 "Pay progression date" defined. (NRS 284.065) Except as otherwise provided in this chapter, "pay progression date" means the date on which an employee completes 1 year of employment equivalent to full-time service following the appointment to his or her current grade.

(Added to NAC by Dep't of Personnel by R043-99, eff. 9-27-99)

NAC 284.076 "Permanent employee" defined. (NRS 284.065) "Permanent employee" means an employee who has successfully completed the probationary period for any class he or she has held during continuous classified service. The term does not include a person who:

1. Is reemployed after having been laid off and is serving a new probationary period as required by subsection 8 of NAC 284.630; or

2. Is reemployed pursuant to NAC 284.6014 after having sustained a permanent disability and is serving a new probationary period as required by subsection 2 of NAC 284.6018.

(Added to NAC by Dep't of Personnel, eff. 8-1-91; A 3-1-96; A by Personnel Comm'n by R183-03, 1-27-2004; R143-05, 12-29-2005)

NAC 284.078 "Permanent status" defined. (NRS 284.065) "Permanent status" means the standing an employee achieves in a class when:

1. He or she has successfully completed the probationary period for the class; or
2. His or her appointment does not require a new probationary period and he or she does not hold another type of status of appointment for the class.

[Personnel Div., Rule I § D subsec. 20, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.086 "Position" defined. (NRS 284.065) "Position" means a group of duties and responsibilities that have been assigned to a single job.

[Personnel Div., Rule I § D subsec. 21, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.087 "Positive reporting employee" defined. (NRS 284.065) "Positive reporting employee" means an employee who is required to record on a time sheet all hours that he or she is in paid status.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.0875 "Premises of the workplace" defined. (NRS 284.065) "Premises of the workplace" means any building, office, vehicle or location, or any part thereof, specifically intended to serve as a place where work is performed by an employee during the course of a workday, including, without limitation, irregular shifts, or any other building, office, vehicle or location at or in which an employee is authorized to perform work by the agency with which he or she is employed. The term includes parking lots, garages or vehicle depots that are owned or leased by the State. The term does not include a location that constitutes an employee's usual and customary living quarters, except when the living quarters are also used to care for children pursuant to a state program or as otherwise authorized by the State.

(Added to NAC by Personnel Comm'n by R147-06, eff. 12-07-2006)

NAC 284.088 "Promotion" defined. (NRS 284.065) "Promotion" means an advancement to a position in a class which has a higher grade than the class previously held. The term does not include the restoration of a promoted employee to his or her former position pursuant to NAC 284.462.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.0915 "Rating of performance" defined. (NRS 284.065) "Rating of performance" means the overall rating of an employee's performance efficiency, character and conduct which is included in the report on performance of an employee.

(Added to NAC by Dep't of Personnel by R031-98, eff. 4-17-98)

NAC 284.092 "Reallocation" defined. (NRS 284.065) "Reallocation" means the assignment of a class to a higher grade or a lower grade.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.093 "Reappointment" defined. (NRS 284.065) "Reappointment" means a noncompetitive appointment of a current employee to a class he or she formerly held or to a comparable class.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.094 "Reclassification" defined. (NRS 284.065) "Reclassification" means a reassignment or change in allocation of a position by:

1. Raising it to a class with a higher grade;
2. Reducing it to a class with a lower grade; or
3. Moving it to another class at the same grade on the basis of significant changes in kind, difficulty or responsibility of the work performed.

[Personnel Div., Rule I § D subsec. 23, eff. 8-11-73; renumbered as subsec. 24, 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.095 "Reemployment" defined. (NRS 284.065) "Reemployment" means a noncompetitive appointment of a current or former employee to a class for which he has reemployment rights, as provided in this chapter, because of military service, layoff, a permanent disability arising from a work-related injury or occupational disease, seasonal separation, reallocation, or reclassification of his position to a lower grade.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 3-1-96; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.0955 "Rehire" defined. (NRS 284.065) "Rehire" means any appointment to the classified service following a separation from the classified service.

(Added to NAC by Dep't of Personnel, eff. 4-19-88)

NAC 284.096 "Reinstatement" defined. (NRS 284.065) "Reinstatement" means a noncompetitive appointment of a former permanent employee to a class he or she formerly held or to a comparable class.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91)

NAC 284.097 "Reviewing officer" defined. (NRS 284.065) "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 7 of NAC 284.470.

(Added to NAC by Personnel Comm'n by R038-03, eff. 10-30-2003; A by R144-05, 12-29-2005; R056-10, 10-26-2011)

NAC 284.0975 "Risk Management Division" defined. "Risk Management Division" means the Risk Management Division of the Department of Administration.

(Supplied in codification)

NAC 284.099 "Sexual conduct" defined. (NRS 284.065) "Sexual conduct" means:

1. Ordinary sexual intercourse;
2. Anal intercourse;
3. Fellatio, cunnilingus or other oral-genital contact;
4. Physical contact by a person with the genitals or pubic area of another person for the purpose of arousing or gratifying the sexual desire of either person;

5. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purpose of arousing or gratifying the sexual desire of either person; or

6. Masturbation or the lewd exhibition of genitals.

(Added to NAC by Personnel Comm'n by R147-06, eff. 12-07-2006)

NAC 284.0995 "Sexual harassment" defined. (NRS 284.065) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other speech or physical conduct of a sexual nature when:

1. Submission to such speech or conduct is made either explicitly or implicitly a term or condition of a person's employment;

2. Submission to or the rejection of such speech or conduct by a person is used as the basis for employment decisions affecting that person; or

3. Such speech or conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

(Added to NAC by Personnel Comm'n by R147-06, eff. 12-07-2006)

NAC 284.100 "Standard workweek" defined. (NRS 284.065) "Standard workweek" means a work schedule of five shifts with the same number of hours each day and a maximum of 40 hours per week throughout the year. The work schedule is Monday through Friday.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.102 "Step" defined. (NRS 284.065) "Step" means the number assigned by the Division of Human Resource Management to identify a specific rate of pay within a grade.

[Personnel Div., Rule I § D subsec. 25, eff. 8-11-73; renumbered as subsec. 27, 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; R197-99, 1-26-2000; R147-01, 1-22-2002)

NAC 284.104 "Trainee level" defined. (NRS 284.065) "Trainee level" means the level of performance within an occupational specialty at which an employee is in the process of acquiring the knowledge, skills and abilities to perform at the journey level.

(Added to NAC by Personnel Comm'n by R024-05, eff. 10-31-2005)

NAC 284.106 "Transfer" defined. (NRS 284.065) "Transfer" means:

1. A noncompetitive appointment in which an employee moves from one position to another position in the same class or a related class with the same grade; or

2. A competitive appointment in which an employee moves from one position to a position in a different class with the same grade.

[Personnel Div., Rule I § D subsec. 26, eff. 8-11-73; renumbered as subsec. 28, 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; 11-16-95)

NAC 284.108 "Trial period" defined. (NRS 284.065) "Trial period" means the 6-month or 1-year probationary period served by a permanent employee who has been promoted to a vacant position.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91; 12-26-91)

NRS 284.140 states, "Unclassified service: Composition. The unclassified service of the State consists of the following State officers or employees in the Executive Department of the State Government who receive annual salaries for their services:

1. Members of boards and commissions, and heads of departments, agencies and institutions required by law to be appointed.

2. Except as otherwise provided in NRS 223.085, 223.570 and 223.600, all persons required by law to be appointed by the Governor or heads of departments or agencies appointed by the Governor or by boards.

3. All employees other than clerical in the Office of the Attorney General and the State Public Defender required by law to be appointed by the Attorney General or the State Public Defender.

4. Except as otherwise provided by the Board of Regents of the University of Nevada pursuant to NRS 396.251, officers and members of the teaching staff and the staffs of the Agricultural Extension Department and Experiment Station of the Nevada System of Higher Education, or any other state institution of learning, and student employees of these institutions. Custodial, clerical or maintenance employees of these institutions are in the classified service. The Board of Regents of the University of Nevada shall assist the Administrator in carrying out the provisions of this chapter applicable to the Nevada System of Higher Education.

5. All other officers and employees authorized by law to be employed in the unclassified service."

NAC 284.110 "Underfill" defined. (NRS 284.065) "Underfill" means the filling of a position with an employee holding a position in a lower classification, except for those situations where employees are in classifications which are training or intermediate levels preparatory to promotion to the journey level class.

[Personnel Div., Rule I § D subsec. 30, eff. 4-14-76]—(NAC A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.112 "Working day" defined. (NRS 284.065) "Working day," for the purpose of a grievance or an appeal, means Monday to Friday, inclusive, excluding holidays.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.1125 "Work-related injury or occupational disease" defined. (NRS 284.065) "Work-related injury or occupational disease" means any injury or illness suffered by an employee that arises out of and in the course of his employment in the classified service and for which an employee has filed a claim pursuant to chapter 616A, 616B, 616C, 616D or 617 of NRS.

(Added to NAC by Personnel Comm'n by R142-05, eff. 12-29-2005)

NAC 284.113 "Working day" interpreted. (NRS 284.065, 284.155, 284.345) As used in NRS 284.350 and 284.355, the Administrator will interpret "working day" to mean a period of work consisting of 8 hours.

(Added to NAC by Dep't of Personnel by R031-98, eff. 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98)

NAC 284.114 Affirmative action program and equal employment opportunity. (NRS 284.065)

1. The Division of Human Resource Management is responsible for establishing, coordinating and evaluating an affirmative action program for this State.

2. The Division of Human Resource Management will cooperate and consult with agencies to:

(a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, sexual orientation, gender identity or expression, religion, color, national origin, age, genetic information or disability.

(b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for persons to enter the system and progress in it to the extent of their merit.

3. As used in this section, "gender identity or expression" has the meaning ascribed to it in NRS 281.370.

[Personnel Div., Rule I § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-6-92; R098-99, 9-27-99; A by Personnel Comm'n by R055-10, 6-30-2010; R023-11, 10-26-2011)

NRS 284.012 states, "Policy concerning employment of persons with disabilities. Subject to other applicable provisions of this chapter, it is the policy of this state that persons with disabilities must be afforded equal opportunities in employment by the state, by its political subdivisions and in all other employment supported in whole or in part by the state."

NRS 233B.070 states in part, "Effective date of permanent, temporary and emergency regulations; dissemination of regulation; duties of Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose."

NRS 284.130 states, "Assistance of state and local officers. The Administrator may request officers and employees in the Executive Department of the State Government or local officers or employees to aid in carrying out the provisions of this chapter, and insofar as it may be consistent with their other duties, these officers and employees shall give such aid upon the Administrator's written request."

NAC 284.116 Computation of time. (NRS 284.065) In computing a period of time mentioned in this chapter, the day of the act or event from which the period begins is not counted and the last day is counted unless the last day is a Saturday, Sunday or state holiday. If the last day is a Saturday, Sunday or state holiday, the period ends on the next day that is not a Saturday, Sunday or state holiday.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.120 Adoption by reference of federal law, regulations and manual regarding persons with disabilities. (NRS 284.065)

1. For the purposes of determining the meaning of "essential functions of a position," "person with a disability," "qualified person with a disability" and "reasonable accommodation," the Division of Human Resource Management hereby adopts by reference and will refer to:

(a) The Americans with Disabilities Act of 1990 (Public Law 101-336).

(b) The ADA Amendments Act of 2008 (Public Law 110-325).

(c) The provisions of 29 C.F.R. Part 1630.

(d) The *Technical Assistance Manual* for the Americans with Disabilities Act.

2. A copy of the materials adopted by reference pursuant to this section may be obtained at no charge from the United States Equal Employment Opportunity Commission Clearinghouse, by mail at P.O. Box 541, Annapolis Junction, Maryland 20701, by telephone at (800) 669-3362 or TDD (800) 800-3302 or at the Internet address:
http://www.eeoc.gov/eeoc/publications/index.cfm.

(Added to NAC by Dep't of Personnel, eff. 7-6-92; A 10-27-97; R082-00, 8-2-2000; A by Personnel Comm'n by R059-09, 10-27-2009)

NAC 284.122 Severability. (NRS 284.065) If any of the provisions of this chapter are held, for any reason, to be invalid, it is intended that the validity of the remaining provisions not be affected thereby.

[Personnel Div., Rule XVIII, eff. 8-11-73]

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CLASSIFICATION

NRS 284.160 states, "Classification plan for classified service; changes in plan; procedure for making certain changes without approval of Commission.

1. The Administrator shall prepare, maintain and revise as necessary a classification plan for all positions in the classified service, based upon similarity of duties and responsibilities, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class.

2. The duty of the Administrator to classify extends to all offices, employments and positions held by persons who may become members of the classified service under the provisions of this chapter.

3. The Administrator may, after consultation with the head of a department or agency, make changes in the classification of positions whenever Administrator deems it necessary for the efficiency of the public service.

4. The classification plan and changes therein are subject to approval by the Commission, except that the Administrator may make a change in the classification plan without the prior approval of the Commission if:

(a)The Administrator deems it necessary for the efficiency of the public service;

(b)The change is not proposed in conjunction with an occupational study; and

(c)The Administrator, at least 20 working days before acting upon the proposed change:

(1)Provides written notice of the proposal to each member of the Commission, to all departments and to any head of an employees' organization who requests notice of such proposals; and

(2)Posts a written notice of the proposal in each of the principal offices of the Division.

➥ Any occupational study conducted by the Division in connection with the preparation, maintenance or revision of the classification plan must be approved by the Commission.

5. If no written objection to the proposed change to the classification plan is received by the Administrator before the date it is scheduled to be acted upon, the Administrator may affect the change. The Administrator shall report to the Commission any change in the classification plan made without its approval at the Commission's next succeeding regular meeting.

6. If a written objection is received before the date the proposed change is scheduled to be acted upon, the Administrator shall place the matter on the agenda of the Commission for consideration at its next succeeding regular meeting."

NRS 284.165 states in part, "Allocation of positions;...

1. As soon as practicable and after consultation with appointing authorities and principal supervisory officials, the Administrator shall allocate the position of every employee in the classified service to one of the positions in the position classification plan."

NRS 284.170 states, "Establishment of titles and grades for each class of employment; description of duties; specification of minimum qualifications.

1. Titles and grades shall be established for each class of employment for use in examining and certifying the names of persons for appointment under this chapter; and a description of the duties and responsibilities exercised by the persons appointed to each of them shall be drawn up; and minimum qualifications shall be specified for satisfactory performance of the duties of each grade and class.

2. The titles and grades in the several classifications as defined by the specifications of duties and qualifications shall be used for original appointments, promotions, payrolls and all other records affecting the status of personnel."

NRS 284.171 states, "Index of broad occupational groups. For the purposes of NRS 353.205 and 353.224, the Administrator shall prepare and maintain an index which categorizes all positions in the classified service of the state into the following broad occupational groups:

1. Occupations in the fields of agriculture and conservation.
2. Clerical and related occupations.
3. Occupations relating to custodial and domestic services.
4. Occupations relating to library services.
5. Occupations in the field of education.
6. Engineering and allied occupations.
7. Occupations in fiscal management and related staff services.
8. Occupations relating to legal services.
9. Occupations in the mechanical and construction trades.
10. Occupations in the fields of medicine and health and related services.
11. Occupations in regulatory fields and in public safety.
12. Occupations in social services and rehabilitation.
13. Other occupations."

NRS 284.172 states, "List of positions in classified service primarily performing data processing; approval of new position or reclassification to position on list.

1. The Administrator shall prepare, maintain and revise as necessary a list of all positions in the classified service that consist primarily of performing data processing.

2. The request of an appointing authority that is required to use the equipment or services of the Division of Enterprise Information Technology Services of the Department of Administration for a new position or the reclassification of an existing position to a position included on the list required by subsection 1 must be submitted to the Administrator of the Division of Enterprise Information Technology Services for approval before submission to the Division of Human Resource Management."

NRS 353.224 states in part, "Approval of Legislature or Interim Finance Committee required for certain changes of positions.

1. A state agency other than the Nevada System of Higher Education and vocational licensing boards may not change a position for which money has been appropriated or authorized from one occupational group to another, as defined by the index developed pursuant to NRS 284.171, without the approval of the Legislature or of the Interim Finance Committee."

NAC 284.126 Creation of new class, reclassification of position or reallocation of existing class. (NRS 284.065, 284.155)

1. For the purposes of this section:

(a) "Agency personnel officer" means the Director of Personnel within the Nevada System of Higher Education or any person holding a position in the classified service with the title of Personnel Officer.

(b) "Significant change" means a change in the duties and responsibilities assigned to a position in a class that:

(1) Is outside of the scope of the class as described by the class specification;

(2) Is not part of the scope of responsibility of the position; and

(3) Results in the preponderance of duties and responsibilities being allocated to a different class.

2. If an appointing authority or an employee proposes the creation of a new class, a reclassification of a position to a different class or the reallocation of an existing class based upon a gradual accumulation of duties and responsibilities which results in a significant change and is intended to be permanent, the Division of Human Resource Management or agency personnel officer must be notified on the appropriate form. If the creation, reclassification or

reallocation is approved, the Division of Human Resource Management will allocate the position to one of the existing classes in the classification plan or to a new, revised or reallocated class as appropriate.

3. The effective date of the classification decision will be the date on which form NPD-19 is received by the Division of Human Resource Management or agency personnel officer unless information that substantially affects the decision concerning the creation, reclassification or reallocation is received after this date. In that case, the effective date will be the date on which the appropriate information necessary to make the decision is received. However, the subsequent receipt of an application or examination score that confirms the qualifications of an incumbent will not have a bearing on the effective date. If the form was prepared but delayed due to an administrative or clerical error, the effective date must be determined by the appointing authority and must be based upon the date on which the form should reasonably have been submitted to the Division of Human Resource Management or agency personnel officer. In no case, however, may a retroactive adjustment because of an administrative or clerical error exceed 6 months after the date of receipt.

4. If an agency makes or anticipates making a significant change in the duties for a position or the agency anticipates a reorganization which will require the reclassification of an existing position, the reallocation of an existing class or the creation of a new class, it shall advise the Budget Division of the Department of Administration or, in the case of the Nevada System of Higher Education, the budget division of the applicable institution. The proposed change may not be required of an employee nor be submitted to the Division of Human Resource Management until funding for it is approved. If the change is approved by the Division of Human Resource Management, the effective date will be determined by the Budget Division.

5. In effecting a reclassification pursuant to subsection 2 or 4, the appointing authority must review and take into consideration the organizational structure and the qualifications of the incumbent before assigning new duties to a position which are intended to be permanent. No position will be reclassified to a higher grade through the individual classification process if the incumbent does not meet the minimum qualifications for the higher level position. If an employee does not meet the minimum qualifications to reclassify his or her position, the employee is not eligible for promotion, but may be eligible for a special adjustment to his or her pay pursuant to NAC 284.206.

6. The establishment of a new class or reallocation of a class in an occupational study which results in a fiscal cost becomes effective when the funding is provided by the Legislature in the biennial operating budget for this State.

7. From the date on which the Division of Human Resource Management formally announces the beginning of an occupational study until the date on which the occupational study becomes effective:

(a) An existing position in the occupational study that has a significant change may only be reclassified to an existing class.

(b) An existing class in the occupational study must not be reallocated to a different grade.

(c) A new position may be allocated to an existing class or a new class as determined by the Division of Human Resource Management.

[Personnel Div., Rule II § D subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 8-14-90; 12-26-91; 11-16-95; 10-27-97; R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-02; R038-03, 10-30-2003)

NAC 284.130 Investigations of classifications. (NRS 284.065, 284.155) The Division of Human Resource Management may investigate the classification of any existing position on the written request of an appointing authority or an employee or on its own initiative.

[Personnel Div., Rule II § E, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.132 Temporary classifications. (NRS 284.065, 284.155, 284.175)

1. An appointing authority, an employee or the Division of Human Resource Management may request a temporary classification which allows the classification of a position for a temporary period of 1 year or less. Each appointment which is designated as temporary must have specific criteria established which justify the grade of the position and the projected date of expiration of the period. A position which no longer meets this criteria will revert back to the class from which it was reclassified. This method of classification is subject to the following conditions:

(a) Temporary classifications must meet the allocation standards and the criteria established for the class before this method may be used. The classification must be approved by the Division of Human Resource Management before the appointment.

(b) An employee who is appointed to a temporary class must sign the payroll document. This signature acknowledges that the employee understands the conditions of the reclassification and its projected date of expiration.

2. If the employee meets the minimum qualifications for the temporary classification, he or she:

(a) Retains his or her status of appointment; and

(b) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

➥ An incumbent who has reverted to his or her previous class is entitled to the step, pay progression date and status of appointment he or she would have attained if he or she had not been appointed to the temporary class.

3. The pay progression date of an employee who is promoted pursuant to this section will be determined in accordance with the provisions of NAC 284.182. The rate of pay for the employee will be determined in accordance with the provisions of ***section 3 of LCB File No. R133-12*** governing an employee's pay on promotion.

4. In case of a layoff, the temporarily assigned employee's class of layoff is his or her former class. The time served in the temporary class is counted for seniority purposes if it was in the same occupational group, as provided in NRS 284.171.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 10-27-97; R043-99 & R098-99, 9-27-99; R146-01, 1-18-2002; R147-01, 1-22-2002***; R133-12, 10-4-2013)***

NAC 284.134 Individual reclassification of position to higher level: Status of incumbent. (NRS 284.065, 284.155, 284.175)

1. An incumbent who meets the minimum qualifications for an individual reclassification as provided in NAC 284.126 may be reclassified to a higher level. If the incumbent's position is reclassified as a result of an individual classification study, the incumbent will continue to serve in the position and:

(a) Must be promoted;

(b) Retains his or her status of appointment; and

(c) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

2. The pay progression date of an employee who is reclassified pursuant to this section will be determined in accordance with the provisions of NAC 284.182. The rate of pay will be determined in accordance with the provisions of ***section 3 of LCB File No. R133-12*** governing an employee's pay on promotion.

[Personnel Div., Rule II § F subsecs. 1 & 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 10-27-97; R043-99, 9-27-99; R147-01, 1-22-2002***; R133-12, 10-4-2013)***

NAC 284.138 Reclassification or reallocation of class or position to higher grade as result of occupational study: Status of incumbent. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsections 3 and 4, if a class or a position within a class is reclassified or reallocated to a higher grade as a result of an occupational study, the incumbent will continue to serve in the position and:

(a) Must be promoted;

(b) Retains his or her status of appointment;

(c) Retains his or her pay progression date; and

(d) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

2. The rate of pay for employees who are promoted will be determined in accordance with the provisions of ***section 3 of LCB File No. R133-12*** governing an employee's pay on promotion.

3. The provisions of subsection 1 do not apply to an incumbent who is filling a position in a class which is at a lower grade than the authorized level of the position unless the class held by the incumbent is reclassified or reallocated to a higher grade.

4. If a position is reclassified to a higher grade in a different occupational group, the employee must meet the minimum qualifications of the higher level position before he or she is promoted. If the employee does not meet the minimum qualifications, he or she must not be promoted, the position will be temporarily reclassified pursuant to NAC 284.132 and the employee may be eligible for a special adjustment to his or her pay as provided in NAC 284.206. If the employee does not meet the minimum qualifications within 1 year after the effective date of the reclassification, the duties must be reassigned and the position must be reclassified accordingly.

[Personnel Div., Rule II § F subsec. 4, eff. 8-11-73; A 10-6-78]—(NAC A by Dep't of Personnel, 10-26-84; 8-1-91; 12-26-91; 9-16-92; 10-27-97; R043-99, 9-27-99; R147-01, 1-22-2002***; R133-12, 10-4-2013)***

NAC 284.140 Reclassification of class or position to lower grade: Status of incumbent. (NRS 284.065, 284.155, 284.175)

1. If a class or position is reclassified to a lower grade, the incumbent's title and grade must be changed to the new class. He or she will retain his or her status of appointment and pay progression date. The rate of pay will be determined by the provisions of NAC 284.290 governing an employee's pay on retained rates or, if the employee does not meet these requirements, by the provisions of ***section 4 of LCB File No. R133-12*** governing an employee's pay on demotion.

2. The employee is eligible for reappointment to the same or a similar class from which he or she was reclassified.

3. The employee is entitled to reemployment rights to his or her former class and option in his or her department for 1 year after the date of notification of the reclassification to the lower grade if the employee and the agency provide the necessary information regarding the employee's seniority on the prescribed form.

4. If the employee is receiving a retained rate of pay and declines the first opening which is offered for his or her previous class in his or her department and location, the employee forfeits his reemployment rights to the former class and must be immediately reclassified to the lower grade and the provisions of this chapter governing the pay of an employee on demotion apply.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R043-99, 9-27-99; R147-01, 1-22-2002***; R133-12, 10-4-2013)***

NAC 284.150 Class specifications. (NRS 284.065, 284.155, 284.384)

1. Class specifications will define a class based on a sound, systematic occupational analysis and evaluation of the position and will contain elements sufficient to distinguish the various classes from one another. The use of a particular expression or illustration as to duties must not be interpreted to exclude others not mentioned but that are of similar kind and relevant to the class.

2. Any option within a class which is included in the class specification will be considered a separate class.

3. In determining the class to which any position will be allocated, the specification will be considered as a whole and in relation to others in the classification plan. The duties, responsibilities, qualifications, knowledge, and abilities required for a class will be considered in relation to those for other classes in determining the kinds of positions which a class may include.

4. The qualifications which are required for a particular class are the standards for the evaluation of applications for positions in that class. The Division of Human Resource Management may, after consulting with appointing authorities, interpret these qualifications so that qualifications which are equivalent to those which are specified for the class may be accepted. The interpretation of qualifications which are considered equivalent must not circumvent the principles of selection on the basis of merit.

5. Qualifications which are required to perform the essential functions of a position, such as possession of a valid driver's license, may be required by the appointing authority if:

(a) So indicated for the position at the time of public notice or appointment; or

(b) Written notice of the required qualifications is given to the employee.

➥ Any disagreement concerning the validity of the required qualifications may be submitted for adjustment pursuant to the procedure for the adjustment of grievances set forth in NAC 284.658 to 284.697, inclusive.

[Personnel Div., Rule II § H, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 8-1-91; 7-6-92; 7-1-94)

NRS 284.165 states in part, "Allocation of positions;...

2. Any employee affected by the allocation of a position to a grade or class or by a change in classification, after filing with the Administrator a written request for reconsideration thereof, must be given a reasonable opportunity to be heard thereon by the Administrator.

3. Any employee who is aggrieved by the Administrator's decision concerning an allocation or change in classification is entitled to have the decision reviewed by the Commission if the employee submits a written request to the Commission for such a review not later than 30 days after the Administrator's decision."

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 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 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 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)

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COMPENSATION

NRS 284.175 states, "Plan for payment of classified employees...

1. After consultation with appointing authorities and State fiscal officers, the Administrator shall prepare a pay plan for all employees in the classified service.

2. The pay plan and its amendments become effective only after approval by the Governor.

3. The pay plan must include, without limitation, ranges for each class, grade or group of positions in the classified service. Each employee in the classified service must be paid at one of the rates set forth in the pay plan for the class of position in which he is employed and at such time as necessary money is made available for the payment.

4. The Commission shall adopt regulations to carry out the pay plan.

5. The Administrator may make recommendations to the Legislature during regular legislative sessions concerning salaries for the classified service of the State. In making such recommendations, the Administrator shall consider factors such as:

(a) Surveys of salaries of comparable jobs in government and private industry within the State of Nevada and western states, where appropriate;

(b) Changes in the cost of living;

(c) The rate of turnover and difficulty of recruitment for particular positions; and

(d) Maintaining an equitable relationship among classifications."

NRS 281.123 states, "Limitation on maximum salary payable to persons employed by State.

1. Except as otherwise provided in subsection 3 or NRS 281.1233, or as authorized by statute referring specifically to that position, the salary of a person employed by the State or any agency of the State must not exceed 95 percent of the salary for the office of Governor during the same period.

2. As used in subsection 1, the term "salary":

(a) Includes any:

(1)Payment received by an employee for being available to work although he was not actually required to perform the work;

(2)Increase in salary provided to compensate for a rise in the cost of living;

(3)Payment received under a plan established to encourage continuity of service; and

(4)Payment received as compensation for purportedly performing additional duties.

(b) Excludes any:

(1)Payment received as compensation for overtime even if that payment is otherwise authorized by law; and

(2)Rent or utilities supplied to an employee if he is required by statute or regulation to live in a particular dwelling.

3. The provisions of subsection 1 do not apply to the salaries of:

(a)Dentists and physicians employed full-time by the State; or

(b)Officers and employees of the Nevada System of Higher Education."

NRS 284.180 states in part, "Pay plan to set official rates applicable to all positions in classified service...

1. The Legislature declares that since uniform salary and wage rates and classifications are necessary for an effective and efficient personnel system, the pay plan must set the official rates applicable to all positions in the classified service, but the establishment of the pay plan in no way limits the authority of the Legislature relative to budgeted appropriations for salary and wage expenditures."

NAC 284.158 Range of pay based on full-time employment; semimonthly or biweekly payment; payment of part-time, intermittent, per diem and positive reporting employees. (NRS 284.065, 284.155, 284.175)

1. A range of pay for a class must be based on full-time employment for the pay class designation.

2. Employees are paid on a semimonthly or biweekly basis depending on the schedule on which the employing agency pays employees in the class.

3. Payment for part-time employment is based on the direct proportion of hours that a part-time employee works to the hours of full-time employment for the employee's pay class designation.

4. Payment of intermittent, per diem and positive reporting employees is based on the number of hours reported by each such employee.

[Personnel Div., Rule III § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-6-92; R147-01, 1-22-2002)

NAC 284.170 Rate of pay: Initial appointment. (NRS 284.065, 284.155, 284.175)

Except as otherwise provided in NAC 284.204 and NAC 284.206***, upon*** employment ***that*** is an initial appointment, the employee's base rate of pay must be set at step 1 of the grade of the position's class.

[Personnel Div., Rule III § F, eff. 8-11-73; A 10-6-78]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 7-22-87; 9-17-87; 12-17-87; 7-21-89; 8-14-90; 8-1-91; 7-6-92; 3-23-94; 7-1-94; 3-1-96; R098-99, 9-27-99; R197-99, 1-26-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R038-03, 10-30-2003***; R133-12, 10-4-2013)***

NEW: Rate of pay: Reinstatement. (NRS 284.065, 284.155, 284.175)

Except as otherwise provided in NAC 284.204 and 284.206, if an employee is reinstated, the employee's base rate of pay must be set at or below the base rate of pay of the position which the employee most recently held with the State.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013)

NEW: Rate of pay: Promotion. (NRS 284.065, 284.155, 284.175)

1. The following provisions govern the rate of pay which must be paid if an employee is promoted:

(a) The employee must be placed at the lowest step in the higher grade that meets one of the following requirements:

(1) If the employee moves one or two grades above his or her former grade, he or she must be placed at the same step in the new grade as the step held in his or her former grade.

(2) If the employee moves three or more grades above his or her former grade, the employee must be placed:

(I) At a step which is equivalent to an increase of two steps above the step held in his or her former grade; or

(II) At the lowest step of the new grade,

➥ whichever pay is higher and in accordance with the provisions of section 8 of this regulation.

(b) A special adjustment to an employee's pay for performing supervisory duties which is granted in accordance with paragraph (c) of subsection 2 of NAC 284.206 is the present level of pay for the purpose of calculating a promotional increase authorized by paragraph (a) only if the employee has received the special adjustment to his or her pay for more than 6 months of continuous full-time service.

(c) If an employee has been demoted, he or she may not receive a promotional increase in pay that is greater than the increase which he or she would have otherwise been entitled to receive had he or she not been demoted.

(d) This subsection does not apply when an employee is reemployed or reappointed to his or her former grade within 1 year after holding that grade.

2. As used in this section, "present level of pay" means a rate of pay that is equal to the amount that is assigned to the step within the grade which is closest to, but does not exceed, the employee's pay after a special adjustment to pay pursuant to the provisions of NAC 284.206.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013)

NEW: Rate of pay: Demotion. (NRS 284.065, 284.155, 284.175)

Except as otherwise provided in this section and paragraph (b) of subsection 1 of NAC 284.618, an employee who is demoted must be paid at a step within the grade of the class to which he or she was demoted as follows:

1. If the employee has attained a permanent status in the class from which he or she was demoted and the demotion is instituted at the employee's request or is acceptable to the employee, the appointing authority shall pay him or her at a step in the grade of the class to which he or she was demoted which is:

(a) Equal to his or her present base rate of pay; or

(b) Equivalent to a decrease of not more than one step from his or her base rate of pay in the position from which he or she was demoted. Except as otherwise provided in subsection 2, if the base rate of pay in the position from which he or she was demoted does not fall within the grade of the class to which he or she was demoted, the employee must be paid at a step in the grade of the class to which he or she was demoted which is equal to:

(1) The step he or she would have received if he or she had not been promoted to the position from which he or she was demoted; or

(2) The step he or she would have received if he or she had been employed in that class from the inception of employment with the State of Nevada.

2. An exception to paragraph (b) of subsection 1 may be granted by the appointing authority to pay an employee at a rate that does not fall within the grade of the class to which he or she is demoted if the appointing authority determines that the demotion is in the best interest of the employee and the State of Nevada. If such an exception is granted:

(a) The employee's base rate of pay will be limited to three grade levels above the grade of the class to which he or she is demoted or his or her base rate of pay in the position from which he or she was demoted, whichever is less.

(b) The employee's base rate of pay in the position to which he or she was demoted will be frozen until it falls within the grade of the class to which he or she was demoted or for a maximum of 2 years after the date of demotion, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that has been approved by the Legislature.

(c) If the employee's frozen base rate of pay does not fall within the grade of the class to which he or she was demoted within the 2-year period, his or her base rate of pay will be adjusted to the highest step within the grade of the class to which he or she was demoted.

3. If an employee accepts a promotion and is demoted before attaining permanent status in the class, he or she must be paid at a step in the grade of the class to which he or she was demoted which is equivalent to the base rate of pay to which he or she would have been entitled had he or she not been promoted.

4. If the demotion is instituted by the appointing authority for disciplinary reasons and is not covered by subsection 2, the appointing authority shall determine the step in the grade of the class to which the employee was demoted at which the employee will be paid.

5. If an employee is demoted during his or her probationary period in state service, the appointing authority may pay the demoted employee at any step in the grade of the class to

which the employee was demoted that is not greater than his or her base rate of pay before the demotion.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013)

NEW: Rate of pay: Transfer. (NRS 284.065, 284.155, 284.175)

Except as otherwise provided in NAC 284.204, if an employee transfers to a position in the same or a related class, he or she must maintain the step held before the transfer.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013)

NEW: Rate of pay: Reappointment. (NRS 284.065, 284.155, 284.175)

1. If an employee is reappointed to a position which is in:

(a) The grade which he or she currently holds, he or she retains his or her step.

(b) A higher grade and the appointment occurs within 1 year after the date on which he or she last held that grade, the employee must be placed at the step which he or she last held in that grade.

(c) A higher grade and the reappointment occurs more than 1 year after he or she held that grade, his or her pay must be calculated pursuant to the provisions relating to promotion in section 3 of LCB File No. R133-12.

2. Any exception to subsection 1 must be approved by the Division of Human Resource Management based upon a written request and justification for the exception submitted by the appointing authority.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013)

NEW: Rate of pay: Reemployment. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in this section, if a person is reemployed, he or she must be placed at the step which most closely corresponds to the base rate of pay which he or she held at the time of his or her layoff or separation.

2. Except as otherwise provided in subsection 3, an exception to subsection 1 may be made if the conditions in NAC 284.204 exist, or if money is not available as certified by the Chief of the Budget Division or, in the case of an agency that is not funded from the State General Fund or the Nevada System of Higher Education, as certified by the administrator of the agency or the System. If an exception to subsection 1 is made pursuant to this subsection because the agency does not have sufficient money available, the employee retains the right of employment.

3. If a person who is eligible for military reemployment is reemployed, the provisions of subsection 1 apply except that the period of the military service must be included in calculating the step at which he or she will be placed.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013)

NEW: Rate of pay: Minimum step for continuous employment. (NRS 284.065, 284.155, 284.175)

An employee who has been continuously employed without a break in service may not have his or her step set below:

1. Step 4 of any grade if his or her date of hire is before April 26, 1973; or

2. Step 3 of any grade if his or her date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013)

NEW: Rate of pay: Non-classified, Unclassified Appointed to Classified. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, if a nonclassified or unclassified employee or an employee included in the Personnel System pursuant to the provisions of NRS 284.022 is appointed without a break in service to the classified service, he or she may, at the discretion of the appointing authority:

(a) Be paid at a step which corresponds to or is below his or her rate of pay as a nonclassified or unclassified employee if it is within the grade of the class to which he or she is appointed;

(b) Be paid at the first step in the new grade to which he or she is appointed; or

(c) Receive a special adjustment to his or her pay pursuant to subsection 1 of NAC 284.204 or NAC 284.206.

2. An exception to subsection 1 may be made if a nonclassified or unclassified employee who was an employee of the Legislative Branch of State Government employed at the conclusion of a regular session of the Legislature pursuant to NRS 284.3775 transfers to state service.

3. An employee who was previously employed in the classified service and is appointed pursuant to the provisions of subsection 1 may not be paid at a step and grade which is greater than he or she received at the time he or she left the classified service, unless he or she has held the unclassified or nonclassified position for more than 1 year.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-213)

NAC 284.182 Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date. (NRS 284.065, 284.155, 284.175)

1. An employee receives a new pay progression date if he or she is:

(a) Promoted to a position that results in an increase of two grades or more; or

(b) Reinstated.

2. An employee who is:

(a) Promoted to a position that results in an increase of one grade;

(b) In a position that is reclassified to a higher class as a result of an individual classification study or an occupational study;

(c) Transferred to a position without receiving an increase in grade;

(d) Reappointed to a position at a grade that he or she formerly held;

(e) Reemployed and has remained continuously employed; or

(f) Demoted,

➥ retains the pay progression date he held before the action described in paragraphs (a) to (f), inclusive, occurred.

3. If a person who is eligible for military reemployment is reemployed, he or she retains the pay progression date held when he separated from this State for his or her service in the military.

4. If an employee was promoted but is being restored to his or her former position pursuant to the provisions of NAC 284.462, the date of appointment and pay progression date of the former position must be restored.

5. Except as otherwise provided in this subsection and subsection 6, an employee's pay progression date must be adjusted:

(a) To equal 1 year of full-time equivalent service for an employee who changes from full-time employment to part-time employment or from part-time employment to full-time employment; or

(b) On a day-for-day basis for the amount of time the employee:

(1) Was separated from state service if the employee is reemployed within 1 year after the date on which he or she was laid off or received a seasonal separation.

(2) Was separated from state service if the employee is a person with a permanent disability arising from a work-related injury or occupational disease who is reemployed within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013.

(3) Was on leave without pay, or on catastrophic leave, if the employee is:

(I) A nonexempt employee and the leave without pay or catastrophic leave was in excess of 240 hours; or

(II) An exempt classified employee and the leave without pay or catastrophic leave was in excess of 30 working days,

➥ in a year, except for leave without pay for a work-related injury or illness pursuant to NRS 281.390 or on a military leave of absence pursuant to NRS 284.359 or a leave of absence without pay during a fiscal emergency pursuant to NAC 284.580. An employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his or her pay class designation. As used in this subparagraph, "year" means a period equal to 12 months of full-time equivalent service measured backward from the employee's pay progression date.

6. If the number of total hours of leave without pay or catastrophic leave of a nonexempt employee that exceed 240 hours is less than one day of full-time equivalent service for the pay class designation of the employee, an adjustment will not be made for those hours.

7. If an employee is on leave without pay, or on catastrophic leave, on his or her pay progression date, any adjustment to his pay progression date will be made after he or she returns to work.

[Personnel Div., Rule III part § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 8-22-86; 4-19-88; 7-21-89; 10-18-89; 3-27-92; 7-6-92; 9-16-92; 11-16-95; 3-1-96; 10-27-97; R043-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004; R022-05, 10-31-2005; R142-05, 12-29-2005)

NAC 284.186 Date of promotion coinciding with pay progression date. (NRS 284.065, 284.155, 284.175) If the date of an eligible employee's promotion coincides with his or her pay progression date, the merit pay increase must be granted first and the promotional increase must be applied to the higher rate.

[Personnel Div., Rule III part § G, eff. 8-11-73; A 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; R043-99, 9-27-99; R147-01, 1-22-2002)

NAC 284.194 Merit pay increase: Granting or withholding; delay because of administrative or clerical error. (NRS 284.065, 284.155, 284.175, 284.335)

1. An employee whose last rating of performance was standard or better and who has not attained the top step of his or her grade must receive a merit pay increase of one step on his or her pay progression date. Unless the employee receives a subsequent rating of performance that is substandard, an employee will receive a merit pay increase of one step for each additional year of employment equivalent to full-time service until he or she reaches the top step of the grade.

2. An employee whose last rating of performance was substandard is not eligible for a merit pay increase until his or her overall performance improves to standard or better. If a subsequent report on performance is not filed with the Administrator within the 90-day period required by subsection 4 of NRS 284.340, the employee's performance will be deemed standard and he or she will be entitled to the merit pay increase effective on the date on which the subsequent report on performance was due. The date on which a report on performance is received by the Administrator or an employee of the Division of Human Resource Management is the date on which the report is filed.

3. If a merit pay increase is withheld as provided in subsection 2 because a rating of performance was substandard, the employee's pay progression date must not be affected.

4. If a merit pay increase is delayed solely because of an administrative or clerical error, the increase must be made effective on the date on which the increase was properly due.

[Personnel Div., Rule III part § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-16-95; R031-98, 4-17-98; R043-99, 9-27-99; R147-01, 1-22-2002)

NAC 284.196 Merit pay increase: Credit for service under certain circumstances. (NRS 284.065, 284.155, 284.175)

1. Service in any provisional, temporary, special disabled or emergency status that is immediately followed by probationary or permanent status must be credited toward eligibility for a merit pay increase.

2. Service in a seasonal position must be credited toward eligibility for a merit pay increase. An incumbent in such a seasonal position must complete 1 year of full-time equivalent service before he or she is eligible for a merit pay increase.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004)

NAC 284.204 Adjustment of steps within same grade. (NRS 284.065, 284.155, 284.175)

1. The Division of Human Resources Management may approve an adjustment of steps within the same grade to:

(a) Allow an appointing authority the flexibility to adjust the rate of pay for a position that will be filled by a person from a pool of eligible persons who are applying for the position on an open competitive basis in order to:

(1) Meet a difficult recruiting problem in which an effort to recruit a person for a position or class has failed to produce at least five eligible persons who are available to work, or the recruitment for the position or class has been deemed historically difficult. Such an adjustment of steps may be approved by the Division of Human Resources Management for a class for a period of 1 year.

(2) Employ a person whose education or experience is superior to those of another eligible person and who exceeds the minimum qualifications of the class. Any experience or education which is considered by the appointing authority pursuant to this subparagraph must be given a greater weight for those areas which are directly related to the position than general education and experience.

(b) Maintain an equitable relationship in the status of steps among the employees of the appointing authority if a disparity exists. An adjustment will not be granted pursuant to this section if the disparity in steps is:

(1) Among employees of different agencies; or

(2) A result of:

(I) The length of service of employees;

(II) An adjustment in pay which was attained in a former class; or

(III) An adjustment in pay for an employee who resides in a particular geographical area.

(c) Maintain an appropriate differential, ***not to exceed two steps,*** between the base rate of pay of a supervisor and the base rate of pay of an employee who is in the direct line of authority of the supervisor. An adjustment may be granted pursuant to this paragraph if, before the adjustment, the base rate of pay of the employee is the same or greater than the base rate of pay of the supervisor.

2. Before granting an adjustment of steps pursuant to this section, the appointing authority must submit a request on a form prescribed by the Division of Human Resource Management to the Division of Human Resource Management which:

(a) Specifies the qualifying conditions and justification for the request; and

(b) Certifies that the appointing authority has, where applicable:

(1) Considered the requirements for the pay required to meet the need described in subparagraph (1) of paragraph (a) of subsection 1;

(2) Considered the qualifications of any other eligible person who is available for work for the purposes of subparagraph (2) of paragraph (a) of subsection 1;

(3) Ensured that the adjustment is feasible on the basis of its fiscal effects;

(4) Ensured that the adjustment will not cause inequity between current employees which would require adjustments in the steps of those employees which are not feasible on the basis of the fiscal effects of such adjustments; and

(5) Prepared and maintained an accurate record of the consideration of the factors listed in this section.

3. If an adjustment of steps pursuant to this section is approved by the Division of Human Resource Management, the effective date of such an adjustment is the date on which a request that complies with subsection 2 is received by the Division of Human Resource Management or the personnel office of the agency at which the employee who is receiving the adjustment is employed. If a request for an adjustment of steps is delayed because an administrative or clerical error prevented the delivery of the request, the effective date must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment must not exceed 6 months from the date on which the Division of Human Resource Management receives the request.

4. An adjustment of steps which is made pursuant to subparagraph (1) of paragraph (a) of subsection 1 may be revoked when:

(a) The recruiting problem which caused the adjustment was due to the geographical location of the position; and

(b) The employee transfers to an area where a recruiting problem does not exist.

➥ The employee must be placed at the step he or she would have received if he or she had not received the adjustment.

(Added to NAC by Dep't of Personnel, eff. 8-14-90; A 7-1-94; R197-99, 1-26-2000; R147-01, 1-22-2002; R015-02, 5-2-2002***; R134-12, 10-4-2013)***

NAC 284.206 Special adjustments to pay. (NRS 284.065, 284.155, 284.175, 284.340, 284.384)

1. The Division of Human Resource Management may approve a special adjustment to the pay of an employee pursuant to this section. A request for a special adjustment to pay may be initiated by an employee, the appointing authority or the Division of Human Resource Management. A special adjustment to pay does not constitute a promotion.

2. An employee may receive a special adjustment to pay equivalent to 5 percent of the employee's base rate of pay during any period in which:

(a) The employee works out of his or her class on a continuing basis and performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase, the employee must be assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification and carry out the duties and responsibilities for at least 16 consecutive workdays before the increase becomes effective. The adjustment to pay pursuant to this paragraph is effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities. The adjustment to pay must not continue for more than 6 months in any 12-month period unless:

(1) The employee is underfilling a position pursuant to NAC 284.437 and recruitment has failed to produce a sufficient number of applicants on the appropriate list.

(2) The duties and responsibilities that the employee has been carrying out have been assumed from one or more positions that have not been authorized to be filled because of a hiring freeze or fiscal emergency. A hiring freeze or fiscal emergency must be certified by the Chief of the Budget Division or the Department of Administration or, in the case of an agency that does not receive money from the State General Fund or the Nevada System of Higher Education, certified by the administrator of that agency or the System.

(3) The appointing authority submits a written request to the Administrator accompanied by documentation justifying an extension of the 6-month period and certifies that money is available to pay for the continuation of the special adjustment to pay. The Administrator may authorize the continuation of the special adjustment to pay after receiving the request and documentation and determining that the extension of the 6-month period is a business necessity and in the best interest of the State.

(b) The employee is required to use bilingual skills or sign language for persons who are deaf at least 10 percent of his work time.

(c) The employee is supervising other employees of the same or a higher grade if the supervision:

(1) Is not part of the supervision or management responsibilities for a program that is provided for in the class specification; and

(2) Includes, without limitation, selection, work assignment, training, work review, reports on performance and discipline of employees.

(d) The employee is required regularly to perform custodial work and clean up human bodily waste in a medical, clinical or inpatient facility.

(e) Except as otherwise provided in this paragraph, the employee is conducting a formal training program for employees. The training program must:

(1) Be conducted weekly;

(2) Consist of training on the job and in the classroom or training only in the classroom;

(3) Include a test to determine the employees' progress in the program; and

(4) Result in the award of a certificate of completion or advancement in a class series to the journey level.

➥ If an adjustment to pay is granted pursuant to this paragraph, the adjustment begins when the employee starts conducting the training program and ends when the training program is completed. An adjustment will not be granted if the duty to conduct training is clearly set forth in the class specification. Informal orientation given to new employees will not be considered for this special adjustment.

(f) The employee, if employed as a law enforcement officer, is assigned to motorcycle duty.

(g) The employee, if employed by the Department of Corrections, is responsible for the supervision of a group of inmates assigned to a work area of an institution and who is responsible for implementing security procedures, including, without limitation:

(1) Securing the work area from inmates who are not authorized to enter the work area;

(2) Accounting for all inmates who have been assigned to the work area; and

(3) Accounting for all materials, tools and equipment in the work area.

➥ The adjustment to pay pursuant to this paragraph will be granted only if such duties are not provided for in the class specification.

(h) The employee is authorized by the Legislature to receive such an adjustment to his or her pay.

3. An employee may receive a special adjustment to pay if he or she occupies a position in which the duties have been recognized through the classification process as being at a higher level, but who does not meet the minimum qualifications for the class. The special adjustment to

the employee's pay must be equivalent to 2.5 percent of the employee's base rate of pay if the employee performs duties classified one grade higher than his or her current position, or 5 percent of the employee's base rate of pay if the employee performs duties classified two or more grades higher than his or her current position. A special adjustment to an employee's pay made pursuant to this subsection may continue in effect from the date on which the position questionnaire is received:

(a) Until the employee meets the minimum qualifications and is promoted;

(b) For 1 year after the effective date of the special adjustment to pay; or

(c) Until the date the higher level duties are removed,

➥ whichever occurs first.

4. Except as otherwise provided in paragraph (a) of subsection 2, any special adjustment to pay made pursuant to subsection 2 must be revoked when the conditions justifying it cease to exist.

5. Except as otherwise provided in this section, the effective date of a special adjustment to pay is the date on which the written request is received by the Division of Human Resource Management or the personnel office of the agency at which the employee who is receiving the special adjustment to pay is employed. If the request for the special adjustment to pay is delayed because an administrative or clerical error prevented its delivery, the effective date of the special adjustment to pay must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment to pay must not exceed 6 months from the date on which the Division of Human Resource Management receives the written request.

[Personnel Div., Rule III § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 1-26-87; 9-17-87; 12-17-87; 7-14-88; 1-22-90; 8-14-90; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R197-99, 1-26-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R090-02, 8-14-2002; R038-03, 10-30-2003; R007-11, 10-26-2011)

REVISER'S NOTE.

