

**ADOPTED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R183-03

Effective January 27, 2004

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

AUTHORITY: §§1, 2, 4, 9, 12, 13, 15, 21, 25, 31-34, 37-40, 43 and 44, NRS 284.065 and 284.155; §§3, 6, 7, 10 and 11, NRS 284.065, 284.155 and 284.295; §§5, 30, 35, 36 and 41, NRS 284.065, 284.155 and 284.305; §§8 and 19, NRS 284.065, 284.155, 284.205 and 284.384; §§14, 17, 18 and 20, NRS 284.065, 284.155 and 284.205; §§16 and 24, NRS 284.065, 284.155, 284.205 and 284.250; §§22 and 26-28, NRS 284.065, 284.155 and 284.250; §23, NRS 284.065, 284.155, 284.250 and 284.327; §29, NRS 284.065, 284.121 and 284.155; §42, NRS 284.065, 284.155 and 284.345.

Section 1. NAC 284.0533 is hereby amended to read as follows:

284.0533 “Dating relationship” means ~~[a relationship between a supervisor and an employee who is in the direct line of authority of the supervisor that involves or may reasonably lead to a consensual amorous or sexual relationship.]~~ *an intimate association primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.*

Sec. 2. NAC 284.076 is hereby amended to read as follows:

284.076 “Permanent employee” means an employee who has successfully completed the probationary period for any class he has held during continuous classified service. The term does not include a person *who:*

1. Is reemployed after having been laid off and is serving a new probationary period as required by subsection 6 of NAC 284.630 ; or

2. Is reemployed pursuant to NAC 284.6014 after having sustained a permanent disability and is serving a new probationary period as required by subsection 2 of NAC 284.6018.

Sec. 3. NAC 284.088 is hereby amended to read as follows:

284.088 ~~["Promotion," except as otherwise provided in NAC 284.462,]~~ **"Promotion"** means an advancement to a position in a class which has a higher grade than the class previously held.

The term does not include the restoration of a promoted employee to his former position pursuant to NAC 284.462.

Sec. 4. NAC 284.093 is hereby amended to read as follows:

284.093 "Reappointment" means a noncompetitive appointment of ~~[an]~~ **a current** employee to a class he formerly held or to a comparable class.

Sec. 5. NAC 284.110 is hereby amended to read as follows:

284.110 "Underfill" means the filling of a position with an employee holding a position in a lower classification, except for those situations where employees are in classifications which are training or intermediate levels preparatory to promotion to the ~~[journeyman]~~ **journey** level class.

Sec. 6. NAC 284.295 is hereby amended to read as follows:

284.295 1. ~~[If a recruitment is required, the]~~ **The** Department of Personnel will determine the type of recruitment based on:

- (a) The number of current or anticipated vacancies;
- (b) The anticipated number of applicants; and
- (c) The recommendations or requests of the appointing authority.

2. Except as otherwise provided in subsection 3, a recruitment must be restricted to one or a combination of these groups in the following order of priority:

- (a) Applicants for promotion from within the division where the vacancy exists.

- (b) Applicants for promotion from within the department where the vacancy exists.
- (c) Applicants for promotion from throughout state service.
- (d) Applicants for appointment from open competition.

↪ If a recruitment includes more than one promotional group, any group with a higher priority must be included and receive preference.

3. Recruitment may be open competitive, or limited to or combined with any one or more of the promotional groups listed in subsection 2 if:

(a) The appointing authority certifies in writing to the Department of Personnel that, in accordance with the provisions of NAC 284.297, it is in the best interest of the agency to expand the recruitment to allow other groups to compete equally; or

(b) The class is designated in the classification plan as:

- (1) Entry level because it is not a normal progression from another class; or
- (2) One for which applicants for promotion are not normally available.

4. The provisions of this section do not prohibit the Department of Personnel or its designee from conducting a recruitment in anticipation of a vacancy.

Sec. 7. NAC 284.297 is hereby amended to read as follows:

284.297 ~~[For the purposes of NRS 284.295, “practicable” means that in the judgment of the appointing authority, it is in the best interest of the agency to limit consideration for a vacancy to persons who are eligible for promotion and who are employed within the division or department where the vacancy exists. In making this determination,]~~ ***In determining that it is in the best interest of the agency to expand a recruitment to open competition,*** the appointing authority shall consider:

1. The merit, fitness, efficiency, character, conduct ~~[,]~~ and length of service of ~~[the employee,]~~ *employees*, pursuant to NRS 284.295;
2. The need to provide to all citizens a fair and equal opportunity for public service;
3. The composition of the workforce in relation to the plan for affirmative action of the State of Nevada;
4. The needs of the agency in accomplishing its objectives; and
5. The possibility of any loss of federal money or other sanctions that may be imposed.

Sec. 8. NAC 284.298 is hereby amended to read as follows:

284.298 1. Except as otherwise provided in this chapter and in chapter 284 of NRS, an appointment to or within the classified service must be made through the use of competitive examinations.

2. ~~[Competitive examinations may be structured or unstructured, scored or unscored, written, oral, or in]~~ *Examinations may be:*

(a) Structured or unstructured;

(b) Scored or unscored;

(c) Written or oral;

(d) In the form of a demonstration of skill ~~[, an]~~ or technical knowledge;

(e) An evaluation of training ~~[, experience, or other specified job requirements, or any]~~ and experience; or

(f) Any combination of ~~[these.]~~ paragraphs (a) to (e), inclusive.

3. Examinations which measure an applicant's capacity, ~~[technical knowledge,]~~ manual skill ~~[,]~~ and physical fitness ~~[, if it]~~ *may be used if such capacity, skill or fitness* is related to the job .
~~[, may be used.]~~

~~4. The method of examination adopted by the center for assessment may be used.]~~

4. Examination materials, including questions and scratch paper, are the property of the Department of Personnel.

5. The administration of an examination may be modified for the purpose of more fairly testing the abilities of a qualified person with a disability if the modification does not alter the reliability and validity of the examination.

6. If a grievance is filed concerning an examination in accordance with NAC 284.658 to 284.695, inclusive, the Director will not fill any vacancy from the list established by the examination unless the Director determines that there is an urgent and compelling need to fill that vacancy.

Sec. 9. NAC 284.300 is hereby amended to read as follows:

284.300 1. Assessors of a center for assessment must be selected:

- (a) From at least two different departments; or
- (b) From a combination of departments or other public or private employers.

2. Each assessor must be trained in the method of examination used by the center for assessment before he examines an applicant.

3. Oral, written and performance exercises administered by a center for assessment must:

- (a) Be administered under standardized conditions;*
- (b) Be related to the performance of the job;*
- (c) Be evaluated by more than one assessor; and*
- (d) Measure the skills, knowledge and other attributes of a person which are important to*

his successful performance of the job.

Sec. 10. NAC 284.302 is hereby amended to read as follows:

284.302 1. To determine whether an applicant meets the minimum qualifications established for the class or position and other necessary criteria, the Department of Personnel may require ~~[certificates of citizens, public officers, or others having knowledge of the applicant as the good of the service may require. The Department of Personnel may require, either before examination or before certification, that necessary documentary evidence be submitted for such facts as]~~ *evidence of United States* citizenship, alien status, discharge under honorable circumstances from the Armed Forces of the United States, possession of valid licenses for various purposes, educational transcripts or other evidence of identification and qualification. Except as otherwise provided in NAC 284.342 ~~[;]~~ *with respect to a request for a veteran's preference*, any required information which is not received by the time of certification will be cause for the Director to decline to certify the applicant.

2. *A reasonable minimum age requirement may be established for any position that involves public safety, supervision or care of wards of the State of Nevada, hazardous working conditions or other unusual circumstances. If such a minimum age requirement is established, it must be specified in the approved class specification or the publicized job announcement and an applicant shall, upon request, submit appropriate proof of age to the Department of Personnel.*

3. The Department of Personnel or employing agency may investigate an applicant's character, past employment, education, ~~[and experience.]~~ *experience and, as allowed by specific statute, criminal background.*

Sec. 11. NAC 284.318 is hereby amended to read as follows:

284.318 1. Except as otherwise provided in this subsection, competition in a recruitment is limited to applicants who meet the minimum qualifications and other criteria *or conditions* for

the class or position ~~[for which the recruitment is being held and may be further limited to those applicants who indicate on their application a willingness to accept the conditions of employment]~~ as specified in the ~~[public notice of recruitment. The notice of recruitment]~~ *publicized job announcement. The publicized job announcement* may provide for the consideration of applicants who do not currently meet those minimum qualifications but who will do so by the time their names are placed on an eligible list.

2. It is the responsibility of an applicant to apply for any recruitment for which he is interested. Future vacancies may be filled from the results of appropriate prior recruitments.

