

**REVISED PROPOSED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R022-05

August 8, 2005

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

AUTHORITY: §§1 and 2, NRS 284.065, 284.155 and 284.175; §3, NRS 284.065, 284.155 and 284.343; §4, NRS 284.065, 284.155, 284.345 and 284.350; §5, NRS 284.065 and 284.155.

A REGULATION relating to the State Personnel System; providing an additional exception to the circumstances pursuant to which the pay progression date of a public service employee is required to be adjusted; revising the term “qualifying shift” for the purpose of the receipt by a public service employee of the differential rate of pay to include a period of work in which the hours have been reduced because of a change to daylight saving time; providing that a public service employee must receive the differential rate of pay for the portion of certain qualifying shifts in which he is in paid status; clarifying that certain limitations concerning the repayment from wages apply to wages owed by a public service employee to an employing agency pursuant to an agreement; and providing other matters properly relating thereto.

Section 1. NAC 284.182 is hereby amended to read as follows:

284.182 1. An employee receives a new pay progression date if he is:

- (a) Promoted to a position that results in an increase of two grades or more; or
- (b) Reinstated.

2. An employee ~~[retains his pay progression date if he]~~ *who* is:

- (a) Promoted to a position that results in an increase of one grade;
- (b) In a position that is reclassified to a higher class as a result of an individual classification study or an occupational study;

- (c) Transferred to a position without receiving an increase in grade;

- (d) Reappointed to a position at a grade that he formerly held;
- (e) Reemployed and has remained continuously employed; or
- (f) Demoted ~~[]~~,

↳ *retains the pay progression date he held before the action described in paragraphs (a) to (f), inclusive, occurred.*

3. If a person who is eligible for military reemployment is reemployed, he retains the pay progression date held when he separated from this State for his service in the military.

4. If an employee was promoted but is being restored to his former position pursuant to the provisions of NAC 284.462, the date of appointment and pay progression date of the former position must be restored.

5. Except as otherwise provided in this subsection ~~[]~~ *and subsection 6*, an employee's pay progression date must be adjusted:

(a) To equal 1 year of full-time equivalent service for an employee who changes from full-time employment to part-time employment or from part-time employment to full-time employment; or

(b) On a day-for-day basis for the amount of time ~~[that he was unemployed if]~~ the employee:

(1) ~~[Is reemployed following a separation]~~ *Was separated* from state service *if the employee is reemployed* within 1 year after the date on which he was laid off or received a seasonal separation.

(2) ~~[Is]~~ *Was separated from state service if the employee is* a person with a permanent disability arising from a disability related to work who is reemployed ~~[following a separation from state service]~~ within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

(3) ~~Has:~~ *Was on leave without pay, or on catastrophic leave, if the employee is:*

(I) A nonexempt employee ~~who is on~~ *and the* leave without pay ~~, or on~~ *or* catastrophic leave ~~;~~ *was* in excess of 240 hours; or

(II) An exempt classified employee ~~who is on~~ *and the* leave without pay ~~, or on~~ *or* catastrophic leave ~~;~~ *was* in excess of 30 working days,

↳ in a year, except for leave without pay for a work-related injury or illness pursuant to NRS 281.390 or on a military leave of absence pursuant to NRS 284.359 or a leave of absence without pay during a fiscal emergency pursuant to NAC 284.580. An employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation. As used in this subparagraph, “year” means a period equal to 12 months of full-time equivalent service measured backward from the employee’s pay progression date.

6. If the number of total hours of leave without pay or catastrophic leave of a nonexempt employee that exceed 240 hours is less than one day of full-time equivalent service for the pay class designation of the employee, an adjustment will not be made for those hours.

7. If an employee is on leave without pay, or on catastrophic leave, on his pay progression date, any adjustment to his pay progression date will be made after he returns to work.

Sec. 2. NAC 284.210 is hereby amended to read as follows:

284.210 1. As used in this section:

(a) “Differential rate of pay” means an adjustment in pay equivalent to an additional 5 percent of an employee’s normal rate of pay.

