

**PROPOSED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R133-12

August 13, 2012

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

AUTHORITY: §§1-15, NRS 284.065, 284.155 and 284.175; §16 and 17, NRS 284.065, 284.155 and 284.345.

A REGULATION relating to state personnel; revising provisions relating to the rate of pay for employees in the classified service of the State; and providing other matters properly relating thereto.

Section 1. Chapter 284 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *Except as otherwise provided in NAC 284.204 and 284.206, if an employee is reinstated, the employee's base rate of pay must be set at or below the base rate of pay of the position which the employee most recently held with the State.*

Sec. 3. 1. *The following provisions govern the rate of pay which must be paid if an employee is promoted:*

(a) The employee must be placed at the lowest step in the higher grade that meets one of the following requirements:

(1) If the employee moves one or two grades above his or her former grade, he or she must be placed at the same step in the new grade as the step held in his or her former grade.

(2) If the employee moves three or more grades above his or her former grade, the employee must be placed:

(I) At a step which is equivalent to an increase of two steps above the step held in his or her former grade; or

(II) At the lowest step of the new grade,

↳ whichever pay is higher and in accordance with the provisions of section 8 of this regulation.

(b) A special adjustment to an employee's pay for performing supervisory duties which is granted in accordance with paragraph (c) of subsection 2 of NAC 284.206 is the present level of pay for the purpose of calculating a promotional increase authorized by paragraph (a) only if the employee has received the special adjustment to his or her pay for more than 6 months of continuous full-time service.

(c) If an employee has been demoted, he or she may not receive a promotional increase in pay that is greater than the increase which he or she would have otherwise been entitled to receive had he or she not been demoted.

(d) This subsection does not apply when an employee is reemployed or reappointed to his or her former grade within 1 year after holding that grade.

2. As used in this section, "present level of pay" means a rate of pay that is equal to the amount that is assigned to the step within the grade which is closest to, but does not exceed, the employee's pay after a special adjustment to pay pursuant to the provisions of NAC 284.206.

Sec. 4. *Except as otherwise provided in this section and paragraph (b) of subsection 1 of NAC 284.618, an employee who is demoted must be paid at a step within the grade of the class to which he or she was demoted as follows:*

1. If the employee has attained permanent status in the class from which he or she was demoted and the demotion is instituted at the employee's request or is acceptable to the employee, the appointing authority shall pay him or her at a step in the grade of the class to which he or she was demoted which is:

(a) Equal to his or her present base rate of pay; or

(b) Equivalent to a decrease of not more than one step from his or her base rate of pay in the position from which he or she was demoted. Except as otherwise provided in subsection 2, if the base rate of pay in the position from which he or she was demoted does not fall within the grade of the class to which he or she was demoted, the employee must be paid at a step in the grade of the class to which he or she was demoted which is equal to:

(1) The step he or she would have received if he or she had not been promoted to the position from which he or she was demoted; or

(2) The step he or she would have received if he or she had been employed in that class from the inception of employment with the State of Nevada.

2. An exception to paragraph (b) of subsection 1 may be granted by the appointing authority to pay an employee at a rate that does not fall within the grade of the class to which he or she is demoted if the appointing authority determines that the demotion is in the best interest of the employee and the State of Nevada. If such an exception is granted:

(a) The employee's base rate of pay will be limited to three grade levels above the grade of the class to which he or she is demoted or his or her base rate of pay in the position from which he or she was demoted, whichever is less.

(b) The employee's base rate of pay in the position to which he or she was demoted will be frozen until it falls within the grade of the class to which he or she was demoted or for a

maximum of 2 years after the date of demotion, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that has been approved by the Legislature.

(c) If the employee's frozen base rate of pay does not fall within the grade of the class to which he or she was demoted within the 2-year period, his or her base rate of pay will be adjusted to the highest step within the grade of the class to which he or she was demoted.

3. If an employee accepts a promotion and is demoted before attaining permanent status in the class, he or she must be paid at a step in the grade of the class to which he or she was demoted which is equivalent to the base rate of pay to which he or she would have been entitled had he or she not been promoted.

4. If the demotion is instituted by the appointing authority for disciplinary reasons and is not covered by subsection 2, the appointing authority shall determine the step in the grade of the class to which the employee was demoted at which the employee will be paid.

5. If an employee is demoted during his or her probationary period in state service, the appointing authority may pay the demoted employee at any step in the grade of the class to which the employee was demoted that is not greater than his or her base rate of pay before the demotion.

