

**ADOPTED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R145-05

Effective December 29, 2005

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

AUTHORITY: §1, NRS 284.065, 284.155, 284.175, 284.180 and 284.345; §§2, 3, 18 and 21-23, NRS 284.065, 284.155 and 284.345; §§4, 20 and 24, NRS 284.065, 284.155, 284.175 and 284.345; §§5-8, NRS 284.065, 284.155, 284.345 and 284.350; §§9-16, NRS 284.065, 284.155, 284.345 and 284.355; §17, NRS 284.065, 284.155, 284.3621 and 284.3626; §19, NRS 284.065, 284.155, 284.345, 284.350, 284.355 and 284.3626; §§25 and 26, NRS 284.065 and 284.155.

A REGULATION relating to the State Personnel System; revising various provisions relating to attendance and leaves of certain classes of positions in the public service; and providing other matters properly relating thereto.

Section 1. NAC 284.255 is hereby amended to read as follows:

284.255 1. For the purpose of this section, “holiday pay” means payment for a holiday at a nonexempt employee’s normal rate of pay plus the differential rate of pay for the shift, when applicable, or compensatory time at a straight-time rate.

2. Except as otherwise provided in paragraph (c) of subsection 3 and subsections 5 and 7, a full-time nonexempt employee whose base hours are 40 hours per week or 80 hours biweekly is entitled to receive 8 hours of holiday pay for any holiday that he is in paid status during any portion of his shift immediately preceding the holiday.

3. Except as otherwise provided in subsections 5 and 7:

(a) A full-time nonexempt employee whose base hours exceed 40 hours per week or 80 hours biweekly and who is in paid status during any portion of his shift immediately preceding a

holiday is entitled to receive holiday pay equal to the pay he receives for his average workday.

For the purposes of this paragraph:

(1) The average workday of a nonexempt employee is determined by dividing the total base hours of work per year by 2,088 and multiplying the quotient by 8.

(2) A ~~fireman~~ *firefighter* assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.

(b) A part-time nonexempt employee is entitled to receive holiday pay when he is in paid status during any portion of his shift immediately preceding the holiday if a holiday occurs on a normally scheduled workday of the employee. Except as otherwise provided in this paragraph, if such an employee is not required to work his normally scheduled workday on the holiday, the amount of holiday pay must equal the amount that he would have been paid if there had not been a holiday, but may not exceed the equivalent of his pay for 8 hours of work.

(c) A:

(1) Full-time nonexempt employee with an innovative workweek agreement may earn additional holiday pay on an hour-for-hour basis for any hours he works in excess of the holiday pay provided in paragraph (a) and in subsection 2, not to exceed the number of hours in his established workday as set forth in his innovative workweek agreement.

(2) Part-time nonexempt employee may earn holiday pay on an hour-for-hour basis for any hours he works on a holiday, not to exceed the number of hours in his established workday.

4. If a holiday occurs on the regularly scheduled workday of a nonexempt employee and his normal schedule of work is more than 8 hours, he must be in paid status or be placed on leave without pay for any difference between his holiday pay and his normal work schedule. An

appointing authority may adjust the work schedule of such an employee for the week during which the holiday occurs in lieu of placing the employee on paid leave or leave without pay.

5. A nonexempt employee who is scheduled to work on a holiday ~~is~~ *shall report any absence from duty and the reason therefor to his supervisor or designated representative as prescribed in writing by the agency. An employee* who does not work on that holiday and who fails to report his absence to his supervisor or a designated representative ~~as required by NAC 284.590~~ *pursuant to this subsection* is not eligible to receive holiday pay.

6. A nonexempt employee whose employment begins on a holiday is eligible to receive holiday pay pursuant to subsections 2 and 3 if he is in paid status during his scheduled shift.

7. A nonexempt employee whose employment is terminated:

(a) The day immediately preceding a holiday is not entitled to receive holiday pay for that holiday.

(b) Except as otherwise provided in paragraph (c) of subsection 3, on a holiday on which he is working must be paid holiday pay for the actual hours he works on the holiday. If a nonexempt employee gives notice that he is terminating his employment on a holiday and he is not scheduled to work on the holiday, the last day on which he works or is in paid status is his date of termination.

8. The agency that lists a nonexempt employee as an “employee of record” on a holiday is responsible for the payment of holiday pay for that holiday to that employee. For the purposes of this subsection, an “employee of record” is a person employed by the state agency that is required to claim the person as an employee of the agency.

9. The salary of an exempt classified or exempt unclassified employee is not affected by a holiday.

Sec. 2. NAC 284.5231 is hereby amended to read as follows:

284.5231 “Care” means the ~~care that is~~ *activities performed or attention* provided when an employee:

1. Provides psychological comfort and reassurance to his spouse, child or parent with a serious health condition who is receiving inpatient or home care;
2. Substitutes for another person who is caring for the employee’s spouse, child or parent who has a serious health condition;
3. Makes arrangements for any change in the care of his spouse, child or parent with a serious health condition; or
4. Provides physical or psychological care to his spouse, child, parent or other member of his immediate family ~~who~~ who is unable to provide for his own:
 - (a) Basic medical, hygienic or nutritional needs;
 - (b) Safety; or
 - (c) Transportation to a provider of health care.

