

LCB File No. R197-99

**PROPOSED REGULATION OF THE
DEPARTMENT OF PERSONNEL**

NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
and
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) 684-0150, is proposing the permanent adoption, amendment and repeal of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

A workshop has been set for 9:30 a.m. on December 6, 1999, at the State Library and Archives, Conference Room A, 100 North Stewart Street, Carson City, Nevada. The purpose of the workshop is to solicit comments from interested persons on the proposed changes to the following sections of the Nevada Administrative Code.

ACTION	NAC REGULATION
Newly Proposed Rules for permanent adoption	
“Step” defined	284.102
Initial rate of salary; effect of promotion, demotion, transfer, reappointment or reemployment; minimum step for continuous employee	284.170
Adjustment of steps within same pay grade	284.204
Special adjustment to salaries	284.206
Preparation and discussion of reports	284.470
Appeal of contested performance evaluations	284.478
Training of supervisory employee	284.498
Determination of date on which employee sustained permanent disability related to work	284.6013
Eligibility of employee with permanent disability for reemployment	284.6014
Risk management division of the department of administration to provide certain information regarding permanent disability of employee to department of personnel and appointing authority	284.6015
Separation for physical, mental or emotional disorder	284.611
Statement of grievance; time to file; contents	284.678

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)684-0150, or 555 East Washington Avenue, Suite 1200, 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 December 16, 1999, at the Grant Sawyer Office Building, 555 East Washington Avenue, Suite 4401, Las Vegas, Nevada, and by teleconference at the Legislative Building, 401 South Carson Street, Room 3138, Carson City, 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 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 December 2, 1999.**

A copy of this notice and the regulations to be adopted and amended will be on file at the State Library, 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 and amended will be available at the Department of Personnel, 209 East Musser, 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 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 principal 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
Carson City Court House, 885 East Musser Street
Capitol Press Corps, Basement, Capitol Building
Nevada State Library, 100 Stewart Street

LAS VEGAS

Grant Sawyer State Office Building
555 East Washington Avenue

Capitol Building

ALL STATE AGENCIES

ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: We are pleased to make reasonable accommodations for members of the public 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 684-0110, no later than five working days prior to the meeting.

PROPOSED REGULATION OF THE DEPARTMENT OF PERSONNEL

Sec 1. Chapter 284.102 of NAC is hereby amended to read as follows:

Explanation of change: This amendment revises the definition of "step."

284.102 "Step" defined.

"Step" means a specific rate of pay within a grade. ~~There are 15 half steps, two of which equal 1 step.~~

Sec 2. Chapter 284.170 of NAC is hereby amended to read as follows:

Explanation of change: This amendment, proposed by the Department of Personnel, is required by the deletion of half steps.

284.170 Initial rate of salary; effect of promotion, demotion, transfer, reappointment or reemployment; minimum step for continuous employee.

1. Except as otherwise provided in NAC 284.204 and 284.206, the following provisions govern the rate of salary which must be paid at the time of employment:

(a) If the employment is an initial appointment, the salary must be at the lowest step of the grade of the position.

(b) If the employment is a reinstatement to a position which is:

(1) At the same grade as that of the employee's former position, he may be paid at or below the step which he held in his former position.

(2) At a lower grade or a higher grade than that of his former position, he may be paid at or below the step which most closely corresponds to the grade and step of his former position providing the higher grade is a result of the reallocation of the entire class because of a reclassification or general salary increase.

2. The following provisions govern the rate of salary which must be paid if an employee is promoted:

(a) The employee must be placed at the lowest step in the higher grade that meets one of the following requirements:

(1) If the employee moves one grade above his former grade, he must be placed at a step in the new grade which is equivalent to an increase of one step above his former salary.

(2) If the employee moves two or more grades above his former grade, the employee must be placed:

(I) At a step which is equivalent to an increase of two steps; or

(II) At the lowest step of the new grade, whichever salary is higher and in accordance with the provisions of subsection 8.

(b) An adjustment in salary granted in accordance with paragraph (c) of subsection 1 of NAC 284.206 is the present level of salary for the purpose of calculating an increase authorized by this subsection only if the employee:

(1) Has held the adjustment for the equivalent of 6 months or more of full-time service;
and

(2) Is not underfilling a higher class.

(c) If an employee has been demoted, he may not receive a promotional increase in salary that is greater than that which he would have otherwise been entitled to receive had he not been demoted.

(d) This subsection does not apply when an employee is reemployed or reappointed to his former grade within 1 year after holding that grade.

