

**SECOND REVISED PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R137-12

August 28, 2013

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

AUTHORITY: §§1 and 2, NRS 284.065 and 284.155; §§3 and 4, NRS 284.065, 284.155 and 284.335.

A REGULATION relating to state personnel; revising provisions relating to the confidentiality of employee information; 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:

“Organizational climate study” means an independent study conducted by the Division of Human Resource Management to assess and evaluate the culture, effectiveness of management, employee morale and internal communication of an organization through a variety of methods, including, without limitation:

- 1. Surveys;*
- 2. Interviews, including, without limitation exit interviews;*
- 3. Review of policies, procedures and internal communications;*
- 4. Review of issues related to recruitment;*
- 5. Review of data relating to employees, including, without limitation, statistics relating to turnover; and*
- 6. Review of grievances filed by employees.*

Sec. 2. NAC 284.010 is hereby amended to read as follows:

284.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 284.021 to 284.1125, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

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 Division of Human Resource Management 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 Division of Human Resource Management on the condition that the source remain confidential;

(b) Any document which is used by the Division of Human Resource Management 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 Division of Human Resource Management 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 or her status as an eligible person; and

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

(1) Performance;

(2) Conduct, including any disciplinary actions taken against the employee;

(3) Usage or balance of his or her annual leave and sick leave;

(4) Race, ethnic identity or affiliation, sex, genetic information, disability or date of birth;

(5) Home telephone number; or

(6) Social security number.

2. If the employee has requested that his or her personal mailing address be listed as confidential, the employee's file must be so designated and list his or her 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 or her immediate family are confidential.

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

6. Any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct are confidential.

Sec. 4. NAC 284.726 is hereby amended to read as follows:

284.726 1. Except as otherwise provided in this subsection, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority's decision to hire that person is limited to the appointing authority or his or her designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of subparagraph 2 of paragraph (a) of subsection 1 of NAC 284.204, information relating to the education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.

2. Except as otherwise provided in subsections 3 and 4, access to an employee's file of employment containing any of the items listed in paragraphs (g) to (j), inclusive, of subsection 1 of NAC 284.718 is limited to:

- (a) The employee.
- (b) The employee's representative when a signed authorization from the employee is presented or is in his or her employment file.
- (c) The appointing authority or a designated representative of the agency by which the employee is employed.

(d) The Administrator or a designated representative.

(e) An appointing authority, or a designated representative, who is considering the employee for employment in the agency.

(f) Persons who are authorized pursuant to any state or federal law or an order of a court.

(g) The State Board of Examiners if the Board is considering a claim against the State of Nevada filed pursuant to chapter 41 of NRS which involves the employee.

(h) Persons who are involved in processing records for the transaction of business within and between state agencies.

(i) Persons who are involved in processing records for the transaction of business that is authorized by the employee.

3. Information concerning the health, medical condition or disability of an employee or a member of his or her immediate family must be kept separate from the employee's file in a locked cabinet. Except as otherwise provided in subsection ~~7~~ 8, access to such information is limited to the employee, his or her current supervisor, and the appointing authority or a designated representative.

4. Except as otherwise provided in subsection ~~7~~ 8, access to information concerning the employee's usage or balance of annual leave and sick leave is limited to the employee, the employee's immediate supervisor and the employee's appointing authority or the designated representative of the appointing authority.

5. *Except as otherwise provided in subsection 8, access to any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct is limited to:*

(a) The employee.

(b) The Administrator or a designated representative of the Administrator.

(c) The appointing authority or a designated representative of the agency with which the employee is employed.

(d) Persons who are authorized pursuant to any state or federal law or an order of a court.

(e) The Governor or a designated representative of the Governor.

6. Except as otherwise provided by specific statute, records maintained by an employee assistance program offered by the State of Nevada must not be released without written permission signed by the employee to whom the records pertain.

~~16.1~~ 7. Upon request, the Division of Human Resource Management will provide the personal mailing address of any employee on file with the Division of Human Resource Management to the State Controller's Office and the Internal Revenue Service.

~~17.1~~ 8. The Administrator or the appointing authority, or a designated representative, shall authorize the release of any confidential records under his or her control which are requested by the Employee-Management Committee, a hearings officer, the Commission, the Committee on Catastrophic Leave created pursuant to NRS 284.3627, the Nevada Equal Rights Commission or a court.