

**LCB File No. R183-03**

**PROPOSED REGULATION OF THE  
DEPARTMENT OF PERSONNEL**

**NOTICE OF WORKSHOP  
TO SOLICIT COMMENTS ON PROPOSED PERMANENT REGULATIONS AND  
NOTICE OF HEARING  
FOR THE ADOPTION, AMENDMENT OR REPEAL OF  
PERMANENT REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

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

**A workshop has been set for 9:00 a.m. on November 6, 2003,** at the Department of Transportation, 1263 S. Stewart Street, Room 302, Carson City, Nevada and via videoconference at the Department of Transportation, District I Office, 123 E. Washington Avenue, Training Room B, Las Vegas, Nevada.

<b>REGULATIONS PROPOSED FOR PERMANENT ADOPTION</b>	<b>NAC REGULATION</b>
“Year” defined	NEW SECTION
File No. R096-03 Determining seniority for the purposes of layoff.	NEW SECTION
“Dating relationship” defined	284.0533
“Employee” defined	284.062
“Permanent employee” defined	284.076
“Promotion” defined	284.088
“Reappointment” defined	284.093
“Underfill” defined	284.110
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Credit for service under certain circumstances	284.196
Compensation for dangerous duty	284.208
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Determining practicability of limiting consideration to persons eligible for promotion.	284.297
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A copy of all materials relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 East Musser Street, Room 300, Carson City, Nevada, telephone number (775) 684-0119, or 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

**Hearing Notice:** The Personnel Commission will hold a public hearing at 9:00 a.m. **on December 19, 2003**, in Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412. A videoconference link will also be available at the Legislative Building, 401 South Carson Street, Room 4100, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, and repeal of permanent regulations. If no person, who is directly affected by the proposed action, appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations should not result in any increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other State or local governmental agencies.
- These regulations do not establish any new fee or increase an existing fee.
- A statement of the need for and the purpose of the proposed regulations precede the text of each regulation included in the attached document.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Shelley Blotter, Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204. **Written submissions must be received by the Department of Personnel on or before November 26, 2003.**

A copy of this notice and the regulations to be adopted, amended, or repealed will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted, amended, or repealed will be available at the Department of Personnel, 209 East Musser Street, Room 300, Carson City, Nevada, or at the Department of Personnel, 555 East Washington Avenue, Las Vegas, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code that is proposed for adoption, amendment, or repeal. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principle reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The notice of the Workshop and Hearing has been posted at the following locations:

**CARSON CITY**

Blasdel Building, 209 East Musser Street  
Nevada State Library and Archives, 100 Stewart St.  
Capitol Building, Main Floor  
Legislative Building, 401 South Carson Street  
NDOT, Room 302, 1263 South Stewart Street

**LAS VEGAS**

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

**ALL STATE AGENCIES**

**ALL NEVADA COUNTY PUBLIC LIBRARIES**

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**NOTE: We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Debra Berry at (775) 684-0110, no later than five working days prior to the meeting.**

LCB File No. R183-03

PROPOSED REGULATION OF THE  
DEPARTMENT OF PERSONNEL

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

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, better describes the term “dating relationship” and is consistent with the same term in NRS 33.018.

**NAC 284.0533 “Dating relationship” defined. (NRS 284.155)** “Dating relationship” means ~~fa 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.]~~ *intimate associations 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 284.062 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies that the term “employee” as used in NAC 284 refers to workers in the classified service unless otherwise stated.

**NAC 284.062 “Employee” defined.** “Employee” means a person legally holding a position in the ~~public]~~ *classified* service as defined in NRS ~~[284.015]~~ *284.150*.

**Sec. 3. NAC 284.076 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies section references.

**NAC 284.076 “Permanent employee” defined.** “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 serving a new probationary period as required by subsection 6 of NAC 284.630 *regarding employment of a person who had been laid off* or subsection 2 of NAC 284.6018 *regarding reemployment of a person with permanent disability*.

**Sec. 4. NAC 284.088 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the existing regulation.

**NAC 284.088 “Promotion” defined.** ~~["Promotion," except]~~ *Except* as otherwise provided in NAC 284.462 *regarding restoration of a promoted employee*, “promotion” means an advancement to a position in a class which has a higher grade than the class previously held.

**Sec. 5. NAC 284.093 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the existing regulation.

**NAC 284.093 “Reappointment” defined.** “Reappointment” means a noncompetitive appointment of ~~an~~ *a current* employee to a class he formerly held or to a comparable class.

