

LCB File No. R022-05

**PROPOSED REGULATION OF THE
DEPARTMENT OF PERSONNEL**

(This proposed regulation was previously adopted as T011-04)
(This agency draft replaces the one posted June 1, 2005.)

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS AND
NOTICE OF HEARING
FOR THE AMENDMENT OF
REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

Workshop Notice: The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0119, is proposing the adoption and amendment of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

A workshop has been set for 8:30 a.m. on August 29, 2005, at the Legislative Building, 401 South Carson Street, Room 4100, Carson City, Nevada and via videoconference at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada.

**Action -Temporary Regulations Previously Approved by the Commission NAC Regulation
Proposed for Permanent Adoption**

Lack of promotional candidates.	New Section
"Entry level" defined.	NAC 284.063
"Journey level" defined.	NAC 284.069
Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date.	NAC 284.182
Differential rate of pay for qualifying shift.	NAC 284.210
Reimbursement or prepayment for training or education.	NAC 284.490
Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer.	NAC 284.5405
Breaks in continuous service.	NAC 284.598
Statement of grievance: Contents; time to file.	NAC 284.678
Appeal of grievance to higher level	NAC 284.682
Unlawful discrimination.	NAC 284.696
Confidential records.	NAC 284.718

New and Revised Regulations Proposed for Permanent Adoption

"Trainee level" defined.	New Section
Extension of time to file a grievance	New Section
Determining type of recruitment.	NAC 284.295
Reemployment lists; certification of waiver of lists.	NAC 284.360
Promotional lists: Use; order of names.	NAC 284.367
"Grievance" defined.	NAC 284.658
Presentation of grievance to head of division.	NAC 284.686

Filing of grievance with administrator.
Access to confidential records.

NAC 284.690
NAC 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) 684-0119, or 555 East Washington Avenue, Suite 1400, 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 23, 2005, in Carson City at the Legislative Building, 401 South Carson Street, Room 4100. A videoconference link will also be available in Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412. The purpose of the hearing is to receive comments from all interested persons regarding the amendment 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 will not result in an 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 the 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 Shelley Blotter, 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 6, 2005.** A copy of this notice and the regulations to be amended will be on file at the State Library and Archives, 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 or amended will be available at the Department of Personnel, 209 East Musser Street, 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 that is proposed for amendment. 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 principle 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
Nevada State Library and Archives, 100 Stewart St.
Capitol Building, Main Floor
Legislative Building, 401 South Carson St.

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 individuals 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 (775) 684-0110, no later than five working days prior to the meeting.

NOTICE OF PERSONNEL COMMISSION MEETING

PRELIMINARY PERSONNEL COMMISSION AGENDA

The items listed below are tentatively scheduled for the Personnel Commission meeting on September 23, 2005, beginning at 9:00 a.m. This meeting will be held at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, and via video conference at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue, Las Vegas.

NOTE: Agenda items may be heard in a different order than listed, at the discretion of the Chair.

- I. Call To Order - 9:00 A.M.
- II. *Adoption of Agenda
- III. *Minutes of Previous Meeting
- IV. *Pre-Employment Testing for Controlled Substances
Nurse I and Correctional Nurse I
Department of Human Resources
- V. *Proposed Regulation Changes to Nevada Administrative Code, Chapter 284
 - A. Temporary Regulations Previously Approved by the Commission Proposed for Permanent Adoption
 - Sec. 1 NEW "Lack of promotional candidates" defined
 - Sec. 2 NAC 284.063 "Entry level" defined
 - Sec. 3 NAC 284.069 "Journey level" defined
 - Sec. 4 NAC 284.182 Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date
 - Sec. 5 NAC 284.210 Differential rate of pay for qualifying shift
 - Sec. 6 NAC 284.490 Reimbursement or prepayment for training or education
 - Sec. 7 NAC 284.5405 Annual Leave: Credit upon reinstatement, rehiring, reemployment or transfer
 - Sec. 8 NAC 284.598 Breaks in continuous service
 - Sec. 9 NAC 284.678 Statement of grievance: Contents; time to file
 - Sec. 10 NAC 284.682 Appeal of grievance to higher level
 - Sec. 11 NAC 284.696 Unlawful discrimination
 - Sec. 12 NAC 284.718 Confidential records
 - B. New and Revised Regulations Proposed for Permanent Adoption
 - Sec. 1 NEW "Trainee level" defined

- Sec. 2 NEW Extension of time to file a grievance
- Sec. 3 NAC 284.295 Determining type of recruitment
- Sec. 4 NAC 284.360 Reemployment lists; certification of waiver of lists
- Sec. 5 NAC 284.367 Promotional lists: Use; order of names
- Sec. 6 NAC 284.658 “Grievance” defined
- Sec. 7 NAC 284.686 Presentation of grievance to head of division
- Sec. 8 NAC 284.690 Filing of grievance with administrator
- Sec. 9 NAC 284.726 Access to confidential records

V. *Approval of Proposed Class Specifications

- A. Agriculturist series
- B. Park Supervisor (Commissioned) series
- C. Park Supervisor (Non-Commissioned) series
- D. Supervisor, Associate Engineer series
- E. Staff, Associate Engineer series
- F. Craft Worker-in-Training series
- G. Environmental Health Specialist series