3. Except as otherwise provided in this subsection and NAC 284.618, an employee who is demoted shall be paid at a step within the grade of the lower class as follows:

(a) If the employee has attained permanent status in the class from which he was demoted and the demotion is instituted at the employee's request or is subject to his choice of acceptance or rejection, the appointing authority shall pay him at a step which is:

(1) Equal to his present salary; or

(2) Equivalent to a decrease of not more than one step. Except as otherwise provided in paragraph (b) of this subsection, if the salary does not fall within the grade of the lower class, the employee must be paid at a step in the lower grade which is equal to:

(I) The step he would have received, based on satisfactory performance, if he had not been promoted; or

(II) The step he would have received, based on satisfactory performance, if he had been employed in that class from the inception of his employment with the State of Nevada.

(b) An exception to subparagraph (2) of paragraph (a) may be granted by the appointing authority to pay an employee at a rate that does not fall within the lower grade if the appointing authority determines that the demotion is in the best interest of the employee and the State of Nevada. If such an exception is granted, the employee's rate of pay will be limited to three grade levels above the grade of the class to which he is demoted or his current salary, whichever is less. The employee's current salary will be frozen until it falls within the range of the lower grade or for a maximum of 2 years after the date he was demoted, making the employee ineligible for any future salary adjustment, cost of living adjustments or wage and salary adjustments. If the employee's frozen salary does not fall within the range of the lower grade within this 2-year period, his salary will be adjusted to the highest step within the lower grade.

(c) If an employee accepts a promotion and is demoted before attaining permanent status in the class, he must be paid at:

(1) The first step in the grade of the class to which he was demoted; or

(2) A step in the grade of the class to which he was demoted which is equivalent to the salary to which he would have been entitled had he not been promoted, whichever is greater.

(d) If the demotion is instituted by the appointing authority for disciplinary reasons and is not covered by paragraph (c), the appointing authority shall determine the step in the lower grade at which the employee will be paid.

(e) Except as otherwise provided in this paragraph, if the demotion occurs during the initial probationary period in state service, the employee must be placed at the first step in the class to which he is demoted. If such a demotion occurs because of a displacement due to a layoff or the restoration of an employee pursuant to NRS 284.300, the appointing authority may pay the demoted employee at any step in the lower grade that is not greater than his present salary.

4. If an employee is transferred to a position in the same or a related class, he must be placed at the corresponding step in the same grade that he held before the transfer. Any exception to this subsection must be approved by the department of personnel based upon a written request and justification for the exception submitted by the appointing authority.

5. If an employee is reappointed to a position:

(a) Which is in the grade which he currently holds, he retains his step.

(b) Which is in a higher grade and the appointment occurs within 1 year after the date on which he last held the grade, he must be placed at the step which he last held in that grade.

(c) Which is in a higher grade and the reappointment occurs more than 1 year after he held that grade, his salary must be calculated pursuant to subsection 2.

Any exception to this subsection must be approved by the department of personnel based upon a written request and justification for the exception submitted by the appointing authority.

6. Except as otherwise provided in subsection 7, if a person is reemployed at:

a) The same grade, there must be no change in step.

b) A lower grade, he must be placed at a step which most closely corresponds to the grade and step which he held at the time of his layoff or separation.

c) A higher grade and the appointment occurs within 1 year after the date on which he last held the grade, he must be placed at the step which he last held in that grade.

An exception to this requirement may be made if the conditions in NAC 284.204 or 284.206 exist, or if money is not available as certified by the chief of the budget division of the department of administration or, in the case of an agency that is not funded from the state general fund or the University and Community College System of Nevada, as certified by the administrator of that agency or system. If an exception is made pursuant to this subsection, the employee retains his right of reemployment.

7. If a person who is eligible for military reemployment is reemployed, the period of his military service must be included in calculating the step at which he will be placed.

8. An employee who has been continuously employed without a break in service may not have his salary set below:

a) Step ~~7~~ 4 of any grade if his date of hire is before April 26, 1973; or

b) Step ~~5~~ 3 of any grade if his date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion.

9. When a nonclassified or unclassified employee or an employee included in the personnel system pursuant to the provisions of NRS 284.022 is appointed without a break in service to the classified service, he may, at the discretion of the appointing authority:

(a) Be paid at a step which corresponds to or is below his current rate of pay if it is within the grade of the class to which he is appointed;

(b) Be paid at the first step in the new grade to which he is appointed; or

(c) Receive a special adjustment to his salary pursuant to subsection 1 of NAC 284.204 or 284.206.

