

**LCB File No. R143-05**

**PROPOSED REGULATION OF THE  
DEPARTMENT OF PERSONNEL**

**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 October 11, 2005,** at the Legislative Building, 401 South Carson Street, Room 4100 in Carson City, Nevada. A videoconference link will also be available at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412 in Las Vegas, Nevada.

**REGULATIONS PROPOSED FOR PERMANENT ADOPTION**

<b>Action - Regulations Proposed for Permanent Adoption</b>	<b>NAC REGULATION</b>
Computation of time.	NAC 284.116
Limitation of competition in recruitment; applications.	NAC 284.313
Active lists: Removal and reactivation of names; refusal to consider certain persons.	NAC 284.374
Preparation, filing and discussion of reports; duties of employees; requests for review; grievances.	NAC 284.470

**ATTENDANCE AND LEAVES**

<b>Action - Regulations Proposed for Permanent Adoption</b>	
Attendance required.	New section
"Care" defined.	NAC 284.5231
Workweeks and workdays; periods for rest and meals.	NAC 284.524
Time sheets.	NAC 284.5255
Annual leave: Long-term employees.	NAC 284.538
Annual leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation; part-time employees.	NAC 284.5385
Annual leave: Written request; approval or denial; authorized use.	NAC 284.539
Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer.	NAC 284.5405
Sick leave: Part-time employees.	NAC 284.542
Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation.	NAC 284.544
Sick leave: Unused credit.	NAC 284.546

Sick leave: Repayment of benefits upon reinstatement of dismissed employee.	NAC 284.548
Sick leave: Credit upon rehiring, reemployment or transfer.	NAC 284.551
Sick leave: Service in provisional, special disabled, emergency or temporary status; seasonal employees.	NAC 284.552
Sick leave: Illness in employee's immediate family.	NAC 284.558
Sick leave: Placing employee on sick leave.	NAC 284.568
Catastrophic leave: Interpretation of certain statutory terms.	NAC 284.575
Catastrophic leave: Use and administration; appeal of denial.	NAC 284.576
Leave of absence without pay.	NAC 284.578
Family and medical leave: Maximum amount in 12-month period; eligibility.	NAC 284.5811
Civil leave with pay to serve on a jury or as a witness.	NAC 284.582
Civil leave with pay to vote.	NAC 284.586
Administrative leave with pay.	NAC 284.589
Computation of leave for exempt classified and unclassified employees.	NAC 284.5895
Unauthorized absences.	NAC 284.594
Breaks in continuous service.	NAC 284.598

#### **Action - Regulations to be repealed**

Definitions.	NAC 284.523
"Continuing treatment" defined.	NAC 284.5232
"Eligible employee" defined.	NAC 284.5233
"Family and medical leave" defined.	NAC 284.5234
"Family and Medical Leave Act" defined.	NAC 284.52345
"Intermittent leave" defined.	NAC 284.5236
"Reduced leave" defined.	NAC 284.5238
"Serious health condition" defined.	NAC 284.5239
Employees required to report absences.	NAC 284.590

### **DISABILITIES RELATED TO WORK**

#### **Action - Regulations Proposed for Permanent Adoption**

Definitions.	NAC 284.600
Physical assessments.	NAC 284.6002
Temporary assignment: Conditions for offer; termination; additional assignments.	NAC 284.6004
Temporary assignment: Location; jurisdiction of appointing authority; effect of jurisdiction of another appointing authority.	NAC 284.6008
Temporary assignment: Effect of family and medical leave.	NAC 284.6012
Determination of date on which employee sustained permanent disability related to work.	NAC 284.6013
Eligibility of employee with permanent disability for reemployment.	NAC 284.6014
Risk management division to provide certain information regarding permanent disability of employee to department of personnel and appointing authority.	NAC 284.6015
Limitations on eligibility for reemployment of person with permanent disability.	NAC 284.6019

#### **Action - Regulations to be repealed**

Temporary assignment: Compensation; effect of duties assigned.	NAC 284.6006
Temporary assignment: Accommodation of limitations or restrictions on employee's ability to work; duties of appointing authority; requirement of medical examination under certain circumstances.	NAC 284.601
Family and medical leave for certain disabled employees.	NAC 284.6016

