

LCB File No. T033-98

**ADOPTED TEMPORARY REGULATION OF THE DEPARTMENT OF
PERSONNEL**

INFORMATIONAL STATEMENT

On December 17, 1998, 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 233B.066:

1. On November 12, 1998, 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 November 13, 1998, 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 state of Nevada Employees Association, 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 Wednesday, December 2, 1998. Seven people attended the workshop and one provided testimony on the proposed regulations.

On Thursday, December 17, 1998, the day of the Personnel Commission hearing on the proposed regulations, seventy-two people were in attendance. The regulations were adopted by the Commission without comment.

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.

3. No written comments were received regarding the regulations.
4. The regulations do not affect businesses; therefore, their comment was not solicited.
5. These regulations do not have a direct economic effect on any business or the public.
6. Enforcement of these regulations should not result in any increased cost.

7. These regulations do not duplicate or overlap with other State or government regulations.

Explanation of Change: The amendment proposed by the Department of Personnel is intended to add Pay Progression date to the list of definitions in the General Provisions section.

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

“Pay Progression Date” defined.

Except as otherwise provided in NAC 284.182, an employee’s “Pay Progression Date” is one year of employment equivalent to full time service from the date of the employee’s appointment to his current grade.

Explanation of Change: The amendments proposed by the Department of Personnel in sections 2 through 8 are intended to standardize the terminology used with the implementation of the new personnel/payroll system.

Sec. 2. NAC 284.132 is hereby amended to read as follows:

284.132 Temporary classifications.

1. An appointing authority, an employee or the department of personnel may request a temporary classification which allows the classification of a position for a temporary period of 1 year or less. Each promotion which is designated as temporary must have specific criteria established which justify the grade of the position and the projected date of expiration of the period. A position which no longer meets this criteria will revert back to the class from which it was reclassified. This method of classification is subject to the following conditions:

(a) Temporary classifications must meet the allocation standards and the criteria established for the higher class before this method may be used. The classification must be approved by the department of personnel before the promotion.

(b) An employee who is promoted into a temporary class must sign the payroll document. This signature acknowledges that the employee understands the conditions of the reclassification and its projected date of expiration.

2. If the employee meets the minimum qualifications for the temporary classification, he:

- (a) Must be promoted;
- (b) Retains his status of appointment; and
- (c) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

An incumbent who has reverted to his previous class is entitled to the step, **[date of record] pay progression date** and status of appointment as though he had not been promoted.

3. An employee who is promoted pursuant to this section must receive a new **[date of record] pay progression date** if his promotion results in an increase of at least two grades. The rate of compensation for the employee will be determined in accordance with the provisions of NAC 284.170 governing compensation on promotion.

4. In case of a layoff, the temporarily assigned employee's class of layoff is his former class. The time served in the temporary class is counted for seniority purposes if it was in the same occupational class, as provided in NRS 284.171.

Sec. 3. NAC 284.134 is hereby amended to read as follows:

284.134 Individual reclassification of position to higher level: Status of incumbents.

1. An incumbent who meets the minimum qualifications for an individual reclassification as provided in NAC 284.126 may be reclassified to a higher level. If the incumbent's position is reclassified as a result of an individual classification study, the incumbent will continue to serve in the position and he:

(a) Must be promoted;

(b) Retains his status of appointment; and

(c) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

2. An employee who is reclassified pursuant to this section must receive a new [date of record] *pay progression date* if his promotion results in an increase of at least two grades. The rate of compensation will be determined in accordance with the provisions of NAC 284.170 governing compensation on promotion.

Sec. 4. NAC 284.138 is hereby amended to read as follows:

284.138 Reclassification or reallocation of class or position to higher grade: Status of incumbents.

1. Except as otherwise provided in subsections 3 and 4, if a class or a position within a class is reclassified or reallocated to a higher grade as a result of an occupational study, the incumbent will continue to serve in the position and he:

(a) Must be promoted;

(b) Retains his status of appointment;

(c) Retains his [date of record] *pay progression date* ; and

(d) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

2. The rate of compensation for employees who are promoted will be determined in accordance with the provisions of NAC 284.170 governing compensation on promotion.

3. The provisions of subsection 1 do not apply to an incumbent who is filling a position in a class which is at a lower grade than the authorized level of the position unless the class held by the incumbent is reclassified or reallocated to a higher grade.

4. If a position is reclassified to a higher grade in a different occupational class, the employee must meet the minimum qualifications of the higher level position before he is promoted. If the employee does not meet the minimum qualifications, he must not be promoted, the position will be temporarily reclassified pursuant to NAC 284.132 and the employee may be eligible for a special salary adjustment as provided in NAC 284.206. If the employee does not meet the minimum qualifications within 1 year after the effective date of the reclassification, the duties must be reassigned and the position must be reclassified accordingly.