Sec. 5. *Except as otherwise provided in NAC 284.204, if an employee transfers to a position in the same or a related class, he or she must maintain the step held before the transfer.*

Sec. 6. 1. *If an employee is reappointed to a position which is in:*

(a) The grade which he or she currently holds, he or she retains his or her step.

(b) A higher grade and the appointment occurs within 1 year after the date on which he or she last held the grade, the employee must be placed at the step which he or she last held in that grade.

(c) A higher grade and the reappointment occurs more than 1 year after he or she held that grade, his or her pay must be calculated pursuant to the provisions relating to promotion in section 3 of this regulation.

2. Any exception to subsection 1 must be approved by the Division of Human Resource Management based upon a written request and justification for the exception submitted by the appointing authority.

Sec. 7. *1. Except as otherwise provided in this section, if a person is reemployed, he or she must be placed at the step which most closely corresponds to the base rate of pay which he or she held at the time of his or her layoff or separation.*

2. Except as otherwise provided in subsection 3, an exception to subsection 1 may be made if the conditions in NAC 284.204 exist, or if money is not available as certified by the Chief of the Budget Division or, in the case of an agency that is not funded from the State General Fund or the Nevada System of Higher Education, as certified by the administrator of that agency or the System. If an exception to subsection 1 is made pursuant to this subsection because the agency does not have sufficient money available, the employee retains the right of reemployment.

3. If a person who is eligible for military reemployment is reemployed, the provisions of subsection 1 apply except that the period of the military service must be included in calculating the step at which he or she will be placed.

Sec. 8. *An employee who has been continuously employed without a break in service may not have his or her step set below:*

- 1. Step 4 of any grade if his or her date of hire is before April 26, 1973; or*
- 2. Step 3 of any grade if his or her date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion.*

Sec. 9. *1. Except as otherwise provided in subsection 2, if a nonclassified or unclassified employee or an employee included in the Personnel System pursuant to the provisions of NRS 284.022 is appointed without a break in service to the classified service, he or she may, at the discretion of the appointing authority:*

- (a) Be paid at a step which corresponds to or is below his or her rate of pay as a nonclassified or unclassified employee if it is within the grade of the class to which he or she is appointed;*
- (b) Be paid at the first step in the new grade to which he or she is appointed; or*
- (c) Receive a special adjustment to his or her pay pursuant to subsection 1 of NAC 284.204 or NAC 284.206.*

2. An exception to subsection 1 may be made if a nonclassified or unclassified employee who was an employee of the Legislative Branch of State Government employed at the conclusion of a regular session of the Legislature pursuant to NRS 284.3775 transfers to state service.

3. An employee who was previously employed in the classified service and is appointed pursuant to the provisions of subsection 1 may not be paid at a step and grade which is greater than he or she received at the time he or she left the classified service, unless he or she has held the unclassified or nonclassified position for more than 1 year.

Sec. 10. NAC 284.132 is hereby amended to read as follows:

284.132 1. An appointing authority, an employee or the Division of Human Resource Management may request a temporary classification which allows the classification of a position for a temporary period of 1 year or less. Each appointment which is designated as temporary must have specific criteria established which justify the grade of the position and the projected date of expiration of the period. A position which no longer meets this criteria will revert back to the class from which it was reclassified. This method of classification is subject to the following conditions:

(a) Temporary classifications must meet the allocation standards and the criteria established for the class before this method may be used. The classification must be approved by the Division of Human Resource Management before the appointment.

(b) An employee who is appointed to a temporary class must sign the payroll document. This signature acknowledges that the employee understands the conditions of the reclassification and its projected date of expiration.

2. If the employee meets the minimum qualifications for the temporary classification, he or she:

(a) Retains his or her status of appointment; and

(b) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

↳ An incumbent who has reverted to his or her previous class is entitled to the step, pay progression date and status of appointment he or she would have attained if he or she had not been appointed to the temporary class.

3. The pay progression date of an employee who is promoted pursuant to this section will be determined in accordance with the provisions of NAC 284.182. The rate of pay for the employee will be determined in accordance with the provisions of ~~NAC 284.170~~ *section 3 of this regulation* governing an employee's pay on promotion.

4. In case of a layoff, the temporarily assigned employee's class of layoff is his or her former class. The time served in the temporary class is counted for seniority purposes if it was in the same occupational group, as provided in NRS 284.171.

Sec. 11. NAC 284.134 is hereby amended to read as follows:

284.134 1. An incumbent who meets the minimum qualifications for an individual reclassification as provided in NAC 284.126 may be reclassified to a higher level. If the incumbent's position is reclassified as a result of an individual classification study, the incumbent will continue to serve in the position and:

- (a) Must be promoted;
- (b) Retains his or her status of appointment; and
- (c) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

2. The pay progression date of an employee who is reclassified pursuant to this section will be determined in accordance with the provisions of NAC 284.182. The rate of pay will be determined in accordance with the provisions of ~~NAC 284.170~~ *section 3 of this regulation* governing an employee's pay on promotion.