3. Each applicant must submit an application as specified in the publicized job announcement. The application must be received not later than 5 p.m. on the final date specified in the publicized job announcement.

4. The incomplete or improper completion of an application that affects the ability of the Department of Personnel to determine the qualifications of the applicant, including the failure to designate the locations where the applicant will work and other criteria or conditions, is cause for the rejection of the applicant.

*5. If ~~[an open competitive]~~ a recruitment produces a sufficient number of applicants, the Department of Personnel ~~[, in agreement with the appointing authority, may include an assessment of each applicant's qualifications]~~ may, as an additional phase of the process of examination, *approve the obtaining of supplemental information from each applicant to assess his qualifications* if ~~[it is included in the public notice.]~~ *the publicized job announcement includes notice that such supplemental information may be required.* Only those applicants who are considered the most qualified, based on this assessment, may continue in the competition.*

~~[2.]~~ 6. Except as otherwise provided in subsection ~~[3.]~~ 8, competition in a promotional recruitment is limited to current state employees who:

(a) Have served at least 6 months of continuous *full-time equivalent* service ~~[(full-time equivalent)]~~ in a probationary, special disabled, emergency, provisional or permanent status or any combination of these in the classified service.

(b) Are working in the division, department ~~[.]~~ or state service which is specified in the ~~[public notice of recruitment.~~

~~—3.]~~ *publicized job announcement.*

7. An employee who competes in a promotional recruitment may be at a higher grade, the same grade or a lower grade than the grade of the class for which the recruitment is being conducted. Depending on the grade of the employee, an appointment resulting from a promotional recruitment may be a voluntary demotion, a lateral transfer or a promotion.

8. A former incumbent of a seasonal position who was separated from state service with the status of a permanent employee may apply for a promotional recruitment up to 1 year after the day of separation even though he is not currently employed. The prior appointment must have been in the division, department ~~[.]~~ or state service which is specified in the ~~[public notice of recruitment.~~

~~—4.— An employee who competes in a promotional recruitment may be at a higher grade, the same grade or a lower grade than the grade of the class for which the recruitment is being conducted. Depending on the grade of the employee, an appointment resulting from a promotional recruitment may be a voluntary demotion, a lateral transfer, or a promotion.]~~
publicized job announcement.

9. Applications and accompanying documents are the property of the Department of Personnel.

Sec. 12. NAC 284.322 is hereby amended to read as follows:

284.322 1. Upon giving reasonable notice to his immediate supervisor, a qualified employee must be permitted to take an appropriate amount of released time to participate in any examination given by the Department of Personnel or its designated representative during work hours. ~~Released~~ *Such* time is equivalent to time which is worked.

2. The time spent participating in an examination which exceeds the normal workday or workweek does not qualify for overtime.

~~2.~~ 3. For the purpose of this section, ~~the~~ *an* employment interview *for a position in the classified service, unclassified service or nonclassified service of the State of Nevada* is considered ~~as~~ *to be* part of the examination process.

Sec. 13. NAC 284.326 is hereby amended to read as follows:

284.326 1. The Department of Personnel will, after appropriate consideration of a requesting agency's views, determine the length of the ~~period for filing an application~~ *recruitment* based upon, but not limited to, the number of vacancies and the size and geographic distribution of the anticipated pool of applicants.

2. The Department of Personnel may postpone, cancel ~~it~~ or extend any recruitment by giving appropriate notice thereof.

Sec. 14. NAC 284.330 is hereby amended to read as follows:

284.330 1. The Department of Personnel may conduct recruitments and administer examinations in order to provide the names of eligible persons on a continuous basis.

2. *An applicant achieves eligibility for certification from the date on which he successfully completes the examination.*
3. The names of eligible persons who took the same or a comparable examination on different dates ~~[may]~~ *will* be certified ~~[to the appointing authority on a continuous basis.~~
~~—3. Eligibility from a continuous recruitment exists from the date of the examination.]~~ *on the same list.*

Sec. 15. NAC 284.334 is hereby amended to read as follows:

284.334 1. Notice of each recruitment will be given ~~[.]~~ *in the form of a publicized job announcement.* Dissemination of the ~~[notice]~~ *publicized job announcement* may be limited to the appropriate agencies and employees when the recruitment is strictly promotional.

2. ~~[Notice]~~ *A publicized job announcement* will include the title, pay or grade, ~~[filing period]~~ *recruitment period* and location. ~~[It]~~ *The announcement* may also include, or on promotional recruitments ~~[must]~~ *will* include, information relating to:
- (a) The special conditions of employment, if applicable;
 - (b) The duties and responsibilities of the class or position;
 - (c) The minimum qualifications; and
 - (d) The type of examination, relative weights assigned to the parts thereof and the subjects to be covered, and other related matters.

Sec. 16. NAC 284.338 is hereby amended to read as follows:

284.338 1. The passing score for placement on an eligible list will be determined by the Department of Personnel based on a consideration of the difficulty of the test, the quality of the competition ~~[.]~~ and the needs of the service.

2. The final earned score will be determined by computing the score on each phase of the examination according to the relative weights which are assigned.

3. Unless otherwise specified in the ~~[notice of recruitment,]~~ *publicized job announcement*, a competitor must pass each phase of the examination to proceed to the next phase of the examination. Each competitor must obtain a final passing score exclusive of preferences for residents or veterans.

Sec. 17. NAC 284.340 is hereby amended to read as follows:

284.340 1. An applicant may retake an examination *for the same class* after 60 days have elapsed from the date of the previous examination if:

(a) The Department of Personnel is recruiting for the class which was the subject of the previous examination; and

(b) The applicant meets the conditions of the recruitment.

2. An applicant may retake an examination *for the same class* before 60 days have elapsed from the date of the previous examination if the Department of Personnel is recruiting for the class which was the subject of the previous examination, the applicant meets the conditions of the recruitment and:

(a) The applicant has demonstrated that he has gained additional qualifications which indicate that he may be able to improve his score on the training and experience portion of the examination; or

(b) The examination is a measure of the applicant's manual skill or physical agility.

3. When an applicant retakes an examination ~~[]~~ *for the same class*, the score of the most recent examination will determine eligibility ~~[]~~ *and will replace the score of the previous examination.*

Sec. 18. NAC 284.342 is hereby amended to read as follows:

284.342 ~~1. To receive preference points on a promotional examination pursuant to NRS 284.260, an employee must designate the examination to which the points must be applied at the time he submits his application. When the recruitment is limited to promotional candidates only, the placement of an employee's name on a list exhausts the veterans' preference points of the employee for all future promotional examinations.~~

~~2.]~~ An applicant must declare his intention to request ~~an~~ veteran's preference *points pursuant to NRS 284.260* before the examination. Proof of eligibility for preference as a veteran must be submitted no later than the last day on which the applicant takes the last phase of the ranking portion of the examination. *If the examination is a promotional examination, the placement of the employee's name on the promotional list exhausts the veteran's preference points for that employee for all future promotional examinations.*

Sec. 19. NAC 284.346 is hereby amended to read as follows:

284.346 1. ~~Within~~ *Except as otherwise provided in this section, within* 10 working days after the date of the postmark on a notification of a grade pertaining to ~~a written examination, an oral examination, or an examination conducted by a center for assessment,~~ *an examination*, a candidate or a representative ~~he has designated by a signed authorization card~~ *to whom the candidate has provided written authorization* may review the results of the candidate's examination as follows:

(a) If the examination was written ~~the~~ ~~(1) The~~, *the* Department of Personnel will review with the candidate or his representative the cover sheet of ~~his~~ *the* examination *taken by the candidate* which lists both the areas of

subject matter included in the written examination and the number of correct and incorrect responses in those areas.

~~[(2) The candidate or his representative may also review a copy of the questions which he answered incorrectly with the correct answers. This does not apply to written examinations which are copyrighted, standardized, on loan from other jurisdictions, used for more than one class, or used on a continuous basis.]~~

(b) *If the examination was a rating of training and experience, the Department of Personnel will review with the candidate or his representative the scores received on each phase of the rating plan.*

(c) If the examination was oral, the Department of Personnel will review with the candidate or his representative the taped record of the candidate's oral examination. The candidate or his representative may also review general areas of the oral examination in which he gave incorrect answers, the oral questions and the procedures or methods of examination.

~~[(e)]~~ (d) If the examination was conducted by a center for assessment, the Department of Personnel will review with the candidate or his representative the final scores or the summary evaluation, or both. ~~[of them.]~~

2. Items which are reviewed by the Department of Personnel and found to be incorrect must be revised or eliminated.

3. *A candidate or his representative may not review the correct answers to questions answered incorrectly on an examination, regardless of its type, if the examination is copyrighted, standardized, on loan from another jurisdiction, used for more than one class or used on a continuous basis.*

4. In the case of an oral examination, answers suggested as a guideline and board members' remarks and ~~[individual]~~ *consensus* ratings are confidential and may not be reviewed by the applicant or his representative.