**Sec. 6. NAC 284.110 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies and simplifies the existing regulation.

**NAC 284.110 “Underfill” defined.** “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 level class.~~ *in a classification lower than the allocated classification.*

**Sec. 7. NAC 284.295 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the current practice of filling a vacancy.

**NAC 284.295** ~~[Determining type of recruitment.]~~ *Filling vacancies.*

1. If a ~~recruitment is required, 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.]~~ *valid list of eligibles is not available, a recruitment may be conducted.*

2. ~~[Except as otherwise provided in subsection 3, a]~~ *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. 8. NAC 284.297 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies and simplifies the existing regulation.

~~NAC 284.297 [Determining practicability of limiting consideration to persons eligible for promotion.]~~ *Justification for use of open competition.* ~~[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, the appointing authority shall consider:]~~

1. *If, in the judgment of the appointing authority, it is in the best interest of the agency to expand a recruitment to open competition, the appointing authority shall first consider the following in making his determination.*

a. The merit, fitness, efficiency, character, conduct, and length of service of the employee, pursuant to NRS 284.295;

~~[2.]~~ b. The need to provide to all citizens a fair and equal opportunity for public service;

~~[3.]~~ c. The composition of the work force in relation to the plan for affirmative action of the State of Nevada;

~~[4.]~~ d. The needs of the agency in accomplishing its objectives; and

~~[5.]~~ e. The possibility of any loss of federal money or other sanctions that may be imposed.

**Sec. 9. NAC 284.298 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the current language and combines language from NAC 284.210 and 284.354.

~~NAC 284.298 [Competitive examinations].~~ *Examinations.*

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]~~ *Examinations* may be structured or unstructured, scored or unscored, written, oral, ~~[or]~~ in the form of a demonstration of skill *or technical knowledge*, an evaluation of training ~~[.]~~ *and* experience, or ~~[other specified job requirements, or]~~ any combination of these.

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

4. ~~[The method of examination adopted by the center for assessment may be used.]~~ *Examination materials, including questions and scratch paper are the property of the department of personnel.*

5. *The administration of the examination may be modified to fairly test the abilities of a qualified individual with a disability if the modification does not alter the reliability of the examination.*

6. *If a grievance is filed concerning an examination, the director will not fill any vacancy from the list established by that examination, unless there is an urgent and compelling need as determined by the director.*

**Sec. 10. NAC 284.300 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, combines language from NAC 284.299.

**NAC 284.300 Requirements for selection of assessor of center for assessment *and examinations administered by assessor of center for assessment.***

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 performance of the job;*
  - c. *Be evaluated by more than one assessor; and*
  - d. *Measure a person's skills, knowledge, and other attributes which are important to successful performance of the job.*

**Sec. 11. NAC 284.302 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies references to cited sections and includes language from NAC 284.306 which is being repealed.

**NAC 284.302 ~~[Investigations of applicants]~~ *Eligibility requirements.***

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, *regarding veterans' preferences*, 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. *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 publicized job announcement. Appropriate proof of age must be submitted to the department of personnel upon request.*
3. The department of personnel or employing agency may investigate an applicant's character, past employment, education, ~~[and]~~ experience ~~[ ]~~, *and criminal background, as allowed by statute.*



**Sec. 12. NAC 284.318 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel:

- Clarifies and simplifies the existing regulation;
- Combines language from 284.310 and 284.320; and
- Requires that applications be received by 5:00 p.m. on the final date specified in the publicized job announcement.

**NAC 284.318 Limitation of competition in recruitment.**

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]~~ *publicized job announcement*. The ~~[notice of recruitment]~~ *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 an individual's responsibility to apply for any recruitment for which he is interested. Future vacancies may be filled from the results of appropriate prior recruitments.*

*3. Every applicant must submit an application with the department of personnel or its designated representative as specified in the publicized job announcement. The application must be received by 5:00 p.m. on the final date specified in the publicized job announcement.*

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

5. If an open competitive 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]~~ *applicant may be required to provide supplemental information* as an additional phase of the process of examination if it is included in the ~~[public notice]~~ *publicized job announcement*. 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 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]~~ *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.*

~~[3.]~~ *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}~~*publicized job announcement*.

~~[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.]~~

*9. Applications and accompanying documents are the property of the department of personnel.*

**Sec. 13. NAC 284.322 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies and simplifies the existing regulation.

**NAC 284.322** ~~{Released time}~~ *Time spent for examination or interview.*

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}~~ *This* time is equivalent to time which is worked.