10. An employee who was previously employed in the classified service and is appointed pursuant to the provisions of subsection 9 may not be paid at a step and grade which is greater than he received at the time he left the classified service, unless he has held the unclassified or nonclassified position for more than 1 year.

11. As used in this section, "present level of salary" shall be deemed to equal the amount that coincides with the ~~half~~ step within the grade which is closest to, but does not exceed the employee's salary after the special adjustment.

Sec 3. Chapter 284.204 of NAC is hereby amended to read as follows:

Explanation of Change: This amendment is proposed as a result of a decision by the Employee Management Committee and provides for a retroactive adjustment due to administrative or clerical error.

284.204 Adjustment of steps within same pay grade.

1. The department of personnel may approve an adjustment of steps within the same pay grade to:

(a) Meet a difficult recruiting problem if an effort to recruit a person for a position or class has failed to produce applications from 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.

(b) Employ a person who possesses qualifications which are superior to those of another eligible person if he possesses experience or education, or both, which exceed:

- (1) The minimum qualifications of the class; and
- (2) The experience and education of any other eligible person who is available.

Any experience or education, or both, which is considered by the appointing authority pursuant to this subsection must be given a greater weight for those areas which are directly related to the position than those areas of general education and experience. The rate of salary is negotiable within the grade of the class of the position.

(c) Maintain an equitable relationship in the status of steps among the employees of the appointing authority if a disparity exists and it is not a condition created solely by differences in seniority. The status of the steps may not be considered for employees:

- (1) In another agency; or
- (2) When the difference is a result of an adjustment in salary which was attained in a former class.

2. Before granting an adjustment of steps pursuant to this section, the appointing authority must submit a request in writing to the department of personnel which justifies the need for the adjustment. The request must indicate that the appointing authority has:

(a) Considered the requirements for the salary and the qualifications of any other eligible person who is available for work;

(b) Ensured that the adjustment is feasible on the basis of its fiscal effects;

(c) Ensured that the adjustment will not cause inequity in the status of the steps of current employees which would require adjustments in the salaries of those employees which are not feasible on the basis of the fiscal effects of any adjustments; and

(d) Prepared and maintained an accurate record of the consideration of the factors listed in this subsection and of the justification of the appointing authority for the adjustment as specified in this section, as appropriate.

3. An adjustment of steps which is made pursuant to this section does not constitute a promotion.

4. The effective date of an adjustment of steps which is approved by the department of personnel ~~must be determined by the appointing authority. An adjustment of steps cannot be~~

~~effective before the request is made by the appointing authority.]~~ *is the date the appropriate document 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 an adjustment of steps is delayed because an administrative or clerical error prevented the delivery of a prepared document to the department of personnel, the effective date must be determined by the appointing authority and must be based on the date the document should reasonably have been submitted to the department of personnel. A retroactive adjustment must not exceed 6 months from the date of receipt of the document by the department of personnel.*

5. An adjustment of steps which is made pursuant to paragraph (a) of subsection 1 must 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 4. Chapter 284.206 of NAC is hereby amended to read as follows:

<p>Explanation of Change: This amendment, proposed by the Department of Personnel, clarifies that retroactive adjustments may not exceed 6 months from the date of receipt of the document by the department of personnel.</p>

284.206 Special adjustments to salaries.

1. The department of personnel may approve a special adjustment to a salary equivalent to 5 percent of the employee's regular hourly rate to recognize conditionally:

(a) An employee who works out of his class on a continuing basis and who performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase the employee must:

(1) Be assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification; and

(2) Carry out the duties for at least 16 consecutive workdays before the increase becomes effective.

The adjustment in salary must not continue for more than 6 months in any 12-month period unless the person is underfilling a position pursuant to NAC 284.437 and recruitment has failed to produce a sufficient number of applicants on the appropriate list.

(b) An employee required to use bilingual skills or sign language for the deaf at least 10 percent of his work time.

(c) An employee supervising other employees of the same or a higher grade if the supervision is not of a program or function which is provided for in the specification of the class.

(d) An employee of the division of mental health and developmental services of the department of human resources or the division of child and family services of the department of human resources or the department of prisons which provides mental health services to inpatients, who is required regularly to perform custodial work and clean up human bodily wastes, or, if his principal place of work is located in an assaultive environment as determined by

the administrator, to provide medical treatment, maintain buildings, instruct academic courses or provide therapy.