~~[4.]~~ 5. In the case of an examination conducted by a center for assessment, oral, written ~~[]~~ and performance exercises, assessors' remarks and individual ratings are confidential and may not be reviewed by the applicant or his representative.

~~[5.]~~ 6. If the candidate disagrees with and wishes to ~~[appeal]~~ *dispute* the results of his examination, he must submit a written ~~[grievance to]~~ *request for review by* the Department of Personnel within 10 working days after ~~[the review. The grievance must contain the information required in subsection 2 of NAC 284.678. If the candidate is not satisfied with the Department of Personnel's response, and if he is]~~ *receiving the results. Such a request must include the specific areas of dispute. If a candidate is not satisfied with the decision of the Department of Personnel and he is* a *permanent* state employee, he may file ~~[an appeal with]~~ *a statement of grievance pursuant to NAC 284.678 to appeal that decision to* the committee.

Sec. 20. NAC 284.350 is hereby amended to read as follows:

284.350 1. If the Department of Personnel finds that any error occurred in rating, scoring or computing the results of an examination, the Department will make the appropriate correction ~~[and place the name of the person]~~ on the eligible list . ~~[in its correct position.]~~

2. If the Director or the Committee determines that the error was intentional, an appointment previously made from the eligible list may be invalidated.

Sec. 21. NAC 284.358 is hereby amended to read as follows:

284.358 1. The types of lists of eligible persons and the priority for their use are as follows:

(a) Reemployment lists.

(b) Lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327, at the option of the appointing authority.

(c) Transfer lists, at the option of the appointing authority.

(d) Divisional promotional lists.

(e) Departmental promotional lists.

(f) Statewide promotional lists.

(g) Lists of persons determined to be eligible from open competitive recruitments.

(h) Lists of eligible persons of comparable classes.

2. The names on each list must be used as prescribed in NAC 284.378.

3. The open and promotional lists referred to in paragraphs (d) to (h), inclusive, of subsection 1 must be:

(a) Based on the type of recruitment prescribed by the Department of Personnel; and

(b) Described in the ~~[notice of recruitment.]~~ *publicized job announcement*.

↪ The establishment of any other type of list from the initial recruitment must be in accordance with NAC 284.379.

Sec. 22. NAC 284.360 is hereby amended to read as follows:

284.360 1. Upon ~~[a request for certification by an appointing authority, and as provided in NAC 284.362 and 284.364, the names of eligible persons will be:~~

~~—(a) Certified in ranked order on ranked lists;~~

~~—(b) Certified in unranked order on unranked lists; or~~

~~—(c) Certified and forwarded to the appointing authority if the list is waived.~~

~~—2.— Reemployment lists have priority, whether other types of lists for the class are ranked, unranked, or waived.~~

~~—3.— Only an eligible person who has indicated his willingness to accept the location and agency of the vacancy and the other conditions of employment, will be certified.] receipt of the appropriate form from an appointing authority for a list of eligible candidates in a specific class, the Department of Personnel will verify the availability of a reemployment list for that class. If a reemployment list is available, the Department of Personnel will provide the reemployment list to the appointing authority. Eligible persons who appear on reemployment lists are ranked in order of seniority. Except as otherwise provided in subsection 2 of NAC 284.6017, placement on a reemployment list will be determined using the criteria governing the determination of seniority for layoff pursuant to section 2 of LCB File No. R096-03, which was adopted by the Personnel Commission and was filed with the Secretary of State on October 30, 2003.~~

2. If there is no reemployment list available, the Department of Personnel will, in accordance with subsections 3 and 4, certify the names of eligible persons on ranked or unranked lists, or waive the list.

3. The names of eligible persons on ranked lists will appear in the order of the total rating which they earned in the examination, including preferences for veterans and residents.

4. The Department of Personnel may certify a list of eligible applicants who are not ranked, or may waive the list, for:

- (a) A class that is grade 20 or below;*
- (b) A class designated in the classification plan as entry level; or*
- (c) A class in which applicants for promotion are not normally available.*

5. Eligible persons who have requested a transfer and persons with disabilities who are eligible for temporary limited appointments pursuant to NAC 284.364 will be certified on the same list as other eligible persons and may be considered at the option of the appointing authority.

6. Only an eligible person who has indicated his willingness to accept the location of the vacancy and the other conditions of employment will be certified.

Sec. 23. NAC 284.364 is hereby amended to read as follows:

284.364 1. Pursuant to NRS 284.327, the Rehabilitation Division of the Department of Employment, Training and Rehabilitation ~~[will certify]~~ *may provide* to the Department of Personnel the names of persons with disabilities *certified by the Rehabilitation Division* who are eligible for temporary limited appointments of 700 hours' duration. Upon receipt from the Rehabilitation Division of the job applications and job recommendations, the Department of Personnel will evaluate the information against the job requirements and minimum qualifications of the recommended classes. ~~[The]~~ *Through noncompetitive means, the* names of qualified persons ~~[with disabilities]~~ will be ~~[certified on special unranked lists of persons with disabilities.]~~ *placed in a 700-hour category on the eligible list and certified to the requesting agency for consideration.*

2. A current probationary or permanent state employee who occupies a permanent full-time position is not eligible for the provisions of this section unless his disability jeopardizes his continued employment in his present position and placement on the list does not merely circumvent the provisions of this chapter governing promotion or transfer.

Sec. 24. NAC 284.370 is hereby amended to read as follows:

284.370 1. ~~[If there has been no material change in the qualification requirements, subject matter, scope or weights of various phases of the examinations,]~~ *The names of [persons who become eligible subsequent to the initial recruitment for the same class] eligible persons on current lists may be integrated [on ranked] onto subsequent lists for [subsequent recruitment, according to the final rating of the eligible persons. If the method of certification is that of unranked lists,]* *the same class if there has been no material change in the qualification requirements. If the list is a ranked list, the names of* eligible persons will be integrated ~~[in unranked order.]~~ *according to the final scores of those eligible persons.*

2. If a material change occurs ~~[in the qualification requirements, subject matter, scope or weights of various phases of the examinations, eligible persons who appear on a list will]~~, *eligible persons from other current lists for the same class may* be offered the choice of ~~[recompeting]~~ *retaking the examination* or integrating their ~~[previously established final examination]~~ *previous* score, but only if they also meet any new qualification requirements. The decision to ~~[recompete]~~ *retake the examination* cannot be reversed once any phase of the new examination has been taken . ~~[and the]~~ *The* results of the most recent examination will prevail.

3. *As used in this section, “material change” includes, without limitation, a change in the minimum qualifications for the class or the subject matter, scope or weights of various phases of the examination.*

Sec. 25. NAC 284.375 is hereby amended to read as follows:

284.375 1. Except as otherwise provided in subsection 2 and NRS 281.210, an appointing authority shall not appoint a person to a position in the classified service on or after:

(a) October 1, 1996, if, upon his appointment, the person will be ~~[the immediate supervisor, or will be]~~ in the direct line of authority ~~[,]~~ of:

- (1) A spouse, child, parent or sibling of the person;
- (2) The spouse of a child, parent or sibling of the person; or
- (3) An aunt, uncle, niece, nephew, grandparent, grandchild or first cousin of the person.

(b) September 6, 2001, if, upon his appointment, the person will be ~~the immediate supervisor, or will be~~ in the direct line of authority ~~of~~ of a person with whom he is in a dating relationship.

2. An appointing authority may adopt a written policy authorizing the appointment of persons to a position or class of positions that would otherwise ~~violate~~ *be prohibited by* the provisions of subsection 1 if the appointing authority determines that, for the positions for which the policy applies, the enforcement of the provisions of subsection 1 will be impracticable and cause an undue hardship to the appointing authority. In making this determination, the appointing authority may consider, among other factors, the difficulty in recruiting applicants for the positions for which the policy applies.

3. A written policy adopted pursuant to subsection 2:

- (a) Must ~~not violate~~ *comply with* the provisions of NRS 281.210; and
- (b) Is ~~not effective unless approved~~ *effective upon approval* by the Commission.

~~[4.—Upon the approval by the Commission of a written policy adopted by the appointing authority pursuant to this section, the appointing authority shall provide a copy of the policy to each employee who is appointed to a position for which the policy applies.]~~

Sec. 26. NAC 284.378 is hereby amended to read as follows:

284.378 When using lists of persons who are eligible and considering eligible persons who have been certified, the following conditions apply:

1. When a reemployment list is certified:

(a) Eligible persons who are available for appointment and who are certified on reemployment lists, other than seasonal reemployment lists, must be hired in the order in which they appear unless the appointing authority, upon submitting written justification, obtains the written concurrence of the governor to deviate from the order of priority or to hire from another list. The appointing authority must make the written justification available for examination by affected persons or their designated representatives.