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

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

**Sec. 14. NAC 284.326 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the existing regulation.

**NAC 284.326** ~~Period {for filing application.}~~ *of recruitment.*

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, or extend any recruitment by giving appropriate notice thereof.

**Sec. 15. NAC 284.330 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, simplifies the existing regulation.

**NAC 284.330** *Continuous recruitment.*

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. *Applicants achieve eligibility for certification from the date of successful completion of 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.]~~ *on the same list.*  
~~[3. Eligibility from a continuous recruitment exists from the date of the examination.]~~

**Sec. 16. NAC 284.334 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, changes the phrasing to include “publicized job announcement” to be consistent with phrasing used in other regulation changes.

**NAC 284.334** ~~[Notice of recruitment.]~~ *Publicized job announcement.* (NRS 284.105, 284.155)

1. Notice of each recruitment will be given *in the form of a publicized job announcement.* Dissemination of the ~~[notice]~~ *announcement* may be limited to the appropriate agencies and employees when the recruitment is strictly promotional.
2. ~~[Notice]~~ *The publicized job announcement* will include the title, pay or grade, ~~[filing period]~~ *recruitment period* and location. It may also include, or on promotional recruitments must 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. 17. NAC 284.338 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the existing language.

**NAC 284.338** **Minimum passing scores; computation of final scores.**

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. 18. NAC 284.340 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, provides clarification of replacement score when retaking examinations.

**NAC 284.340** **Retaking examinations.**

1. An applicant may retake an examination *for the same classification* 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 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. 19. NAC 284.342 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, provides explanation of NRS 284.260, clarifies the intent of the statute, and removes redundant language.

**NAC 284.342 Veterans' preferences.**

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 a 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.

*2. To receive preference points on a promotional examination, an employee must designate the examination to which the points are applied. If so designated, the placement of an employee's name on a promotional list exhausts the veteran's preference points of the employee for all future promotional examinations.*

**Sec. 20. NAC 284.346 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies and simplifies the existing regulation.

**NAC 284.346 Review of examination.**

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

(a) If the examination was written, ~~[~~  
~~—(1) The]~~ department of personnel will review with the candidate or his representative the cover sheet of his examination 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 exam was a rating of training and experience, the department of personnel will review with the candidate or his representative the response to each question on the rating plan and score received.*

(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. *In the case of any examination, the candidate or his representative may not review the correct answers to questions answered incorrectly if the examination is copyrighted, standardized, on loan from other jurisdictions, 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]~~ *receiving the results*. The ~~[grievance]~~ *written correspondence* must contain the information required in subsection 2 of NAC 284.678 *relating to the statement of grievance*. If the candidate is not satisfied with the department of personnel's response, and if he is a *permanent* state employee, he may file an appeal with the committee.

**Sec. 21. NAC 284.350 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies that an error in rating, scoring or computing the results of an examination may result in either adding or omitting the person's name on the eligible list. This amendment makes the language consistent with the Department's practice of correcting the eligible list when necessary.

**NAC 284.350 Correction of error in rating, scoring or computing results.**

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

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies existing language and combines and inserts language from NAC 284.360, 284.362, and 284.363.

**NAC 284.360** ~~[Methods of certification; priority of reemployment lists; willingness to accept employment.]~~ *Certification of lists.*

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.]~~ *receipt of a Personnel Requisition (NPD-3), the department of personnel will verify the availability of reemployment lists for that class and provide it to the hiring agency. 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 subsection 1 through 4, inclusive, of section 2 of LCB File No. R096-03.*

2. ~~[Reemployment lists have priority, whether other types of lists for the class are]~~ *If there is no reemployment list available, the names of eligible persons will be certified on ranked, unranked, or waived lists pursuant to subsections 3 and 4.*

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.]~~ *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, as provided in NRS 284.155, may certify a list of eligible applicants who are not ranked or 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 where 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 and agency of the vacancy and the other conditions of employment will be certified.*

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

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the existing regulation.

**NAC 284.364** **Lists of persons with disabilities who are eligible for temporary limited appointments. (NRS 284.155, 284.327)**

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 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:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies integrating lists and defines “material change”.