The regulation of the Personnel Commission filed with the Secretary of State on August 14, 2002 (LCB File No. R090-02), which amended this section, contains the following provision not included in NAC:

"Sec. 2. Notwithstanding the amendatory provisions of section 1 of this regulation NAC 284.206, an employee who is employed by the Division of Mental Health and Developmental Services of the Department of Human Resources [now Department of Health and Human Services] or by the Division of Child and Family Services of the Department of Human Resources to work in a psychiatric hospital, a forensic unit for mentally disordered offenders or a residential mental retardation facility will continue to receive his base rate of pay plus an amount equal to the adjustment to pay until future adjustments to pay, not including pay increases based on merit, offset the initial adjustment to pay that was in effect as of June 30, 2002, if:

1. The employee's work duties include direct contact and interaction with clients for at least half of his scheduled work shift; and

2. The employee received an adjustment to pay for performing certain work in an assaultive environment as determined by the Administrator of the Division of Mental Health and Developmental Services of the Department of Human Resources or the Division of Child and Family Services of the Department of Human Resources, for at least half of his working time during the 3 months immediately before June 30, 2002."

NAC 284.208 Compensation for dangerous duty. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 3, only the following groups, under the conditions described, are entitled to receive pay for dangerous duty:

(a) Employees engaged in scuba or skin diving.

(b) Employees who perform duties at a height of more than 16 feet above the floor in a building or 16 feet above ground level outside of a building if the work is performed on portable equipment or outside of a railed or protected area.

(c) All employees, except pilots, for time spent in single engine aircraft or helicopters when required to do so by the employer.

(d) Employees required to handle or use explosives.

(e) Employees performing maintenance or abatement on materials containing lead paint or asbestos, or both, in any area in which personal protective equipment must be worn in compliance with 29 C.F.R. Part 1910, Subpart I.

2. Except as otherwise provided in this subsection and subsection 3, an employee who performs any dangerous duty must receive additional pay equal to 10 percent of his or her normal rate of pay for each hour in which he or she performs any dangerous duty. An exempt classified employee who performs any dangerous duty for any portion of a workday must receive the additional pay for all his regularly scheduled hours of employment on that workday.

3. An employee described in subsection 1 is not entitled to receive pay for dangerous duty if the duties that he performs are an inherent and regular part of the duties assigned to the class of which the employee is a member. These duties need not appear in the class specification of the employee. Compensation for the performance of those duties may be made only if the duties performed by the employee would not be required of the class as a whole.

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 9-17-87; 3-23-94; R082-00, 8-2-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004)

NAC 284.210 Differential rate of pay for qualifying shift. (NRS 284.065, 284.155, 284.175)

1. As used in this section:

(a) "Differential rate of pay" means an adjustment in pay equivalent to an additional 5 percent of an employee's normal rate of pay.

(b) "Qualifying shift" means a period of work of 8 hours or more, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m. The term includes, without limitation, a period of work of 8 hours that is reduced to 7 hours because of a change of time to daylight saving time.

2. An employee is eligible for the differential rate of pay if he or she works in a unit which provides services requiring multiple shifts within a 24-hour period and is:

(a) A nonexempt employee in the classified service who works:

(1) A qualifying shift; or

(2) Any shift of at least 8 hours that is other than a qualifying shift plus 4 or more hours between 6 p.m. and 7 a.m. In such cases, an employee must receive the differential rate of pay for only the hours worked between 6 p.m. and 7 a.m.

(b) An exempt classified employee assigned to a qualifying shift. In such cases, an employee must receive the differential rate of pay for all his or her regularly scheduled hours of employment on that workday.

3. If an employee is assigned to a qualifying shift when he or she is on paid leave or a holiday occurs, he or she must receive the differential rate of pay for that shift.

4. Except as otherwise provided in subsection 3, if a nonexempt employee in the classified service is assigned to a qualifying shift and the employee is not in paid status for the entire period of that shift, the employee must receive the differential rate of pay for the portion of the shift in which he or she is in paid status.

5. A nonexempt employee in the classified service who works overtime pursuant to NRS 284.180 in conjunction with a qualifying shift must be paid overtime at the differential rate of pay.

[Personnel Div., Rule III § I, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, eff. 12-17-87; 7-21-89; 3-23-94; 10-27-97; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-02; R022-05, 10-31-2005***; R077-11, 12-30-2011; R008-12, 5-30-2012)***

NAC 284.214 Compensation for being called back to work; compensation for person required to appear as witness. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, an employee must be paid 2 hours of call back pay at the rate of time and one-half of his or her normal rate of pay if his or her employer calls the employee back to work during his or her scheduled time off without having notified him or her before the completion of his or her last normal working day. For each additional hour that such an employee works after the 2 hours for which he or she is paid call back pay, the employee must be paid overtime at the rate of time and one-half of his or her normal rate of pay if he or she is eligible pursuant to NRS 284.180.

2. Subsection 1 does not apply to any:

(a) Employee who is called into work while on standby status

(b) Exempt classified employee or exempt unclassified employee.

(c) Employee who works part-time or intermittently unless he or she has worked 8 hours in 1 calendar day.

(d) Employee who performs duties pursuant to an understanding with the agency whereby the employee is given discretion as to performance of the duties and the duties are initiated by the action of the employee. In such a case, the employee receives compensation at the appropriate rate only for the actual time spent in the performance of those duties.

(e) Employee who is not required to leave the premises where he or she is residing or located at the time of notification in order to respond to a call.

(f) Employee who is called back to work if:

(1) The work begins 1 hour or less before or after his or her scheduled work shift;

(2) The time for beginning the work is set at the employee's request; or

(3) The work begins during the same 2-hour period previously paid for call back pay.

3. An employee who is required to appear as a witness in court or at an administrative hearing:

(a) During his or her regularly scheduled time off; and

(b) Concerning a matter which relates directly to his or her job,

➥ must be paid 2 hours of call back pay at the rate of time and one-half of his or her normal rate of pay. For each additional hour after the 2 hours for which he or she is paid call back pay, the employee must be paid overtime at the rate of time and one-half of his or her normal rate of pay if he or she is eligible pursuant to NRS 284.180. If he or she receives a witness fee as well as this compensation, the employee shall remit the witness fee to the agency by which he is employed.

[Personnel Div., Rule III § J, eff. 8-11-73]—(NAC A by Dep't of Personnel, 12-13-83; 10-26-84; 9-17-87; 11-12-93; 3-23-94; 10-27-97; R147-01, 1-22-2002)

NRS 480.320 states, "Payment of cadets. The Nevada highway patrol shall not authorize any payment to a cadet for remaining ready for duty if the cadet is attending an authorized training academy for which room and board is provided at no cost to the cadet."

NAC 284.218 Compensation for standby status. (NRS 284.065, 284.155, 284.175)

1. A nonexempt employee in the classified service of the State is on standby status when he or she is:

(a) Directed to remain available for notification to work during specified hours;

(b) Prepared to work if the need arises;

(c) Able to report to work within a reasonable time;

(d) Directed by his or her supervisor to carry a paging device, provide a telephone number where he or she may be notified or provide any other acceptable means for notification; and

(e) Allowed to use the time during which he or she is waiting for notification to work for his or her personal pursuits.

2. When a nonexempt employee in the classified service of the State who is on standby status begins the performance of his or her regular duties after receiving notice to work, he or she ceases to be on standby status and qualifies for straight time or overtime pay, whichever is applicable, for the actual time worked. Upon completion of the work, he returns to standby status for the remainder of the time he or she has been directed to be available to work.

3. A nonexempt employee in the classified service of the State is entitled to receive additional pay, or equivalent compensatory time off, at the rate of 5 percent of his or her normal rate of pay for every hour he or she is on standby status.

4. Cash payment is the preferred method of compensation pursuant to this section, but compensatory time off, not to exceed the maximum allowed pursuant to subsection 3 of NAC 284.250, must be granted in lieu of cash payment if the employee requests compensatory time and the agency approves the request.

5. Any class designated by statute as a 24-hour class does not automatically qualify for this additional pay.

[Personnel Div., Rule III § K, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-22-87; 3-23-94; R147-01, 1-22-2002)

NAC 284.220 Change of time to or from daylight savings time. (NRS 284.065, 284.155, 284.175)

1. An employee, other than an exempt classified employee or exempt unclassified employee, who loses an hour of work during his or her scheduled shift because of a change of time to daylight savings time may, with the approval of the appointing authority, elect to take an hour of annual leave, compensatory time or leave without pay or must be scheduled to work an additional hour.

2. An employee, other than an exempt classified employee or exempt unclassified employee, who is required to work an additional hour during his or her scheduled shift because of a change of time to standard daylight time is entitled to receive overtime pay or compensatory time as approved by the agency.

(Added to NAC by Dep't of Personnel, eff. 4-19-88; A 3-23-94; R147-01, 1-22-2002)

NAC 284.228 Shift trading: Agreement; responsibilities. (NRS 284.065, 284.155, 284.175, 284.345)

1. An employee may enter into a written agreement to trade shifts with another employee who is employed by the same state agency if each employee who enters into the agreement:

(a) Does so solely at his or her option as described in 29 C.F.R. § 553.31;

(b) Performs work in the same class; and

(c) Obtains approval to enter into the agreement from the appointing authority of the state agency that employs him or her.

2. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he agreed to work, he is responsible for entering into a written agreement to trade shifts with another employee who satisfies the requirements of subsection 1 to ensure that the shift is worked. Except as otherwise provided in subsection 5, if the employee is unable to enter into an agreement with an employee who satisfies the requirements of subsection 1 to work the shift that he agreed to work, the state agency that employs the employee who was originally scheduled to

work that shift before any agreements to trade shifts were entered into pursuant to this subsection or subsection 1 shall:

(a) Reduce that employee's accrued annual leave or accrued compensatory time by the number of hours in the shift; or

(b) If that employee does not have annual leave or compensatory time available, place the employee on leave without pay for the number of hours in the shift,

➥ unless that employee works the shift he or she was originally scheduled to work.

3. Except as otherwise provided in subsection 5, if an employee works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2, the state agency that employs the employees shall pay each employee as if he or she had worked his or her regularly scheduled hours of employment on that workday.

4. The state agency that employs an employee who works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2 may exclude the hours worked by the employee pursuant to the agreement from the calculation of the hours for which the employee is entitled to receive:

(a) Credit for overtime work pursuant to NRS 284.180; and

(b) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.

5. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he or she agreed to work because on the date that the shift occurs he or she no longer satisfies the requirements of subsection 1 and the other employee who is a party to the agreement has already worked the shift which he or she agreed to work pursuant to that agreement or another employee has worked that shift as provided in an agreement entered into pursuant to subsection 2, the state agency shall:

(a) Reduce the pay, accrued annual leave or accrued compensatory time of the employee who no longer satisfies the requirements of subsection 1 by the number of hours in the shift that was worked for him or her; and

(b) If the hours worked by the other employee pursuant to the original agreement or as provided in an agreement entered into pursuant to subsection 2 were excluded from the calculation described in subsection 3, include those hours in the calculation of the hours for which that employee is entitled to receive:

(1) Credit for overtime work pursuant to NRS 284.180; and

(2) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.

6. The appointing authority shall maintain accurate records of each agreement entered into by its employees pursuant to subsection 1 or 2.

(Added to NAC by Dep't of Personnel by R015-02, eff. 5-2-2002; A by Personnel Comm'n by R038-03, 10-30-2003)

NRS 284.180 states in part, "overtime.

2. Credit for overtime work directed or approved by the head of an agency or the representative of the head of the agency must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

3. Except as otherwise provided in subsections 4, 6, 7 and 9, overtime is considered time worked in excess of:

(a)Eight hours in 1 calendar day;

(b)Eight hours in any 16-hour period; or

(c)A 40-hour week.

4. Firefighters who choose and are approved for a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year, regardless of the actual number of hours

worked or on paid leave during any biweekly pay period. A fireman so assigned is entitled to receive 1/26 of the firefighter's annual salary for each biweekly pay period. In addition, overtime must be considered time worked in excess of:

(a)Twenty four hours in one scheduled shift; or

(b)Fifty three hours average per week during one work period for those hours worked or on paid leave.

➥ The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firefighters. In addition to the regular amount paid such a firefighter for the deemed average of 56 hours per week, the firefighter is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.

5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

6. For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.

7. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80 hour work schedule within a biweekly pay period and who choose and are approved for such a work schedule will be considered eligible for overtime only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.

8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.

9. This section does not supersede or conflict with existing contracts of employment for employees hired to work 24 hours a day in a home setting. Any future classification in which an employee will be required to work 24 hours a day in a home setting must be approved in advance by the Commission.

10. All overtime must be approved in advance by the appointing authority or the designee of the appointing authority. No officer or employee, other than a director of a department or the chair of a board, Commission or similar body, may authorize overtime for himself or herself. The chair of a board, Commission or similar body must approve in advance all overtime worked by members of the board, Commission or similar body.

11. The Budget Division of the Department of Administration shall review all overtime worked by employees of the Executive Department to ensure that overtime is held to a minimum. The Budget Division shall report quarterly to the State Board of Examiners the amount of overtime worked in the quarter within the various agencies of the State."

NRS 284.148 states, "Unclassified and classified service: Persons exempt pursuant to Fair Labor Standards Act of 1938; determination of exempt positions by Division.

1. An elected officer or an employee in the unclassified service who is on the personal staff of an elected officer, an appointed head of a department or division who serves at the pleasure or discretion of an elected officer or an executive, administrative or professional employee within the meaning of the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq.:

(a)Must be paid on a salary basis, within a maximum amount established by law;

(b)Is not entitled to compensation for overtime; and

(c)Is not subject to disciplinary suspensions for less than 1 week.

2. An employee in the classified service who is an executive, administrative or professional employee within the meaning of the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and who is either a head of a department, division or bureau, or a doctoral level professional:

(a)Must be paid on a salary basis;

(b)Is not entitled to compensation for overtime; and

(c)Is not subject to disciplinary suspensions for less than 1 week.

3. Unless otherwise specified by statute, the Division shall determine which positions in the classified and unclassified service are subject to the provisions of this section."

NRS 281.100 (overtime) states, "Hours of service of employees of State and political subdivisions; exceptions; penalty.

1. Except as otherwise provided in this section and NRS 284.180, the services and employment of all persons who are employed by the State of Nevada, or by any county, city, town, township or other political subdivision thereof, are limited to not more than 8 hours in any 1 calendar day and not more than 40 hours in any 1 week.

2. The period of daily employment mentioned in this section commences from the time the employee takes charge of any equipment of the employer or acts as an assistant or helper to a person who is in charge of any equipment of the employer, or enters upon or into any conveyance of or operated by or for the employer at any camp or living quarters provided by the employer for the transportation of employees to the place of work.

3. This section does not apply to:

(a)Officials of the State of Nevada or of any county, city, town, township or other political subdivision thereof, or employees of the State whose employment is governed by NRS 284.148.

(b)Employees of the State of Nevada or of any county, city, town, township or other political subdivision thereof who:

(1)Are engaged as employees of a fire department, or to nurses in training or working in hospitals, or to police, deputy sheriffs or jailers;

(2)Chose and are approved for a variable workday or variable 80 hour work schedules within a biweekly pay period;

(3)Work more than 8 hours but not more than 10 hours in any 1 workday or 40 hours in any 1 workweek;

(4)Are executive, administrative, professional or supervisory employees; or

(5)Are covered by a collective bargaining agreement which establishes hours of service.

(c)Employees of the Legislative Counsel Bureau.

(d)Work done directly by any public utility company pursuant to an order of the Public Utilities Commission of Nevada or other public authority.

4. Any employee whose hours are limited by subsection 1 may be permitted, or in case of emergency where life or property is in imminent danger may be required, at the discretion of the officer responsible for his employment, but subject to any agreement made pursuant to NRS 284.181, to work more than the number of hours limited. If so permitted or required, he is entitled to receive, at the discretion of the responsible officer:

(a)Compensatory vacation time; or

(b)Overtime pay.

5. Any officer or agent of the State of Nevada, or of any county, city, town, township, or other political subdivision thereof, whose duty it is to employ, direct or control the services of an employee covered by this section, who violates any of the provisions of this section as to the hours of employment of labor as provided in this section, is guilty of a misdemeanor."

NAC 284.242 Overtime: Authorization. (NRS 284.065, 284.155, 284.175)

1. If a nonexempt employee is required to work overtime, the overtime must be authorized pursuant to subsection 10 of NRS 284.180 and communicated to the employee at least 4 hours in advance by the responsible supervisor before being worked, unless an unpredictable emergency prevents prior approval and communication.

2. If a nonexempt employee requests to work overtime, the overtime must be authorized in advance pursuant to subsection 10 of NRS 284.180.

[Personnel Div., Rule III § L subsecs. 4-6, eff. 8-11-73; renumbered as subsecs. 3-5, 10-10-76]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; R147-01, 1-22-2002)

NAC 284.245 Overtime: Consideration of paid-leave status in calculation. (NRS 284.065, 284.155, 284.175) Paid-leave status is considered as time worked in calculating overtime.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.248 Overtime: Employee who works in two positions; exceptions. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, a nonexempt employee who works in two positions in one department or different departments must work or be in paid status in excess of 8 hours per day or 40 hours per week in combined work time in both positions to receive compensation for overtime. An appointing authority shall consider an employee's employment with another department when considering his or her agency's liability for compensation for overtime.

2. The hours worked voluntarily by an employee on an occasional or sporadic basis in a different capacity from his or her regular employment must not be combined with the hours worked by the employee in his or her regular employment for the purposes of determining the appointing authority's liability for compensation for overtime. As used in this subsection, "occasional or sporadic basis" means infrequently, irregularly or occurring in scattered instances.

3. An employee who qualifies for overtime compensation pursuant to subsection 1 must be paid:

(a) At the highest rate of pay of the two positions; or

(b) If the employee and the appointing authority have agreed in writing before the performance of the work requiring overtime, at the rate of pay of the position for which the work is performed.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 5-27-86; 3-23-94; 11-16-95; R147-01, 1-22-2002)

NAC 284.250 Overtime: Compensation. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, the method of compensating an employee for overtime is cash payment which is computed at the rate of time and one-half of the employee's normal rate of pay as required pursuant to NRS 284.180.

2. The employee and the appointing authority may enter into an agreement which complies with the provisions of 29 C.F.R. § 553.23 for compensating a nonexempt employee for overtime with compensatory time in lieu of cash payment.

3. Compensatory time may not be accrued in excess of 120 hours unless an agreement entered into pursuant to subsection 2 provides for the accrual of additional hours of compensatory time, not to exceed 240 hours. Overtime liability incurred in excess of these limits must be paid in cash. The appointing authority may pay in cash for compensatory time accrued below these limits.

[Personnel Div., Rule III § L subsecs. 9-11, eff. 8-11-73; renumbered as subsecs. 8-10, 10-10-76]—(NAC A by Dep't of Personnel, 10-26-84; 9-30-88; 11-12-93; 3-23-94; R031-98, 4-17-98; R147-01, 1-22-2002)

NAC 284.2508 Compensatory time: Use. (NRS 284.065, 284.155, 284.175, 284.345)

1. At the direction of the appointing authority, compensatory time must be used within a reasonable time after it is accrued.

2. Unless it would cause an undue hardship to the agency, a request for the use of compensatory time may not be unreasonably denied if the request is made at least 2 weeks in advance of the first date on which the employee wishes to use his or her compensatory time.

3. Unless it would cause an employee to forfeit an amount of annual leave pursuant to subsection 2 of NRS 284.350, an employee must, to the extent possible, exhaust his or her compensatory time before he uses his or her available annual leave.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.252 Compensatory time: Request for payment for certain portions. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, an employee who has accrued more than 60 hours of compensatory time may request, in writing, payment in cash for the amount of compensatory time that exceeds 60 hours.

2. Except as otherwise provided in this subsection, an employee who is subject to an agreement which provides for the accrual of up to 240 hours of compensatory time may request, in writing, payment in cash for any compensatory time accrued in excess of 120 hours. An exception to this subsection may be made for payment of all compensatory time accrued in excess of 60 hours to:

(a) A firefighter who submits a request for payment on or before April 1, if payment is made during the month of April.

(b) A district brand inspector who submits a request for payment on or before September 1, if payment is made during the month of September.

(c) A 24-hour duty officer of the Division of Emergency Management of the Department of Public Safety who has accumulated more than 60 hours of compensatory time during any 12 consecutive months.

3. A request for payment in cash for compensatory time pursuant to this section may not be unreasonably denied. Such a request may be denied if:

(a) The Chief of the Budget Division of the Department of Administration certifies that there is insufficient money available in the State General Fund; or

(b) In the case of an agency that is not supported from the State General Fund, the administrator of that agency certifies that the agency has insufficient money available.

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 9-30-88; 3-23-94; R147-01, 1-22-2002)

NAC 284.253 Compensatory time: Rate of pay. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, an employee who terminates his or her employment must be paid for compensatory time at a rate that is an average of the normal rate of pay received by the employee during the last 3 years of the employee's employment, or the final normal rate of pay received by the employee, whichever is higher.

2. Any other employee must be paid for compensatory time at his or her normal rate of pay.

(Added to NAC by Dep't of Personnel, eff. 5-27-86; A 11-16-95; R147-01, 1-22-2002)

NAC 284.2535 Compensatory time: Firefighters. (NRS 284.065, 284.155, 284.175, 284.180)

1. A firefighter who works a 24-hour shift and who elects to receive compensatory time off for the overtime he or she works is entitled to accrue 2.1 hours of compensatory time for each hour of overtime worked.

2. If a firefighter receives a cash payment for his or her accrued compensatory time, the payment must be calculated at his or her normal rate of pay.

3. When a firefighter is appointed to a job classification with a work schedule of 40 hours per week, the compensatory time of the firefighter must be converted to the amount of compensatory time that would have been accrued if the firefighter worked 40 hours per week.

4. When an employee with a work schedule of 40 hours per week is appointed to a job as a firefighter with an average work schedule of 56 hours per week, the compensatory time of the employee must be converted to the amount of compensatory time that would have been accrued if the person worked 56 hours per week.

(Added to NAC by Dep't of Personnel, 9-13-91, eff. 10-1-91; A 12-26-91; 3-27-92; R147-01, 1-22-2002)

NAC 284.254 Compensatory time: Payment upon transfer. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, if a nonexempt employee who has accrued compensatory time transfers from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority, the accrued compensatory time must be paid by the agency he or she is leaving, unless the receiving agency agrees in writing to assume the liability for the compensatory time and the employee concurs.

2. The accrued compensatory time of an employee transferring to an exempt position must be paid by the agency the employee is leaving.

3. As used in this section, "exempt position" means a position in the classified or unclassified service that is subject to the provisions of NRS 284.148.

[Personnel Div., Rule III § L subsec. 12, eff. 8-11-73; renumbered as subsec. 11, 10-10-76]—(NAC A by Dep't of Personnel, 10-26-84; 10-27-97; R147-01, 1-22-2002)

NRS 236.015 in part states, "Legal holidays; closing of State, county and city offices, courts, public schools and Nevada System of Higher Education.

1. The following days are declared to be legal holidays for State, county and city governmental offices:

January 1 (New Year's Day)

Martin Luther King, Jr.'s birthday is on January 15 but is to be observed on the third Monday in January

Washington's birthday is on February 22 but is to be observed on the third Monday in February

Last Monday in May (Memorial Day)

July 4 (Independence Day)

First Monday in September (Labor Day)

Nevada Day is October 31 but is to be observed on the last Friday in October

November 11 (Veterans' Day)

Fourth Thursday in November (Thanksgiving Day)

Friday following the fourth Thursday in November (Family Day)

December 25 (Christmas Day)

Any day that may be appointed by the President of the United States for public fast, Thanksgiving or as a legal holiday except for any Presidential appointment of the fourth Monday

in October as Veterans' Day.

2. Except as otherwise provided by NRS 293.560 and 293C.527, all State, county and city offices, courts, public schools and the Nevada System of Higher Education must close on the legal holidays enumerated in subsection 1 unless in the case of appointed holidays all or a part thereof are specifically exempted.

3. If January 1, July 4, November 11 or December 25 falls upon a:

(a)Sunday, the Monday following must be observed as a legal holiday.

(b)Saturday, the Friday preceding must be observed as a legal holiday."

NAC 284.255 Holidays: Holiday pay. (NRS 284.065, 284.155, 284.175, 284.180, 284.345)

1. For the purpose of this section, "holiday pay" means payment for a holiday at a nonexempt employee's normal rate of pay plus the differential rate of pay for the shift, when applicable, or compensatory time at a straight-time rate.

2. Except as otherwise provided in paragraph (c) of subsection 3 and subsections 5 and 7, a full-time nonexempt employee whose base hours are 40 hours per week or 80 hours biweekly is entitled to receive 8 hours of holiday pay for any holiday that he or she is in paid status during any portion of his or her shift immediately preceding the holiday.

3. Except as otherwise provided in subsections 5 and 7:

(a) A full-time nonexempt employee whose base hours exceed 40 hours per week or 80 hours biweekly and who is in paid status during any portion of his or her shift immediately preceding a holiday is entitled to receive holiday pay equal to the pay he or she receives for his or her average workday. For the purposes of this paragraph:

(1) The average workday of a nonexempt employee is determined by dividing the total base hours of work per year by 2,088 and multiplying the quotient by 8.

(2) A firefighter assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.

(b) A part-time nonexempt employee is entitled to receive holiday pay when he or she is in paid status during any portion of his or her shift immediately preceding the holiday if a holiday occurs on a normally scheduled workday of the employee. Except as otherwise provided in this paragraph, if such an employee is not required to work his or her normally scheduled workday on the holiday, the amount of holiday pay must equal the amount that he or she would have been paid if there had not been a holiday, but may not exceed the equivalent of his or her pay for 8 hours of work.

(c) A:

(1) Full-time nonexempt employee with an innovative workweek agreement may earn additional holiday pay on an hour-for-hour basis for any hours he or she works in excess of the holiday pay provided in paragraph (a) and in subsection 2, not to exceed the number of hours in his or her established workday as set forth in his or her innovative workweek agreement.

(2) Part-time nonexempt employee may earn holiday pay on an hour-for-hour basis for any hours he or she works on a holiday, not to exceed the number of hours in his or her established workday.

4. If a holiday occurs on the regularly scheduled workday of a nonexempt employee and his or her normal schedule of work is more than 8 hours, he or she must be in paid status or be placed on leave without pay for any difference between his or her holiday pay and his or her normal work schedule. An appointing authority may adjust the work schedule of such an employee for the week during which the holiday occurs in lieu of placing the employee on paid leave or leave without pay.

5. A nonexempt employee who is scheduled to work on a holiday shall report any absence from duty and the reason therefore to his or her supervisor or designated representative as

prescribed in writing by the agency. An employee who does not work on that holiday and who fails to report his or her absence to his or her supervisor or a designated representative pursuant to this subsection is not eligible to receive holiday pay.

6. A nonexempt employee whose employment begins on a holiday is eligible to receive holiday pay pursuant to subsections 2 and 3 if he is in paid status during his scheduled shift.

7. A nonexempt employee whose employment is terminated:

(a) The day immediately preceding a holiday is not entitled to receive holiday pay for that holiday.

(b) Except as otherwise provided in paragraph (c) of subsection 3, on a holiday on which he or she is working must be paid holiday pay for the actual hours he or she works on the holiday. If a nonexempt employee gives notice that he or she is terminating his or her employment on a holiday and he or she is not scheduled to work on the holiday, the last day on which he or she works or is in paid status is his or her date of termination.

8. The agency that lists a nonexempt employee as an "employee of record" on a holiday is responsible for the payment of holiday pay for that holiday to that employee. For the purposes of this subsection, an "employee of record" is a person employed by the state agency that is required to claim the person as an employee of the agency.

9. The salary of an exempt classified or exempt unclassified employee is not affected by a holiday.

[Personnel Div., Rule VII § B subsec. 2, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 1-26-87; 9-17-87; 4-19-88; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; R098-99, 9-27-99; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003; R145-05, 12-29-2005)

NAC 284.256 Holidays: Compensation for working. (NRS 284.065, 284.155, 284.175, 284.180)

1. As used in this section, "holiday premium pay" means pay or compensatory time at an employee's normal rate of pay for hours designated as worked on a holiday, except those hours that are considered overtime pursuant to NRS 284.180.

2. A nonexempt employee who works on a holiday is entitled to receive holiday premium pay, overtime pay or compensatory time for the hours he or she works on the holiday, in addition to any holiday pay that he or she is entitled to be paid pursuant to NAC 284.255. A nonexempt employee who elects to receive compensatory time for the hours he or she works on a holiday must not exceed the limits on the accrual of compensatory time set forth in NAC 284.250.

[Personnel Div., Rule VII § B part subsec. 3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 7-21-89; 9-13-91; 3-23-94; R058-01, 9-6-2001; R147-01, 1-22-2002)—(Substituted in revision for NAC 284.530) – (R022-11, 10-26-2011)

NAC 284.257 Holidays: Designation of time for holiday pay; adjustment of work schedule if holiday occurs on employee's day off. (NRS 284.065, 284.155, 284.175)

1. For compensation for holiday pay pursuant to NAC 284.255 and payment for actual hours worked on a holiday pursuant to NAC 284.256, the appointing authority shall designate whether such compensation will be based on the:

(a) Calendar day; or

(b) Entire shift of the employee.

2. If a work shift designated pursuant to paragraph (b) of subsection 1 occurs on 2 consecutive calendar days:

(a) The employee may receive compensation related to the holiday for his or her entire shift only if 50 percent or more of the shift occurs on the holiday;

(b) The appointing authority shall ensure that the compensable hours related to the holiday are so designated on the time sheet of the employee; and

(c) The appointing authority of an employee who has two or more scheduled shifts on a holiday shall designate only one shift on the holiday for which the employee may receive compensation related to the holiday.

3. If a holiday occurs on the day off of a full-time nonexempt employee, the appointing authority may adjust the work schedule of the employee for the week during which the holiday occurs. If a holiday occurs on the day off of an exempt classified employee or exempt unclassified employee, the appointing authority may adjust the work schedule of the employee for the week during which the holiday occurs or for a subsequent week.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)—(Substituted in revision for NAC 284.532)

NAC 284.258 Compensation for time spent traveling. (NRS 284.065, 284.155, 284.175)

1. An employee who is otherwise entitled to pay for overtime may earn overtime for traveling if:

(a) His or her actual work time and the travel time exceed his or her normal workday of at least 8 hours; or

(b) The travel occurs on his or her regularly scheduled day off.

2. Such an employee begins traveling when he or she leaves his or her workstation, or home if so authorized, and continues until he or she reaches the geographical location for his or her work assignment.

3. In determining the amount of travel time granted, the overtime claimed for additional reimbursement must be justified against the "normal" travel time as determined by the previous travel experience of the agency. If the additional travel time was caused by the employee's choice of transportation, overtime compensation will not be paid for the portion of the travel time that exceeds the "normal" travel time. Unless the appointing authority determines that the additional travel time is justified, and employee who has travel layovers or delays in his transportation is limited to 4 hours of overtime, if applicable, plus per diem expenses. An employee may not be compensated for the time spent traveling during the normal time he or she spends commuting to and from work.

4. An employee who must travel and stay over to continue work on his or her next regularly scheduled workday is not considered to be working on his or her regularly scheduled day off and is not eligible for overtime pay. Such an employee is allowed to claim the standard per diem expenses.

5. Any travel by an employee on a holiday will be compensated pursuant to the provisions of NAC 284.255, 284.256 and 284.257.

[Personnel Div., Rule III § L subsec. 16, eff. 8-11-73; renumbered as subsec. 15, 10-10-76]—(NAC A by Dep't of Personnel, 10-26-84; 7-1-94; R147-01, 1-22-2002)

NRS 284.177 states, "Plan to encourage continuity of service.

1. A plan to encourage continuity of service, administered by the Division is hereby established for employees with 8 years or more of continuous state service. Except as otherwise provided in NRS 284.179, an employee rated standard or better with 8 years or more of continuous service is entitled to receive a semiannual payment of $75 plus:

(a) An annual increase of $25 in the semiannual payment for each year of the employee's ninth through fourteenth years of continuous service;

(b) An annual increase of $50 in the semiannual payment for each year of the employee's fifteenth through twenty-fourth years of continuous service; and

(c) An annual increase of $75 in the semiannual payment for each additional year of continuous

service after 24 years, up to a maximum of 30 years of continuous state service.

2. An interruption in continuous state service terminates the employee's eligibility for additional pay pursuant to subsection 1.

3. Except as otherwise provided in this subsection, no year served before the interruption may be counted in determining the employee's subsequent eligibility. This provision does not apply to an employee who was employed before July 1, 1981, unless he leaves state service after that date.

4. As used in this section, "continuous service" means uninterrupted service as defined by the Commission."

NRS 284.179 states, Professional employees of Nevada System of Higher Education not entitled to payments pursuant to... The professional employees of the Nevada System of Higher Education are not entitled to receive the payments provided in NRS 284.177."

NAC 284.262 Longevity pay: Eligibility. (NRS 284.065, 284.155, 284.175) Classified and unclassified employees are eligible for longevity pay pursuant to NRS 284.177.

[Personnel Div., Rule III § M subsec. 1, eff. 8-11-73; A 9-6-74; 2-5-82]—(NAC A by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.270 Longevity pay: Required rating of performance. (NRS 284.065, 284.155, 284.175, 284.335)

1. For an employee to be eligible for longevity pay pursuant to NRS 284.177, he or she must receive a rating of performance of standard or better on his or her most recent report on performance.

2. An employee's performance will be deemed to be standard on the date on which the report on performance was due if:

(a) The employee's performance was not rated during the previous 12 months; or

(b) A subsequent report on performance was not filed after the employee received a substandard rating of performance pursuant to the provisions of subsection 4 of NRS 284.340.

[Personnel Div., Rule III § M subsec. 3, eff. 8-11-73; A 9-6-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 10-18-89; 11-16-95; R147-01, 1-22-2002)

NAC 284.274 Longevity pay: Dates of payment and eligibility; responsible agency. (NRS 284.065, 284.155, 284.175)

1. After 8 years of continuous service, an employee is eligible for longevity pay in semiannual payments on December 31 and June 30.

2. Except as otherwise provided in NAC 284.282, such employees who are eligible and have not been separated from state service as of these dates will receive longevity pay.

3. An agency is responsible for the payment of longevity pay due an employee if that employee is employed by the agency on the date on which the employee becomes eligible for the semiannual payment.

[Personnel Div., Rule III § M subsec. 4, eff. 8-11-73; A 9-6-74; 4-14-76; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 12-17-87; 7-14-88; 7-21-89; 3-1-96; A by Personnel Comm'n by R065-98, 7-24-98, eff. 1-1-99; A by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.278 Longevity pay: Formulas for calculation. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, longevity pay for nonexempt employees must be calculated based on the following formula:

$$\frac{\text{The number of hours worked during the 6-month qualifying period}}{\text{Total full-time equivalent hours for the pay class designation during the 6-month qualifying period}} \text{ X longevity increment = longevity payment for the 6-month period}$$

2. Longevity pay for exempt classified employees and exempt unclassified employees must be calculated based on the following formula:

$$\frac{\text{The number of 8-hour days worked during the 6-month qualifying period}}{\text{Total full-time equivalent 8-hour days for the pay class designation during the 6-month qualifying period}} \text{ X longevity increment = longevity payment for the 6-month period}$$

3. As used in this section, "hours worked" includes only the base hours for the pay class designation.

[Personnel Div., Rule III § M subsec. 6, eff. 9-6-74; A and renumbered as subsec. 5, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 9-13-91; 3-23-94; R031-98, 4-17-98; R058-01, 9-6-2001; R147-01, 1-22-2002)

NAC 284.282 Longevity pay: Particular circumstances. (NRS 284.065, 284.155, 284.175, 284.345, 284.355, 284.3626)

1. Except as otherwise provided in NAC 284.580 for a leave of absence without pay during a fiscal emergency, an employee who is on leave without pay or catastrophic leave, or any combination of both, for the entire 6-month period of qualification is not entitled to longevity pay for that period.

2. The payment for longevity pay for a full-time employee will not be prorated pursuant to NAC 284.278 if he or she:

(a) Is an exempt classified employee or exempt unclassified employee and he or she uses an amount of leave without pay or catastrophic leave, or any combination of both, that equals 30 days or less in a calendar year; or

(b) Is a nonexempt employee, the base hours established for his or her pay class designation are 40 hours per week or 80 hours biweekly and he or she uses 240 hours or less of leave without pay or catastrophic leave, or any combination of both, in a calendar year.

3. If the base hours established for a pay class designation exceed 40 hours per week or 80 hours biweekly, an employee in that pay class designation must be allotted leave without pay and catastrophic leave in proportion to his or her base hours and full-time equivalency. The longevity pay of such an employee will not be prorated unless his or her use of leave without pay and catastrophic leave proportionally exceeds the limits set forth in subsections 2 and 4.

4. A part-time employee must be allotted leave without pay and catastrophic leave in proportion to his or her base hours and the full-time equivalency for his pay class designation. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limit set for a full-time employee in his or her pay class designation pursuant to subsection 2.

5. An employee who retires pursuant to the provisions of chapter 286 of NRS or who dies during the 6-month qualifying period is eligible for longevity pay according to the applicable formula in NAC 284.278.

6. An employee who is laid off and is rehired within 1 year after the date of layoff is eligible for the longevity pay he or she would have earned if he or she had not been laid off. The longevity pay must be calculated as if the employee had been on leave without pay pursuant to subsection 2.

7. A person with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013 is eligible for the longevity pay he or she would have earned if he or she had not been separated from state service. The longevity pay of such an employee must be calculated as if the employee had been on leave without pay pursuant to subsection 2.

8. An employee is eligible to earn service credit for the calculation of longevity pay when he or she is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS and he or she uses accrued sick leave, accrued annual leave or accrued compensatory time to meet the difference between his or her normal pay and the benefits he or she receives. Such an employee ceases to earn service credit for the calculation of longevity pay when he or she is placed on a leave of absence without pay or catastrophic leave.

9. Service in a seasonal position must be credited toward the calculation of longevity pay if the employee is employed on December 31 and June 30 and if the requirements for eligibility for longevity pay have been met. If an employee in a seasonal position is not on the payroll on those two dates and he is reemployed within 12 months, the employee is entitled to receive prorated longevity pay for his or her service during the previous longevity period.

10. If a person is on leave of absence without pay for military service pursuant to NRS 284.359 or is reemployed within 90 days after the military service, the time during which he or she was not in paid status because of his or her military service will be counted as service credit for the calculation of longevity pay. The person is eligible for longevity pay for the time he or she is in paid status in accordance with the provisions of subsection 2.

11. If a nonclassified employee or an employee covered by NRS 284.022 is appointed without a break in service to the classified or unclassified service, the previous time served is counted for the purpose of calculating longevity pay, but the employee is not eligible for any retroactive longevity pay.

[Personnel Div., Rule III § M subsec. 7, eff. 9-6-74; A and renumbered as subsec. 6, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 12-17-87; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; 3-1-96; 10-27-97; R031-98, 4-17-98; R147-01, 1-22-2002; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.284 Longevity pay: Return to state service. (NRS 284.065, 284.155, 284.175)

1. An employee who was eligible for longevity pay and who separated from state service before July 1, 1981, and returns to state service retains his or her eligibility for longevity pay.

2. For the purposes of this section, the employee will receive the same semiannual rate of payment that he or she received at the time of his or her separation from service. However, the employee may not receive any semiannual increases until he or she has again served the same number of years without a break in service that he or she had served at the time of his or her separation from service plus 1 year.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R147-01, 1-22-2002; A by Personnel Comm'n by R038-03, 10-30-2003)

NAC 284.290 Retained rates of pay. (NRS 284.065, 284.155, 284.175)

1. An employee who is reclassified downward is entitled to a retained rate of pay if:

(a) The employee has been in the same class for the equivalent of 6 months or more of full-time employment immediately preceding the downward reclassification; and

(b) The reclassification is the result of a reorganization or other legitimate reason over which the employee has no control.

2. If an employee is entitled to a retained rate of pay pursuant to this section, the employee's base rate of pay remains unaffected for 2 years after the effective date of the downward reclassification. At the end of the 2-year period, the employee's base rate of pay will be frozen until it falls within the range of the grade to which he or she was reclassified or for a maximum of 2 years, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that have been approved by the Legislature. If the employee's frozen base rate of pay does not fall within the range of the grade to which he or she was reclassified within the 2-year period, his or her base rate of pay will be adjusted to the highest step within the lower grade to which he or she was reclassified.

3. If the employee voluntarily accepts another position within the time period prescribed in subsection 2, he or she may no longer retain his or her base rate of pay.

4. The employee is entitled to reemployment rights to his or her former class and option in his or her department for 1 year after the date of notification of the reclassification as provided in NAC 284.140.

5. This section does not apply to an employee who is occupying a position which is temporarily reclassified to a higher class and is later restored to the former class pursuant to NAC 284.132.

[Personnel Div., Rule III § O, eff. 8-11-73; renumbered as § P, 9-6-74; A 10-6-78]—(NAC A by Dep't of Personnel, 10-26-84; 9-17-87; 7-1-94; 3-1-96; R098-99, 9-27-99; R147-01, 1-22-2002)

INFORMATIONAL NOTE: Payroll Overpayment. The Office of the State Controller's accounting policies and procedures state that all agencies should notify Personnel/Payroll immediately upon discovery of any overpayment, especially when there has been a termination of employment.

NAC 284.292 Notification of uncollected overpayment. (NRS 284.065, 284.155, 284.175) If the Division of Human Resource Management determines that an employee in the classified or unclassified service has been paid in a manner which is contrary to the applicable laws and regulations and the agency has been unsuccessful in collecting the overpayment, the Division of Human Resource Management will notify the State Controller after it has reviewed the circumstances with the agency concerned.

[Personnel Div., Rule XVI § A subsec. 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-14-88; R147-01, 1-22-2002)—(Substituted in revision for NAC 284.706)

NRS 289.800 states, "Reimbursement for cost to repair or replace uniform, accessories or safety equipment damaged or destroyed in performance of duties. In addition to the compensation required by NRS 281.121, a state agency that employs a person:

1. Upon whom some or all of the powers of a peace officer are conferred pursuant to:

(a)Subsection 1 of NRS 289.180, subsection 1 of NRS 289.220 or paragraph (e) of subsection 1 of NRS 289.270; or

(b)Paragraph (d) of subsection 1 NRS 289.270 and who is employed by the Nevada Highway Patrol; and

2. Who is required to purchase and wear a uniform or other clothing, accessories or safety equipment while performing the person's duties for the State as a peace officer,

➥may, after first obtaining the written approval of the Director of the Department of Administration, reimburse that person for the cost to repair or replace his required uniform or other clothing, accessories or safety equipment if it is damaged or destroyed, by means other

than ordinary wear and tear, while the person is performing the person's duties for the State as a peace officer."

NAC 284.294 Reimbursement for furnishing own tools. (NRS 284.065, 284.155, 284.175)

1. An employee who is required to furnish his or her own tools may elect to be reimbursed for the use, loss, theft and breakage of the tools at the rate of $35 per month if the monetary value of the tools is more than $300 and less than $1,000, or at the rate of $50 per month if the monetary value exceeds $1,000. This monthly allowance must not be considered part of the employee's base rate of pay.

2. The payment of reimbursement pursuant to subsection 1 absolves the agency of any responsibility for the employee's tools if the loss per occurrence is $1,000 or less. If the loss is more than $1,000 and is covered under the terms and conditions of the policy of property insurance or program of self-insurance maintained by the State, the loss must be paid by the insurer or the State, as appropriate.

3. If the employee does not elect to be paid a monthly reimbursement for furnishing his or her own tools pursuant to subsection 1 and a loss occurs which is covered by the policy of property insurance or program of self-insurance maintained by the State, the first $1,000 of the loss must be paid to the employee by the agency and the balance by the insurer or the State, as appropriate.

4. Agencies must approve and maintain a listing of those tools which are required.

5. As used in this section, "tools" does not include weapons or other protective equipment.

[Personnel Div., Rule III § P, eff. 8-11-73; renumbered as § Q 9-6-74]—(NAC A by Dep't of Personnel, 8-26-83; 7-14-88; 10-27-97; R147-01, 1-22-2002)

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FILLING VACANCIES IN EMPLOYMENT

Recruitment

NRS 284.150 states in part, "Classified service...

1. The classified service of the State of Nevada is comprised of all positions in the public service now existing or hereafter created which are…

(b)Filled according to merit and fitness from eligible lists prepared upon the basis of examination, which must be open and competitive, except as otherwise provided in this chapter and NRS 209.161…"

NRS 284.295 states, "Vacancy filled by promotion; eligibility; competitive examinations.

1. Vacancies in positions must be filled, so far as practicable, by promotion within a department or agency from among persons holding positions in the classified service. Promotions must be based upon merit and fitness, to be ascertained in accordance with regulations adopted by the Commission. In such regulations, the employee's efficiency, character, conduct and length of service must all constitute factors. For the purposes of this subsection, a person employed by the Legislative Branch of Government pursuant to subsection 5 of NRS 284.3775 shall be deemed to hold the position the person held before the legislative session.

2. Eligibility for promotion must be determined on recommendation of the appointing authority and certification by the Administrator that the employee meets the minimum requirements and demonstrates the employee's qualifications in accordance with regulations adopted by the Commission.

3. The Administrator may provide, in specific cases, for competitive promotional examinations among employees of departments other than that in which a particular vacancy in a higher classification may exist.

4. An advancement in rank or grade or an increase in salary beyond the maximum fixed for the class constitutes a promotion."

NAC 284.295 Determining type of recruitment. (NRS 284.065, 284.155, 284.295)

1. The Division of Human Resource Management will determine the type of recruitment based on:

(a) The number of current or anticipated vacancies;
(b) The anticipated number of applicants; and
(c) The recommendations or requests of the appointing authority.

2. Except as otherwise provided in subsection 3, a recruitment must be restricted to one or a combination of these groups in the following order of priority:

(a) Applicants for promotion from within the division where the vacancy exists.
(b) Applicants for promotion from within the department where the vacancy exists.
(c) Applicants for promotion from throughout state service.
(d) Applicants for appointment from open competition.

➥ If a recruitment includes more than one promotional group, any group with a higher priority must be included and receive preference.

3. Recruitment may be open competitive, or limited to or combined with any one or more of the promotional groups listed in subsection 2 if:

(a) The appointing authority certifies in writing to the Division of Human Resource Management that, in accordance with the provisions of NAC 284.297, it is in the best interest of the agency to expand the recruitment to allow other groups to compete equally; or

(b) The class is designated in the classification plan as:

(1) Entry level because it is not a normal progression from another class; or

(2) A class for which applicants for promotion are not normally available.

4. The provisions of this section do not prohibit the Division of Human Resource Management or its designee from conducting a recruitment in anticipation of a vacancy.

(Added to NAC by Dep't of Personnel, eff. 4-20-90; A by Personnel Comm'n by R183-03, 1-27-2004; R024-05, 10-31-2005)

NAC 284.297 Considerations regarding determination to expand recruitment to open competition. (NRS 284.065, 284.155, 284.295) In determining that it is in the best interest of the agency to expand a recruitment to open competition, the appointing authority shall consider:

1. The merit, fitness, efficiency, character, conduct and length of service of employees pursuant to NRS 284.295;

2. The need to provide to all citizens a fair and equal opportunity for public service;

3. The composition of the workforce in relation to the plan for affirmative action of the State of Nevada;

4. The needs of the agency in accomplishing its objectives; and

5. The possibility of any loss of federal money or other sanctions that may be imposed.

(Added to NAC by Dep't of Personnel, eff. 4-20-90; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.2975 Designation of class for which applicants for promotion are not normally available. (NRS 284.065, 284.250, 284.295) For the purposes of NAC 284.295, 284.360 and 284.367, a class may be designated in the classification plan as a class for which applicants for promotion are not normally available if the class has historically had less than five applicants for promotion available from within the state service.

(Added to NAC by Personnel Comm'n by R024-05, eff. 10-31-2005)

NAC 284.301 Length of recruitment. (NRS 284.065, 284.155)

1. The Division of Human Resource Management will, after appropriate consideration of a requesting agency's views, determine the length of the recruitment based upon, but not limited to, the number of vacancies and the size and geographic distribution of the anticipated pool of applicants.

2. The Division of Human Resource Management may postpone, cancel or extend any recruitment by giving appropriate notice thereof.

[Personnel Div., Rule IV § H, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.326)

NAC 284.305 Continuous recruitment. (NRS 284.065, 284.155, 284.205, 284.250)

1. The Division of Human Resource Management may conduct recruitments and administer examinations in order to provide the names of eligible persons on a continuous basis.

2. An applicant achieves eligibility for certification from the date on which he or she successfully completes the examination.

3. The names of eligible persons who took the same or a comparable examination on different dates will be certified on the same list.

[Personnel Div., Rule IV § I, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.330)

NAC 284.309 Notice of recruitment: Publicized job announcement. (NRS 284.065, 284.155)

1. Notice of each recruitment will be given in the form of a publicized job announcement. Dissemination of the publicized job announcement may be limited to the appropriate agencies and employees when the recruitment is strictly promotional.

2. A publicized job announcement will include the title, pay or grade, recruitment period and location. The announcement may also include, or on promotional recruitments will include, information relating to:

(a) The special conditions of employment, if applicable;

(b) The duties and responsibilities of the class or position;

(c) The minimum qualifications; and

(d) The type of examination, relative weights assigned to the parts thereof and the subjects to be covered,

➥ and other related matters.

[Personnel Div., Rule IV § J, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; R147-01, 1-22-2002; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.334)

NAC 284.313 Limitation of competition in recruitment; applications. (NRS 284.065, 284.155, 284.295)

1. Except as otherwise provided in this subsection, competition in a recruitment is limited to applicants who meet the minimum qualifications and other criteria or conditions for the class or position as specified in the publicized job announcement. The publicized job announcement may provide for the consideration of applicants who do not currently meet those minimum qualifications but who will do so by the time their names are placed on an eligible list.

2. It is the responsibility of an applicant to apply for any recruitment for which he or she is interested. Future vacancies may be filled from the results of appropriate prior recruitments.

3. Each applicant must submit an application as specified in the publicized job announcement. The application must be received not later than 5 p.m. on the closing date, as determined by the Division of Human Resource Management.

4. The incomplete or improper completion of an application that affects the ability of the Division of Human Resource Management to determine the qualifications of the applicant, including the failure to designate the locations where the applicant will work and other criteria or conditions, is cause for the rejection of the applicant.

5. If a recruitment produces a sufficient number of applicants, the Division of Human Resource Management may, as an additional phase of the process of examination, approve the obtaining of supplemental information from each applicant to assess his or her qualifications if the publicized job announcement includes notice that such supplemental information may be required. Only those applicants who are considered the most qualified, based on this assessment, may continue in the competition.

6. Except as otherwise provided in subsection 8, competition in a promotional recruitment is limited to current state employees who:

(a) Have served at least 6 months of continuous full-time equivalent service in a probationary, special disabled, emergency, provisional or permanent status, or any combination of these, in the classified service.

