

# PROPOSED REGULATION OF THE PERSONNEL COMMISSION

## LCB File No. R034-17

**Section 1. NAC 284.358 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the 700-hour lists for appointment to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, clarifies the order when using lists of eligible persons, and makes mandatory the use of list of persons with disabilities, and incorporates the phrase “700-hour list,” as the program is commonly referred, into the provision. Additionally, the amendment removes the term “transfer lists,” as that type of list is generally no longer utilized, and replaces it with the more specific term “Legislature transfer lists,” which entitle certain employees of the Legislative Branch to consideration for certain positions within the classified service of the State, pursuant to NRS 284.3775.

**NAC 284.358 Types of lists and priority for use. (NRS 284.065, 284.155, 284.250, 284.327)**

1. The types of lists of eligible persons and the *required* priority for their use are as follows:
    - (a) Reemployment lists.
    - (b) ~~Lists~~ *700-hour lists* of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 ~~[-at the option of the appointing authority-]~~.
    - (c) ~~[Transfer lists, at the option of the appointing authority.]~~ *At the option of the appointing authority, Legislature transfer lists, if available.*
    - (d) Divisional promotional lists.
    - (e) Departmental promotional lists.
    - (f) Statewide promotional lists.
    - (g) Lists of persons determined to be eligible from open competitive recruitments.
    - (h) Lists of eligible persons of comparable classes.
  2. The names on each list must be used as prescribed in NAC 284.361.
  3. The open and promotional lists referred to in paragraphs (d) to (h), inclusive, of subsection 1 must be:
    - (a) Based on the type of recruitment prescribed by the Division of Human Resource Management; and
    - (b) Described in the publicized job announcement.
- The establishment of any other type of list from the initial recruitment must be in accordance with NAC 284.367.

[Personnel Div., Rule V § A, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 4-20-90; 7-6-92; A by Personnel Comm’n by R183-03, 1-27-2004)

**Section 2. NAC 284.360 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the 700-hour lists for appointment to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, establishes the order of lists to be used if no reemployment list is available. If none is available, the 700-hour list will be certified next. If that type of list is unavailable, the Legislature transfer list will be certified, if available.

Additionally, this amendment removes subsection 5, because transfer lists no longer exist, and candidates in the 700-hour category will be certified on a separate and specific list.

**NAC 284.360 Reemployment lists; certification or waiver of lists. (NRS 284.065, 284.155, 284.250)**

1. Upon receipt of the appropriate form from an appointing authority for a list of eligible candidates in a specific class, the Division of Human Resource Management will verify the availability of a reemployment list for that class. If a reemployment list is available, the Division of Human Resource Management will provide the reemployment list to the appointing authority. Eligible persons who appear on reemployment lists are ranked in order of seniority. Except as otherwise provided in subsection 2 of NAC 284.6017, placement on a reemployment list will be determined using the criteria governing the determination of seniority for layoff pursuant to NAC 284.632.

2. If there is no reemployment list available, *a 700-hour list of persons with disabilities will be certified pursuant to NRS 284.387.*

3. *If there is no 700-hour list of persons with disabilities available, a Legislature transfer list will be certified, if available.*

4. *If a list pursuant to subsection 1, 2 or 3 does not exist,* the Division of Human Resource Management will, in accordance with subsections ~~3~~ 5 and ~~4~~ 6, certify the names of eligible persons on ranked or unranked lists, or waive the list.

~~3~~ 5. The names of eligible persons on ranked lists will appear in the order of the total rating which they earned in the examination, including preferences for veterans and residents.

~~4~~ 6. The Division of Human Resource Management may certify a list of eligible applicants who are not ranked, or may waive the list, for:

(a) A class that is grade 20 or below;

(b) A class designated in the classification plan as entry level; or

(c) A class designated in the classification plan as a class for which applicants for promotion are not normally available.

~~{5. Eligible persons who have requested a transfer and persons with disabilities who are eligible for temporary limited appointments pursuant to NAC 284.364 will be certified on the same list as other eligible persons and may be considered at the option of the appointing authority.}~~

~~6.1~~ 7. Only an eligible person who has indicated the willingness to accept the location of the vacancy and the other conditions of employment will be certified.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004; R024-05, 10-31-2005)

**Section 3. NAC 284.361 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the 700-hour lists for appointment to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, places the conditions that apply to the use of reemployment lists into subsection 1, allowing the new subsection 2 to apply to all offers of employment, not only offers of reemployment. This will establish a timeframe for an offer of a 700-hour appointment or a Legislative transfer appointment to be accepted. It is necessary to expand this portion of the regulation so that the hiring agency can move to the next type of list, if an offer of employment is not answered in the established timeframes.