**NAC 284.370 Integration of subsequent list; material change in required qualifications. (NRS 284.155, 284.250)**

1. *For the purposes of this subsection, “material change” may include, but is not limited to, a change in the minimum qualifications for the class and/or subject matter, scope or weights of various phases of the examination.*

2. ~~[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]~~ *onto subsequent [ranked]* lists for ~~[subsequent recruitment, according to the final rating of the eligible persons.]~~ *the same class if there has been no material change.* If ~~[the method of certification is that of unranked lists, eligible persons]~~ *it is a ranked list, the names of eligible persons* will be integrated ~~[in unranked order.]~~ *according to the applicants’ final scores.*

~~[2.]~~3. 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]~~ *as described in subsection 1, 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]~~ *re-test* cannot be reversed once any phase of the new examination has been taken ~~[and the].~~ *The* results of the most recent examination will prevail.

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

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, simplifies the existing regulation.

**NAC 284.375 Appointing authority prohibited from appointing related persons under certain circumstances; exceptions. (NRS 284.155)**

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~~ *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:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the existing regulation.

#### **NAC 284.378 Use of lists and consideration of eligible persons. (NRS 284.155, 284.250)**

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 *of reemployment* 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.]~~ *6 days after an offer by mail has been postmarked or within 3 business days after an oral offer has been made.* ~~[The failure to accept the offer within the prescribed time constitutes a refusal of the offer.]~~

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 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 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 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 284.379 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, reflects the reference change from NAC 284.358 to NAC 284.375. NAC 284.358 is being repealed and combined with NAC 284.375.

**NAC 284.379 Use of promotional list after initial recruitment; combining open and promotional lists; establishment of list from open competitive list; use of list in which order changed.**

1. If a promotional list of eligible persons is used to fill a vacancy after the initial recruitment:

(a) The recruitment which created the list must have been open to employees of the appointing authority which requests the list; and

(b) The order of names must be changed to reflect the priority prescribed by NAC ~~284.358~~ *284.378 regarding types of lists*.

2. Certification may be made from the names highest on the list after promotional or promotional and open lists for the class are combined if either of the following occurs:

(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 certification to allow eligible persons from other groups to be considered on the basis of merit.

(b) One or more promotional lists exist for a class which otherwise qualifies for open competition because the class is designated in the classification plan as entry level or is one which normally has a lack of promotional candidates.

If lists are combined, the names on the list must be in order of merit.

3. At the request of an appointing authority, one or more promotional lists must be established from an existing open competitive list and certified for a vacancy.

4. A list of eligible persons established from a recruitment in which the order of priority was changed must not be certified in that order for a new vacancy unless the appointing authority complies with the provisions of paragraph (a) of subsection 2. These names will be used to establish one or more lists as may be appropriate.

**Sec. 28. NAC 284.380 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the reference to NAC 284.350.

**NAC 284.380 Correction of error in certification.** 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 NAC 284.350 ~~[.]~~ *regarding the correction of error in rating, scoring or computing results.*

**Sec. 29. NAC 284.382 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, reflects current commonly used methods of communication.

**NAC 284.382 Inquiry of availability.**

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 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 after an inquiry by telegram has been sent;]~~ *Six days after an inquiry by electronic mail has been sent; or*

(c) Twenty-four hours after a written inquiry is hand-delivered; or

(d) Twenty-four hours after an oral inquiry has been made.

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

**Sec. 30. NAC 284.383 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the existing regulation.

**NAC 284.383 Reports of appointments.** 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]~~ *shall* be:

(a) Permanent;

(b) Special project;

(c) Temporary;

(d) Seasonal; or

- (e) Intermittent.
- 2. The type of appointment to a classified position ~~[which may]~~ shall 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]~~ shall 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. 31. NAC 284.386 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the existing regulation.

**NAC 284.386** ~~[Separation without prejudice; reinstatement.]~~ *Reinstatement of a former permanent employee.* (NRS 284.155)

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

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 exceed the current grade of the class he formerly held.

~~[3.]4.~~ Except as otherwise provided in subsection ~~[2] 3,~~ a person may not be reinstated ~~[in a]~~ *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]~~ *6. It is the responsibility of a person seeking reinstatement to make his interest known and* provide 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. 32. NAC 284.390 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, removes sections regarding involuntary transfers. This section now describes only voluntary transfers. The provisions regarding involuntary transfer have been consolidated into NAC 284.394.