## SEPARATIONS FROM SERVICE

### Action - Regulations Proposed for Permanent Adoption

Resignations.	NAC 284.602
Separation for physical, mental or emotional disorder.	NAC 284.611
Layoffs: Procedure.	NAC 284.614
Layoffs: Voluntary demotions.	NAC 284.618
Layoffs: Notice.	NAC 284.626
Layoffs: Reemployment.	NAC 284.630
Layoffs: Calculation of seniority.	NAC 284.632

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 8:00 a.m. on November 8, 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 October 18, 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 Street

**Department of Personnel Web Site [www.dop.nv.gov](http://www.dop.nv.gov)**

**ALL STATE AGENCIES**

**ALL NEVADA COUNTY PUBLIC LIBRARIES**

**LAS VEGAS**

Grant Sawyer State Office Building  
555 East Washington Avenue

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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.**

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**PROPOSED REGULATION OF THE  
DEPARTMENT OF PERSONNEL**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies that there is an expectation for the employee to give two weeks notice at the time of resignation. A new provision allows the appointing authority to make a note in the employee's record for failure to provide sufficient notification of resignation.

**NAC 284.602 Resignations. (NRS 284.065, 284.155, *284.381*)**

1. ~~[An employee who desires to resign may do so by notifying the appointing authority in writing of the reason for the resignation and its effective date.~~
2. ~~The employee must attempt to submit his resignation at least 2 weeks before he leaves.]~~  
*To resign, an employee must attempt to submit his resignation in writing at least two weeks before he resigns, unless the appointing authority and employee agree to a shorter period of time. He must notify the appointing authority of the reason for resignation and its effective date. If notice is not received two weeks before the effective date of the resignation, the appointing authority may note the insufficient notice in the employee's file.*
- ~~[3.]~~ 2. The appointing authority shall report and the employee shall acknowledge the resignation to the department of personnel on a form provided by the Department of Personnel. The form must contain a statement of the employees right to revoke his resignation pursuant to NRS.284.381. *The appointing authority has the option of approving a request to withdraw a resignation that is made after three business days.*

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, adds NAC titles for reference. The amendments to the language more clearly reflect the actual practices of the agency when dealing with the employee and the Rehabilitation Division when employees are referred. The Rehabilitation does *not* make suggestions regarding restructuring of the position. Finally, "annual leave" is removed because it is included in "approved leave".

**NAC 284.611 Separation for physical, mental or emotional disorder. (NRS 284.065, 284.155, 284.355)**

1. Before separating an employee because of a physical, mental or emotional disorder which results in the inability of the employee to perform the essential functions of his job, the appointing authority must:
  - (a) Verify with the employee's physician *or an independent medical evaluation paid for by the appointing authority* that the condition *is not expected to, or* does not respond to treatment or an extended absence from work will be required;

- (b) Determine whether reasonable accommodation can be made to enable the employee to perform the essential functions of his job;
  - (c) Make a request to the Administrator of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation ~~[for the use of]~~ *to obtain* the services provided by that Division, or if the employee is receiving workers' compensation, request the services of the rehabilitation ~~[agency of the insurer]~~ *provider*, to evaluate the employee's condition ~~[as it relates to his job, to suggest possible restructuring of the job]~~ and to provide any ~~[other]~~ rehabilitative services possible; and
  - (d) Ensure that all reasonable efforts have been made to retain the employee.
2. A separation is only justified when:
    - (a) The information obtained through the procedures specified in subsection 1 supports the decision to separate;
    - (b) The employee is not on sick leave ~~[, annual leave]~~ or other approved leave; and
    - (c) *After a referral to the Public Employees' Retirement System and the* ~~[The]~~ employee is ineligible for, or has refused, disability retirement.
  3. A permanent employee separated pursuant to this section is entitled to the same rights and privileges afforded permanent employees who are dismissed for disciplinary reasons. The procedures contained in NAC 284.656, *Notice of Hearing*, must be followed, and he may appeal his separation to the hearing officer.
  4. A permanent employee who is separated because of a physical, mental or emotional disorder is eligible for reinstatement pursuant to NAC 284.386, *Separation without prejudice; reinstatement*, if he recovers from the disorder within 2 years after his termination.