Sec. 5. NAC 284.140 is hereby amended to read as follows:

284.140 Reclassification of class or position to lower grade: Status of incumbents.

1. If a class or position is reclassified to a lower grade, the incumbent's title and grade must be changed to the new class. He will retain his status of appointment and [date of record] *pay progression date*. The rate of compensation will be determined by the provisions of NAC 284.290 governing compensation on retained rates or, if the employee does not meet these requirements, by the provisions of NAC 284.170 governing compensation on demotion.

2. The employee is eligible for reappointment to the same or a similar class from which he was reclassified.

3. The employee is entitled to reemployment rights to his former class and option in his department for 1 year from the date of notification of the reclassification to the lower grade if the employee and the agency provide the necessary information regarding the employee's seniority on the prescribed form.

4. If the employee is receiving a retained rate of pay and he declines the first opening which is offered to him for his previous class in his department and location, he forfeits his reemployment rights to the former class and must be immediately reclassified to the lower grade and the provisions of this chapter governing the salary of an employee on demotion apply.

Sec. 6. NAC 284.182 is hereby amended to read as follows:

284.182 **[Date of record]** *Pay Progression Date: Adjustment and retention of date.*

[1. Except as otherwise provided in this section, an employee's date of record is 1 year of employment equivalent to full-time service from the date of the employee's appointment to his current grade.]

[2] 1. An employee who receives a promotion or an individual reclassification that results in an increase of at least two grades must receive a new **[date of record]** *pay progression date*.

[3] 2. If an employee is in a position that is reclassified upward as a result of an occupational study, he retains his **[date of record]** *pay progression date*.

[4] 3. An employee who is reinstated must receive a new **[date of record]** *pay progression date*.

[5] 4. An employee who is demoted retains his [date of record] *pay progression date*. 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 [date of record] *pay progression date* of the former position must be restored.

[6] 5. If an employee transfers to a position without receiving an increase in grade or is reappointed to a position at a grade he formerly held, he retains his [date of record] *pay progression date*.

[7] 6. An employee's [date of record] *pay progression date* must be adjusted for the amount of time in excess of 240 hours or, in the case of an excluded classified employee, 30 working days, that he spends on leave without pay and on catastrophic leave, combined, in a year, except for leave without pay pursuant to NRS 281.390 or 284.365 or NAC 284.580. An employee whose regular work schedule is more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the number of hours that his regular work schedule exceeds 80 hours biweekly. For the purpose of this subsection, the year begins on the employee's most recent date of appointment except when there is a retained [date of record] *pay progression date*. In that instance, the year begins 1 year before the retained [date of record] *pay progression date*. Each subsequent year begins on the date the employee attains his [date of record] *pay progression date*.

[8] 7. A person who is rehired within 1 calendar year after having been laid off or received a seasonal separation will have his [date of record] *pay progression date* adjusted on a day-for-day basis for the time during which he was not employed.

[9] 8. 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 will have his [date of record] *pay progression date* adjusted on a day-for-day basis for the time during which he was not employed.

[10] *9.* If a person is reemployed and has remained continuously employed, he retains his [date of record] *pay progression date*.

[11] *10.* If a person eligible for military reemployment is reemployed, he retains the [date of record] *pay progression date* held when he separated from the state for his service in the military.

[12] *11.* An employee who changes from working full time to part time or from part time to full time must have his [date of record] *pay progression date* adjusted to equal 1 year of service equivalent to full-time service.

[13] *12.* Service in:

(a) Provisional, temporary, special disabled and emergency status must be credited toward eligibility for an increase in salary based on merit if it is immediately followed by a probationary or permanent status.

(b) A seasonal position which is probationary or permanent must be credited toward eligibility for an increase in salary based on merit. If an incumbent's status of appointment is other than probationary or permanent, the provisions in paragraph (a) apply. An incumbent in a seasonal position must complete 1 year of employment equivalent to full-time service with the state before he is eligible for the increase.

Sec. 7. NAC 284.186 is hereby amended to read as follows:

284.186 Date of promotion coinciding with [date of record] pay progression date.

If the date of an eligible employee's promotion coincides with his [date of record] pay progression date, an increase in salary based on merit must be granted first and the promotional increase must be applied to the higher rate.