**NAC 284.390 Transfers: Generally. (NRS 284.155)**

~~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] An employee [, he] may *request* 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 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.]~~

*2. An employee who desires a transfer must make his interest known to the hiring agency. A transfer request may also be submitted to the department of personnel to have his name placed on a transfer list for a position in the same class.*

~~[4.]3. A transfer [of an employee] to a position in a related class [may] will require the [completion of] *employee to submit* an application [by the employee to determine his qualifications.] *to the hiring agency. The department of personnel must approve all requests for comparable 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. 33. NAC is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, consolidates provisions that address involuntary transfers.

**NAC 284.394 Appeal of involuntary transfer.**

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.~~ *An appointing authority may, after giving 5 working days' notice, transfer for the convenience of the state any employee from one position to another:*

*(a) In the same class;*

*(b) To a related class with the approval of the department of personnel.*

*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.*

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.]~~ *Transfers may not be used to harass or discipline an employee.*

3. *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.*

4. *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 per NAC 284.589 for a hearing.*

**Sec. 34. NAC 284.398 is hereby amended to read as follows:**

<p><b>Explanation of Proposed Change:</b> This amendment, proposed by the Department of Personnel, simplifies the application of this section and NRS 284.3775 by combining information related to unclassified employees transferring back to the classified service.</p>
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**NAC 284.398 Transfers to classified service; certain transfers to unclassified service (NRS 284.022, 284.150, 284.155)**

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. 35. NAC 284.400 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, simplifies the current regulation.

**NAC 284.400 Acceptance of new appointment notice to current appointing authority.** 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. 36. NAC 284.402 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the underfill rule.

**NAC 284.402 Voluntary demotions. (NRS 284.155)**

1. 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 to which the employee is demoting is allocated* at a higher grade than the position the employee currently occupies.

**Sec. 37. NAC 284.404 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the underfill rule and simplifies the existing regulation.

**NAC 284.404 Reappointment. (NRS 284.155)**

1. ~~[An]~~ *A current* employee may be reappointed to a class he formerly held or to a comparable class if he meets the current minimum qualifications and the appointing authority approves.

2. *The department of personnel must approve reappointment to a comparable class.*

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

~~[3.]~~4. 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 that class has been reallocated.*

~~[4.]~~5. Except as otherwise provided in subsection ~~[3]~~ 4, 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. 38. NAC 284.406 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the existing regulation and corrects subsection 1 making it consistent with our current practice.

**NAC 284.406 Provisional appointments.**

1. An appointing authority may make ~~{an}~~ *a provisional* appointment pursuant to NRS 284.310 *with prior approval of the department of personnel* if ~~{~~
  - ~~(a) There~~ *there* are fewer than ~~{four}~~ *five* ~~{franks-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 appointment.  
~~{2. The status of appointment of an employee appointed pursuant to this section is that of provisional.}~~
3. ~~{An appointing authority}~~ *A provisional appointment* shall not continue ~~{to employ an employee with provisional status}~~ for longer than 30 days after a ~~{recruitment has produced}~~ *list of* five or more ~~{franks-of}~~ eligible persons ~~{who are}~~ available for appointment ~~{to the position}~~ *is certified*.

**Sec. 39. NAC 284.410 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies and simplifies the existing regulation.

**NAC 284.410 Emergency appointments.**

1. ~~{An}~~ *In the case of an emergency, an* appointing authority may make an appointment *for a period not to exceed 60 working days in any 12-month period* pursuant to NRS 284.315.
2. *An “emergency” is* 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. 40. NAC 284.434 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies and simplifies the existing regulation.

**NAC 284.434 Seasonal positions.**

1. An appointment to a seasonal position may not exceed 9 months (full-time equivalent) 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 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~~ *has* not ~~have~~ *attained* permanent ~~employee~~ status, if the employee's last ~~performance report~~ *rating of performance* 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 the agency, in writing, stating the locations where he seeks reemployment, and he must 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 of NAC 284.362 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. 41. NAC 284.436 is hereby amended to read as follows:**

<p><b>Explanation of Proposed Change:</b> This amendment, proposed by the Department of Personnel, clarifies and simplifies the existing regulation.</p>
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#### **NAC 284.436 Intermittent positions.**

~~1. [An intermittent position is one that is filled by a person who may be called to work at any time, is used to supplement the agency's full-time staff and whose compensation is separately identified in the budget of the agency.~~

~~—2. An appointing authority may only hire an employee for an intermittent position which, because of unforeseen and unpredictable changes in the amount of work, cannot be included in the budget as a permanent full-time employee.]~~ *An appointing authority may only hire a person into an intermittent position to supplement an agency's full-time staff when there are cyclical or sporadic staffing needs due to unforeseen and unpredictable changes in the amount of work required.*

~~[3. If 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 right 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.]~~

*2. A person who fills an intermittent position may be called to work at any time.*

*3. An intermittent employee may only underfill a position pursuant to the regulations in this chapter, when the position is budgeted as intermittent.*

*4. An employee in an intermittent position who has attained permanent status:*

*(a) Must be given a minimum of 1 week’s notice of any layoff;*

*(b) Has a right of reemployment if his last performance evaluation was standard or better. That right is based on the same formula as that is 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. 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. 42. NAC 284.437 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the current practice and existing language.

