

**ADOPTED REGULATION OF THE  
PERSONNEL COMMISSION**

**LCB File No. R055-10**

Effective June 30, 2010

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

AUTHORITY: §§1-3, NRS 284.065.

A REGULATION relating to the State Personnel System; revising provisions relating to equal employment opportunities and certain confidential records; and providing other matters properly relating thereto.

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

*“Genetic information” means information:*

- 1. That is obtained from genetic testing of a person;*
- 2. That is obtained from genetic tests of a family member of a person; or*
- 3. Relating to the manifestation of a disease or disorder in a family member of a person.*

**Sec. 2.** NAC 284.114 is hereby amended to read as follows:

284.114 1. The Department of Personnel is responsible for establishing, coordinating and evaluating an affirmative action program for this State.

2. The Department of Personnel will cooperate and consult with agencies to:

(a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, sexual orientation, religion, color, national origin, age , *genetic information* or disability.

(b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for persons to enter the system and progress in it to the extent of their merit.

**Sec. 3.** NAC 284.718 is hereby amended to read as follows:

284.718 1. The following types of information, which are maintained by the Department of Personnel or the personnel office of an agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished to the Department of Personnel on the condition that the source remain confidential;

(b) Any document which is used by the Department of Personnel or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(d) Any document which is used by the Department of Personnel or an agency in the process of interviewing an applicant, including, without limitation, a document containing interview questions, evaluation tools used for rating applicants and any notes concerning an applicant that were taken by a person as part of the process of rating an applicant;

(e) Materials used in examinations, including suggested answers for oral examinations;

(f) Records and files maintained by an employee assistance program offered by the State of Nevada;

(g) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;

(h) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;

(i) Any information contained on a person's application or relating to his status as an eligible person; and

(j) Information in the file or record of employment of a current or former employee which relates to his:

- (1) Performance;
- (2) Conduct, including any disciplinary actions taken against him;
- (3) Race, ethnic identity or affiliation, sex, *genetic information*, disability or date of birth;
- (4) Home telephone number; or
- (5) Social security number.

2. If the employee has requested that his personal mailing address be listed as confidential, his file must be so designated and list his business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

- (a) The employee dies; or
- (b) The employee signs a release.

4. Any records in the possession of the Committee on Catastrophic Leave created pursuant to NRS 284.3627 that reveal the health, medical condition or disability of a current or former employee or a member of his immediate family are confidential.

5. Any notes, records, recordings or findings of an investigation conducted by the Department of Personnel relating to sexual harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority are confidential.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066  
LCB FILE NO. R055-10**

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

**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.**

Copies of the proposed regulation, notice of workshop, and notices of intent to act upon a regulation were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel Blasdel Building 209 E. Musser St Carson City, NV 89701	Grant Sawyer State Office Bldg. 555 E. Washington Blvd Suite 4401 Las Vegas, NV 89101
Nevada State Library and Archives 100 Stewart St Carson City, NV 89701	Capitol Building Main Floor Carson City, NV 89701
Legislative Building 401 S. Carson St Carson City, NV 89701	Gaming Control Board 1919 College Parkway Carson City, NV 89701

Attached are excerpts from the minutes from the workshop that apply to this regulation.

A public hearing by the Nevada Personnel Commission was held on May 21, 2010. There were no comments received from the public regarding this regulation.

**2. The number of persons who:**

- (a) **Attended each hearing:** May 21, 2010, Personnel Commission meeting (hearing), 38 attendees
- (b) **Testified at each hearing:** May 21, 2010, Personnel Commission meeting, 1 testified
- (c) **Submitted written comments:** None

**3. A description of how comment was solicited from businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were not solicited, as the regulation does not affect businesses.

- 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.**

The language was amended by the Legislative Counsel Bureau to include a definition of “Genetic Information.” Renee Travis, Department of Administration, had commented at the regulation workshop that a definition was needed.

- 5. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**
  - (a) Both adverse and beneficial effects; and**
  - (b) Both immediate and long-term effects.**

This regulation does not have a direct economic effect on either a regulated business or the public.

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

There is no additional cost to the agency for enforcement of this regulation.

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

This regulation change would add federal requirements from Title II of the Genetic Information Nondiscrimination Act of 2008 to existing State regulations.

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

This regulation does not include any provisions that are more stringent than any 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.**

No fees are associated with this regulation.

- 10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

This regulation is specific to State government agencies and has no impact on small businesses.