(b) A person ~~[who receives a written offer of reemployment]~~ must accept or refuse ~~[the offer within 3 business days after the offer is received. If an offer of reemployment is mailed to a person, he must accept or refuse the offer within 6 days after the date of the postmark on the letter containing the offer. The failure to accept the offer within the prescribed time constitutes a refusal of the offer.]~~ *an offer of reemployment:*

(1) If the offer of reemployment is sent by mail to the person, within 6 calendar days after the postmarked date appearing on the envelope in which the offer was mailed; or

(2) If the offer is an oral offer of reemployment, within 3 business days after the oral offer has been made.

2. The appointing authority may request selective certification for a particular position if the normal method of certification does not provide candidates qualified to perform the duties of the position satisfactorily. Where selective certification is necessary, the appointing authority ~~[must]~~ *shall* furnish in writing the special requirements peculiar to the position and his reasons therefor. If the facts and reasons justify such a method of selection, the Department of Personnel may certify the highest ranking eligible persons who possess the special qualifications.

3. Certification of only eligible persons who are the same sex will not be made unless there is clear evidence that the duties assigned could be performed efficiently only by the sex specified.

4. When using ranked lists other than those for reemployment, the appointing authority ~~must~~ *shall* attempt to communicate, as provided in NAC 284.382, with persons in the first five ranks to determine their availability and qualifications. The names on each type of list must be considered before names from the next succeeding list. If there are fewer than five ranks with persons who are available for appointment on a given list and the appointing authority requests a full complement of five ranks, the name or names at the top of the next succeeding list must be combined with those on the preceding list to establish five eligible ranks with persons who are available for appointment. Except as otherwise provided in subsection 6, all competitive appointments from ranked lists must be made from the persons who:

- (a) Are in a rank of persons who received the five highest scores on the examination; and
- (b) Are available for appointment.

5. If the list is unranked or waived, the appointing authority ~~must~~ *shall* attempt to communicate, as provided in NAC 284.382, with at least five eligible persons he deems most qualified based upon a review of their respective qualifications as they relate to the position or class, or with all of the eligible persons if there are five or less. Except as otherwise provided in subsection 1, any eligible person who is certified from an unranked or waived list may be appointed.

6. If persons from fewer than five ranks of eligible persons are willing to accept appointment:

- (a) The appointing authority may make an appointment from among those remaining available eligible persons.
- (b) Certification and appointment may be made from other appropriate lists, including lists of higher grades as determined by the Department of Personnel. The names from other lists will follow those which have been certified, if any, from the original lists.
- (c) A new recruitment may be conducted.
- (d) A provisional appointment may be made only if the requirements of NAC 284.406 are met.

Sec. 27. NAC 284.380 is hereby amended to read as follows:

284.380 If the Department of Personnel finds that an error occurred which resulted in a failure to properly certify a name to an agency, the Department will take appropriate action to correct the error. The correction will not invalidate any appointment which was previously made from the certification ~~[except as provided in]~~ *unless the Director or Commission determines, pursuant to subsection 2 of NAC 284.350 [H], that the appointment should be invalidated because the error was intentional.*

Sec. 28. NAC 284.382 is hereby amended to read as follows:

- 284.382 1. While an eligible person may be contacted to determine his availability, no attempt may be made to obtain a waiver in order to alter the ranking of any person on the list.
2. ~~[Every]~~ *An* eligible person must respond to an inquiry of availability within:
- (a) Six days after an inquiry by mail has been postmarked;
 - (b) ~~[Forty-eight hours]~~ *Three days* after an inquiry by ~~[telegram]~~ *electronic mail* has been sent;
 - (c) Twenty-four hours after a written inquiry is hand-delivered; ~~[or]~~

(d) Twenty-four hours after an oral inquiry has been made ~~[.]~~ *if the oral inquiry was made during a conversation with the eligible person; or*

(e) If an oral inquiry by telephone was attempted and a voicemail or other similar kind of electronic message was left, 3 days after that message was left.

3. An exception to a time limit may be granted by the originating agency.

Sec. 29. NAC 284.383 is hereby amended to read as follows:

284.383 Reports of appointments *made pursuant to NRS 284.121* must ~~[also]~~ include the type of position, the type of appointment, and the employee's status of appointment as follows:

1. The type of classified position ~~[, which may]~~ *must* be:

- (a) Permanent;
- (b) Special project;
- (c) Temporary;
- (d) Seasonal; or
- (e) Intermittent.

2. The type of appointment to a classified position ~~[which may]~~ *must* be:

- (a) Demotion;
- (b) Reemployment;
- (c) Transfer;
- (d) Reappointment;
- (e) Promotion;
- (f) Reinstatement; or
- (g) New hire.

3. The status of appointment in a classified position ~~[which may]~~ *must* be:

- (a) Probationary for a nonpermanent employee;
- (b) Permanent;
- (c) Trial period for a permanent employee;
- (d) Provisional;
- (e) Emergency;
- (f) Temporary; or
- (g) Special disabled.

4. In the unclassified service, the type of position, type of appointment, and status of appointment are each “unclassified.”

Sec. 30. NAC 284.386 is hereby amended to read as follows:

284.386 1. Except as otherwise provided in ~~[this subsection,]~~ *subsection 2*, an appointing authority may reinstate ~~[an]~~ *a former permanent* employee within a 2-year period following his termination ~~[of]~~ *from state* employment if ~~[he]~~ *the employee* was separated without prejudice. A separation without prejudice must be determined by the appointing authority ~~[in accordance with]~~ *using* the standards contained in NRS 284.240.

2. If an employee is laid off and is entitled to have his name appear on a reemployment list pursuant to NAC 284.630, the appointing authority may reinstate the employee within 2 years after the date on which his right to reemployment expires.

~~[2.]~~ 3. The grade of the class to which a person is reinstated ~~[cannot]~~ *may only* exceed the current grade of the class he formerly held ~~[~~

~~—3.]~~ *or a comparable class if that class has been reallocated.*

4. Except as otherwise provided in subsection ~~[2.]~~ 3, a person may not be reinstated ~~[in]~~ to *underfill* a position allocated at grade 30 or higher if that position is *allocated* at a higher grade than the position the person formerly held.

~~[4.]~~ 5. A reinstatement to a similar class requires the approval by the Department of Personnel before the appointing authority may make a commitment to reinstate.

~~[5.—The person seeking a reinstatement must provide]~~

6. *It is the responsibility of a person seeking reinstatement to make his interest known by providing* a new application to the appointing authority.

~~[6.]~~ 7. The person must meet the current minimum qualifications for the class for which the reinstatement is sought . ~~[or for a similar class.~~

~~—7.—It is the responsibility of a person seeking the reinstatement to make his interest known to the hiring agencies.]~~

Sec. 31. NAC 284.390 is hereby amended to read as follows:

284.390 1. ~~[Except as otherwise provided in this subsection, an appointing authority may, after giving 5 working days' notice, transfer for the convenience of the State any employee from one position to another position in the same or a related class. The notice need not be given if the transfer does not exceed 10 working days. If a bona fide or justifiable emergency exists, a transfer may be made immediately with the prior approval of the Department of Personnel. This may not be used to harass or discipline an employee.~~

~~—2.—Any permanent employee required to transfer to a different geographical location, as defined in NAC 284.612, who declines the transfer has the same rights provided in NAC 284.630 as an employee who is laid off.~~

~~—3.— Upon the request of an employee, he] An employee may request a transfer from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority if the positions are in the same class or [related class. The position to which the employee is being transferred may be in a location different from that from which he is being transferred.~~

~~—4.— A transfer of an employee] a comparable class.~~

2. An employee who wishes a transfer to a position in the same class must:

(a) Make his interest known to the hiring agency; or

(b) Submit a request for a transfer to the Department of Personnel to have his name placed on a transfer list for a position in the same class.

3. For a transfer to a position in a [related class may require the completion of] comparable class:

(a) The employee must submit an application [by the employee to determine his qualifications.] to the hiring agency; and

(b) The Department of Personnel must approve the request for a transfer.

4. An employee may not transfer through noncompetitive means to *underfill* a position allocated at grade 30 or higher if that position is *allocated* at a higher grade than the position the employee currently occupies.