(b) Are working in the division, department or state service which is specified in the publicized job announcement.

7. An employee who competes in a promotional recruitment may be at a higher grade, the same grade or a lower grade than the grade of the class for which the recruitment is being conducted. Depending on the grade of the employee, an appointment resulting from a promotional recruitment may be a voluntary demotion, a lateral transfer or a promotion.

8. A former incumbent of a seasonal position who was separated from state service with the status of a permanent employee may apply for a promotional recruitment up to 1 year after the day of separation even though he or she is not currently employed. The prior appointment must have been in the division, department or state service which is specified in the publicized job announcement.

9. Applications and accompanying documents are the property of the Division of Human Resource Management.

[Personnel Div., Rule IV § F, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-14-88; 8-1-91; 7-6-92; A by Personnel Comm'n by R183-03, 1-27-2004; R144-05, 12-29-2005)

NRS 284.220 states, "Certificates of general or special qualifications. The Administrator may require applicants, when filing their applications, to submit certificates of general or special qualifications as the good of the public service may require."

NRS 281.375 states, "Application for employment: Volunteer work must be considered. Every application form for employment with the State of Nevada, any of its political subdivisions or any agency of the state must indicate that volunteer work relevant to the position applied for is considered in the evaluation of the applicant's qualifications for employment and must provide space for the applicant to list any volunteer work he considers appropriate."

NRS 179A.190 states "Notice of information may be disseminated to employers; use by employer; employer not liable for discrimination; other dissemination or release; offenses for which notice may be disseminated.

1. Notice of information relating to the offenses listed in subsection 4 may be disseminated to employers pursuant to NRS 179A.180 to 179A.240, inclusive.

2. An employer may consider such a notice of information concerning an employee when making a decision to hire, retain, suspend or discharge the employee, and is not liable in an action alleging discrimination based upon consideration of information obtained pursuant to NRS 179A.180 to 179A.240, inclusive.

3. The provisions of NRS 179A.180 to 179A.240, inclusive, do not limit or restrict any other statute specifically permitting the dissemination or release of information relating to the offenses listed in subsection 4.

4. The offenses for which a notice of information may by disseminated pursuant to subsection 1 includes information contained in or concerning a record of criminal history, or the records of criminal history of the United States or another state, relating in any way to:

(a)A sexual offense;

(b)A conviction for a felony within the immediately preceding 7 years;

(c)An act committed outside this state that would constitute a sexual offense if committed in this State or a conviction for an act committed outside this State that would constitute a felony if committed in this State;

(d)The aiding, abetting, attempting or conspiring to engage in any such act in this State or another state.

NAC 284.317 Investigations of applicants; minimum age requirement. (NRS 284.065, 284.155, 284.295)

1. To determine whether an applicant meets the minimum qualifications established for the class or position and other necessary criteria, the Division of Human Resource Management may require evidence of United States citizenship, alien status, discharge under honorable circumstances from the Armed Forces of the United States, possession of valid licenses for various purposes, educational transcripts or other evidence of identification and qualification. Except as otherwise provided in NAC 284.325 with respect to a request for a veteran's preference, any required information which is not received by the time of certification will be cause for the Administrator to decline to certify the applicant.

2. A reasonable minimum age requirement may be established for any position that involves public safety, supervision or care of wards of the State of Nevada, hazardous working conditions or other unusual circumstances. If such a minimum age requirement is established, it must be specified in the approved class specification or the publicized job announcement and an applicant shall, upon request, submit appropriate proof of age to the Division of Human Resource Management.

3. The Division of Human Resource Management or employing agency may investigate an applicant's character, past employment, education, experience and, as allowed by specific statute, criminal background.

[Personnel Div., Rule IV part § A, eff. 8-11-73; Rule IV § B, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-6-92; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.302)

NAC 284.321 Convictions: Disclosure; factors for consideration. (NRS 284.065, 284.155, 284.295)

1. Any applicant who has a record of a criminal conviction as an adult shall so indicate on his or her application. The application must be accompanied by a complete explanation of the conviction. The failure of the applicant to authorize the release of the information which relates to the conviction of a crime is cause for rejection of the applicant.

2. Any applicant who has a record of conviction for any moving traffic violations within the previous 5 years shall so indicate on his or her application, including the dates and nature of the violations and the fines imposed.

3. The Division of Human Resource Management or its designated representative, in determining whether to accept or refuse the application for a class, position or state service, will consider the type of position, the relevant statutory provisions, the intervening amount of time since the offense, the applicant's age at the time of the offense and, if applicable, the applicant's conduct during incarceration and any parole or probation, the reports from parole or probation officers concerning the applicant's record of employment while on parole or probation and related factors.

4. All relevant public records must be made available to the appointing authority upon its request.

[Personnel Div., Rule IV § E, eff. 8-11-73; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; 5-27-86)—(Substituted in revision for NAC 284.314)

NRS 284.260 states, "Preferences for veterans and members of the Nevada National Guard: Additional credits on examination.

1. In establishing the lists of eligible persons, certain preferences must be allowed for:

(a) Veterans not dishonorably discharged from the Armed Forces of the United States.

For veterans with disabilities, 10 points must be added to the passing grade achieved on the examination. For ex-servicemen and women who have not suffered disabilities, and for the widows and widowers of veterans, 5 points must be added to the passing grade achieved on the examination.

(b) Members of the Nevada National Guard. For a member of the Nevada National Guard who submits a letter of recommendation from the commanding officer of the member's unit, 5 point must be added to the passing grade achieved on the examination.

2. Any person qualifying for preference points pursuant to subsection 1 is entitled to have the points applied to any open competitive examination in the classified service, but only to one promotional examination.

3. For the purposes of this section, "veteran" has the meaning ascribed to "eligible veteran" in 38 U.S.C. § 4211."

NAC 284.325 Preferences for veterans. (NRS 284.065, 284.155, 284.205, 284.250) An applicant must declare his or her intention to request veterans' preference points pursuant to NRS 284.260 before the examination. Proof of eligibility for preference as a veteran must be submitted no later than the last day on which the applicant takes the last phase of the ranking portion of the examination. If the examination is a promotional examination, the placement of the employee's name on the promotional list exhausts the veterans' preference points for that employee for all future promotional examinations.

[Personnel Div., Rule IV § L, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.342)

Examinations

NRS 284.210 states in part, "Competitive examinations: Requirements; contents; persons conducting examinations.

1. All competitive examinations for positions in the classified service must:

(a) Relate to those matters which fairly test the capacity and fitness of the persons examined to perform in an efficient manner the duties of the class in which employment is sought.

(b) Be open to all applicants who meet the reasonable standards or requirements fixed by the Administrator with regard to experience, character, age, education, physical condition and any other factors relating to the ability of the applicants to perform the duties of the position with reasonable efficiency…

4. An oral examination given pursuant to this section must be:

(a)Except as otherwise provided in subsection 5, conducted by a panel of which no more than one-third of the members are employed by the department in which a vacancy exists for the position for which the examination is given.

(b)Recorded and maintained by the department for:

(1)Not less than 2 years after the date of the examination; or

(2)Until the final disposition of a charge of discrimination,

➥whichever is longer, and must be available to an affected person upon request.

5. Employees of the department in which a vacancy exists may comprise more than one-third of the members of the panel if:

(a)A member who is not such an employee is unable to serve on the panel because of illness or an emergency;

(b)The department has more than 1,000 employees; and

(c)The department has two or more divisions that administer separate and diverse programs and the employees of the department on the panel are not employed by the same division."

NRS 284.215 states, "Examination of persons with disabilities. A person with a disability must be examined in a manner that fairly tests the person's ability to perform the duties of the position, notwithstanding the person's disability."

NRS 284.230 states, "Time and place of holding examination; use of public buildings.

1. Examinations must be held at such times and places as in the judgment of the Administrator most nearly meet the convenience of applicants, practicability of administration, and the needs of the public service.

2. The officers having control of public buildings in political subdivisions of the state and in school districts, upon request of the Administrator, shall furnish convenient and reasonable space for examinations and necessary furniture, heat and light for the accommodation of the local examiners and for holding of examinations authorized by this chapter."

NRS 284.235 states, "Designation of persons to assist in examinations. The Administrator may designate appropriate persons, including officers and employees in the public service, to assist in the preparation and rating of examinations. An appointing authority may excuse any employee in the division of the appointing authority from the employee's regular duties for the time required for the employee's work as an examiner. Those officers and employees are not entitled to extra pay for their services as examiners, but are entitled to their regular salaries."

NAC 284.329 Competitive examinations: Use and administration. (NRS 284.065, 284.155, 284.205, 284.384)

1. Except as otherwise provided in this chapter and chapter 284 of NRS, an appointment to or within the classified service must be made through the use of competitive examinations.

2. Examinations may be:

(a)Structured or unstructured;
(b)Scored or unscored;
(c)Written or oral;
(d)In the form of a demonstration of skill or technical knowledge;
(e)An evaluation of training and experience; or
(f)Any combination of paragraphs (a) to (e), inclusive.

3. Examinations which measure an applicant's capacity, manual skill and physical fitness may be used if such capacity, skill or fitness is related to the job.

4. Examination materials, including questions and scratch paper, are the property of the Division of Human Resource Management.

5. The administration of an examination may be modified for the purpose of more fairly testing the abilities of a qualified person with a disability if the modification does not alter the reliability and validity of the examination.

6. If a grievance is filed concerning an examination in accordance with NAC 284.658 to 284.6957, inclusive, the Administrator will not fill any vacancy from the list established by the examination unless the Administrator determines that there is an urgent and compelling need to fill that vacancy.

[Personnel Div., Rule IV part § A, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 11-12-93; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.298)

NAC 284.333 Centers for assessment: Selection and training of assessors; administration of examinations. (NRS 284.065, 284.155, 284.205, 284.210)

1. Assessors of a center for assessment must be selected:
(a) From at least two different departments; or
(b) From a combination of departments or other public or private employers.

2. Each assessor must be trained in the method of examination used by the center for assessment before he or she examines an applicant.

3. Oral, written and performance exercises administered by a center for assessment must:
(a) Be administered under standardized conditions;
(b) Be related to the performance of the job;
(c) Be evaluated by more than one assessor; and
(d) Measure the skills, knowledge and other attributes of a person which are important to his or her successful performance of the job.

(Added to NAC by Dep't of Personnel, eff. 11-12-93; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.300)

NRS 284.253 states, "Preference on list for residents of Nevada. In establishing the lists of eligible persons, a preference must be allowed for persons who reside in this State at the time the examination is completed. Five points must be added to the passing grade achieved on the examination. For the purposes of this section, the person examined must reside physically within the State. If any person is absent from the State with the intention in good faith to return without delay and continue the person's residence, the time of the absence must not be considered in determining the fact of his residence."

NAC 284.338 Minimum passing scores; computation of final scores. (NRS 284.065, 284.155, 284.205, 284.250)

1. The passing score for placement on an eligible list will be determined by the Division of Human Resource Management based on a consideration of the difficulty of the test, the quality of the competition and the needs of the service.

2. The final earned score will be determined by computing the score on each phase of the examination according to the relative weights which are assigned.

3. Unless otherwise specified in the publicized job announcement, a competitor must pass each phase of the examination to proceed to the next phase of the examination. Each competitor must obtain a final passing score exclusive of preferences for residents or veterans.

[Personnel Div., Rule IV § K, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.341 Review of examinations; disputes regarding results. (NRS 284.065, 284.155, 284.205, 284.384)

1. Except as otherwise provided in this section, within 10 working days after the date of the postmark on a notification of a grade pertaining to an examination, a candidate or a representative to whom the candidate has provided written authorization may review the results of the candidate's examination as follows:

(a) If the examination was written, the Division of Human Resource Management will review with the candidate or his or her representative the cover sheet of the examination taken by the candidate which lists both the areas of subject matter included in the written examination and the number of correct and incorrect responses in those areas.

(b) If the examination was a rating of training and experience, the Division of Human Resource Management will review with the candidate or his or her representative the scores received on each phase of the rating plan.

(c) If the examination was oral, the Division of Human Resource Management will review with the candidate or his or her representative the taped record of the candidate's oral examination. The candidate or his or her representative may also review general areas of the oral examination in which the candidate gave incorrect answers, the oral questions and the procedures or methods of examination.

(d) If the examination was conducted by a center for assessment, the Division of Human Resource Management will review with the candidate or his or her representative the final scores or the summary evaluation, or both.

2. Items which are reviewed by the Division of Human Resource Management and found to be incorrect must be revised or eliminated.

3. A candidate or his or her representative may not review the correct answers to questions answered incorrectly on an examination, regardless of its type, if the examination is copyrighted, standardized, on loan from another jurisdiction, used for more than one class or used on a continuous basis.

4. In the case of an oral examination, answers suggested as a guideline and board members' remarks and consensus ratings are confidential and may not be reviewed by the applicant or his or her representative.

5. In the case of an examination conducted by a center for assessment, oral, written and performance exercises, assessors' remarks and individual ratings are confidential and may not be reviewed by the applicant or his or her representative.

6. If the candidate disagrees with and wishes to dispute the results of his or her examination, he or she must submit a written request for review by the Division of Human Resource

Management within 10 working days after receiving the results. Such a request must include the specific areas of dispute. If a candidate is not satisfied with the decision of the Division of Human Resource Management and he or she is a permanent state employee, the candidate may file a statement of grievance pursuant to NAC 284.678 to appeal that decision to the Committee.

[Personnel Div., Rule IV § N, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 8-28-85; 9-30-88; 11-12-93; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.346)

NAC 284.345 Correction of errors in rating, scoring or computing results. (NRS 284.065, 284.155, 284.205, 284.250)

1. If the Division of Human Resource Management finds that any error occurred in rating, scoring or computing the results of an examination, the Division of Human Resource Management will make the appropriate correction on the eligible list.

2. If the Administrator or the Committee determines that the error was intentional, an appointment previously made from the eligible list may be invalidated.

[Personnel Div., Rule IV § O, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.350)

NAC 284.349 Retaking examination for same class. (NRS 284.065, 284.155, 284.205)

1. An applicant may retake an examination for the same class after 60 days have elapsed from the date of the previous examination if:

(a) The Division of Human Resource Management is recruiting for the class which was the subject of the previous examination; and

(b) The applicant meets the conditions of the recruitment.

2. An applicant may retake an examination for the same class before 60 days have elapsed from the date of the previous examination if the Division of Human Resource Management is recruiting for the class which was the subject of the previous examination, the applicant meets the conditions of the recruitment and:

(a) The applicant has demonstrated that he or she has gained additional qualifications which indicate that he or she may be able to improve his or her score on the training and experience portion of the examination; or

(b) The examination is a measure of the applicant's manual skill or physical agility.

3. When an applicant retakes an examination for the same class, the score of the most recent examination will determine eligibility and will replace the score of the previous examination.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 11-16-95; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.340)

NAC 284.353 Allocation of time used by employees for examinations and interviews. (NRS 284.065, 284.155, 284.345)

1. Upon giving reasonable notice to his or her immediate supervisor, a qualified employee must be permitted to take an appropriate amount of released time to participate in any examination given by the Division of Human Resource Management or its designated representative during work hours. Such time is equivalent to time which is worked.

2. The time spent participating in an examination which exceeds the normal workday or workweek does not qualify for overtime.

3. For the purpose of this section, an employment interview for a position in the classified service, unclassified service or nonclassified service of the State of Nevada is considered to be part of the examination process.

[Personnel Div., Rule IV § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.322)

Lists of Eligible Persons

NAC 284.358 Types of lists and priority for use. (NRS 284.065, 284.155, 284.250, 284.327)

1. The types of lists of eligible persons and the priority for their use are as follows:

(a) Reemployment lists.

(b) Lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327, at the option of the appointing authority.

(c) Transfer lists, at the option of the appointing authority.

(d) Divisional promotional lists.

(e) Departmental promotional lists.

(f) Statewide promotional lists.

(g) Lists of persons determined to be eligible from open competitive recruitments.

(h) Lists of eligible persons of comparable classes.

2. The names on each list must be used as prescribed in NAC 284.361.

3. The open and promotional lists referred to in paragraphs (d) to (h), inclusive, of subsection 1 must be:

(a) Based on the type of recruitment prescribed by the Division of Human Resource Management; and

(b) Described in the publicized job announcement.

➥The establishment of any other type of list from the initial recruitment must be in accordance with NAC 284.367.

[Personnel Div., Rule V § A, eff. 8-11-73]—(NAC A by Dep't of Personnel, 4-20-90; 7-6-92; A by Personnel Comm'n by R183-03, 1-27-2004)

NRS 284.265 states, "Notice of new positions and vacancies: Certification of names by Administrator. Except as otherwise provided in NRS 284.305, appointing authorities shall give notice to the Administrator of their intention to fill any vacancy in the classified service. Except as otherwise provided in this section, within a reasonable time after the receipt of the notice, the Administrator shall certify from the list of eligible persons, appropriate for the grade and class in which the position is classified, the five names at the head thereof. If the competitive examination for that position is scored to the nearest one-hundredth of a point and there are more than five persons having the five highest scores, the names of each of those persons must be so certified."

INFORMATIONAL NOTE: NRS 284.172 states, "List of positions in classified service primarily performing data processing; approval of new position or reclassification to position on list." may be found preceding NAC 284.126.

NRS 284.255 states in part, "Appointments to be made from appropriate lists.

1. Appointments must be made from the appropriate eligible list, but if no such list exists then the Administrator deems the next most appropriate. A new and separate list must be created for a stated position only when there is no satisfactory list."

NAC 284.360 Reemployment lists; certification or waiver of lists. (NRS 284.065, 284.155, 284.250)

1. Upon receipt of the appropriate form from an appointing authority for a list of eligible candidates in a specific class, the Division of Human Resource Management will verify the availability of a reemployment list for that class. If a reemployment list is available, the Division of Human Resource Management will provide the reemployment list to the appointing authority.

Eligible persons who appear on reemployment lists are ranked in order of seniority. Except as otherwise provided in subsection 2 of NAC 284.6017, placement on a reemployment list will be determined using the criteria governing the determination of seniority for layoff pursuant to NAC 284.632.

2. If there is no reemployment list available, the Division of Human Resource Management will, in accordance with subsections 3 and 4, certify the names of eligible persons on ranked or unranked lists, or waive the list.

3. The names of eligible persons on ranked lists will appear in the order of the total rating which they earned in the examination, including preferences for veterans and residents.

4. The Division of Human Resource Management may certify a list of eligible applicants who are not ranked, or may waive the list, for:

(a) A class that is grade 20 or below;

(b) A class designated in the classification plan as entry level; or

(c) A class designated in the classification plan as a class for which applicants for promotion are not normally available.

5. Eligible persons who have requested a transfer and persons with disabilities who are eligible for temporary limited appointments pursuant to NAC 284.364 will be certified on the same list as other eligible persons and may be considered at the option of the appointing authority.

6. Only an eligible person who has indicated the willingness to accept the location of the vacancy and the other conditions of employment will be certified.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004; R024-05, 10-31-2005)

NAC 284.361 Use of lists and consideration of eligible persons. (NRS 284.065, 284.155, 284.250) When using lists of persons who are eligible and considering eligible persons who have been certified, the following conditions apply:

1. When a reemployment list is certified:

(a) Eligible persons who are available for appointment and who are certified on reemployment lists, other than seasonal reemployment lists, must be hired in the order in which they appear unless the appointing authority, upon submitting written justification, obtains the written concurrence of the Governor to deviate from the order of priority or to hire from another list. The appointing authority must make the written justification available for examination by affected persons or their designated representatives.

(b) A person must accept or refuse an offer of reemployment:

(1) If the offer of reemployment is sent by mail to the person, within 6 calendar days after the postmarked date appearing on the envelope in which the offer was mailed; or

(2) If the offer is an oral offer of reemployment, within 3 business days after the oral offer has been made.

2. The appointing authority may request selective certification for a particular position if the normal method of certification does not provide candidates qualified to perform the duties of the position satisfactorily. Where selective certification is necessary, the appointing authority shall furnish in writing the special requirements peculiar to the position and his or her reasons therefore. If the facts and reasons justify such a method of selection, the Division of Human Resource Management may certify the highest ranking eligible persons who possess the special qualifications.

3. Certification of only eligible persons who are the same sex will not be made unless there is clear evidence that the duties assigned could be performed efficiently only by the sex

specified.

4. When using ranked lists other than those for reemployment, the appointing authority shall attempt to communicate, as provided in NAC 284.373, with ***at least 5*** persons in the first ***10*** ranks to determine their availability and qualifications. The names on each type of list must be considered before names from the next succeeding list. If there are fewer than ***10*** ranks with persons who are available for appointment on a given list and the appointing authority requests a full complement of ***10*** ranks, the name or names at the top of the next succeeding list must be combined with those on the preceding list to establish ***10*** eligible ranks with persons who are available for appointment. Except as otherwise provided in subsection 6, all competitive appointments from ranked lists must be made from the persons who:

(a) Are in a rank of persons who received the ***10*** highest scores on the examination; and

(b) Are available for appointment.

5. If the list is unranked or waived, the appointing authority shall attempt to communicate, as provided in NAC 284.373, with at least five eligible persons he or she deems most qualified based upon a review of their respective qualifications as they relate to the position or class, or with all of the eligible persons if there are five or less. Except as otherwise provided in subsection 1, any eligible person who is certified from an unranked or waived list may be appointed.

6. If persons from fewer than five ranks of eligible persons are willing to accept appointment:

(a) The appointing authority may make an appointment from among those remaining available eligible persons.

(b) Certification and appointment may be made from other appropriate lists, including lists of higher grades as determined by the Division of Human Resource Management. The names from other lists will follow those which have been certified, if any, from the original lists.

(c) A new recruitment may be conducted.

(d) A provisional appointment may be made only if the requirements of NAC 284.406 are met.

[Personnel Div., Rule V § F, eff. 8-11-73; A 2-5-82]-(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 11-16-95; 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R069-02, 8-14-2002; R183-03, 1-27-2004***; R025-13, 10-23-2013)***-(Substituted in revision for NAC 284.378)

NRS 284.250 state "Regulations for establishment of lists of eligible persons; limitation on term of eligibility.

1. The Commission shall adopt regulations for the establishment of eligible lists for appointment and promotion which must contain the names of successful applicants in the order of their relative excellence in the respective examinations.

2. The term of eligibility of applicants on such lists is 1 year, but the term may be extended by the Administrator to a maximum of 3 years."

INFORMATIONAL NOTE: NRS 284.410 "False statement or report; fraud." may be found preceding NAC 284.738

NRS 284.420 Obstruction of right to examination, eligibility, certification or appointment; furnishing special or secret information." may be found preceding NAC 284.738

NRS 284.425 Member of subversive organization ineligible for appointment or employment in public service." may be found preceding NAC 284.738.

NRS 284.155 states, "Regulations for classified service.

1. The Commission shall adopt a code of regulations for the classified service.
2. The code must include regulations concerning certifications and appointments for:

(a) Positions in classes having a maximum salary of $12,500 or less as of December 31, 1980, where the regular procedures for examination and certification are impracticable; and

(b) Classes where applicants for promotion are not normally available.

➥These regulations may be different from the regulations concerning certifications and appointments for other positions in the classified service."

NRS 284.309 states, "Waiver of examination if fewer than five qualified applicants. If a competitive examination is required for a vacancy and fewer than five qualified applicants respond after extensive efforts at recruitment, the examination may be waived and the Administrator may submit the applications of the qualified applicants without certification to the appointing authority for selection."

NRS 284.320 states, "Appointments requiring exceptional scientific, professional or expert qualifications.

1. In case of a vacancy in a position where peculiar and exceptional qualifications of a scientific, professional or expert character are required, and upon satisfactory evidence that for specific reasons competition in that case is impracticable, and that the position can best be filled by the selection of some designated person of high and recognized attainments in the required qualities, the Administrator may suspend the requirements of competition.
2. The Administrator may suspend the requirements of competitive examination for positions requiring highly professional qualifications if past experience or current research indicates a difficulty in recruitment or if the qualifications include a license or certification."

NRS 284.327 states, "Temporary limited appointment of persons with disabilities.

1. To assist persons with disabilities certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, appointing authorities are encouraged and authorized to make temporary limited appointments of certified persons with disabilities for a period not to exceed 700 hours notwithstanding that the positions so filled are continuing positions. A person with a disability who is certified by the Rehabilitation Division must be placed on the appropriate list for which the person is eligible. Each such person must possess the training and experience necessary for the position for which the person is certified. The Rehabilitation Division must be notified of an appointing authority's request for a list of eligibility on which the names of one or more certified persons with disabilities appear. A temporary limited appointment of a certified person with a disability pursuant to this section constitutes the person's examination as required by NRS 284.215.
2. The Commission shall adopt regulations to carry out the provisions of subsection 1.
3. This section does not deter or prevent appointing authorities from employing:

(a) A person with a disability if the person is available and eligible for permanent employment.

(b) A person with a disability who is employed pursuant to the provisions of subsection 1 in permanent employment if the person qualifies for permanent employment before the termination of the person's temporary limited appointment.

4. If a person appointed pursuant to this section is subsequently appointed to a permanent position during or after the 700-hour period, the 700 hours or portion thereof counts toward the employee's probationary period."

NAC 284.364 Lists of persons with disabilities who are eligible for temporary limited appointments. (NRS 284.065, 284.155, 284.250, 284.327)

1. Pursuant to NRS 284.327, the Rehabilitation Division of the Department of Employment, Training and Rehabilitation may provide to the Division of Human Resource Management the names of persons with disabilities certified by the Rehabilitation Division who are eligible for temporary limited appointments of 700 hours' duration. Upon receipt from the Rehabilitation Division of the job applications and job recommendations, the Division of Human Resource Management will evaluate the information against the job requirements and minimum qualifications of the recommended classes. Through noncompetitive means, the names of qualified persons will be placed in a 700-hour category on the eligible list and certified to the requesting agency for consideration.

2. A current probationary or permanent state employee who occupies a permanent full-time position is not eligible for the provisions of this section unless his or her disability jeopardizes his or her continued employment in his or her present position and placement on the list does not merely circumvent the provisions of this chapter governing promotion or transfer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 12-26-91; 7-6-92; R098-99, 9-27-99; A by Personnel Comm'n by Rl83-03, 1-27-2004)

NAC 284.367 Promotional lists: Use; order of names. (NRS 284.065, 284.155, 284.250)

1. If a promotional list of eligible persons is used to fill a vacancy after the initial recruitment:

(a) The recruitment which created the list must have been open to employees of the appointing authority which requests the list; and

(b) The order of names must be changed to reflect the priority prescribed by NAC 284.358.

2. Certification may be made from the names highest on the list after promotional or promotional and open lists for the class are combined if either of the following occurs:

(a) The appointing authority certifies in writing to the Division of Human Resource Management that, in accordance with the provisions of NAC 284.297, it is in the best interest of the agency to expand the certification to allow eligible persons from other groups to be considered on the basis of merit.

(b) One or more promotional lists exist for a class which otherwise qualifies for open competition because the class is designated in the classification plan as entry level or as a class which normally has a lack of promotional candidates.

➥ If lists are combined, the names on the list must be in order of merit.

3. At the request of an appointing authority, one or more promotional lists must be established from an existing open competitive list and certified for a vacancy.

4. A list of eligible persons established from a recruitment in which the order of priority was changed must not be certified in that order for a new vacancy unless the appointing authority complies with the provisions of paragraph (a) of subsection 2. These names will be used to establish one or more lists as may be appropriate.

(Added to NAC by Dep't of Personnel, eff. 6-18-86; A 4-20-90; A by Personnel Comm'n by R024-05, 10-31-2005)

NAC 284.370 Integration of subsequent lists. (NRS 284.065, 284.155, 284.205, 284.250)

1. The names of eligible persons on current lists may be integrated onto subsequent lists for the same class if there has been no material change in the qualification requirements. If the list is a ranked list, the names of eligible persons will be integrated according to the final scores of those eligible persons.

2. As used in this section, "material change" includes, without limitation, a change in the minimum qualifications for the class or the subject matter, scope or weights of various phases of the examination.

[Personnel Div., Rule V § D, eff. 8-11-73]-(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000; A by Personnel Comm'n by R183-03, 1-27-2004; R141-07, 1-30-2008)

NAC 284.371 Correction of errors in certification. (NRS 284.065, 284.155, 284.250)

If the Division of Human Resource Management finds that an error occurred which resulted in a failure to properly certify a name to an agency, the Division of Human Resource Management will take appropriate action to correct the error. The correction will not invalidate any appointment which was previously made from the certification unless the Administrator or Commission determines, pursuant to subsection 2 of NAC 284.345, that the appointment should be invalidated because the error was intentional.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by Rl83-03, 1-27-2004 Substituted in revision for NAC 284.380)

NAC 284.373 Inquiry of availability of eligible person. (NRS 284.065, 284.155, 284.250)

1. While an eligible person may be contacted to determine his or her availability, no attempt may be made to obtain a waiver in order to alter the ranking of any person on the list.

2. An eligible person must respond to an inquiry of availability within:

(a) Six days after an inquiry by mail has been postmarked;

(b) ***Two*** days after an inquiry by electronic mail has been sent;

(c) Twenty-four hours after a written inquiry is hand-delivered;

(d) Twenty-four hours after an oral inquiry has been made if the oral inquiry was made during a conversation with the eligible person; or

(e) If an oral inquiry by telephone was attempted and a voicemail or other similar kind of electronic message was left, ***2*** days after that message was left.

3. An exception to a time limit may be granted by the originating agency.

[Personnel Div., Rule V § G, eff. 8-11-73; A 4-4-78]-(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004HSubstituted in revision for NAC 284.382***; R024-13, 10-23-2013)***

NAC 284.374 Active lists: Removal and reactivation of names; refusal to consider certain persons. (NRS 284.065, 284.155, 284.250, 284.295)

1. The names of eligible persons will be removed from the active lists for any of the following causes:

(a) Appointment after certification to fill a full-time permanent position in the class for which the examination was given.

(b) Expiration of the term of eligibility.

(c) Separation of a person who is eligible for promotion from the state service.

(d) Failure by an eligible person to respond within the required time to an inquiry of availability.

(e) A statement by the eligible person that he or she is not willing to accept any type of appointment from the eligible list.

(f) Any of the causes listed in NRS 284.240 pursuant to which the Administrator may refuse to examine or certify an eligible person, failure to disclose convictions as required by NAC 284.321 or, if the employee has been laid off, reemployment pursuant to subsection 7 of

NAC 284.630.

2. An appointing authority need not consider an eligible person more than ***one time*** from a recruitment. Consideration of an applicant for other than full-time permanent positions must not be counted for the purposes of this subsection.

3. An appointing authority need not consider an otherwise eligible person who cannot perform the essential functions of the position with or without reasonable accommodation.

4. An appointing authority may refuse to consider an eligible person who has been subject to a suspension, demotion or termination as a result of an upheld or uncontested disciplinary action in the preceding 12 months. The 12-month period begins on the effective date of the uncontested action or, if it is contested, on the date the hearing officer issues a final decision upholding a suspension, demotion or termination. If an employee is removed from consideration pursuant to this subsection, the appointing authority must notify the employee of that fact in writing before interviewing the next candidate or making its selection. The employee has 3 working days after being notified that he or she has been removed from consideration pursuant to this subsection to notify the appointing authority of any discrepancy in the information in his or her personnel file which led to the removal of the employee from consideration. The appointing authority may not make its selection:

(a) If the employee does not notify the appointing authority of a discrepancy, until after the end of the period pursuant to which the employee may notify the appointing authority of a discrepancy; or

(b) If the employee notifies the appointing authority of a discrepancy, until after the appointing authority determines whether the removal of the employee from consideration pursuant to this subsection was appropriate.

5. An appointing authority shall refuse to consider an eligible person whose appointment to a position will violate NRS 281.210, NAC 284.375 or a policy approved by the Commission pursuant to NAC 284.375.

6. An eligible person whose name has been removed from an active list may request that his or her name be reactivated by stating his or her reasons for the request. If the Division of Human Resource Management determines that the reasons are justified, and the person's term of eligibility has not otherwise expired, his or her name may be reactivated.

[Personnel Div., Rule V § E, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 12-26-91; 7-1-94; 8-16-96, eff. 10-1-96; A by Personnel Comm'n by R069-02, 8-14-2002; R182-03, 1-27-2004; R143-05 & R144-05, 12-29-2005***; R023-13, 10-23-13)***

NRS 284.240 states, "Grounds for refusal to examine or certify. The Administrator may refuse to examine an applicant or, after examination, may refuse to certify an eligible person who:

1. Lacks any of the preliminary requirements established for the examination for the position or employment for which the applicant or eligible person applies.

2. Submitted to a screening test administered pursuant to NRS 284.4066, the results of which indicated the presence of a controlled substance, and the person did not provide the proof required by NRS 284.4066.

3. Has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct.

4. Has been dismissed from the public service for delinquency or misconduct.

5. Has made a false statement of any material fact.

6. Has, directly or indirectly, given, rendered or paid, or promised to give, render or pay, any money, service or other valuable thing to any person for, or on account of or in connection with, the examination, appointment or proposed appointment.

7. Has practiced, or attempted to practice, any deception or fraud in the application,

certificate, or examination of the applicant or eligible person, or in securing the eligibility or appointment of the applicant or eligible person."

NRS 284.245 states, "Statement of Administrator upon refusal to examine or certify; appeal to Commission.

1. When the Administrator refuses to examine an applicant or, after an examination, refuses to certify an eligible person, the applicant or eligible person may request the Administrator to furnish to the applicant or eligible person a statement of the reasons for the refusal to examine or the refusal to certify, as the case may be. The Administrator shall furnish the statement upon request.

2. If the Administrator refuses to examine an applicant or, after an examination, refuses to certify an eligible person, the applicant or eligible person may take an appeal to the Commission in accordance with regulations adopted by the Commission. If the Commission finds that the Administrator is in error in refusing to examine an applicant or in refusing to certify an eligible person, the Commission shall order the Administrator to examine or certify, and he shall comply."

Appointments

NRS 284.145 states. "Appointment to position in unclassified service from registers of eligible persons. Officers authorized by law to make appointments to positions in the unclassified service and appointing officers of departments or institutions whose employees are exempt from the provisions of this chapter may make appointments from appropriate registers of eligible persons maintained by the Division without affecting the continuance of the names on the list."

NRS 281.210 states in part "Officers of State, political subdivision and Nevada System of Higher Education prohibited from employing relatives; exceptions; penalties.

1. Except as otherwise provided in this section, it is unlawful for any person acting as a school trustee, state, township, municipal or county officer, or as an employing authority of the Nevada System of Higher Education, any school district or of the State, any town, city or county, or for any state or local board, agency or commission, elected or appointed, to employ in any capacity on behalf of the State of Nevada, or any county, township, municipality or school district thereof, or the Nevada System of Higher Education, any relative of such a person or of any member of such a board, agency or commission who is within the third degree of consanguinity or affinity.

2. This section does not apply:

(a)To school districts, when the teacher or other school employee is not related to more than one of the trustees or person who is an employing authority by consanguinity or affinity and receives a unanimous vote of all members of the board of trustees and approval by the Department of Education.

(b)To school districts, when the teacher or other school employee has been employed by an abolished school district or educational district, which constitutes a part of the employing county school district, and the county school district for 4 years or more before April 1, 1957.

(c)To the spouse of the warden of an institution or manager of a facility of the Department of Corrections.

(d)To relatives of blind officers and employees of the Bureau of Services to the Blind and Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation when those relatives are employed as automobile drivers for those officers and employees.

3. Nothing in this section:

(a)Prevents any officer in this State, employed under a flat salary, from employing any suitable person to assist in any such employment, when the payment for the service is met out of the personal money of the officer.

(b)Disqualifies any widow with a dependent as an employee of any officer or board in this State, or any of its counties, townships, municipalities or school districts.

4. A person employed contrary to the provisions of this section must not be compensated for the employment.

5. Any person violating any provisions of this section is guilty of a gross misdemeanor.

NRS 284.305 states, "Provisions and regulations for filling positions in classified service without competition.

1. Except as otherwise provided in subsection 2, positions in the classified service may be filled without competition only as provided in NRS 284.155, 284.307, 284.309, 284.310, 284.315, 284.320, 284.325, 284.327, 284.330, 284.375 and 284.3775.

2. The Commission may adopt regulations which provide for filling positions in the classified service without competition in cases involving:

(a)The demotion of a current employee;

(b)The reemployment of a current or former employee who was or will be adversely affected by layoff, military service, reclassification or a permanent partial disability arising out of and in the course of the employment of the current or former employee; or

(c)The reappointment of a current employee."

INFORMATIONAL NOTE: NRS 613.333 "Unlawful employment practices: Discrimination for lawful use of any product outside premises of employer which does not adversely affect job performance or safety of other employees." may be found preceding NAC 284.638.

NRS 284.415 states, "Receipt or payment of consideration for appointment or promotion." No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the classified service."

NAC 284.375 Appointing authority prohibited from appointing related persons under certain circumstances; exceptions. (NRS 284.065, 284.155)

1. Except as otherwise provided in subsection 2 and NRS 281.210, an appointing authority shall not appoint a person to a position in the classified service on or after:

(a) October 1, 1996, if, upon his or her appointment, the person will be in the direct line of authority of:

(1) A spouse, child, parent or sibling of the person;

(2) The spouse of a child, parent or sibling of the person; or

(3) An aunt, uncle, niece, nephew, grandparent, grandchild or first cousin of the person.

(b) September 6, 2001, if, upon his or her appointment, the person will be in the direct line of authority of a person with whom he or she is in a dating relationship.

2. An appointing authority may adopt a written policy authorizing the appointment of persons to a position or class of positions that would otherwise be prohibited by the provisions of subsection 1 if the appointing authority determines that, for the positions for which the policy applies, the enforcement of the provisions of subsection 1 will be impracticable and cause an undue hardship to the appointing authority. In making this determination, the appointing authority may consider, among other factors, the difficulty in recruiting applicants for the positions for which the policy applies.

3. A written policy adopted pursuant to subsection 2:

(a) Must comply with the provisions of NRS 281.210; and

(b) Is effective upon approval by the Commission.

(Added to NAC by Dep't of Personnel, 8-16-96, eff. 10-1-96; A by R058-01, 9-6-2001; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.377 Persons who become related after appointment: Appointing authority required to take corrective action; notification of appointing authority required. (NRS 284.065, NRS 284.155)

1. Except for relationships allowed pursuant to NRS 281.210 and NAC 284.375, if a supervisor and an employee who is in the direct line of authority of the supervisor become related or involved in a dating relationship after the supervisor and employee have been appointed to their respective positions, the appointing authority shall ensure that, as soon as practicable, the employees do not continue to hold positions in which one of the employees is in the direct line of authority of the other employee.

2. A supervisor who becomes related to, or involved in a dating relationship with, an employee in the direct line of authority of the supervisor shall notify the appointing authority

within 10 working days after the supervisor and employee become related or involved in the dating relationship.

3. Upon receiving notification of a relationship from a supervisor pursuant to subsection 2, the appointing authority shall request from each of the employees involved a recommendation for action to be taken to ensure that the employees do not continue to hold positions in which one of the employees is in the direct line of authority of the other employee.

4. In determining the manner in which to comply with the provisions of subsection 1, the appointing authority is not required to accept a recommendation for action to be taken submitted pursuant to this section.

(Added to NAC by Dep't of Personnel, 8-16-96, eff. 10-1-96; A by R058-01, 9-6-2001)

NRS 284.254 states, "Preference on list for person separated from service because agency terminated. In establishing lists of eligible persons, a preference must be allowed for each person in the classified service who has been separated from the service because the agency by which he was employed was terminated pursuant to NRS 232B.100."

NRS 284.330 states, "Reinstatement of permanent appointee after separation without prejudice. Any person who has held a position by permanent appointment in the classified service under the law and rules, and who has been separated from the service without prejudice, may be eligible for reinstatement to a position in the same or similar grade or class in the classified service, subject to the rules and regulations established in accordance with the provisions of this chapter."

NRS 284.380 states in part, "Layoffs; reemployment lists.

4. The name of every regular employee so laid off must be placed on an appropriate reemployment list."

INFORMATIONAL NOTE: NRS 286.440 "Redeposit of withdrawn contributions upon return to service: Procedure." may be found preceding NAC 284.611.

NAC 284.386 Reinstatement of former permanent employee. (NRS 284.065, 284.155, 284.305)

1. Except as otherwise provided in subsection 2, an appointing authority may reinstate a former permanent employee within a 2-year period following his or her termination from state employment if the employee was separated without prejudice. A separation without prejudice must be determined by the appointing authority using the standards contained in NRS 284.240.

2. If an employee is laid off and is entitled to have his or her name appear on a reemployment list pursuant to NAC 284.630, the appointing authority may reinstate the employee within 2 years after the date on which his or her right to reemployment expires.

3. The grade of the class to which a person is reinstated may only exceed the current grade of the class he or she formerly held or a comparable class if that class has been reallocated.

4. Except as otherwise provided in subsection 3, a person may not be reinstated to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the person formerly held.

5. A reinstatement to a similar class requires the approval by the Division of Human Resource Management before the appointing authority may make a commitment to reinstate.

6. It is the responsibility of a person seeking reinstatement to make his or her interest known by providing a new application to the appointing authority.

7. The person must meet the current minimum qualifications for the class for which the reinstatement is sought.

[Personnel Div., Rule VI § C, eff. 8-11-73; A 10-10-76]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 10-18-89; 11-12-93; 10-27-97; A by Personnel Comm'n by R183-03, 1-27-2004)

NRS 284.375 states, (Transfers) "Conditions. In accordance with regulations established by the Commission, transfers in the classified service may be made from one position to another position within the same grade when the duties are similar and when such action is specifically approved by the Administrator."

NAC 284.390 Transfers initiated by employees. (NRS 284.065, 284.155, 284.375)

1. An employee may request a transfer from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority if the positions are in the same class or a comparable class.

2. An employee who wishes a transfer to a position in the same class must:

(a) Make his or her interest known to the hiring agency; or

(b) Submit a request for a transfer to the Division of Human Resource Management to have his or her name placed on a transfer list for a position in the same class.

3. For a transfer to a position in a comparable class:

(a) The employee must submit an application to the hiring agency; and

(b) The Division of Human Resource Management must approve the request for a transfer.

4. An employee may not transfer through noncompetitive means to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the employee currently occupies.

[Personnel Div., Rule VI § D subsecs. 1-4, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 6-18-86; 7-21-89; 8-1-91; 10-27-97; A by Personnel Comm'n by R183-03, 1-27-2004

NRS 284.376 states, "Involuntary transfer; hearing; remedies.

1. Within 10 working days after the effective date of his transfer pursuant to the provisions of NRS 284.375, a permanent classified employee who has been transferred without the employee's consent may request in writing a hearing before the hearing officer of the Commission to determine whether the transfer was made for the purpose of harassing the employee. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's transfer. The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive.

2. If the hearing officer determines that the transfer was made for the purpose of harassing the employee, the transfer must be set aside and the employee must be returned to the employee's former position. If the transfer caused the employee to be away from the employee's original headquarters, the employee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for the period the transfer was in effect…

3. The decision of the hearing officer is binding on the parties."

NAC 284.394 Transfers initiated by appointing authorities. (NRS 284.065, 284.155, 284.375)

1. Except as otherwise provided in subsection 2, an appointing authority may, after giving 5 working days' notice, transfer for the convenience of this State any employee to another position in:

(a) The same class; or

(b) A comparable class with the approval of the Division of Human Resource Management.

2. The notice required by subsection 1 need not be given if the transfer does not exceed 10 working days. If a bona fide or justifiable emergency exists, a transfer may be made immediately with the prior approval of the Division of Human Resource Management.

3. A transfer pursuant to this section must not be made to harass or discipline an employee.

4. A permanent employee who is required to transfer to a different geographical location and who declines the transfer has the same rights provided in NAC 284.630 as an employee who is laid off.

5. If an employee requests a hearing to appeal an involuntary transfer pursuant to NRS 284.376, the appointing authority may temporarily assign the employee, on a per diem basis, to transfer pending disposition of the appeal. The employee may request leave pursuant to NAC 284.589 to prepare for the hearing relating to the involuntary transfer.

6. As used in this section, "geographical location" has the meaning ascribed to it in NAC 284.612.

[Personnel Div., Rule VI § D subsec. 5, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-18-89; A by Personnel Comm'n by R183-03, 1-27-2004)

NRS 284.360 states in part, "Leave of absence without pay

1. Any person holding a permanent position in the classified service may be granted a leave of absence without pay. Leave of absence may be granted to any person holding a position in the classified service to permit acceptance of an appointive position in the unclassified service. Leave of absence must be granted to any person holding a position in the classified service to permit acceptance of a position in the Legislative Branch during a regular or special session of the Legislature, including a reasonable period before and after the session if the entire period of employment in the Legislative Branch is continuous."

NRS 284.3775 states, "Transfer of employee of Supreme Court, unclassified service or Legislative Branch to classified service; exceptions; rights of employee in classified service who accepted position in Legislative Branch.

1. Except as otherwise provided in this section, employees of the Supreme Court, employees in the unclassified service of the Executive Branch of the Government of the State of Nevada, or employees of the Legislative Branch of the Government of the State of Nevada who have served for 4 consecutive months or more are entitled to transfer to a position having similar duties and compensation in the classified service of the State on the same basis as employees may transfer within the classified service from a position under one appointing authority to a position under another appointing authority. The benefit conferred by this subsection includes any exemption from the taking of a competitive examination, retention of credits for annual and sick leave and longevity, and priority on the lists of eligible persons to the extent that such privileges are accorded to employees transferring within the classified service.

2. Except as otherwise provided in subsection 4, the benefits conferred by subsection 1 do not apply to an employee in the unclassified service who is the chief officer of a department or division.

3. Except as otherwise provided in this subsection and subsection 4, a person may not transfer pursuant to subsection 1 to a class composed of:

(a) Professionally qualified persons; or

(b) Officers and administrators who set broad policies and exercise responsibility for the execution of those policies.

➥ A person may transfer to a class described in paragraph (a) or (b) if that class is provided for pursuant to subsection 2 of NRS 284.155.

4. The restrictions provided in subsections 2 and 3 do not apply to an employee of the Supreme Court, an employee in the unclassified service of the Executive Branch of

Government or an employee of the Legislative Branch of Government whose appointment to that position was immediately preceded by an appointment in the classified service, except that such an employee may only transfer to a position in the classified service that has duties and compensation that are similar either to the employee's current position or to a position the employee previously held in the classified service.

5. An employee in the classified service of the State who is granted leave without pay to accept a position in the Legislative Branch of Government during a regular or special session:

(a) Is entitled to be restored to his previous position in the classified service upon the completion of the legislative session without loss of seniority or benefits. Seniority must be calculated as if the employee had not taken the leave.

(b) Is eligible to fill vacancies in positions within the classified service to the extent that the employee would be eligible if the employee was not on leave from the employee's position in the classified service.

6. An employee of the Legislative Branch of the Government of the State of Nevada who is employed at the conclusion of a regular session of the Legislature and is eligible at that time pursuant to subsection 1 to transfer to a position having similar duties and compensation in the classified service of the State may transfer to such a position on or before November 1 following session notwithstanding the termination of the employee's employment with the Legislative Branch of Government before that date. For the purposes of this section, the weekly compensation of a person paid a daily salary during a legislative session is seven times the daily salary."

NAC 284.398 Transfers to classified service; certain transfers to unclassified service. (NRS 284.065, 284.155, 284.375)

1. An unclassified employee who has less than 4 months of service and whose appointment was immediately preceded by an appointment in the classified service in which the person was a permanent employee may transfer back into the classified service under the same conditions and with the same benefits as classified employees, except that the duties and compensation of the position to which the person is transferred must be similar, as determined by the Division of Human Resource Management, to either the unclassified position or to a previously held classified position.

2. Employees of any governmental agency which is acquired for administration by the State pursuant to NRS 284.022 may transfer into the classified service or unclassified service with the rights and benefits authorized by the Legislature.

3. An employee who transfers into the classified service:

(a) Must complete an application and meet the minimum qualifications for the class of the position to which he or she is transferring;

(b) Must have his or her date of transfer and appointment to the classified position effective immediately following the last day of employment in the unclassified or nonclassified position unless he or she was employed as a legislative employee at the conclusion of a regular session of the Legislature to whom subsection 6 of NRS 284.3775 applies; and

(c) May retain the credits which he or she has earned for annual and sick leave and longevity.

[Personnel Div., Rule VI § D subsec. 6, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-14-88; 1-22-90; 8-1-91; 3-23-94; R146-01, 1-18-2002; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.400 Acceptance of new appointment: Notice to current appointing authority. (NRS 284.065, 284.155) An employee who accepts an appointment to a position under the jurisdiction of another appointing authority shall provide not less than 2 weeks' written notice to

his or her current appointing authority before beginning service in the new position, unless the employee and both appointing authorities mutually agree to a shorter period of notice.

(Added to NAC by Dep't of Personnel, eff. 11-16-95; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.402 Voluntary demotions. (NRS 284.065, 284.155, 284.305)

1. Except as otherwise provided in this section, an employee may request or accept a demotion to a position in a class with a lower grade. The demotion may be permitted if the employee meets the minimum qualifications and if the appointing authority approves.

2. An employee may not be demoted through noncompetitive means to underfill a position at grade 30 or higher if the position for which the employee is requesting or accepting a demotion is allocated at a higher grade than the position the employee currently occupies.

[Personnel Div., Rule VI § E, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 10-27-97; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.404 Reappointments. (NRS 284.065, 284.155, 284.305)

1. A current employee may be reappointed to a class he or she formerly held or to a comparable class if:

(a) The employee meets the current minimum qualifications and the appointing authority approves the reappointment; and

(b) For a reappointment to a comparable class, the Division of Human Resource Management approves the reappointment.

2. An employee who desires reappointment must make his or her interest known to the hiring agency.

3. The grade of the class to which an employee is reappointed may only exceed the grade of the class he or she formerly held or a comparable class if the former or comparable class has been reallocated.

4. Except as otherwise provided in subsection 3, an employee may not be reappointed to underfill a position at grade 30 or higher if that position is allocated at a higher grade than the position the employee formerly held.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91; 10-27-97; A by Personnel Comm'n by R183-03, 1-27-2004)

NRS 284.310 states, "Provisional appointment.

1. Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the Administrator is unable to certify from any appropriate eligible list for the vacancy, the Administrator may issue a provisional permit or certify a suitable person to fill the vacancy provisionally only until a selection and appointment can be made after competitive examination.

2. No person may receive more than one provisional appointment or serve more than 6 months in any 12-month period as a provisional appointee.