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, simplifies and clarifies the regulations intent. Additionally, NAC and NRS titles are added for reference. Subsection 4 is added to explain that within the Department of Health and Human Services and within the Nevada System of Higher Education, a division is considered a department

**NAC 284.614 Layoffs: Procedure.** (NRS 284.065, 284.155, 284.380)

1. Except as otherwise provided in NAC 284.425 *Temporary positions*, if it becomes necessary for a classified employee to be laid off because of a shortage of work or money, the abolition of a position, or some other material change in duties or organization:
  - (a) The director of the department shall determine in what geographical location, class series, class and option the reductions in staff will have the least detrimental effect on the operations of the department and shall specify layoffs accordingly. In the Department of ~~[Human Resources]~~ *Health and Human Services* and the ~~[University and Community College System of Nevada]~~ *Nevada System of Higher Education*, the administrator of a division ~~[,]~~ *may be designated to make these determinations* with the approval of the director of the department . ~~[, shall determine in what geographical location, class series, class and option the reduction of staff will have the least detrimental effect on operations and shall specify the layoffs accordingly]~~

- (b) Within the department, ~~[and within the]~~ geographical location, class series, class and option selected, all employees of the department who are not permanent must be separated from service before any permanent employees in the following order:
    - (1) Emergency employees.
    - (2) Temporary employees.
    - (3) Provisional employees.
    - (4) Probationary employees.
  - (c) If additional reductions are necessary, permanent employees must be laid off on the basis of seniority *pursuant to NAC 284.632, Layoffs: Calculation of seniority.*
  - (d) In the department, ~~[and within the]~~ geographical location, class series, class and option where layoffs are to take place, those employees with the least seniority must be laid off, transferred as set forth in subsection 2 or voluntarily demoted as set forth in NAC 284.618, *Layoffs: Voluntary demotions.*
  - (e) ~~[For the purposes of this subsection, an]~~ *An* appointing authority may consider ~~[whether positions are full-time or part-time and limit]~~ *limiting* layoffs to full-time or part-time employees. Similar considerations may be given to and limitations placed on positions requiring selective certification pursuant to NAC 284.361, *Use of lists and consideration of eligible persons.*
2. If a permanent employee must be laid off for one of the reasons set forth in subsection 1, the appointing authority ~~[of the employee]~~ shall notify the employee that ~~[the employee]~~ *he* may choose to:
    - (a) Transfer within his department, class and option into the position of the employee in his department, class and option with the least seniority;
    - (b) Be voluntarily demoted as set forth in NAC 284.618; or
    - (c) Exercise his reemployment rights as set forth in NAC 284.630, *Layoffs: Reemployment.*
  3. Within 3 working days after an employee has been notified of his choices ~~[regarding layoff, transfer and voluntary demotion]~~ pursuant to subsection 2, ~~[the employee]~~ *he* must designate in writing to the appointing authority the choice ~~[that the employee]~~ *he* will exercise.
  4. *For the purposes of this section, divisions of the Department of Health and Human Services and the Nevada System of Higher Education are considered departments.*

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies the current regulation and does not make any substantive changes. Agency names were changed in keeping with NRS.

**NAC 284.618 Layoffs: Voluntary demotions.** (NRS 284.065, 284.155, 284.175, 284.380)

1. In lieu of being laid off, a permanent employee may choose to be voluntarily demoted *to a vacant position or displace an employee* within the department and geographical location where employed to one of the next lower classes:
  - (a) Within his current class series and option ~~[and may displace an employee therein]~~; or
  - (b) Within the class series and option from which he was appointed *to his current position* during current continuous service ~~[and may displace an employee therein but]~~ only if he cannot be demoted pursuant to paragraph (a).

