

PROPOSED REGULATION OF THE PERSONNEL COMMISSION

LCB File No. R008-14

REGULATION CHANGES PROPOSED FOR PERMANENT ADOPTION

Explanation of Proposed Change: Proposed by the Division of Human Resource Management, this amendment simplifies the process of determining the rate of pay for an employee who demotes. This amendment simply allows an employee to be paid at or below his or her current rate of pay, not to exceed the top step of the new class. It is widely believed that demotion only occurs as a result of disciplinary action, but demotion can also be used to allow an employee the flexibility to change his or her career path and/or enter a different class entirely. This amendment is intended to provide dedicated employees greater latitude to manage their career and the incentive to stay within State service. Additionally, this amendment will result in fewer errors on employee transaction forms, thereby reducing the number of under or over salary payments and reducing the time needed to correct these transactions.

NEW: Rate of pay: Demotion. (NRS 284.065, 284.155, 284.175)

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 a 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 *and subsection 2, 3, 4 or 5 do not apply*, 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 *at or below his or her current rate of pay not to exceed the top step of the new class.*

~~{(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.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013)