Sec. 3. NAC 284.524 is hereby amended to read as follows:

284.524 1. ~~The~~ *An employee shall report for a work shift on time and ready to perform the duties and tasks assigned to his position.*

2. *Except as otherwise provided in this subsection, the* workweek for state employees is 40 hours . ~~except that workweeks~~ *A workweek* of a different number of hours may be established to meet the needs of ~~different~~ state agencies in compliance with the provisions of NRS 281.100, 281.110 and 284.180. The workday for a full-time state employee who works a standard or nonstandard work schedule consists of two work periods separated by a 1/2- to 1-hour meal period. Insofar as practicable, the meal period must occur in the middle of the work

shift. A rest period of 15 minutes must be granted for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

~~[2.]~~ **3.** Except as otherwise provided in subsections ~~[3 and 4,]~~ **4 and 5**, an appointing authority shall provide a meal period and rest period to an employee who has an innovative work schedule during each workday as follows:

(a) A 1/2- to 1-hour meal period must be provided during each period of work that exceeds ~~[5]~~ **6** hours. Insofar as practicable, the meal period must occur in the middle of the work shift.

(b) A rest period of 15 minutes must be provided for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

~~[3.]~~ **4.** The requirement to relieve an employee for a 1/2- to 1-hour meal period does not apply to an employee who receives a paid meal period.

~~[4.]~~ **5.** The requirement for a rest period does not apply to an employee ~~[of:~~
~~—(a) A correctional institution]~~ who works ~~[directly]~~:

(a) *Directly* with the inmates at ~~[the]~~ **a correctional** institution.

(b) ~~[The]~~ **For the** Division of Mental Health and Developmental Services of the Department of **Health and** Human ~~[Resources]~~ **Services and** who:

(1) Maintains or monitors the equipment in a heat plant which operates 24 hours a day;

and

(2) Works a straight 8-hour work shift.

Sec. 4. NAC 284.5255 is hereby amended to read as follows:

284.5255 1. Except as otherwise provided in subsection 2, an employee shall provide an accurate accounting of the hours worked and leave used during a pay period on the appropriate form provided by his employer, including, without limitation, the specific times at which his

work shifts started and ended. Entries must be made to account for all hours in the pay period, as prescribed by his employer. The employee shall submit the form in a timely manner to his supervisor or the designated representative of the supervisor.

2. An exempt classified employee or exempt unclassified employee shall provide on the appropriate form an accurate accounting of leave used pursuant to NAC 284.5895.

3. An employee who falsifies his time sheet or who causes or attempts to cause another employee to falsify a time sheet may be subject to disciplinary action pursuant to NAC 284.650.

4. An employee's supervisor is responsible for reviewing the employee's time sheet and verifying the accuracy of all hours worked and leave used by the employee.

5. The supervisor or ~~[payroll representative of an employee]~~ *the person who is responsible for coordinating the payroll of the agency* may change an entry on an employee's time sheet in accordance with the policy ~~[for the correction of errors on time sheets of the payroll center that administers the payroll of the agency that employs the employee. If an employee's supervisor or payroll representative changes]~~ *of the agency. If a change is made to* an entry on the employee's time sheet, ~~[including, without limitation, the number of hours that the employee worked, the type of pay requested by the employee or the type of leave that the employee used,]~~ the employee must be notified of the change. If the employee contests a change to an entry on his time sheet, ~~[the employee]~~ *he* is entitled only to his base pay for the workweek in question. The contested entry must be resolved as soon as practicable , and any adjustment must be made during the next pay period following the resolution of the contested entry.

6. A supervisor who is negligent in reviewing and certifying the accuracy of an employee's time sheet may be subject to disciplinary action pursuant to NAC 284.650.

~~[7. As used in this section, “payroll representative” means a person who is responsible for coordinating the payroll of the agency that employs the employee with the payroll center that administers that payroll.]~~

Sec. 5. NAC 284.538 is hereby amended to read as follows:

284.538 1. ~~[An]~~ *Except as otherwise provided in this subsection and NAC 284.5415, to compute the amount of annual leave to which an employee is entitled, an employee must be considered to work not more than 40 hours each week. If an employee occupies more than one position in different departments, he must be considered to work not more than 40 hours each week in each position.*

2. *A part-time employee is entitled to receive annual leave that is prorated based on the number of hours he is in paid status, excluding overtime.*

3. *An employee who holds two or more part-time positions in state service may combine the number of hours he is in paid status for all positions to compute annual leave, excluding overtime.*

4. *The basis for the computation of annual leave to which an exempt classified employee or exempt unclassified employee is entitled must not exceed the number of hours authorized in the biennial operating budget of this State for his position.*

5. *For each calendar month of full-time service, an employee is entitled to accrue annual leave at the rate of:*

(a) *One and one-half days per month for an* employee who has completed 10 years or more but less than 15 years of continuous full-time or part-time state service ~~[is entitled to accrue up to a maximum of 1 1/2 days of annual leave for each calendar month of full-time service. If an~~

~~employee has not been in continuous public service, the period before the interruption will not be counted except as otherwise provided in NAC 284.5405.~~

~~2. An]; or~~

(b) One and three-fourths days per month for an employee who has completed 15 years or more of continuous full-time or part-time state service . ~~[is entitled to accrue up to a maximum of 1 3/4 days of annual leave for each calendar month of full-time service.]~~

↪ If an employee has not been in continuous public service, the period before the interruption will not be counted except as otherwise provided in NAC 284.5405.

Sec. 6. NAC 284.5385 is hereby amended to read as follows:

284.5385 1. Except as otherwise provided in NAC 284.580, an employee does not accrue annual leave during the time he is on leave without pay or on catastrophic leave.

2. A person who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and makes the election provided in:

(a) Subsection 1 or 3 of NRS 281.390 ~~[.]~~ is entitled to accrue annual leave during the period he is receiving those benefits and is being paid an amount of sick leave equal to the difference between his normal pay and the benefits received.

(b) Subsection 5 of NRS 281.390 ~~[.]~~ must be placed on leave of absence without pay, unless the employee is on family and medical leave because a serious health condition prevents him from performing one or more of the essential functions of his position. Such an employee may, while he is on such leave, elect to use his accrued annual leave in lieu of being placed on leave of absence without pay.

