

LCB File No. R023-05

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

(This proposed regulation was previously adopted as T018-04)
(This agency draft replaces the one posted June 1, 2005.)

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS AND
NOTICE OF HEARING
FOR THE AMENDMENT OF
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 adoption and amendment of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

A workshop has been set for 8:30 a.m. on August 29, 2005, at the Legislative Building, 401 South Carson Street, Room 4100, Carson City, Nevada and via videoconference at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada.

**Action -Temporary Regulations Previously Approved by the Commission NAC Regulation
Proposed for Permanent Adoption**

Lack of promotional candidates.	New Section
"Entry level" defined.	NAC 284.063
"Journey level" defined.	NAC 284.069
Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date.	NAC 284.182
Differential rate of pay for qualifying shift.	NAC 284.210
Reimbursement or prepayment for training or education.	NAC 284.490
Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer.	NAC 284.5405
Breaks in continuous service.	NAC 284.598
Statement of grievance: Contents; time to file.	NAC 284.678
Appeal of grievance to higher level	NAC 284.682
Unlawful discrimination.	NAC 284.696
Confidential records.	NAC 284.718

New and Revised Regulations Proposed for Permanent Adoption

"Trainee level" defined.	New Section
Extension of time to file a grievance	New Section
Determining type of recruitment.	NAC 284.295
Reemployment lists; certification of waiver of lists.	NAC 284.360
Promotional lists: Use; order of names.	NAC 284.367
"Grievance" defined.	NAC 284.658
Presentation of grievance to head of division.	NAC 284.686

Filing of grievance with administrator.
Access to confidential records.

NAC 284.690
NAC 284.726

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 September 23, 2005, in Carson City at the Legislative Building, 401 South Carson Street, Room 4100. A videoconference link will also be available in Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations. If no person, who is directly affected by the proposed action, appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations will not result in an 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 precedes the text of each regulation included in the attached document.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to 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 September 6, 2005.** A copy of this notice and the regulations to be amended 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 or amended 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 amendment. 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 St.

LAS VEGAS

Grant Sawyer State Office Building
555 East Washington Avenue

ALL STATE AGENCIES

ALL NEVADA COUNTY PUBLIC LIBRARIES

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.

NOTICE OF PERSONNEL COMMISSION MEETING

PRELIMINARY PERSONNEL COMMISSION AGENDA

The items listed below are tentatively scheduled for the Personnel Commission meeting on September 23, 2005, beginning at 9:00 a.m. This meeting will be held at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, and via video conference at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue, Las Vegas.

NOTE: Agenda items may be heard in a different order than listed, at the discretion of the Chair.

- I. Call To Order - 9:00 A.M.
- II. *Adoption of Agenda
- III. *Minutes of Previous Meeting
- IV. *Pre-Employment Testing for Controlled Substances
Nurse I and Correctional Nurse I
Department of Human Resources
- V. *Proposed Regulation Changes to Nevada Administrative Code, Chapter 284
 - A. Temporary Regulations Previously Approved by the Commission Proposed for Permanent Adoption
 - Sec. 1 NEW "Lack of promotional candidates" defined
 - Sec. 2 NAC 284.063 "Entry level" defined
 - Sec. 3 NAC 284.069 "Journey level" defined
 - Sec. 4 NAC 284.182 Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date
 - Sec. 5 NAC 284.210 Differential rate of pay for qualifying shift
 - Sec. 6 NAC 284.490 Reimbursement or prepayment for training or education
 - Sec. 7 NAC 284.5405 Annual Leave: Credit upon reinstatement, rehiring, reemployment or transfer
 - Sec. 8 NAC 284.598 Breaks in continuous service
 - Sec. 9 NAC 284.678 Statement of grievance: Contents; time to file
 - Sec. 10 NAC 284.682 Appeal of grievance to higher level
 - Sec. 11 NAC 284.696 Unlawful discrimination
 - Sec. 12 NAC 284.718 Confidential records
 - B. New and Revised Regulations Proposed for Permanent Adoption
 - Sec. 1 NEW "Trainee level" defined

- Sec. 2 NEW Extension of time to file a grievance
- Sec. 3 NAC 284.295 Determining type of recruitment
- Sec. 4 NAC 284.360 Reemployment lists; certification of waiver of lists
- Sec. 5 NAC 284.367 Promotional lists: Use; order of names
- Sec. 6 NAC 284.658 “Grievance” defined
- Sec. 7 NAC 284.686 Presentation of grievance to head of division
- Sec. 8 NAC 284.690 Filing of grievance with administrator
- Sec. 9 NAC 284.726 Access to confidential records