Sec. 8. NAC 284.194 is hereby amended to read as follows:

284.194 Granting or withholding of increase in salary based on merit.

1. An employee whose last rating of performance was standard or better and who has not attained the top step of his grade must receive an increase in his salary based on merit of one step on his [date of record] pay progression date and each year thereafter of employment equivalent to full-time service until he reaches the top of the grade unless he receives a subsequent rating of performance which is substandard.

2. An employee whose last rating of performance was substandard is not eligible for an increase in his salary based upon merit. Such an employee is only entitled to receive an increase in salary based on merit on the date designated and recorded on a subsequent report on performance as the date on which his overall performance improved to standard or better. If a subsequent report on performance is not filed with the director within 30 days after the date required by subsection 4 of NRS 284.340, the employee's performance will be deemed standard and he will be entitled to the increase effective on the date the report on performance was due. The date a report is received by the director or an employee of the department of personnel is the date it is filed.

3. If an increase in salary based on merit is withheld as provided in subsection 2, the employee's [date of record] *pay progression date* must not be affected.

4. Except as otherwise provided in NAC 284.202, no retroactive payment of an increase in salary based on merit may be given.

Explanation of Change: The amendment proposed by the Department of Personnel is intended to remove a form name made obsolete with the implementation of the new personnel/payroll system.

Sec. 9. NAC 284.602 is hereby amended to read as follows:

284.602 Resignations.

1. An employee who desires to resign may do so by notifying the appointing authority in writing of the reason for the resignation and its effective date.

2. The employee must attempt to submit his resignation at least 2 weeks before he leaves.

3. The appointing authority shall report and the employee shall acknowledge the resignation to the department of personnel on *the* form [NPD-35] *prescribed by the Department of Personnel*. The form must contain a statement of the employee's right to revoke his resignation pursuant to NRS 284.381.

Sec. 10. NAC 284.614 is hereby amended to read as follows:

Explanation of Change: The amendment in this section is necessitated by the amendment to section 6 of this regulation.

284.614 Layoffs: Procedure.

1. Except as otherwise provided in NAC 284.438, if it becomes necessary for a classified employee to be laid off because of a shortage of work or money, the abolition of a position, or

some other material change in duties or organization:

(a) The administrator of the department shall determine in what geographical location, class series, class and option the reductions in staff will have the least detrimental effect on the operations of the department and shall specify layoffs accordingly. In the department of human resources and the University and Community College System of Nevada, the administrator of a division, with the approval of the director of the department, shall determine in what geographical location, class series, class and option the reduction of staff will have the least detrimental effect on operations and shall specify the layoffs accordingly.

(b) Within the department, and within the geographical location, class series, class and option selected, all employees of the department who are not permanent must be laid off before any permanent employees in the following order:

- (1) Emergency employees.
- (2) Temporary employees.
- (3) Provisional employees.
- (4) Probationary employees.

(c) If additional reductions are necessary, permanent employees must be laid off on the basis of performance and seniority. In computing seniority, the time covered by a report on performance “below standard” or “unacceptable” made during the last 4 years must not be included, except that no report may be considered for the time covered within 75 calendar days before the notification of layoff was issued. Except as otherwise provided in this paragraph, the time “covered” by a report of substandard performance runs from the date the report was filed with the director until the date recorded on the employee’s subsequent report on performance as the date on which his performance improved to standard or better. If the subsequent report

on performance is not filed within 30 days after the date required by subsection 4 of NRS 284.340, the employee's performance shall be deemed standard effective on the date the report on performance was due.

(d) In the department and within the geographical location, class series, class and option where layoffs are to take place, those employees with the least seniority must be laid off.

(e) For the purposes of this subsection, an appointing authority may consider whether positions are full time or part time and limit layoffs to full-time or part-time employees.

Similar considerations may be given to and limitations placed on positions requiring selective certification pursuant to NAC 284.378.

2. When determining seniority for order of layoff:

(a) Seniority must be projected and counted up to the established date of layoff.

(b) Seniority for part-time employment must be prorated to its full-time equivalent.

(c) If a classified employee enters unclassified service and subsequently reenters classified service, his previous and current classified service is counted.

(d) Except as otherwise provided in NAC 284.580, any combination of authorized leave without pay and catastrophic leave for more than 240 hours or, in the case of an excluded classified employee, 30 working days, in a year, calculated pursuant to subsection [7] 6 of NAC 284.182, is not counted.

(e) When an employee was separated from service with the state for any of the reasons that do not result in a break in continuous service as provided in NAC 284.598, the time during the separation is not counted.

Sec. 11. Sections 1 through 10 of this regulation are effective commencing with the initial use of an integrated computerized financial system by the state controller and the department of transportation to process payroll.