Sec. 12. NAC 284.138 is hereby amended to read as follows:

284.138 1. Except as otherwise provided in subsections 3 and 4, if a class or a position within a class is reclassified or reallocated to a higher grade as a result of an occupational study, the incumbent will continue to serve in the position and:

- (a) Must be promoted;
- (b) Retains his or her status of appointment;
- (c) Retains his or her pay progression date; and
- (d) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

2. The rate of pay for employees who are promoted will be determined in accordance with the provisions of ~~[NAC 284.170]~~ *section 3 of this regulation* governing an employee's pay on promotion.

3. The provisions of subsection 1 do not apply to an incumbent who is filling a position in a class which is at a lower grade than the authorized level of the position unless the class held by the incumbent is reclassified or reallocated to a higher grade.

4. If a position is reclassified to a higher grade in a different occupational group, the employee must meet the minimum qualifications of the higher level position before he or she is promoted. If the employee does not meet the minimum qualifications, he or she must not be promoted, the position will be temporarily reclassified pursuant to NAC 284.132 and the employee may be eligible for a special adjustment to his or her pay as provided in NAC 284.206. If the employee does not meet the minimum qualifications within 1 year after the effective date of the reclassification, the duties must be reassigned and the position must be reclassified accordingly.

Sec. 13. NAC 284.140 is hereby amended to read as follows:

284.140 1. If a class or position is reclassified to a lower grade, the incumbent's title and grade must be changed to the new class. He or she will retain his or her status of appointment and pay progression date. The rate of pay will be determined by the provisions of NAC 284.290 governing an employee's pay on retained rates or, if the employee does not meet these requirements, by the provisions of ~~[NAC 284.170]~~ *section 4 of this regulation* governing an employee's pay on demotion.

2. The employee is eligible for reappointment to the same or a similar class from which he or she was reclassified.

3. The employee is entitled to reemployment rights to his or her former class and option in his or her department for 1 year after the date of notification of the reclassification to the lower grade if the employee and the agency provide the necessary information regarding the employee's seniority on the prescribed form.

4. If the employee is receiving a retained rate of pay and declines the first opening which is offered for his or her previous class in his or her department and location, the employee forfeits his or her reemployment rights to the former class and must be immediately reclassified to the lower grade and the provisions of this chapter governing the pay of an employee on demotion apply.

Sec. 14. NAC 284.170 is hereby amended to read as follows:

284.170 ~~[1.]~~ Except as otherwise provided in NAC 284.204 ~~[regarding adjustment of steps within the same grade]~~ and ~~[NAC]~~ 284.206 ~~[regarding special adjustments to pay, the following provisions govern the grade and the step at which an employee must be paid at the time of employment:~~

~~—(a) If the] , upon employment that is an initial appointment, the employee’s base rate of pay must be set at step 1 of the grade of the position’s class.~~

~~[(b) If the employment is a reinstatement to a position which is:~~

~~——(1) At the same grade as that of the employee’s former position, he or she must be paid at or below the step held in his or her former position.~~

~~——(2) At a lower grade than the employee’s former position, he or she must be paid at or below the step in the lower grade which most closely corresponds to the base rate of pay of his or her former position.~~

~~——(3) A result of the reallocation of the entire class because of a reclassification or a general pay increase, he or she must be paid at or below the step in the new grade which most closely corresponds to the base rate of pay of his or her former grade.~~

~~—2. The following provisions govern the rate of pay which must be paid if an employee is promoted:~~

~~—(a) The employee must be placed at the lowest step in the higher grade that meets one of the following requirements:~~

~~——(1) If the employee moves one or two grades above his or her former grade, he or she must be placed at the same step in the new grade as the step held in his or her former grade.~~

~~——(2) If the employee moves three or more grades above his or her former grade, the employee must be placed:~~

~~——(I) At a step which is equivalent to an increase of two steps above the step held in his or her former grade; or~~

~~——(II) At the lowest step of the new grade,~~

~~→ whichever pay is higher and in accordance with the provisions of subsection 8.~~

~~—(b) A special adjustment to an employee's pay for performing supervisory duties which is granted in accordance with paragraph (c) of subsection 2 of NAC 284.206 is the present level of pay for the purpose of calculating a promotional increase authorized by paragraph (a) only if the employee has received the special adjustment to his or her pay for more than 6 months of continuous full-time service.~~