V. *Approval of Proposed Class Specifications

- A. Agriculturist series
- B. Park Supervisor (Commissioned) series
- C. Park Supervisor (Non-Commissioned) series
- D. Supervisor, Associate Engineer series
- E. Staff, Associate Engineer series
- F. Craft Worker-in-Training series
- G. Environmental Health Specialist series

VI. *Approval of Occupational Group Study Revised Class Specifications

- A. Fiscal Management & Staff Services occupational group
 - 1. Subgroup: Actuarial/Research/Grants Analysis
 - a. Statistician series
 - 2. Subgroup: Public Information
 - a. Geologic Information Specialist
 - b. Exhibit Preparator series
 - c. Technical Production Editor
 - 3. Subgroup: Electronic Data Processing
 - a. Information Security Officer series

VII. *Individual Classification Appeals

- A. Sherry Sabins, Personnel Analyst II
Health Care Financing & Policy Division, Department of Human Resources
- B. Bill Premo, Facility Supervisor III
University of Nevada, Reno, Grounds Department

- VIII. Special Reports
- IX. Comments by the General Public
- X. Select Date for Next Meeting
- XI. *Adjournment

*Indicates agenda items scheduled to be voted on by the Personnel Commission.

If anyone has questions or wishes to discuss, in further detail, the items scheduled for this Commission meeting, please contact Shelley Blotter at (775) 684-0119.

We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend this meeting. If special arrangements 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 less than five working days prior to the meeting.

LCB File No. R023-05

**PROPOSED REGULATION OF THE
DEPARTMENT OF PERSONNEL**

(This agency draft replaces the one posted June 1, 2005.)

Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

Explanation of Proposed Change: This amendment was adopted by the Personnel Commission as a temporary regulation on December 17, 2005. Although this language was originally adopted as an amendment to NAC 284.678, the Legislative Council Bureau has recommended the following new section. The amendment allows the appointing authority or his designated representative and the employee to enter into an agreement to extend the time to file a grievance or to enter into an agreement at each step of the grievance process, except when the grievance has been submitted to the Employee Management Committee.

NEW SECTION: Extension of time to file grievance.

- 1. Except as otherwise provided in subsection 3, the time limit for filing a grievance and for taking any other action required by either party at any step in the grievance procedure may be extended by the mutual agreement of the employee who may file the grievance and the appointing authority or his designated representative.*
- 2. An agreement to an extension of time entered into pursuant to subsection 1 must be:*
 - (a) Made in writing on a form prescribed by the Department of Personnel; and*
 - (b) Signed by:*
 - (1) The employee; and*
 - (2) The appointing authority or his designated representative.*
- 3. The provisions of this section do not apply to a grievance that has been submitted to the Committee.*

Sec. 2. NAC 284.658 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Legislative Council Bureau, adds a reference to Section 1 of the New and Revised Regulations Proposed for Permanent Adoption, "Extension of time to file a grievance."

NAC 284.658 "Grievance" defined. (NRS 284.065, 284.155, 284.384)

1. As used in NAC 284.341 and 284.658 to 284.697, inclusive, *and section 1 of this regulation*, a "grievance" means an act, omission or occurrence which a permanent employee feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement. The act, omission or occurrence must be established with factual

information including, but not limited to, the date, time and place of the act, omission or occurrence and the names of other persons involved.

2. For the purposes of NAC 284.341 and 284.658 to 284.697, inclusive, *and section 1 of this regulation*, the term “grievance” does not include any grievance for which a hearing is provided by NRS 284.165, 284.376 or 284.390.

Sec. 3. NAC 284.678 is hereby amended to read as follows:

Explanation of Proposed Change: A new section is proposed regarding “Extension of time to file a grievance”. This amendment, proposed by the Legislative Council Bureau, adds references to a new section regarding “Extension of time to file grievances”. Wherever the phrase “provided in section 1” is used in this section, it is a reference to Section 1 of the New and Revised Regulations Proposed for Permanent Adoption.

