

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R009-14

Effective June 23, 2014

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

AUTHORITY: §1, NRS 284.065, 284.155 and 284.305; §2, NRS 284.065, 284.155 and 284.355.

A REGULATION relating to state personnel; revising provisions relating to the reinstatement of an employee; eliminating the 2-year limitation on reinstatement of former permanent state employees under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing regulations, a former permanent employee of the State is eligible for reinstatement as an employee of the State within 2 years following termination if the employee was separated without prejudice or was separated because of a physical, mental or emotional disorder and has recovered from that disorder. (NAC 284.386, 284.611) This regulation eliminates the 2-year limitation.

Section 1. NAC 284.386 is hereby amended to read as follows:

284.386 1. ~~[Except as otherwise provided in subsection 2, an]~~ *An* appointing authority may reinstate a former permanent employee ~~[within a 2-year period]~~ following his or her termination from state employment, *including, without limitation, a former permanent employee who was laid off and is entitled to have his or her name appear on a reemployment list pursuant to NAC 284.630*, if the *former permanent* 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.~~ 3. Except as otherwise provided in subsection ~~3.~~ 2, 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.~~ 4. 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.~~ 5. 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.~~ 6. The person must meet the current minimum qualifications for the class for which the reinstatement is sought.

Sec. 2. NAC 284.611 is hereby amended to read as follows:

284.611 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 ~~[284.655 to]~~ **284.656, 284.6561 and** 284.6563 ~~[, inclusive,]~~ 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.]~~