VI. *Approval of Occupational Group Study Revised Class Specifications

- A. Fiscal Management & Staff Services occupational group
 - 1. Subgroup: Actuarial/Research/Grants Analysis
 - a. Statistician series
 - 2. Subgroup: Public Information
 - a. Geologic Information Specialist
 - b. Exhibit Preparator series
 - c. Technical Production Editor
 - 3. Subgroup: Electronic Data Processing
 - a. Information Security Officer series

VII. *Individual Classification Appeals

- A. Sherry Sabins, Personnel Analyst II
Health Care Financing & Policy Division, Department of Human Resources
- B. Bill Premo, Facility Supervisor III
University of Nevada, Reno, Grounds Department

- VIII. Special Reports
- IX. Comments by the General Public
- X. Select Date for Next Meeting
- XI. *Adjournment

*Indicates agenda items scheduled to be voted on by the Personnel Commission.

If anyone has questions or wishes to discuss, in further detail, the items scheduled for this Commission meeting, please contact Shelley Blotter at (775) 684-0119.

We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend this meeting. If special arrangements 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 (775) 684-0110 no less than five working days prior to the meeting.

LCB File No. R022-05

**PROPOSED REGULATION OF THE
DEPARTMENT OF PERSONNEL**

(This agency draft replaces the one posted June 1, 2005.)

Sec. 1. NAC 284.182 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, changes the method used for adjusting an employee's pay progression date and clarifies the current regulation. Adjustments will be made to a pay progression date only in full day increments, and the adjustment will be made on a calendar day basis rather than a workday basis.

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 is:
 - (a) Promoted to a position that results in an increase of two grades or more;
 - (b) Reinstated.
2. An employee ~~retains his pay progression date if he~~ *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 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 retains the pay progression date held when he separated from this State for his service in the military.
4. If an employee was promoted but is being restored to his 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 ~~that he was unemployed if~~ the employee:

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

(2) ~~Is~~ *Was separated from State service if the employee is* a person with a permanent disability arising from a disability related to work who is reemployed ~~following a separation from state service~~ within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

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

(I) A nonexempt employee ~~who is on~~ *and the* leave without pay ~~, or on~~ *or* catastrophic leave ~~is~~ *was* in excess of 240 hours; or

(II) An exempt classified employee ~~who is on~~ *and the* leave without pay ~~, or on~~ *or* catastrophic leave ~~is~~ *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 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 pay progression date, any adjustment to his pay progression date will be made after he returns to work.

Sec. 2. NAC 284.210 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, changes payment of shift differential. The change would allow employees who work a qualifying shift, and who are only in paid status for a portion of their shift, to be paid shift differential for the portion of their shift they are in paid status. Additionally, the change would provide shift differential to employees whose 8-hour shift is reduced to 7 hours due to daylight savings time.

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 works in a unit which provides services requiring multiple shifts within a 24- hour period and he 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 regularly scheduled hours of employment on that workday.

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

4. 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 is in paid status.

~~[4.]~~ 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.

Sec. 3. NAC 284.490 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, clarifies that the repayment of wages owed because of failure to successfully complete training or termination prior to 1 year following the training is the responsibility of the employee.

NAC 284.490 Reimbursement or prepayment for training or education. (NRS 284.343)

1. If an employee receives approval to take training or education that he 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 his 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 on his 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 job, the employee terminates his employment with the agency.

Any repayment from wages owed *by the employee* ~~[to the employing agency]~~ 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.

Sec. 4. NAC 284.5405 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, clarifies in subsections two and three the current practice used when crediting annual leave.
The name of the University System has been revised to reflect the name change as provided in AB 527 of the 2005 Legislative Session.

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 total service with the State after he 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 total state service. He may use his annual leave immediately upon accruing it if he has completed *a total of* 6 months of employment.

3. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he 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 received payment in a lump sum on the date of the layoff. The rate of pay at which he is rehired applies to the buying back of annual leave.

5. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he 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 received payment in a lump sum at the time of separation. The rate of pay at which he 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 his layoff, the amount of the unpaid annual leave he had earned before the layoff must be restored to him.

7. If a person eligible for military reemployment is reemployed, he accrues annual leave at the rate which he would have earned if he 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 his annual leave is charged to the agency to which he is appointed.

9. If a nonclassified employee, an unclassified employee of the ~~University and Community College System of Nevada,~~ *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 annual leave must be recomputed to reflect the amount

that would have accrued to him as a classified or unclassified employee less any annual leave which he used during his nonclassified, ~~University,~~ *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 credit from his former employer.

Sec. 5. NAC 284.598 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment adopted by the Personnel Commission as a temporary regulation on October 1, 2004, changes the word “re hired” to “reemployed” which is the appropriate term related to layoffs.

NAC 284.598 Breaks in continuous service. (NRS 284.065, 284.155) The following are not breaks in continuous service:

1. Authorized military leave for active service if the person is reemployed within 90 calendar days after an honorable discharge from military service.
2. Separation because of layoff if a former employee is ~~re hired~~ *reemployed* within 1 year after the date he was laid off.
3. Reemployment of a seasonal employee within 1 year after the end of the previous seasonal appointment.
4. Separation because an employee sustained a permanent disability arising from a disability related to work, if the former employee was reemployed not later than 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.