~~[5.— A transfer may not be made to harass or discipline an employee.~~

~~—6.— An employee who desires a transfer to a position in his current class must make his interest known to:~~

~~—(a) The hiring agency, following its procedures for transfer;~~

~~—(b) The Department of Personnel by requesting, on a form provided by the Department of Personnel, that his name be placed on the appropriate list; or~~

~~—(c) Both the hiring agency and the Department of Personnel.~~

~~—7. An employee who desires a transfer to a position in a related class must make his interest known to the hiring agency.]~~

Sec. 32. NAC 284.394 is hereby amended to read as follows:

284.394 1. ~~[If an employee requests a hearing to protest an involuntary transfer pursuant to NRS 284.376, the appointing authority may temporarily assign, on a per diem basis, the employee to transfer pending disposition of the appeal.~~

~~—2. An employee who has been involuntarily transferred is entitled to receive, upon request, a total of up to 8 hours of administrative leave to prepare for all hearings which relate to the involuntary transfer.]~~ *Except as otherwise provided in subsection 2, an appointing authority may, after giving 5 working days' notice, transfer for the convenience of this state any employee to another position in:*

(a) The same class; or

(b) A comparable class with the approval of the Department of Personnel.

2. The notice required by subsection 1 need not be given if the transfer does not exceed 10 working days. If a bona fide or justifiable emergency exists, a transfer may be made immediately with the prior approval of the Department of Personnel.

3. A transfer pursuant to this section must not be made to harass or discipline an employee.

4. A permanent employee who is required to transfer to a different geographical location and who declines the transfer has the same rights provided in NAC 284.630 as an employee who is laid off.

5. If an employee requests a hearing to appeal an involuntary transfer pursuant to NRS 284.376, the appointing authority may temporarily assign the employee, on a per diem basis, to transfer pending disposition of the appeal. The employee may request leave pursuant to NAC 284.589 to prepare for the hearing relating to the involuntary transfer.

6. As used in this section, "geographical location" has the meaning ascribed to it in NAC 284.612.

Sec. 33. NAC 284.398 is hereby amended to read as follows:

284.398 1. An unclassified employee who has less than 4 months of service and whose appointment was immediately preceded by an appointment in the classified service in which the person was a permanent employee may transfer back into the classified service under the same conditions and with the same benefits as classified employees, except that the duties and compensation of the position to which the person is transferred must be similar, as determined by the Department of Personnel, to either the unclassified position or to a previously held classified position.

2. Employees of any governmental agency which is acquired for administration by the State pursuant to NRS 284.022 may transfer into the classified service or unclassified service with the rights and benefits authorized by the Legislature.

3. An employee who transfers into the classified service:

(a) Must complete an application and meet the minimum ~~requirements for qualification to~~ *qualifications for* the class of the position to which he is transferring;

(b) Must have his date of transfer and appointment to the classified position effective immediately following the last day of employment in the unclassified or nonclassified position unless he was employed as a legislative employee at the conclusion of a regular session of the Legislature to whom subsection 6 of NRS 284.3775 applies; and

(c) May retain the credits which he has earned for annual and sick leave and longevity.

~~[4.—A transfer of an employee to a similar class requires the approval of the Department of Personnel.]~~

Sec. 34. NAC 284.400 is hereby amended to read as follows:

284.400 An employee ~~[under the jurisdiction of one appointing authority]~~ who accepts an appointment to a position under the jurisdiction of another appointing authority shall provide not less than 2 weeks' written notice to his current appointing authority before beginning service in the new position, unless the employee and both appointing authorities mutually agree to a shorter period of notice.

Sec. 35. NAC 284.402 is hereby amended to read as follows:

284.402 1. ~~[An]~~ *Except as otherwise provided in this section, an* employee may request or accept a demotion to a position in a class with a lower grade. The demotion may be permitted if the employee meets the minimum qualifications and if the appointing authority approves.

2. An employee may not be demoted through noncompetitive means to ~~[attain]~~ *underfill* a position ~~[allocated]~~ at grade 30 or higher if ~~[that]~~ *the position for which the employee is requesting or accepting a demotion is allocated* at a higher grade than the position the employee currently occupies.

Sec. 36. NAC 284.404 is hereby amended to read as follows:

284.404 1. ~~[An]~~ **A current** employee may be reappointed to a class he formerly held or to a comparable class if ~~[he]~~:

(a) **The employee** meets the current minimum qualifications and the appointing authority approves ~~[:]~~ **the reappointment; and**

(b) **For a reappointment to a comparable class, the Department of Personnel approves the reappointment.**

2. An employee who desires reappointment must make his interest known to the hiring agency.

3. The grade of the class to which an employee is reappointed ~~[must not]~~ **may only** exceed the ~~[current]~~ grade of the class he formerly held ~~[:]~~ **or a comparable class if the former or comparable class has been reallocated.**

4. Except as otherwise provided in subsection 3, an employee may not be reappointed to **underfill** a position ~~[allocated]~~ at grade 30 or higher if that position is **allocated** at a higher grade than the position the employee formerly held.

~~[5.—The Department of Personnel must approve reappointment to a comparable class.]~~

Sec. 37. NAC 284.406 is hereby amended to read as follows:

284.406 1. An appointing authority may make ~~[an]~~ **a provisional** appointment pursuant to NRS 284.310 if ~~[:]~~:

~~—(a) There] there~~ are fewer than ~~[four]~~ **five** ranks of eligible persons available for appointment to the position . ~~[:] and~~

~~—(b) The authority obtains the prior approval of the Department of Personnel. If approved, the]~~

2. **The** Department of Personnel will begin the recruitment within 30 days after the effective date of the **provisional** appointment.

~~[2.—The status of appointment of an employee appointed pursuant to this section is that of provisional.]~~

~~—3.—An appointing authority shall]~~

3. *A provisional appointment may* not continue ~~[to employ an employee with provisional status]~~ for longer than 30 days after a ~~[recruitment has produced]~~ *list of* five or more ranks of eligible persons who are available for appointment ~~[to the position.]~~ *has been certified.*

Sec. 38. NAC 284.410 is hereby amended to read as follows:

284.410 1. ~~[An]~~ *In the case of an emergency, an* appointing authority may make an appointment pursuant to NRS 284.315 .

2. *For the purposes of this section, an emergency exists* when the appointment is necessary to prevent the stoppage of public business, loss of life, or extensive damage to persons or property.

~~[2.—The status of appointment of an employee appointed pursuant to this section is that of emergency.]~~

Sec. 39. NAC 284.434 is hereby amended to read as follows:

284.434 1. An appointment to a seasonal position may not exceed 9 months ~~[of]~~ *of* full-time equivalent ~~[of]~~ *service* in any 12-month period. A separation from a seasonal position which is a result of the lack of money or the lack of work must be made in accordance with NAC 284.608.

2. ~~[In filling a seasonal position, persons]~~ *Persons* eligible for seasonal reemployment must be offered employment in the order *that* they appear on the *seasonal* reemployment list before another type of list of eligible persons may be used.

3. Reemployment rights extending 1 year from the date of a seasonal employee's date of separation:

(a) Must be granted if the employee has *attained* permanent ~~[employee]~~ status; or

(b) May be granted, at the discretion of the appointing authority, if the employee ~~[does not have permanent employee]~~ *has not attained permanent* status,

↳ if the employee's last *rating of* performance ~~[report]~~ was standard or better.

4. For the purposes of this section, a person's right to reemployment is limited to a seasonal position in the same class, option ~~[,]~~ and department in which he last worked, except that an appointing authority may:

(a) Reemploy a former employee who held a seasonal position in another department if he is otherwise eligible.

(b) Reemploy a former employee who held a seasonal position in a comparable class if he is otherwise eligible and the Department of Personnel approves.

5. To be eligible for reemployment, the former employee must ~~[notify]~~:

(a) *Notify* the agency, in writing, stating the locations where he seeks reemployment ~~[, and he must be]~~; *and*

(b) *Be* available for the entire term of employment.

6. Seasonal reemployment lists must be maintained by the employing department, taking into account the provisions in subsection ~~[4]~~ *I* of NAC ~~[284.362]~~ *284.360* and subsections 3, 4 and 5 of this section.

7. ~~[An incumbent in a seasonal position may not be transferred or otherwise appointed to a permanent position unless the appointment is made pursuant to this chapter.]~~

~~—8.]~~ An incumbent in a permanent position may request a seasonal position. By the voluntary acceptance of a seasonal position, an employee gives up any right to return to his former permanent position but, if eligible, may be reappointed.

Sec. 40. NAC 284.436 is hereby amended to read as follows:

284.436 1. An intermittent position is ~~[one that]~~ *a position:*

(a) *That* is filled by a person who may be called to work at any time ~~[;]~~;

(b) *That* is used to supplement the agency's full-time staff ; and ~~[whose]~~

(c) *The* compensation *of which* is separately identified in the budget of the agency.

