

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R008-14

Effective June 23, 2014

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

AUTHORITY: §1, NRS 284.065, 284.155 and 284.175.

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

Legislative Counsel’s Digest:

Existing regulations provide for the determination of the rate of pay for an employee in the classified service of the State who has been demoted. In general, if the demotion is at the employee’s request or is acceptable to the employee, the employee is to be paid at a step in the grade of the class to which the employee is demoted which is equal to the employee’s present rate of pay, or at a rate that is equivalent to a decrease of not more than one step from the employee’s base rate of pay in the position from which he or she was demoted. (Section 4 of LCB File No. R133-12 (NAC 284.173)) This regulation provides that such an employee is to be paid at a step in the grade of the class to which he or she was demoted which is equal to or less than his or her base rate of pay in the position from which he or she was demoted, but not greater than the highest step of the class to which he or she was demoted.

Section 1. Section 4 of LCB File No. R133-12 (NAC 284.173) is hereby amended to read as follows:

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. ~~{}~~ *Except as otherwise provided in subsections 2 to 5, inclusive, 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~~ *equal* to *or less than* 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.] *in the position from which he or she was demoted, but not greater than the highest step of the class to which he or she was demoted.*~~

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.

LEGISLATIVE REVIEW OF ADOPTED REGULATION--NRS 233B.066
Informational Statement
LCB File #R008-14

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

The amendment to this regulation will result in fewer errors on employee transaction forms by reducing the number of “under” or “over” salary payments to employees. Additionally, the amendment is intended to allow an employee greater flexibility in managing his or her career by voluntarily demoting to a different job class within the State of Nevada, providing him or her an opportunity to gain new skills and knowledge in an entirely new job class within the State of Nevada. If an employee elects to voluntarily demote, the amendment will provide for a rate of pay equal to or less than an employee’s present base rate of pay.

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

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

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

A regulation workshop was conducted by the Division of Human Resource Management on January 8, 2014.

During the workshop, comment was received in support of the proposed change, as it will encourage employees to continue to grow their skill sets, rather than deterring this type of job movement.

Subsequent to the regulation workshop, written comment was received that also supported this change for the same reason outlined above.

There was no comment received at the public hearing held by the Nevada Personnel Commission on April 11, 2014.

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:** January 8, 2014 – 28; April 11, 2014 - 55
 - (b) **Testified at each hearing:** January 8, 2014 – 1; April 11, 2014 – 0
 - (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:**

Bruce Nisberg, Clinical Program Planner 2
Department of Health and Human Services
Aging and Disability Services Division
1391 S. Jones Blvd.
Las Vegas, NV 89146
(702) 486-6200
bnisberg@drc.nv.gov

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.**

This regulation was adopted without changing any part of the proposed regulation because no suggestions were received. The Personnel Commission unanimously approved it.

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 simplifies the language and adds flexibility for state employees to manage their careers.

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.