The adjustment will be:

- (1) Granted only when such duties are not required of the class as a whole; and
- (2) Granted only once although the employee performs more than one duty described in this paragraph.

Except as otherwise provided in this paragraph, such an employee who is assigned to the unit located in an assaultive environment for one or more hours but who is not assigned there permanently must also receive the adjustment for each hour and portion thereof he works in the unit. An excluded classified employee who is assigned to the unit located in an assaultive environment for any portion of a workday but who is not assigned there permanently must receive the adjustment for all of his regularly scheduled hours of employment on that workday.

(e) Except as otherwise provided in this paragraph, an employee who conducts a formal program of training for employees in an occupational class series. The training must:

- (1) Be conducted weekly;
- (2) Consist of training on the job and in the classroom or training only in the classroom;
- (3) Include a test to determine the employee's progress in the program; and
- (4) Result in the award of a certificate of completion or advancement in a training class series to the journey level.

If granted, the adjustment begins when the employee starts conducting the program of training and ends when the program is completed. An adjustment will not be granted if the duty to conduct training is clearly set forth in the class specification. Informal orientation given to new employees in a class series will not be considered for this special adjustment.

(f) An investigator of the state industrial insurance system who is required by his appointing authority to carry a concealed weapon and to investigate threats of violence against employees of the agency and who has been authorized by the appropriate law enforcement agency to carry a concealed weapon.

(g) A law enforcement officer who is assigned to motorcycle duty.

(h) An employee of the department of prisons who regularly supervises, or is responsible for the supervision of a group of inmates assigned to a work area of a prison and who is responsible for implementing security procedures, including, without limitation, securing the work area from inmates who are not authorized to enter, accounting for all inmates who have been assigned to the work area and accounting for all materials, tools and equipment in the work area. This adjustment will be granted only if such duties are not provided for in the class specification.

(i) An employee who is authorized by the legislature to receive such an adjustment to his salary.

2. The department of personnel may approve a special adjustment to the salary of an employee who occupies a position in which the duties have been recognized pursuant to a position questionnaire as being at a higher level, but who does not meet the minimum qualifications for promotion to the new grade. The special adjustment must be equivalent to 2.5 percent of the employee's regular hourly rate if the employee performs duties classified one grade higher than his current position, or 5 percent of the employee's regular hourly rate if the employee performs duties classified two or more grades higher than his current position. A special adjustment made pursuant to this subsection may continue in effect from the date the position is reclassified or the position questionnaire is received:

- (a) Until the employee meets the minimum qualifications and is promoted;

- (b) For 1 year after the effective date of the special salary adjustment; or
- (c) Until the date the higher level duties are removed, whichever occurs first.

3. A request for a special adjustment to a salary made pursuant to this section may be initiated by an employee, the appointing authority or the department of personnel.

4. A special adjustment authorized by this section does not constitute a promotion.

5. Any special adjustment made pursuant to subsection 1 must be revoked when the conditions justifying it cease to exist.

6. Except as otherwise provided in this section, the effective date of a special adjustment to a salary is the date the appropriate document is received by the department of personnel or the personnel office of the agency at which the employee who is receiving the special adjustment is employed. If a special adjustment to a salary is delayed because an administrative or clerical error prevented the delivery of a prepared document to the department of personnel the effective date must be determined by the appointing authority and must be based on the date the document should reasonably have been submitted to the department of personnel. A retroactive adjustment ~~[due to administrative or clerical error]~~ must not exceed 6 months from the date of receipt of the document by the department of personnel.

Sec 5. Chapter 284.470 of NAC is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, clarifies the time allowed for an employee to respond if he disagrees with his report on performance.

284.470 Preparation and discussion of reports.

1. A person shall not complete a report on performance unless he has completed the training provided or approved by the director concerning the preparation of a report on performance.

2. A report on performance must be prepared on the form prescribed by the department of personnel.

3. When a report on performance is given which reports the rating of performance of an employee as substandard, it must contain a written notice that such reports affect both adjustments in salary based on merit and the employee's eligibility for longevity pay. More frequent reports may be made in the supervisor's discretion.

4. Except as otherwise provided in subsection 5, the preparation of each report on performance must include a discussion between the employee and his immediate supervisor. If the employee agrees with the report on performance, he must complete and sign the appropriate section on the report on performance within 10 working days after the discussion takes place and return the report to his supervisor for forwarding to the appointing authority. If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing *within 10 working days after the discussion takes place* and identify the specific points of disagreement, if such specificity is provided. The reviewing officer shall respond to the employee in writing within 10 working days after ~~[receiving the request]~~ *the supervisor or agency designated representative receives the request for review*.

5. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 4 because of an extended absence, the immediate supervisor of the employee shall

cause the report to be mailed to the employee. If the employee agrees with the report on performance, he must complete and sign the appropriate section on the report and mail the report to his supervisor for forwarding to the appointing authority within 10 working days after the date on which the employee received the report. If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing and identify any specific point of disagreement, if the report provides such specificity. The employee must mail his response to his supervisor within 10 working days after the date on which the employee received the report. The reviewing officer shall respond to the employee in writing within 10 working days after the ~~reviewing officer~~ *supervisor or agency designated representative* receives the request for review from the employee. For the purposes of this subsection, a report on performance or request for review is deemed to have been received on the third day after the date on which the report or request is postmarked.

6. A copy of each report on performance must be filed with the department of personnel.

7. An employee and his ~~employer~~ *appointing authority* may agree in writing to extend one or more of the periods prescribed in subsection *4 or 5*.

Sec 6. Chapter 284.478 of NAC is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, provides that a permanent employee may grieve a contested performance evaluation only after requesting a review by the reviewing officer.

284.478 Appeal of contested performance evaluations.

A contested performance evaluation may be appealed through the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.695, inclusive, *when a permanent employee disagrees with the decision of the reviewing officer as described in NAC 284.470. If the reviewing officer does not respond within 10 working days as required in NAC 284.470, the employee may proceed with the adjustment of the grievance as provided in NAC 284.678.*

Sec 7. Chapter 284.498 of NAC is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, corrects a subsection reference which changed due to a previous amendment to this regulation.

284.498 Training of supervisory employee.

1. When an agency initially appoints an employee to a supervisory position, the employee shall take at least 5 days of training in subjects related to supervisory functions within 6 months after being appointed. The department encourages all training which prepares the employee for that position. The appointing authority, at its discretion, may accept, in lieu of the training required by this subsection, supervisory training taken by the employee during the 2 years preceding his appointment.

2. An appointing authority may require a supervisor to complete the training, retake any part or all of the training or take additional training as deemed necessary.
3. To meet the training requirements of this section, the employee may take training from:
 - (a) The employee's agency;
 - (b) A formal training program;
 - (c) The department; or
 - (d) Any combination of paragraphs (a), (b) and (c).
4. The training described in subsection ~~3~~ **1** must include training concerning the preparation of a report on performance.
5. When the employee completes the training concerning the preparation of a report on performance, the appointing authority shall send proof of completion to the personnel records section of the department of personnel.
6. In addition to the training required by this section, the employee shall take training concerning:
 - (a) A drug-free workplace, which is offered or approved by the department of personnel.
 - (b) Equal employment opportunity. The employee shall take at least 6 hours of training in this subject.

Sec 8. Chapter 284.6013 of NAC is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, eliminates references to the State Industrial Insurance System and replaces these references with the word insurer as defined by NRS 616A.270.

284.6013 Determination of date on which employee sustained permanent disability related to work.

For the purposes of NAC 284.6013 to 284.6019, inclusive, an employee shall be deemed to have sustained a permanent disability arising from a disability related to work on the date on which the ~~[state industrial insurance system]~~ **insurer** first causes notice to be delivered to him stating that his treating physician or chiropractor has informed the ~~[system]~~ **insurer** pursuant to NRS 616C.590 that the employee has permanent physical restrictions which prevent him from returning to work in his regular position.

Sec 9. Chapter 284.6014 of NAC is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, eliminates references to the State Industrial Insurance System and clarifies the role of the “insurer” in notifying the Department of Administration, Division of Risk Management, of the employee’s eligibility for reemployment.

284.6014 Eligibility of employee with permanent disability for reemployment.

1. An employee is eligible for reemployment under this section if:

- (a) He is a permanent employee;
- (b) He would otherwise have continued in his regular position;
- (c) He is unable to perform the essential functions of his regular position, even with reasonable accommodation, because he has a permanent disability arising from a disability related to work;
- (d) The ~~{state industrial insurance system certifies}~~ *risk management division of the department of administration receives notification from the insurer certifying* that he has a medical condition which, in the opinion of the medical advisor to the ~~{system}~~ *insurer*, will result in a permanent partial disability;
- (e) The ~~{state industrial insurance system certifies}~~ *risk management division of the department of administration receives notification from the insurer certifying* that the employee has permanent physical restrictions as a result of his permanent disability and that he is eligible for vocational rehabilitation benefits;
- (f) The ~~{state industrial insurance system certifies}~~ *risk management division of the department of administration receives notification from the insurer certifying* that his claim for benefits from the system is not being contested through the hearing and appeal process provided pursuant to chapters 616A to 617, inclusive, of NRS; and
- (g) He submits to the department of personnel a completed job development form supplied by the department not later than 30 days after the date on which he sustained his permanent disability.

