

LCB File No. R015-02

**PROPOSED REGULATION OF THE
DEPARTMENT OF PERSONNEL**

**(Replaces the previous Initial Draft posted on 2/1/02;
part of that draft is now located in R030-02)**

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS &
NOTICE OF HEARING for
THE ADOPTION, AMENDMENT OR REPEAL of
REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

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

A workshop has been set for 9:00 a.m. on February 27, 2002, at the Nevada Department of Transportation, Room 302, 1263 South Stewart Street, Carson City, Nevada and via video conference at the Nevada Department of Transportation, Training Room B, 123 East Washington Avenue, Las Vegas, Nevada.

Action - Newly proposed rules for permanent adoption	NAC REGULATION
Shift Trading	New section
Adjustment of steps within the same pay grade	284.204
Compensation for differentials in shifts	284.210
When resolution of grievance becomes binding	284.697

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 **March 22, 2002**, at the Legislative Building, Room 3138, 401 South Carson Street, and video conferenced to the Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4412, Las Vegas, 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 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 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 March 2, 2002.**

A copy of this notice and the regulations to be adopted, amended, or repealed 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, amended, or repealed 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 which is proposed for adoption, 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 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 Street
 Capital Building, Main Floor
 Legislative Building, Rm 3138, 401 South Carson Street
 NDOT, Room 302, 1263 South Stewart Street

LAS VEGAS

Grant Sawyer State Office Building
 555 East Washington Avenue
 NDOT, Training Rm B, 123 E. Washington Ave.

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.

PROPOSED REGULATION OF THE DEPARTMENT OF PERSONNEL

Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Military, would allow employees to enter into an agreement to trade shifts for their mutual benefit. No additional financial or nonfinancial obligation will be incurred by the agency as a result of the shift trade.

New Section *Shift trading: Allowed under certain circumstances.*

1. An employee may enter into a written agreement solely at his option to trade work shifts with another employee when both employees:

- (a) Perform work in the same class;*
- (b) Are employed by the same public agency; and*
- (c) Have the approval of their appointing authority.*

2. An employee entering into such an agreement does so with the understanding that:

(a) Each employee will be paid as if he had worked his normal work shift with no additional compensation.

(b) No additional obligation, financial or nonfinancial, will be incurred by the agency as a result of the shift trade.

3. If the employee accepting the trade is unable to complete a scheduled shift trade, he is responsible for locating an appropriate replacement. If no other acceptable employee can be found to fulfill the agreed upon shift, the normally scheduled employee who does not work will have his accrued annual leave or compensatory time reduced by the period of time represented by the shift. If there is no annual leave or compensatory time available, he will be placed on leave without pay for the period of time represented by the shift.

4. The appointing authority is responsible for keeping accurate records of all shift trade agreements between employees.

Sec. 2. NAC 284.204 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, would allow an adjustment of steps for a supervisor when one of the supervisor's direct subordinates base rate of pay is equal to or greater than the supervisors.

NAC 284.204 Adjustment of steps within same pay grade.

1. The department of personnel 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 department of personnel 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, as determined by the appointing authority between the base rate of pay of a supervisor and the base rate of pay of a direct subordinate of the supervisor. Such an adjustment may be granted when the subordinate of the supervisor is paid at the same or a greater base rate of pay than 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 department of personnel to the department of personnel 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 department of personnel, the effective date of such an adjustment is the date on which a request that complies with subsection 2 is received by the department of personnel 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 department of personnel 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 would have received if he had not received the adjustment.

Sec. 3. NAC 284.210 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, limits the payment of shift differential to employees working a "qualifying" second or third shift. Employees working a day shift and are required to work overtime during the hours of 6 p.m. to 7 a.m. are eligible for overtime, but not shift differential.

NAC 284.210 Compensation for differentials in shifts. (NRS 284.155, 284.175)

1. As used in this section, :

(a) "qualifying shift" means a ~~[period of work]~~ *second or third shift* of at least 8 hours of which 4 hours must fall ~~[within the hours from]~~ *between* 6 p.m. to 7 a.m. *An employee who is assigned to a day shift and is required to work overtime between the hours of 6 p.m. to 7 a.m. is not considered to have worked a qualifying shift.*

(b) "day shift" means a period of time in which half or more of the hours assigned are between 8 a.m. and 5 p.m.

(c) "second shift" means a period of time in which at least half of the hours assigned are between 3 p.m. and midnight.

(d) "third shift" means a period of time in which at least half of the hours assigned are between midnight and 9 a.m.

2. ~~[Except as otherwise provided in this section, an]~~ A *nonexempt* employee must receive compensation equivalent to 5 percent of his normal rate of pay for all hours worked ~~[within a shift if the employee works a]~~ *during a* qualifying shift. ~~[If an excluded classified]~~

3. An *exempt* employee *must receive compensation equivalent to 5 percent of his normal rate of pay for all of his regularly scheduled hours of employment on that workday if the employee* works a qualifying shift for any portion of a workday~~[, he must receive such compensation for all of his regularly scheduled hours of employment on that workday].~~

~~[3.]~~ 5. 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.]~~ 6. Any *overtime* hours *worked by a nonexempt employee in conjunction with, immediately before or following the qualifying shift* ~~[exceeding the qualifying 8-hour shift]~~ are eligible for overtime at the differential rate of pay ~~[for that shift if the hours are worked by an employee other than an exempt classified employee, in conjunction with, immediately before or following the shift.~~

~~—5. A qualifying shift, including, without limitation, the times at which the shift started and ended, must be clearly designated on the employee's time sheet and approved by the employee's supervisor.]~~