2. An appointing authority may ~~[only]~~ hire an employee ~~[for]~~ *in* an intermittent position ~~[which, because of unforeseen and unpredictable]~~ *to supplement the full-time staff of an agency when the staffing needs of the agency fluctuate because of* changes in the amount of work . ~~[; cannot be included in the budget as a permanent full-time employee.]~~

3. If ~~[an]~~ *a position is budgeted as an intermittent position, that position may only be underfilled pursuant to this chapter by an intermittent employee. An intermittent employee may only underfill a position that has been budgeted as an intermittent position.*

4. *An* employee in an intermittent position ~~[is a permanent employee, he must be given a minimum of 1 week's notice of any layoff.]~~

~~—4.—~~ ~~A permanent employee in an intermittent position has a right of reemployment if his last performance evaluation was standard or better. That]~~ *who has attained permanent status:*

(a) *Must be given notice of any layoff affecting him not less than 1 week before the layoff;*
and

(b) *Has a right of reemployment if his last performance evaluation was standard or better.*

The right of reemployment is based on the same formula as that used for other employees except

that it extends only to the cost center or division from which his employment was terminated.

This right must not operate to the detriment of a permanent full-time employee.

5. ~~[An employee hired for an intermittent position may not underfill a position budgeted other than intermittent.~~

~~—6.]~~ As used in this section, “cost center” means an organizational unit or group of organizational units within the Employment Security Division ~~[.]~~ *of the Department of Employment, Training and Rehabilitation.*

Sec. 41. NAC 284.437 is hereby amended to read as follows:

284.437 1. Except as provided in subsection 4, before a position may be underfilled it must be approved in writing by the Department of Personnel. The Department of Personnel will ~~[not]~~ *only* approve a position to be underfilled if there are *less than* five ~~[or more persons eligible for the vacancy]~~ *eligible ranks* on the appropriate list who are available for appointment.

2. ~~[If]~~ *Except as otherwise provided in subsection 4, if* a position is approved to be underfilled, the Department of Personnel will begin a recruitment for the class of the position unless a recruitment within 12 months before the approval failed to produce sufficient applicants on the appropriate list.

3. ~~[The]~~ *Except as otherwise provided in subsection 4, the* position may not continue to be underfilled for more than 30 working days after five or more ~~[names]~~ *ranks* of eligible persons *on the appropriate list* who are available for appointment are certified to the appointing authority.

4. Subsections 1, 2, and 3 do not apply to the underfilling of a position:

(a) If the position is authorized at or below the journey level and an employee fills that position in a class which is a training or intermediate level preparatory to promotion;

(b) If an employee's position is reclassified pursuant to NAC 284.138; or

(c) If an appointing authority has requested and received approval from the Department of Personnel to underfill a position because money is not available and that fact has been certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency which is not funded from the General Fund or the University and Community College System of Nevada, by the administrator of that agency or system.

5. An employee or former employee may not be selected through noncompetitive means to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the employee currently holds or, in the case of a former employee, the current grade of the position the person formerly held.

Sec. 42. 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 duties during the active investigation of a suspected criminal violation or the investigation of an 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 position;

(c) For up to 30 days to remove the employee from the work environment when he has committed or threatened to commit an act of violence;

(d) For up to 2 hours to donate blood; or

(e) To relieve the employee of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.

2. The appointing authority, upon approval of the Risk Management Division of the Department of Administration, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.

3. Except as otherwise provided in subsection 4, an appointing authority or the Department of Personnel may grant administrative leave with pay to an employee for any of the following purposes:

(a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the State but which do not require him to participate or attend in his official capacity as a state employee.

(b) Closure of the employee's office or work site caused by a natural disaster 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.

(c) His appearance as an aggrieved employee or a witness at a hearing of the Committee.

(d) His appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the Department of Personnel.

(e) His appearance to provide testimony at a meeting of the Commission.

4. An appointing authority or the Department of Personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (c), (d) or (e) of subsection 3 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed for him 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 his appointing authority or adversely impact the provision of services to clients or to the public.

5. 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 the employee assistance program.

(b) His attendance at a health fair which has been authorized by the Board of the Public Employees' Benefits Program.

(c) His participation in an official capacity as a member of a committee or board created by statute on which he 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 hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656.

(e) Up to 8 hours for preparation for hearings regarding his involuntary transfer.

Sec. 43. NAC 284.630 is hereby amended to read as follows:

284.630 1. The names of permanent employees who have received their notices of layoff will be placed on the statewide reemployment list for the class and option of the position involved in the layoff, in order of seniority. If applicable, the names will be integrated with the names of employees who are eligible for reemployment pursuant to NAC 284.6014. The agency and the employee shall provide the necessary information for reemployment on the form prescribed by the Department of Personnel for the employee to be placed on the reemployment list.

2. The names of permanent employees who have received their notices of layoff will also be placed on the statewide reemployment list for other classes for which they qualify, in order of seniority, but behind those identified in subsection 1, if those classes do not respectively exceed the level of the class from which the employee was laid off. If applicable, the names will be integrated with the names of employees who are eligible for reemployment pursuant to NAC 284.6014. It is the affected employee's responsibility to demonstrate his interest in, and qualifications for, the classes for which reemployment is sought within 30 days after the date set for his layoff.

3. Part-time employees are not entitled to be reemployed in full-time positions and full-time employees are not entitled to be reemployed in part-time positions.

4. Seniority must be projected and counted up to the established layoff date, or transfer date if the provisions of subsection ~~[2]~~ 4 of NAC ~~[284.390]~~ 284.394 apply. Seniority determines ranking on all reemployment lists. The amount of seniority will not be recalculated unless the holder is affected by a subsequent layoff.

5. Each person on the list retains eligibility for appointment therefrom for 1 year from the date he was laid off. Except as otherwise provided in this section, reemployment rights are exhausted when a person accepts or declines an offer of employment in the class or a comparable class with the same grade from the department and geographical location from which he was laid off. Any exception to this provision may be made only if approved by the Department of Personnel. When a person accepts a position at a grade lower than that held at the time of layoff, his name will be removed from all reemployment lists that are equal to or below the grade accepted.

6. A permanent employee who has been laid off and is being reemployed in the department, class **H** and option from which he was laid off must have his permanent status restored. A permanent employee who is reemployed in a different class or in a different department than from which laid off shall serve a new probationary period. If the employee does not complete the probationary period, his name must be restored to the appropriate reemployment list for any remaining part of the year following the date on which he was laid off. When the right to reemployment expires, the person affected retains his right to reinstatement or reappointment pursuant to NAC 284.386 or 284.404, respectively.

Sec. 44. NAC 284.090, 284.296, 284.299, 284.306, 284.310, 284.320, 284.354, 284.355, 284.362, 284.363, 284.384, 284.385 and 284.443 are hereby repealed.

TEXT OF REPEALED SECTIONS

284.090 “Promotional appointee” defined. “Promotional appointee” means any employee who has remained continuously employed in the state service but has not yet completed the probationary period which is designated for the class to which he has been promoted.

284.296 Recruitment: Agency’s responsibilities. An agency’s responsibilities in the process of recruitment include:

1. Planning and anticipating staffing needs.

2. Reviewing and requesting changes to class specifications or grade allocations before initiating a recruitment.
3. Determining through the Department of Personnel the status of existing lists of eligible persons and requesting any necessary recruitment as early as possible.
4. Cooperating with the Department of Personnel during the process of recruitment in:
 - (a) Developing the assessment procedures and devices which will be used;
 - (b) Identifying the labor pool;
 - (c) Establishing the time limits for the recruitment; and
 - (d) Determining which, if any, special recruitment methods are necessary.

284.299 Examinations administered by center for assessment. Oral, written, and performance exercises administered by a center for assessment must:

1. Be administered under standardized conditions;
2. Be related to performance of the job;
3. Be evaluated by more than one assessor; and
4. Measure a person's skills, knowledge, and other attributes which are important to successful performance of the job.

284.306 Age limits; proof of age.

1. Positions which involve public safety, supervision or care of wards of the State, hazardous working conditions, or other unusual circumstances may require reasonable minimum age limits as set forth in the approved class specification or the public notice of recruitment.
2. Appropriate proof of age must be submitted to the Department of Personnel upon request.

284.310 Applications.

1. Every applicant must file an application in the office of the Department of Personnel or its designated representative as specified in the public notice of recruitment.
2. If an application is mailed, the envelope containing the application must be postmarked by midnight of the final filing date specified in the public notice of recruitment.
3. Applications and accompanying documents, when filed, and all other examination materials, including questions and booklets, are the property of the Department of Personnel.
4. The incomplete or improper completion of an application which affects the Department's ability to determine the qualifications of an applicant, including the failure to designate the locations where the applicant will work, is cause for rejection of the applicant.