For the purposes of this subsection, divisions of the Department of *Health and Human Resources Services* and the ~~University and Community College System of~~ Nevada *System of Higher Education* are considered departments.

2. No employee in a higher class may displace an employee in a lower class who has more seniority. If an employee chooses to displace another, he must displace the member of the next lower class who has the least seniority. If that member has more seniority, the displacing employee must descend further in the class series.
3. The employees displaced reestablish the layoff class.
4. An employee may choose to displace another only if he meets the minimum qualifications for the class, option and position ~~from which the other will be displaced~~. For the purposes of this subsection, qualifications for a position may be different from those of the class and option only when selective certification is required pursuant to subsection 2 of NAC 284.361.
5. Full-time, part-time and seasonal employees must be treated separately and can only displace like employees.
6. Displacement is always a ~~downward~~ movement *to a lower class* ~~never a lateral movement~~.
7. A current employee who elects to displace another employee has priority over former employees already on reemployment lists.
8. The pay of the employee who is taking a voluntary demotion cannot exceed the highest step for the class to which the employee is being demoted. If the current pay falls within the lower rate range, no reduction in pay may occur unless money is not available as certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency which is not supported from the State General Fund, as certified by the administrator of that agency.

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, updates language used in current practice and makes changes to simplify the language.

**NAC 284.626 Layoffs: Notice.** (NRS 284.065, 284.155, 284.380) All permanent employees to be laid off must be given written notice of the layoff at least 30 calendar days before the effective date of the layoff. A copy of the *seniority calculations* ~~layoff computations~~ and ~~a copy of the layoff~~ notice must be sent to the Department of Personnel. The notice must specifically list the positions and locations where the ~~that~~ employee has a current right to displace another employee, if those positions and locations are known at the time of notification.

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, streamlines and simplifies the language. There are no substantive changes.

**NAC 284.630 Layoffs: Reemployment.** (NRS 284.065, 284.155, 284.250, 284.380)

1. ~~The names~~ *Names* of permanent employees who have received a ~~their notices of layoff~~ *layoff notice* will be placed on the statewide reemployment list for the class and option of the



position involved in the layoff, in order of seniority. ~~If applicable, the names will be integrated with the names of employees who are eligible for reemployment pursuant to NAC 284.6014. The agency and the employee shall provide the necessary information for reemployment on the form prescribed by the Department of Personnel for the employee to be placed on the reemployment list.~~

2. ~~[The names]~~ **Names** of permanent employees who have received a ~~[their notices of layoff]~~ **layoff notice** will also be placed on the statewide reemployment list for other classes for which they qualify **at or below the class held at the time of layoff**, in order of seniority. ~~[but behind those identified in subsection 1., if those classes do not respectively exceed the level of the class from which the employee was laid off. If applicable, the names will be integrated with the names of employees who are eligible for reemployment pursuant to NAC 284.6014.]~~
3. ~~[It is the affected]~~ **The** employee~~’s responsibility to~~ **shall provide an employment application and a list of classes and options they are seeking for reemployment to the Department of Personnel** ~~[demonstrate his interest in, and qualifications for, the classes for which reemployment is sought within 30 days after the layoff date. [of set for his layoff.]]~~ **The agency shall provide the seniority calculations to the Department of Personnel.**
4. **Names will be integrated with employees who are eligible for reemployment pursuant to NAC 284.6014, Work related injuries.**
- ~~[3.]~~ 5. Part-time employees ~~[are not entitled to]~~ **must not** be reemployed in full-time positions and full-time employees ~~[are not entitled to]~~ **must not** be reemployed in part-time positions.
- ~~[4.]~~ 6. Seniority must be projected and counted up to the ~~[established]~~ layoff date, or transfer date if the provisions of subsection 4 of NAC 284.394, **Declining an Involuntary Transfer**, apply. Seniority determines ranking on all reemployment lists~~[- The amount of seniority]~~ **and** will not be recalculated unless the ~~[holder]~~ **employee** is affected by a subsequent layoff.
- ~~[5.]~~ 7. Each person on the list retains **reemployment** eligibility for ~~[appointment therefrom for]~~ 1 year from the **layoff** date ~~[he was laid off]~~. Except as otherwise provided in this section, reemployment rights are exhausted when a person accepts or declines an offer of employment in the class or a comparable class with the same grade ~~[from]~~ **in** the department and geographical location **of the layoff**. ~~[from which he was laid off.]~~ Any exception to this provision ~~[may be made only if]~~ **must be** approved by the Department of Personnel. When a person accepts a position at a grade lower than that held at the time of layoff, his name will be removed from all reemployment lists that are equal to or below the grade accepted.
- ~~[6.]~~ 8. A permanent employee who has been laid off and is being reemployed in the department, class and option from which he was laid off must have his permanent status restored. A permanent employee who is reemployed in a different class or in a different department ~~[than from which laid off]~~ shall serve a new probationary period. If the employee does not complete the probationary period, his name must be restored to the appropriate reemployment list for any remaining part of the year following the **layoff date**. ~~[date on which he was laid off.]~~ When the right to reemployment expires, the person affected retains his right to reinstatement or reappointment pursuant to NAC 284.386 or 284.404~~[- respectively].~~