(b) “Qualifying shift” means a period of work of 8 hours or more, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m. *The term includes, without limitation, a period of work of 8 hours that is reduced to 7 hours because of a change of time to daylight saving time.*

2. An employee is eligible for the differential rate of pay if he works in a unit which provides services requiring multiple shifts within a 24-hour period and he is:

(a) A nonexempt employee in the classified service who works:

(1) A qualifying shift; or

(2) Any shift of at least 8 hours that is other than a qualifying shift plus 4 or more hours between 6 p.m. and 7 a.m. In such cases, an employee must receive the differential rate of pay for only the hours worked between 6 p.m. and 7 a.m.

(b) An exempt classified employee assigned to a qualifying shift. In such cases, an employee must receive the differential rate of pay for all his regularly scheduled hours of employment on that workday.

3. If an employee is assigned to a qualifying shift when he is on paid leave or a holiday occurs, he must receive the differential rate of pay for that shift.

4. *If a nonexempt employee in the classified service is assigned to a qualifying shift and the employee is not in paid status for the entire period of that shift, the employee must receive the differential rate of pay for the portion of the shift in which he is in paid status.*

5. A nonexempt employee in the classified service who works overtime pursuant to NRS 284.180 in conjunction with a qualifying shift must be paid overtime at the differential rate of pay.

Sec. 3. NAC 284.490 is hereby amended to read as follows:

284.490 1. If an employee receives approval to take training or education that he requested to take, including, without limitation, a course or workshop:

(a) The employing agency may reimburse the employee for the expense of the training or education only after his successful completion of the training; or

(b) The employing agency may elect to prepay the cost of the training or education.

2. An employing agency may enter into an agreement with an employee requiring the employee to repay any money paid to him or on his behalf for the cost of training or education if:

(a) The employee fails to complete the training successfully; or

(b) Within 1 year after the successful completion of training or education that is not required by his job, the employee terminates his employment with the agency.

↪ Any repayment from wages owed ~~[to the employing agency]~~ *by the employee* must not be taken from any payment for overtime owed to the employee and must not reduce the pay of the employee below the minimum wage required by federal law.

3. For the purposes of this section, “successful completion of training and education” means:

(a) Receiving a grade of C or better;

(b) Receiving a passing grade if the students are designated only as passing or failing the course;

(c) Receiving a certificate of completion; or

(d) Receiving other evidence of completion as predetermined by the appointing authority.

Sec. 4. NAC 284.5405 is hereby amended to read as follows:

284.5405 1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his total service

with the State after he has completed 3 years of continuous service. The employee must requalify after each break in service.

2. An employee who is rehired within 1 year after being laid off accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed *a total of* 6 months of employment.

3. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed *a total of* 6 months of employment.

4. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he received payment in a lump sum on the date of the layoff. The rate of pay at which he is rehired applies to the buying back of annual leave.

5. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he received payment in a lump sum at the time of separation. The rate of pay at which he is reemployed applies to the buying back of annual leave.

6. If an employee who was laid off before completing 6 months of employment is rehired within 1 year after his layoff, the amount of the unpaid annual leave he had earned before the layoff must be restored to him.

7. If a person eligible for military reemployment is reemployed, he accrues annual leave at the rate which he would have earned if he had not left state service.

8. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his annual leave is charged to the agency to which he is appointed.

9. If a nonclassified employee, an unclassified employee of the ~~[University and Community College System of Nevada,]~~ *Nevada System of Higher Education* or an employee included in the State Personnel System pursuant to NRS 284.022 is appointed without a break in service to the classified or unclassified service, his annual leave must be recomputed to reflect the amount that would have accrued to him as a classified or unclassified employee less any annual leave which he used during his nonclassified, ~~[University,]~~ *Nevada System of Higher Education*, or governmental agency employment, and the remaining balance will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual as set forth in NRS 284.350 and NAC 284.538. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility of the employee who is transferring annual leave to seek payment of any excess amount of annual leave remaining to his credit from his former employer.

Sec. 5. NAC 284.598 is hereby amended to read as follows:

284.598 The following are not breaks in continuous service:

1. Authorized military leave for active service if the person is reemployed within 90 calendar days after an honorable discharge from military service.
2. Separation because of layoff if a former employee is ~~[rehired]~~ *reemployed* within 1 year after the date he was laid off.

3. Reemployment of a seasonal employee within 1 year after the end of the previous seasonal appointment.

4. Separation because an employee sustained a permanent disability arising from a disability related to work, if the former employee was reemployed not later than 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.