3. An employee who does not have enough sick leave to make up the difference between his normal pay and the benefits for a temporary total disability must be placed on leave of absence

without pay for the time he is receiving such benefits and the balance of time not covered by sick leave or other paid leave. ~~[Such an]~~ *The* employee accrues annual leave only for the time he is ~~[covered by sick leave or other paid leave. The employee ceases to be on leave of absence without pay when he has exhausted all of his sick leave and is not approved for other leave.~~

~~—4.— Except as otherwise provided in this subsection and NAC 284.5415, to compute the amount of annual leave to which an employee is entitled, an employee must be considered to work not more than 40 hours each week. If an employee occupies more than one position in different departments, he must be considered to work not more than 40 hours each week in each position.~~

~~—5.— A part-time employee is entitled to receive prorated annual leave on the basis of his rate of accrual for the equivalent of 1 month of full-time service.~~

~~—6.— An employee who holds two or more part-time positions in state service may combine the time from all positions to compute the credit toward annual leave.~~

~~—7.— The basis for the computation of the amount of annual leave to which an exempt classified employee or exempt unclassified employee is entitled must not exceed the number of hours authorized in the biennial operating budget of this State for his position.] *in paid status, excluding overtime.*~~

Sec. 7. NAC 284.539 is hereby amended to read as follows:

284.539 1. Except as otherwise provided by the Family and Medical Leave Act, an appointing authority shall determine the time when annual leave is taken after considering the needs of the ~~[service]~~ *agency* and the seniority and wishes of the employee. Annual leave may not be granted in excess of the accumulated annual leave.

2. ~~[/del> If an employee submits a written request for annual leave at least 60 days in advance, it must be honored except] *A written request for annual leave that is submitted by an employee within a reasonable time before the date upon which the annual leave is requested to commence must be approved or denied by the appointing authority, in writing, before the date upon which the annual leave is requested to commence or within 15 days after the appointing authority receives the request, whichever is sooner.*~~

3. *The appointing authority may deny a request for annual leave* for good and sufficient reason. ~~[/del> The approval or denial must be in writing within 15 workdays after receipt by the appointing authority of the written request for leave.] The appointing authority may not prohibit an employee from using at least 5 consecutive days of annual leave in any calendar year.~~

~~[/del> 4. An employee shall request annual leave at least 30 days in advance if the need for leave is foreseeable and the annual leave is to be taken in conjunction with a planned leave of absence without pay.~~

~~[/del> 5. An employee who has accumulated both annual leave and compensatory time off, and who may lose annual leave at the end of the calendar year, may elect to use the annual leave instead of the compensatory time for approved leave. In all other instances, compensatory time must, as far as practicable, be exhausted before annual leave is used.~~

~~[/del> 6. An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may use his accrued annual leave pursuant to NAC 284.5775.~~

Sec. 8. 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 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 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]~~ *Nevada* System of ~~[Nevada,]~~ *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. *If the amount of annual leave which is recomputed pursuant to this subsection results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of annual leave.*

Sec. 9. NAC 284.542 is hereby amended to read as follows:

284.542 1. A part-time employee is entitled to ~~[prorated]~~ *accrue* sick leave ~~[on the basis]~~ *at the rate* of 1 1/4 days ~~[of credit for the equivalent of 1 month of full-time service.]~~ *per month,*

which is prorated based on the number of hours the employee is in paid status, excluding overtime.

2. An employee who holds two or more part-time positions in the state service may combine the time in all positions for the purpose of computing ~~[credit for]~~ *the hours of accrued* sick leave.

Sec. 10. NAC 284.544 is hereby amended to read as follows:

284.544 1. Except as otherwise provided in NAC 284.580, an employee does not accrue sick leave during the time he is on leave without pay or on catastrophic leave.

2. A person who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and:

(a) Makes the election provided in subsection 1 or 3 of NRS 281.390 ~~[.]~~ is entitled to accrue sick leave during the period he is receiving those benefits and is being paid an amount of sick leave equal to the difference between his normal pay and the benefits received.

(b) Makes the election provided in subsection 5 of NRS 281.390 ~~[.]~~ must be placed on leave of absence without pay, unless the employee ~~[is on family and medical leave because a serious health condition prevents him from performing one or more of the essential functions of his position. Such an employee may, while he is on such leave, elect]~~ *elects* to use his accrued annual leave . ~~[in lieu of being placed on leave of absence without pay.]~~

3. An employee who does not have enough sick leave to make up the difference between his normal pay and the benefits for temporary total disability must be placed on leave of absence without pay for the time he is receiving such benefits and the balance of time not covered by ~~[sick leave or other]~~ paid leave. ~~[Such an]~~ *The* employee accrues sick leave only for the time he is ~~[covered by sick leave or other paid leave. The employee ceases to be on leave of absence~~

~~without pay when he has exhausted all of his sick leave and is not approved for other leave.] in~~
paid status, excluding overtime.

4. To compute the amount of sick leave to which an employee is entitled, an employee must be considered to work not more than 40 hours each week. If an employee occupies more than one position in different departments, ~~he must be considered to work]~~ *the amount of sick leave to which the employee is entitled must be computed based on* not more than 40 hours each week in each position.

5. The basis for the computation of the amount of sick leave to which an exempt classified employee or exempt unclassified employee is entitled must not exceed the number of hours authorized in the biennial operating budget of this State for his position.

Sec. 11. NAC 284.546 is hereby amended to read as follows:

284.546 Unused sick leave accrued but not carried forward ~~because of the limitation in]~~ *pursuant to the provisions of* NRS 284.355 must be placed in a separate account . ~~and]~~ *Sick leave accrued in a separate account pursuant to this section is designated as special sick leave. Special sick leave* may be used if ~~the]~~ *an* employee has used all the sick leave otherwise available to him and meets the conditions, as applicable, of NAC 284.554, 284.566 and 284.568.

