

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R138-13

Effective June 23, 2014

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

AUTHORITY: §1, NRS 281.145, 284.065 and 284.345.

A REGULATION relating to public personnel; establishing provisions governing military leave with pay for certain public officers and employees of the State; interpreting certain terms relating to such leaves of absence; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that public officers and employees of the State who are active members of the military and whose work schedules do not include Saturday or Sunday must be relieved from their duties as public officers and employees to serve under orders without loss of their regular compensation for a period of not more than 15 working days in a calendar year. Existing law also provides that such public officers and employees of the State whose work schedules include Saturday or Sunday must be relieved from their duties as public officers and employees to serve under orders without loss of their regular compensation for a period of not more than 39 working days in a calendar year. (NRS 281.145)

This regulation provides that officers and employees whose work schedules include any portion of a Saturday or Sunday are entitled to the 39 days of military leave with pay. Further, this regulation establishes rules for calculating the amount of military leave with pay that must be granted to such a public officer or employee if the person’s work schedule is changed to include or not include a Saturday or Sunday. Finally, this regulation interprets certain terms relating to such leaves of absence.

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

1. In accordance with NRS 281.145 and subsections 2 and 3:

(a) If a public officer or employee has a work schedule that does not include any portion of Saturday or Sunday, the public officer or employee must be granted a maximum of 15 working days of military leave with pay in a calendar year to serve under orders; and

(b) If a public officer or employee has a work schedule that includes any portion of Saturday or Sunday, the public officer or employee must be granted a maximum of 39 working days of military leave with pay in a calendar year to serve under orders.

2. If the work schedule of a public officer or employee is changed in a calendar year from including any portion of Saturday or Sunday to not including any portion of Saturday or Sunday, the public officer or employee is entitled to receive not more than 15 working days of military leave with pay after the effective date of the change to the work schedule, but is not entitled to receive more than a total of 39 working days of military leave with pay for the calendar year.

3. If the work schedule of a public officer or employee is changed in a calendar year from not including any portion of Saturday or Sunday to including any portion of Saturday or Sunday, the public officer or employee is entitled to receive not more than 39 working days of military leave with pay for the calendar year from the effective date of the change to the work schedule, but is not entitled to receive more than a total of 39 working days of military leave with pay for the calendar year or more than 15 working days of military leave with pay before the effective date of the change. If the public officer or employee took more than 15 working days of military leave to serve under orders before the effective date of the change to the work schedule, military leave with pay must not be granted retroactively for those working days.

4. As used in this section and NRS 281.145, the Commission will interpret:

(a) “To serve under orders” to mean to perform military service pursuant to orders issued by the appropriate military authority, including, without limitation, orders for deployment and any orders to complete training.

(b) “Work schedule” to mean a public officer’s or employee’s regularly assigned schedule of work. The term does not include any short-term changes to a schedule, overtime, standby status or instances where the public officer or employee is called back to work during his or her scheduled time off, unless the change becomes part of his or her regularly assigned schedule.

(c) “Working day” to mean a period of work consisting of the number of hours a public officer or employee is regularly scheduled to work. The term does not include overtime, standby status or instances where the public officer or employee is called back to work during his or her scheduled time off.

LEGISLATIVE REVIEW OF ADOPTED REGULATION--NRS 233B.066
Informational Statement
LCB File #R138-13

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

During the 2013 session, the Legislature passed Assembly Bill 364, which amended NRS 281.145, related to military leave with pay, which became effective October 1, 2013. Prior to the amendment, the statute provided for 15 days of military leave with pay per calendar year to any public officer or employee of the State or any agency thereof who is an active duty member of one of a number of branches of the military. The amended statute provides for 39 days of paid military leave for any public officer or employee of the State or any agency thereof who is an active duty member of one of a number of branches of the military, whose work schedule includes Saturday or Sunday.

The purpose of this new regulation is to provide for the administration of Nevada Revised Statute (NRS) 281.145 for Nevada's Executive Branch. The regulation clarifies that an employee's work schedule that includes *any portion* of Saturday or Sunday would be granted 39 days of paid military leave per calendar year to serve under orders. The regulation also addresses how to handle the situation where the work schedule changes during a calendar year to include any portion of a Saturday or Sunday, or to no longer include any portion of a Saturday or Sunday.

Finally, the new regulation defines the terms, "to serve under orders," "work schedule," and "working day," as these terms are used in the statute, as well as in the new regulation.

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, www.hr.nv.gov; the Legislative Counsel Bureau (LCB) website, www.leg.state.nv.us; the Nevada Public Notice website, www.notice.nv.gov; emailed to all county libraries in Nevada, and physically posted at the following locations:

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

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

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

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

A regulation workshop was conducted by the Division of Human Resource Management on November 6, 2013.

During the workshop, comment was made by an employee of the Nevada Highway Patrol stating that there may be an inequity between individuals who work a Monday through Friday shift and those that work a shift that includes Saturday and/or Sunday.

A representative from the Department of Public Safety commented that military leave should include the two week training and weekend drills, if defined in the orders, and that paid military leave would not be granted for additional training or deployment.

During the workshop, comment was received related to the definition of “to serve under orders,” and a request to address the situation where an employee’s shift changes during the calendar year.

Subsequent to the workshop, written comment was received to request that “monthly, pre-scheduled” be included in the definition of “to serve under orders.”

A public hearing was held by the Nevada Personnel Commission on April 11, 2014.

During the public hearing, a representative from the Nevada State Law Enforcement Officers Association (NSLEO) stated that the language should read that military leave is available for 39 days regardless of the work schedule.

An employee, represented by NSLEO was present and stated that employees who do not work on a Saturday and/or Sunday are left out by no fault of their own, and that 39 days of military leave should be available to all employees.

During the public hearing, the Office of the Military was present and commented that they believe that neither deployment nor training outside of the monthly weekend drill and annual 2-week training should be included in to “serve under orders.” Additionally, the Office of the Military explained that there is a discrepancy between what the agency is obligated to pay under State statute and what the federal government will reimburse to the agency.

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:** November 6, 2013 – 13; April 11, 2014 – 55
 - (b) **Testified at each hearing:** November 6, 2013 – 3; April 11, 2014 – 4
 - (c) **Submitted written comments:** 1

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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Chuck Allen
Highway Patrolman Trooper
Nevada Highway Patrol

Sandra Persson
Personnel Officer III
Department, Public Safety

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 affected parties including employees and employee associations. Comments from the workshop and Personnel Commission 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.

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.**

Originally, the regulation was submitted for pre-adoption review excluding paid military leave when an employee was deployed or receiving training other than the two weeks per year and drill weekends. The regulation was changed based upon the advice of the Legislative Counsel and a 1991 Attorney General opinion.

The Personnel Commission unanimously approved this regulation.

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 State of Nevada classified service.

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.**

The regulation does not overlap any federal or state mandated regulation, but expands on the current military leave benefit for eligible public officers and employees.

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

The 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.