

LCB File No. R042-99

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
and
NOTICE OF HEARING
for
THE TEMPORARY ADOPTION, AMENDMENT AND REPEAL
OF
REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

Workshop Notice: The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0150, is proposing the permanent adoption, amendment and repeal of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

A workshop has been set for 9:30 a.m. on September 2, 1999, at the Grant Sawyer State Office Building, Room 4401, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the proposed changes to the following sections of the Nevada Administrative Code.

ACTION

Access to confidential records

284.726

A copy of all materials relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 East Musser Street, Room 300, Carson City, Nevada, telephone number (775) 684-0150, or 555 East Washington Avenue, Suite 1200, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

Hearing Notice: The Personnel Commission will hold a public hearing at 9:00 a.m. on September 10, 1999, at the Nevada Commission on Tourism, 2nd Floor Commission Chambers, 401 North Carson Street, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations. If no person, who is directly affected by the proposed action, appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

These regulations do not have a direct economic effect on any business or the public. Enforcement of these regulations should not result in any increased cost. To our knowledge, these regulations do not overlap or duplicate the regulations of other state or local governmental agencies. These Regulations do not establish any new fee or increase an existing fee. A statement of the need for and purpose of the proposed regulations precedes the text of each regulation included in the attached document.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Phil Hauck, Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204. **Written submissions must be received by the Department of Personnel on or before September 7, 1999.**

A copy of this notice and the regulations to be adopted and amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted and amended will be available at the Department of Personnel, 209 East Musser, Room 300, Carson City, Nevada, or at the Department of Personnel, 555 East Washington Avenue, Las Vegas, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The notice of the Workshop and Hearing has been posted at the following locations:

CARSON CITY

Blasdel Building, 209 East Musser Street
Carson City Court House, 885 East Musser Street
Capitol Press Corps, Basement, Capitol Building
Nevada State Library, 100 Stewart Street
Capitol Building

LAS VEGAS

Grant Sawyer State Office Building
555 East Washington Avenue

ALL STATE AGENCIES

ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Debra Berry at 684-0110, no later than five working days prior to the meeting.

LCB File No. R042-99

PROPOSED REGULATION OF THE SECRETARY OF STATE

Section 1 NAC 284.726 is hereby amended to read as follows:

Explanation of Change: This amendment proposed by the Department of Personnel, provides the State Board of Examiners with access to an employee's file of employment under certain circumstances.

284.726 Access to confidential records.

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 designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of paragraph (b) 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 subsection 3, access to an employee's file of employment containing any of the items listed in paragraphs (e) to (h), 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 employment file;
 - (c) The appointing authority or a designated representative of the agency by which the employee is employed;
 - (d) The director of the department of personnel or his designated representative;
 - (e) An appointing authority, or his designated representative, who is considering the employee for employment in his agency; ~~and~~
 - (f) Persons who are authorized pursuant to any state or federal law or an order of a court ~~and~~;
- and*

(g) The State Board of Examiners when the Board is considering a claim against the State pursuant to chapter 41 of NRS, which involves the employee.

3. Information concerning the disability of an employee or a member of his immediate family must be kept separate from the employee's file in a locked cabinet. Access to such information is limited to the employee, his current supervisor and the appointing authority.

4. Upon request, the department of personnel will provide the personal mailing address of any employee on file with the department to the state controller's office and the Internal Revenue Service.

5. The director or the appointing authority, or his designated representative, shall authorize the release of any confidential records under his control which are requested by the committee, a hearings officer, the commission, the Nevada equal rights commission, or a court. If the director or his designated representative determines that the release of any confidential record is not necessary for those purposes, the decision may be appealed.

Section 2 NAC 284.589 is hereby amended to read as follows:

Explanation of Change: This amendment requested by the Employee-Management Committee, provides that Administrative leave must be granted under certain circumstances.

284.589 Administrative leave with pay.

1. An appointing authority may grant administrative leave with pay to an employee:
 - (a) To relieve him of his duties during the active investigation of a suspected criminal violation or the investigation of an alleged wrongdoing;
 - (b) For up to 2 hours to donate blood; or
 - (c) To relieve him of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.
2. An appointing authority or the department of personnel may grant administrative leave with pay to an employee for:
 - (a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the state but which do not require him to participate or attend in his official capacity as a state employee; or
 - (b) Closure of the employee's office or worksite caused by a natural disaster 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.
3. An appointing authority shall grant administrative leave with pay to an employee for:
 - (a) The initial appointment and one follow-up appointment if the employee receives counseling through the employee assistance program;
 - (b) His attendance at a wellness fair which has been authorized by the risk management division of the department of administration;
 - (c) His participation in an official capacity as a member of a committee or board created by statute on which he 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; ~~or~~
 - (d) Up to 8 hours for preparation for hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656 ~~or~~; *or*
 - (e) *His time spent as a grievant or a witness before the Employee-Management Committee.*

PROPOSED REGULATION OF THE DEPARTMENT OF PERSONNEL

INFORMATIONAL STATEMENT

On June 4, 1999, the Personnel Commission approved the adoption of temporary regulations to Chapter 284 of NAC. The following is the informational statement concerning these actions as required in NRS 233B.066:

1. On April 30, 1999, copies of the "Notice of Workshop" to solicit comments on proposed regulations and "Notice of Hearing" for the adoption, amendment and repeal of regulations were posted conspicuously in public buildings. On the same day, copies of the notices and the text of the proposed regulations were filed with the Legislative Counsel Bureau and the Nevada State Library. On April 29, 1999, all State agencies were notified by memorandum of the proposed actions. Copies of the notices with the text of the proposed regulations were included with the memorandum for dissemination among State employees. Copies of the notices and text of the proposed regulations were also sent to the employee representatives, main public library in each county, all requesting parties, and members of the Personnel Commission.
2. The workshop was held at the Nevada State Library in Carson City on Monday, May 17, 1999. Ten people attended the workshop and four provided testimony on the proposed regulations.
3. On Friday, June 4, 1999, the day of the Personnel Commission hearing on the proposed regulations, twenty-seven people were in attendance in Las Vegas and thirteen were in attendance at the teleconference site in Carson City.

Carla Padgett, representing the Department of Prisons, spoke in opposition to the proposed regulation to grant administrative leave to grievants and witnesses appearing before the Employee Management Committee. Her primary concern related to the potential for an increase in overtime costs to cover employees' shifts when they were attending a grievance hearing. She also noted there could be additional overtime granted to an employee if he attended a grievance hearing on his normal day off.

Stan Jones and Morris Kanowitz represented the Employee Management Committee and spoke in support of the proposed change.

The regulation was approved by the Commission without change.

A summary of the public response is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

4. No written comments were received regarding the regulations.
5. The regulations do not affect businesses; therefore, their comments were not solicited.
6. These regulations do not have a direct economic effect on any business or the public.

7. Enforcement of the regulation change to NAC 284.589 may result in additional overtime costs for some agencies. These costs are dependent on when a hearing is scheduled, how many employees attend the hearing, and the agency's hours of operation.
8. These regulations do not duplicate or overlap with other State or government regulations.