3. A provisional appointee must meet the minimum qualifications established for the class of positions involved."

NAC 284.406 Provisional appointments. (NRS 284.065, 284.155)

1. An appointing authority may make a provisional appointment pursuant to NRS 284.310 if there are fewer than five ranks of eligible persons available for appointment to the position.

2. The Division of Human Resource Management will begin the recruitment within 30 days after the effective date of the provisional appointment.

3. A provisional appointment may not continue for longer than 30 days after a list of five or more ranks of eligible persons who are available for appointment has been certified.

[Personnel Div., Rule VI § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 11-16-95; A by Personnel Comm'n by R183-03, 1-27-2004)

NRS 284.315 states, "Emergency appointment. In case of an emergency, an appointment may be made without regard to the provisions of this chapter relative to appointments, but in no case shall such appointment continue longer than 60 working days in any 12 month period."

NAC 284.410 Emergency appointments. (NRS 284.065, 284.155)

1. In the case of an emergency, an appointing authority may make an appointment pursuant to NRS 284.315.

2. For the purposes of this section, an emergency exists when the appointment is necessary to prevent the stoppage of public business, loss of life, or extensive damage to persons or property.

[Personnel Div., Rule VI § H, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)

NRS 284.325 states, "Temporary appointment.

1. The Commission shall adopt regulations not inconsistent with this section for the certification of qualified persons for temporary service.

2. Except as otherwise provided in subsection 3, temporary positions which occur, terminate or recur periodically must be filled by certification in accordance with the regulations adopted by the Commission.

3. An agency may appoint persons temporarily for less than 160 cumulative hours during any calendar year without regard to the regulations adopted by the Commission pursuant to subsection 1.

4. The limitation on hours set forth in subsection 3 does not apply to temporary or part-time service by:

(a)A pupil attending his last 2 years of high school;

(b)A student employed by the college or university the student attends;

(c)A person certified for temporary service in accordance with NRS 284.327;

(d)An employee of an events center, museum or research center of the Nevada System of Higher Education;

(e)A person employed by the Nevada System of Higher Education in a temporary position which recurs periodically for the registration of students; or

(f)A person employed by the Nevada System of Higher Education to provide such assistance to a student with a disability or to a student with an identified academic disadvantage as it determines is necessary for the academic success of the student, including, without limitation, a person employed as a tutor, note taker, reader, sign interpreter or test proctor.

5. The acceptance or refusal by an eligible person of a temporary appointment does not affect the person's standing on the register for permanent employment, nor may the period of temporary service be counted as part of the probationary period in case of subsequent appointment to a permanent position.

6. Successive temporary appointments to the same position must not be made under this section.

7. As used in this section, "student with an identified academic disadvantage" includes, without limitation, a student who the Nevada System of Higher Education has determined requires the services of a tutor for success in a course of study."

NAC 284.414 Temporary appointments. (NRS 284.065, 284.155, 284.175, 284.325, 284.345)

1. A temporary appointment must not exceed 6 months in any 12-month period unless the appointment is authorized:

(a) As a replacement for an employee who is:

(1) Receiving benefits for temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; or

(2) On a leave of absence for active military service pursuant to NRS 281.145.

(b) To allow an employee to perform duties below the journey level while he or she is studying or training for advancement to an entry level professional class.

➥ The appointing authority shall indicate the probable duration of employment on its request for certification. Upon receipt of this request, the Division of Human Resource Management will certify the names of eligible persons from the appropriate eligible list who have noted that they will accept employment for the duration of the employment indicated.

2. Service under a temporary appointment immediately preceding appointment to a permanent position must be credited towards annual leave and merit pay increases. Sick leave may be earned for each month of service pursuant to NRS 284.355.

3. A special temporary appointment to a position within the Nevada System of Higher Education may not be used to fill regularly budgeted positions. Such appointments may be made without regard to the rules on certification or appointment and may be made on forms and under procedures prescribed by the Nevada System of Higher Education and approved by the Division of Human Resource Management. Time served under a special temporary appointment pursuant to this subsection may be credited towards annual leave, sick leave or merit pay increases if the temporary appointment is immediately followed by a probationary or a permanent appointment.

[Personnel Div., Rule VI § I, eff. 8-11-73]—(NAC A by Dep't of Personnel, 7-22-87; 7-21-89; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003)

NRS 284.317 states, "Appointment of persons with disabilities. Full consideration must be given to the employment of a person with a disability for a position if the person is capable of performing the essential functions of the position with or without reasonable accommodations."

NRS 284.327 states, "Temporary limited appointment of persons with disabilities.

1. To assist persons with disabilities certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, appointing authorities are encouraged and authorized to make temporary limited appointments of certified persons with disabilities for a period not to exceed 700 hours notwithstanding that the positions so filled are continuing positions. A person with a disability who is certified by the Rehabilitation Division must be placed on the appropriate list for which the person is eligible. Each such person must possess the training and experience necessary for the position for which the person is certified. The Rehabilitation Division must be notified of an appointing authority's request for a list of eligibility on which the names of one or more certified persons with disabilities appear. A temporary limited appointment of a certified person with a disability pursuant to this section constitutes the person's examination as required by NRS 284.215.

2. The Commission shall adopt regulations to carry out the provisions of subsection 1.

3. This section does not deter or prevent appointing authorities from employing:

(a)A person with a disability if the person is available and eligible for permanent employment.

(b)A person with a disability who is employed pursuant to the provisions of subsection 1 in permanent employment if he qualifies for permanent employment before the termination of

the person's temporary limited appointment.

4. If a person appointed pursuant to this section is subsequently appointed to a permanent position during or after the 700 hour period, the 700 hours or portion thereof counts toward the employee's probationary period."

NAC 284.416 Temporary limited appointment of persons with disabilities. (NRS 284.065, 284.155, 284.327) The status of the appointment of an employee appointed pursuant to NRS 284.327 is that of special disabled.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-6-92)

NAC 284.425 Positions created by temporary projects. (NRS 284.065, 284.155)

1. An employee hired for a project of limited duration will not be afforded rights relating to layoffs at the end of the funding period if, in the judgment of the appointing authority, there is no assurance of refunding. If the appointing authority determines that these rights are in the best interest of State Government, he or she may so designate all appointments as having these rights on the appointment document.

2. Such an employee may be reinstated if he or she is eligible for this right. Details concerning temporary funding, time limits, and layoffs must be included on the original appointment document and at each successive time the project is renewed.

3. A project originally designated as including or as not including rights relating to layoffs may not be redesignated upon refunding unless the funding status of the project has changed.

[Personnel Div., Rule VI § L, eff. 8-11-73; A 3-15-76]—(Substituted in revision for NAC 284.438)

NAC 284.434 Seasonal positions. (NRS 284.065, 284.155)

1. An appointment to a seasonal position may not exceed 9 months of full-time equivalent service in any 12-month period. A separation from a seasonal position which is a result of the lack of money or the lack of work must be made in accordance with NAC 284.608.

2. Persons eligible for seasonal reemployment must be offered employment in the order that they appear on the seasonal reemployment list before another type of list of eligible persons may be used.

3. Reemployment rights extending 1 year from the date of a seasonal employee's date of separation:

(a) Must be granted if the employee has attained permanent status; or

(b) May be granted, at the discretion of the appointing authority, if the employee has not attained permanent status,

➥ if the employee's last rating of performance was standard or better.

4. For the purposes of this section, a person's right to reemployment is limited to a seasonal position in the same class, option and department in which he or she last worked, except that an appointing authority may:

(a) Reemploy a former employee who held a seasonal position in another department if he or she is otherwise eligible.

(b) Reemploy a former employee who held a seasonal position in a comparable class if he or she is otherwise eligible and the Division of Human Resource Management approves.

5. To be eligible for reemployment, the former employee must:

(a) Notify the agency, in writing, stating the locations where he or she seeks reemployment; and

(b) Be available for the entire term of employment.

6. Seasonal reemployment lists must be maintained by the employing department, taking into account the provisions in subsection 1 of NAC 284.360 and subsections 3, 4 and 5 of this section.

7. An incumbent in a permanent position may request a seasonal position. By the voluntary acceptance of a seasonal position, an employee gives up any right to return to his or her former permanent position but, if eligible, may be reappointed.

[Personnel Div., Rule VI part § J, eff. 3-3-77]—(NAC A by Dep't of Personnel, 10-26-84; 8-1-91; 11-16-95; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.436 Intermittent positions. (NRS 284.065, 284.155, 284.340, 284.384)

1. An intermittent position is a position:

(a) That is filled by a person who may be called to work at any time;

(b) That is used to supplement the agency's full-time staff; and

(c) The compensation of which is separately identified in the budget of the agency.

2. An appointing authority may hire an employee in an intermittent position to supplement the full-time staff of an agency when the staffing needs of the agency fluctuate because of changes in the amount of work.

3. If a position is budgeted as an intermittent position, that position may only be underfilled pursuant to this chapter by an intermittent employee. An intermittent employee may only underfill a position that has been budgeted as an intermittent position.

4. An employee in an intermittent position who has attained permanent status:

(a) Must be given notice of any layoff affecting him or her not less than 1 week before the layoff; and

(b) Has a right of reemployment if his or her last report on performance was standard or better. The right of reemployment is based on the same formula as that used for other employees except that it extends only to the cost center or division from which his or her employment was terminated. This right must not operate to the detriment of a permanent full-time employee.

5. As used in this section, "cost center" means an organizational unit or group of organizational units within the Employment Security Division of the Department of Employment, Training and Rehabilitation.

(Added to NAC by Dep't of Personnel, eff. 8-28-85; A 8-1-91; A by Personnel Comm'n by R183-03, 1-27-2004; R007-11, 10-26-2011)

NAC 284.437 Underfilling of positions. (NRS 284.065, 284.155, 284.305)

1. Except as provided in subsection 4, before a position may be underfilled, it must be approved in writing by the Division of Human Resource Management. The Division of Human Resource Management will only approve a position to be underfilled if there are less than five eligible ranks on the appropriate list who are available for appointment.

2. Except as otherwise provided in subsection 4, if a position is approved to be underfilled, the Division of Human Resource Management will begin a recruitment for the class of the position unless a recruitment within 12 months before the approval failed to produce sufficient applicants on the appropriate list.

3. Except as otherwise provided in subsection 4, the position may not continue to be underfilled for more than 30 working days after five or more ranks of eligible persons on the appropriate list who are available for appointment are certified to the appointing authority.

4. Subsections 1, 2 and 3 do not apply to the underfilling of a position:

(a) If the position is authorized at or below the journey level and an employee fills that position in a class which is a training or intermediate level preparatory to promotion;

(b) If an employee's position is reclassified pursuant to NAC 284.138; or

(c) If an appointing authority has requested and received approval from the Division of Human Resource Management to underfill a position because money is not available and that fact has been certified by the Chief of the Budget Division or, in the case of an agency which is not funded from the General Fund or the Nevada System of Higher Education, by the administrator of that agency or System.

5. An employee or former employee may not be selected through noncompetitive means to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the employee currently holds or, in the case of a former employee, the current grade of the position the person formerly held.

(Added to NAC by Dep't of Personnel, eff. 8-28-85; A by Personnel Comm'n by R183-03, 1-27-2004)

NRS 284.307 states, "Automatic advancement of person in training or preparatory position. An employee who holds a position classified as a training or preparatory position may advance automatically to a position having a higher classification after he meets the minimum qualifications for the higher classification and receives the recommendation of the appointing authority for that advancement."

NAC 284.4375 Automatic advancement. (NRS 284.065, 284.155, 284.175)

1. For the purposes of this section, "automatic advancement" or "automatically advanced" means the progression of an employee to the authorized grade of the position, but not exceeding the journey level. Automatic advancement occurs without recruitment and may occur without examination. It is based upon the employee's:

(a) Meeting minimum qualifications;

(b) Satisfactory performance; and

(c) Endorsement by his or her appointing authority.

2. In determining the status of an employee who has been automatically advanced:

(a) The provisions in ***section 3 of LCB File No. R133-12,*** governing an employee's pay on promotion, apply.

(b) If the employee had attained permanent status in the class from which he or she was automatically advanced, the employee retains that status in the new class.

(c) If the employee had not attained permanent status in the class from which he or she was automatically advanced, the employee must remain in probationary status in the new class until he or she has worked in that class for a period equal to the remaining portion of the probationary period that is required for the new class.

3. An employee returning from a military leave of absence pursuant to NRS 284.359 to a position that provides for automatic advancement must successfully complete the probationary period for the position before receiving automatic advancement. Automatic advancement must be granted to the employee as of the date on which permanent status would have been granted if the employee had not taken a military leave of absence.

[Personnel Div., Rule I § C subsec. 23, eff. 4-14-76; + Rule III part § G, eff. 8-11-73; A 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R141-07, 1-30-2008***; R133-12, 10-4-2013)***

NAC 284.439 Reports of appointments. (NRS 284.065, 284.121, 284.155) Reports of appointments made pursuant to NRS 284.121 must include the type of position, the type of appointment, and the employee's status of appointment as follows:

1. The type of classified position must be:

(a) Permanent;
(b) Special project;
(c) Temporary;
(d) Seasonal; or
(e) Intermittent.

2. The type of appointment to a classified position must be:
(a) Demotion;
(b) Reemployment;
(c) Transfer;
(d) Reappointment;
(e) Promotion;
(f) Reinstatement; or
(g) New hire.

3. The status of appointment in a classified position must be:
(a) Probationary for a nonpermanent employee;
(b) Permanent;
(c) Trial period for a permanent employee;
(d) Provisional;
(e) Emergency;
(f) Temporary; or
(g) Special disabled.

4. In the unclassified service, the type of position, type of appointment and status of appointment are each "unclassified."

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 8-1-91; 7-6-92; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.383)

ESSENTIAL FUNCTIONS OF POSITIONS

INFORMATIONAL NOTE: Information regarding Essential Functions can be found in NAC 284.120 and the publication The Americans with Disabilities Act (ADA) & The ADA Amendments Act (ADAAA) Employment Provisions Guide for State of Nevada Executive Branch Agencies located on the Division of Human Resource Management website.

NAC 284.441 Provision of description to candidates for vacant position; consideration for appointment. (NRS 284.065, 284.155)

1. The appointing authority shall provide a description of the essential functions of a position to each candidate who is being considered for a vacant position. The information must be provided in a timely manner to allow a candidate with a disability to determine his need for reasonable accommodation.

2. The appointing authority shall consider the essential functions of the position when determining which candidate will be offered employment. If the disability of a candidate prevents or impedes the performance of one or more of the functions of the position that are not identified as essential, the appointing authority shall not consider those functions when determining which candidate will be offered employment.

3. The provisions of this section apply to all competitive and noncompetitive appointments to classified positions.

(Added to NAC by Dep't of Personnel, eff. 7-6-92; A 10-27-97; ***A by Personnel Comm'n by R135-12, 10-4-13***)—(Substituted in revision for NAC 284.357)

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PROBATIONARY PERIODS

NRS 284.290 states in part, "Probationary period…

1. All original competitive appointments to and promotions within the classified service must be for a fixed probationary period of 6 months, except that a longer period not exceeding 1 year may be established for classes of positions in which the nature of the work requires a longer period for proper evaluation of performance."

NAC 284.442 Length of probationary period. (NRS 284.065, 284.155, 284.290)

All classes at grade 20 or higher must be assigned a 1-year (full-time equivalent) probationary period. All classes lower than grade 20 will be assigned a 6-month (full-time equivalent) probationary period.

[Personnel Div., Rule VIII § A part subsec. 1, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84; R146-01, 1-18-2002)

NAC 284.444 Application of probationary period. (NRS 284.065, 284.155, 284.290)

1. A probationary employee who transfers:

(a) Within the same class must serve the remaining portion of the probationary period.

(b) From one class to another class must serve a new probationary period.

2. An employee who transfers from the unclassified or nonclassified service to the classified service must serve a new probationary period. Except for those unclassified employees who transfer pursuant to subsection 2 of NAC 284.398, the status of a permanent employee may not be attained until the satisfactory completion of the probationary period.

3. An employee who is reinstated must serve a new probationary period unless it is waived in writing by the appointing authority. If an appointing authority waives the probationary period, the status of the appointment of the employee is permanent.

4. A probationary employee who is reappointed must serve a new probationary period.

5. A permanent employee who is reappointed to a class:

(a) At a higher grade level must serve a trial period unless it is waived by the appointing authority.

(b) At the same grade level or a lower grade level is not required to serve a probationary period.

6. An employee who is laid off, but who is reemployed within 1 year, must serve a new probationary period if he or she reemployed in a different class or in a different department than that from which he or she was laid off, and the employee is subject to the provisions of subsection 8 of NAC 284.630.

7. A person with a permanent disability arising from a work-related injury or occupational disease who is reemployed in a different class or option than his or her regular position must serve a new probationary period as required by NAC 284.6018.

8. A person who is on a military leave of absence pursuant to NRS 284.359 is entitled to return to the status of appointment held at the time he or she commenced the military leave of absence. If the employee did not complete the probationary period, he or she will only be required to complete the remaining portion thereof. Upon successful completion of the probationary period, permanent status must be granted to the employee as of the date on which permanent status would have been granted if the employee had not taken a military leave of absence.

9. Promotion to a vacant position requires a new probationary period. Promotions which result from reclassification are governed by NAC 284.134 and 284.138.

10. Except as otherwise provided in subsection 11:

(a) No probationary period will be required if a permanent employee is demoted.

(b) A new probationary period will be required if a probationary employee is demoted.

11. An employee who is restored to his or her former position pursuant to NAC 284.462 following a promotional appointment must serve the portion of the probationary period which was remaining at the time of the promotion.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-21-89; 8-1-91; 12-26-91; 3-1-96; A by Personnel Comm'n by R142-05 & R143-05, 12-29-2005; R141-07, 1-30-2008)

NAC 284.446 Time counted toward completion of probationary period. (NRS 284.065, 284.155, 284.290)

1. Except as otherwise provided in subsection 4 and in NAC 284.4375, a probationary employee must perform his or her duties continuously in the classified service for either 6 months or 1 year (full-time equivalent) as required for the class in which he or she is employed to attain permanent status.

2. Service in provisional, emergency, or special disabled status must be credited towards a probationary period if it is immediately followed by probationary or permanent status in the same class.

3. Service in a seasonal position must be credited towards the probationary period for the class.

4. If an employee of a governmental agency transfers to the classified service pursuant to NRS 284.022 and subsection 2 of NAC 284.398, the time which he or she spent in the comparable class in the governmental agency counts toward the probationary period which is required for the state class. If the employee has satisfactorily completed the equivalent of the State's probationary period for the new class, the employee is entitled to transfer with permanent status. All continuous service which is equivalent to full-time employment in the governmental agency before the transfer counts towards permanent employee status.

[Personnel Div., Rule VIII § A part subsec. 1, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84; 1-22-90; 8-1-91; 7-6-92; 3-1-96)

NAC 284.448 Time not counted toward completion of probationary period. (NRS 284.065, 284.155, 284.290) The following types of leave or temporary status do not count toward the completion of any probationary period:

1. Authorized military leave for active service, as set forth in subsection 8 of NAC 284.444.

2. Authorized military leave for training beyond the 15 paid working days in any 1 calendar year, as set forth in subsection 8 of NAC 284.444.

3. Except as otherwise provided in NAC 284.580, any leave without pay and catastrophic leave, combined, in excess of 240 hours or, in the case of an exempt classified employee, 30 working days, in a year if the regular work schedule of the employee is 80 hours or less biweekly. If the regular work schedule of an employee is more than 80 hours biweekly, the employee must be allotted additional leave without pay and catastrophic leave in proportion to the number of hours his or her regular work schedule exceeds 80 hours biweekly. As used in this subsection, "year" means a period equal to 12 months of full-time equivalent service measured backward from the employee's pay progression date.

4. Time which is served in a temporary position pursuant to NAC 284.414.

5. Any hours worked which exceed 40 in a week.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 5-27-86; 3-27-92; 9-16-92; 11-16-95; 3-1-96; R147-01, 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004; R141-07, 1-30-2008)

NAC 284.450 Adjustment of probationary period. (NRS 284.065, 284.155, 284.290)

1. Except as otherwise provided in NAC 284.448, if a probationary employee has not, during his or her prescribed probationary period, worked the required number of months (full-time equivalent) which are established for the probationary period for the class, his or her probationary period must be extended until he or she has worked the required number of months.

2. An employee who changes from working full-time to part-time or the reverse will have his or her probationary period adjusted to equal the required number of months of service which are applicable to the probationary period of the class.

[Personnel Div., Rule VIII § A part subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 3-1-96)

NRS 284.290 states in part, "Probationary period; dismissal or demotion.

2. Dismissals or demotions may be made at any time during the probationary period in accordance with regulations adopted by the Commission."

NAC 284.458 Rejection of probationary employees. (NRS 284.065, 284.155, 284.290)

1. During a probationary period, an employee may be rejected for any lawful reason, as determined by his or her appointing authority. An employee rejected pursuant to this subsection has no appeal rights.

2. An employee who is serving a trial period may not use the grievance procedure set forth in NAC 284.658 to 284.6957, inclusive, to appeal the decision by the appointing authority to reject the employee during his or her probationary period.

3. A probationary period does not create a contractual relationship between the employee and employer.

4. If a report of separation is not received by the employee or the Division of Human Resource Management by the close of business on the last day of the probationary period, the employee is considered to have satisfactorily completed the probationary period and acquired permanent status.

[Personnel Div., Rule VIII § C subsecs. 1-3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-12-93; 11-16-95)

NRS 284.300 states, "Restoration of promotional appointee who fails to attain permanent status.

1. Any promotional appointee who fails to attain permanent status in the position to which the appointee was promoted, or who is dismissed for cause other than misconduct or delinquency on the appointee's part from the position to which the appointee was promoted, either during the probationary period or at the conclusion thereof by reason of the failure of the appointing authority to file a request for the appointee's continuance in the position, shall be restored to the position from which the appointee was promoted.

2. Nothing contained in this section shall be construed to prevent any employee of the classified service from competing for places upon lists of persons eligible for original appointments."

NAC 284.462 Restoration of promoted employee to former position. (NRS 284.065, 284.155, 284.290)

1. For the purposes of this section only, "promotion" means any movement into a vacant position which has a higher grade than the position previously occupied by a classified employee who has served 6 months of continuous (full-time equivalent) service.

2. An employee promoted pursuant to subsection 1 who fails to attain permanent status in the position to which he or she was promoted or who is dismissed for a cause other than misconduct or delinquency on his or her part from the position to which he or she was promoted, either during the probationary period or at its conclusion, must be restored to the position from which he or she was promoted.

3. If an employee fails to attain permanent status and is restored to his or her former position, the appointing authority which is effecting the restoration must give written notice to the agency from which the employee was promoted at least 30 calendar days before the effective date. The agency which is taking action to restore the employee to his or her former position is liable for the payment of the employee during this 30-day period unless the agency to which the employee is being restored agrees to accept the employee before the expiration of that period. An employee does not gain permanent status if a report of separation or notice of intent to restore an employee to his or her former position has been provided to the employee and filed with the Division of Human Resource Management on or before the last day of his or her probationary period, even though the separation or restoration takes place after the last day of the probationary period.

4. A demotion from probationary status in a higher class to the former lower level class may not be appealed.

[Personnel Div., Rule VIII § C subsec. 4, eff. 8-11-73; A 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89)

REPORTS ON PERFORMANCE

NRS 284.335 states in part, "Standards; records and ratings for service.

1. The appointing authorities and other supervising officers of the various state departments, agencies and institutions, after consultation with the Administrator, shall establish standards of work performance for each class of positions. Each appointing authority shall provide each of its employees with a copy of the standards for the employee's position.

2. The Administrator shall maintain service records of performance efficiency, character and conduct by a system of service ratings based upon those standards.

3. The Commission shall adopt regulations with respect to service ratings, and prescribe the extent to which service ratings must be considered in determining the advisability of transfers, the promotion of an employee to a higher class, the question of demotion or dismissal of any employee, increases and decreases in salary of an employee within the salary range established under this chapter and in all other decisions relating to the status of employees."

NAC 284.468 Standards for performance of work. (NRS 284.065, 284.155, 284.335)

1. A standard for the performance of work is a written statement prepared on a form prescribed by the Division of Human Resource Management of the results or behavior, or both, expected of an employee when the job elements of the employee's position are satisfactorily performed under existing working conditions. Standards are required for all classified positions.

2. The appointing authority is responsible for ensuring that each position has standards and that each employee is evaluated using those standards. The supervisor has responsibility for establishing the initial standards, but the employee must be given the opportunity to provide comments when the standards for his or her position are revised.

3. The appointing authority has final approval of the standards for a position.

4. Standards must be reviewed annually and amended when appropriate.

5. Each employee must be provided with a copy of the standards for his or her position.

6. As used in this section, "job elements" means the principal assignments, job tasks, goals, objectives, responsibilities or related factors, or any combination thereof.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; A by Personnel Comm'n by R038-03 & R068-03, 10-30-2003)

NRS 284.337 states, "Reports: Duties of supervisor. An employee whose duties include the supervision of an employee who holds a position in the classified service shall:

1. For filing at the times specified in NRS 284.340, prepare reports on the performance of that employee. In preparing a report, the supervising employee shall meet with the employee to

(a) Discuss goals and objectives;

(b) Evaluate the employee's improvement in performance and personal development;

(c) Discuss the report; and

(d) Provide to the employee information relating to the Merit Award Program established by NRS 285.020.

2. Provide the employee with a copy of the report.

3. Transmit the report to the appointing authority.

NRS 284.340 states, "Reports: Duties of appointing authority. Each appointing authority shall:

1. Report to the Administrator, in writing, the efficiency of the subordinates and employees of the appointing authority, and other information, in such manner as the Commission may

prescribe by regulation.

2. File reports with the Administrator on the performance, during the probationary period, of each of the employees of the appointing authority who holds a position in the classified service. A report must be filed at the end of the 2nd and 5th months of employment if the probationary period is 6 months, or at the end of the 3rd, 7th and 11th months of employment if the probationary period is 12 months.

3. File a report annually with the Director on the performance of each of his employees who holds a position in the classified service and has attained permanent status. The report must be filed at the end of the 12th month next following the attainment of permanent status, and at the end of every 12th month thereafter. If the report is not filed on or before the required date, the performance of the employee shall be deemed to be standard.

4. If any report the appointing authority files with the Administrator on the performance of an employee who holds a position in the classified service includes a rating of substandard, file with the Administrator an additional report on the performance of the employee at least every 90 days until the performance improves to standard or until any disciplinary action is taken.

5. Provide the employee with a copy of each report filed."

NAC 284.470 Preparation, filing, contents, discussion and distribution of reports; powers and duties of employees; review; adjustment of grievances. (NRS 284.065, 284.155, 284.340, 284.383, 284.384)

1. A person shall not complete a report on performance unless he or she has completed the training provided or approved by the Administrator concerning the preparation of a report on performance.

2. A report on performance must be prepared on the form prescribed by the Division of Human Resource Management.

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.

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.

7. Except as otherwise provided in subsection 8, the preparation of each report on performance must include a discussion between the employee and his or her 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 the supervisor for forwarding to the reviewing officer or appointing authority.

(b) If the employee contests the report on performance and requests a review, he or she must respond to the report in writing, identify the specific points of contention, if such specificity is provided, and return the response to the supervisor. Except as otherwise provided in this paragraph, the reviewing officer shall respond in writing on a form prescribed by the Division of Human Resource Management within 10 working days after the supervisor receives the request for review. If the reviewing officer is not the appointing authority, the reviewing officer must submit to the appointing authority a recommendation to uphold or modify the report on performance. The appointing authority shall review the recommendation of the reviewing officer regarding the contested report on performance and render a final decision to the employee within 10 working days after receiving the recommendation.

8. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 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 the supervisor for forwarding to the appointing authority or reviewing officer.

(b) If the employee contests the report on performance and requests a review, he or she must respond to the report in writing, identify any specific point of contention, if the report provides such specificity, and mail the response to the supervisor. Except as otherwise provided in this paragraph, the reviewing officer shall respond in writing on a form prescribed by the Division of Human Resource Management within 10 working days after the supervisor receives the request for review. If the reviewing officer is not the appointing authority, the reviewing officer must submit to the appointing authority a recommendation to uphold or modify the report on performance. The appointing authority shall review the recommendation of the reviewing officer regarding the report on performance and render a final decision to the employee within 10 working days after receiving the recommendation. 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.

9. A copy of each report on performance and, if applicable, any written response to such a report requested by an employee pursuant to subsection 7 or 8 must be provided to the employee and filed with the Division of Human Resource Management.

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 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 receiving a copy of the revised report and submit the response to the Division of Human Resource Management for inclusion in his or her file of employment.

11. An employee and his or her appointing authority may agree in writing to extend one or more of the periods prescribed in subsection 7 or 8.

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.

[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; R056-10, 10-26-2011; R007-11, 10-26-2011)

INFORMATIONAL NOTE: Assembly Bill 321 of the 2013 Legislative Session established the requirement that supervisory employees provide information relating to the Merit Award Program established by NRS 285.020 when evaluating employees' performance.

NAC 284.474 Employee entitled to copy of report. (NRS 284.065, 284.155, 284.340) Each employee must be given a copy of the report prepared by the supervisor measuring the employee's performance and development on the job. The report will not become official until signed by the rater. If requested, a copy must be provided to the employee at the time of the discussion between the supervisor and the employee. After the processing has been completed, a copy with all appropriate signatures will be provided the employee.

[Personnel Div., Rule IX § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.478 Appeal of decision of reviewing officer. (NRS 284.065, 284.155, 284.340, 284.384) Upon completion of the review process conducted pursuant to NAC 284.470, a permanent employee may appeal a contested report on performance 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; T006-11, 3-25-2011; r007-11, 10-26-2011)

TRAINING AND EDUCATION

NRS 284.343 states, "Stipends for training and educational leave for employees: Regulations; exceptions; restrictions; grants.

1. Except as otherwise provided in this subsection, after consultation with appointing authorities, and in cooperation with the State Board of Examiners, the Commission shall adopt regulations for all training of employees in the state service. Professional employees of the teaching staff, Agricultural Extension Service and Nevada Agricultural Experiment Station staffs of the Nevada System of Higher Education, or any other state institution of learning and student employees of such an institution are exempt from the provisions of this section.

2. The regulations adopted pursuant to subsection 1 must set forth the conditions under which educational leave stipends may be paid to any officer or employee of the State. Except as otherwise provided in NRS 612.230 and with the exception of intermittent course work not leading to the awarding of a degree, no person may be granted educational leave stipends until the person has entered into a contract with the person's employing agency whereby the person agrees to pursue only those courses required for a degree related to the person's employment with the State and to return to the employ of his employing agency on the basis of 1 year for each 9 months of educational leave taken or to refund the total amount of the stipends regardless of the balance at the time of separation.

3. This section does not prevent the granting of sabbatical leaves by the Board of Regents of the University of Nevada.

4. Where practicable, all training for state employees must be presented through established educational institutions within the State.

5. The Division shall coordinate all training activities related to remedial programs and programs for career development designed to correct educational and training deficiencies of state employees and create employment opportunities for the disadvantaged. In connection with these activities, the Division, with the approval of the Governor, is designated to enter into contractual arrangements with the Federal Government and others that provide grants or other money for educational and training activities."

NAC 284.482 Types of training. (NRS 284.065, 284.155, 284.343) Each employee is responsible for improving his or her own professional competence. The employing agency shall, within budgetary constraints, complement the employee's own efforts by providing the following kinds of training:

1. Training which is beneficial to the agency's operation or is required by the State, the appointing authority, or the Federal Government.

2. Training which is needed to enable the employee to meet the standards of performance for his or her position.

3. Training which is needed to update the employee's skills, knowledge, and techniques of his or her current position.

[Personnel Div., Rule X § B, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.484 Release time or leave to attend training. (NRS 284.065, 284.155, 284.343, 284.345)

1. When training is required by the appointing authority, the authority must grant release time to attend the training. Release time is considered time worked. The agency is responsible for any overtime earned as a result of such training.

2. When training is requested by the employee, the appointing authority may:

(a) Grant the employee release time, but not overtime;

(b) Require the employee to take approved leave for the work time spent to attend the training; or

(c) Deny the request. Approval must not be unreasonably withheld and reasons for denial must be provided the employee in writing.

➥ In making the determination to approve or deny training pursuant to this subsection, the appointing authority must consider the appropriateness of the training in accordance with NAC 284.485.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R082-00, 8-2-2000)

NAC 284.485 Criteria for approving or denying training or education requested. (NRS 284.065, 284.155, 284.343) In determining whether to approve or deny training or education requested by an employee, an appointing authority shall consider whether the training or education:

1. Is required by or related to the job of the employee;
2. Is relevant to the prospective duties of the employee; or
3. Is a benefit to both the agency and the employee participating by:

(a) Preparing the agency and employee for technological and legal developments;

(b) Increasing the work capabilities of the agency and employee;

(c) Increasing the number of qualified employees in areas for which the agency has difficulty in recruiting or retaining employees; or

(d) Increasing the professional competence of the employees of the agency.

(Added to NAC by Dep't of Personnel by R082-00, eff. 8-2-2000)

NAC 284.486 Money for training to be used to produce greatest benefit in relation to cost of training. (NRS 284.065, 284.155, 284.343) Money for training must be used to produce the greatest benefit in relation to the cost of the training. This requirement applies to money which is administered by the Division of Human Resource Management and to money which is administered by other agencies.

[Personnel Div., Rule X § C, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000)

NAC 284.490 Reimbursement or prepayment for training or education. (NRS 284.065, 284.155, 284.343)

1. If an employee receives approval to take training or education that he or she requested to take, including, without limitation, a course or workshop:

(a) The employing agency may reimburse the employee for the expense of the training or education only after the successful completion of the training; or

(b) The employing agency may elect to prepay the cost of the training or education.

2. An employing agency may enter into an agreement with an employee requiring the employee to repay any money paid to him or her or on his or her behalf for the cost of training or education if:

(a) The employee fails to complete the training successfully; or

(b) Within 1 year after the successful completion of training or education that is not required by his or her job, the employee terminates his or her employment with the agency.

➥ Any repayment from wages owed by the employee must not be taken from any payment for overtime owed to the employee and must not reduce the pay of the employee below the minimum wage required by federal law.

3. For the purposes of this section, "successful completion of training and education" means:

(a) Receiving a grade of C or better;

(b) Receiving a passing grade if the students are designated only as passing or failing the course;

(c) Receiving a certificate of completion; or

(d) Receiving other evidence of completion as predetermined by the appointing authority.

[Personnel Div., Rule X § D, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000; A by Personnel Comm'n by R022-05, 10-31-2005)

NAC 284.494 Request for training. (NRS 284.065, 284.155, 284.343) A request for training to be provided by the Division of Human Resource Management must be completed on a form provided by the Division of Human Resource Management and approved before the training is begun if:

1. The cost involved will be charged to the budgetary category for training; or
2. Release time from the employee's regular job will be granted for the training.

[Personnel Div., Rule X § E, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; 5-27-86)

NRS 284.338 states, "Reports: Training in proper preparation. An employee who is required to prepare a report on the performance of an employee who holds a position in the classified service must, before the employee prepares the report, have received training in its proper preparation. The training must be:

1. Provided within 6 months of the employee's appointment; and
2. Provided or approved by the Administrator."

NAC 284.496 Classes and training concerning prevention of sexual harassment. (NRS 284.065, 284.155, 284.343)

1. Within 6 months after an employee is initially appointed to state service, the employee shall attend a certified class concerning the prevention of sexual harassment.
2. At least once every 2 years after his or her initial appointment to state service, an employee shall attend a certified refresher class or training concerning the prevention of sexual harassment.
3. An appointing authority may require an employee to retake any part or all of the classes or training required by subsections 1 and 2, or to participate in any additional classes or training deemed necessary by the appointing authority.
4. The appointing authority shall retain the proof of completion by an employee of a class or training required by this section.
5. The Division of Human Resource Management will certify the classes and training concerning the prevention of sexual harassment required by this section.

(Added to NAC by Personnel Comm'n by R096-03, 10-30-2003, eff. 1-1-2004)

NAC 284.498 Training of supervisory and managerial employees. (NRS 284.065, 284.155, 284.343)

1. Except as otherwise provided in this section:

(a) Within 6 months after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend a training class concerning ***work performance standards and*** the evaluation of the performance of employees.

(b) Within 12 months after an agency appoints an employee to a supervisory position or managerial position, the employee shall attend at least one training class which has been approved by the Division of Human Resource Management in each of the following areas:

(1) Equal employment opportunity;

(2) Interviewing and hiring;

(3) Alcohol and drug testing;

(4) Progressive disciplinary procedures; and

(5) Handling grievances.

2. Every 3 years, a supervisor or managerial employee shall ***complete*** training which is approved by the Division of Human Resource Management in each of the topic areas described in subsection 1.

3. The appointing authority, at its discretion, may accept, in lieu of the training required by subsection 1, supervisory or managerial training classes ***in each of the topic areas described in subsection 1*** which are approved by the Division of Human Resource Management and taken by the employee during the ***3 years*** immediately preceding the employee's appointment.

4. In addition to the training otherwise required by this section, the Division of Human Resource Management or an appointing authority may require a supervisor or managerial employee to retake any part or all of the training required by this section, or to participate in any additional training or other classes deemed necessary by the Division of Human Resource Management or appointing authority.

5. As used in this section:

(a) "Managerial position" means a position which is held by an employee who:

(1) Formally evaluates supervisors;

(2) Is involved in the hiring and firing of subordinate staff;

(3) Determines organizational structure within a component of the organization; and

(4) Develops, monitors and implements policies to accomplish long-range goals.

(b) "Supervisory position" means a position which is held by an employee who:

(1) Formally evaluates staff;

(2) Is involved in the hiring and firing of subordinate staff; and

(3) Establishes policies which affect the performance or behavior of subordinate staff.

[Personnel Div., Rule X part § F, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; 5-27-86; 10-18-89; 3-23-94; R197-99, 1-26-2000; A by Personnel Comm'n by R182-03, 1-27-2004; R057-10, 10-15-2010***; R139-12, 10-4-2013)***

NAC 284.504 Certification of employees who prepare forms for Records or Payroll Sections of Division of Human Resource Management. (NRS 284.065, 284.155, 284.343)

1. An employee of the State who performs the work involving the preparation of forms for the Records or Payroll Sections of the Division of Human Resource Management must be certified in the preparation of forms and the procedures which are used in the respective sections. The certification must be obtained within 6 months of the employee's appointment to the position and is accomplished by the employee's attendance at the appropriate training class which is offered by the Division of Human Resource Management.

2. Continued certification requires biennial attendance at a class in payroll and records procedures sponsored by the Division of Human Resource Management.

3. The appointing authority and the supervisor of an employee described in subsection 1 are responsible for ensuring that the employee complies with the provisions of subsections 1 and 2.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-14-88)

NAC 284.506 Responsibilities of Division of Human Resource Management. (NRS 284.065, 284.155, 284.343) The responsibilities of the Division of Human Resource Management include:

1. Reviewing the training records of state agencies which have approved training to check for compliance with NRS 284.343 and NAC 284.482 to 284.522, inclusive.

2. Providing consultative services, when requested, to assist state agencies in assessing the needs for training, developing training plans and establishing systems of records for training.

3. Providing training which applies throughout the State and specialized training which is based on the expertise and resources available.

4. Making recommendations for the improvement of an agency's training program when requested.

5. Reviewing requests for training and making the final approval or disapproval for training provided, paid for or coordinated by the Division of Human Resource Management.

[Personnel Div., Rule X § G, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R189-09, 4-20-2010)

NAC 284.510 Responsibilities of appointing authorities. (NRS 284.065, 284.155, 284.343) The responsibilities of the appointing authority of each state agency include:

1. Ensuring that its training activities comply with the provisions of NRS 284.343 and NAC 284.482 to 284.522, inclusive.

2. Ensuring that sufficient money is available before approving training requests.

3. Making the final approval or disapproval of requests for training except for training provided, paid for or coordinated by the Division of Human Resource Management.

4. Ensuring that the agency's training program is based on a systematic approach.

5. Providing training opportunities for all job categories in the agency.

6. Ensuring that a system exists for evaluating the effectiveness of training activities.

7. Keeping adequate statistical records of training activities.

[Personnel Div., Rule X § H, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.514 Educational leave stipends. (NRS 284.065, 284.155, 284.175, 284.343, 284.345)

1. A stipend for an educational leave of up to three-fourths of an employee's base rate of pay may be paid if money is available for that purpose and the course of study meets the requirements set forth in NAC 284.485.

2. An employee's request for such a stipend must be endorsed by his or her appointing authority and be accompanied by a copy of the employee's agreement to return to work for the State. The request will be reviewed, and a recommendation made, by the Division of Human Resource Management. Before the employee is given the stipend to engage in the proposed college program, the request must be approved by the State Board of Examiners.

3. An agency may not have more than 2 percent of its full-time workforce receiving such a stipend at any one time except that an agency with less than 50 full-time employees may have one employee receiving such a stipend.

[Personnel Div., Rule X § I, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000; R147-01, 1-22-2002)

NAC 284.518 Requirements for educational leave stipends. (NRS 284.065, 284.155, 284.175, 284.343, 284.345) With the exception of intermittent course work not leading to the awarding of a degree, no person may be granted a stipend for an educational leave until he or she has, in addition to fulfilling the requirements set forth in NRS 284.343:

1. Completed 1 year of continuous employment in the state service; and

2. Agreed to return to the agency within 30 working days after the completion of the course.

[Personnel Div., Rule X § J, eff. 1-18-82]

NAC 284.522 Procedure for appeal. (NRS 284.065, 284.155, 284.343, 284.384) Except in a matter concerning stipends for educational leaves as to which a decision of the State Board of Examiners is final, any appeal concerning a matter under NAC 284.482 to 284.522, inclusive,

must be made in accordance with the grievance procedure set forth in NAC 284.658 to 284.6957, inclusive.

[Personnel Div., Rule X § K, eff. 1-18-82]—(NAC A by Dep't of Personnel by R082-00, 8-2-2000)

ATTENDANCE AND LEAVES

NAC 284.523 Definitions. (NRS 284.065, 284.155, 284.345) As used in NAC 284.523 to 284.598, inclusive, unless the context otherwise requires, the words and terms defined in NAC 284.5231 to 284.52375 inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by R082-00, 8-2-2000; R060-09, 11-25-2009)

NAC 284.5231 "Care" defined. (NRS 284.065, 284.155, 284.345) "Care" means the activities performed or attention provided when an employee:

1. Provides psychological comfort and reassurance to his or her spouse, child or parent with a serious health condition who is receiving inpatient or home care;
2. Substitutes for another person who is caring for the employee's spouse, child or parent who has a serious health condition;
3. Makes arrangements for any change in the care of his or her spouse, child or parent with a serious health condition; or
4. Provides physical or psychological care to his or her spouse, child, parent or other member of his or her immediate family who is unable to provide for his or her own:
   (a) Basic medical, hygienic or nutritional needs;
   (b) Safety; or
   (c) Transportation to a provider of health care.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.52315 "Child" defined. (NRS 284.065, 284.155, 284.345) "Child" means a person who is:

1. A biological, adopted or foster child, a stepchild, a legal ward or the child of a person with the daily responsibility of caring for and financially supporting that child; and
2. Except as otherwise provided in NAC 284.5235 and 284.562, under 18 years of age or is 18 years of age or older and incapable of caring for himself or herself because of a mental or physical disability.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.52345 "Family and Medical Leave Act" defined. (NRS 284.065, 284.155, 284.345) "Family and Medical Leave Act" means the Family and Medical Leave Act of 1993 adopted by reference in NAC 284.581.

(Added to NAC by Dep't of Personnel by R082-00, eff. 8-2-2000)

INFORMATIONAL NOTE: Senate Bill 283 of the 2009 Legislative Session established registered domestic partnerships as a new type of civil contract recognized in the State of Nevada. The State of Nevada Attorney General, in an opinion dated April 12, 2010, has interpreted this Act to broaden the term "spouse" as used in Nevada Administrative Code 284 (e.g., ""Immediate family" defined") to include domestic partners. The opinion also stated that "S.B. 283 requires the State to afford the same rights to an employee with a domestic partner as are provided for a spouse under the FMLA". Only "registered" domestic partners as described by S.B. 283 of the 2009 Legislative Session meet this requirement.

For more information on the FMLA, see the Division of Human Resource Management's *Overview of the Family and Medical Leave Act* or the Department of Labor's 29 §825 The Family and Medical Leave Act of 1993 Final Rule.

NAC 284.5235 "Immediate family" defined. (NRS 284.065, 284.155, 284.345) "Immediate family" means:

1. The employee's parents, spouse, children, regardless of age, brothers, sisters, grandparents, great-grandparents, uncles, aunts, nephews, grandchildren, nieces, great-grandchildren and stepparents.

2. If they are living in the employee's household, the employee's father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather-in-law, grandmother-in-law, great-grandfather-in-law, great-grandmother-in-law, uncle-in-law, aunt-in-law, brother-in-law, sister-in-law, grandson-in-law, granddaughter-in-law, nephew-in-law, niece-in-law, great-grandson-in-law and great-granddaughter-in-law.

3. The employee's next of kin if the employee is entitled to take leave pursuant to the Family and Medical Leave Act to care for a covered service member.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by Personnel Comm'n by R060-09, 11-25-2009)

NAC 284.5237 "Parent" defined. (NRS 284.065, 284.155, 284.345) "Parent" means the biological parent of an employee or the person who had the daily responsibility of caring for and financially supporting the employee when the employee was a child. The term does not include a parent of the spouse of an employee.

(Added to NAC by Dep't of Personnel, eff. 3-23-94)

NAC 284.52375 "Provider of health care" defined. (NRS 284.065, 284.155, 284.345) "Provider of health care" means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state or country in which the doctor practices.

2. A podiatric physician, a dentist, a clinical psychologist, an optometrist or a chiropractor who is authorized to practice as a podiatric physician, a dentist, a clinical psychologist, an optometrist or a chiropractor by the state or country in which he or she practices and who is performing within the scope of his or her practice as defined by the law of that state or country.

3. A nurse practitioner, nurse midwife, ***physician assistant*** or clinical social worker who is authorized to practice as a nurse practitioner, nurse midwife, ***physician assistant*** or clinical social worker by the state or country in which he or she practices and who is performing within the scope of his or her practice as defined by the law of that state or country.

4. A practitioner in Christian Science who is listed with The First Church of Christ, Scientist, in Boston, Massachusetts. The list of practitioners may be obtained from the Christian Science Committee on Publication for Nevada, ***2994 Talbot Street, Las Vegas, Nevada 89169, by telephone at (702)807-8026, by electronic mail at nevada@compub.org or on the online directory located at www.christianscience.com.***

5. A provider of health care, as defined in NRS 629.031, acting within the scope of his or her license whose certification of the existence of a serious health condition is acceptable to substantiate a claim for benefits under the Public Employees' Benefits Program.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000***; R135-12, 10-4-2013)***

INFORMATIONAL NOTE: NRS 281.100 "Hours of service of employees of state and political subdivision; exceptions; penalty." may be found preceding NAC 284.242.

NRS 281.110 states, "State offices to maintain minimum 40 hour workweeks; variable schedules for workweek; posting of days and hours of operation.

1. The offices of all state officers, departments, boards, commissions and agencies must maintain not less than a 40-hour workweek.

2. Variable workweek scheduling may be required in those agencies where coverage is needed on Saturdays, Sundays and legal holidays or on other days or during other hours, as necessary.

3. The offices of all state officers, departments, boards, commissions and agencies must physically post the days and hours of operation at the office. If the days or hours of operation for the office change, the new days and hours of operation must be:

(a) Posted physically at the office;

(b) Posted on the website of the office, if any; or

(c) Otherwise noticed publicly,

➥ at least 30 days before the change becomes effective.

NRS 284.180 (innovative workweeks) states in part,

"8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek."

NAC 284.524 Reporting for work; workweeks and workdays; periods for meals and rest. (NRS 284.065, 284.155, 284.345)

1. An employee shall report for a work shift on time and ready to perform the duties and tasks assigned to his or her position.

2. Except as otherwise provided in this subsection, the workweek for state employees is 40 hours. A workweek of a different number of hours may be established to meet the needs of state agencies in compliance with the provisions of NRS 281.100, 281.110 and 284.180. The workday for a full-time state employee who works a standard or nonstandard work schedule consists of two work periods separated by a 1/2- to 1-hour meal period. Insofar as practicable, the meal period must occur in the middle of the work shift. A rest period of 15 minutes must be granted for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

3. Except as otherwise provided in subsections 4 and 5, an appointing authority shall provide a meal period and rest period to an employee who has an innovative work schedule during each workday as follows:

(a) A 1/2- to 1-hour meal period must be provided during each period of work that exceeds 6 hours. Insofar as practicable, the meal period must occur in the middle of the work shift.

(b) A rest period of 15 minutes must be provided for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

4. The requirement to relieve an employee for a 1/2- to 1-hour meal period does not apply to an employee who receives a paid meal period.

5. The requirement for a rest period does not apply to an employee who works:

(a) Directly with the inmates at a correctional institution.

(b) For the Division of Mental Health and Developmental Services of the Department of Health and Human Services and who:

(1) Maintains or monitors the equipment in a heat plant which operates 24 hours a day; and

(2) Works a straight 8-hour work shift.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 4-20-90; 8-1-91; 11-12-93; R031-98, 4-17-98; R098-99, 9-27-99; A by Personnel Comm'n by R068-03, 10-30-2003; R145-05, 12-29-2005)

NAC 284.525 Reduction of hours by mutual agreement. (NRS 284.065, 284.155, 284.345) Except with respect to a leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580, an appointing authority and an employee may reduce the employee's working hours to less than full-time by mutual agreement.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.5255 Time sheets. (NRS 284.065, 284.155, 284.175, 284.345)

1. Except as otherwise provided in subsection 2, an employee shall provide an accurate accounting of the hours worked and leave used during a pay period on the appropriate form provided by his or her employer, including, without limitation, the specific times at which his or her work shifts started and ended. Entries must be made to account for all hours in the pay period, as prescribed by the employer. The employee shall submit the form in a timely manner to his or her supervisor or the designated representative of the supervisor.

2. An exempt classified employee or exempt unclassified employee shall provide on the appropriate form an accurate accounting of leave used pursuant to NAC 284.5895.

3. An employee who falsifies his or her time sheet or who causes or attempts to cause another employee to falsify a time sheet may be subject to disciplinary action pursuant to NAC 284.650.

4. An employee's supervisor is responsible for reviewing the employee's time sheet and verifying the accuracy of all hours worked and leave used by the employee.