284.320 Employee responsible for applying for recruitment. It is the employee's responsibility to apply for any recruitment for which he is qualified, eligible, and interested. The applicant must provide in the application the information necessary to establish his eligibility for the appointment. Future vacancies may be filled from the results of appropriate prior recruitments.

284.354 Consideration and examination of person with disability. An appointing authority shall consider a qualified person with a disability for employment in a position if the person meets the minimum qualifications and the established job requirements for the position, successfully competes in the required examination and is otherwise eligible for appointment to the position. The administration of the examination may be modified, if the modification does not alter the reliability of the examination, to test fairly the person's ability to perform successfully the duties of the position.

284.355 Effect of filing of grievance. If a grievance is filed concerning an examination, the Director will not fill any vacancy from the list established pursuant to that examination, unless there is an urgent and compelling need.

284.362 Order of names on ranked lists; ties.

1. The names of eligible persons on ranked lists will appear in the order of the total rating which they earned in the examination, including preferences for veterans and residents.

2. Except as otherwise provided in subsection 5, in promotional examinations, if all other factors result in a tie, it will be broken by seniority in the state service.

3. Except as otherwise provided in subsection 5, in open competitive examinations, ties will be broken by lot.

4. Eligible persons who appear on reemployment lists are ranked in order of seniority. Except as otherwise provided in subsection 2 of NAC 284.6017, seniority for placement on a reemployment list will be determined using the criteria governing the determination of seniority for layoff.

5. If a competitive examination is scored to the nearest one-hundredth of a point, a tie will not be broken and the name of each person whose score is tied will be ranked the same and so certified on a ranked list.

284.363 Certification of list of unranked applicants or waiver of list. The Department of Personnel may certify a list of eligible applicants who are not ranked or waive the list for:

1. A class which had a maximum salary of \$12,500 or less as of December 31, 1980;
2. A class designated in the classification plan as entry level; or
3. A class where applicants for promotion are not normally available.

284.384 Probationary and permanent appointments.

1. If an appointment requires a probationary period, the employee's status of appointment is:
 - (a) Probationary if he is a nonpermanent employee; or
 - (b) Trial period if he is a permanent employee.
2. An employee's status of appointment is permanent when:
 - (a) He has successfully completed the probationary period for a class; or
 - (b) His appointment did not require a probationary period and he does not hold another type of status of appointment.

284.385 Reemployment. (NRS 284.155)

1. Reemployment is a type of appointment which does not result in a break in service and other benefits as provided in this chapter.
2. The types of reemployment and the authority for these types are as follows:
 - (a) Military reemployment entitles the person to the same or similar class within the department in which he was previously employed when the provisions of 38 U.S.C. §§ 4301 to 4307, inclusive, are met.
 - (b) Layoff reemployment, when a layoff has occurred pursuant to NRS 284.254 or 284.380, entitles the permanent employees who are affected to appointment to the class and option from which they were laid off, throughout the state service, and to other classes as provided in subsection 2 of NAC 284.390 and in NAC 284.630.
 - (c) Reemployment, when a position is reclassified to a lower grade, entitles the person to the class, option and department when the provisions of NAC 284.140 are met.
 - (d) Seasonal reemployment allows former seasonal employees to be reemployed when the provisions in NAC 284.434 are met.

(e) Reemployment because an employee sustained a permanent disability arising from a disability related to work entitles the person to reemployment by the department with which the employee was employed at the time he sustained his permanent disability as determined pursuant to NAC 284.6013 and within the same class and option as his regular position or in another class as provided in NAC 284.6014.

3. The grade of the class at which a person is reemployed cannot exceed the current grade of the class he formerly held.

4. Except as otherwise provided in subsection 3, an employee may not be reemployed in a position allocated at grade 30 or higher if that position is at a higher grade than the position the employee held before attaining reemployment rights.

284.443 Trial periods. Any probationary period that is required of a permanent employee because of a promotion to a vacant position is a “trial period” and must be so recorded on the appointment document.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R183-03**

The Personnel Commission adopted regulations assigned LCB File No. R183-03 which pertain to chapter 284 of the Nevada Administrative Code on December 19, 2003.

Notice date: 10/21/2003
Hearing date: 12/19/2003

Date of adoption by agency: 12/19/2003
Filing date: 1/27/2004

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

On October 21, 2003, copies of the "Notice of Workshop" to solicit comments on proposed regulations and "Notice of Hearing" for the adoption, amendment, and repeal of permanent 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 Nevada State Library and the Legislative Counsel Bureau. Also on October 21, 2003, 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 posted on the Department's website and also sent to all employee organizations, the main public library in each county, all requesting parties, and members of the Personnel Commission.

On November 6, 2003 a workshop was held. Carol Thomas explained the purpose of the workshop and the intent of each of the regulation changes proposed.

a. The following summarizes the comments made at the workshop regarding LCB file No. R182-03:

There were no comments, questions, opposition, or discussion on sections 3, 4, 5, 7, 11, and 12.

Sec. 1 Newly proposed – Definition of a year

Kareen Master, Personnel Officer of the Department of Human Resources, stated that the term "year" is used in multiple sections and this definition is confusing. She suggested referencing that a "year" means 2,088 hours or perhaps developing a separate regulation.

There were no other questions, comments, opposition, or discussion on this section.

Sec. 2 – Section 2 of LCB File No. R096-03, which was adopted by the Personnel Commission and filed with the Secretary of State on October 30, 2003

Kareen Masters suggested that in subsection 5, seniority should be determined for a layoff as used previously in NAC 284.614.

There were no other questions, comments, opposition, or discussion on this section.

Sec. 6 – NAC 284.374 Active lists: Removal and reactivation of name; refusal to consider certain persons

Kareen Masters, subsection 2: How would an agency know if an applicant has applied more than three times for the same recruitment? Subsection 3: Delete the words “to interviewing candidates”. Ruth Jones, Personnel Officer for the Department of Employment, Training, and Rehabilitation, agreed with Kareen’s comments about subsection 3.

There were no other questions, comments, opposition, or discussion on this section.

Sec. 8 – NAC 284.498 Training of supervisory employee

Gary Wolff, Teamsters Local 14, stated he would like to see supervisory training increased from 40 hours.

Kareen Masters stated the regulations are too prescriptive and language should be general. Courses should be at the discretion of the appointing authority, but if not, she would like to see coaching and leadership added and interviewing and handling grievances deleted. She would like to see training requirements on a 12-month period instead of on a 6-month period.

Robert Chisel stated that NDOT sends employees to the University for training and those classes are 6 hours in duration, which he felt was adequate. He suggested that 5 days be reinstated instead of the proposed 40 hours. He felt subsection 2 was repetitive and training on Sexual Harassment should be included. He asked for clarification about refresher courses – 40 hours or ½ day – he is not clear what is required. He stated that grievances should be handled by HR and not by supervisors.

Kim Foster clarified the intent of the proposed regulations and stated that a pilot for videoconference training will take place in January 2004.

Tony Almaraz stated that refresher courses for Highway Patrol personnel just touch upon the high points and courses are usually a 2-day event. He asked if this would be acceptable to Department of Personnel? Kim replied, “we can look at that”.

Kate Burnette stated that she prefers a 12-month training period as opposed to a 6-month training period.

There were no other questions, comments, opposition, or discussion on this section.

Sec. 9 – NAC 284.611 Separation for physical, mental or emotional disorder

Kathy McCormick suggested making two sentences, “Determine whether reasonable accommodation can be made to enable the employee to perform the essential functions of his job. If this is not possible, consider the transfer of the employee to a vacant position for which he meets the minimum qualifications.”

Rich Gilbert asked for clarification as to whether the transfer is considered divisionally or departmentally?

There were no other questions, comments, opposition, or discussion on this section.

Sec. 10 – NAC 284.718 Confidential records

Ruth Jones, subsection 5: Reword to read: “Any notes, records, recordings, or investigation findings related to an investigation of an employee.” This would make the section broader. Karen Masters agreed that Ruth’s suggestion was a good one.

There were no other questions, comments, opposition, or discussion on this section.

(See attached regulations presented at the workshop.)

- b. The following summarizes the comments made at the workshop regarding LCB file No. R183-03:

There were no comments, questions, opposition, or discussion on sections 2-6, 10, 11, 13-19, 21, 23, 25-28, 30-37, 39, 40, 42-57.

Sec. 1 – NAC 284.0533 “Dating relationship” defined

Wally Tarantino, stated that he liked the new language but suggested a revision: “Dating relationship” is primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context. He suggested a reference be noted in this regulation to clarify its applicability to a supervisor and his subordinate.

Gary Wolff agreed with Wally’s suggestion.

There were no other questions, comments, opposition, or discussion on this section.

Sec. 7 - NAC 284.295 Determining type of recruitment

Kareen Masters asked if a list that meets the needs of the agency is not available, would a recruitment be conducted?

