

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R023-13

Effective October 23, 2013

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

AUTHORITY: §1, NRS 284.065, 284.155, 284.250 and 284.295.

A REGULATION relating to state personnel; revising certain provisions concerning vacancies in state employment; and providing other matters properly relating thereto.

Section 1. NAC 284.374 is hereby amended to read as follows:

284.374 1. The names of eligible persons will be removed from the active lists for any of the following causes:

(a) Appointment after certification to fill a full-time permanent position in the class for which the examination was given.

(b) Expiration of the term of eligibility.

(c) Separation of a person who is eligible for promotion from the state service.

(d) Failure by an eligible person to respond within the required time to an inquiry of availability.

(e) A statement by the eligible person that he or she is not willing to accept any type of appointment from the eligible list.

(f) Any of the causes listed in NRS 284.240 pursuant to which the Administrator may refuse to examine or certify an eligible person, failure to disclose convictions as required by NAC

284.321 or, if the employee has been laid off, reemployment pursuant to subsection 7 of NAC 284.630.

2. An appointing authority need not consider an eligible person more than ~~three times~~ *one time* from a recruitment. Consideration of an applicant for other than full-time permanent positions must not be counted for the purposes of this subsection.

3. An appointing authority need not consider an otherwise eligible person who cannot perform the essential functions of the position with or without reasonable accommodation.

4. An appointing authority may refuse to consider an eligible person who has been subject to a suspension, demotion or termination as a result of an upheld or uncontested disciplinary action in the preceding 12 months. The 12-month period begins on the effective date of the uncontested action or, if it is contested, on the date the hearing officer issues a final decision upholding a suspension, demotion or termination. If an employee is removed from consideration pursuant to this subsection, the appointing authority must notify the employee of that fact in writing before interviewing the next candidate or making its selection. The employee has 3 working days after being notified that he or she has been removed from consideration pursuant to this subsection to notify the appointing authority of any discrepancy in the information in his or her personnel file which led to the removal of the employee from consideration. The appointing authority may not make its selection:

(a) If the employee does not notify the appointing authority of a discrepancy, until after the end of the period pursuant to which the employee may notify the appointing authority of a discrepancy; or

(b) If the employee notifies the appointing authority of a discrepancy, until after the appointing authority determines whether the removal of the employee from consideration pursuant to this subsection was appropriate.

5. An appointing authority shall refuse to consider an eligible person whose appointment to a position will violate NRS 281.210, NAC 284.375 or a policy approved by the Commission pursuant to NAC 284.375.

6. An eligible person whose name has been removed from an active list may request that his or her name be reactivated by stating his or her reasons for the request. If the Division of Human Resource Management determines that the reasons are justified, and the person's term of eligibility has not otherwise expired, his or her name may be reactivated.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File #R023-13

1. A clear and concise explanation of the need for the adopted regulation.

In order to increase the efficiency of hiring agencies, this amendment reduces the number of times an agency must consider an eligible person from a recruitment from three times to one time. This amendment reduces the time it takes to fill vacancies by eliminating the requirement for an agency to interview an otherwise eligible person when it has previously been determined that he or she would not be selected.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices 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 Division of Human Resource Management website, emailed to all county libraries in Nevada, and posted at the following locations:

Blasdel Building
209 E. Musser Street
Carson City, NV 89701

Grant Sawyer State Office Bldg.
555 E. Washington Blvd.
Las Vegas, NV 89101

Nevada State Library and Archives
100 Stewart Street
Carson City, NV 89701

Capitol Building
Main Floor
Carson City, NV 89701

Legislative Building
401 S. Carson Street
Carson City, NV 89701

Gaming Control Board
1919 College Parkway
Carson City, NV 89701

Attached are pertinent comments from the workshop and the Personnel Commission meeting.

A Regulation Workshop was conducted by the Division of Human Resource Management on July 17, 2013 and a public hearing was held by the Nevada Personnel Commission on October 10, 2013.

Comments from the workshop and hearing can be obtained from the Division of Human Resource Management by contacting Shelley Blotter at sblotter@admin.nv.gov or calling (775) 684-0105.

- 3. The number of persons who:**
(a) Attended each hearing: October 10, 2013 – 53
(b) Testified at each hearing: October 10, 2013 – 6
(c) Submitted written comments: 2
- 4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

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Nancy Corbin, Deputy Division Administrator
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5. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.

Comments were not solicited from businesses, as the regulation does not affect businesses. Comments were solicited from effected parties including employees and employee associations. The Nevada System of Higher Education, Business Center North submitted written comments in support of the amendment, while the American Federation of State, County and Municipal Employees (ASFCME) submitted written comments in opposition of the proposed amendment. Comments from the workshop can be obtained from the Division of Human Resource Management by contacting Shelley Blotter at sblotter@admin.nv.gov or calling (775) 684-0105.

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

Written comments were received from the American Federation of State, County and Municipal Employees Association which expressed concern that current employees may be negatively impacted by the proposed change. It is the assessment of the Division that this regulation would impact current employees in the same manner as external candidates. Also at the workshop, Amy Davey, Personnel Officer, stated that two agencies served by Agency Human Resource Services expressed that this change would be very beneficial to them.