**NAC 284.361 Use of lists and consideration of eligible persons. (NRS 284.065, 284.155, 284.250)** When using lists of persons who are eligible and considering eligible persons who have been certified, the following conditions apply:

1. When a reemployment list is certified ~~1.~~  
~~(a) Eligible~~, persons who are available for appointment and who are certified on reemployment lists, other than seasonal reemployment lists, must be hired in the order in which they appear unless the appointing authority, upon submitting written justification, obtains the written concurrence of the Governor to deviate from the order of priority or to hire from another list. The appointing authority must make the written justification available for examination by affected persons or their designated representatives.

~~(b)~~ 2. A person must accept or refuse an offer of ~~reemployment;~~ **employment:**  
~~(1)~~ (a) If the offer of ~~reemployment;~~ **employment** is sent by mail to the person, within 6 calendar days after the postmarked date appearing on the envelope in which the offer was mailed; or

~~(2)~~ (b) If the offer is an oral offer of ~~reemployment;~~ **employment**, within 3 business days after the oral offer has been made.

~~2.~~ 3. The appointing authority may request selective certification for a particular position if the normal method of certification does not provide candidates qualified to perform the duties of the position satisfactorily. Where selective certification is necessary, the appointing authority shall furnish in writing the special requirements peculiar to the position and his or her reasons therefor. If the facts and reasons justify such a method of selection, the Division of Human Resource Management may certify the highest ranking eligible persons who possess the special qualifications.

~~13-1~~ 4. Certification of only eligible persons who are the same sex will not be made unless there is clear evidence that the duties assigned could be performed efficiently only by the sex specified.

~~14-1~~ 5. When using ranked lists other than those for reemployment, the appointing authority shall attempt to communicate, as provided in NAC 284.373, with at least 5 persons in the first 10 ranks to determine their availability and qualifications. The names on each type of list must be considered before names from the next succeeding list. If there are fewer than 10 ranks with persons who are available for appointment on a given list and the appointing authority requests a full complement of 10 ranks, the name or names at the top of the next succeeding list must be combined with those on the preceding list to establish 10 eligible ranks with persons who are available for appointment. Except as otherwise provided in subsection 6, all competitive appointments from ranked lists must be made from the persons who:

- (a) Are in a rank of persons who received the 10 highest scores on the examination; and
- (b) Are available for appointment.

~~15-1~~ 6. If the list is unranked or waived, the appointing authority shall attempt to communicate, as provided in NAC 284.373, with at least five eligible persons he or she deems most qualified based upon a review of their respective qualifications as they relate to the position or class, or with all of

the eligible persons if there are five or less. Except as otherwise provided in subsection 1, any eligible person who is certified from an unranked or waived list may be appointed.

~~16-1~~ 7. If persons from fewer than five ranks of eligible persons are willing to accept appointment:

(a) The appointing authority may make an appointment from among those remaining available eligible persons.

(b) Certification and appointment may be made from other appropriate lists, including lists of higher grades as determined by the Division of Human Resource Management. The names from other lists will follow those which have been certified, if any, from the original lists.

(c) A new recruitment may be conducted.

(d) A provisional appointment may be made only if the requirements of NAC 284.406 are met.

~~[Personnel Div., Rule V § F, eff. 8-11-73; A 2-5-82]~~—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 11-16-95; 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R069-02, 8-14-2002; R183-03, 1-27-2004; R025-13, 10-23-2013)—(Substituted in revision for NAC 284.378)

**Section 4. NAC 284.364 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the 700-hour lists for appointment to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, includes language mandating the appointment of a certified person with a disability, and details how appointments

should be made from the 700-hour lists when more than one applicant from the 700-hour list is qualified.

**NAC 284.364 Lists of persons with disabilities who are eligible for temporary limited appointments. (NRS 284.065, 284.155, 284.250, 284.327)**

1. Pursuant to NRS 284.327, the Rehabilitation Division of the Department of Employment, Training and Rehabilitation may provide to the Division of Human Resource Management the names of persons with disabilities certified by the Rehabilitation Division who are eligible for temporary limited appointments of 700 hours' duration. Upon receipt from the Rehabilitation Division of the job applications and job recommendations, the Division of Human Resource Management will evaluate the information against the job requirements and minimum qualifications of the recommended classes. Through noncompetitive means, the names of qualified persons will be placed ~~in~~ on a 700-hour ~~category on the eligible~~ list and certified to the requesting agency for ~~consideration~~ appointment. *Should there be more than one qualified person on the list, the appointing authority shall appoint the most qualified person based upon a review of the respective qualifications as they relate to the position or class and who can perform the essential functions of the position.*

2. A current probationary or permanent state employee who occupies a permanent full-time position is not eligible for the provisions of this section unless his or her disability jeopardizes his or her continued employment in his or her present position and placement on the list does not merely circumvent the provisions of this chapter governing promotion or transfer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 12-26-91; 7-6-92; R098-99, 9-27-99; A by Personnel Comm'n by R183-03, 1-27-2004)