5. The supervisor or the person who is responsible for coordinating the payroll of the agency may change an entry on an employee's time sheet in accordance with the policy of the agency. If a change is made to an entry on the employee's time sheet, the employee must be notified of the change. If the employee contests a change to an entry on his or her time sheet, he or she is entitled only to his or her base pay for the workweek in question. The contested entry must be resolved as soon as practicable, and any adjustment must be made during the next pay period following the resolution of the contested entry.

6. A supervisor who is negligent in reviewing and certifying the accuracy of an employee's time sheet may be subject to disciplinary action pursuant to NAC 284.650.

(Added to NAC by Dep't of Personnel, eff. 11-16-95; A 10-27-97; R031-98, 4-17-98; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

INFORMATIONAL NOTE: NRS 236.015 "Legal holidays…" may be found preceding NAC 284.255 "Holidays: Holiday pay."

NRS 284.350 states, "Annual leave.

1. Except as otherwise provided in subsections 2, 3 and 4, an employee in the public service, whether in the classified or unclassified service, is entitled to annual leave with pay of 1 1/4 working days for each month of continuous public service. The annual leave may be cumulative from year to year not to exceed 30 working days. The Commission may by regulation provide for additional annual leave for long-term employees and for prorated annual leave for part-time employees.

2. Except as otherwise provided in this subsection, any annual leave in excess of 30 working days must be used before January 1 of the year following the year in which the annual leave in excess of 30 working days is accumulated or the amount of annual leave in excess of 30 working days is forfeited on that date. If an employee:

(a) On or before October 15, requests permission to take annual leave; and

(b)The employee's request for leave is denied in writing for any reason,
➥ the employee is entitled to payment for any annual leave in excess of 30 working days which the employee requested to take and which the employee would otherwise forfeit as the result of the denial of the employee's request, unless the employee has final authority to approve use of the employee's own accrued leave and the employee received payment pursuant to this subsection for any unused annual leave in excess of 30 working days accumulated during the immediately preceding calendar year. The payment for the employee's unused annual leave must be made to the employee not later than January 31.

3. Officers and members of the faculty of the Nevada System of Higher Education are entitled to annual leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.

4. The Commission shall establish by regulation a schedule for the accrual of annual leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of annual leave at the same rate proportionately as employees who work a 40 hour week accrue annual leave.

5. No elected state officer may be paid for accumulated annual leave upon termination of his service.

6. During the first 6 months of employment of any employee in the public service, annual leave accrues as provided in subsection 1, but no annual leave may be taken during that period.

7. No employee in the public service may be paid for accumulated annual leave upon termination of employment unless he has been employed for 6 months or more."

8. Upon the request of an employee, the appointing authority of the employee may approve the reduction or satisfaction of an overpayment of the salary of the employee that was not obtained by the fraud or willful misrepresentation of the employee with a corresponding amount of the accrued annual leave of the employee."

NAC 284.531 Furlough leave. ***[Effective July 1, 2013 through June 30, 2015]***

1. The total number of hours of furlough leave required to be taken in a fiscal year by an employee who is initially appointed to state service after the commencement of the fiscal year is:

(a) For a full-time employee, the equivalent of 4 hours of furlough leave for each full month remaining in the fiscal year.

(b) For a part-time employee, the equivalent of the portion of 4 hours of furlough leave for each full month remaining in the fiscal year that is proportional to the average number of hours worked by the part-time employee.

➥ If such an employee is appointed on a day other than the first day of a month, the month in which the employee is appointed is not included in the calculation set forth in this subsection.

2. An appointing authority may establish a policy that defines the minimum increment of furlough leave required to be taken at any one time by an employee of the appointing authority if the appointing authority determines that the minimum increment is necessary based on business necessity. The policy may provide different increments for employees in different divisions, locations or work groups based on business necessity. The appointing authority shall disseminate the policy to each employee under its authority who is required to take furlough leave.

3. To the extent practicable, an employee who is required to take furlough leave and his or her supervisor shall jointly determine in advance a schedule pursuant to which the employee will take furlough leave. If, because of business necessity, such a schedule cannot be mutually agreed upon, a supervisor may direct an employee to take furlough leave on a specific day or at a specific time, or both.

4. Movement of an employee from one position to another position must not alter the amount of furlough leave required to be taken by the employee.

5. The amount of furlough leave that an employee is required to take must not be offset by any savings realized as a result of a delay in filling the position that the employee holds.

6. An appointing authority shall not require or allow an employee to take more than 12 hours of furlough leave in a workweek.

7. Unless approved in advance by the Administrator of the Division of Human Resource Management and the Director of the Department of Administration or their designated representatives or, in the case of employees of the Nevada System of Higher Education, by the chief financial officer of the applicable institution, an appointing authority shall not require or allow an employee to work additional time during the same workweek in which the employee takes furlough leave if the additional time would be:

(a) Overtime for which the employee would be entitled to be compensated; or

(b) Added regular time for work as a part-time employee.

8. An employee who leaves state service will not be reimbursed for any furlough leave taken.

9. Any furlough leave taken by an employee must be considered time worked for the purpose of calculating the employee's eligibility to take leave under the federal Family and Medical Leave Act. Any furlough leave that is taken during the time in which an employee takes leave that qualifies under the Family and Medical Leave Act will not be counted against the amount of leave which an employee is entitled to take under the Family and Medical Leave Act.

10. As used in this section, "furlough leave" means the unpaid leave required to be taken pursuant to the provisions of chapter ***447,*** Statutes of Nevada ***2013,*** at page ***2625.***

(Added to NAC by Personnel Comm'n by R021-11, 10-26-2011, eff. 10-31-2011***; R022-13, 10-23-2013)***

NAC 284.538 Annual leave: Computation; part-time employees; long-term employees. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in this subsection and NAC 284.5415, to compute the amount of annual leave to which an employee is entitled, an employee must be considered to work not more than 40 hours each week. If an employee occupies more than one position in different departments, he or she must be considered to work not more than 40 hours each week in each position.

2. A part-time employee is entitled to receive annual leave that is prorated based on the number of hours he or she is in paid status, excluding overtime.

3. An employee who holds two or more part-time positions in state service may combine the number of hours he or she is in paid status for all positions to compute annual leave, excluding overtime.

4. The basis for the computation of annual leave to which an exempt classified employee or exempt unclassified employee is entitled must not exceed the number of hours authorized in the biennial operating budget of this State for his or her position.

5. For each calendar month of full-time service, an employee is entitled to accrue annual leave at the rate of:

(a) One and one-half days per month for an employee who has completed 10 years or more but less than 15 years of continuous full-time or part-time state service; or

(b) One and three-fourths days per month for an employee who has completed 15 years or more of continuous full-time or part-time state service.

➥ If an employee has not been in continuous public service, the period before the interruption will not be counted except as otherwise provided in NAC 284.5405.

[Personnel Div., Rule VII § C, eff. 8-11-73; A 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 3-27-92; 9-16-92; 11-16-95; 10-27-97; R031-98, 4-17-98; A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 281.390 states, "Sick leave of public employees: Election of benefits; amount limited when eligible for benefits for industrial or occupational disease.

1. When any public employee is eligible at the same time for benefits for temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and for any sick leave benefit, the employee may, by giving notice to the employer of the employee, elect to continue to receive the employee's normal salary instead of the benefits pursuant to those chapters until the employee's accrued sick leave time is exhausted. The employer shall notify the insurer that provides industrial insurance for that employer of the election. The employer shall continue to pay the employee the employee's normal salary but charge against the employee's accrued sick leave time as taken during the pay period an amount which represents the difference between the employee's normal salary and the amount of any benefit for temporary total disability received, exclusive of reimbursement or payment of medical or hospital expenses pursuant to chapters 616A to 616D, inclusive, or 617 of NRS for that pay period.

2. When the employee's accrued sick leave time is exhausted, payment of the employee's normal salary pursuant to subsection 1 must be discontinued and the employer shall promptly notify the insurer that provides industrial insurance for that employer so that it may begin paying the benefits to which the employee is entitled directly to the employee.

3. An employee who declines to make the election provided in subsection 1, may use all or part of the sick leave benefit normally payable to the employee while directly receiving benefits for temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS, but the amount of sick leave benefit paid to the employee for any pay period must not exceed the difference between the employee's normal salary and the amount of any benefit received, exclusive of reimbursement or payment of medical or hospital expenses pursuant to those chapters for that pay period.

4. If the amount of the employee's sick leave benefit is reduced pursuant to subsection 3 below the amount normally payable, the amount of sick leave time charged against the employee as taken during that pay period must be reduced in the same proportion.

5. The public employee may decline to use any or part of the sick leave benefit normally payable to him while receiving benefits pursuant to chapters 616A to 616D, inclusive, or 617 of NRS. During that time, the employee must be considered on leave of absence without pay."

NAC 284.5385 Annual leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in NAC 284.580, an employee does not accrue annual leave during the time he or she is on leave without pay or on catastrophic leave.

2. A person who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and makes the election provided in:

(a) Subsection 1 or 3 of NRS 281.390 is entitled to accrue annual leave during the period he or she is receiving those benefits and is being paid an amount of sick leave equal to the difference between his or her normal pay and the benefits received.

(b) Subsection 5 of NRS 281.390 must be placed on leave of absence without pay, unless the employee is on family and medical leave because a serious health condition prevents him or her from performing one or more of the essential functions of his or her position. Such an employee may, while on such leave, elect to use his or her accrued annual leave in lieu of being placed on leave of absence without pay.

3. An employee who does not have enough sick leave to make up the difference between his or her normal pay and the benefits for a temporary total disability must be placed on leave of absence without pay for the time he or she is receiving such benefits and the balance of time not covered by sick leave or other paid leave. The employee accrues annual leave only for the time he or she is in paid status, excluding overtime.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 12-17-87; 7-14-88; 7-21-89; 8-1-91; 3-27-92; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.539 Annual leave: Written request; approval or denial; authorized use. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided by the Family and Medical Leave Act, an appointing authority shall determine the time when annual leave is taken after considering the needs of the agency and the seniority and wishes of the employee. Annual leave may not be granted in excess of the accumulated annual leave.

2. A written request for annual leave that is submitted by an employee within a reasonable time before the date upon which the annual leave is requested to commence must be approved or denied by the appointing authority, in writing, before the date upon which the annual leave is requested to commence or within 15 days after the appointing authority receives the request, whichever is sooner.

3. The appointing authority may deny a request for annual leave for good and sufficient reason. The appointing authority may not prohibit an employee from using at least 5 consecutive days of annual leave in any calendar year.

4. An employee shall request annual leave at least 30 days in advance if the need for leave is foreseeable and the annual leave is to be taken in conjunction with a planned leave of absence without pay.

5. An employee who has accumulated both annual leave and compensatory time off, and who may lose annual leave at the end of the calendar year, may elect to use the annual leave instead of the compensatory time for approved leave. In all other instances, compensatory time must, as far as practicable, be exhausted before annual leave is used.

6. An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may use his or her accrued annual leave pursuant to NAC 284.5775.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 6-18-86; 9-17-87; 7-14-88; 4-20-90; 3-23-94; 11-16-95; R031-98, 4-17-98; R082-00, 8-2-2000; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.5395 Annual leave: Payment upon separation from service. (NRS 284.065, 284.155, 284.175, 284.350) An employee who has completed 6 months of continuous service and who has separated from state service must be paid a lump-sum payment for any unused annual leave which he or she has earned through the date of separation.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R147-01, 1-22-2002)

NAC 284.540 Records of earned and used leave. (NRS 284.065, 284.155, 284.345) Each appointing authority shall keep accurate records of earned and used leave unless these records are maintained by a centralized time and attendance system.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R069-02, 8-14-2002)

NAC 284.5405 Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his or her total service with the State after he or she has completed 3 years of continuous service. The employee must requalify after each break in service.

2. An employee who is rehired within 1 year after being laid off accrues annual leave at a rate based on his or her total state service. He or she may use the annual leave immediately upon accruing it if he or she has completed a total of 6 months of employment.

3. An employee with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his or her total state service. He or she may use the annual leave immediately upon accruing it if he or she has completed a total of 6 months of employment.

4. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he or she received payment in a lump sum on the date of the layoff. The rate of pay at which he or she is rehired applies to the buying back of annual leave.

5. An employee with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he or she received payment in a lump sum at the time of separation. The rate of pay at which he or she is reemployed applies to the buying back of annual leave.

6. If an employee who was laid off before completing 6 months of employment is rehired within 1 year after the layoff, the amount of the unpaid annual leave he or she had earned before the layoff must be restored.

7. If a person eligible for military reemployment is reemployed, he or she accrues annual leave at the rate which he or she would have earned if he or she had not left state service.

8. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of the employee's annual leave is charged to the agency to which he or she is appointed.

9. If a nonclassified employee, an unclassified employee of the Nevada System of Higher Education or an employee included in the State Personnel System pursuant to NRS 284.022 is appointed without a break in service to the classified or unclassified service, his or her annual leave must be recomputed to reflect the amount that would have accrued to him or her as a classified or unclassified employee less any annual leave which he or she used during his or her nonclassified, Nevada System of Higher Education or governmental agency employment, and the remaining balance will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual as set forth in NRS 284.350 and NAC 284.538. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility of the employee who is transferring annual leave to seek payment of any excess amount of annual leave remaining to his or her credit from his or her former employer. If the amount of annual leave which is recomputed pursuant to this subsection results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of annual leave.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-19-88; 3-27-92; 11-12-93; 3-1-96; R031-98, 4-17-98; A by Personnel Comm'n by R096-03, 10-30-2003; R022-05, 10-31-2005; R142-05 & R145-05, 12-29-2005)

NAC 284.541 Annual leave: Service in provisional, special disabled, emergency or temporary status; seasonal employees. (NRS 284.065, 284.155, 284.345, 284.350)

1. Service in a provisional, special disabled, emergency or temporary status must be credited toward annual leave if it is immediately preceded or followed by a status of appointment which enables the employee to obtain the required 6 months of continuous service.

2. Service in a special position, which is temporary, in the University may be credited toward annual leave if it is immediately followed by probationary or permanent status.

3. An employee in a seasonal position who works a combined amount of time which equals 6 months is eligible for annual leave. The employee may choose to maintain the balance of the annual leave or receive a payment in lieu of annual leave upon separation from the seasonal position if he or she has completed the qualifying period of 6 months. An employee who is not paid for his or her annual leave upon separation from a seasonal position and who does not return to state service within 1 year must be paid the balance of his or her annual leave no later than 1 year after termination if he or she has completed the qualifying period of 6 months.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-6-92)

NRS 284.355 states, "Leave for sickness and disability: Accrual; payment for unused leave; employees with mental or emotional disorders; forfeiture of leave.

1. Except as otherwise provided in this section, all employees in the public service, whether in the classified or unclassified service, are entitled to sick and disability leave with pay of 1 1/4 working days for each month of service, which may be cumulative from year to year. After an employee has accumulated 90 working days of sick leave, the amount of additional unused sick leave which the employee is entitled to carry forward from 1 year to the next is limited to one-half of the unused sick leave accrued during that year, but the Commission may by regulation provide for subsequent use of unused sick leave accrued but not carried forward because of this limitation in cases where the employee is suffering from a long-term or chronic illness and has used all sick leave otherwise available to the employee.

2. Upon the retirement of an employee, the employee's termination through no fault of the employee or the employee's death while in public employment, the employee or the employee's beneficiaries are entitled to payment:

(a) For the employee's unused sick leave in excess of 30 days, exclusive of any unused sick leave accrued but not carried forward, according to the employee's number of years of public service, except service with a political subdivision of the state, as follows:

(1) For 10 years of service or more but less than 15 years, not more than $2,500.
(2) For 15 years of service or more but less than 20 years, not more than $4,000.
(3) For 20 years of service or more but less than 25 years, not more than $6,000.
(4) For 25 years of service or more, not more than $8,000.

(b) For the employee's unused sick leave accrued but not carried forward, an amount equal to one-half of the sum of:

(1) The employee's hours of unused sick leave accrued but not carried forward; and
(2) An additional 120 hours.

3. The Commission may by regulation provide for additional sick and disability leave for long-term employees and for prorated sick and disability leave for part-time employees.

4. An employee entitled to payment for unused sick leave pursuant to subsection 2 may elect to receive the payment in any one or more of the following forms:

(a) A lump-sum payment.

(b) An advanced payment of the premiums or contributions for insurance coverage for which he is otherwise eligible pursuant to chapter 287 of NRS. If the insurance coverage is terminated and the money advanced for premiums or contributions pursuant to this subsection exceeds the amount which is payable for premiums or contributions for the period for which the former employee was actually covered, the unused portion of the advanced payment must be paid promptly to the former employee or, if the employee is deceased, to the employee's

beneficiary.

(c) The purchase of additional retirement credit, if the employee is otherwise eligible pursuant to chapter 286 of NRS.

5. Officers and members of the faculty of the Nevada System of Higher Education are entitled to sick and disability leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.

6. The Commission may by regulation provide policies concerning employees with mental or emotional disorders which:

(a) Use a liberal approach to the granting of sick leave or leave without pay to such an employee if it is necessary for the employee to be absent for treatment or temporary hospitalization.

(b) Provide for the retention of the job of such an employee for a reasonable period of absence, and if an extended absence necessitates separation or retirement, provide for the reemployment of such an employee if at all possible after recovery.

(c) Protect employee benefits, including, without limitation, retirement, life insurance and health benefits.

7. The Commission shall establish by regulation a schedule for the accrual of sick leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of sick leave at the same rate proportionately as employees who work a 40-hour week accrue sick leave.

8. The Division may investigate any instance in which it believes that an employee has taken sick or disability leave to which the employee was not entitled. If, after notice to the employee and a hearing, the Commission determines that he has taken sick or disability leave to which the employee was not entitled, the Commission may order the forfeiture of all or part of the employee's accrued sick leave.

NAC 284.5415 Annual leave and sick leave: Exception employees. (NRS 284.065, 284.155, 284.180, 284.345, 284.350, 284.355)

1. As used in this section:

(a) "Exception employee" means an employee whose normally scheduled hours of work are more than 80 hours biweekly; and

(b) "Regular employee" means an employee whose normally scheduled hours of work are 8 hours per day, 40 hours per week, or 80 hours biweekly.

2. An exception employee is entitled to accrue annual leave and sick leave based on his or her average workday. The average workday of such an employee must be determined by dividing the total scheduled hours of work per year by 2,088 and multiplying the quotient by 8.

3. When an exception employee is appointed to a job classification with a schedule of work as a regular employee, the accrued annual leave and sick leave of the exception employee must be converted to the amount of annual leave and sick leave that would have been accrued as a regular employee.

4. When a regular employee is appointed to a job classification with a schedule of work as an exception employee, the accrued annual leave and sick leave of the regular employee must be converted to the amount of annual leave and sick leave that would have been accrued as an exception employee.

5. For the purposes of this section, a firefighter is an exception employee and shall be deemed to work an average of 56 hours per week and 2,912 hours per year.

(Added to NAC by Dep't of Personnel, 9-13-91, eff. 10-1-91; A 3-1-96)

NAC 284.542 Sick leave: Part-time employees. (NRS 284.065, 284.155, 284.345, 284.355)

1. A part-time employee is entitled to accrue sick leave at the rate of 1 1/4 days per month, which is prorated based on the number of hours the employee is in paid status, excluding overtime.

2. An employee who holds two or more part-time positions in the state service may combine the time in all positions for the purpose of computing the hours of accrued sick leave.

[Personnel Div., Rule VII § D subsec. 2, eff. 8-11-73; A and renumbered as subsec. 1, 2-5-82; § D subsec. 3, eff. 2-5-82] (NAC A by Personnel Comm'n by R145-05, 12-29-2005)

INFORMATIONAL NOTE: NRS 281.390 "Sick leave of public employees: Election of benefits; amount limited when eligible for benefits for industrial or occupational disease." may be found preceding NAC 284.5385

NRS 287.0445 states, "Payment of premiums or contributions for state officer or employee injured while member of Program. The participating state agency which employed a state officer or employee who:

1. Was injured in the course of that employment;
2. Receives compensation for a temporary total disability pursuant to NRS 616C.475; and
3. Was a member of the Program at the time of the injury,

➥shall pay the State's share of the cost of the premiums or contributions for the Program for that officer or employee for not more than 9 months after the injury or until the officer or employee is able to return to work, whichever is less. If the previous injury recurs within 1 month after the employee returns to work and the employee again receives compensation pursuant to NRS 616C.475 as a result of the previous injury, the participating state agency shall not, except as otherwise provided in this section, pay the State's share of the cost of the premiums or contributions for the period during which the employee is unable to work as a result of the recurring previous injury. If the initial period of disability was less than 9 months, the participating state agency shall pay, during the recurrence, the State's share of the costs of the premiums or contributions for a period which, when added to the initial period, equals not more than 9 months."

NAC 284.544 Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation. (NRS 284.065, 284.155, 284.345, 284.355)

1. Except as otherwise provided in NAC 284.580, an employee does not accrue sick leave during the time he or she is on leave without pay or on catastrophic leave.

2. A person who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and:

(a) Makes the election provided in subsection 1 or 3 of NRS 281.390 is entitled to accrue sick leave during the period he or she is receiving those benefits and is being paid an amount of sick leave equal to the difference between his or her normal pay and the benefits received.

(b) Makes the election provided in subsection 5 of NRS 281.390 must be placed on leave of absence without pay, unless the employee elects to use his or her accrued annual leave.

3. An employee who does not have enough sick leave to make up the difference between his or her normal pay and the benefits for temporary total disability must be placed on leave of absence without pay for the time he or she is receiving such benefits and the balance of time not covered by paid leave. The employee accrues sick leave only for the time he or she is in paid status, excluding overtime.

4. To compute the amount of sick leave to which an employee is entitled, an employee must be considered to work not more than 40 hours each week. If an employee occupies more than

one position in different departments, the amount of sick leave to which the employee is entitled must be computed based on not more than 40 hours each week in each position.

5. The basis for the computation of the amount of sick leave to which an exempt classified employee or exempt unclassified employee is entitled must not exceed the number of hours authorized in the biennial operating budget of this State for his or her position.

(Added to NAC by Dep't of Personnel, eff. 12-17-87; A 7-14-88; 7-21-89; 8-1-91; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.546 Sick leave: Unused credit; special sick leave. (NRS 284.065, 284.155, 284.345, 284.355) Unused sick leave accrued but not carried forward pursuant to the provisions of NRS 284.355 must be placed in a separate account. Sick leave accrued in a separate account pursuant to this section is designated as special sick leave. Special sick leave may be used if an employee has used all the sick leave otherwise available to him or her and meets the conditions, as applicable, of NAC 284.554, 284.566 and 284.568.

[Personnel Div., Rule VII § D subsec. 3, eff. 8-11-73; A and renumbered as subsec. 2, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 8-22-86; 11-16-95; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.548 Sick leave: Reinstatement of dismissed employee. (NRS 284.065, 284.155, 284.175, 284.345, 284.355) An employee who is dismissed and later reinstated by an order of a hearing officer must repay any money the employee received for payment of sick leave benefits. The amount of the payment may be deducted from the first available wage payments or any back pay owed to the employee. After the money is fully repaid pursuant to this section, the balance of the amount of sick leave that the employee had before he or she was dismissed must be restored to the employee.

(Added to NAC by Dep't of Personnel, eff. 4-20-90; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.550 Sick leave: Separation from service. (NRS 284.065, 284.155, 284.345, 284.355)

1. An employee who is being separated from service earns sick leave only through the last working day for which he or she is entitled to pay. If the last working day occurs earlier than the last day of the month, the sick leave must be prorated.

2. Except as otherwise provided in subsection 1 of NAC 284.551, an employee who is rehired is not entitled to the restoration of accrued and unused sick leave which remains in his or her account at the time of his or her separation.

[Personnel Div., Rule VII § D subsec. 5, eff. 8-11-73; A and renumbered as subsec. 4, 2-5-82; Rule VII § D subsec. 5, eff. 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 4-19-88; 7-14-88)

NAC 284.551 Sick leave: Credit upon rehiring, reemployment or transfer. (NRS 284.065, 284.155, 284.345, 284.355)

1. An employee who is rehired within 1 year after he or she is laid off is entitled to the restoration of the accrued and unused sick leave remaining in his or her account at the time of the layoff.

2. The balance of a seasonal employee's sick leave must be restored to him or her for each subsequent term of appointment if the employee is rehired within 1 year after the date of his or her last seasonal separation.

3. An employee who is reemployed within 1 year after sustaining a permanent disability arising from a work-related injury or occupational disease as determined pursuant to NAC 284.6013 is entitled to restoration of the accrued and unused sick leave that remained in his or her account at the time of separation.

4. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his or her sick leave is charged to the agency to which he or she is appointed.

5. If a nonclassified employee, an unclassified employee of the Nevada System of Higher Education or an employee covered by NRS 284.022 is appointed to the classified or unclassified service without a break in service, his or her sick leave must be recomputed to reflect the amount that would have accrued to him or her as a classified or unclassified employee less any sick leave which he or she used during his or her nonclassified, Nevada System of Higher Education or governmental agency employment and the remaining balance will be transferred to the new appointment. If the amount of sick leave which is recomputed pursuant to this subsection results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of sick leave.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 4-19-88; 3-1-96; A by Personnel Comm'n by R142-05 & R145-05, 12-29-2005)

NAC 284.552 Sick leave: Service in provisional, emergency or temporary status; seasonal employees. (NRS 284.065, 284.155, 284.345, 284.355)

1. Service in provisional, emergency or temporary status, including, without limitation, temporary limited appointments pursuant to NRS 284.327 of persons with disabilities who are certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation and service provided by an employee who has a work-related injury or occupational disease pursuant to a temporary assignment as set forth in NAC 284.6004, must be credited towards sick leave.

2. Service in a special position which is temporary in the Nevada System of Higher Education may be credited towards sick leave if it is immediately followed by probationary or permanent status.

3. An employee in a seasonal position must be credited with sick leave.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-6-92; A by Personnel Comm'n by R145-05, 12-29-2005)

INFORMATIONAL NOTE: 29 C.F.R. §785.43 Medical attention.
Time spent by an employee in waiting for and receiving medical attention on the premises or at the direction of the employer during the employee's normal working hours on days when he is working constitutes hours worked.

NAC 284.554 Sick leave: Authorized use. (NRS 284.065, 284.155, 284.345, 284.355)

An employee is entitled to use sick leave if the employee:

1. Is unable to perform the duties of his or her position because he or she is sick, injured or physically incapacitated due to a medical condition;

2. Is physically incapacitated due to pregnancy or childbirth and is therefore unable to perform the duties of the employee's position;

3. Is quarantined;

4. Is receiving required medical, psychological, optometric or dental service or examination;

5. Is receiving counseling through an employee assistance program for a condition which would otherwise qualify pursuant to the provisions of this section; or

6. Has an illness, death or other authorized medical need in his or her immediate family and he or she complies with the requirements of NAC 284.558 or 284.562.

[Personnel Div., Rule VII § D part subsec. 6, eff. 8-11-73; A 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 4-20-90; 11-16-95; A by Personnel Comm'n by R141-07, 1-30-2008)

NAC 284.558 Sick leave: Illness in employee's immediate family. (NRS 284.065, 284.155, 284.345, 284.355)

1. Except as otherwise provided in this section, if an employee is needed to provide care for a member of his or her immediate family with an illness or other authorized medical need, the employee may use his or her accumulated sick leave, not to exceed 120 hours in any 1 calendar year. An employee is not subject to this 120-hour limitation if the leave is approved under the Family and Medical Leave Act.

2. The appointing authority may approve an exception to the 120-hour limitation or the requirement that the immediate family member be living in the employee's household. To obtain an exception, the employee must submit a request in writing to the appointing authority, accompanied by a certification from a provider of health care that substantiates the need for the employee's participation.

3. The appointing authority may require the employee to submit supplemental information which includes a second and third medical opinion as provided in subsection 2 of NAC 284.566.

[Personnel Div., Rule VII § D part subsec. 6, eff. 8-11-73; A and renumbered as subsec. 7, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.562 Sick leave or catastrophic leave: Death in employee's immediate family. (NRS 284.065, 284.155, 284.345, 284.355, 284.3626)

1. If a member of the employee's immediate family dies, he or she may use his or her accumulated sick leave, or request approval for catastrophic leave pursuant to NAC 284.576, not to exceed 5 working days for each death.

2. For the purposes of this section, "immediate family" means the employee's parents, spouse, children, brothers, sisters, grandparents, great-grandparents, uncles, aunts, nephews, grandchildren, nieces, great-grandchildren, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather-in-law, grandmother-in-law, great-grandfather-in-law, great-grandmother-in-law, uncle-in-law, aunt-in-law, brother-in-law, sister-in-law, grandson-in-law, grand-daughter-in-law, nephew-in-law, niece-in-law, great-grandson-in-law, great-granddaughter-in-law, stepparents and stepchildren.

3. If a reasonable amount of additional time is needed for traveling related to funeral arrangements, the appointing authority shall approve an exception to this limitation.

[Personnel Div., Rule VII § D part subsec. 6, eff. 8-11-73; A and renumbered as subsec. 8, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 11-16-95)

NAC 284.566 Sick leave: Approval by appointing authority; medical certification. (NRS 284.065, 284.155, 284.345, 284.355)

1. An appointing authority may approve sick leave only after having ascertained that the absence was for an authorized reason. For absences in excess of 3 consecutive working days, or for cases of suspected abuse, the appointing authority may require that the employee submit substantiating evidence, which may include, but is not limited to, a certificate from a provider of health care of the need for the absence.

2. For absences for which medical certification is required, the appointing authority may require the employee to provide a second medical opinion. ***If a second medical opinion is required, an employee shall obtain the opinion from a provider of health care designated by***

the appointing authority. The employing agency shall pay for the consultation. The provider of health care who provides the second opinion of an employee's health condition shall certify as to the ability of the employee to perform his or her duties and responsibilities and when he or she believes the employee can return to work. The provider of health care who provides the second opinion of an immediate family member's health condition shall certify as to the health condition of the family member, the probable duration of the health condition and incapacity, and the need for the employee's assistance or presence. A copy of each opinion must be provided to the employee, the patient and the appointing authority, as appropriate. If the first and second opinions differ, the appointing authority may require the employee to provide a third medical opinion.

3. If a third medical opinion is required, an employee shall obtain the opinion from a provider of health care approved jointly by the employee and the appointing authority. If necessary, a list of three providers of health care from which the selection must be made may be requested from the medical society of the county in which the employee or, if applicable, the member of his or her immediate family, resides or works. If such a list is used, the selection of the third provider of health care must be made by the employee and appointing authority alternately striking one name off the list. The third opinion is final and binding. The ***employing*** agency shall pay for the consultation.

4. An employee shall request sick leave at least 30 days in advance if the need for leave is foreseeable and the sick leave is to be taken in conjunction with a planned leave of absence without pay.

5. An appointing authority may require a statement from a provider of health care that an employee is able to resume work if the requirement is related to the employee's ability to perform one or more of the essential functions of his or her position.

[Personnel Div., Rule VII § D subsec. 8, eff. 8-11-73; A and renumbered as subsec. 9, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; 11-16-95; R082-00, 8-2-2000***; R135-12, 10-4-2013***)

NAC 284.568 Sick leave: Placing employee on sick leave; conditions for return to work. (NRS 284.065, 284.155, 284.345, 284.355)

1. An appointing authority may place an employee on sick leave if:

(a) Due to a known or suspected illness or injury, the employee is not performing at the level required by his or her position or is not able to perform the essential functions of the position with or without reasonable accommodation, as determined by the appointing authority pursuant to NAC 284.441; or

(b) The illness appears to be contagious.

2. If the appointing authority places the employee on sick leave pursuant to subsection 1, the appointing authority may require the employee, before the employee may return to work, to provide documentation from a provider of health care which verifies that the employee is medically able to perform the essential functions of the job with or without reasonable accommodation and does not have a contagious illness.

3. Except as otherwise provided in NRS 281.390, the appointing authority may require an eligible employee to use sick leave during the time family and medical leave is granted.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-6-92; 3-23-94; R082-00, 8-2-2000; A by Personnel Comm'n by R145-05, 12-29-2005***; R135-12, 10-4-2013***)

NRS 284.362 states, "Catastrophic leave: Definitions.

1. As used in NRS 284.362 to 284.3629, inclusive:

(a) "Catastrophe" means:

(1) The employee is unable to perform the duties of his position because of a serious illness or accident which is life threatening or which will require a lengthy convalescence;

(2) There is a serious illness or accident which is life threatening or which will require a lengthy convalescence in the employee's immediate family; or

(3) There is a death in the employee's immediate family.

(b) "Committee" means the Committee on Catastrophic Leave created pursuant to NRS 284.3627.

2. The Commission shall adopt regulations further defining "catastrophe" to ensure that the term is limited to serious calamities."

NRS 284.3621 states, "Catastrophic leave: Account for catastrophic leave; transfer of hours to account; limitations on transfers; transfers between branches of government.

1. Each appointing authority may establish an account for catastrophic leave.

2. An employee of an appointing authority may request, in writing, that a specified number of hours of the employee's accrued annual or sick leave be transferred from the employee's account to the account for catastrophic leave.

3. An employee may not transfer to the account for catastrophic leave any hours of sick leave if the balance in the employee's account after the transfer is less than 240 hours.

4. The maximum number of hours which may be transferred by an employee in any 1 calendar year is 120. The minimum number of hours which may be transferred in any 1 calendar year is 8.

5. An employee may transfer hours to any such account for catastrophic leave for use by a particular employee in any branch of State Government who is eligible to receive them. A record of the source and number of hours of leave transferred among different appointing authorities for this purpose and the date of the transfer must be maintained by each appointing authority. Leave transferred in excess of the amount approved for use by a particular employee must be returned to the employee's account from which it originated. The Commission shall, by regulation, determine the procedure to return excess leave.

6. Any hours of annual or sick leave which are transferred from any employee's account to the account for catastrophic leave and not designated for use by a particular employee may not be returned or restored to the originating employee. This subsection does not prevent the employee from receiving leave pursuant to NRS 284.3622."

NRS 284.3622 states, "Catastrophic leave: Request for transfer to employee of hours from account for catastrophic leave.

1. An employee of an appointing authority may request, in writing, that a specified number of hours of leave be transferred from the account for catastrophic leave to the employee's account. The maximum number of hours that may be transferred to an employee pursuant to this section is 1,040 in any 1 calendar year.

2. The request must include:

(a) The employee's name, title and classification; and

(b) A description of the catastrophe and the expected duration of leave required for that catastrophe.

3. An employee may not receive any leave from the account for catastrophic leave until the employee has used all the employee's accrued annual, sick and compensatory leave.

4. An employee who receives leave from the account for catastrophic leave is entitled to payment for that leave at a rate no greater than the employee's own rate of pay."

NRS 284.3623 states, "Catastrophic leave: Approval of transfer of hours to employee. The appointing authority may approve the transfer of a specified number of hours of leave from the account for catastrophic leave to the account of any employee who the appointing authority determines is eligible to receive such leave."

NRS 284.3624 states, "Catastrophic leave: Review of status of employee regarding catastrophe; termination of leave; disposition of hours not used.

1. The appointing authority shall review the status of the employee regarding the catastrophe and determine when the need to take leave for the catastrophe no longer exists.

2. The appointing authority shall not grant any hours of leave from the account for catastrophic leave after:

(a) The need to take leave for the catastrophe ceases to exist; or

(b) The employee who is receiving the leave resigns or his employment with the appointing authority is terminated.

3. Any leave which the employee received from the account for catastrophic leave which was not used at the time the need to take leave for the catastrophe ceases to exist or upon the resignation or termination of the employment of the employee must be returned to the account for catastrophic leave."

NRS 284.3625 states, "Catastrophic leave: Maintenance of records; reports to Administrator. Each appointing authority shall maintain records and report to the Administrator any information concerning the use of an account for catastrophic leave to evaluate the effectiveness, feasibility and cost to carry out the provisions of NRS 284.362 to 284.3629, inclusive."

NRS 284.3626 states, "Catastrophic leave: Regulations of Commission. The Commission shall adopt regulations to carry out the provisions of NRS 284.362 to 284.3629, inclusive."

NRS 284.3628 Committee on Catastrophic Leave: Chair and Vice Chair; quorum; rules; hearings; Secretary.

1. The members of the Committee shall elect a Chair and Vice Chair from among their members. After the initial election, the Chair and Vice Chair serve in the office for a term of 1 year beginning on July 1 of each year. If a vacancy occurs in the office of Chair or Vice Chair, the members of the Committee shall elect a Chair or Vice Chair from among their members to serve for the remainder of the unexpired term.

2. Any three members of the Committee constitute a quorum, and a majority vote of the quorum is required to take action with respect to any matter.

3. The Committee shall adopt:

(a) Rules for its own management; and

(b) Such rules of practice and procedure as are necessary to carry out its duties.

4. The Committee shall hold such hearings as are necessary to carry out the provisions of NRS 284.3629.

5. The Administrator or the designee of the Administrator shall act as the nonvoting recording Secretary of the Committee.

(Added to NRS by 2001, 2139)

NRS 284.3629 Committee on Catastrophic Leave: Appeal of decision of appointing authority; procedure; representation of employee; finality of decision; inapplicability of Open Meeting Law.

1. An employee aggrieved by any decision of an appointing authority made pursuant to NRS 284.362 to 284.3629, inclusive, may appeal from the decision by filing a written notice of appeal with the Committee within 10 days after the date of the decision.

2. The Committee shall:

(a) Within 5 days after receiving a notice of appeal, schedule a hearing on the merits of the appeal for a date not later than 20 days after its receipt of the notice.

(b) Cause notice of the date and time of the hearing to be given to the employee and the appointing authority by mail or by personal service.

(c) Conduct the hearing expeditiously and informally. Technical rules of evidence do not apply at the hearing.

3. The employee may file a written request with the Committee to give preference in scheduling the hearing. The request must set forth facts showing that the seriousness of the alleged catastrophe requires an expedited appeal.

4. The employee may represent himself or herself at the hearing or be represented by an attorney or other person of the employee's own choosing.

5. The Committee shall:

(a) Render a decision in writing within 10 days after the hearing, setting forth the reasons therefore.

(b) Cause notice of the decision to be given to the employee and the appointing authority by mail or by personal service.

6. The decision of the Committee is final and is not subject to judicial review or the procedure for the adjustment of grievances pursuant to NRS 284.384.

7. A meeting or hearing held by the Committee to carry out the provisions of this section and the Committee's deliberations on the information or evidence received are not subject to any provision of chapter 241 of NRS.(Added to NRS by 2001, 2140)

NAC 284.575 Catastrophic leave: Interpretation of certain statutory terms. (NRS 284.065, 284.155, 284.362, 284.3626) As used in NRS 284.362:

1. "Lengthy convalescence" means a period of disability which an attending physician expects to exceed 10 consecutive weeks.

2. "Life threatening" means a condition which is diagnosed by a physician as creating a substantial risk of death.

(Added to NAC by Dep't of Personnel, eff. 8-14-90; A by R146-01, 1-18-2002)

NAC 284.576 Catastrophic leave: Use and administration; appeal of denial. (NRS 284.065, 284.155, 284.3621, 284.3626)

1. An account for catastrophic leave may be established for an employee when he or she or a member of his or her immediate family experiences a catastrophe and the employee has used all of his or her accrued leave.

2. An employee who is affected by a catastrophe and has used or is about to use all of his or her leave may request, on the appropriate form, the transfer of leave to an account for catastrophic leave for his or her personal use after the balance of all of his or her leave has been used. Such a request must be accompanied by a statement from a physician on a form provided by the Committee on Catastrophic Leave created pursuant to NRS 284.3627 which substantiates the necessity of the leave.

3. When a member of the immediate family of an employee is affected by a catastrophe, the appointing authority of the employee may require substantiating evidence that the member of the immediate family requires the employee's attendance before approving the transfer of leave to an account for catastrophic leave for use by the employee. Such evidence may include a statement by an attending physician regarding the status of the catastrophe.

4. The appointing authority shall approve or deny a request for catastrophic leave, taking into consideration the nature of the catastrophe and the expected duration of the leave. The decision of the appointing authority may be appealed to the Committee on Catastrophic Leave pursuant to NRS 284.3629.

5. An employee who wishes to donate hours to an account for catastrophic leave for use by another employee who has been approved to receive the donated hours shall notify his or her appointing authority on the appropriate form of his or her intent to donate the leave. The appointing authority of the employee donating the leave shall submit a copy of the form to the appointing authority of the employee receiving the leave. The appointing authority of the recipient shall use the notice to effect a transfer of leave from the account of the donor to the account of the recipient when the recipient needs to use those hours. If more than one notice of

intent to donate leave is received by the recipient's appointing authority on behalf of the recipient, the notices must be maintained in chronological order and used, one at a time as needed, according to the date in which they were received.

6. A donor and his or her appointing authority must be notified on the appropriate form when the donated leave specifically designated for use by another employee has been used or if the amount of leave donated is in excess of the amount approved for use by the recipient. ***Except as otherwise provided in this subsection, excess*** leave must be restored to the account of the donor within 30 working days after the last day on which the recipient was eligible to receive catastrophic leave.

If the donor is separated from state service before the excess leave is restored pursuant to this subsection, the excess leave must be transferred to the account for catastrophic leave of the appointing authority of the donor when the donation of leave was made.

7. The appointing authority shall provide the following information on a calendar year basis or as requested by the Administrator:

(a) Each employee under its authority, identified by a number assigned in accordance with subsection ***8,*** donating or using catastrophic leave, his or her grade and rate of pay and the number of hours and dollar value of the leave donated, excluding any excess leave restored to the account of a donor, pursuant to subsection ***6,*** or used by the employee; ***and***

(b) The period and nature of the disability for each employee using catastrophic leave.

8. The appointing authority shall assign numbers to employees for the purposes of subsection ***7*** in a sequential order and in such a manner that ensures the confidentiality of the identity of those employees.

9. Hours donated to an account for catastrophic leave must be donated in increments of 8 hours.

10. As used in this section, "immediate family" has the meaning ascribed to it in NAC 284.562.

(Added to NAC by Dep't of Personnel, eff. 10-18-89; A 8-14-90; 3-23-94; R146-01, 1-18-2002; A by Personnel Comm'n by R145-05, 12-29-2005***; R136-12, 10-4-2013)***

NAC 284.577 Catastrophic leave: Repayment for hours used; receipt of workers' compensation benefits. (NRS 284.065, 284.155, 284.175, 284.345, 284.3626)

1. Except as otherwise provided in subsection 2, an employee who has used hours from an account for catastrophic leave may voluntarily repay the account for those hours.

2. An employee who is entitled to catastrophic leave and workers' compensation benefits may not receive more than 100 percent of his or her pay for the period of the leave. An employee must repay the account for catastrophic leave when the combined benefit of catastrophic leave and workers' compensation exceeds his or her normal rate of pay.

3. The amount required to repay the hours from an account for catastrophic leave must be based on the employee's normal rate of pay at the time he or she used the hours.

(Added to NAC by Dep't of Personnel, eff. 11-16-95; A by Personnel Comm'n by R069-02, 8-14-2002)

NRS 284.360 states in part, "Leave of absence without pay.

1. Any person holding a permanent position in the classified service may be granted a leave of absence without pay. Leave of absence may be granted to any person holding a position in the classified service to permit acceptance of an appointive position in the unclassified service. Leave of absence must be granted to any person holding a position in the classified service to permit acceptance of a position in the Legislative Branch during a regular or special session of the Legislature, including a reasonable period before and after the session if the entire period of employment in the Legislative Branch is continuous.

2. If a person is granted a leave of absence without pay to permit acceptance of an appointive position in the unclassified service or a position in the Legislative Branch, any benefits earned while the person is in the:

(a) Classified service are retained and must be paid by the employer in the classified service, whether or not the person returns to the classified service.

(b) Unclassified service or employed by the Legislative Branch are retained and must be paid by the appointing authority in the unclassified service or by the Legislative Branch, if the person does not return to the classified service, or by the employer in the classified service, if the person returns to the classified service.

3. Any person in the unclassified service, except members of the academic staff of the Nevada System of Higher Education, may be granted by the appointing authority a leave of absence without pay for a period not to exceed 6 months.

4. Officers and members of the faculty of the Nevada System of Higher Education may be granted leaves of absence without pay as provided by the regulations prescribed pursuant to subsection 2 of NRS 284.345.

5. Except as otherwise provided in subsection 6, a person in the classified or unclassified service who:

(a) Is the natural parent of a child who is less than 6 months old; or

(b) Has recently adopted a child,

must be granted, upon request, a leave of absence without pay for a period not to exceed 12 weeks. Such a request by natural parents must be submitted at least 3 months before the date upon which the requested leave will begin, unless a shorter notice is approved by the employer. Such a request by adoptive parents must be submitted not fewer than 2 working days after the parents receive notice of the approval of the adoption. This subsection does not affect the rights of an employee set forth in NRS 284.350 or 284.355.

6. The provisions of subsection 5 are effective only if the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq., or a subsequent federal law ceases to provide for a parental leave of absence of at least 12 weeks."

NAC 284.5775 Temporary total disability: Use of sick leave, compensatory time, annual leave and catastrophic leave; leave of absence without pay. (NRS 284.065, 284.155, 284.345, 284.350, 284.355, 284.3626) An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may:

1. Elect to receive payment for all or part of the difference between his or her normal pay and the benefits received by:

(a) Using his or her accrued sick leave as provided in subsection 1 or 3 of NRS 281.390;

(b) Using his or her accrued compensatory time;

(c) Using his or her accrued annual leave if he or she:

(1) Is on family and medical leave for a serious health condition that prevents him or her from performing one or more of the essential functions of his or her position; or

(2) Elected to use his or her accrued sick leave pursuant to NRS 281.390 and has exhausted all of his or her accrued sick leave; or

(d) Using catastrophic leave if he or she has exhausted all of his or her accrued annual leave, sick leave and compensatory time and his or her request for catastrophic leave has been approved pursuant to NAC 284.576; or

2. Elect to be placed on leave of absence without pay in accordance with subsection 5 of NRS 281.390.

(Added to NAC by Dep't of Personnel by R031-98, eff. 4-17-98; A by R082-00, 8-2-2000)

NAC 284.5777 Temporary total disability: Workers' compensation travel leave to receive medical treatment (NRS 284.065, 284.155, 284.175, 284.345)

1. An appointing authority shall grant leave to an employee in the classified or unclassified service of the State to receive medical treatment for a work-related injury or occupational disease if the employee:

(a) Qualified for benefits for a temporary total disability pursuant to NRS 616C.475; and

(b) After returning to work, is required to travel more than 50 miles one way from his or her place of employment to receive such medical treatment.

2. An appointing authority shall pay an employee who is granted leave pursuant to subsection 1:

(a) If he or she is a nonexempt employee, his or her regular hourly rate of pay for each hour that he or she is absent from his or her place of employment for such leave.

(b) If he or she is an exempt classified employee or an exempt unclassified employee and is absent from his or her place of employment for a full day for such leave, his or her regular rate of pay for each such day.

3. Leave granted pursuant to this section must be taken as workers' compensation travel leave and must not be deducted from any sick leave, annual leave, compensatory leave or any other personal leave that may be available to the employee.

(Added to NAC by Personnel Comm'n by R221-05, eff. 2-23-2006)

NAC 284.578 Leave of absence without pay. (NRS 284.065, 284.155, 284.345, 284.360)

1. Except as otherwise provided in NRS 284.360, an appointing authority may grant a leave of absence without pay to an employee for not more than 1 year for any satisfactory reason.

2. The Commission may grant leaves of absence without pay in excess of 1 year for purposes deemed beneficial to the public service.

3. An appointing authority may require an employee on leave of absence without pay to submit every 2 weeks a statement of his or her intent to return to work.

4. If the reason for granting the leave no longer exists, the appointing authority may revoke the leave after notifying the employee in writing and allowing, so far as is practicable, not less than 5 working days after the date of notification for the employee to return to work.

5. An employee shall request leave without pay at least 30 days in advance of when the need for the leave is foreseeable, if practicable.

6. An employee may not use leave without pay in lieu of sick leave or annual leave without approval of the appointing authority.

7. An employee who is using leave pursuant to the Family and Medical Leave Act may not use leave without pay until the employee has exhausted all the accrued sick leave, accrued annual leave, accrued compensatory time and catastrophic leave that the employee is eligible to use based on the nature of the absence, as required by NAC 284.5811.

[Personnel Div., Rule VII § E subsecs. 1-4, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; 10-27-97; A by Personnel Comm'n by R145-05, 12-29-2005; R060-09, 11-25-2009)

NAC 284.580 Leave of absence without pay during fiscal emergency of State or agency. (NRS 284.065, 284.155, 284.175, 284.345, 284.360)

1. Upon the request of an appointing authority, the Department of Administration may authorize the appointing authority to place a nonexempt employee on a leave of absence without pay for a fiscal emergency of the State or an agency during any period for which the Governor has declared that the State or an agency will experience a shortfall in revenue or for any other reason is in a state of fiscal emergency.

2. All employees in the same classification must be treated equitably with respect to being placed on a leave of absence without pay pursuant to this section unless an employee volunteers to be placed on such a leave of absence.

3. The appointing authority shall reduce the pay of an employee who is placed on a leave of absence without pay pursuant to subsection 1 by an amount equal to the pay that the employee would otherwise receive for the hours for which the leave is approved.

4. The hours for which payment is withheld pursuant to subsection 3:

(a) Must be treated as hours in paid status for the purposes of NAC 284.182, 284.255, 284.282, 284.448, 284.538, 284.5385, 284.544 and 284.614.

(b) Must not be considered as time worked in calculating overtime.

5. Regardless of whether an employee volunteers to be placed on a leave of absence pursuant to subsection 1, after notifying the employee in writing and allowing a reasonable period for the employee to return to work, an appointing authority:

(a) Shall revoke the placement of any employee on a leave of absence without pay pursuant to subsection 1 upon a declaration by the Governor that the fiscal emergency no longer exists.

(b) May revoke the placement of any employee on any leave of absence without pay pursuant to subsection 1 for any other bona fide reason.

(Added to NAC by Dep't of Personnel, eff. 9-16-92; A 11-12-93; 3-23-94; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.581 Adoption by reference of federal law and regulations. (NRS 284.065, 284.155, 284.345)

1. For the purposes of NAC 284.523 to 284.598, inclusive, the Division of Human Resource Management hereby adopts by reference:

(a) The Family and Medical Leave Act of 1993 (Public Law 103-3), as amended.

(b) The Fair Labor Standards Act of 1938, as amended, and 29 C.F.R. Part 541.

