

LCB File No. E003-02

**EMERGENCY REGULATION OF THE
DEPARTMENT OF PERSONNEL**

(Effective for 120 days after July 1, 2002)

Statement of Emergency: Due to the actions of the Personnel Commission on July 2, 2002, the provisions for compensating an employee 5% for working in an assaultive environment have been removed from NAC 284.206. For an employee currently receiving this pay, a provision was approved to allow the employee to continue to receive his base rate of pay plus an amount equal to the special adjustment that was in effect as of June 30, 2002, until future adjustments to pay, not including merit pay increases, offset the loss of the special adjustment to pay if:

1. The employee's work duties include direct contact and interaction with clients for at least half of his scheduled work shift; and
2. The employee received an adjustment to pay for performing certain work in an assaultive environment as determined by the applicable division administrator for at least half of his working time during the 3 months immediately before June 30, 2002.

The 5% special adjustment to pay is being removed as of June 30, 2002. The proposed emergency regulation ensures that employees will continue to be paid appropriately, neither overpaid or underpaid, until such time as the permanent regulation goes into effect.

284.206 Special adjustments to pay. (NRS 284.155, 284.175)

1. The department of personnel may approve a special adjustment to pay equivalent to 5 percent of the employee's base rate of pay 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 and responsibilities for at least 16 consecutive workdays before the increase becomes effective.

The adjustment to pay pursuant to this paragraph is effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities. The adjustment to pay 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. If the employee will be required to carry out the assigned duties and responsibilities of the higher grade for 1 year or less, the appointing authority may request a temporary reclassification pursuant to NAC 284.132.

(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:

(1) Is not part of the supervision or management responsibilities for a program that is provided for in the class specification; and

(2) Includes, without limitation, selection, work assignment, training, work review, performance evaluation and discipline of employees.

(d) An employee~~f~~:

~~(1) Who~~ *who* is required regularly to perform custodial work and clean up human bodily waste in a medical, clinical or inpatient facility.

~~(2) 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:~~

~~(I) Who provides mental health services to inpatients;~~

~~(II) Whose principal place of work is designated by the administrator of that division to be located in an assaultive environment; and~~

~~(III) Who is required to provide medical treatment, maintain buildings, instruct academic courses or provide therapy.~~

~~The adjustment to pay pursuant to this paragraph will be granted only when such duties are not required of the class as a whole and will be 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 work in a unit that is designated by the administrator of that division to be located in an assaultive environment for 1 hour or more per shift must also receive the adjustment for each hour and portion thereof that he works in the unit. An exempt classified employee who is assigned to work in a unit that is designated by the administrator to be located in an assaultive environment for any portion of a workday must receive the adjustment for all his regularly scheduled hours of employment on that workday.]~~

(e) Except as otherwise provided in this paragraph, an employee who conducts a formal training program for employees. The training program 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 employees' progress in the program; and

(4) Result in the award of a certificate of completion or advancement in a class series to the journey level.

If an adjustment to pay is granted pursuant to this paragraph, the adjustment begins when the employee starts conducting the training program and ends when the training 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 will not be considered for this special adjustment.

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

(g) An employee of the department of corrections who is responsible for the supervision of a group of inmates assigned to a work area of an institution and who is responsible for implementing security procedures, including, without limitation:

(1) Securing the work area from inmates who are not authorized to enter the work area;

(2) Accounting for all inmates who have been assigned to the work area; and

(3) Accounting for all materials, tools and equipment in the work area.

The adjustment to pay pursuant to this paragraph will be granted only if such duties are not provided for in the class specification.

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

2. The department of personnel may approve a special adjustment to the pay of an employee who occupies a position in which the duties have been recognized through the classification process as being at a higher level, but who does not meet the minimum qualifications for the class. The special adjustment to the employee's pay must be equivalent to 2.5 percent of the employee's base rate of pay if the employee performs duties classified one grade higher than his current position, or 5 percent of the employee's base rate of pay if the employee performs duties classified two or more grades higher than his current position. A special adjustment to an employee's pay made pursuant to this subsection may continue in effect from the date on which 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 adjustment to pay; or
- (c) Until the date the higher level duties are removed,

whichever occurs first.

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

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

5. Any special adjustment to pay 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 pay is the date on which the written request is received by the department of personnel or the personnel office of the agency at which the employee who is receiving the special adjustment to pay is employed. If the request for the special adjustment to pay is delayed because an administrative or clerical error prevented its delivery, the effective date of the special adjustment to pay 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 to pay must not exceed 6 months from the date on which the department of personnel receives the written request.

REVISOR'S NOTE: Notwithstanding the amendatory provisions of section 1 of this regulation, an employee who is employed by the division of mental health and developmental services of the department of human resources or by the division of child and family services of the department of human resources to work in a psychiatric hospital, a forensic unit for mentally disordered offenders or a residential mental retardation facility will continue to receive his base rate of pay plus an amount equal to the adjustment to pay until future adjustments to pay, not including pay increases based on merit, offset the initial adjustment to pay that was in effect as of June 30, 2002, if:

1. The employee's work duties include direct contact and interaction with clients for at least half of his scheduled work shift; and
2. The employee received an adjustment to pay for performing certain work in an assaultive environment as determined by the administrator 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, for at least half of his working time during the 3 months immediately before June 30, 2002.

Governor's endorsement of adoption of emergency regulation:

Kenny C. Guinn /s/
KENNY C. GUINN
Governor

July 9, 2002