Sec. 12. NAC 284.548 is hereby amended to read as follows:

284.548 An employee who is dismissed and later reinstated by an order of a hearing officer must repay any money the employee received for payment of sick leave benefits. The amount of the payment may be deducted from the ~~future]~~ *first available* wage payments or any back pay owed to the employee. *After the money is fully repaid pursuant to this subsection, the balance of the amount of sick leave that the employee had before he was dismissed must be restored to the employee.*

Sec. 13. NAC 284.551 is hereby amended to read as follows:

284.551 1. An employee who is rehired within 1 year after he is laid off is entitled to the restoration of the accrued and unused sick leave remaining in his account at the time of his layoff.

2. The balance of a seasonal employee's sick leave must be restored to him for each subsequent term of appointment if the employee is rehired within 1 year ~~from~~ *after* the date of his last seasonal separation.

3. An employee ~~with~~ *who is reemployed within 1 year after sustaining* 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 he sustained the permanent disability]~~ as determined pursuant to NAC 284.6013 is entitled to restoration of the accrued and unused sick leave that remained in his account at the time of separation.

4. ~~[If a person who is eligible for reemployment because of his military service is reemployed, he is entitled to the restoration of the accrued and unused sick leave remaining in his account at the time of separation.~~

~~—5.]~~ 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 sick leave is charged to the agency to which he is appointed.

~~[6.]~~ 5. If a nonclassified employee, an unclassified employee of the ~~[University and Community College]~~ *Nevada* System of ~~[Nevada,]~~ *Higher Education* or an employee covered by NRS 284.022 is appointed to the classified or unclassified service without a break in service, his sick leave must be recomputed to reflect the amount that would have accrued to him as a classified or unclassified employee less any sick 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. *If the amount of sick leave which is recomputed pursuant to this subsection results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of sick leave.*

Sec. 14. NAC 284.552 is hereby amended to read as follows:

284.552 1. Service in provisional, ~~[special-disabled,]~~ emergency or temporary status , *including, without limitation, temporary limited appointments pursuant to NRS 284.327 of persons with disabilities who are certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation and service provided by an employee who has a work-related injury or occupational disease pursuant to a temporary assignment as set forth in NAC 284.6004,* must be credited towards sick leave.

2. Service in a special position which is temporary in the ~~[University and Community College]~~ *Nevada* System of ~~[Nevada]~~ *Higher Education* may be credited towards sick leave if it is immediately followed by probationary or permanent status.

3. An employee in a seasonal position must be credited with sick leave.

Sec. 15. NAC 284.558 is hereby amended to read as follows:

284.558 1. Except as otherwise provided in this section, if an employee is needed to provide care for a member of his immediate family with an illness or other authorized medical need, the employee may use his accumulated sick leave, not to exceed 120 hours in any 1 calendar year. An employee is not subject to this 120-hour limitation if the leave is approved under the Family and Medical Leave Act.

2. The appointing authority may approve an exception to the 120-hour limitation or the requirement that the immediate family member be living in the employee's household. To obtain an exception, the employee ~~[may be required to]~~ *must* submit his request in writing to the appointing authority, ~~[-The appointing authority may require that the request be]~~ accompanied by a certification from a provider of health care ~~[of]~~ *that substantiates* the need for the employee's participation. ~~[The appointing authority may use the procedure and form which is used for certification under the Family and Medical Leave Act.]~~

3. The appointing authority may ~~[request that]~~ *require* the employee *to* submit supplemental information ~~[-Supplemental information may include]~~ *which includes* a second and third medical opinion as provided in subsection 2 of NAC 284.566.

Sec. 16. NAC 284.568 is hereby amended to read as follows:

284.568 1. An appointing authority may place an employee on sick leave if ~~[-due]~~ :

(a) *Due* to a known or suspected illness ~~[;]~~ *or injury*, the employee is not performing at the level required by *his position or is not able to perform the essential functions of* his position *with or without reasonable accommodation, as determined by the appointing authority pursuant to NAC 284.440 and 284.441;* or ~~[the illness is such that it]~~

(b) *The illness* appears to be contagious.

2. ~~[An appointing authority may place an employee with a disability on sick leave if, due to an illness or injury, the employee is not able to perform the essential functions of the job with reasonable accommodation or the illness or injury is such that it is a direct threat to the employee or to another person. Before placing an employee with a disability on sick leave because an illness or injury is a direct threat to the employee or other person, the appointing authority shall consider whether the direct threat may be eliminated or reduced by reasonable accommodation.]~~

~~—3. If an appointing authority places an employee with a disability on sick leave pursuant to subsection 2, the appointing authority must:~~

~~—(a) Identify a specific, significant and current risk of substantial harm; and~~

~~—(b) Document the risk by medical or other factual evidence concerning the employee with a disability or other person.~~

—4.] If the appointing authority places the employee on sick leave pursuant to subsection 1, the appointing authority may require the employee, before the employee may return to work, to provide documentation from a provider of health care which verifies that the employee is medically able to perform the essential functions of the job with or without reasonable accommodation and does not have a contagious illness.

3. Except as otherwise provided in NRS 281.390, the appointing authority may require an eligible employee to use sick leave during the time family and medical leave is granted.

Sec. 17. NAC 284.576 is hereby amended to read as follows:

284.576 1. An account for catastrophic leave may be established for an employee when he or a member of his immediate family experiences a catastrophe and the employee has used all of his accrued leave.