NAC 284.678 Statement of grievance: Contents; time to file. (NRS 284.065, 284.155, 284.384)

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

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

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

3. ~~§~~ *Except as otherwise provided in section 1 of this regulation, if* a grievance relates to a decision of a reviewing officer about a performance evaluation, an employee must file a grievance that identifies the specific points of disagreement, if such specificity is provided, not later than 10 working days after the date the employee receives the decision of the reviewing officer. ~~§~~ *Except as otherwise provided in section 1 of this regulation, if* the grievance relates to the failure of a reviewing officer to respond to a request for a review within the time required by NAC 284.470, an employee must file a grievance not later than 10 working days after the date

on which the time for such a response expired. A grievance filed pursuant to this subsection must be filed with:

- (a) The appointing authority; or
- (b) If the appointing authority is the immediate supervisor of the employee or the reviewing officer, the person who is at the next level of the grievance process.

Sec. 4. NAC 284.682 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Legislative Council Bureau, adds references to the new section, “Extension of time to file a grievance”. Where the phrase “provided in section 1” is used in this section, it is a reference to Section 1 in the New and Revised Regulations for Permanent Adoption.

NAC 284.682 Appeal of grievance to higher level. (NRS 284.065, 284.155, 284.384)

1. If the correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the Department of Personnel determines that the submission of the grievance to the supervisor would be a useless act, the aggrieved employee may appeal directly to the next appropriate level.

2. ~~[An]~~ *Except as otherwise provided in section 1 of this regulation, an* employee has 10 working days to refer his grievance to the next level after:

- (a) He receives notification of the action; or
- (b) The passage of 10 working days after his grievance is deemed to have been received, whichever occurs first, at each step in the procedure.

~~[3. The time limit for the grievance procedure may be extended by agreement of the parties.]~~

Sec. 5. NAC 284.686 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Legislative Council Bureau, adds a reference to Section 1 of the New and Revised Regulations Proposed for Permanent Adoption, “Extension of time to file a grievance”.

NAC 284.686 Presentation of grievance to head of division. (NRS 284.065, 284.155, 284.384)

1. ~~[H]~~ *Except as otherwise provided in section 1 of this regulation if,* within 10 working days after the employee’s grievance is deemed to have been received by his immediate supervisor, the employee has not received satisfactory relief, he may forward the grievance to the head of the major division of the department in which he works. In those cases where a department is not subdivided into divisions, he may forward his request directly to the highest administrator in the department.

2. Additional managers or supervisors may become involved or a review committee may make a recommendation to the administrator of the agency.

Sec. 6. NAC 284.690 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Legislative Council Bureau, adds references to Section 1 of the New and Revised Regulations Proposed for Permanent Adoption, “Extension of time to file a grievance.”

NAC 284.690 Filing of grievance with administrator of department. (NRS 284.065, 284.155, 284.384)

1. If the employee has not received satisfactory relief within 10 working days after his grievance is deemed to have been received by the head of the division, he may file his grievance with the highest administrator of the department. ~~[The]~~ *Except as otherwise provided in section 1 of this regulation, the* administrator may hold a hearing within 10 working days after receiving the employee’s grievance.

2. ~~[The]~~ *Except as otherwise provided in section 1 of this regulation, the* highest administrator may render a decision following the hearing or allow the grievance to be forwarded directly to the Committee within 10 working days.

3. In rendering a decision concerning a performance evaluation, an administrator shall address the findings of fact to the specific points of disagreement referred to in the grievance of the employee.

4. Within the established time limitations, *including any extensions to those time limitations obtained pursuant to section 1 of this regulation,* the highest administrator may appoint a person or committee composed of managers and employees to assist in the finding of facts and recommending a course of action.

Sec. 7. NAC 284.696 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel and adopted by the Personnel Commission as a temporary regulation on December 17, 2004, allows the employee to report alleged discrimination directly to the Department of Personnel. The Legislative Council Bureau has revised the formatting making the section easier to read.

NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:

(a) Report the alleged discrimination *for investigation* to ~~[the]~~:

(1) The division of the Department of Personnel that investigates sexual harassment and discrimination;

(2) The Attorney General ~~[, the]~~;

(3) The employee’s appointing authority ~~[, an]~~;

(4) An equal employment opportunity officer ~~[, or a]~~;

(5) A personnel representative ~~[for corrective action,] of the department in which the employee is employed; or~~

(6) The office charged with enforcing affirmative action within the appropriate university, college or community college which is part of the Nevada System of Higher Education;

(b) Use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive; or

(c) File a complaint with the Nevada Equal Rights Commission pursuant to NRS 613.405.

2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.