2. A person is entitled to reemployment under this section only within the department that employed him at the time he sustained his permanent disability. Such entitlement to reemployment applies to the class and option of his regular position and to any class for which the employee qualifies that does not exceed the grade level of his regular position.

3. A person is entitled to reemployment under this section only in a full-time position if his regular position was on a full-time basis. A person whose regular position was on a part-time, seasonal or intermittent basis only is entitled to reemployment on the same basis as his regular position. A person who is entitled to reemployment on a full-time basis may be reemployed on either a full-time or part-time basis, as appropriate, based on his permanent physical restrictions as certified by the ~~{state industrial insurance system}~~ *insurer*.

4. The employee, his appointing authority and his vocational rehabilitation counselor shall provide any necessary information for job development and reemployment on the forms prescribed by the department of personnel.

Sec 10. Chapter 284.6015 of NAC is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, eliminates references to the State Industrial Insurance System and clarifies the role of the Department of Administration, Division of Risk Management.

284.6015 ~~{State industrial insurance system}~~ *Risk management division of the department of administration* to provide certain information regarding permanent disability of employee to department of personnel and appointing authority.

The ~~{state industrial insurance system}~~ *risk management division of the department of administration* shall provide to the department of personnel and to an employee's appointing

authority the following information regarding the employee when the information becomes known to the ~~[system]~~ *division*:

1. The date on which the employee sustained a permanent disability arising from a disability related to work;
2. The date on which the employee will no longer be eligible for vocational rehabilitation benefits;
3. Any written agreement signed by the employee for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation benefits; and
4. Any determination by the ~~[state industrial insurance system]~~ *insurer* that the employee is not entitled to compensation for a permanent partial disability.

Sec 11. Chapter 284.611 of NAC is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, eliminates references to the State Industrial Insurance System.

284.611 Separation for physical, mental or emotional disorder.

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 job, the appointing authority shall:

- (a) Verify with the employee's physician that the condition does not respond to treatment or 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 job;
- (c) Request the services of the rehabilitation division of the department of employment, training and rehabilitation, or if the employee is receiving worker's compensation, the rehabilitation agency of the ~~[state industrial insurance system]~~ *insurer*, to evaluate the employee's condition as it relates to his job, to suggest possible restructuring of the job or transferring the employee to a vacant position for which he meets the minimum qualifications and to provide any other rehabilitative services possible; and
- (d) Ensure that all reasonable efforts have been made to retain the employee.

2. A separation 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, annual leave or other approved leave; and
- (c) The employee is 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 284.656 must be followed and he may appeal his 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 recovers from the disorder within 2 years after his termination.

Sec 12. Chapter 284.678 of NAC is hereby amended to read as follows:

Explanation of Change: This amendment, proposed by the Department of Personnel, defines the number of days allowed for an employee to file a grievance after receipt of a decision by the reviewing officer and the level at which the grievance should be submitted.

284.678 Statement of grievance; time to file; contents.

1. ~~Am~~ *Except as otherwise provided in subsection 3, an* employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.

2. If the employee submits a letter, it must include:

- (a) His name;
- (b) His most recent date of hire;
- (c) His position;
- (d) His department, division and section;
- (e) His mailing address;
- (f) His business telephone number;
- (g) A statement that he is filing a formal grievance;
- (h) The date, time and place of the event or the date the employee learns of the event leading to the grievance;
- (i) A concise statement of his grievance;
- (j) A detailed description of his grievance including the names of other persons involved in the event, if any;
- (k) A proposed solution of his grievance;
- (l) His signature; and
- (m) The date he signed the statement.

3. If a grievance relates to a performance evaluation *as provided in NAC 284.478*, an employee *has 10 working days to file a grievance following receipt of the decision by the reviewing officer or the expiration of the 10 working days required for response in NAC 284.470. An employee shall identify the specific points of disagreement, if such specificity is provided, and submit the grievance to the appointing authority, unless the appointing authority is the employee's immediate supervisor or the reviewing officer in which case the grievance shall be filed at the next level in the grievance process.*