2. An employee who is affected by a catastrophe and has used or is about to use all of his leave may request, on the appropriate form, the transfer of leave to an account for catastrophic leave for his personal use after the balance of all of his leave has been used. Such a request must be accompanied by a statement from a physician on a form provided by the Committee on Catastrophic Leave created pursuant to NRS 284.3627 which substantiates the necessity of the leave.

3. When a member of the immediate family of an employee is affected by a catastrophe, the appointing authority of the employee may require substantiating evidence that the member of the immediate family requires the employee's attendance before approving the transfer of leave to an account for catastrophic leave for use by the employee. Such evidence may include a statement by an attending physician regarding the status of the catastrophe.

4. The appointing authority shall approve or deny a request for catastrophic leave, taking into consideration the nature of the catastrophe and the expected duration of the leave. The decision of the appointing authority may be appealed to the Committee on Catastrophic Leave pursuant to NRS 284.3629.

5. *An employee whose request for catastrophic leave for a specified period of time has been approved and who has not had any or enough donations transferred to his account for catastrophic leave established pursuant to subsection 1 shall be deemed to be on approved leave without pay for the same period of time that was approved for the catastrophic leave. If a subsequent donation of hours to the employee's account for catastrophic leave is received before the last day of the approved period of catastrophic leave, the donation must be applied retroactively to cover the beginning of the period of leave that was taken without pay.*

6. An employee who wishes to donate hours to an account for catastrophic leave for use by another employee who has been approved to receive the donated hours shall notify his appointing authority on the appropriate form of his intent to donate the leave. The appointing authority of the employee donating the leave shall submit a copy of the form to the appointing authority of the employee receiving the leave. The appointing authority of the recipient shall use the notice to effect a transfer of leave from the account of the donor to the account of the recipient when the recipient needs to use those hours. If more than one notice of intent to donate

leave is received by the recipient's appointing authority on behalf of the recipient, the notices must be maintained in chronological order and used, one at a time as needed, according to the date in which they were received.

~~[6.]~~ **7.** A donor and his appointing authority must be notified on the appropriate form when the donated leave specifically designated for use by another employee has been used or if the amount of leave donated is in excess of the amount approved for use by the recipient. Excess leave must be restored to the account of the donor within 30 working days after the last day on which the recipient was eligible to receive catastrophic leave.

~~[7.]~~ **8.** The appointing authority shall provide the following information on a calendar year basis or as requested by the Director:

(a) Each employee under its authority, identified by a number assigned in accordance with subsection ~~[8.]~~ **9**, donating or using catastrophic leave, his grade and rate of pay and the number of hours and dollar value of the leave donated, excluding any excess leave restored to the account of a donor, pursuant to subsection ~~[6.]~~ **7**, or used by the employee;

(b) The period and nature of the disability for each employee using catastrophic leave; and

(c) A comparison of the average dollar value of the accounts for catastrophic leave based on the average rate of pay of the donors and the average dollar value of the leave taken by the recipients.

~~[8.]~~ **9.** The appointing authority shall assign numbers to employees for the purposes of subsection ~~[7.]~~ **8** in a sequential order and in such a manner that ensures the confidentiality of the identity of those employees.

~~[9.]~~ **10.** Hours donated to an account for catastrophic leave must be donated in increments of 8 hours.

~~[10.]~~ **11.** As used in this section, “immediate family” has the meaning ascribed to it in NAC 284.562.

Sec. 18. NAC 284.578 is hereby amended to read as follows:

284.578 1. Except as otherwise provided in NRS 284.360, *an appointing authority may grant* a leave of absence without pay ~~[may be granted]~~ to an employee for not more than 1 year ~~[by the appointing authority]~~ for any satisfactory reason.

2. The Commission ~~[, upon the recommendation of the appointing authority,]~~ may grant leaves of absence without pay in excess of 1 year for purposes deemed beneficial to the public service.

3. An appointing authority may require an employee on leave of absence without pay to submit every 2 weeks a statement of his intent to return to work.

4. ~~[Except as otherwise provided in NRS 281.390, if]~~ *If* the reason for granting the leave no longer exists, ~~[or for another bona fide reason,]~~ the appointing authority may revoke the leave after notifying the employee in writing and allowing ~~[a reasonable time]~~, *so far as is practicable, not less than 5 working days after the date of notification* for the employee to return to work.

5. An employee shall request leave without pay at least 30 days in advance of when the need for the leave is foreseeable, if practicable.

6. An employee may not use leave without pay in lieu of sick leave or annual leave without approval of the appointing authority.

7. An employee who is using leave pursuant to the Family and Medical Leave Act may not use leave without pay until he has exhausted his accrued sick leave, annual leave and catastrophic leave as required by NAC 284.5811.

Sec. 19. NAC 284.5811 is hereby amended to read as follows:

284.5811 1. ~~[The entitlement for family and medical leave for an eligible]~~ *An* employee *who is entitled to take leave pursuant to the Family and Medical Leave Act is* limited to a total of 12 weeks *of such leave* during a rolling 12-month period. *The rolling 12-month period is measured backward from the date an employee uses any leave pursuant to the Family and Medical Leave Act.*

2. To calculate eligibility for leave pursuant to the Family and Medical Leave Act, each hour that an employee is in paid status in the 12-month period immediately preceding the leave must be considered as time worked.

3. Except as otherwise provided in subsection 4, an employee who meets the requirements for eligibility for *and who is taking* leave pursuant to the Family and Medical Leave Act must exhaust his accrued sick leave, accrued annual leave ~~[.]~~ *and* catastrophic leave ~~[and holiday pay]~~ before he may use leave ~~[of absence]~~ without pay . ~~[for leave granted pursuant to the Family and Medical Leave Act. Such]~~ *Any* accrued sick leave, accrued annual leave, catastrophic leave and holiday pay *to which the employee is entitled pursuant to NAC 284.255* runs concurrently with the leave granted pursuant to the Family and Medical Leave Act if the employee is otherwise eligible for that sick leave, annual leave, catastrophic leave or holiday pay.