2. A copy of the Family and Medical Leave Act, the Fair Labor Standards Act or 29 C.F.R. Part 541 may be obtained at no charge from the United States Government, Wage and Hour Division, P.O. Box 3136, Reno, Nevada 89505-3136, telephone (775) 784-5200, or from the United States Government, Wage and Hour Division, 1050 Flamingo Road, Suite 321, Las Vegas, Nevada 89119, telephone (702) 699-5581.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000)

INFORMATIONAL NOTE: Based on the federal Family and Medical Leave Act (29. C.F.R. § 825.110 (b)(3)), catastrophic leave should be counted when determining the employee's 12 months of employment for FMLA eligibility. However, catastrophic leave is not counted in the calculation when determining if the employee has "worked" 1,250 hours in the previous 12 months. The hours an employee was in "paid status" (NAC 284.0742) are used to determine the hours "worked".

NAC 284.5811 Family and medical leave: Maximum amount in 12-month period; eligibility; use. (NRS 284.065, 284.155, 284.345, 284.350, 284.355, 284.3626)

1. Except as otherwise provided in subsection 2, an employee who is entitled to take leave pursuant to the Family and Medical Leave Act is limited to a total of 12 weeks of such leave during a rolling 12-month period. The rolling 12-month period is measured backward from the date an employee uses any leave pursuant to the Family and Medical Leave Act.

2. An employee who is entitled to take leave pursuant to the Family and Medical Leave Act to care for a covered service member is limited to a total of 26 weeks of such leave during a single 12-month period.

3. To calculate eligibility for leave pursuant to the Family and Medical Leave Act, each hour that an employee is in paid status in the 12-month period immediately preceding the leave must be considered as time worked.

4. Except as otherwise provided in ***subsections*** 5 ***and 6,*** an employee who meets the requirements for eligibility for and who is taking leave pursuant to the Family and Medical Leave Act must exhaust all the accrued sick leave, accrued annual leave, accrued compensatory time and catastrophic leave that the employee is eligible to use based on the nature of the absence before using leave without pay. Any accrued sick leave, accrued annual leave, accrued compensatory time, catastrophic leave and holiday pay to which the employee is entitled pursuant to NAC 284.255 runs concurrently with the leave granted pursuant to the Family and Medical Leave Act if the employee is otherwise eligible for that sick leave, annual leave, compensatory time, catastrophic leave or holiday pay.

5. If an employee is absent from work as the result of a work-related injury or illness and meets the requirements for eligibility for leave due to a serious health condition pursuant to the Family and Medical Leave Act:

(a) Any amount of time that the employee is absent from work during that period will be designated as leave pursuant to the Family and Medical Leave Act; and

(b) The employee may elect to use paid leave or leave without pay for the portion of time that he or she is not being compensated for the work-related injury or illness.

6. ***If an employee is absent from work as the result of a non work-related injury or illness, the employee is receiving compensation for the injury or illness from a disability benefit plan and the employee meets the requirements for eligibility for leave due to a serious health condition pursuant to the Family and Medical Leave Act:***

(a) Any amount of time that the employee is absent from work during that period will be designated as leave pursuant to the Family and Medical Leave Act; and

(b) The employee may use paid leave for the time that the employee is being compensated for the non-work related injury or illness if the employee has entered into an agreement with the appointing authority to use the paid leave. If the employee and the appointing authority have not entered into such an agreement, the employee may not elect to use and the appointing authority may not require the employee to use paid leave for that time.

7. An appointing authority may require an employee to provide medical or other appropriate documentation to support his or her need for leave pursuant to the Family and Medical Leave Act.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R096-03, 10-30-2003; R145-05, 12-29-2005; R060-09, 11-25-2009***; R021-13, 10-23-2013)***

NAC 284.5813 Family and medical leave: Records. (NRS 284.065, 284.155, 284.345) Each appointing authority shall maintain accurate records of family and medical leave used by its employees, including any form approved for requesting family and medical leave.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; 3-1-96; R082-00, 8-2-2000)

NRS 6.190 Terminating or threatening to terminate employment because of jury duty prohibited; civil action for unlawful termination; requiring employee to use sick leave or vacation time or to work certain hours prohibited; notice to employer; dissuasion from service as juror.

1. Any person, corporation, partnership, association or other entity who is:

(a) An employer; or

(b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment,

➥of a person who is a juror or who has received a summons to appear for jury duty, and who deprives the juror or person summoned of his employment, as a consequence of his service as a juror or prospective juror, or who asserts to the juror or person summoned that his service as a juror or prospective juror will result in termination of his employment, is guilty of a gross misdemeanor.

2. A person discharged from employment in violation of subsection 1 may commence a civil action against his employer and obtain:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits;

(c) Damages equal to the amount of the lost wages and benefits;

(d) Reasonable attorney's fees fixed by the court; and

(e) Punitive or exemplary damages in an amount not to exceed $50,000.

3. If a person is summoned to appear for jury duty, the employer and any employee, agent or officer of the employer shall not, as a consequence of the person's service as a juror or prospective juror:

(a) Require the person to use sick leave or vacation time; or

(b) Require the person to work:

(1) Within 8 hours before the time at which he is to appear for jury duty; or

(2) If his service has lasted for 4 hours or more on the day of his appearance for jury duty, including his time going to and returning from the place where the court is held, between 5 p.m. on the day of his appearance for jury duty and 3 a.m. the following day.

➥Any person who violates the provisions of this subsection is guilty of a misdemeanor.

4. Each summons to appear for jury duty must be accompanied by a notice to the employer of the person summoned. The notice must inform the employer that the person has been summoned for jury duty and must include a copy of the provisions of subsections 1, 2 and 3. The person summoned, if he is employed, shall give the notice to his employer at least 3 days before he is to appear for jury duty.

5. Except as otherwise provided in this section, any person who in any manner dissuades or attempts to dissuade a person who has received a summons to appear for jury duty from serving as a juror is guilty of a misdemeanor.

NRS 50.070 Termination or threat of termination of employment because of service as witness prohibited; penalty; remedies.

1. Any person, corporation, partnership, association or other entity who is:

(a) An employer; or

(b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment,

➥ of a person who is a witness or who has received a summons to appear as a witness in a judicial or administrative proceeding, who deprives the witness or person summoned of his or her employment, as a consequence of his or her service as a witness or prospective witness, or who asserts to the witness or person summoned that his or her service as a witness or prospective witness will result in termination of his or her employment, is guilty of a misdemeanor.

2. A person discharged from employment in violation of subsection 1 may commence a civil action against his or her employer and obtain:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits;

(c) Damages equal to the amount of the lost wages and benefits; and

(d) Reasonable attorney's fees fixed by the court.

(Added to NRS by 1981, 366; A 1995, 209)

NAC 284.582 Civil leave with pay to serve on jury or as witness. (NRS 284.065, 284.155, 284.175, 284.345)

1. Except as otherwise provided in subsection 2, civil leave with pay must be granted to any employee who is required, during his or her normal hours of work, to serve:

(a) On a jury; or

(b) As a witness in a court or at an administrative hearing if he or she is not a party to the action and the action is not related to his or her job.

➥ The period of the leave must not be deducted from the balance of the employee's sick leave or annual leave. An employee who is granted the leave must receive his or her regular pay while on the leave and may retain any fee paid to him or her for serving as a juror or witness.

2. If an employee, in his or her official capacity as a state employee and as part of his or her required duties, serves as a witness during his or her regular working hours, the employee shall accept any witness fee offered and relinquish it to the agency by which he or she is employed.

3. If an employee is paid travel expenses and subsistence allowances by the court or public agency for which he or she performs service as a witness, the employee may retain that payment only if the State has not provided payment for the same purpose. If the State has provided such a payment, the employee shall relinquish it to the agency by which he or she is employed.

4. In accordance with NRS 6.190, an agency shall attempt to adjust the working hours of employees who work night shifts and are called as witnesses or for jury duty during the day. If an agency feels this is impractical, in the case of jury duty, it shall petition the court to excuse the juror.

[Personnel Div., Rule VII § E subsec. 5, eff. 8-11-73]—(NAC A by Dep't of Personnel, 12-13-83, 10-26-84; 5-27-86; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005; R203-07, 4-17-2008)

NRS 293.463 states, "Employees may absent themselves from employment to vote: Procedure; penalty.

1. Any registered voter may absent himself or herself from his or her place of employment at a time to be designated by the employer for a sufficient time to vote, if it is impracticable for the voter vote before or after his or her hours of employment. A sufficient time to vote shall be determined as follows:

(a) If the distance between the place of such voter's employment and the polling place where such person votes is 2 miles or less, 1 hour.

(b) If the distance is more than 2 miles but not more than 10 miles, 2 hours.

(c) If the distance is more than 10 miles, 3 hours.

2. Such voter may not, because of such absence, be discharged, disciplined or penalized, nor shall any deduction be made from his usual salary or wages by reason of such absence.

3. Application for leave of absence to vote shall be made to the employer or person authorized to grant such leave prior to the day of the election.

4. Any employer or person authorized to grant the leave of absence provided for in subsection 1, who denies any registered voter any right granted under this section, or who otherwise violates the provisions of this section, is guilty of a misdemeanor."

NAC 284.586 Civil leave with pay to vote. (NRS 284.065, 284.155, 284.345) Civil leave with pay must be granted to allow an employee time off to vote subject to the conditions established in NRS 293.463. If an employee determines he or she will need time off to vote, he or she must submit a request for civil leave with pay to the person authorized to grant such leave before the day of the election.

[Personnel Div., Rule VII § E subsec. 7, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 281.147 states, "Leave of absence for duty as American National Red Cross disaster technician. Any public officer or employee of the State or any agency thereof, or of a political

subdivision or an agency of a political subdivision, who is classified by the American National Red Cross as a disaster technician must be relieved from the officer's or employee's duties, upon the request of the American National Red Cross and the approval of the employer of the officer or employee, to assist the American National Red Cross during an emergency or disaster described in NRS 414.020 which occurs in this state or California, Oregon, Idaho, Utah or Arizona, without loss of the officer's or employee's regular compensation for a period of not more than 15 working days in any calendar year. No such absence may be a part of the annual vacation of the public officer or employee which is provided for by law."

NRS 284.357 states, "Deduction from salary for service during working hours as volunteer firefighter, volunteer medical technician, volunteer reserve member of police department or sheriff's office or volunteer ambulance driver or attendant prohibited.

1. All employees, whether in the classified or in the unclassified service of the State of Nevada, must be paid their salaries as fixed by law without diminution on account of any time spent away from state employment while acting as:

(a) Volunteer firefighter of any regular organized and recognized fire department in the protection of life or property;

(b) Volunteer emergency medical technicians certified pursuant to chapter 450B of NRS;

(c) Volunteer reserve members of a police department or a sheriff's office; or

(d) Volunteer ambulance drivers or attendants,

➥ during working hours or fractions thereof which should otherwise have been devoted to state employment.

2. As used in this section, "volunteer ambulance driver or attendant" means a person who is a driver of or attendant on an ambulance owned or operated by:

(a) A nonprofit organization that provides volunteer ambulance service in any county, city or town in this state; or

(b) A political subdivision of this state."

NAC 284.587 Civil leave with pay for certain volunteers or when absence is necessary to meet disaster or emergency. (NRS 284.065, 284.155, 284.345) Civil leave with pay must be granted to an employee who meets the requirements of NRS ***284.149 or*** 284.357, and may also be granted by the appointing authority to an employee whose absence from the job is necessary to meet a ***state of emergency or declaration of*** disaster ***proclaimed by the Governor or by resolution of the Legislature pursuant to NRS 414.070.***

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R146-01, 1-18-2002***; R133-12, 10-4-2013)***

NRS 284.345 Regulations for attendance and leave of absence; personnel of Nevada System of Higher Education.

1. Except as otherwise provided in subsection 2, the Commission shall adopt regulations for attendance and leave with or without pay or reduced pay in the various classes of positions in the public service.

2. The Board of Regents of the University of Nevada shall adopt regulations for attendance and for leave with or without pay or with reduced pay, sabbatical leave, sick leave, emergency leave, annual leave, terminal leave, military leave and such other leave as the Board of Regents determines to be necessary or desirable for officers and members of the faculty of the Nevada System of Higher Education. Sabbatical leave with pay may not be granted to more than 2 percent of the teaching personnel of a branch or facility of the System with the rank of instructor or higher in any 1 year. No sabbatical leave with pay may be granted unless the person requesting the leave agrees in writing with the branch or facility to return to the branch or facility after the leave for a period not less than that required by the person's most recent contract of employment if the Nevada System of Higher Education desires the person's continued service.

NAC 284.589 Administrative leave with pay. (NRS 284.065, 284.155, 284.345, 284.383, 284.385, 284.390)

1. An appointing authority may grant administrative leave with pay to an employee:

(a) To relieve the employee of his or her duties during the active investigation of a suspected criminal violation or the investigation of alleged wrongdoing;

(b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his or her position;

(c) For up to 30 days to remove the employee from the workplace when he or she has committed or threatened to commit an act of violence;

(d) For up to 2 hours to donate blood; or

(e) To relieve the employee of his or her duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.

2. The appointing authority, upon approval of the Risk Management Division, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.

3. If an employee is granted administrative leave with pay pursuant to subsection 1 or 2, the employee must be available:

(a) By telephone to the supervisor of the employee; and

(b) To report to a work site or another location, as directed by the supervisor of the employee, ➥ during regular business hours.

4. Except as otherwise provided in subsection 5, an appointing authority or the Division of Human Resource Management may grant administrative leave with pay to an employee for any of the following purposes:

(a) His or her participation in, or attendance at, activities which are directly or indirectly related to the employee's job or employment with the State but which do not require him or her to participate or attend in an official capacity as a state employee.

(b) Closure of the employee's office or work site caused by a natural disaster, pandemic or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

(c) Closure, as a result of a pandemic, of a school or a center or facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result of a pandemic, of a program attended by the employee's dependent child. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

(d) His or her appearance as an aggrieved employee or a witness at a hearing of the Committee.

(e) His or her appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the Division of Human Resource Management.

(f) His or her appearance to provide testimony at a meeting of the Commission.

5. An appointing authority or the Division of Human Resource Management shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (d), (e) or (f) of subsection 4 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed to testify at the hearing or meeting;

(b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and

(c) The absence of the employee will not cause an undue hardship to the operations of the appointing authority or adversely impact the provision of services to clients or to the public.

6. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:

(a) The initial appointment and one follow-up appointment if the employee receives counseling through an employee assistance program.

(b) His or her attendance at a health fair which has been authorized by the Board of the Public Employees' Benefits Program.

(c) His or her participation in an official capacity as a member of a committee or board created by statute on which he or she serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.

(d) Up to 8 hours for preparation for all hearings regarding a suspension, demotion or dismissal of the employee as provided in NAC 284.6561.

(e) Up to 8 hours for preparation for all hearings regarding an involuntary transfer of the employee.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; A by Personnel Comm'n by R038-03, 10-30-2003; R183-03, 1-27-2004; R145-05, 12-29-2005; R141-07, 1-30-2008; R061-09 & R081-09, 10-27-2009; R063-09, 11-25-2009; R058-10, 10-15-2010)

NRS 281.1275 Reduction in salary of certain public officers and employees for part-day absence from work prohibited; accounting for part-day absence; exception.

1. Except as permitted by the federal Family and Medical Leave Act of 1993, the salary of a public officer or employee of the state or any agency thereof, or of a political subdivision or any agency thereof, who is not entitled pursuant to federal or state law, local ordinance, or policy or contract of employment to earn overtime at the rate of time and one-half, must not be reduced for an absence from work for part of a day.

2. The provisions of this section do not apply to an officer or employee of the Legislative Branch of Government, except an officer or employee of the legislative library.

NAC 284.5895 Accounting for absences of exempt classified and unclassified employees. (NRS 284.065, 284.155, 284.345)

1. An absence of an exempt classified employee or exempt unclassified employee for a full workday shall be deemed to be an absence for a period equal to his or her regularly scheduled hours of employment on that workday.

2. Except when an absence for part of a workday is authorized for family and medical leave, an exempt classified employee or exempt unclassified employee must only account for an absence of one or more full workdays by the use of leave appropriate to the absence and is not required to account for any absence for part of a workday.

3. An exempt classified employee or exempt unclassified employee must not account for an absence for a full workday by the use of a combination of accrued sick leave and accrued annual leave unless he or she:

(a) Is on family and medical leave; or

(b) Has been approved for catastrophic leave and the catastrophic leave is used as a supplement for the remaining sick and annual leave.

4. If an exempt classified employee or exempt unclassified employee does not have accrued leave appropriate to the absence in an amount sufficient to account for an authorized absence, the employee must be placed on leave of absence without pay for that workday unless he or she is approved to use catastrophic leave.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 281.145 Leave of absence for military duty. Any public officer or employee of the State or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is an active member of the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Air Force Reserve, or the Nevada National Guard must be relieved from the officer's or employee's duties, upon the officer's or employee's request, to serve under orders without loss of the officer's or employee's regular compensation for a period of not more than 15 working days in any 1 calendar year. No such absence may be a part of the employee's annual vacation provided for by law.

NRS 284.359 Military leave of absence; reinstatement. A permanent or probationary employee who performs active military service under the provisions of any national military service or training act, or who voluntarily serves in the Armed Forces of the United States in time of war, or in such types of service as the Commission by regulation may prescribe, is, upon application, entitled to leave of absence without pay for the period of such service plus a period not to exceed 90 days. If within that period the employee applies for reinstatement, the employee must be reinstated to the employee's former class of position, or to a class of position having like seniority, status and pay, or, if those positions have been abolished, to the nearest approximation thereof consistent with the circumstances.

NAC 284.594 Unauthorized and unreported absences. (NRS 284.065, 284.155, 284.175, 284.345)

1. An unauthorized and unreported absence must be considered an absence without leave and a deduction of pay must be made for the absence.
2. An unauthorized or unreported absence may be considered an absence without leave, and a deduction of pay may be made for the absence.
3. An employee who has an unauthorized or unreported absence may be subject to disciplinary action pursuant to NAC 284.646 or 284.650.
4. A deduction from the pay of an exempt classified employee or exempt unclassified employee must be made in increments of a full workday.

[Personnel Div., Rule VII § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 1-26-87; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005; R062-09, 10-27-2009)

NAC 284.598 Breaks in continuous service. (NRS 284.065, 284.155) The following are not breaks in continuous service:

1. Military leave for active service if the person returns from leave within 90 calendar days after an honorable discharge from military service.
2. A layoff if the employee is reemployed within 1 year after the date he or she was laid off.
3. A seasonal layoff if the employee is reemployed within 1 year after the end of the previous seasonal appointment.
4. A separation as a result of a permanent disability arising from a work-related injury or occupational disease, if the employee is reemployed within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013.

[Personnel Div., Rule VII § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 8-26-83; 4-19-88; 3-1-96; A by Personnel Comm'n by R022-05, 10-31-2005; R142-05 & R145-05, 12-29-2005)

INFORMATIONAL NOTE: Certain personnel actions, such as transfers, authorized leave without pay and those separations listed above in NAC 284.598, do not constitute a break in continuous service but may result in adjustments to pay, benefits computation of seniority, and/or probationary periods as provided in this chapter.

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WORK-RELATED INJURIES AND OCCUPATIONAL DISEASES

INFORMATIONAL NOTE: See also NRS 616A to 616D, and NRS 617.

NAC 284.600 Definitions. (NRS 284.065, 284.155) As used in NAC 284.600 to 284.6019, inclusive, unless the context otherwise requires:

1. "Employee" means an employee who is in the classified service of the State. The term does not include an employee of the Nevada System of Higher Education who is in a temporary appointment as described in subsection 4 of NRS 284.325.

2. "Regular position" means the position an employee held at the time:

(a) Of his or her work-related injury; or

(b) He or she became aware of his or her occupational disease and its relationship to his or her employment in the classified service of the State.

(Added to NAC by Dep't of Personnel, eff. 7-1-94; A 3-1-96; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6002 Physical assessments. (NRS 284.065, 284.155)

1. An appointing authority shall require an employee who has a work-related injury or occupational disease to submit to the appointing authority a physical assessment prepared by the employee's treating physician or chiropractor. The appointing authority may require the employee to submit a physical assessment after each visit to the physician or chiropractor or after only those visits designated by the appointing authority.

2. Each physical assessment must:

(a) Be reported on a form that provides at least the same information as the form for physical assessments prescribed by the Division of Industrial Relations of the Department of Business and Industry; and

(b) Contain all restrictions imposed on the employee's ability to work by the treating physician or chiropractor.

3. An employee who is required to submit a physical assessment shall deliver or mail the assessment to the appointing authority within 3 working days after the date of the employee's visit to his or her treating physician or chiropractor.

(Added to NAC by Dep't of Personnel, eff. 7-1-94; A by R082-00, 8-2-2000; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6004 Temporary assignment: Conditions for offer; termination; subsequent assignment; medical examination. (NRS 284.065, 284.155, 284.327)

1. The appointing authority shall prepare a written description of the duties of a temporary assignment to be offered to an employee with a work-related injury or occupational disease. If the employee's treating physician or chiropractor approves the return of the employee to work, the appointing authority shall offer, in writing, a temporary assignment that is modified according to any restrictions imposed by the employee's treating physician or chiropractor if:

(a) The restrictions prevent the employee from performing the duties of his or her regular position;

(b) The employee has an accepted or pending claim for compensation pursuant to NRS 616C.065 or 617.356;

(c) An appropriate temporary assignment is available;

(d) The temporary assignment is not prohibited by the source that funds the employee's regular position; and

(e) The employee would otherwise be employed by the appointing authority if he or she had not incurred the work-related injury or occupational disease.

2. A temporary assignment offered pursuant to subsection 1 must be terminated if any of the following occurs:

(a) Ninety days have elapsed after the date on which the employee began the assignment;

(b) The employee's treating physician or chiropractor certifies that the employee has permanent restrictions that prevent him or her from returning to his or her regular position;

(c) The assignment is no longer available;

(d) The employee's treating physician or chiropractor certifies that the employee can perform the duties of his or her regular position; or

(e) The employee terminates his or her employment or retires.

3. If the employee's claim for compensation pursuant to NRS 616C.065 or 617.356 is denied, the temporary assignment may be terminated at the discretion of the appointing authority.

4. An appointing authority may offer an employee who has a work-related restriction imposed by the employee's treating physician or chiropractor one subsequent temporary assignment if:

(a) The recovery period for the work-related injury or occupational disease continues to prevent the employee from performing all the duties of his or her regular position, but the employee is performing at least 51 percent of such duties; or

(b) The employee returns to work at his or her regular position but again becomes temporarily unable to perform the duties of the position due to restrictions imposed by the employee's treating physician or chiropractor because of the work-related injury or occupational disease.

5. The subsequent temporary assignment must be recommended by the appointing authority's insurer.

6. Any additional temporary assignment must be limited in accordance with subsection 2.

7. An employee with a work-related injury or occupational disease may be required to submit himself or herself for medical examination pursuant to the requirements set forth in NRS 616C.140 or 617.370 if his or her treating physician or chiropractor does not approve a temporary assignment to be offered to the employee.

(Added to NAC by Dep't of Personnel, eff. 7-1-94; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6008 Temporary assignment: Location; jurisdiction of appointing authority; effect of jurisdiction of another appointing authority; classification and payment of employee. (NRS 284.065, 284.155, 284.175, 284.327)

1. A temporary assignment offered to an employee pursuant to NAC 284.6004 must be located less than 25 miles from the location of his or her regular position, unless the employee accepts a temporary assignment in a different geographical location.

2. A temporary assignment offered to an employee must be under the jurisdiction of the employee's appointing authority if such an assignment is available. If such an assignment is not available, the appointing authority shall:

(a) Contact the Risk Management Division or the office of the Nevada System of Higher Education that assists with claims for a work-related injury or occupational disease;

(b) Contact the Division of Human Resource Management; and

(c) Determine if an appropriate temporary assignment is available under the jurisdiction of another appointing authority.

3. If the employee is offered a temporary assignment under the jurisdiction of another appointing authority, the employee shall be deemed to remain in his or her regular position as the temporary assignment does not constitute a transfer to that position.

4. For the duration of the temporary assignment, the duties assigned to the employee may not be used as a basis to:

(a) Reclassify the employee's regular position; or

(b) Reallocate the class in which the employee is employed.

5. An employee who accepts a temporary assignment offered pursuant to NAC 284.6004 is entitled to receive the base rate of pay he or she received for his or her regular position for the number of hours he or she works or is on paid leave during the temporary assignment. The appointing authority at the time of the work-related injury or occupational disease shall continue to pay the employee for the duration of the temporary assignment.

(Added to NAC by Dep't of Personnel, eff. 7-1-94; A by R147-01, 1-22-2002; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6012 Temporary assignment: Effect of family and medical leave. (NRS 284.065, 284.155, 284.327, 284.345) Except as otherwise provided by the Family and Medical Leave Act, an employee who is granted family and medical leave because a work-related injury or occupational disease prevents him or her from performing one or more of the essential duties of his or her regular position:

1. Is not required to accept a temporary assignment offered pursuant to NAC 284.6004.

2. May voluntarily accept a temporary assignment pursuant to NAC 284.6004. An employee who voluntarily accepts such a temporary assignment retains a limited right to be returned to the position he or she held before the temporary assignment or an equivalent position subject to the provisions set forth in the Family and Medical Leave Act.

(Added to NAC by Dep't of Personnel, eff. 7-1-94; A 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6013 Determination of effective date of permanent disability. (NRS 284.065, 284.155) For the purposes of NAC 284.6013 to 284.6019, inclusive, the effective date an employee shall be deemed to have a permanent disability arising from a work-related injury or occupational disease is the date the insurer delivers notice to the employee stating that his or her treating physician or chiropractor has informed the insurer pursuant to NRS 616C.490 that the employee has permanent restrictions which prevent him or her from returning to work in his or her regular position.

(Added to NAC by Dep't of Personnel, eff. 3-1-96; A by R197-99, 1-26-2000; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6014 Eligibility of employee with permanent disability for reemployment. (NRS 284.065, 284.155, 284.305)

1. An employee is eligible for reemployment under this section if:

(a) He or she is a permanent employee;

(b) He or she would otherwise have continued in his or her regular position;

(c) He or she is unable to perform the essential functions of his or her regular position, even with reasonable accommodation, because he or she has a permanent disability arising from a work-related injury or occupational disease;

(d) The Risk Management Division receives notification from the insurer certifying that the employee has a medical condition which, in the opinion of the medical adviser to the insurer, will result in a permanent partial disability;

(e) The Risk Management Division receives notification from the insurer certifying that the employee has permanent physical restrictions as a result of the permanent disability and that he or she is eligible for vocational rehabilitation benefits;

(f) The Risk Management Division receives notification from the insurer certifying that the employee's claim for benefits from the insurer is not being contested through the hearing and appeal process provided pursuant to chapters 616A to 617, inclusive, of NRS; and

(g) He or she submits to the Division of Human Resource Management a completed job development form supplied by the Division of Human Resource Management not later than 30 days after the date on which he or she sustained the permanent disability.

2. A person is entitled to reemployment under this section only within the department that employed him or her at the time he or she sustained the permanent disability. Such entitlement to reemployment applies to the class and option of his or her regular position and to any class for which the employee qualifies that does not exceed the grade level of his or her regular position.

3. A person is entitled to reemployment under this section only in a full-time position if his or her regular position was on a full-time basis. A person whose regular position was on a part-time, seasonal or intermittent basis only is entitled to reemployment on the same basis as his or her regular position. A person who is entitled to reemployment on a full-time basis may be reemployed on either a full-time or part-time basis, as appropriate, based on his or her permanent physical restrictions as certified by the insurer.

4. The employee, his or her appointing authority and his or her vocational rehabilitation counselor shall provide any necessary information for job development and reemployment on the forms prescribed by the Division of Human Resource Management.

(Added to NAC by Dep't of Personnel, eff. 3-1-96; A by R197-99, 1-26-2000; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6015 Risk Management Division to provide certain information regarding permanent disability of employee to Division of Human Resource Management and appointing authority. (NRS 284.065, 284.155) The Risk Management Division shall provide to the Division of Human Resource Management and to an employee's appointing authority the following information regarding the employee when the information becomes known to the Risk Management Division:

1. The date on which the employee sustained a permanent disability arising from a work-related injury or occupational disease;

2. The date on which the employee will no longer be eligible for vocational rehabilitation benefits;

3. Any written agreement signed by the employee for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation benefits; and

4. Any determination by the insurer that the employee is not entitled to compensation for a permanent partial disability.

(Added to NAC by Dep't of Personnel, eff. 3-1-96; A by R197-99, 1-26-2000; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.6017 Placement on reemployment list of name of employee with permanent disability. (NRS 284.065, 284.155, 284.250, 284.305)

1. The name of a person who is eligible for reemployment pursuant to NAC 284.6014 will be placed on a reemployment list in the order of seniority and, if applicable, will be integrated with the names of employees who are placed on a reemployment list pursuant to NAC 284.630, whenever there is a list certified to the department that employed the person in his or her regular position.

2. The Division of Human Resource Management will use the same criteria for determining seniority for placement on a reemployment list pursuant to subsection 1 as that used for determining the seniority for a layoff, except that the length of employment for determining seniority must be counted up to the date that the person sustained his or her permanent disability.

(Added to NAC by Dep't of Personnel, eff. 3-1-96)

NAC 284.6018 Status following reemployment of person with permanent disability; restoration of name to reemployment list following failure of such person to complete probationary period; rights of employee after expiration of his right to reemployment. (NRS 284.065, 284.155, 284.305)

1. An employee who is separated from state service and is reemployed pursuant to NAC 284.6014 in the same department, class and option as his or her regular position will have his or her permanent status restored immediately upon reemployment.

2. An employee who is reemployed pursuant to NAC 284.6014 in a class or option that is different from the class or option of his or her regular position must serve a new probationary period. If the employee does not complete the probationary period and is otherwise eligible for reemployment, his or her name must be restored to the appropriate reemployment list for any remaining part of the year following the date on which he or she sustained his or her permanent disability.

3. When the right to reemployment expires, the person affected retains the right to reinstatement or reappointment pursuant to NAC 284.386 or 284.404, respectively.

(Added to NAC by Dep't of Personnel, eff. 3-1-96)

NAC 284.6019 Limitations on eligibility for reemployment of person with permanent disability. (NRS 284.065, 284.155, 284.305)

1. Except as otherwise provided in NAC 284.6018, a person is no longer eligible for reemployment pursuant to NAC 284.6014:

(a) If he or she signs a written agreement providing for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation benefits, unless such an agreement is subsequently rescinded in the manner set forth in NRS 616C.595;

(b) When he or she is no longer eligible for vocational rehabilitation benefits;

(c) When it is determined that the employee is not entitled to compensation for a permanent partial disability;

(d) If he or she accepts an offer of employment with the State of Nevada or another employer which accommodates his or her permanent restrictions or he or she is otherwise unavailable for employment;

(e) If he or she declines an offer of employment which accommodates his or her permanent restrictions and which is located in the same geographical location as his or her regular position;

(f) If he or she is dismissed from the position in which he or she is reemployed for disciplinary reasons or because he or she retires;

(g) If he or she states the intention not to seek reemployment; or

(h) On or after the 1-year anniversary of the date on which he or she sustained his or her permanent disability as determined pursuant to NAC 284.6013.

2. Reemployment rights must not be offered more than one time for the same disability resulting from a work-related injury or occupational disease.

3. As used in this section, "geographical location" has the meaning ascribed to it in NAC 284.612.

(Added to NAC by Dep't of Personnel, eff. 3-1-96; A by Personnel Comm'n by R142-05, 12-29-2005)

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SEPARATIONS FROM SERVICE

NRS 286.510 states, "Eligibility: Age and service of police officers, firefighters and other employees; reduction of benefit for retirement before required age.

1. Except as otherwise provided in subsections 2 and 3, a member of the System:

(a) Who has an effective date of membership before January 1, 2010, is eligible to retire at age 65 if the member has at least 5 years of service, at age 60 if the member has at least 10 years of service and at any age if the member has at least 30 years of service.

(b) Who has an effective date of membership on or after January 1, 2010, is eligible to retire at age 65 if the member has at least 5 years of service, at age 62 if the member has at least 10 years of service and at any age if the member has at least 30 years of service.

2. A police officer or firefighter:

(a) Who has an effective date of membership before January 1, 2010, is eligible to retire at age 65 if the police officer or firefighter has at least 5 years of service, at age 55 if the police officer or firefighter has at least 10 years of service, at age 50 if the police officer or firefighter has at least 20 years of service and at any age if the police officer or firefighter has at least 25 years of service.

(b) Who has an effective date of membership on or after January 1, 2010, is eligible to retire at age 65 if the police officer or firefighter has at least 5 years of service, at age 60 if the police officer or firefighter has at least 10 years of service and at age 50 if the police officer or firefighter has at least 20 years of service.

➥ Only service performed in a position as a police officer or firefighter, established as such by statute or regulation, service performed pursuant to subsection 3 and credit for military service, may be counted toward eligibility for retirement pursuant to this subsection.

3. Except as otherwise provided in subsection 4, a police officer or firefighter who has at least 5 years of service as a police officer or firefighter and is otherwise eligible to apply for disability retirement pursuant to NRS 286.620 because of an injury arising out of and in the course of the police officer's or firefighter's employment remains eligible for retirement pursuant to subsection 2 if:

(a) The police officer or firefighter applies to the Board for disability retirement and the Board approves the police officer's or firefighter's application;

(b) In lieu of a disability retirement allowance, the police officer or firefighter accepts another position with the public employer with which the police officer or firefighter was employed when the police officer or firefighter became disabled as soon as practicable but not later than 90 days after the Board approves the police officer's or firefighter's application for disability retirement;

(c) The police officer or firefighter remains continuously employed by that public employer until the police officer or firefighter becomes eligible for retirement pursuant to subsection 2; and

(d) After the police officer or firefighter accepts a position pursuant to paragraph (b), the police officer's or firefighter's contributions are paid at the rate that is actuarially determined for police officers and firefighters until the police officer or firefighter becomes eligible for retirement pursuant to subsection 2.

4. If a police officer or firefighter who accepted another position with the public employer with which the police officer or firefighter was employed when the police officer or firefighter became disabled pursuant to subsection 3 ceases to work for that public employer before becoming eligible to retire pursuant to subsection 2, the police officer or firefighter may begin to receive a disability retirement allowance without further approval by the Board by notifying the Board on a form prescribed by the Board.

5. Eligibility for retirement, as provided in this section, does not require the member to have been a participant in the System at the beginning of the police officer's or firefighter's credited service.

6. Any member who has the years of creditable service necessary to retire but has not attained the required age, if any, may retire at any age with a benefit actuarially reduced to the required retirement age. Except as otherwise required as a result of NRS 286.537, a retirement

benefit pursuant to this subsection must be reduced:

(a) If the member has an effective date of membership before January 1, 2010, by 4 percent of the unmodified benefit for each full year that the member is under the appropriate retirement age, and an additional 0.33 percent for each additional month that the member is under the appropriate retirement age.

(b) If the member has an effective date of membership on or after January 1, 2010, by 6 percent of the unmodified benefit for each full year that the member is under the appropriate retirement age, and an additional 0.5 percent for each additional month that the member is under the appropriate retirement age.

➥ Any option selected pursuant to this subsection must be reduced by an amount proportionate to the reduction provided in this subsection for the unmodified benefit. The Board may adjust the actuarial reduction based upon an experience study of the System and recommendation by the actuary.

NRS 284.381 Limitation on revocation of resignation by employee. Once an employee's written resignation is accepted by his appointing authority, the employee may not revoke the resignation, regardless of the effective date set forth in it, if 3 or more working days have elapsed since its acceptance, unless the appointing authority approves the revocation.

NAC 284.602 Resignations. (NRS 284.065, 284.155)

1. Unless the appointing authority and employee agree to a shorter period of time, an employee who wishes to resign shall submit his or her resignation in writing at least 2 weeks before resigning and notify the appointing authority of the reason for and the effective date of the resignation. If an employee fails to comply with this subsection, the appointing authority may note the insufficient notice in the employee's file.

2. The employee shall report and the appointing authority shall acknowledge the resignation to the Division of Human Resource Management on a form provided by the Division of Human Resource Management. The form must contain a statement of the employee's right to revoke the resignation pursuant to NRS 284.381.

[Personnel Div., Rule XIII § A subsec. 1, eff. 8-11-73; A 2-5-82; Rule XIII § A part subsec. 2, eff. 8-11-73; A 4-14-76; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 12-17-87; R043-99, 9-27-99; A by Personnel Comm'n by R143-05, 12-29-2005)

NAC 284.608 Termination of seasonal employee. (NRS 284.065, 284.155) An employee in a seasonal position must receive at least 1 week's notice of separation due to lack of money or a lack of work. The provisions of this chapter which relate to layoffs, including rights of displacement, do not apply to seasonal separations.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NRS 392.920 Employer prohibited from threatening or taking retaliatory action against parent for parent's participation in certain school conferences and school-related activities; penalty; authorization for parent to file claim with Labor Commissioner.

1. It is unlawful for an employer or an agent of the employer to:

(a) Terminate the employment of, or to demote, suspend or otherwise discriminate against, a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the school attended by the child;

(2) Is notified during his or her work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to NRS 392.4577 if the employer is subject to the requirements of that section; or

(b) Assert to the person that his or her appearance or prospective appearance at such a conference, the receipt of such a notification during his or her work or leave taken pursuant to NRS 392.4577 will result in the termination of his or her employment or a demotion, suspension or other discrimination in the terms and conditions of the person's employment.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may file a claim or complaint with the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a claim or complaint. If the Labor Commissioner determines that the claim or complaint is valid and enforceable, the Labor Commissioner shall provide notice and opportunity for a hearing pursuant to NRS 607.205 to 607.215, inclusive.

4. If the Labor Commissioner issues a written decision in favor of the employee, the Labor Commissioner may award in addition to any remedies and penalties provided in chapters 607 and 608 of NRS:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits; and

(c) Damages equal to the amount of the lost wages and benefits.

NRS 62D.130 Terminating or threatening to terminate employment of parent or guardian for appearance at proceeding prohibited; penalty; civil remedy.

1. If a parent or guardian of a child gives the employer of the parent or guardian or an agent of the employer notice of an appearance with or on behalf of the child in any court, it is unlawful for the employer or the agent of the employer to:

(a) Terminate the employment of the parent or guardian, as a consequence of the parent's or guardian's appearance or prospective appearance in court; or

(b) Assert to the parent or guardian that the parent's or guardian's appearance or prospective appearance in court will result in the termination of the parent's or guardian's employment.

2. Any employer or agent of an employer who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A parent or guardian who is discharged from employment in violation of subsection 1 may commence a civil action against the employer of the parent or guardian and obtain:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits;

(c) Damages equal to the amount of the lost wages and benefits; and

(d) Reasonable attorney's fees fixed by the court.

4. For the purposes of this section, notice is given:

(a) In the case of a detention hearing, when the parent or guardian:

(1) Gives the employer or an agent of the employer oral notice in advance of the hearing; and

(2) Provides the employer with a certificate of attendance immediately upon return to employment.

(b) In the case of any hearing after the initial detention hearing, when the parent or guardian gives the employer or an agent of the employer, in advance of the hearing, the employer's copy of the written notice of the hearing.

NRS 286.430 Withdrawal of contributions.

1. Except as otherwise provided in subsection 8 and NRS 286.300, a member may withdraw the employee contributions credited to the member's individual account if:

(a) The member has terminated service for which contribution is required; or

(b) The member is employed in a position for which contribution is prohibited.

2. The System shall not refund these contributions until it has received:

(a) A properly completed application for refund;

(b) A notice of termination from the member's public employer or a certification by the public employer that the member is employed in a position for which contribution is prohibited;

and

(c) Except as otherwise provided in subsection 3, all contributions withheld from such member's compensation.

3. If a member submits an application for a refund of the member's contributions before all of the member's contributions which were withheld have been remitted, the System may refund the portion of the member's contributions which it has received.

4. If it is determined, after the System has refunded the contributions of a member, that an additional amount of less than $10 is due to the member, a refund of that amount need not be paid.

5. Refunds, pursuant to this section, must be made by check mailed to the address specified by a member in the member's application for refund.

6. The System shall transfer all money retained pursuant to subsection 4 and the amount of any unclaimed refund checks to the Public Employees' Retirement Fund or the Police and Firefighters' Retirement Fund.

7. All membership rights and active service credit in the System, including service for which the public employer paid the employee contributions, are cancelled upon the withdrawal of contributions from a member's account.

8. A member who transfers to a position for which contribution is prohibited must remain in that position for at least 90 days before the member is eligible to receive a refund pursuant to this section.

NRS 286.440 states in part, "Redeposit of withdrawn contributions upon return to service: Procedure.

1. Whenever a member, who has previously withdrawn the amount credited to the member as provided in NRS 286.430, returns to the service of a public employer participating in the System and remains a contributing member for 6 months, the member may:

(a) Make repayment in a lump sum plus interest from the date the member withdrew the member's contributions to the date of repayment; or

(b) With the approval of the Executive Officer, enter into an agreement containing a schedule of payments to repay the withdrawn contributions plus interest from the date of withdrawal to the date of repayment. Payments shall not be less than $10 per month.

➥ For the purposes of this subsection, interest shall be computed at the assumed investment income rate used in the actuarial valuation of the System next preceding the date of repayment under paragraph (a) or agreement under paragraph (b).

2. Upon redepositing the member's withdrawn contributions, with interest, the member shall have restored completely the member's previous service credit which had been relinquished by the withdrawal of such contributions. If a member fails to perform fully an agreed repayment schedule, the member is entitled to service credit for previous service in the same proportion that the member's repayment of withdrawn contributions bears to the total amount of withdrawn contributions.

NRS 284.379 Separation or disability retirement of employee with disability. In the employment of a person with a disability in the state service, continued efforts must be made to retain the person by making reasonable accommodations that enable the person to perform the essential functions of the position and to enjoy the benefits and privileges of the person's position. An appointing authority shall consider separation or disability retirement if an employee can no longer perform the essential functions of the position with or without reasonable accommodations.

NRS 281.390 Sick leave of public employees: Election of benefits; amount limited when eligible for benefits for industrial or occupational disease.

5. The public employee may decline to use any or part of the sick leave benefit normally payable to the employee while receiving benefits pursuant to chapters 616A to 616D, inclusive, or 617 of NRS. During that time, the employee must be considered on leave of absence without pay.

NAC 284.611 Separation for physical, mental or emotional disorder. (NRS 284.065, 284.155, 284.355, 284.383, 284. 385, 284.390)

1. Before separating an employee because of a physical, mental or emotional disorder which results in the inability of the employee to perform the essential functions of his or her job, the appointing authority must:

(a) Verify with the employee's physician or by an independent medical evaluation paid for by the appointing authority that the condition does not, or is not expected to, respond to treatment or that an extended absence from work will be required;

(b) Determine whether reasonable accommodation can be made to enable the employee to perform the essential functions of his or her job;

(c) Make a request to the Administrator of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to obtain the services provided by that Division, or if the employee is receiving worker's compensation, request the services of the rehabilitation provider, to evaluate the employee's condition and to provide any rehabilitative services possible; and

(d) Ensure that all reasonable efforts have been made to retain the employee.

2. A separation pursuant to this section is only justified when:

(a) The information obtained through the procedures specified in subsection 1 supports the decision to separate;

(b) The employee is not on sick leave or other approved leave; and

(c) A referral has been made to the Public Employees' Retirement System and the employee has been determined to be ineligible for, or has refused, disability retirement.

3. A permanent employee separated pursuant to this section is entitled to the same rights and privileges afforded permanent employees who are dismissed for disciplinary reasons. The procedures contained in NAC 284.656, 284.6561 and 284.6563 must be followed, and he or she may appeal the separation to the hearing officer.

4. A permanent employee who is separated because of a physical, mental or emotional disorder is eligible for reinstatement pursuant to NAC 284.386 if he or she recovers from the disorder within 2 years after the termination.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91; 12-26-91; 7-6-92; R197-99, 1-26-2000; A by Personnel Comm'n by R182-03, 1-27-2004; R143-05, 12-29-2005; R063-09, 11-25-2009)

NRS 284.380 Layoffs; reemployment lists.

1. In accordance with regulations, an appointing authority may lay off an employee in the classified service whenever the appointing authority deems it necessary by reason of shortage of work or money or of the abolition of a position or of other material changes in duties or organization.

2. Among other factors, an appointing authority shall consider, in the manner provided by regulation, the status, seniority and service rating of employees in determining the order of layoffs.

3. Within a reasonable time before the effective date of a proposed layoff, the appointing authority shall give written notice thereof to the Administrator. The Administrator shall make such orders relating thereto as the Administrator considers necessary to secure compliance with the regulations.

4. The name of every regular employee so laid off must be placed on an appropriate reemployment list.

NRS 286.3007 Purchase by state agency of credit for service: Conditions.

3. If a state agency is required to reduce the number of its employees, it shall purchase credit for service pursuant to NRS 286.300 for any member who:

(a) Is eligible to purchase credit;

(b) Is eligible to retire or will be made eligible by the purchase of the credit;

(c) Agrees to retire upon completion of the purchase; and

(d) Has been employed by the agency for 5 or more years.

4. If a state agency is required to purchase credit pursuant to subsection 3, it shall pay 5 percent of the cost of purchasing the credit and an additional 5 percent of the cost for each year that the person has been employed by the agency in excess of the minimum requirement of 5 years.

NAC 284.612 Layoffs: Definitions. (NRS 284.065, 284.155, 284.380) For the purposes of NAC 284.612 to 284.632, inclusive:

1. "Geographical location" means:

(a) Clark, Lincoln, Nye and Esmeralda counties;

(b) Carson City, Lyon, Churchill, Storey, Douglas, Mineral and Washoe counties;

(c) Pershing, Humboldt, Elko, Lander, Eureka and White Pine counties; or

(d) Any city located outside of this State.

2. "Option" means a clearly identified subclassification mentioned in the class specification approved by the Commission.

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 7-21-89; 11-16-95; R146-01, 1-18-2002; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.614 Layoffs: Procedure. (NRS 284.065, 284.155, 284.380)

1. Except as otherwise provided in NAC 284.425, if it becomes necessary for a classified employee to be laid off because of a shortage of work or money, the abolition of a position, or some other material change in duties or organization:

(a) The director of the department shall determine in what geographical location, class series, class and option the reductions in staff will have the least detrimental effect on the operations of the department and shall specify layoffs accordingly. In the Department of Health and Human Services and the Nevada System of Higher Education, the administrator of a division may be designated to make these determinations with the approval of the director of the department.

(b) Within the department, geographical location, class series, class and option selected, all employees of the department who are not permanent must be separated from service before any permanent employees in the following order:

(1) Emergency employees.

(2) Temporary employees.

(3) Provisional employees.

(4) Probationary employees.

(c) If additional reductions are necessary, permanent employees must be laid off on the basis of seniority pursuant to NAC 284.632.

(d) In the department, geographical location, class series, class and option where layoffs are to take place, those employees with the least seniority must be laid off, transferred as set forth in subsection 2 or voluntarily demoted as set forth in NAC 284.618.

(e) An appointing authority may consider limiting layoffs to employees in full-time or part-time positions. Similar considerations may be given to and limitations placed on positions requiring selective certification pursuant to NAC 284.361.

2. If a permanent employee must be laid off for one of the reasons set forth in subsection 1, the appointing authority shall notify the employee that he or she may choose to:

(a) Transfer within his or her department, class and option into the position of the employee in his or her department, class and option with the least seniority;

(b) Be voluntarily demoted as set forth in NAC 284.618; or

(c) Exercise his or her reemployment rights as set forth in NAC 284.630.

3. Within 3 working days after an employee has been notified of his or her choices pursuant to subsection 2, he or she must designate in writing to the appointing authority the choice he or she will exercise.

4. For the purposes of this section, divisions of the Department of Health and Human Services and the Nevada System of Higher Education shall be deemed to be departments.

[Personnel Div., Rule XIII § B subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 8-28-85; 8-22-86; 7-21-89; 8-1-91; 3-27-92; 9-16-92; 11-16-95; 10-27-97; R031-98, 4-17-98; R043-99, 9-27-99; R146-01, 1-18-2002; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003; R143-05, 12-29-2005)

NAC 284.618 Layoffs: Voluntary demotions. (NRS 284.065, 284.155, 284.175, 284.380)

1. In lieu of being laid off, a permanent employee may choose to be voluntarily demoted to a vacant position or displace an employee within the department and geographical location where employed to one of the next lower classes:

(a) Within his or her current class series and option; or

(b) Within the class series and option from which he or she was appointed to his or her current position during current continuous service if he or she cannot be demoted pursuant to paragraph (a).

➥ For the purposes of this subsection, divisions of the Department of Health and Human Services and the Nevada System of Higher Education shall be deemed to be departments.

2. No employee in a higher class may displace an employee in a lower class who has more seniority. If an employee chooses to displace another, he or she must displace the member of the next lower class who has the least seniority. If that member has more seniority, the displacing employee must descend further in the class series.

3. The employees displaced reestablish the layoff class.

4. An employee may choose to displace another only if he or she meets the minimum qualifications for the class, option and position. For the purposes of this subsection, qualifications for a position may be different from those of the class and option only when selective certification is required pursuant to subsection 2 of NAC 284.361.

5. Full-time, part-time and seasonal employees must be treated separately and can only displace like employees.

6. Displacement is always a movement to a class at a lower grade.

7. A current employee who elects to displace another employee has priority over former employees already on reemployment lists.

8. The pay of the employee who is taking a voluntary demotion cannot exceed the highest step for the class to which the employee is being demoted. If the current pay falls within the lower rate range, no reduction in pay may occur unless money is not available as certified by the Chief of the Budget Division or, in the case of an agency which is not supported from the State General Fund, as certified by the administrator of that agency.

[Personnel Div., Rule XIII § B subsec. 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-21-89; 8-1-91; R146-01, 1-18-2002; A by Personnel Comm'n by R096-03, 10-30-2003; R143-05, 12-29-2005)

NAC 284.626 Layoffs: Notice. (NRS 284.065, 284.155, 284.380) All permanent employees to be laid off must be given written notice of the layoff at least 30 calendar days

before the effective date of the layoff. A copy of the seniority calculations and layoff notice must be sent to the Division of Human Resource Management. The notice must specifically list the positions and locations where the employee has a current right to displace another employee, if those positions and locations are known at the time of notification.

[Personnel Div., Rule XIII § B subsec. 5, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 8-1-91; A by Personnel Comm'n by R143-05, 12-29-2005)

NAC 284.630 Layoffs: Reemployment. (NRS 284.065, 284.155, 284.250, 284.380)

1. Names of permanent employees who have received a layoff notice will be placed on the statewide reemployment list for the class and option of the position involved in the layoff, in order of seniority.

2. Names of permanent employees who have received a layoff notice will also be placed on the statewide reemployment list for other classes for which they qualify at or below the grade of the class held at the time of layoff, in order of seniority but behind those identified in subsection 1.