~~—(c) If an employee has been demoted, he or she may not receive a promotional increase in pay that is greater than the increase which he or she would have otherwise been entitled to receive had he or she not been demoted.~~

~~—(d) This subsection does not apply when an employee is reemployed or reappointed to his or her former grade within 1 year after holding that grade.~~

~~—3. Except as otherwise provided in this subsection and paragraph (b) of subsection 1 of NAC 284.618, an employee who is demoted must be paid at a step within the grade of the class to which he or she was demoted as follows:~~

~~—(a) If the employee has attained permanent status in the class from which he or she was demoted and the demotion is instituted at the employee's request or is acceptable to the employee, the appointing authority shall pay him or her at a step in the grade of the class to which he or she was demoted which is:~~

~~——(1) Equal to his or her present base rate of pay; or~~

~~——(2) Equivalent to a decrease of not more than one step from his or her base rate of pay in the position from which he or she was demoted. Except as otherwise provided in paragraph (b); if the base rate of pay in the position from which he or she was demoted does not fall within the grade of the class to which he or she was demoted, the employee must be paid at a step in the grade of the class to which he or she was demoted which is equal to:~~

~~——(I) The step he or she would have received if he or she had not been promoted to the position from which he or she was demoted; or~~

~~——(II) The step he or she would have received if he or she had been employed in that class from the inception of employment with the State of Nevada.~~

~~—(b) An exception to subparagraph (2) of paragraph (a) may be granted by the appointing authority to pay an employee at a rate that does not fall within the grade of the class to which he or she is demoted if the appointing authority determines that the demotion is in the best interest of the employee and the State of Nevada. If such an exception is granted:~~

~~——(1) The employee's base rate of pay will be limited to three grade levels above the grade of the class to which he or she is demoted or his or her base rate of pay in the position from which he or she was demoted, whichever is less.~~

~~——(2) The employee's base rate of pay in the position to which he or she was demoted will be frozen until it falls within the grade of the class to which he or she was demoted or for a maximum of 2 years after the date of demotion, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that has been approved by the Legislature.~~

~~——(3) If the employee's frozen base rate of pay does not fall within the grade of the class to which he or she was demoted within the 2 year period, his or her base rate of pay will be adjusted to the highest step within the grade of the class to which he or she was demoted.~~

~~—(c) If an employee accepts a promotion and is demoted before attaining permanent status in the class, he or she must be paid at a step in the grade of the class to which he or she was demoted which is equivalent to the base rate of pay to which he or she would have been entitled had he or she not been promoted.~~

~~—(d) If the demotion is instituted by the appointing authority for disciplinary reasons and is not covered by paragraph (b), the appointing authority shall determine the step in the grade of the class to which the employee was demoted at which the employee will be paid.~~

~~—(e) If an employee is demoted during his or her probationary period in state service, the appointing authority may pay the demoted employee at any step in the grade of the class to which the employee was demoted that is not greater than his or her base rate of pay before the demotion.~~

~~—4. Except as otherwise provided in NAC 284.204, if an employee transfers to a position in the same or a related class, he or she must be placed at the corresponding step in the same grade that he or she held before the transfer. Any exception to this subsection must be:~~

~~—(a) Based on the provisions of NAC 284.204; or~~

~~—(b) Approved by the Division of Human Resource Management based upon a written request and justification for the exception submitted by the appointing authority.~~

~~—5. If an employee is reappointed to a position which is in:~~

~~—(a) The grade which he or she currently holds, he or she retains his or her step.~~

~~—(b) A higher grade and the appointment occurs within 1 year after the date on which he or she last held the grade, the employee must be placed at the step which he or she last held in that grade.~~

~~—(c) A higher grade and the reappointment occurs more than 1 year after he or she held that grade, his or her pay must be calculated pursuant to the provisions relating to promotion in subsection 2.~~

~~➔ Any exception to this subsection must be approved by the Division of Human Resource Management based upon a written request and justification for the exception submitted by the appointing authority.~~

~~—6.— Except as otherwise provided in subsection 7, if a person is reemployed at:~~

~~—(a) The same grade, he or she must be placed at the step which he or she last held in that grade.~~

~~—(b) A lower grade, he or she must be placed at a step which most closely corresponds to the base rate of pay which he or she held at the time of his or her layoff or separation.~~

~~—(c) A higher grade and the appointment occurs within 1 year after the date on which he or she last held the grade, he or she must be placed at the step which he or she last held in that grade.~~