During the Personnel Commission meeting, Jennie Hudson, Personnel Officer from Agency Human Resource Services, which represents 15 different departments and agencies, testified in support of the regulation change. This amend would no longer require a hiring manager to re-interview a candidate that had been previously interviewed from the same recruitment. It was explained that, especially with highly specialized positions, this change would allow them to move more quickly through the interview process. This would also allow another candidate to be interviewed instead. Hiring managers from several agencies expressed support for the change. Additionally, Nancy Corbin with Business and Industry stated that, in her experience, if a candidate interviews for a position and is not selected, they are generally unhappy when the agency contacts them again for another interview. This change would alleviate those issues.

There was overwhelming support from agency management for the regulation amendment and no testimony in opposition was given at the hearing. The regulation was unanimously adopted by the Personnel Commission.

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

(a) Estimated economic effect on the businesses which they are to regulate.

(b) Estimated economic effect on the public which they are to regulate.

This regulation does not have a direct economic effect on either a regulated business or the public. It only impacts the classified service of Executive Branch departments and the Nevada System of Higher Education.

8. The estimated cost to the agency for enforcement of the proposed regulation:

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

9. 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.

There are no other state or government agency regulations that the proposed amendment duplicates.

10. 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.

11. 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.

Pertinent Testimony from Regulation Workshop Held July 17, 2013

Peter Long, Deputy Administrator, HRM: Stated that the amendment proposed by the HRM would reduce the number of times an agency must consider an eligible person from three times to one time. He explained that the change would increase efficiency of the hiring process by not requiring agencies to interview an otherwise eligible person when the person had previously interviewed for a position from the same recruitment. He stated the rationale for proposing the change was that many times an agency for various reasons might not be interested in appointing that person to a particular position. He said they were reducing the list of eligible is down by one. He said the proposed change would not prevent an agency from considering that person more than once if they chose to. He said it would serve to save time for the agency in interviewing an applicant if they were not interested in hiring them.

Ron Cuzze, President, NSLEOA: Stated that their association held a neutral position on this proposed change.

Amy Davey, Personnel Officer, HRM: Stated that two of their agencies felt that this was very beneficial for them. These agencies were Enterprise IT Services and the Department of Taxation. She commented that both agencies hired technical-oriented positions for which the candidate pool was small and she elaborated on how this proposed amendment would assist them. She also noted that the Department of Taxation with many of their specialized positions including their auditors had indicated that they would like to see this change.

Peter Long, Deputy Administrator, HRM: Stated that UNR (University of Nevada – Reno) supported the proposed amendment. He noted that Jeanine Lake from AFSCME opposed the proposed amendment.

Pertinent Testimony from Personnel Commission Meeting Held October 10, 2013

Dana Carvin: The Human Resource Management Division recommends the permanent adoption of the proposed amendment to NAC 284.374. This amendment would require an appointing authority to consider an eligible person only one time from a recruitment. The Nevada State Law Enforcement Officers' Association testified they were neutral on this proposal. The Nevada System of Higher Education, Business Center North submitted written comments in support of the proposed regulation. Additionally, comments were received at the workshop that indicate when positions are highly technical and it has already been determined that the candidate does not have the appropriate skill set for a particular position this change would reduce unproductive required interviews.

Gennie Hudson: Personnel Analyst, with Agency HR Services. AHRM currently represents 15 state agencies including the Departments of Administration, Agriculture, Business & Industry, Education, Taxation, Tourism & Cultural Affairs, Public Employee Benefits and the Secretary of State. Agency HR Services supports the changes proposes to NAC 284.374. If it has been determined the candidate previously did not meet the agencies need or have the necessary skill set, this change will eliminate a process which is non productive time spent for agencies and the applicant. Many of our agencies require a highly technical skill set or have positions which are difficult to recruit resulting in a limited number of qualified candidates. This change allows the agency to move on to additional applicants that have a particular skill set that meets the agency need. This does not preclude the agency from interviewing the applicant again if circumstances have changed.

Peter Barton, Administrator of the Division of Museums and History within the department of Tourism and Cultural Affairs and I'm here to support this proposed change. We are one of those departments a little anomalous in state government and we have highly skilled technical positions we hire curators within the curatorial series we may be looking for someone with a specialized skill in collections management or exhibit design or graphics design we have a number of positions that are historically difficult to fill and recruitments that go on for 6 – 8 months or longer we see the same people repeatedly on lists we interviewed repeatedly times we also had situations where we did the due diligence on reference checks and they did not come

back satisfactorily and this person comes back repeatedly on lists and that really hampers us in our ability to fill positions.

Paulina Oliver Deputy Director with the department of Taxation: I am in support of the change which would be a major improvement for us for the same reasons Mr. Barton has mentioned.

Julia Teska, Deputy Superintendent with the Department of Education: I just want to echo the comments of AHRS and the folks with museums. We have similar positions in Education where we are looking for specific curriculum based background we don't want a math specialist doing English curriculum and also at times specialist with certain student populations and so the ability to have a little more flexibility with that list is critical to us successfully filling our positions.

Nancy Corbin, Deputy Commissioner with Business & Industry, Division of Mortgage Lending: I'm here today to show my support for the change. Since serving in a deputy position since 1997 handling personnel matters has always fallen squarely in the middle of my lap. In most cases it is my experience through the interview process or trying to contact people for interviews if they have already interviewed for a position and they either have not been selected or they denied an interview they typically display no interest in being interviewed a second time. Second calls are often met with animosity, the recruitment processes is often a lengthy and tedious process while I support the process in an attempt to identify the best qualified person I support the change in having to consider an eligible candidate only once.