3. The employee shall provide an employment application and a list of classes and options he or she is seeking for reemployment to the Division of Human Resource Management within 30 days after his or her layoff date. The agency shall provide the seniority calculations to the Division of Human Resource Management.

4. Names of permanent employees who have received a layoff notice will be integrated with names of employees who are eligible for reemployment pursuant to NAC 284.6014.

5. Part-time employees are not entitled to be reemployed in full-time positions, and full-time employees are not entitled to be reemployed in part-time positions.

6. Seniority must be projected and counted up to the layoff date, or transfer date if the provisions of subsection 4 of NAC 284.394 apply. Seniority determines ranking on all reemployment lists and will not be recalculated unless the employee is affected by a subsequent layoff.

7. Each person on the list retains reemployment eligibility for 1 year after the layoff date. Except as otherwise provided in this section, reemployment rights are exhausted when a person accepts or declines an offer of employment in the class or a comparable class with the same grade in the department and geographical location of the layoff. Any exception to this provision must be approved by the Division of Human Resource Management. When a person accepts a position at a grade lower than that held at the time of layoff, his or her name will be removed from all reemployment lists that are equal to or below the grade accepted.

8. A permanent employee who has been laid off and is being reemployed in the department, class and option from which he or she was laid off must have his or her permanent status restored. A permanent employee who is reemployed in a different class or in a different department must serve a new probationary period. If the employee does not complete the probationary period, his or her name must be restored to the appropriate reemployment list for any remaining part of the year following the layoff date. When the right to reemployment expires, the person affected retains the right to reinstatement or reappointment pursuant to NAC 284.386 or 284.404.

[Personnel Div., Rule XIII § B subsec. 6, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-21-89; 8-1-91; 11-12-93; 3-1-96; A by Personnel Comm'n by R183-03, 1-27-2004; R143-05, 12-29-2005)

NAC 284.632 Layoffs: Calculation of seniority. (NRS 284.065, 284.155, 284.335, 284.380)

1. For the purposes of calculating an employee's seniority for NAC 284.614, 284.618 and 284.630:

(a) Except as otherwise provided in this section, the total number of years of continuous full-time equivalent service up to the effective date of the layoff must be included.

(b) Except as otherwise provided in subsection 2, the sum of the calculation made pursuant to paragraph (a) or, if applicable, subsection 5 must be reduced by the following periods if those periods occurred during the 36 months immediately preceding the date of the notification of layoff:

(1) For a nonexempt employee, any combination of leave without pay and catastrophic leave in excess of 240 hours in the period preceding the date of the notification of layoff equal to 12 months of full-time equivalent service;

(2) For an exempt classified employee or exempt unclassified employee, any combination of leave without pay and catastrophic leave in excess of 30 working days in the period preceding the date of the notification of layoff equal to 12 months of full-time equivalent service; and

(3) Any time covered by a report on performance which rated the employee below standard, excluding evaluations received within 75 calendar days before the notification of layoff.

2. For the purposes of the reduction in the calculation of seniority required by paragraph (b) of subsection 1:

(a) The reduction may not include:

(1) A leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580;

(2) A leave of absence without pay for a work-related injury or illness pursuant to NRS 281.390; or

(3) A military leave of absence pursuant to NRS 284.359.

(b) As set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 1, an employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his or her pay class designation.

3. For the purposes of calculating seniority for layoff, if seniority is otherwise equal, seniority must be determined in the following order:

(a) Total time within the occupational group;

(b) Total time within the department; and

(c) By lot.

4. For the purposes of calculating seniority for reemployment, if seniority is otherwise equal, seniority must be determined by lot.

5. A department may request from the Commission approval to calculate the number of years of continuous full-time equivalent service of an employee of the department by doubling the time spent by the employee in his or her present occupational group as categorized by NRS 284.171 and adding that amount to the time spent by the employee in all former occupational groups up to the date of layoff. If the Commission approves the request of the department to calculate the number of years of service pursuant to this section, the department shall use this method to calculate the number of years of service:

(a) Only to determine which employees will receive a layoff notice and not for the placement of those employees on the reemployment list; and

(b) Until the department seeks from and is granted approval by the Commission to revert to the method of calculating the number of years of service set forth in paragraph (a) of subsection 1.

(Added to NAC by Personnel Comm'n by R096-03, eff. 10-30-2003; A by R182-03, 1-27-2004; R143-05, 12-29-2005)

DISCIPLINARY PROCEDURES

NRS 284.383 states, "Use of disciplinary measures; employee entitled to receive copy of findings or recommendations; classified employee entitled to receive copy of policy explaining information relating to disciplinary action.

1. The Commission shall adopt by regulation a system for administering disciplinary measures against a state employee in which, except in cases of serious violations of law or regulations, less severe measures are applied at first, after which more severe measures are applied only if less severe measures have failed to correct the employee's deficiencies.

2. The system adopted pursuant to subsection 1 must provide that a state employee is entitled to receive a copy of any findings or recommendations made by an appointing authority or the representative of the appointing authority, if any, regarding proposed disciplinary action.

3. An appointing authority shall provide each permanent classified employee of the appointing authority with a copy of a policy approved by the Commission that explains prohibited acts, possible violations and penalties and a fair and equitable process for taking disciplinary action against such an employee.

NRS 284.387 states, "Internal administrative investigations leading to certain disciplinary action: Right of employee to written notice of allegations before questioning and to representation deadline for and notification to employee of completion; extensions.

1. An employee who is the subject of an internal administrative investigation that could lead to disciplinary action against the employee pursuant to NRS 284.385 must be:

(a) Provided notice in writing of the allegations against the employee before the employee is questioned regarding the allegations; and

(b) Afforded the right to have a lawyer or other representative of the employee's choosing present with the employee at any time that the employee is questioned regarding those allegations. The employee must be given not less than 2 business days to obtain such representation, unless the employee waives the employee's right to be represented.

2. An internal administrative investigation that could lead to disciplinary action against an employee pursuant to NRS 284.385 and any determination made as a result of such an investigation must be completed and the employee notified of any disciplinary action within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1. If the appointing authority cannot complete the investigation and make a determination within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1, the appointing authority may request an extension of not more than 60 days from the Administrator upon showing good cause for the delay. No further extension may be granted unless approved by the Governor.

NRS 289.060 states, "Notification and requirements for interview, interrogation or hearing relating to investigation; prohibition against use of certain statements or answers in subsequent criminal proceedings.

1. Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 48 hours before any interrogation or hearing is held relating to an investigation conducted pursuant to NRS 289.057, provide a written notice to the peace officer who is the subject of the investigation. If the law enforcement agency believes that any other peace officer has any knowledge of any fact relating to the complaint or allegation against the peace officer who is the subject of the investigation, the law enforcement agency shall provide a written notice to the peace officer advising the peace officer that he or she must appear and be interviewed as a witness in connection with the investigation. Any peace officer who serves as a witness during an interview must be allowed a reasonable opportunity to arrange for the presence and assistance of a representative authorized by NRS 289.080. Any peace officer specified in this subsection may waive the notice required pursuant to this section.

2. The notice provided to the peace officer who is the subject of the investigation must include:

(a) A description of the nature of the investigation;

(b) A summary of alleged misconduct of the peace officer;

(c) The date, time and place of the interrogation or hearing;

(d) The name and rank of the officer in charge of the investigation and the officers who will conduct any interrogation or hearing;

(e) The name of any other person who will be present at any interrogation or hearing; and

(f) A statement setting forth the provisions of subsection 1 of NRS 289.080.

3. The law enforcement agency shall:

(a) Interview or interrogate the peace officer during the peace officer's regular working hours, if reasonably practicable, or revise the peace officer's work schedule to allow any time that is required for the interview or interrogation to be deemed a part of the peace officer's regular working hours. Any such time must be calculated based on the peace officer's regular wages for his or her regularly scheduled working hours. If the peace officer is not interviewed or interrogated during his or her regular working hours or if his or her work schedule is not revised pursuant to this paragraph and the law enforcement agency notifies the peace officer to appear at a time when he or she is off duty, the peace officer must be compensated for appearing at the interview or interrogation based on the wages and any other benefits the peace officer is entitled to receive for appearing at the time set forth in the notice.

(b) Immediately before any interrogation or hearing begins, inform the peace officer who is the subject of the investigation orally on the record that:

(1) The peace officer is required to provide a statement and answer questions related to the peace officer's alleged misconduct; and

(2) If the peace officer fails to provide such a statement or to answer any such questions, the agency may charge the peace officer with insubordination.

(c) Limit the scope of the questions during the interrogation or hearing to the alleged misconduct of the peace officer who is the subject of the investigation. If any evidence is discovered during the course of an investigation or hearing which establishes or may establish any other possible misconduct engaged in by the peace officer, the law enforcement agency shall notify the peace officer of that fact and shall not conduct any further interrogation of the peace officer concerning the possible misconduct until a subsequent notice of that evidence and possible misconduct is provided to the peace officer pursuant to this chapter.

(d) Allow the peace officer who is the subject of the investigation or who is a witness in the investigation to explain an answer or refute a negative implication which results from questioning during an interview, interrogation or hearing.

4. If a peace officer provides a statement or answers a question relating to the alleged misconduct of a peace officer who is the subject of an investigation pursuant to NRS 289.057 after the peace officer is informed that failing to provide the statement or answer may result in punitive action against him or her, the statement or answer must not be used against the peace officer who provided the statement or answer in any subsequent criminal proceeding."

NRS 289.080 states, "Right to presence and assistance of representatives at interrogation or hearing relating to investigation; confidential information; disclosure; record of interview, interrogation or hearing; right of subject of investigation to review and copy investigation file upon appeal.

1. Except as otherwise provided in subsection 4, a peace officer who is the subject of an investigation conducted pursuant to NRS 289.057 may upon request have two representatives of the peace officer's choosing present with the peace officer during any phase of an interrogation or hearing relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or another peace officer.

2. Except as otherwise provided in subsection 4, a peace officer who is a witness in an investigation conducted pursuant to NRS 289.057 may upon request have two representatives of the peace officer's choosing present with the peace officer during an interview relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or

another peace officer. The presence of the second representative must not create an undue delay in either the scheduling or conducting of the interview.

3. A representative of a peace officer must assist the peace officer during the interview, interrogation or hearing. The law enforcement agency conducting the interview, interrogation or hearing shall allow a representative of the peace officer to explain an answer provided by the peace officer or refute a negative implication which results from questioning of the peace officer but may require such explanation to be provided after the agency has concluded its initial questioning of the peace officer.

4. A representative must not otherwise be connected to, or the subject of, the same investigation.

5. Any information that a representative obtains from the peace officer who is a witness concerning the investigation is confidential and must not be disclosed.

6. Any information that a representative obtains from the peace officer who is the subject of the investigation is confidential and must not be disclosed except upon the:

(a) Request of the peace officer; or

(b) Lawful order of a court of competent jurisdiction.

➥ A law enforcement agency shall not take punitive action against a representative for the representative's failure or refusal to disclose such information.

7. The peace officer, any representative of the peace officer or the law enforcement agency may make a stenographic, digital or magnetic record of the interview, interrogation or hearing. If the agency records the proceedings, the agency shall at the peace officer's request and expense provide a copy of the:

(a) Stenographic transcript of the proceedings; or

(b) Recording on the digital or magnetic tape.

8. After the conclusion of the investigation, the peace officer who was the subject of the investigation or any representative of the peace officer may, if the peace officer appeals a recommendation to impose punitive action, review and copy the entire file concerning the internal investigation, including, without limitation, any recordings, notes, transcripts of interviews and documents contained in the file.

NRS 31.298 states, "Garnishment of earnings: Unlawful to discharge or discipline employee. It is unlawful for an employer to discharge or discipline an employee exclusively because the employer is required to withhold the employee's earnings pursuant to a writ of garnishment."

NRS 414.260 states in part, "Membership in volunteer search and rescue or reserve unit of sheriff's department or Civil Air Patrol: Discharge of employee for membership prohibited; exceptions; civil remedy.

1. Any person, including a government, governmental agency or political subdivision of a government, who employs a person or is vested with the power to discharge or recommend the discharge of a person shall not deprive that person of employment for any reason specifically relating to his or her service as a member of a volunteer search and rescue or reserve unit of a sheriff's department or a Civil Air Patrol unit unless:

(a) The employee failed to comply with the provisions of subsection 1 of NRS 414.250; or

(b) The employer has given notice to the employee pursuant to the provisions of subsection 2 of NRS 414.250.

2. A person discharged in violation of subsection 1 may commence a civil action against his or her employer and:

(a) Recover all wages and benefits lost as a result of the violation and reasonable attorney's fees as fixed by the court; and

(b) Obtain an order of the court reinstating the person to his or her employment without loss of position, seniority or benefits.

NRS 613.333 states "Unlawful employment practices: Discrimination for lawful use of any product outside premises of employer which does not adversely affect job

performance or safety of other employees.

1. It is an unlawful employment practice for an employer to:

(a) Fail or refuse to hire a prospective employee; or

(b) Discharge or otherwise discriminate against any employee concerning the employee's compensation, terms, conditions or privileges of employment,

➥ because the employee engages in the lawful use in this state of any product outside the premises of the employer during the employee's nonworking hours, if that use does not adversely affect the employee's ability to perform his or her job or the safety of other employees.

2. An employee who is discharged or otherwise discriminated against in violation of subsection 1 or a prospective employee who is denied employment because of a violation of subsection 1 may bring a civil action against the employer who violates the provisions of subsection 1 and obtain:

(a) Any wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits;

(c) An order directing the employer to offer employment to the prospective employee; and

(d) Damages equal to the amount of the lost wages and benefits.

3. The court shall award reasonable costs, including court costs and attorney's fees to the prevailing party in an action brought pursuant to this section.

4. The remedy provided for in this section is the exclusive remedy for an action brought pursuant to this section.

NAC 284.638 Warnings and written reprimands. (NRS 284.065, 284.155, 284.383)

1. 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 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 Division of Human Resource Management must be sent to the employee and a copy placed in the employee's personnel folder which is filed with the Division of Human Resource Management.

[Personnel Div., Rule XII § A, eff. 8-11-73; + Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-16-95; A by Personnel Comm'n by R056-10, 10-26-2011)

NRS 284.385 Dismissals, demotions and suspensions.

1. An appointing authority may:

(a) Dismiss or demote any permanent classified employee when he considers that the good of the public service will be served thereby.

(b) Except as otherwise provided in NRS 284.148, suspend without pay, for disciplinary purposes, a permanent employee for a period not to exceed 30 days.

2. Before a permanent classified employee is dismissed, involuntarily demoted or suspended, the appointing authority must consult with the Attorney General or, if the employee is employed by the Nevada System of Higher Education, the appointing authority's general counsel, regarding the proposed discipline. After such consultation, the appointing authority may take such lawful action regarding the proposed discipline as it deems necessary under the circumstances.

3. A dismissal, involuntary demotion or suspension does not become effective until the employee is notified in writing of the dismissal, involuntary demotion or suspension and the reasons therefore. The notice may be delivered personally to the employee or mailed to the employee at the employee's last known address by registered or certified mail, return receipt

requested. If the notice is mailed, the effective date of the dismissal, involuntary demotion or suspension shall be deemed to be the date of delivery or if the letter is returned to the sender, 3 days after mailing.

4. No employee in the classified service may be dismissed for religious or racial reasons.

NEW: Impartial fact-finding investigation

1. Except as otherwise provided in subsection 2, before an appointing authority may dismiss, suspend or demote a permanent employee, the appointing authority must first ensure that an impartial fact-finding investigation has been conducted to determine that evidence exists to justify the dismissal, suspension or demotion.

2. The investigation described in subsection 1 may be waived if the employee agrees in writing with the allegations on which the dismissal, suspension or demotion is based.

(Added to NAC by Personnel Comm'n by R027-11, eff. 12-30-2011)

NAC 284.642 Suspensions and demotions. (NRS 284.065, 284.155, 284.383, 284.385)

1. If other forms of disciplinary or corrective action have proved ineffective, or if the seriousness of the offense or condition warrants, an employee may be:

(a) Suspended without pay for a period not to exceed 30 calendar days for any cause set forth in this chapter; or

(b) Demoted for any cause set forth in this chapter.

2. An exempt classified employee may only be suspended without pay in increments of one or more full workweeks.

3. The rights and procedures set forth in NAC 284.656 ***and sections 2 and 3 of NAC 284.6561 and section 1 of LCB File No. R027-11*** apply to any disciplinary action taken pursuant to this section.

[Personnel Div., Rule XII § B, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; R147-01, 1-22-2002; A by Personnel Comm'n by R147-06, 12-7-2006; R063-09, 11-25-2009; ***R027-11, 12-30-2011)***

NAC 284.646 Dismissals. (NRS 284.065, 284.155, 284.383, 284.385)

1. An appointing authority may dismiss an employee for any cause set forth in NAC 284.650 if:

(a) The agency with which the employee is employed has adopted any rules or policies which authorize the dismissal of an employee for such a cause; or

(b) The seriousness of the offense or condition warrants such dismissal.

2. An appointing authority may immediately dismiss an employee for the following causes, unless the conduct is authorized pursuant to a rule or policy adopted by the agency with which the employee is employed:

(a) Intentionally viewing or distributing pornographic material at the premises of the workplace, including, without limitation, intentionally viewing or distributing pornographic material on any computer owned by the State, unless such viewing or distributing is a requirement of the employee's position.

(b) Unauthorized release or use of confidential information.

(c) Participation in sexual conduct on the premises of the workplace, including, without limitation, participation in sexual conduct in a vehicle that is owned by the State.

(d) Absence without approved leave for 3 consecutive days during which the employee is scheduled to work.

(e) The suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license if the possession of the professional or occupational license, certificate or permit or driver's license is a requirement of the position at the time of appointment as stated in the standards of work performance, essential functions or class specifications for the position, or in other documentation provided to the employee at the time of appointment, or required thereafter pursuant to federal or state law.

(f) Threatening another person with a deadly weapon during any time in which the employee is:

(1) On the premises of the workplace; or

(2) Conducting state business or otherwise performing any duties of employment.

(g) Stealing or misappropriating any property that is owned by the State or located on state property.

(3) The rights and procedures set forth in NAC 284.656 ***and sections 2 and 3 of NAC 284.6561 and section 1 of LCB File No. R027-11*** apply to any dismissal made pursuant to this section.

(4) As used in this section:

(a) "Material" has the meaning ascribed to it in NRS 201.2581.

(b) "Nudity" has the meaning ascribed to it in NRS 201.261.

(c) "Pornographic material" means material that, all or in part, contains any description or representation of nudity, sexual conduct, sexual excitement or sado-masochistic abuse which predominantly appeals to the prurient, shameful or morbid interest of adults and is without serious literary, artistic, political or scientific value.

(d) "Sado-masochistic abuse" has the meaning ascribed to it in NRS 201.262.

(e) "Sexual excitement" has the meaning ascribed to it in NRS 201.264.

[Personnel Div., Rule XII § C, eff. 8 11 73]—(NAC A by Dep't of Personnel, 10 26 84; R147-06, 12-7-2006; R063-09, 11-25-09***; R027-11, 12-30-2011)***

NAC 284.650 Causes for disciplinary action. (NRS 284.065, 284.155, 284.383)

Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violates a provision of NAC 284.653 or 284.738 to 284.771, inclusive.

2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.

3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.

4. Discourteous treatment of the public or fellow employees while on duty.

5. Incompetence or inefficiency.

6. Insubordination or willful disobedience.

7. Inexcusable neglect of duty.

8. Fraud in securing appointment.

9. Prohibited political activity.

10. Dishonesty.

11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.

12. Drug or alcohol abuse as described in NRS 284.4062 and NAC 284.884.

13. Conviction of any criminal act involving moral turpitude.

14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription or any other illegally used substances while on duty.

15. Unauthorized absence from duty or abuse of leave privileges.

16. Violation of any rule of the Commission.

17. Falsification of any records.

18. Misrepresentation of official capacity or authority.

19. Violation of any safety rule adopted or enforced by the employee's appointing authority.

20. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his or her appointing authority.

21. Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.

22. Failure to participate in any investigation of alleged discrimination, including, without limitation, an investigation concerning sexual harassment.

23. Failure to participate in an administrative investigation authorized by the employee's appointing authority.

[Personnel Div., Rule XII § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 12-26-91; 7-1-94; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; R147-06, 12-7-2006)

NRS 193.105 states in part, "Termination of employment, removal from office or impeachment of public employee or officer upon conviction for sale of controlled substance.

1. If, during the course of his employment, an employee of the State or of any political subdivision of the State is convicted on or after October 1, 1989, of violating any federal or state law prohibiting the sale of any controlled substance, the employer upon discovery of the conviction shall terminate the employment of the employee."

NAC 284.653 Driving under the influence; unlawful acts involving controlled substance. (NRS 284.065, 284.155, 284.383, 284.385, 284.407)

1. An employee is subject to any disciplinary action set forth in subsection 2, as determined by the appointing authority, if the employee is convicted of any of the following offenses:

(a) If the offense occurred while the employee was driving a state vehicle, or a privately owned vehicle on state business:

(1) Driving under the influence in violation of NRS 484C.110; or

(2) Any offense resulting from an incident in which the employee was:

(I) Originally charged with driving under the influence; or

(II) Charged with any other offense for which driving under the influence is an element of the offense.

(b) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance on the premises of the workplace or on state business.

2. An appointing authority may impose the following disciplinary actions if an employee is convicted of an offense set forth in subsection 1:

(a) For the first offense:

(1) Dismissal;

(2) Demotion, if permitted by the organizational structure of the agency for which he or she is employed;

(3) Suspension for 30 calendar days; or

(4) Suspension for 30 calendar days and demotion.

(b) For the second offense within 5 years, dismissal.

3. An employee who is suspended or demoted pursuant to subsection 2 must:

(a) Agree to be evaluated through an employee assistance program; and

(b) Complete any program of treatment recommended by the evaluation.

4. If an employee fails to complete the program of treatment, the appointing authority must dismiss the employee.

5. Pursuant to NRS 193.105, an employee who is convicted of violating any state or federal law prohibiting the sale of a controlled substance must be dismissed.

6. An employee must report a conviction of any offense described in this section to his or her appointing authority within 5 working days after it occurs. If the employee fails to make that report, he or she must be dismissed.

(Added to NAC by Dep't of Personnel, eff. 7-22-87; A 4-20-90; 3-27-92; A by Personnel Comm'n by R147-06, 12-7-2006; R141-07, 1-30-2008)

NAC 284.656 Notice. (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 providing notice of the proposed action must be followed:

1. The employee must be given at least 10 working days' written notice of the proposed action on the form provided by the Division of Human Resource Management.

2. The notice may be given in person or by mail. If it is mailed, the notice must be mailed to the employee's last known address by registered or certified mail, return receipt requested. The date stamped on the receipt by the postal service is the date of delivery. If the notice is returned without a return receipt signed by the employee, the employee's date of receipt shall be deemed to be the third day after the date of the mailing.

3. The notice must:

(a) Specify the proposed date on which the action is effective.

(b) Inform the employee that a hearing has been scheduled on his or her behalf in the manner prescribed in NAC 284.6561 and specify the date, time and place of the hearing.

(c) Specify the charges, the reasons for them and the cause of action contained in NAC 284.646 or 284.650 on which the proposed action is based.

4. The notice of the proposed action must be signed by the appointing authority or his or her designated representative before the notice is given to the employee.

5. Upon its receipt, the employee must be asked to sign the notice. If he or she refuses to sign the notice, the refusal must be noted on the notice. The employee's signature is not an admission by him or her of any of the allegations set forth in the notice.

6. If the employee does not understand the reasons for the proposed action or the procedures related to disciplinary actions, including, without limitation, the right to notice, a hearing and an appeal, the employee may seek an explanation from the appointing authority or another person in the agency familiar with the procedure.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 7-21-89; 8-1-91; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 11-12-93; 11-16-95; 11-16-95; A by Personnel Comm'n by R063-09, 11-25-2009)

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 on or before the effective date of the action.

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)

NAC 284.6563 Notice and hearing not required in certain circumstances. (NRS 284.065, 284.155, 284.383, 284.385, 284.390)

1. The procedures specified in NAC 284.656 and 284.6561 need not be followed before dismissing or suspending a permanent employee if the circumstances give the appointing authority a reasonable cause to believe that the retention of an employee on active duty poses a threat to life, limb or property or may be seriously detrimental to the interests of the State.

2. If the circumstances set forth in subsection 1 are present, the appointing authority may temporarily assign the employee to duties in which those circumstances do not exist or, if the temporary assignment is not feasible:

(a) Immediately place the employee on administrative leave with pay until the procedures specified in NAC 284.656 and 284.6561 have been followed; or

(b) Immediately suspend or dismiss the employee. In this case the appointing authority, his or her designated representative, or the employee's supervisor shall attempt to inform the employee before the action is taken of the charges against him or her and provide the employee with an opportunity to rebut the charges. The procedures specified in NAC 284.656 and 284.6561 must be followed as soon as practicable after the immediate suspension or dismissal.

(Added to NAC by Personnel Comm'n by R063-09, eff. 11-25-2009)

NRS 284.390 states, "Hearing to determine reasonableness of dismissal, demotion or suspension; judicial review.

1. Within 10 working days after the effective date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer of the Commission to determine the reasonableness of the action. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's dismissal, demotion or suspension.

2. The hearing officer shall grant the employee a hearing within 20 working days after receipt of the employee's written request unless the time limitation is waived, in writing, by the employee or there is a conflict with the hearing calendar of the hearing officer, in which case the hearing must be scheduled for the earliest possible date after the expiration of the 20 days.

3. The employee may represent himself or herself at the hearing or be represented by an attorney or other person of the employee's own choosing.

4. Technical rules of evidence do not apply at the hearing.

5. After the hearing and consideration of the evidence, the hearing officer shall render a decision in writing, setting forth the reasons therefor.

6. If the hearing officer determines that the dismissal, demotion or suspension was without just cause as provided in NRS 284.385, the action must be set aside and the employee must be reinstated, with full pay for the period of dismissal, demotion or suspension.

7. The decision of the hearing officer is binding on the parties.

8. Any petition for judicial review of the decision of the hearing officer must be filed in accordance with the provisions of chapter 233B of NRS.

ADJUSTMENT OF GRIEVANCES

NRS 284.384 states, "Adjustment of certain grievances: Regulations; appeal to Employee-Management Committee; enforcement of binding decisions of Employee-Management Committee; representation of employee. [Effective January 1, 2012.]

1. The Commission shall adopt regulations which provide for the adjustment of grievances for which a hearing is not provided by federal law or NRS 284.165, 284.245, 284.3629, 284.376 or 284.390. Any grievance for which a hearing is not provided by NRS 284.165, 284.245, 284.3629, 284.376 or 284.390 is subject to adjustment pursuant to this section.

2. The regulations must provide procedures for:

(a) Consideration and adjustment of the grievance within the agency in which it arose.

(b) Submission to the Employee-Management Committee for a final decision if the employee is still dissatisfied with the resolution of the dispute.

(c) If requested by an employee or agency, the use of a resolution conference to resolve a grievance.

3. The regulations must include provisions for:

(a) Submitting each proposed resolution of a dispute which has a fiscal effect to the Budget Division of the Department of Administration for a determination by that Division whether the resolution is feasible on the basis of its fiscal effects; and

(b) Making the resolution binding.

4. Any grievance which is subject to adjustment pursuant to this section may be appealed to the Employee-Management Committee for a final decision. Except as otherwise provided in subsection 3, a final decision of the Committee is binding. The Committee or an employee may petition a court of competent jurisdiction for enforcement of the Committee's binding decisions.

5. The employee may represent himself or herself at any hearing regarding a grievance which is subject to adjustment pursuant to this section or be represented by an attorney or other person of the employee's own choosing.

6. As used in this section, "grievance" means an act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement.

NRS 241.033 states Meeting to consider character, misconduct, competence or health of person or to consider appeal of results of examination: Written notice to person required; exception; public body required to allow person whose character, misconduct, competence or health is to be considered to attend with representative and to present evidence; attendance of additional persons; copy of record.

1. Except as otherwise provided in subsection 7, a public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:

(a) Given written notice to that person of the time and place of the meeting; and

(b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be:

(1) Delivered personally to that person at least 5 working days before the meeting; or

(2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.

(b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is

warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

(1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and

(2) A statement of the provisions of subsection 4, if applicable.

3. The Nevada Athletic Commission is exempt from the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.

4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, the public body must allow that person to:

(a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;

(b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and

(c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

5. Except as otherwise provided in subsection 4, with regard to the attendance of persons other than members of the public body and the person whose character, alleged misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered, the chair of the public body may at any time before or during a closed meeting:

(a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or

(b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.

6. A public body shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035, upon the request of any person who received written notice of the closed meeting pursuant to subsection 1.

7. For the purposes of this section:

(a) A meeting held to consider an applicant for employment is not subject to the notice requirements otherwise imposed by this section.

(b) Casual or tangential references to a person or the name of a person during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.

NAC 284.658 "Grievance" defined. (NRS 284.065, 284.155, 284.384)

1. As used in NAC 284.341 and 284.658 to 284.697, inclusive, ***and section 1 of LCB File No. R026-11,*** a "grievance" means an act, omission or occurrence which a permanent employee feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement or a contested report on performance. The act, omission or occurrence must be established with factual information, including, but not limited to, the date, time and place of the act, omission or occurrence and the names of other persons involved.

2. For the purposes of NAC 284.341 and 284.658 to 284.697, inclusive, ***and section 1 of LCB File No. R026-11,*** the term "grievance" does not include any grievance for which a hearing is provided by ***federal law or*** NRS 284.165***, 284.245, 284.3629,*** 284.376 or 284.390.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 8-28-85; 10-18-89; 8-1-91; 3-27-92; R082-00, 8-2-2000; A by Personnel Comm'n by R023-05, 10-31-2005; R007-11, 10-26-2011***; R026-11, 1-1-2012***)

NAC 284.662 Providing assistance to employee. (NRS 284.065, 284.155, 284.384)

1. An employee filing for a review of a grievance may be assisted or represented by any person of his or her choosing, if the person agrees to act in this capacity, at any step of the procedure except the initial informal discussion with his or her immediate supervisor.

2. If the assistant is a state employee, he or she may only assist on his or her own time.

3. An employee may not be discriminated against in recruitment, examination, appointment, training, promotion, retention, classification or any other personnel action for informally seeking or formally filing a request to have his or her grievance reviewed, testifying on behalf of another employee, helping another employee prepare a grievance report or acting as a representative of any employee requesting a review of a grievance.

4. To assist in resolving an employee's grievance, the resources and consultation available from the Division of Human Resource Management and the personnel offices of the agency must be made available to all parties.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.678 Submission, form and contents of grievance; informal discussions. (NRS 284.065, 284.155, 284.340, 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 the grievance in writing to his or her 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 or her name;

(b) His or her most recent date of hire;

(c) His or her position;

(d) His or her department, division and section;

(e) His or her mailing address;

(f) His or her business telephone number;

(g) A statement that he or she 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 the grievance;

(j) A detailed description of the grievance, including the names of other persons involved in the event, if any;

(k) A proposed solution of the grievance;

(l) His or her signature; and

(m) The date he or she signed the statement.

3. Except as otherwise provided in NAC 284.692, if a grievance relates to a contested report on performance, an employee must file a grievance that identifies the specific points of contention, if such specificity is provided, not later than 10 working days after the date the employee receives a decision regarding the review conducted by the appointing authority pursuant to NAC 284.470. Except as otherwise provided in NAC 284.692, if the grievance relates to the failure of a reviewing officer or appointing authority 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 report on performance, the person who is at the next appropriate level of the grievance process above such reviewing officer or other person who prepared or reviewed the report on performance.

5. A grievance regarding a report on performance must be filed with the highest administrator in the department pursuant to NAC 284.690 before being submitted to the Committee pursuant to NAC 284.695.

[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, 4-20-2010; R007-11, 10-26-2011)

NAC 284.680 Date of receipt of grievance. (NRS 284.065, 284.155, 284.384) For the purposes of NAC 284.682, 284.686 and 284.690, a grievance is deemed to have been received at each step in the grievance procedure:

1. On the date on which the employee or his or her chosen representative personally delivers the grievance, transmits it by facsimile machine or submits it via the Internet using the Employee Incident Tracking System within the Nevada Employee Action and Timekeeping System developed by the Division of Human Resource Management, which is available at **https://nvapps.state.nv.us/NEATS/admin/Home.aep**; or

2. If the employee mails the grievance, 3 days after:

(a) The date on which the grievance was postmarked; or

(b) The date on the return receipt if sent by certified mail.

(Added to NAC by Personnel Comm'n by R065-98, eff. 7-24-98; A by R044-08, 8-26-2008)

NAC 284.682 Appeal of grievance to next appropriate level. (NRS 284.065, 284.155, 284.384)

1. If the employee and the employee's appointing authority agree that the correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the Administrator or his or her designee, in consultation with the employee's appointing authority, determines that the submission of the grievance to the supervisor would be a useless act, the aggrieved employee may appeal directly to the next appropriate level.

2. Except as otherwise provided in NAC 284.692, an employee has 10 working days to refer his or her grievance to the next level after:

(a) He or she receives notification of the action; or

(b) The passage of 10 working days after the grievance is deemed to have been received,

➥ whichever occurs first, at each step in the procedure.

[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; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005; R064-09, 10-27-2009)

NAC 284.686 Submission of grievance to head of division or department. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in NAC 284.692, if, within 10 working days after the employee's grievance is deemed to have been received by his or her immediate supervisor, the employee has not received satisfactory relief, he or she may forward the grievance to the head of the major division of the department in which he or she works. In those cases where a

department is not subdivided into divisions, the employee may forward the request directly to the highest administrator in the department.

2. Additional managers or supervisors may become involved or a review committee may make a recommendation to the highest administrator of the agency.

[Personnel Div., Rule XV § A subsecs. 2 & 3, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005)

NRS 284.068 states, "Employee-Management Committee: Creation; appointment and terms of members.

1. The Employee-Management Committee, consisting of six members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Committee:

(a) Three persons to represent management within the Executive Department of State Government, and three persons to serve as alternates for them.

(b) Three persons to represent employees within the Executive Department of State Government, and three persons to serve as alternates for them.

3. The representatives of employees and their alternates must be selected from a list, supplied by state employees or one or more state employees' groups, or any combination of these, containing twice as many names as there are vacancies to be filled.

4. The members of the Committee and the alternates shall serve for 2 years."

NRS 284.071 states, "Employee-Management Committee: Chair; rules; meetings; secretarial services.

1. The Chair of the Employee-Management Committee must be chosen by a majority vote of all persons appointed to serve as members pursuant to NRS 284.068, including, without limitation, the persons appointed to serve as alternates.

2. The Committee shall adopt such rules as it deems necessary for its own management.

3. The Committee shall meet at least once every 3 months and at such other times as the Chair may designate.

4. The Division shall provide secretarial services for the Committee.

NRS 284.073 states, "Employee-Management Committee: Duties.

1. The Employee-Management Committee shall:

(a) Serve in an advisory capacity to the Governor, the Commission and the Division with respect to all matters of personnel administration and relations between management and employees.

(b) Receive, consider and make recommendations on matters relating to personnel administration, policy and procedures.

(c) Provide a forum for the hearing of employees' suggestions, complaints or disciplinary problems.

(d) Provide a means of communication for disseminating information to employees regarding the personnel program.

(e) Except as otherwise provided in subsection 2, hold hearings, when requested, and make final decisions for the adjustment of grievances as provided by the regulations of the Commission.

2. The Committee shall not hold any hearing or make a final decision for the adjustment of a grievance unless an equal number of members appointed pursuant to paragraphs (a) and (b) of subsection 2 of NRS 284.068 attend the hearing and take part in making the final decision.

NAC 284.690 Filing of grievance with highest administrator of department; action by highest administrator. (NRS 284.065, 284.155, 284.340, 284.384)

1. Except as otherwise provided in NAC 284.692:

(a) If the employee has not received satisfactory relief within 10 working days after his or her grievance is deemed to have been received by the head of the division, he or she may file the grievance with the highest administrator of the department; and

(b) Within 10 working days after the employee's grievance is deemed to have been received by the highest administrator of the department, the highest administrator or the designee of the highest administrator shall:

(1) Gather information regarding the grievance;

(2) Render a decision resolving the grievance, including, without limitation, denying the grievance; and

(3) Notify the employee of the resolution.

2. In rendering a decision concerning a report on performance, an administrator shall address the findings of fact to the specific points of contention referred to in the grievance of the employee.

3. Within the established time limitations, including any extensions to those time limitations obtained pursuant to NAC 284.692, the highest administrator may appoint a person or committee composed of managers and employees to assist in the finding of facts and recommending a course of action.

[Personnel Div., Rule XV § A subsec. 4, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005; R118-10, 5-5-2011; R007-11, 10-26-2011)

NAC 284.692 Agreement for extension of time to file grievance or take required action. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in subsection 3, the time limit for filing a grievance and for taking any other action required by either party at any step in the grievance procedure may be extended by the mutual agreement of the employee who may file the grievance and the appointing authority or his or her designated representative.

2. An agreement to an extension of time entered into pursuant to subsection 1 must be:

(a) Made in writing on a form prescribed by the Division of Human Resource Management; and

(b) Signed by:

(1) The employee; and

(2) The appointing authority or his or her designated representative.

3. The provisions of this section do not apply to a grievance that has been submitted to the Committee.

(Added to NAC by Personnel Comm'n by R023-05, eff. 10-31-2005)

NAC 284.695 Submission of grievance to Employee-Management Committee. (NRS 284.065, 284.155, 284.340, 284.384) If an employee is not satisfied with the decision rendered by the highest administrator in the department pursuant to NAC 284.690, the employee may request consideration of the grievance by the Committee pursuant to its rules. The employee must submit the request to the Committee within 10 working days following his or her receipt of the decision from the highest administrator. The request must include all appropriate documentation, a citation of the statutes and regulations pertinent to the grievance, if any, the specific points of disagreement or contention and supporting evidence. The Committee will, within 45 working days after the receipt of the employee's request:

1. Answer the request without a hearing if the case is based upon the Committee's previous decisions or does not fall within its jurisdiction; or

2. Hold a hearing to determine the proper disposition of the request. If a hearing is held, the Committee will:

(a) Except as otherwise provided in paragraph (b), provide at least 21 working days' written notice to all parties concerned.

(b) Provide notice to the employee by:

(1) Sending a written notification by certified mail, return receipt requested, at least 21 working days before the hearing; or

(2) Personally delivering a written notification to the employee at least 5 working days before the hearing, if the Chair approves of such notice.

(c) Render a decision within 45 days after the closure of the hearing.

[Personnel Div., Rule XV § A part subsec. 6, eff. 8-11-73; A 6-9-74; 7-3-76; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 10-18-89; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 3-27-92; 11-12-93; 3-23-94; 11-16-95; A by Personnel Comm'n by R118-10, 5-5-2011; R007-11, 10-26-2011)

NEW: Resolution conference

1. If an employee is not satisfied with the decision rendered by the highest administrator of the department pursuant to NAC 284.690 and submits a request for consideration of the grievance by the Committee pursuant to NAC 284.695, the employee or the highest administrator or his or her designee may request a resolution conference to meet informally in the presence of a neutral facilitator to discuss the grievance and possible resolutions.

2. Except as otherwise provided in this subsection, a request for a resolution conference may be submitted to the Division at any time after the employee submits his or her request for consideration of the grievance by the Committee. If the Committee has notified the parties of the date on which it will hold a hearing to consider the grievance, the request for a resolution conference may not be submitted less than 15 working days before that date.

3. Upon receipt of a request for a resolution conference, the Division shall appoint a neutral facilitator to conduct the resolution conference. The facilitator must not be affiliated with either party.

4. The submission of a request for a resolution conference does not deprive the Committee of jurisdiction to consider the grievance if:

(a) The parties are unable to reach an agreement for the resolution of the grievance at the resolution conference; or

(b) The parties reach an agreement for the resolution of the grievance at the resolution conference, but the employee subsequently notifies the Committee that the agreement has failed.

(Added to NAC by Personnel Comm'n by R026-11, eff. 1-1-2012)

NAC 284.6955 Hearing before Employee-Management Committee: Procedure. (NRS 284.065, 284.155, 284.384) If a hearing is held to determine the proper disposition of a grievance pursuant to NAC 284.695, the following procedure must be followed:

1. Each party shall submit to the Chair of the Committee or his or her designated representative 10 copies of the set of documents and materials to be presented at the hearing or any rescheduled hearing. These copies must be submitted not less than 12 working days before the scheduled date of the hearing. The Chair or his or her designated representative shall forward one copy of the set of the documents and materials of each party to the other party.

2. If the employee fails to comply with subsection 1, the Chair or his or her designated representative may reschedule the hearing to the next time designated for such hearings, but in no case earlier than 20 working days after the originally scheduled date of the hearing. If the employer fails to comply with subsection 1, the Chair or his or her designated representative may reschedule the hearing at his or her discretion. If the employee fails to comply with the

provisions of subsection 1 for a rescheduled hearing, his grievance must be dismissed with prejudice unless he or she can show in writing to the Committee's satisfaction that the reason for noncompliance was beyond his or her control.

3. Each document or material offered in evidence must be marked as follows:

(a) Documents or materials presented by the employee must be marked at the bottom of the page as "Exhibit___" indicated by consecutive Arabic numerals, beginning with the number "1."

(b) Documents or materials presented by the employer must be marked at the bottom of the page as "Exhibit____" indicated by consecutive letters of the English alphabet, beginning with the letter "A." If the employer offers more than 26 exhibits, the 27th exhibit must be marked as "Exhibit AA," the 28th exhibit as "Exhibit BB," and so forth.

4. All evidence offered at the hearing must be relevant and bear upon the grievance.

5. Each person who ***provides a statement*** at the hearing shall state his name, address, and occupation for the record.

6. It is the responsibility of each party to arrange for the appearance of all necessary witnesses. The Committee may request additional witnesses or information as it deems necessary.

7. Upon proper recognition by the Chair or his or her designated representative, any member of the Committee may ask a question of a party or witness at any time during the hearing.

(Added to NAC by Personnel Comm'n, eff. 8-1-91; A by Dep't of Personnel, 11-16-95***; R026-11, 1-1-2012***)

NAC 284.6957 Hearing before Employee-Management Committee: Continuance. (NRS 284.065, 284.155, 284.384)

1. A party may request a continuance of a hearing to determine the proper disposition of a grievance pursuant to NAC 284.695 by submitting a request for a continuance to the Chair of the Committee or his or her designated representative at least 12 working days before the scheduled hearing, unless the party received personal notice of the hearing less than 21 working days before the hearing pursuant to subsection 2 of NAC 284.695, in which case he or she may request a continuance as long as the request is made at least 4 working days before the scheduled hearing.

2. The Committee may grant a request for a continuance if good cause is shown.

(Added to NAC by Dep't of Personnel, eff. 3-27-92; A 11-16-95)

NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:

(a) Report the alleged discrimination to:

(1) The division of the Division of Human Resource Management that investigates sexual harassment and discrimination;

(2) The Attorney General;

(3) The employee's appointing authority;

(4) An equal employment opportunity officer;

(5) A personnel representative of the department in which the employee is employed; or

(6) The office charged with enforcing affirmative action within the appropriate university, state college or community college which is part of the Nevada System of Higher Education;

(b) ***Except as otherwise provided in NRS 284.384, use*** the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive***, and section 1 of LCB File No. R026-11;*** or

(c) File a complaint with:

(1) The Nevada Equal Rights Commission pursuant to NRS 613.405; or

(2) The United States Equal Employment Opportunity Commission.

2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95; R023-05, 10-31-2005***; R026-11, 1-1-2012***)

NAC 284.697 When resolution of grievance becomes binding. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in subsection 2, the resolution of a grievance is binding when:

(a) There is an agreement between the person filing the grievance and the appointing authority or the designated representative of the employing agency; or

(b) The Committee renders a final decision.

2. The appointing authority or the designated representative of the employing agency shall submit each proposed resolution of a grievance which has a fiscal effect to the Budget Division for a determination of whether the resolution is feasible on the basis of its fiscal effects. The resolution is binding only if it is so found.

(Added to NAC by Dep't of Personnel, eff. 8-28-85; A by Personnel Comm'n by R030-02, 5-2-2002)

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PERSONNEL RECORDS

NAC 284.702 Reports of personnel actions. (NRS 284.065, 284.155, 284.175)

1. Each appointing authority shall report promptly to the Division of Human Resource Management such information as required in connection with each appointment, separation from service, other change in position or pay or other matters affecting the status of positions or the performance of duties of employees in the state service.

2. All reports must be prepared in the manner and on the forms prescribed by the Division of Human Resource Management.

3. The Division of Human Resource Management will establish procedures for sending copies of reports and notices to the State Controller without delay of any new positions, new employees and of its approval or disapproval of these actions.

[Personnel Div., Rule XVI § A subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 7-1-94; R147-01, 1-22-2002)

NAC 284.710 Order of processing personnel documents. (NRS 284.065, 284.155, 284.175) Any personnel documents effecting changes in an employee's pay and having the identical effective date will be processed in the following order:

1. Merit pay increases.
2. Reclassifications or overall adjustments to the compensation plan.
3. Promotions or demotions.

[Personnel Div., Rule XVI § A subsec. 3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; R147-01, 1-22-2002)

NRS 284.105 states, "Duties of Administrator.

1. The Administrator shall direct and supervise all administrative and technical activities of the Division.

2. In addition to the duties imposed upon the Administrator elsewhere in this chapter, the Administrator shall:

(a) Apply and carry out the provisions of this chapter and the regulations adopted pursuant to it.

(b) Establish objectives for the Division in terms which are specific, measurable and conducive to reliable evaluation, and develop a plan for accomplishing those objectives.

(c) Establish a system of appropriate policies for each function within the Division.

(d) Attend all meetings of the Commission.

(e) Advise the Commission with respect to the preparation and adoption of regulations to carry out the provisions of this chapter.

(f) Report to the Governor and the Commission upon all matters concerning the administration of the Administrator's office and request the advice of the Commission on matters concerning the policies of the Division, but the Administrator is responsible for the conduct of the Division and its administrative functions unless otherwise provided by law.

(g) Establish and maintain a roster of all employees in the public service. The roster must set forth, as to each employee:

(1) The class title of the position held.
(2) The salary or pay.
(3) Any change in class title, pay or status.
(4) Other pertinent data.

(h) In cooperation with appointing authorities and others, foster and develop programs for improving the effectiveness and morale of employees, including training and procedures for hearing and adjusting grievances.

(i) Encourage and exercise leadership in the development of effective personnel administration within the several departments in the public service, and make available the

facilities and services of the Division and its employees to this end.

(j) Make to the Commission and to the Governor a biennial report regarding the work of the Division and such special reports as the Administrator may consider desirable.

(k) Maintain a continuous program of recruiting for the classified service.

(l) Perform any other lawful acts which the Administrator may consider necessary or desirable to carry out the purposes and provisions of this chapter.

NAC 284.714 Official roster: Inspection; contents. (NRS 284.065, 284.155)

1. The official roster of employees in the public service maintained by the Division of Human Resource Management is a public record and will be open to inspection under reasonable conditions during business hours in the offices of the Division of Human Resource Management or the offices where the records are kept.

2. Except as otherwise provided in subsection 3, the roster must contain, for each employee:

(a) His or her name;

(b) The class title of the position he or she holds;

(c) His or her rate of pay;

(d) Any change in his or her class title, pay or status; and

(e) Other pertinent data as determined by the Administrator.

3. For public inspection purposes, the roster may exclude the actual names of employees who are in sensitive law enforcement positions where public access to the employees' identities could jeopardize their personal safety or job performance, in which case the employee will be shown on the roster as an unidentified employee.

[Personnel Div., Rule XVI § B, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; R147-01, 1-22-2002)

NRS 613.075 states, "Inspection by person who is subject of records; provision of copies upon request; cost of copies; person permitted to submit written explanation in response to information in records and to challenge accuracy; limitations.

1. Any person or governmental entity who employs and has under his or her direction and control any person for wages or under a contract of hire, or any labor organization referring a person to an employer for employment, shall, upon the request of that employee or person referred:

(a) Give the employee or person referred a reasonable opportunity, during the usual hours of business, to inspect any records kept by that employer or labor organization containing information used:

(1) By the employer or labor organization to determine the qualifications of that employee and any disciplinary action taken against the employee, including termination from that employment; or

(2) By the labor organization with respect to that person's position on its list concerning past, present and future referrals for employment; and

(b) Furnish the employee or person referred with a copy of those records.

➥ The records to be made available do not include confidential reports from previous employers or investigative agencies, other confidential investigative files concerning the employee or person referred or information concerning the investigation, arrest or conviction of that person for a violation of any law.

2. An employer or labor organization shall allow an employee or person referred to submit a reasonable written explanation in direct response to any written entry in the records of employment regarding the employee or person. Any such written explanation must be reasonable in length, in a format prescribed by the employer and maintained by the employer or labor organization in the records of employment.

3. An employer or labor organization shall not maintain a secret record of employment regarding an employee or person referred.

4. Upon termination of employment, an employer shall allow an employee to inspect the employee's records of employment within 60 days after his or her termination of employment and shall, if requested by that former employee within that period, furnish the former employee with a copy of those records.

5. An employer or labor organization may only charge an employee or person referred an amount equal to the actual cost of providing access to and copies of his or her records of employment.

6. The employee or person referred shall, if the employee or person contends that any information contained in the records is inaccurate or incomplete, notify his or her employer or the labor organization in writing of that contention. If the employer or labor organization finds that the contention of that employee or person is correct, it shall change the information accordingly.

7. No copies may be furnished to an employee or former employee under this section unless the employee or former employee has been or was employed for more than 60 days.

NAC 284.718 Confidential records. (NRS 284.065, 284.155, 284.407)

1. The following types of information, which are maintained by the Division of Human Resource Management or the personnel office of an agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished to the Division of Human Resource Management on the condition that the source remain confidential;

(b) Any document which is used by the Division of Human Resource Management or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(d) Any document which is used by the Division of Human Resource Management or an agency in the process of interviewing an applicant, including, without limitation, a document containing interview questions, evaluation tools used for rating applicants and any notes concerning an applicant that were taken by a person as part of the process of rating an applicant;

(e) Materials used in examinations, including suggested answers for oral examinations;

(f) Records and files maintained by an employee assistance program offered by the State of Nevada;

(g) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;

(h) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;

(i) Any information contained on a person's application or relating to his or her status as an eligible person; and

(j) Information in the file or record of employment of a current or former employee which relates to the employee's:

(1) Performance;

(2) Conduct, including any disciplinary actions taken against the employee;

(3) Usage or balance of his or her annual leave and sick leave;

(4) Race, ethnic identity or affiliation, sex, genetic information, disability or date of birth;

(5) Home telephone number; or

(6) Social security number.