4. If an employee is absent from work as the result of a work-related injury or illness and he meets the requirements for eligibility for leave due to a serious health condition pursuant to the Family and Medical Leave Act:

(a) Any amount of time that the employee is absent from work during that period will be designated as leave pursuant to the Family and Medical Leave Act; and

(b) The employee may elect to use paid leave *or leave without pay* for the portion of time that he is not being compensated for the work-related injury or illness.

5. ~~[Any leave granted pursuant to this section must be supported by]~~ *An appointing authority may require an employee to provide* medical documentation ~~[and approved by the appointing authority].~~

~~—6.— As used in this section, a “rolling 12-month period” means the 12-month period as measured backward from the date an employee uses any family and medical leave.]~~ *to support his need for leave pursuant to the Family and Medical Leave Act due to a serious health condition of the employee or of a spouse, parent or child of the employee.*

Sec. 20. NAC 284.582 is hereby amended to read as follows:

284.582 1. Except as otherwise provided in subsection 2, civil leave with pay must be granted to any employee who is required, during his normal hours of work, to serve:

(a) On a jury; or

(b) As a witness in a court or at an administrative hearing ~~[unless]~~ *if* he is *not* a party to the action ~~[which]~~ *and the action* is not related to his job.

↪ The period of the leave must not be deducted from the balance of his annual leave. An employee who is granted the leave must receive his regular pay while on the leave, and he may retain any fee paid to him for his service as a juror or witness.

2. If an employee, in his official capacity as a state employee and as part of his required duties, serves as a witness during his regular working hours, he shall accept any witness fee offered to him and relinquish it to the agency by which he is employed.

3. If an employee is paid travel expenses and subsistence allowances by the court or public agency for which he performs service as a witness, he may retain that payment only if the State

has not provided him payment for the same purpose. If the State has provided him such a payment, he shall relinquish it to the agency by which he is employed.

4. ~~[As far as practical, agencies]~~ *An agency* shall attempt to adjust the working hours of employees who work night shifts and are called as witnesses or for jury duty during the day. If an agency feels this is impractical, in the case of jury duty, it shall petition the court to excuse the juror. ~~[The agency may also consider options such as hiring relief help or rescheduling volunteer work.]~~

Sec. 21. NAC 284.586 is hereby amended to read as follows:

284.586 Civil leave with pay must be granted to allow an employee time off to vote subject to the conditions established in NRS 293.463. *If an employee determines he will need time off to vote, he must submit a request for civil leave with pay to the person authorized to grant such leave before the day of the election.*

Sec. 22. NAC 284.589 is hereby amended to read as follows:

284.589 1. An appointing authority may grant administrative leave with pay to an employee:

(a) To relieve the employee of his duties during the active investigation of a suspected criminal violation or the investigation of ~~[an]~~ alleged wrongdoing;

(b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his position;

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

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

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

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

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

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

(b) Closure of the employee's office or work site caused by a natural disaster or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

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

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

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

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

(a) The employee requests the administrative leave for a period of time that is reasonably needed for him to testify at the hearing or meeting;

(b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and

(c) The absence of the employee will not cause an undue hardship to the operations of his appointing authority or adversely impact the provision of services to clients or to the public.

5. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:

(a) The initial appointment and one follow-up appointment if the employee receives counseling through the Employee Assistance Program.

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

(c) His participation in an official capacity as a member of a committee or board created by statute on which he serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.

(d) Up to 8 hours for preparation for hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656.

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

Sec. 23. NAC 284.5895 is hereby amended to read as follows:

284.5895 1. ~~For the purposes of accounting for the use of leave appropriate to an absence, an~~ An absence of an exempt classified employee or exempt unclassified employee for a full workday shall be deemed to be an absence for a period equal to his regularly scheduled hours of employment on that workday.

2. Except when an absence for part of a workday is authorized for family and medical leave, an exempt classified employee or exempt unclassified employee must only account for an absence of one or more full workdays by the use of leave appropriate to the absence ~~[,]~~ and is not required to account for any absence for part of a workday . ~~[by the use of leave appropriate to the absence.]~~

3. An exempt classified employee or exempt unclassified employee must not account for an absence for a full workday by the use of a combination of accrued sick leave and accrued annual leave unless:

(a) He is on family and medical leave; or

(b) He has been approved for catastrophic leave and the catastrophic leave is used as a supplement for the remaining sick and annual leave.

4. If an exempt classified employee or exempt unclassified employee does not have accrued leave appropriate to the absence in an amount sufficient to account for an authorized absence, the employee must be placed on leave of absence without pay for that workday unless he is approved to use catastrophic leave.

Sec. 24. NAC 284.594 is hereby amended to read as follows:

284.594 1. An unauthorized and unreported absence must be considered an absence without leave and a deduction of pay must be made for the absence.

2. ~~[A]~~ *An unreported absence may be considered an absence without leave, and a deduction of pay may be made for* ~~[a reported but unauthorized absence when the appointing authority declines to authorize the leave for reasons which are substantial and just.~~

~~—3.— Such absences]~~ *the absence.*

3. *An employee who has an unauthorized or unreported absence* may be ~~made the grounds for~~ *subject to* disciplinary action ~~[] pursuant to NAC 284.650.~~

4. A deduction from the pay of an exempt classified employee or exempt unclassified employee must be made in increments of a full workday.

Sec. 25. NAC 284.598 is hereby amended to read as follows:

284.598 The following are not breaks in continuous service:

1. ~~Authorized military~~ *Military* leave for active service if the person ~~is reemployed~~ *returns from leave* within 90 calendar days after an honorable discharge from military service.

