

PROPOSED REGULATION OF THE PERSONNEL COMMISSION

LCB File No. R102-15

Proposed Amendment to Permanent Regulation

NAC 284.462 is hereby amended to read as follows:

Explanation of Proposed Change: S.B. 62 of the 2015 Legislative Session amends NRS 284.300 requiring the Personnel Commission to adopt regulations regarding an employee who fails to attain permanent status in the position to which the appointee was promoted, i.e., didn't pass his or her trial period, or who is dismissed for cause other than misconduct or delinquency on the appointee's part, i.e., laid off, from the position to which the employee was promoted.

This amendment, proposed by the Division of Human Resource Management, makes NAC 284.462 consistent with the revisions to NRS 284.300, changes eligibility for restoration to those employees who have completed an initial probationary period, includes the a reference to NAC 284.632 for the procedures for calculating seniority for restoration, and clarifies that placement into a vacant position at the same or lower grade will be in the agency in which the employee was employed prior to promotion. Additionally, the amendment addresses what happens to an employee when he or she is displaced by another employee with greater seniority.

NAC 284.462 Restoration of promoted employee to former position. (NRS 284.065, 284.155, 284.290)

1. For the purposes of this section only "promotion" means any movement into a vacant position which has a higher grade than the position previously occupied by a classified employee who has ~~served 6 months of continuous (full-time equivalent) service.~~ *completed an initial probationary period.*

2. An employee promoted pursuant to subsection 1 who fails to attain permanent status in the position to which he or she was promoted or who is dismissed for a cause other than misconduct or delinquency on his or her part from the position to which he or she was promoted, either during the probationary period or at its conclusion, must be ~~restored to the position from which he or she was promoted.~~ :

(a) Restored to the position from which the appointee was promoted unless the position has been filled by an employee with greater seniority;

(b) Placed in a position in the agency from which the appointee promoted other than the position from which he or she was promoted and for which a vacancy exists in the class held immediately before the promotion; or

(c) If no position described in paragraph (a) or (b) exists:

(1) Appointed to a position in the agency from which the appointee promoted and for which a vacancy exists in a job class equal to or lower than the class held immediately before the promotion; or

(2) Placed on an appropriate reemployment list,

➡ *and for which the employee meets the minimum qualifications.*

3. The procedures for calculating an employee's seniority for paragraph (a) of subsection 2 are set forth in NAC 284.632.

~~{3.}~~ *4. If an employee fails to attain permanent status and is restored to his or her former position **or will be placed into a vacant position**, the appointing authority which is effecting the **restoration** action must give written notice to the agency from which the employee was promoted at least 30 calendar days before the effective date. The agency which is taking **the** action ~~{to restore the employee to his or her former position}~~ is liable for the payment of the employee during this 30-day period unless the agency ~~{to which the employee is being restored}~~ **receiving the employee** agrees to accept the employee before the expiration of that period. An employee does not gain permanent status if ~~{a report of separation or notice of intent to restore an employee to his or her former position has been}~~ **notice of the action has been** provided to the employee and filed with the Division of Human Resource Management on or before the last day of his or her probationary period, even though the ~~{separation or restoration}~~ **action** takes place after the last day of the probationary period.*

~~{4.}~~ *5. ~~{A demotion}~~ **Rejection** from probationary status ~~{in a higher class to the former lower level class, may not be appealed.}~~ **from the position to which promoted cannot be appealed or grieved.***

6. If a restored employee displaces an employee with less seniority pursuant to paragraph (a) of subsection 2, the displaced employee shall be placed, in the following order unless the employee waives his or her rights:

(a) In a vacant position in the same job class within his or her agency;

(b) In a vacant position in a comparable class within his or her agency for which the employee meets the minimum qualifications;

(c) In a vacant position in a class with a lower grade closest grade to the grade most recently held for which the employee meets the minimum qualifications; or

(d) If neither (a), (b), nor (c) is available and the employee has attained permanent status with the state, the employee will be placed on appropriate reemployment lists.

[Personnel Div., Rule VIII § C subsec. 4, eff. 8-11-73; A 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89)