2. If the employee has requested that his or her personal mailing address be listed as confidential, the employee's file must be so designated and list his or her business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

(a) The employee dies; or

(b) The employee signs a release.

4. Any records in the possession of the Committee on Catastrophic Leave created pursuant to NRS 284.3627 that reveal the health, medical condition or disability of a current or former employee or a member of his or her immediate family are confidential.

5. Any notes, records, recordings or findings of an investigation conducted by the Division of Human Resource Management relating to sexual harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority are confidential.

6. Any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct are confidential.

7. Any notes, records, recordings, findings or other information obtained from an internal study conducted by an agency that directly relate to an employee's performance or conduct are confidential.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93; R058-01, 9-6-2001; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004; R024-05, 10-31-2005; R141-07, 1-30-2008; R065-09, 10-27-2009; R055-10, 6-30-2010***; R137-12, 10-23-2013; R045-13, 10-23-2013)***

NAC 284.726 Access to confidential records. (NRS 284.065, 284.155, 284.335, 284.407)

1. Except as otherwise provided in this subsection, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority's decision to hire that person is limited to the appointing authority or his or her designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of subparagraph 2 of paragraph (a) of subsection 1 of NAC 284.204, information relating to the education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.

2. Except as otherwise provided in subsections 3 and 4, access to an employee's file of employment containing any of the items listed in paragraphs (g) to (j), inclusive, of subsection 1 of NAC 284.718 is limited to:

(a) The employee.

(b) The employee's representative when a signed authorization from the employee is presented or is in his or her employment file.

(c) The appointing authority or a designated representative of the agency by which the employee is employed.

(d) The Administrator or a designated representative.

(e) An appointing authority, or a designated representative, who is considering the employee for employment in the agency.

(f) Persons who are authorized pursuant to any state or federal law or an order of a court.

(g) The State Board of Examiners if the Board is considering a claim against the State of Nevada filed pursuant to chapter 41 of NRS which involves the employee.

(h) Persons who are involved in processing records for the transaction of business within and between state agencies.

(i) Persons who are involved in processing records for the transaction of business that is authorized by the employee.

3. Information concerning the health, medical condition or disability of an employee or a member of his or her immediate family must be kept separate from the employee's file in a locked cabinet. Except as otherwise provided in subsection ***9***, access to such information is limited to the employee, his or her current supervisor, and the appointing authority or a designated representative.

4. Except as otherwise provided in subsection ***9***, access to information concerning the employee's usage or balance of annual leave and sick leave is limited to the employee, the employee's immediate supervisor and the employee's appointing authority or the designated representative of the appointing authority.

5. ***Except as otherwise provided in subsection 9, access to any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct is limited to:***

(a) The employee.

(b) The Administrator or a designated representative of the Administrator.

(c) The appointing authority or a designated representative of the agency with which the employee is employed.

(d) Persons who are authorized pursuant to any state or federal law or an order of a court.

(e) The Governor or a designated representative of the Governor.

6. Except as otherwise provided in subsection 9, access to any notes, records, recordings, findings or other information obtained from an internal study conducted by an agency that directly relate to an employee's performance or conduct is limited to:

(a) The employee.

(b) The appointing authority or a designated representative of the agency by which the employee is employed.

(c) Persons who are authorized pursuant to any state or federal law or an order of a court.

(d) The Governor or the Governor's designated representative.

7. Except as otherwise provided by specific statute, records maintained by an employee assistance program offered by the State of Nevada must not be released without written permission signed by the employee to whom the records pertain.

8. Upon request, the Division of Human Resource Management will provide the personal mailing address of any employee on file with the Division of Human Resource Management to the State Controller's Office and the Internal Revenue Service.

9. The Administrator or the appointing authority, or a designated representative, shall authorize the release of any confidential records under his or her control which are requested by the Employee-Management Committee, a hearings officer, the Commission, the Committee on Catastrophic Leave created pursuant to NRS 284.3627, the Nevada Equal Rights Commission or a court.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R024-05, 10-31-2005; R141-07, 1-30-2008; R065-09, 10-27-2009, R059-10, 10-15-2010***; R137-12, 10-23-2013; R045-13, 10-23-2013)***

NAC 284.730 Retention and disposal of records. (NRS 284.065) All records of the Division of Human Resource Management will be retained or disposed of in accordance with the

records retention and disposal schedule approved by the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

[Personnel Div., Rule XVI § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R182-03, 1-27-2004)

NAC 284.734 Prohibition against maintenance of secret files. (NRS 284.065, 284.155) Except as otherwise provided in NAC 284.718 and 284.726, no appointing authority may maintain secret files regarding any employee.

[Personnel Div., Rule XVI § E, eff. 8-11-73]

PROHIBITIONS AND OFFENSES

NRS 202.2491 Smoking tobacco: Unlawful in certain public places; posting signs; designation of areas for smoking.

1. Except as otherwise provided in subsections 5 and 6 and NRS 202.24915, the smoking of tobacco in any form is prohibited if done in any:

(a) Public elevator.

(b) Public building.

(c) Public waiting room, lobby or hallway of any:

(1) Medical facility or facility for the dependent as defined in chapter 449 of NRS; or

(2) Office of any chiropractor, dentist, physical therapist, physician, podiatric physician, psychologist, optician, optometrist or doctor of Oriental medicine.

(d) Hotel or motel when so designated by the operator thereof.

(e) Public area of a store principally devoted to the sale of food for human consumption off the premises.

(f) Child care facility.

(g) Bus used by the general public, other than a chartered bus, or in any maintenance facility or office associated with a bus system operated by any regional transportation commission.

(h) School bus.

(i) Video arcade.

2. The person in control of an area listed in paragraph (c), (d), (e) or (g) of subsection 1:

(a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b).

(b) May designate separate rooms or portions of the area which may be used for smoking, except for a room or portion of the area of a store described in paragraph (e) of subsection 1 if the room or portion of the area:

(1) Is leased to or operated by a person licensed pursuant to NRS 463.160; and

(2) Does not otherwise qualify for an exemption set forth in NRS 202.24915.

3. The person in control of a public building:

(a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b).

(b) Shall, except as otherwise provided in this subsection, designate a separate area which may be used for smoking.

➥ A school district which prohibits the use of tobacco by pupils need not designate an area which may be used by the pupils to smoke.

4. The operator of a restaurant with a seating capacity of 50 or more shall maintain a flexible nonsmoking area within the restaurant and offer each patron the opportunity to be seated in a smoking or nonsmoking area.

5. A business which derives more than 50 percent of its gross receipts from the sale of alcoholic beverages or 50 percent of its gross receipts from gaming operations may be designated as a smoking area in its entirety by the operator of the business.

6. The smoking of tobacco is not prohibited in:

(a) Any room or area designated for smoking pursuant to paragraph (b) of subsection 2 or paragraph (b) of subsection 3.

(b) A licensed gaming establishment. A licensed gaming establishment may designate separate rooms or areas within the establishment which may or may not be used for smoking.

7. As used in this section:

(a) "Child care facility" means an establishment operated and maintained to furnish care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children. The term does not include the home of a natural person who provides child care.

(b) "Licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.

(c) "Public building" means any building or office space owned or occupied by:

(1) Any component of the Nevada System of Higher Education and used for any

purpose related to the System.

(2) The State of Nevada and used for any public purpose, other than that used by the Department of Corrections to house or provide other services to offenders.

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

➥ If only part of a building is owned or occupied by an entity described in this paragraph, the term means only that portion of the building which is so owned or occupied.

(d) "School bus" has the meaning ascribed to it in NRS 483.160.

(e) "Video arcade" means a facility legally accessible to persons under 18 years of age which is intended primarily for the use of pinball and video machines for amusement and which contains a minimum of 10 such machines.

NRS 331.220 states, "Surreptitious electronic surveillance prohibited; exceptions.

1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on the grounds of any facility owned or leased by the State of Nevada without the knowledge of the person being observed.

2. Subsection 1 does not apply to any electronic surveillance:

(a) Authorized by a court order issued to a public officer, based upon a showing of probable cause to believe that criminal activity is occurring on the property under surveillance;

(b) By a law enforcement agency pursuant to a criminal investigation; or

(c) Which is necessary as part of a system of security used to protect and ensure the safety of persons on the grounds of the facility."

NRS 281.621 states, "Declaration of public policy. It is hereby declared to be the public policy of this state that a state officer or employee and a local governmental officer or employee are encouraged to disclose, to the extent not expressly prohibited by law, improper governmental action, and it is the intent of the Legislature to protect the rights of a state officer or employee and a local governmental officer or employee who makes such a disclosure."

NRS 199.280 states, "Resisting public officer. A person who, in any case or under any circumstances not otherwise specially provided for, willfully resists, delays or obstructs a public officer in discharging or attempting to discharge any legal duty of his or her office shall be punished:

1. Where a firearm is used in the course of such resistance, obstruction or delay, or the person intentionally removes, takes or attempts to remove or take a firearm from the person of, or the immediate presence of, the public officer in the course of such resistance, obstruction or delay, for a category C felony as provided in NRS 193.130.

2. Where a dangerous weapon, other than a firearm, is used in the course of such resistance, obstruction or delay, or the person intentionally removes, takes or attempts to remove or take a weapon, other than a firearm, from the person of, or the immediate presence of, the public officer in the course of such resistance, obstruction or delay, for a category D felony as provided in NRS 193.130.

3. Where no dangerous weapon is used in the course of such resistance, obstruction or delay, for a misdemeanor."

NRS 199.300 states, "Intimidating public officer, public employee, juror, referee, arbitrator, appraiser, assessor or similar person.

1. A person shall not, directly or indirectly, address any threat or intimidation to a public officer, public employee, juror, referee, arbitrator, appraiser, assessor or any person authorized by law to hear or determine any controversy or matter, with the intent to induce such a person contrary to his or her duty to do, make, omit or delay any act, decision or determination, if the threat or intimidation communicates the intent, either immediately or in the future:

(a) To cause bodily injury to any person;

(b) To cause physical damage to the property of any person other than the person addressing the threat or intimidation;

(c) To subject any person other than the person addressing the threat or intimidation to physical confinement or restraint; or

(d) To do any other act which is not otherwise authorized by law and is intended to harm substantially any person other than the person addressing the threat or intimidation with respect to the person's health, safety, business, financial condition or personal relationships.

2. The provisions of this section must not be construed as prohibiting a person from making any statement in good faith of an intention to report any misconduct or malfeasance by a public officer or employee.

3. A person who violates subsection 1 is guilty of:

(a) If physical force or the immediate threat of physical force is used in the course of the intimidation or in the making of the threat:

(1) For a first offense, a category C felony and shall be punished as provided in NRS 193.130.

(2) For a second or subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

(b) If no physical force or immediate threat of physical force is used in the course of the intimidation or in the making of the threat, a gross misdemeanor.

4. As used in this section, "public employee" means any person who performs public duties for compensation paid by the State, a county, city, local government or other political subdivision of the State or an agency thereof, including, without limitation, a person who performs a service for compensation pursuant to a contract with the State, county, city, local government or other political subdivision of the State or an agency thereof.

NRS 284.410 states, "False statement or report; fraud. No person shall make any false statement, certificate, mark, rating or report with regard to any examination, certification or appointment made under any provision of this chapter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter and the rules and regulations."

NRS 284.415 states, "Receipt or payment of consideration for appointment or promotion. No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the classified service."

NRS 284.420 states, "Obstruction of right to examination, eligibility, certification or appointment; furnishing special or secret information. An employee of the Division, examiner, or other person shall not defeat, deceive or obstruct any person in his or her right to examination, eligibility, certification or appointment under this chapter, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service."

NRS 284.425 states, "Member of subversive organization ineligible for appointment or employment in public service.

1. Any person who has been or remains a member of any subversive organization, as defined by the Attorney General of the United States, composed of two or more members, which directly or indirectly advocates, advises, teaches or practices the duty, necessity or propriety of controlling, conducting, seizing or overthrowing the Government of the United States, the government of this state, or the government of any political subdivision thereof, by force or violence, shall be ineligible for appointment to or employment in a position in the public service; and if he is an officer or employee of the State, he shall forfeit his office or position.

2. This chapter shall not be construed to prohibit the existence of an organization of state

employees, or to prohibit any state officer or employee from becoming a member of such an organization."

NRS 284.430 states, "Penalties.
1. Any person who willfully violates any provision of this chapter or any provision of the rules and regulations prescribed hereunder shall be guilty of a misdemeanor.
2. Any person who is convicted of a misdemeanor under this chapter shall, for a period of 5 years, be ineligible for appointment to or employment in a position in the public service, and if the person is an officer or employee of the State, the person shall forfeit the person's office or position."

NRS 284.143 states, "Unclassified service: Certain persons may pursue other businesses or occupations or other office for profit. Except as otherwise provided in NRS 281.127, a person in the unclassified service of the State who has been appointed or employed for service in a department, division, agency or institution, other than a director of a department, may pursue any other business or occupation or hold any other office for profit if:
1. The other employment does not conflict with the duties the person is required to perform in the person's unclassified service;
2. The other employment does not conflict with the hours during which the person is required to perform those duties; and
3. The person has obtained the approval of the person's supervisor."

NAC 284.738 Conflicting activities. (NRS 284.065, 284.155) Employees shall not engage in any employment, activity or enterprise which has been determined to be inconsistent, incompatible or in conflict with their duties as employees, or with the duties, functions or responsibilities of their appointing authorities or agencies by which they are employed.
[Personnel Div., Rule XI § A subsec. 1, eff. 8-11-73]

NAC 284.742 Appointing authorities authorized to define conflicting activities. (NRS 284.065, 284.155)
1. Each appointing authority ***shall*** determine, subject to the approval of the Commission, those specific activities which, for employees under ***its*** jurisdiction, are ***prohibited as*** inconsistent, incompatible or in conflict with their duties as employees. ***The appointing authority shall identify those activities in the policy established by the appointing authority pursuant to NRS 284.383, as amended by section 1.5 of Assembly Bill No. 179, chapter 272, Statutes of Nevada 2011, at page 1495.***
2. ***If an*** appointing authority ***revises the policy described in subsection 1, the appointing authority*** shall provide a copy ***of the revised policy*** to each employee.
3. An appointing authority shall include in the policy described in subsection 1 an explanation of the process of progressive discipline as administered by the appointing authority. The process must conform to the provisions of NRS 284.383 and NAC 284.638 to 238.656, inclusive, and sections 2 and 3 of NAC 284.6561 and section 1 of LCB File No. R027-11.
[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; R027-11, ***12-30-2011***)

NAC 284.746 Acceptance of favors. (NRS 284.065, 284.155) No employee may seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity that would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]

NAC 284.750 Use of position to secure or grant privileges. (NRS 284.065, 284.155) No employee may use his or her position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself or herself, any member of his or her household, any business entity with which he or she or a member of his or her household is associated, or any other person.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]

NAC 284.754 Contracts with State. (NRS 284.065, 284.155) An employee shall not enter into a private contract with the State in any capacity that may be construed as an extension of his or her assigned duties or responsibilities to the State.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73; A 4-4-78]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.758 Use of privileged information. (NRS 284.065, 284.155) If an employee acquires, through his or her public duties or relationships, any information which by law or practice is not at the time available to people generally, he or she may not use the information to further the economic interests of himself or herself or any other person or business entity.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]

NAC 284.762 Suppression of information. (NRS 284.065, 284.155) No employee may suppress any governmental report or other document because it might affect unfavorably his or her private financial interest.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]

NAC 284.766 Full-time service required. (NRS 284.065, 284.155) Each employee shall, during his or her hours of duty as an employee and subject to such other laws or regulations as pertain thereto, devote his or her full time, attention and efforts to state employment.

[Personnel Div., Rule XI § B, eff. 8-11-73]

NAC 284.770 Political activities. (NRS 284.065, 284.155) Employees may vote as they choose and express their political opinions on all subjects without recourse, except that no employee may:

1. Directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, monetary or nonmonetary contribution for a political purpose from anyone who is in the same department and who is a subordinate of the solicitor.

2. Engage in political activity during the hours of his or her state employment to improve the chances of a political party or a person seeking office, or at any time engage in political activity to secure a preference for a promotion, transfer or increase in pay.

[Personnel Div., Rule XI § C, eff. 8-11-73; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; R147-01, 1-22-2002)

INFORMATIONAL NOTE: The federal Hatch Act, as amended, 5 U.S.C. 1501-1508, prohibits certain types of political activity on the part of State employees whose principle employment is in a federally-funded program.

NRS 284.150 states, "Classified service: Composition; limitations on appointment,

transfer, promotion, demotion or discharge; discrimination prohibited.

1. The classified service of the State of Nevada is comprised of all positions in the public service now existing or hereafter created which are:

(a) Lawfully designated as being in the classified service; and

(b) Filled according to merit and fitness from eligible lists prepared upon the basis of examination, which must be open and competitive, except as otherwise provided in this chapter and NRS 209.161.

2. Except as otherwise provided in NRS 193.105**,** 209.161 and 416.070, a person must not be appointed, transferred, promoted, demoted or discharged in the classified service in any manner or by any means other than those prescribed in this chapter and the regulations adopted in accordance therewith.

3. A person must not be discriminated against on account of the person's religious opinions or affiliations, race, sex, age or disability."

NRS 281.370 states, "Actions concerning personnel to be based on merit and fitness; discrimination prohibited.

1. All personnel actions taken by state, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof must be based solely on merit and fitness.

2. State, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof shall not refuse to hire a person, discharge or bar any person from employment or discriminate against any person in compensation or in other terms or conditions of employment because of the person's race, creed, color, national origin, sex, sexual orientation, gender identity or expression, age, political affiliation or disability, except when based upon a bona fide occupational qualification.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

(c) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality."

NRS 613.330 states, "Unlawful employment practices: Discrimination on basis of race, color, religion, sex, sexual orientation, age, disability or national origin; interference with aid or appliance for disability; refusal to permit service animal at place of employment.

1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

2. It is an unlawful employment practice for an employment agency to:

(a) Fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age,

disability or national origin of that person; or

(b) Classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(c) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. It is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment.

7. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097."

NAC 284.771 Sexual harassment. (NRS 284.065, 284.155)

1. Sexual harassment violates the policy of this State and is a form of unlawful discrimination based on sex under state and federal law. An employee shall not engage in sexual harassment against another employee, an applicant for employment, or any other person in the workplace.

2. Sexual harassment is a very serious disciplinary infraction. An appointing authority may impose harsh disciplinary sanctions on, or dismiss, persons who commit sexual harassment, including, without limitation, first-time offenders.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95; A by Personnel Comm'n by R147-06, 12-7-2006)

NRS 233.160 states, "Complaint alleging unlawful discriminatory practices: Limitations on filing; contents; duties of Commission [Effective until the date the Governor declares that the Federal Government has determined that certain provisions of NRS provide rights and remedies for alleged discriminatory housing practices substantially equivalent to federal law.]

1. A complaint which alleges unlawful discriminatory practices in:

(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.

(b) Employment or public accommodations must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.

➥ A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.

2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.

3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:

(a) A copy of the complaint;

(b) An explanation of the rights which are available to that party; and

(c) A copy of the Commission's procedures."

NRS 288.230 states, "Legislative declaration; illegality of strikes.

1. The Legislature finds as facts:

(a) That the services provided by the State and local government employers are of such nature that they are not and cannot be duplicated from other sources and are essential to the health, safety and welfare of the people of the State of Nevada;

(b) That the continuity of such services is likewise essential, and their disruption incompatible with the responsibility of the State to its people; and

(c) That every person who enters or remains in the employment of the State or a local government employer accepts the facts stated in paragraphs (a) and (b) as an essential condition of the person's employment.

2. The Legislature therefore declares it to be the public policy of the State of Nevada that strikes against the State or any local government employer are illegal."

PRACTICE BEFORE DIVISION OF HUMAN RESOURCE MANAGEMENT

NRS 284.391 states, "Hearings: Issuance of subpoenas; discovery; oaths; examination of witnesses.

1. The hearing officer may, upon application of any party to a hearing held pursuant to NRS 284.376 or 284.390, issue subpoenas requiring the attendance and testimony of witnesses at the proceeding.

2. The hearing officer may, upon motion of a party, direct that an opposing party participate in a discovery conference at which both parties and their counsel may put questions to the other party and receive answers, or request and receive copies of relevant documents or examine relevant documents and records and any other physical evidence which the opposing party intends to use at the hearing.

3. The hearing officer, or any agent or agency designated by the Commission for such purposes, may administer oaths and affirmations and examine witnesses."

NRS 284.392 states, "Hearings: Subpoenas extend to all parts of State; service of subpoenas; attendance of witnesses. A subpoena issued pursuant to NRS 284.391 extends to all parts of the State and must be served in accordance with the provisions of N.R.C.P. 4(c). No witness may be required to attend at a place out of the county in which the witness resides unless the distance is less than 100 miles from the place of residence of the witness, except, upon affidavit of any party showing that the testimony of that witness is material and necessary, the hearing officer may endorse on the subpoena an order requiring the attendance of the witness in response to the subpoena."

NRS 284.393 states, "Hearings: Fees, mileage and expenses of witnesses.

1. All witnesses appearing pursuant to subpoena, other than parties or officers or employees of the State or any political subdivision thereof, are entitled to receive fees and mileage in the same amounts and under the same circumstances as prescribed by law for witnesses in civil actions in the district courts.

2. Witnesses entitled to fees or mileage who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day are entitled, in addition to fees and mileage, to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearings.

3. Per diem and travel expenses must be paid by the party at whose request the witness is subpoenaed. The hearing officer may award as costs the amount of all such expenses to the prevailing party."

NRS 281.641 states, "Reprisal or retaliatory action against state officer or employee who discloses improper governmental action: Written appeal; hearing; order; negative ruling may not be based on identity of persons to whom disclosure was made; rules of procedure.

1. If any reprisal or retaliatory action is taken against a state officer or employee who discloses information concerning improper governmental action within 2 years after the information is disclosed, the state officer or employee may file a written appeal with a hearing officer of the Personnel Commission for a determination of whether the action taken was a reprisal or retaliatory action. The written appeal must be accompanied by a statement that sets forth with particularity:

(a) The facts and circumstances under which the disclosure of improper governmental action was made; and

(b) The reprisal or retaliatory action that is alleged to have been taken against the state officer or employee.

➥ The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive, and the procedures adopted by the Personnel Commission pursuant to subsection 4.

2. If the hearing officer determines that the action taken was a reprisal or retaliatory action, the hearing officer may issue an order directing the proper person to desist and refrain from engaging in such action. The hearing officer shall file a copy of the decision with the Governor or any other elected state officer who is responsible for the actions of that person.

3. The hearing officer may not rule against the state officer or employee based on the person or persons to whom the improper governmental action was disclosed.

4. The Personnel Commission may adopt rules of procedure for conducting a hearing pursuant to this section that are not inconsistent with the procedures set forth in NRS 284.390 to 284.405, inclusive.

5. As used in this section, "Personnel Commission" means the Personnel Commission created by NRS 284.030.

NAC 284.774 Scope. (NRS 281.641, 284.065, 284.155, 284.376, 284.390)

1. NAC 284.774 to 284.818, inclusive, govern hearings in all cases relating to dismissals, suspensions, demotions and involuntary transfers before the hearing officer and hearings for a written appeal filed pursuant to NRS 281.641.

2. Except as otherwise provided in subsection 3, the hearing officer shall use the hearings procedures established in NAC 284.774 to 284.818, inclusive, and any hearings procedures provided by the Division of Human Resource Management if interested parties have proper notice of any procedural changes or are not prejudiced thereby. A copy of the hearings procedures is available by contacting the Division of Human Resource Management at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

3. Each hearing officer may adopt supplementary rules governing practice before him or her not inconsistent with the provisions of subsection 2. The supplementary rules must be made available, in writing, to all parties not less than 5 business days before a hearing.

[Personnel Div., Hearings Procedures § (C), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R192-09, 6-30-2010, eff. 7-1-2010)

NAC 284.778 Request for hearing and other communications. (NRS 281.641, 284.065, 284.155, 284.376, 284.390)

1. A request for an appeal must be addressed to the Administrator and submitted on the form provided by the Division of Human Resource Management.

2. A copy of any written communication directed to a hearing officer must be sent to the Hearing Clerk of the Division of Human Resource Management.

3. A party shall not communicate with a hearing officer regarding the merits of a case:

(a) Except in the presence of all parties to the hearing; or

(b) Unless all parties to the hearing are notified of the communication in advance.

4. Unless otherwise agreed upon in writing by all parties, an offer or demand of settlement made by a party must not be disclosed to or proposed by a hearing officer before the issuance of a final decision by the hearing officer.

[Personnel Div., Hearings Procedures § (A) subsec. (1), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R192-09, 6-30-2010, eff. 7-1-2010; R011-11, 10-26-2011)

NAC 284.780 Selection of qualified hearing officer. (NRS 284.065, 284.155, 284.376, 284.390)

1. For each hearing requested in a claim relating to a dismissal, suspension, demotion, involuntary transfer, or reprisal or retaliatory action, the Administrator shall provide to each party to the claim:

(a) A list of three qualified hearing officers; or

(b) A list of five qualified hearing officers.

2. If the Administrator provides a list of:

(a) Three qualified hearing officers, each party may strike one name from the list; or

(b) Five qualified hearing officers, each party may strike two names from the list,

➥ and shall return the list with the remaining names to the Administrator not later than 10 days after receipt of the list.

3. Except as otherwise provided in subsection 5, each person whose name is struck from the list pursuant to subsection 2 is ineligible to serve as a hearing officer in that claim.

4. Except as otherwise provided in subsection 5, the Administrator shall select a hearing officer for the hearing from among the persons whose names were not struck from the list pursuant to subsection 2.

5. If, for any reason, all of the hearing officers whose names were not struck from the list pursuant to subsection 2 are unqualified or otherwise unavailable to serve as a hearing officer for the hearing, the Administrator may provide a new list of hearing officers to the parties in the manner provided in this section or may select any qualified hearing officer who is available to serve as a hearing officer in the hearing.

(Added to NAC by Personnel Comm'n by R192-09, 6-30-2010, eff. 7-1-2010)

NAC 284.782 Time and place; notice; provision of reasonable accommodation to party with disability. (NRS 284.065, 284.155, 284.376, 284.390)

1. The hearing officer shall convene the hearing at the time and place specified for the purpose of hearing the appeal.

2. Written notice of the time and place of the hearing must be given to the parties at least 10 days in advance. The notice must contain the information required for a party to request reasonable accommodation.

3. The hearing officer shall provide reasonable accommodation to a party with a disability who requests such accommodation within the time sufficient to make the accommodation.

[Personnel Div., Hearings Procedures § (B) subsec. (1), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; 7-6-92)

NAC 284.786 Continuances. (NRS 281.641, 284.065, 284.155, 284.376, 284.390)

1. Hearings may be continued beyond the period originally scheduled or recessed until a future date which is agreeable to the hearing officer and the parties if good cause is shown.

2. A party may request a continuance not later than 5 business days before the date of the scheduled hearing by filing a written motion or stipulation with the hearing officer. Notice of the motion or stipulation and a copy of the motion or stipulation must be sent to each party to the hearing and to the Division of Human Resource Management.

3. A party may contest a request for a continuance submitted by another party by filing a written motion with the hearing officer not later than 2 business days after receiving the notice of the request for a continuance. Notice of the motion and a copy of the motion must be sent to each party to the hearing and to the Division of Human Resource Management.

4. A hearing officer shall not grant a continuance requested on the day of a scheduled hearing, unless:

(a) The hearing officer, any party, the legal counsel for a party or a primary witness cannot attend the hearing because of an emergency;

(b) The hearing exceeds the time allotted for the day; or

(c) The hearing officer recesses the hearing until a future date.

5. If a hearing officer recesses a hearing until a future date pursuant to a request for a continuance which is filed on the day of the scheduled hearing, the hearing must be held not later

than 20 business days after the date of the request for a continuance, unless there is a conflict with the schedule of the hearing officer.

[Personnel Div., Hearings Procedures § (A) subsec. (9), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R192-09, 6-30-2010, eff. 7-1-2010)

NAC 284.788 Conduct of hearings on appeal. (NRS 284.065, 284.155, 284.376, 284.390)

1. Except as otherwise provided in subsection 2, all hearings on appeals must be open to the public.

2. On the motion of either party, the hearing officer shall exclude from the hearing room witnesses in the matter not at the time under examination except the parties to the proceeding. No hearing may be closed to the public except on motion of either party for good cause shown.

3. A document or piece of physical evidence sought to be introduced during the hearing must first be identified for the record and the hearing officer may request the production of such records and the appearance of such persons as he or she requires.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.794 Evidence. (NRS 284.065, 284.155, 284.376, 284.390)

1. The hearing officer shall determine the evidence upon the charges and specifications as set forth by the appointing authority in the appropriate documents, and shall not consider any additional evidence beyond the scope of the charges.

2. An employer's or employee's past performance by way of an act or a failure to act may be shown by competent evidence.

3. Reports, evaluations, and other written evidence may be considered only upon a showing that the parties were made aware of the contents of this material.

4. All testimony and exhibits offered at the hearing must be relevant and bear upon the matter in contention. Any testimony or exhibits which are considered by the hearing officer as not meeting this criterion may properly be excluded.

5. The hearing officer shall also consider the objection of either side to the introduction of evidence. Competence and relevance must be the primary test in ruling on objections.

[Personnel Div., Hearings Procedures § (A) subsecs. (3) & (4), eff. 11-28-65; A 6-9-74; + Rule XVI part § C, eff. 9-6-74]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.798 Decision must be based on evidence presented. (NRS 284.065, 284.155, 284.376, 284.390) The hearing officer shall make no assumptions of innocence or guilt but shall be guided in his or her decision by the weight of the evidence as it appears to him or her at the hearing.

[Personnel Div., Hearings Procedures § (A) subsec. (5), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.802 Form of testimony. (NRS 284.065, 284.155, 284.376, 284.390)

1. At the beginning of his or her testimony, each witness who has not previously testified in the hearing must be required to state his or her name, address and business, employment or position.

2. Testimony may be presented in the form of a statement or questions and answers.

3. The hearing officer may have the testimony recorded and transcribed.

[Personnel Div., Hearings Procedures § (A) subsecs. (6) & (8), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000)

NAC 284.806 Evidence must be authenticated. (NRS 284.065, 284.155, 284.376, 284.390) Any letter, paper or object offered in evidence must be properly authenticated and, if received, must be marked by the reporter with a distinguishing number or letter, such as "Employee's Exhibit 1" or "Employer's Exhibit A." The representative for the opposing party is entitled to examine the exhibit when it is offered.

[Personnel Div., Hearings Procedures § (A) subsec. (7), eff. 11-28-65]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.814 Appearance and procedure at hearing. (NRS 284.065, 284.155, 284.376, 284.390)

1. A party may appear in person and may be represented by an attorney or another person of his or her choice, if the party chooses not to represent himself or herself.

2. All testimony must be under oath administered by the hearing officer.

3. The matter must be heard in the following manner:

(a) Opening statement for the employer.

(b) Opening statement for the employee, unless reserved.

(c) Presentation of the employer's case, followed by cross-examination.

(d) Presentation of the employee's case, followed by cross-examination.

(e) The parties may respectively offer rebutting testimony only, unless the hearing officer permits additional evidence upon the original cause.

(f) Argument for the employer.

(g) Argument for the employee.

(h) Closing argument for the employer.

(i) Submission of the case for decision.

[Personnel Div., Hearings Procedures § (B) subsec. (3), eff. 11-28-65; A 4-15-73; 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 3-23-94)

NAC 284.818 Decision by hearing officer. (NRS 284.065, 284.155, 284.376, 284.390) At the conclusion of the hearing, the hearing officer shall take the case under submission and shall notify the parties in writing within 30 days from the date of the hearing of the hearing officer's findings and recommendations.

[Personnel Div., Hearings Procedures § (B) subsec. (4), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84)

Adoption, Amendment or Repeal of Regulations

NAC 284.826 Notice. (NRS 284.065) Notice given pursuant to NRS 233B.060 will be provided by mailing to all heads of departments and persons who have requested in writing that they be placed on the mailing list maintained by the Division of Human Resource Management for this purpose.

[Personnel Div., Rule XVII § B subsec. 3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.830 Presentation and contents of petitions. (NRS 284.065)

1. Petitions to initiate the adoption, amendment or repeal of a regulation must be presented in writing in a letter addressed to the Administrator at least 120 days before a regularly scheduled meeting of the Commission.

2. Petitions to protest the adoption, amendment or repeal of a regulation must be presented in writing in a letter addressed to the Administrator at least 20 days before a regularly scheduled meeting of the Commission.

3. Such a petition must contain or be accompanied by relevant data, views and arguments. If a petition is for a new regulation or an amendment to an existing regulation, the petitioner shall also submit the proposed language.

[Personnel Div., Rule XVII § C subsecs. 1 & 2 + Rule XVII § D subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 8-14-90; A by Personnel Comm'n by R203-07, 4-17-2008)

NAC 284.834 Action on petitions to initiate adoption, amendment or repeal. (NRS 284.065) When a petition is submitted to initiate the adoption, amendment or repeal of a regulation pursuant to NAC 284.830, the Division of Human Resource Management will, within 30 days, either deny the petition in writing, stating its reasons, or initiate procedures for the adoption, amendment or repeal of a regulation pursuant to NRS 233B.060. An oral hearing will be granted to any interested person who will be directly affected by the proposed regulation.

[Personnel Div., Rule XVII § C subsec. 3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 8-14-90)

NAC 284.838 Declaratory judgments. (NRS 284.065) If the petition is denied by the Division of Human Resource Management and its decision is sustained by the Commission, the petitioner may seek a declaratory judgment, pursuant to NRS 233B.110.

[Personnel Div., Rule XVII § C subsec. 4, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

Hearings Before the Personnel Commission

NAC 284.850 Scope. (NRS 284.065) NAC 284.850 to 284.874, inclusive, govern hearings before the Commission.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.854 Request for appeal and other communication. (NRS 284.065) A request for an appeal or other pertinent communication directed to the Commission must be addressed to the Director within 30 days after receipt of the Director's decision.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.858 Time and place; notice; provision of reasonable accommodation to party with disability. (NRS 284.065)

1. The Chair of the Commission will convene the hearing at the time and place specified for the purpose of hearing the appeal.

2. A written notice of the time and place of the hearing must be given to each party at least 10 days before the date of the hearing. The notice must contain the information required for a party to request reasonable accommodation.

3. The Chair shall provide reasonable accommodation to a party with a disability who requests such accommodation within the time sufficient to make the accommodation.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-6-92)

NAC 284.862 Hearings open to public. (NRS 284.065) Except as otherwise required or permitted by chapter 241 of NRS, all hearings are open to the public.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.866 Commencement of hearing. (NRS 284.065) At the beginning of the hearing, the Chairman of the Commission:

1. Shall state the subject of the hearing and identify the parties; and

2. May, with the agreement of the parties, read into or submit for the record items of preliminary or explanatory correspondence relevant to the subject of the hearing.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.870 Appearance and representation of party; manner of hearing. (NRS 284.065)

1. A party may appear in person or may be represented by an individual of his or her choice, or both appear and be represented.

2. The matter will be heard in the manner prescribed by the Commission.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.874 Decision of Commission. (NRS 284.065) At the conclusion of the hearing, the Commission may take the case under submission and will notify the parties in writing within 30 days after the date of the hearing of the Commission's decision.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

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USE OF ALCOHOL OR DRUGS

NRS 284.406 states, "Policy concerning use of alcohol or drugs by state employees. It is the policy of this state to ensure that its employees do not:

1. Report for work in an impaired condition resulting from the use of alcohol or drugs;
2. Consume alcohol while on duty; or
3. Unlawfully possess or consume any drugs while on duty, at a work site or on state property."

NRS 284.4061 Definitions. As used in NRS 284.406 to 284.407, inclusive, unless the context otherwise requires:

1. "Employee" means a person in the classified or unclassified service of the State.
2. "Screening test" means a test of a person's:

(a) Breath or blood to detect the general presence of alcohol; or

(b) Urine to detect the general presence of a controlled substance or any other drug,

➥ which could impair that person's ability to perform the duties of employment safely and efficiently.

NRS 284.4062 Employee who consumes or is under the influence of alcohol or drugs or who possesses controlled substance on duty is subject to disciplinary action; state agency required to refer certain employees to employee assistance program.

1. Except as otherwise provided in subsection 3, an employee who:

(a) Consumes or is under the influence of alcohol while on duty, unless the alcohol is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer's instructions or in accordance with a lawfully issued prescription;

(b) Possesses, consumes or is under the influence of a controlled substance while on duty, at a work site or on state property, except in accordance with a lawfully issued prescription; or

(c) Consumes or is under the influence of any other drug which could interfere with the safe and efficient performance of the employee's duties, unless the drug is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer's instructions or in accordance with a lawfully issued prescription,

➥ is subject to disciplinary action. An appointing authority may summarily discharge an employee who, within a period of 5 years, commits a second act which would subject the employee to disciplinary action pursuant to this subsection.

2. A state agency shall refer an employee who:

(a) Tests positive for the first time in a screening test; and

(b) Has committed no other acts for which the employee is subject to termination during the course of conduct giving rise to the screening test,

➥ to an employee assistance program. An employee who fails to accept such a referral or fails to complete such a program successfully is subject to further disciplinary action.

3. Subsection 1 does not apply to:

(a) An employee who consumes alcohol in the course of the employment of the employee while hosting or attending a special event.

(b) A peace officer who possesses a controlled substance or consumes alcohol within the scope of the peace officer's duties.

NRS 284.4063 Grounds for disciplinary action: Failure to notify supervisor after consuming certain drugs; failure or refusal to submit to screening test; failure of screening test. Except as otherwise provided in subsection 5 of NRS 284.4065, an employee who:

1. Fails to notify the employee's supervisor as soon as possible after consuming any drug which could interfere with the safe and efficient performance of the employee's duties;
2. Fails or refuses to submit to a screening test as requested by a state agency pursuant to subsection 1 or 2 of NRS 284.4065; or
3. After taking a screening test which indicates the presence of a controlled substance, fails

to provide proof, within 72 hours after being requested by the employee's appointing authority, that the employee had taken the controlled substance as directed pursuant to a current and lawful prescription issued in the employee's name,
➥ is subject to disciplinary action.

NRS 284.4064 Appointing authority authorized to require employee who has consumed drug to obtain clearance from physician; inquiry regarding use of alcohol or drug by employee; preventing employee from continuing work.

1. If an employee informs the employee's appointing authority that the employee has consumed any drug which could interfere with the safe and efficient performance of the employee's duties, the appointing authority may require the employee to obtain clearance from the employee's physician before the employee continues to work.

2. If an appointing authority reasonably believes, based upon objective facts, that an employee's ability to perform the employee's duties safely and efficiently:

(a) May be impaired by the consumption of alcohol or other drugs, it may ask the employee whether the employee has consumed any alcohol or other drugs and, if so:

(1) The amount and types of alcohol or other drugs consumed and the time of consumption; and

(2) If a controlled substance was consumed, the name of the person who prescribed its use.

(b) Is impaired by the consumption of alcohol or other drugs, it shall prevent the employee from continuing work and transport the employee or cause the employee to be transported safely away from the employee's place of employment in accordance with regulations adopted by the Commission.

NRS 284.4065 Screening tests: General provisions.

1. Except as otherwise provided in subsection 2, an appointing authority may request an employee to submit to a screening test only if the appointing authority:

(a) Reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing the employee's ability to perform the employee's duties safely and efficiently;

(b) Informs the employee of the specific facts supporting its belief pursuant to paragraph (a), and prepares a written record of those facts; and

(c) Informs the employee in writing:

(1) Of whether the test will be for alcohol or drugs, or both;

(2) That the results of the test are not admissible in any criminal proceeding against the employee; and

(3) That the employee may refuse the test, but that the employee's refusal may result in the employee's dismissal or in other disciplinary action being taken against the employee.

2. An appointing authority may request an employee to submit to a screening test if the employee:

(a) Is a law enforcement officer and, during the performance of the employee's duties, the employee discharges a firearm, other than by accident; or

(b) During the performance of the employee's duties, drives a motor vehicle in such a manner as to cause bodily injury to the employee or another person or substantial damage to property.

➥ For the purposes of this subsection, the Commission shall, by regulation, define the term "substantial damage to property."

3. An appointing authority may place an employee who submits to a screening test on administrative leave with pay until the appointing authority receives the results of the test.

4. An appointing authority shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at the employee's expense an independent test of the employee's urine or blood from a laboratory of the employee's choice which is certified by the United States Department of

Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at the employee's expense an independent test of the employee's blood from a laboratory of the employee's choice.

(c) Provide the employee with the written results of the employee's screening test within 3 working days after it receives those results.

5. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the appointing authority fails to comply with the provisions of this section.

6. An appointing authority shall not use a screening test to harass an employee.

NRS 284.4066 Screening tests: Applicants for positions affecting public safety required to take screening test; appointing authority authorized to consider results; provision of results to applicant upon request.

1. Each appointing authority shall, subject to the approval of the Commission, determine whether each of its positions of employment affects the public safety. The appointing authority shall not hire an applicant for such a position unless the applicant submits to a screening test to detect the general presence of a controlled substance. Notice of the provisions of this section must be given to each applicant for such a position at or before the time of application.

2. An appointing authority may consider the results of a screening test in determining whether to employ an applicant. If those results indicate the presence of a controlled substance, the appointing authority shall not hire the applicant unless the applicant provides, within 72 hours after being requested by the appointing authority, proof that the applicant had taken the controlled substance as directed pursuant to a current and lawful prescription issued in the applicant's name.

3. An appointing authority shall, at the request of an applicant, provide the applicant with the results of the applicant's screening test.

NRS 284.4067 Screening tests: Requirements for administration; use; results.

1. A screening test:

(a) To detect the general presence of a controlled substance or any other drug, must be conducted by an independent laboratory that is certified by the United States Department of Health and Human Services.

(b) To detect the general presence of alcohol or of a controlled substance or any other drug, must be administered in such a manner as to protect the person tested from any unnecessary embarrassment.

2. Except as otherwise provided in subsection 3, a sample of urine provided for use in a screening test must not be used for any test or purpose without the prior written consent of the person providing the sample. The appointing authority shall ensure that the person retains possession and control of the person's sample until it is appropriately tagged and sealed with tamper-proof tape.

3. If the results of a screening test indicate the presence of any drug which could impair the ability of a person to perform the duties of employment safely and efficiently:

(a) The laboratory shall conduct another test of the same sample of urine to ascertain the specific substances and concentration of those substances in the sample; and

(b) The appointing authority shall provide the person tested with an opportunity to have the same sample tested at the person's expense by a laboratory of the person's choice certified by the United States Department of Health and Human Services.

NRS 284.4068 Screening tests: Results confidential; admissibility of results; security; disclosure. Except as otherwise provided in NRS 239.0115, the results of a screening test taken pursuant to NRS 284.4061 to 284.407, inclusive, are confidential and:

1. Are not admissible in a criminal proceeding against the person tested;

2. Must be securely maintained by the appointing authority or the designated representative of the appointing authority separately from other files concerning personnel;

and

3. Must not be disclosed to any person, except:

(a) Upon the written consent of the person tested;

(b) As required by medical personnel for the diagnosis or treatment of the person tested, if the person is physically unable to give the person's consent to the disclosure;

(c) As required pursuant to a properly issued subpoena;

(d) When relevant in a formal dispute between the appointing authority and the person tested; or

(e) As required for the administration of a plan of benefits for employees.

NAC 284.880 Definitions. (NRS 284.065, 284.155, 284.407) As used in NAC 284.880 to 284.894, inclusive, unless the context otherwise requires:

1. "Employee" has the meaning ascribed to it in subsection 1 of NRS 284.4061.

2. "Screening test" has the meaning ascribed to it in subsection 2 of NRS 284.4061.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by Personnel Comm'n by R066-09, 10-27-2009)

NAC 284.882 Administration of screening tests. (NRS 284.065, 284.155, 284.4065, 284.407) A screening test to detect the general presence of:

1. A controlled substance must comply with:

(a) The standards established by the United States Department of Health and Human Services which are hereby adopted by reference. A copy of the standards is available, without charge, from the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Division of Workplace Programs, 1 Choke Cherry Road, Rockville, Maryland 20857; and

(b) Any supplementary standards and procedures established by the Commission.

2. Alcohol by testing a person's breath must be conducted using a breath-testing device certified in accordance with the "Conforming Products List of Evidential Breath Alcohol Measurement Devices" published in the Federal Register by the National Highway Traffic Safety Administration of the United States Department of Transportation.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 10-27-97; R082-00, 8-2-2000; A by Personnel Comm'n by R066-09, 10-27-2009; R009-11, 10-26-2011)

NAC 284.884 Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath. (NRS 284.065, 284.155, 284.407)

1. An employee must not have a concentration of alcohol in his or her blood or breath greater than ***.02*** gram by weight of alcohol per 100 milliliters of his or her blood or per 210 liters of his or her breath while on duty. Disciplinary action may be taken by the appointing authority in accordance with the provisions of NAC 284.638 to 284.6563, inclusive, if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than ***.02*** gram by weight of alcohol per 100 milliliters of his or her blood or per 210 liters of his or her breath while on duty.

2. A positive result on a screening test of a person's breath must be confirmed by a second screening test. The second screening test must be conducted immediately after receipt of the positive result of the first screening test.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by R058-01, 9-6-2001***; R138-12, 10-4-2013)***

NAC 284.886 Screening test for controlled substance required of applicant for position affecting public safety; exception. (NRS 284.065, 284.155, 284.407)

1. Except as otherwise provided in this section, an applicant for a position that is designated by the Personnel Commission as affecting public safety must submit to a screening test to detect the general presence of a controlled substance unless he or she is employed by the State in a position that is also designated as affecting public safety at the time he or she applies.

2. A person who has been laid off from a position affecting public safety and who is reemployed in a class affecting public safety within 1 year after the date he or she was laid off is not required to submit to a screening test pursuant to this section.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 3-23-94)

NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required form. (NRS 284.065, 284.155, 284.407)

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his or her duties safely and efficiently include, but are not limited to:

(a) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;

(b) The odor of alcohol or a controlled substance on the breath of the employee;

(c) Observation of the employee consuming alcohol;

(d) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source; or

(e) The occurrence of any accident while the employee is on the premises of the workplace for which the employee receives medical treatment.

2. Except as otherwise provided in subsection 3, before requiring an employee to submit to a screening test, the supervisor of the employee must complete a form provided by the Division of Human Resource Management.

3. The provisions of subsection 2 do not apply if an appointing authority requests an employee to submit to a screening test pursuant to paragraph (b) of subsection 2 of NRS 284.4065. As used in subsection 2 of NRS 284.4065, "substantial damage to property" includes, but is not limited to:

(a) The operation of a motor vehicle in such a manner as to cause more than $500 worth of property damage; or

(b) The operation of a motor vehicle in such a manner as to cause two property accidents within a 1-year period.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by Personnel Comm'n by R066-09, 10-27-2009; R193-09, 4-20-2010; R010-11, 10-26-2011)

NAC 284.890 Transportation of employee to and from location of screening test. (NRS 284.065, 284.155, 284.407)

If an employee is required to submit to a screening test, the appointing authority shall provide transportation for the employee to the location of the test. After the employee submits to the screening test, the appointing authority shall provide transportation for the employee to his or her home.

(Added to NAC by Dep't of Personnel, eff. 12-26-91)

NAC 284.892 Duties of employee who is referred to employee assistance program. (NRS 284.065, 284.155, 284.407)

1. If an employee is referred to an employee assistance program as a result of a positive result on a screening test or pursuant to NAC 284.653, he or she shall provide to the appointing authority:

(a) Evidence of his or her consultation with a counselor employed by an employee assistance program; and

(b) Any recommendation of the counselor with respect to his or her rehabilitation,

➥ within 5 working days after the date of the initial consultation.

2. The employee shall provide to the appointing authority on a monthly basis all recommendations of the counselor with respect to his or her rehabilitation.

3. The employee shall provide to the appointing authority evidence of his or her completion of any rehabilitation program recommended by the counselor within 5 working days after completing the program.

4. An employee who fails to provide evidence of his or her consultation with a counselor or successful completion of a rehabilitation program is subject to disciplinary action.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 11-12-93)

NAC 284.893 Return to work of employee who tests positive for alcohol or controlled substance while on duty. (NRS 284.065, 284.155, 284.407)

1. The appointing authority of an employee who tests positive for the presence of alcohol or a controlled substance while on duty and who, as a result, is subject to disciplinary action pursuant to NAC 284.646 or 284.650 but is not terminated shall***, before allowing the employee to return to work,*** require the employee to:

(a) Provide to the appointing authority documentation from a counselor who is licensed or certified pursuant to chapter 641C of NRS or another health care provider who has training or experience in substance abuse counseling, which verifies that the employee is able to return to duty and perform the essential functions of his or her job.

(b) Submit to a screening test.

2. The employee is responsible for the cost of any:

(a) Counseling services the employee receives to verify that the employee is able to return to duty and perform the essential functions of his or her job and any documentation of those services; and

(b) Screening test,

➥ required pursuant to subsection 1.

3. An employee who fails or refuses to submit to a screening test required pursuant to subsection 1 is subject to disciplinary action, including, without limitation, termination, at the discretion of the employee's appointing authority.

(Added to NAC by Personnel Comm'n by R066-09, eff. 10-27-2009; A by R195-09, 4-20-2010***; R138-12, 10-4-2013)***

NAC 284.894 Treatment of applicant who tests positive; treatment of employee who tests positive twice within 5-year period. (NRS 284.065, 284.155, 284.407)

1. An applicant who tests positive for the use of a controlled substance must not be considered by an appointing authority for employment in any position which requires such testing and must be removed from all lists of eligible persons established from a recruitment that requires such testing until:

(a) One year after the time of the positive test; or

(b) The applicant provides evidence that he or she has successfully completed a rehabilitation program for substance abuse.

2. An employee who tests positive for the use of a controlled substance or alcohol for the second time within a 5-year period is subject to disciplinary action by the appointing authority and may be terminated at the discretion of the appointing authority.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 7-1-94; A by Personnel Comm'n by R194-09, 4-20-2010)

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NRS REFERENCES

Note: *Page numbers are by sections.*

NRS 6.190 **Terminating or threatening to terminate employment because of jury duty prohibited; civil action for unlawful termination; requiring employee to use sick leave or vacation time or to work certain hours prohibited; notice to employer; dissuasion from service as juror.**
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