**NAC 284.437 Underfilling of positions.**

~~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 approve a position to be underfilled if there are five or more persons eligible for the vacancy on the appropriate list who are available for appointment.~~

~~—2.] *The department of personnel will only approve a position to be underfilled if there are less than five persons eligible for the vacancy on the appropriate list who are available for appointment.*~~

*2. 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 position may not continue to be underfilled for more than 30 working days after five or more names of eligible persons 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 occupies or in the case of a former employee, the current grade of the position the person formerly held.*

*6. An underfill shall conform to the requirements of NAC 284.385 for reemployments, NAC 284.386 for reinstatements, NAC 284.390 for transfers, NAC 284.402 for voluntary demotions, and NAC 284.404 for reappointments.*

**Sec. 43. NAC 284.589 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, consolidates sections regarding Administrative Leave by adding paragraph (e) to subsection 4 which has been moved from NAC 284.394.

**NAC 284.589 Administrative leave with pay.** (NRS 284.155, 284.345)

1. An appointing authority may grant administrative leave with pay to an employee:
  - (a) To relieve him 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 worksite 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) 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 hearings related to the involuntary transfer.*

## REPEALED SECTIONS

### Sec. 44. NAC 284.090 is hereby repealed:

**Explanation of Proposed Change:** This is being repealed because the phrase "promotional appointee" is not used in NAC 284.

**NAC 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.~~]

### Sec. 45. NAC 284.296 is hereby repealed:

**Explanation of Proposed Change:** This is being repealed and language combined with NAC 284.295.

**NAC 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.]~~

**Sec. 46. NAC 284.299 is hereby repealed:**

**Explanation of Proposed Change:** This is being repealed and combined with NAC 284.300.

**NAC 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.}~~

**Sec. 47. NAC 284.306 is hereby repealed:**

**Explanation of Proposed Change:** This is being repealed and combined with NAC 284.302.

**NAC 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.}~~

**Sec. 48. NAC 284.310 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed and combined with NAC 284.318.

**NAC 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.}~~

**Sec. 49. NAC 284.320 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed and combined with NAC 284.318.

**NAC 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.]~~

**Sec. 50. NAC 284.354 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed because it is redundant to NRS 281.370 and NRS 284.215.

~~**NAC 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.]~~

**Sec. 51. NAC 284.355 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed and the language incorporated into NAC 284.398.

~~**NAC 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.]~~

**Sec. 52. NAC 284.358 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed because it duplicates information provided in other sections.

**NAC 284.358 Types of lists.**

- ~~[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.~~
- ~~The establishment of any other type of list from the initial recruitment must be in accordance with NAC 284.379.]~~

**Sec. 53. NAC 284.362 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed and the language incorporated in NAC 284.360.

**NAC 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.]~~

**Sec. 54. NAC 284.363 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed and the language incorporated in NAC 284.360.

**NAC 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.]~~

**Sec. 55. NAC 284.384 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed because it is redundant to other sections including NAC 284.108 regarding the definition of trial period, NAC 284.076 regarding the definition of permanent employee, and NAC 284.078 regarding the definition of permanent status.

**NAC 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.]~~

**Sec. 56. NAC 284.385 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed. All the subsections are clearly stated in other regulations as follows:

- Sub 1 is stated in NAC 284.598
- Sub 2 (a) is stated in NRS 284.359
- Sub 2 (b) is in NAC 284.390 and 284.630
- Sub 2 (c) is in NAC 284.410
- Sub 2 (d) is in NAC 284.434
- Sub 2 (e) is in NAC 284.6014
- Sub 3 is in NAC 284.404

**NAC 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.]~~

**Sec. 57. NAC 284.443 is hereby repealed:**

**Explanation of Proposed Change:** This section is being repealed as it is redundant to NAC 284.108.

**NAC 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.]~~