~~➔ An exception to this subsection may be made if the conditions in NAC 284.204 exist, or if money is not available as certified by the Chief of the Budget Division or, in the case of an agency that is not funded from the State General Fund or the Nevada System of Higher Education, as certified by the administrator of that agency or the System. If an exception is made pursuant to this subsection because the agency does not have sufficient money available, the employee retains the right of reemployment.~~

~~—7.— If a person who is eligible for military reemployment is reemployed, the period of the military service must be included in calculating the step at which he or she will be placed.~~

~~—8.— An employee who has been continuously employed without a break in service may not have his or her step set below:~~

~~—(a) Step 4 of any grade if his or her date of hire is before April 26, 1973; or~~

~~—(b) Step 3 of any grade if his or her date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion.~~

~~—9.— Except as otherwise provided in this subsection, if a nonclassified or unclassified employee or an employee included in the Personnel System pursuant to the provisions of NRS 284.022 is appointed without a break in service to the classified service, he or she may, at the discretion of the appointing authority:~~

~~—(a) Be paid at a step which corresponds to or is below his or her rate of pay as a nonclassified or unclassified employee if it is within the grade of the class to which he or she is appointed;~~

~~—(b) Be paid at the first step in the new grade to which he or she is appointed; or~~

~~—(c) Receive a special adjustment to his or her pay pursuant to subsection 1 of NAC 284.204 or NAC 284.206.~~

~~➔ An exception to this subsection may be made if a nonclassified or unclassified employee who was an employee of the Legislative Branch of State Government employed at the conclusion of a regular session of the Legislature pursuant to NRS 284.3775 transfers to state service.~~

~~—10.— An employee who was previously employed in the classified service and is appointed pursuant to the provisions of subsection 9 may not be paid at a step and grade which is greater than he or she received at the time he or she left the classified service, unless he or she has held the unclassified or nonclassified position for more than 1 year.~~

~~—11.— As used in this section, “present level of pay” means a rate of pay that is equal to the amount that is assigned to the step within the grade which is closest to, but does not exceed, the employee’s pay after a special adjustment to pay pursuant to the provisions of NAC 284.206.]~~

Sec. 15. NAC 284.4375 is hereby amended to read as follows:

284.4375 1. For the purposes of this section, “automatic advancement” or “automatically advanced” means the progression of an employee to the authorized grade of the position, but not

exceeding the journey level. Automatic advancement occurs without recruitment and may occur without examination. It is based upon the employee's:

- (a) Meeting minimum qualifications;
- (b) Satisfactory performance; and
- (c) Endorsement by his or her appointing authority.

2. In determining the status of an employee who has been automatically advanced:

(a) The provisions in ~~[subsection 2 of NAC 284.170,]~~ *section 3 of this regulation*, governing an employee's pay on promotion, apply.

(b) If the employee had attained permanent status in the class from which he or she was automatically advanced, the employee retains that status in the new class.

(c) If the employee had not attained permanent status in the class from which he or she was automatically advanced, the employee must remain in probationary status in the new class until he or she has worked in that class for a period equal to the remaining portion of the probationary period that is required for the new class.

3. An employee returning from a military leave of absence pursuant to NRS 284.359 to a position that provides for automatic advancement must successfully complete the probationary period for the position before receiving automatic advancement. Automatic advancement must be granted to the employee as of the date on which permanent status would have been granted if the employee had not taken a military leave of absence.

Sec. 16. NAC 284.587 is hereby amended to read as follows:

284.587 Civil leave with pay must be granted to an employee who meets the requirements of NRS *281.149 or* 284.357, and may also be granted by the appointing authority to an employee whose absence from the job is necessary to meet a *state of emergency or declaration of* disaster

~~[or emergency.]~~ *proclaimed by the Governor or by resolution of the Legislature pursuant to NRS 414.070.*

Sec. 17. NAC 284.588 is hereby repealed.

TEXT OF REPEALED SECTION

284.588 Civil leave with reduced pay when performing certain service in time of war or emergency. (NRS 284.065, 284.155, 284.175, 284.345) An employee in the public service who performs active military service in the Armed Forces of the United States or any other category of persons designated by the President of the United States or the Governor of this State, including, without limitation, the Commissioned Corps of the Public Health Service, in time of war or emergency, is entitled to civil leave with reduced pay pursuant to this section for the period of such service. The pay that such an employee is entitled to receive pursuant to this section is the difference between the pay he or she would have otherwise received as a state employee and his or her pay for active military service. If the pay for active military service is greater than the pay he or she would have otherwise received as a state employee, the employee will not receive any additional pay pursuant to this section while he or she is in active military service.