

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R047-20

May 18, 2020

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

AUTHORITY: §1, NRS 284.065, 284.155 and 284.345.

A REGULATION relating to state personnel; authorizing paid administrative leave for state employees when a state of emergency or declaration of disaster is proclaimed for purposes of health and safety; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law allows an agency to adopt an emergency regulation without following the process for adopting a permanent regulation by submitting a statement of the emergency to the Governor. (NRS 233B.0613) If the Governor endorses the statement of emergency, the regulation becomes effective immediately upon filing the regulation with the Office of the Secretary of State. (NRS 233B.070) An emergency regulation is effective for not more than 120 days and may only be submitted through the process for an emergency regulation one time. For the regulation to continue, the agency must adopt a permanent regulation which is substantially similar to the emergency regulation in accordance with the procedures set forth in the Administrative Procedures Act within 120 days, after which the emergency regulation automatically expires. (NRS 233B.0613) On March 15, 2020, the Department of Administration submitted an emergency regulation along with a statement of emergency for the adoption of a regulation which was endorsed by the Governor. This regulation is submitted to replace that emergency regulation.

Existing law authorizes the Personnel Commission to adopt regulations governing attendance and leave with or without pay for state employees. (NRS 284.345) Existing regulations authorize an appointing authority or the Division of Human Resource Management of the Department of Administration to grant administrative leave with pay to an employee in certain emergency situations beyond the control of the employee. Such situations include when the Governor authorizes employees not to report to work or to end a shift early because of an emergency, when there is a closure of a work site caused by a natural disaster, pandemic or other similar adverse condition or when school closures or closure of other child care facilities occur because of a pandemic. (NAC 284.589) In each of those circumstances an employee may be designated as essential and required to report to work. This regulation further allows an appointing authority to provide paid administrative leave to state employees for purposes related to health and safety during any period in which a state of emergency or declaration of disaster has been proclaimed.

Section 1. NAC 284.589 is hereby amended to read as follows:

284.589 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;

(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; or

(f) To attend a general employee benefits orientation or an educational session relating to employee benefits, including, without limitation, retirement and deferred compensation.

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 ~~5.1~~ 6, 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) His or her safety during an emergency when employees have been authorized by the Governor not to report to work or to leave work before the end of their shifts during the emergency, including, without limitation, emergencies relating to enemy attacks or other hostile actions, natural causes or other catastrophes, except for employees who are designated as essential and notified that they are required to report to work or remain at work.

(c) 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.

(d) 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.

(e) His or her appearance as an aggrieved employee, an employee who filed a complaint described in NAC 284.658 or a witness at a hearing of the Committee.

(f) His or her appearance as a witness at a hearing regarding a matter described in subparagraph (1), (2) or (3) of paragraph (f) of subsection ~~6.1~~ 7.

(g) His or her appearance to provide testimony at a meeting of the Commission.

5. *To the extent not already covered in subsection 4, during any period in which a state of emergency or declaration of disaster has been proclaimed pursuant to NRS 414.070, an appointing authority may grant administrative leave with pay to an employee for purposes related to health and safety.*

6. 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 (e), (f) or (g) 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.

~~6.1~~ 7. 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, including, without limitation, consultations provided in person or telephonically.

(b) His or her attendance at a health fair or related event coordinated by 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 any predisciplinary review.

(e) Up to 8 hours for preparation for any hearing described in paragraph (f).

(f) The appearance of the employee as a party at a hearing regarding:

(1) An alleged reprisal or retaliatory action against the employee for disclosing an improper governmental action as provided in NRS 281.641;

(2) An involuntary transfer of the employee as provided in NRS 284.376; or

(3) A suspension, demotion or dismissal of the employee as provided in NRS 284.390 and at a predisciplinary review as provided in NAC 284.6561.