2. ~~Separation because of~~ A layoff if ~~a former~~ *the* employee is ~~rehired~~ *reemployed* within 1 year after the date he was laid off.

3. ~~Reemployment of a~~ A seasonal *layoff if the* employee *is reemployed* within 1 year after the end of the previous seasonal appointment.

4. ~~Separation because an employee sustained~~ A *separation as a result of* a permanent disability arising from a ~~disability related to work,~~ *work-related injury or occupational disease*, if the ~~former employee was reemployed not later than~~ *employee is reemployed within* 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

Sec. 26. NAC 284.5236, 284.5238 and 284.590 are hereby repealed.

TEXT OF REPEALED SECTIONS

284.5236 “Intermittent” defined. “Intermittent leave” means leave taken in separate periods rather than in one continuous period, because of a single injury or illness.

284.5238 “Reduced leave” defined. “Reduced leave” means a schedule of leave which reduces the usual number of hours in a workweek or workday of an employee.

284.590 Employees required to report absences. An officer or employee who is absent from duty shall report the reason therefor to his supervisor or designated representative as prescribed in writing by the agency.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R145-05**

The Personnel Commission adopted regulations assigned LCB File No. R145-05 which pertain to chapter 284 of the Nevada Administrative Code on November 8, 2005.

Notice date: 9/16/2005
Hearing date: 11/8/2005

Date of adoption by agency: 11/8/2005
Filing date: 12/29/2005

INFORMATIONAL STATEMENT

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

On September 16, 2005, a “Notice of Workshop” to solicit comments on proposed regulations and “Notice of Hearing” for the adoption and amendment of regulations was posted conspicuously in public buildings. On the same day, copies of the notices and the text of the proposed regulations were filed with the Nevada State Library and the Legislative Counsel Bureau. Also on September 16, 2005, all State agencies were notified by memorandum of the proposed actions. Copies of the notices with the text of the proposed regulations were included with the memorandum for dissemination among State employees. Copies of the notices and text of the proposed regulations were posted on the Department’s website and also sent to all employee organizations, all Nevada county public libraries, all requesting parties, and members of the Personnel Commission.

On October 11, 2005, a workshop was held. Shelley Blotter, Chief, Technical Services Division, Department of Personnel, explained the purpose of the workshop and the process by which the proposed regulations would be reviewed and adopted. Ms. Blotter read the explanation of change for each of the sections and solicited comments.

Due to lack of audio communication with Las Vegas, the videoconference did not occur. Ms. Blotter stated that we would accept written comments from participants in the Las Vegas location.

- a. The following summarizes the comments made at the workshop regarding the proposed regulations:

There were no comments, questions, opposition, or discussion on NAC 284.5231, 284.5255, 284.538, 284.539, 284.5385, 284.5405, 284.544, 284.546, 284.548, 284.551, 284.552, 284.582, 284.586, 284.5895, 284.598, 284.523, 284.5232, 284.5233, 284.5234, 284.52345, 284.5236, 284.5238, 284.5239, 284.590, and 284.600.

NAC 284.524, Workweeks and workdays; periods for rest and meals.

Ms. Blotter stated that in subsection 2 (b), we will be retaining the words “period of” but will be striking the word “shift,” so it will read:

“2. Except as otherwise provided in subsections 3 and 4, an appointing authority shall provide a meal period and rest period to an employee who has an innovative work schedule during each workday as follows:

(b) A rest period of 15 minutes must be provided for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.”

NAC 284.542, Sick leave: Part-time employees.

Ms. Ruth Edsall, Personnel Officer III, Employment, Training & Rehabilitation, asked if the phrase, “prorated base on hours in paid status,” included overtime. She stated she felt if this is not the intent, the language needs clarification.

NAC 284.558, Sick leave: Illness in employee’s immediate family.

Ms. Blotter stated based on comments received from interested parties, we are recommending that the changes to subsections 2 and 3 be removed and the former language be retained. Ms. Blotter stated for clarification that we are going to retain the last sentence in subsection 2 that reads, “The appointing authority may use the procedure and form which is used for certification under the Family Medical Leave Act.” We will remove the sentence in subsection 2 that reads, “The appointing authority may require that the request be accompanied by.”

NAC 284.568, Sick leave: Placing an employee on sick leave.

Ms. Blotter stated based on comments we received from interested parties, we reviewed subsections 2 and 3 and it is our intent to retain the language in those two sections.

Ms. Kareen Masters, Deputy Director, Department of Health and Human Services, expressed concern with the substitution of the language in subsection 1 where it states, “performing at the level required by this position” and “is not able to perform the essential functions of this position.” Ms. Masters stated she felt there are two different meanings associated with each of those. She explained someone could perform the essential functions of their position while not performing at the level required for the position. Ms. Master suggested wording, “performing in accordance with the work performance standards.”

Ms. Edsall suggested that it not be an “either/or” proposition. Her recommendation is there be some combination of essential functions and performance.

NAC 284.575, Catastrophic leave; Interpretation of certain statutory terms.

Tracy Walters, Personnel Analyst, Department of Personnel described how the Legislative Counsel Bureau was proposing reorganizing this section.

This section was not adopted at the Personnel Commission meeting on November 8, 2005.

NAC 284.576, Catastrophic leave; Use and administration; appeal of denial.