There were no other questions, comments, opposition, or discussion on this section.

Sec. 8 - NAC 284.297 Determining practicability of limiting consideration to persons eligible for promotion

Kathy McCormick stated that subsection 1(a) needed to be clarified.

There were no other questions, comments, opposition, or discussion on this section.

Sec. 9 – NAC 284.298 Competitive examinations

Kareen Masters, subsection 5: Change the word “reliability” to “validity”.

Kathy McCormick, subsection 5: Use both reliability and validity.

There were no other questions, comments, opposition, or discussion on this section.

Sec. 12 - NAC 284.318 Limitation of competition in recruitment

Kareen Masters, subsection 3: Reword to read: “applications to be received by 5:00 p.m.”

Kathy McCormick stated that we should not set this limit, as this is not in best interest of State. Shelley Blotter asked Kathy if she would provide suggested language and Kathy said she would.

Ruth Jones suggested the following changes: Subsection 1: Delete “or conditions”; Subsection 2: Delete “appropriate”; Subsection 3: Delete “with the department of personnel or its designated representative”.

Kareen Masters, subsection 5: Delete the first part of first sentence “If an open competitive recruitment produces a sufficient number of applicants” and begin sentence with “The applicant . . .”

Karen Masters, subsection 7: Include this section in subsection 7, “An employee who competes in a promotional recruitment may be at a higher grade, the same grade or a lower grade than the grade of the class for which the recruitment is being conducted. Depending on the grade of the employee, an appointment resulting from a promotional recruitment may be a voluntary demotion, a lateral transfer, or a promotion.”

There were no other questions, comments, opposition, or discussion on this section.

Sec. 20 – NAC 284.346 Review of examination

Ruth Jones, subsection 6: Stated that use of the word grievance seems inconsistent.

There were no other questions, comments, opposition, or discussion on this section.

Sec. 22 – NAC 284.360 Certification of lists

Ruth Jones suggested wording on subsection 1(c): “Receipt of a request by the appropriate authority, the department of personnel ...” and delete “NPD-3”

Ruth Jones, subsection 6: Is there a process by which employees can indicate their willingness to accept the location and agency of a vacancy?

There were no other questions, comments, opposition, or discussion on this section.

Sec. 24 – NAC 284.370 Integration of subsequent list; material change in required qualifications

Ruth Jones, subsection 3: Delete “as described in subsection 1.”

There were no other questions, comments, opposition, or discussion on this section.

Sec. 29. NAC 284.382 Inquiry of availability

Karen Masters, subsection 2(b): Change six days to 24 hours.

John Muller, subsection 2(b): Six days is too long and would prefer it be changed to 3 days or 48 hours. He stated that it is the responsibility of applicants to check their voice mail messages.

Wally Tarantino stated that 48 hours is not enough time and would prefer 3 or 4 days, indicating that people could be on vacation or in the hospital. Were they supposed to check their work emails? Wally agreed with 2(c) and 2(d) but suggested that oral inquiry include leaving a message on voice mail or cell phone.

John Muller clarified that applicant meant someone not presently employed by the State.

Ruth Jones agreed with Karen Masters about a 3-day timeframe.

Karen Masters clarified that personal emails were used, not work emails; and if applicants were interested in obtaining jobs, it should be their responsibility to check their messages.

Greg Febbo stated that space for an email address is now on the State application.

There were no questions, comments, opposition, or discussion on this section.

Sec. 38. NAC 284.406 Provisional appointments

Ruth Jones, subsection 1(a): A legal list constituted 5 ranks.

There were no other questions, comments, opposition, or discussion on this section.

Sec. 41. NAC 284.436 Intermittent positions

Kareen Masters: Subsection 1 should be left in. Ruth Jones agreed with Kareen Masters.

There were no other questions, comments, opposition, or discussion on this section.

(See attached regulations presented at the workshop.)

A summary of the workshop is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

2. The number of persons who:

(a) Attended the hearing: 31 in Las Vegas and 20 in Carson City

(b) Testified the hearing: 5

(c) Submitted written comments: Comments were submitted by Kareen Masters on behalf of the Department of Human Resources; Tony Almaraz on behalf of the Department of Public Safety; and Lawrence Tirri, PhD. on behalf of the University of Nevada, Las Vegas.

(Sections were re-numbered from the workshop version during the pre-adoption review conducted by the Legislative Counsel Bureau.)

(1) The following summarizes the comments made at the hearing regarding LCB file No. R182-03.

Shelley Blotter, Personnel Analyst from the Department of Personnel, explained that the regulations in these sections include changes that impact the way regulations are applied and described the intent of the amendments in each section.

There were no other comments, questions, opposition, or discussion on sections 1, 2, 5, 9, and 11.

Sec. 3 - NAC 284.208 Compensation for Dangerous Duty Pay

Dr. Lawrence Tirri testified in support of the amendments that he requested on behalf of the University of Nevada, Las Vegas. The Personnel Commission adopted this section as presented.

Sec. 4 – NAC 284.374 Active lists: Removal and reactivation of name; refusal to consider certain persons

Linda Covelli, State of Nevada Employee's Association Representative (SNEA), spoke in support of the amendment the Association had proposed. Karen Masters and Ruth Jones requested that the amendment proposed by SNEA be modified to be more flexible. Ultimately, the parties agreed to revised language and this section was adopted with the revision.

Sec. 6 – NAC 284.498 Training of supervisory employee

Personnel Commissioners Sanchez and Skaggs inquired into the content of the required courses to ensure adequate attention will be given to areas of discrimination. Shelley Blotter provided explanation of course content and presentation method. The Personnel Commission adopted this section as presented.

Sec. 7 – NAC 284.611 Separation for physical, mental or emotional disorder

Personnel Commissioner Sanchez questioned why language regarding transferring an employee to a vacant position as an accommodation was removed from this section. Shelley Blotter advised the Commissioners that there are many other accommodations that should be considered first and that reassignment should only be considered as a last resort. Therefore, it seemed inappropriate to call attention to this one accommodation. The Personnel Commission adopted this section as presented.

Sec. 8 – NAC 284.718 Confidential records

Shelley Blotter clarified that it is the intent of the regulation to allow the Department of Personnel to share notes, records, recordings and findings of sexual harassment and other discrimination investigations with an appointing authority so that appropriate disciplinary actions can be taken. The Personnel Commission adopted this section as presented.

Sec. 10 – Section 2 of LCB File No. R096-03, which was adopted by the Personnel Commission and was filed with the Secretary of State on October 30, 2003

Karen Masters provided testimony in support of the amendment proposed by the Department of Personnel and the Department of Human Resources that allows the Personnel Commission to approve an exception to the method of calculating

seniority for purposes of layoff. This exception must be approved prior to implementation and must be used until the Personnel Commission approves reverting to the general calculation method. The Personnel Commission adopted this section as presented.

(See attached regulations presented at the hearing.)

- (2) The following summarizes the comments made at the hearing regarding LCB file No. R183-03:

Shelley Blotter explained that the vast majority of these sections were either being amended or repealed in order to clarify and/or simplify the Personnel regulations. She pointed out that sections 12 and 29 do include substantive changes and explained those changes.

There were no other comments, questions, opposition, or discussion on these sections. The Personnel Commission adopted all of the sections as presented except for Section 2, which was removed from consideration.

(See attached regulations presented at the hearing.)

A summary of the hearing is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

3. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

The regulations do not affect businesses; therefore, their comments were not solicited.

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Changes to the intent of the proposed amendments were made based on comments made at the workshop and from a subsequent meeting with Kareen Masters, Ruth Jones and Department representative, Shelley Blotter. Additionally, an amendment to NAC 284.374 was revised at the Personnel Commission meeting to address interested parties concerns.

5. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

These regulations do not have a direct economic effect on any business. The amendment to NAC 284.208 provides an additional condition that allows compensation for performing dangerous duties. The employee will receive 10 percent of his normal rate of pay while performing maintenance or abatement on materials containing lead paint or

asbestos, or both, in any area in which personal protective equipment must be worn in compliance with 29 C.F.R. Part 1910, Subpart I. The direct economic effect is unknown at this time. The UNLV has reported that approximately 8 employees have received the training needed to work in the above-mentioned environment, and they spend an estimated 10 to 25 percent of their time performing those duties.

6. The estimated cost to the agency for enforcement of the proposed regulation:

Enforcement of these regulations should not result in any increased cost to the Department of Personnel.

7. A description of any regulations of other State or governmental agencies which the proposed regulations overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, provide the name of the regulating federal agency.

There is not any duplication or overlapping created by these regulations.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

These regulations are not more stringent than a federal regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

These regulations do not provide or involve a new fee; and since no fee is involved, there is not a total amount expected to be collected or used.