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, makes no substantive changes; they are intended to clarify the language and make it easier to understand. Subsection 4 is removed because it is redundant. Subsection 6 is removed; the definition is added to the individual subsections for which it applies.

**NAC 284.632 Layoffs: Calculation of seniority.** (NRS 284.065, 284.155, 284.335, 284.380)

1. For the purposes of calculating an employee's seniority for NAC 284.614, 284.618 and 284.630:
  - (a) Except as otherwise provided in this section, the total number of years of continuous full-time equivalent service up to the effective date of the layoff must be included.
  - (b) Except as otherwise provided in subsection 2, the sum of the calculation made pursuant to paragraph (a) or, if applicable, subsection 5 must be reduced by the following periods if those periods occurred during the 36 months immediately preceding the date of the notification of layoff:
    - (1) For a nonexempt employee, any combination of leave without pay and catastrophic leave in excess of 240 hours in ~~[a year]~~ *the period preceding the layoff equal to 12 months of full-time equivalent service*;
    - (2) For an exempt classified employee or exempt unclassified employee, any combination of leave without pay and catastrophic leave in excess of 30 working days in ~~[a year]~~ *the period preceding the layoff equal to 12 months of full-time equivalent service*; and
    - (3) Any time covered by a report on performance which rated the employee below standard ~~[except that no report on performance may be considered for the time covered within 75 calendar days before the notification of layoff was issued]~~ *excluding evaluations received within 75 calendar days of notice of layoff*.
2. For the purposes of the reduction in the calculation of seniority required by paragraph (b) of subsection 1:
  - (a) The reduction may not include:
    - (1) A leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580;
    - (2) A leave of absence without pay for a work-related injury or illness pursuant to NRS 281.390; or
    - (3) A military leave of absence pursuant to NRS 284.359.
  - (b) As set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 1, 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.
3. Except as otherwise provided in subsection 4, if seniority is otherwise equal, seniority must be determined in the following order:
  - (a) Total time within the occupational group;
  - (b) Total time within the department; and
  - (c) By lot.
4. ~~[For the purposes of reemployment, if seniority is otherwise equal, seniority must be determined by lot.]~~

~~5.]~~ A department may request from the Commission approval to calculate the number of years of continuous full-time equivalent service of an employee of the department by doubling the time spent by the employee in his present occupational group as categorized by NRS 284.171 and adding that amount to the time spent by the employee in all former occupational groups up to the date of layoff. If the Commission approves the request of the department to calculate the number of years of service pursuant to this section, the department shall use this method to calculate the number of years of service:

- (a) Only to determine which employees will receive a layoff notice and not for the placement of those employees on the reemployment list; and
- (b) Until the department seeks from and is granted approval by the Commission to revert to the method of calculating the number of years of service set forth in paragraph (a) of subsection 1.

~~[6. As used in subparagraphs (1) and (2) of paragraph (b) of subsection 1, “year” means a period equal to 12 months of full-time equivalent service measured backward from the date of the notification of layoff.]~~