Mr. Phil Brittenham, Personnel Officer III, Department of Motor Vehicles, expressed concern that an employee would be automatically approved for leave without pay if they qualified for catastrophic leave and there were not enough donations. He commented that it is one thing to be generous and to help those in need, but frequently, he sees employees who are applying for catastrophic leave because they have abused their own leave. If someone has used all of their FMLA time, all of their available sick leave, annual, comp- time, and arrive now at a point where they probably are on the edge of, if they are truly ill, may be facing separation under NAC 284.611, or separation because of the disciplinary process, now may be approved for some relatively expensive time off. These individuals may be given even more than the 1,040 hours they are eligible for under catastrophic leave. This is a significant period of time off as approved leave, and it doesn't require anything to be approved other than to meet the standards, 10 consecutive weeks or a life threatening illness. If it was only 10 consecutive weeks or even 15 or 20 that would be one thing, but we're essentially handcuffing the employer from separating an employee who should be separated. If the employee is eligible for catastrophic leave and can get the catastrophic leave and is being paid catastrophic leave then nothing is going to happen. If there is nothing in the catastrophic leave bank and frequently ours is a zero balance and if we have 100 or 200 hours in there, we share it equally with all the employees on catastrophic leave so they all get something, but if it runs out and/or contributions to the bank are on an inconsistent basis, this person may be there forever, and we may constantly be returning to some pay period two, three, four, five times in order to make that person whole under this section. I am very concerned with anything that requires that the employer designate this kind of leave, again, which is basically a charitable circumstance as approved leave and handcuffing the employer so that they can't take action they would otherwise take, so he is not for this regulation.

Ms. Edsall stated there are two issues in this section. The first issue is deeming a person eligible for leave without pay when there are not enough donations and they have been approved for catastrophic leave. It is important to remember that in spite of the catastrophic leave appeal committee, the appointing authority still retains some discretion in awarding catastrophic leave and it doesn't necessarily have to be in the amount that the employee requests. So, regardless of the maximum hours available to the employee by regulation, the approval process in

each agency can be managed in such a way that employees are only receiving catastrophic leave in the amount that the appointing authority deems appropriate and is consistent with their cat leave bank. Ms. Edsall stated she felt this is intended to not suddenly take back what appeared to be approved leave.

Ms. Blotter stated that she took the changes as trying to level the playing field between those employees who have lots of friends or family to donate to them, as opposed to individuals who may not be as well known but equally hard workers. Ms. Blotter also pointed out that an appointing authority has the discretion to grant leave without pay in another section without adding language here requiring leave without pay.

Ms. Edsall agreed with Ms. Blotter's comments.

NAC 284.578, Leave of absence without pay.

Ms. Kareen Masters expressed concerns about this section. First, she does not agree with the proposed change to subsection 3, stating "With the exception of an employee on Family Medical Leave..." the federal Family Medical regulations do allow an employer to request periodic reports from the employee on his status and intent to return to work, so she is opposed to the Department of Personnel placing State law into effect which would preclude that option. In subsection 4, "or for another bona fide reason..." Ms. Masters suggested to leave the language in and in the last sentence of subsection 4, she would like to add "as far as practicable," so subsection 4 would read, "if the reason for granting the leave no longer exists, or for another bona fide reason, the appointing authority may revoke the leave after notifying the employee in writing and allowing no less than five working days as far as practicable from the notification date for the employee to return to work." Ms. Masters stated there can be some unexpected circumstances that occur, an emergency where the appointing authority is in a situation where they need to call people back to work, i.e., Hurricane Katrina as an example, where an agency might need all hands on board and if you are taking a leave without pay to continue your education, the appointing authority may have to say, "we need you back here to protect lives and property and citizens of the State of Nevada," so she feels the language does need to remain in there.

Ms. Blotter stated that a couple of years ago the question arose regarding whether it was legal to require an employee to check back with the employer every two weeks when they are on FMLA. Ms. Blotter contacted the Federal Department of Labor to determine if our practice was appropriate and they stated, "no" and we could require them to check back with their employer any more frequently than every 30 days or the length of their doctor's note, if it were to exceed 30 days.

Ms. Masters stated that if it remains in the federal regulations, she would want to be in the position to argue the point with the Department of Labor if they ever brought that forward, not to have a State law in effect that would impede that

process. Secondly, there are a number of Family Medical Leave situations that don't require medical certification, why would she be precluded from applying that portion of the federal regulations?

NAC 284.5811, Family and medical leave: Maximum amount in 12-month period; eligibility.

The Department of Personnel received comments relating to subsection 5, recommending to add language such as "An appointing authority may require medical documentation to support the need for leave related to the serious health condition of the employee, his spouse, his parent or his child." Right now it states that you must require medical documentation and as Ms. Master's stated in the previous section, there are situations where medical documentation isn't necessary.

NAC 284.589, Administrative leave with pay.

Ms. Blotter stated we received a request from an interested party to remove the language in subsection 3 (a) "such as work related seminars, classes and conferences."

Regulations presented at the workshop are attached for reference.

2. **The number of persons who:**
 - (a) **Attended the hearing:** 42 in Carson City and 3 in Las Vegas
 - (b) **Testified at the hearing:** 3
 - (c) **Submitted written comments:** 4. A summary of the workshop is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada, 89701-4204.
3. **A description of how comments were solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

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

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

Changes were made to proposed regulations based on written comments received, comments at the workshop, and based on the pre-adoption review by the Legislative Counsel Bureau.

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

These regulations do not have a direct economic effect on any business or on the public.

- 6. The estimated cost to the agency for enforcement of the regulations:**

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

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

There is a duplication of definitions under the Federal Family and Medical Leave Act (29 CFR Part 825). At the workshop on October 11, 2005, the Department of Personnel recommended these definitions be removed. In the pre-adoption review, LCB recommended they be left in the regulation. They were, therefore, not presented for repeal at the Personnel Commission. No overlapping is created by these regulations.

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

These regulations are not more stringent than a federal regulation.

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

These regulations do not provide new or increase existing fees; therefore, no monies will be collected or used.