

**REVISED ADOPTED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R118-17

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

AUTHORITY: §§1-3, NRS 284.065, 284.155, 284.383 and 284.385; §4, NRS 284.065, 284.155 and 284.407.

A REGULATION relating to the State Personnel System; requiring employees to report professional disciplinary action and disciplinary action relating to a driver's license in certain circumstances; revising provisions relating to requesting an employee to submit to and providing transportation to and from a drug or alcohol screening test; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Personnel Commission of the Division of Human Resource Management of the Department of Administration to adopt regulations to carry out the provisions governing the State Personnel System. (NRS 284.065) Existing law further requires the Commission to adopt a code of regulations for the classified service of the State of Nevada. (NRS 284.155) The classified service of the State of Nevada is comprised of all positions in the public service that are lawfully designated as being in the classified service. (NRS 284.150)

Existing law requires the Commission to adopt regulations that set forth a system for administering disciplinary measures against a state employee in which, except in cases of serious violations of law or regulations, less severe measures are first used, after which more severe measures are applied if the less severe measures did not work. (NRS 284.383) Existing law authorizes an appointing authority to: (1) dismiss or demote any permanent classified employee; and (2) suspend without pay, for disciplinary purposes, a permanent employee for a period not to exceed 30 days. (NRS 284.385) Existing regulations set forth various situations when appropriate disciplinary or corrective action may be taken. (NAC 284.650) Existing regulations additionally set forth the system for administering disciplinary measures by detailing when a warning, written reprimand, suspension or demotion of an employee may occur. (NAC 284.638, 284.642) Existing regulations further set forth when an appointing authority may dismiss an employee. (NAC 284.646)

Section 1 of this regulation requires an employee to report the suspension, revocation or cancellation of a professional or occupational license, certificate or permit or a driver's license to his or her appointing authority within 5 working days after it occurs if such a license, certificate or permit is required for the employee's position. If the employee fails to make the required report within 5 working days, **section 1** authorizes the appointing authority to immediately

dismiss the employee or to take appropriate disciplinary or corrective action against the employee. **Sections 2 and 3** of this regulation make conforming changes.

Existing regulations authorize an appointing authority to immediately dismiss an employee if: (1) the appointing authority has reasonable cause to believe that retaining the employee on active duty poses a threat to life, limb or property or may be seriously detrimental to the interests of the State; and (2) temporarily assigning the employee to different duties is not feasible. Existing regulations provides that before immediately dismissing such an employee, the appointing authority, his or her designated representative or the employee's supervisor are required to: (1) attempt to inform the employee before the dismissal occurs of the charges against the employee; and (2) provide the employee with an opportunity to rebut the charges. Procedural notice and hearing requirements must be followed as soon as practicable after the immediate dismissal of the employee occurs. (NAC 284.6563) **Section 2** authorizes an appointing authority to immediately dismiss an employee for certain causes pursuant to the standards and procedures set forth in existing regulations.

Existing law authorizes an appointing authority to request an employee to submit to a screening test if the appointing authority reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing the employee's ability to perform the employee's duties safely and efficiently. (NRS 284.4065) If an employee is required to submit to a screening test pursuant to existing law, existing regulations require the appointing authority of the employee to provide transportation for the employee: (1) to the location of the test; and (2) after the employee submits to the screening test, to his or her home. (NAC 284.890) **Section 4** of this regulation requires the appointing authority to provide transportation for the employee to the location of the screening test only in certain circumstances. **Section 4** further requires the appointing authority, after an employee submits to the screening test, to: (1) provide transportation for the employee to his or her home; (2) assist the employee in arranging transportation; or (3) arrange for emergency medical assistance if the appointing authority or any other person reasonably believes that the employee needs emergency medical assistance, whichever is most appropriate.

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

1. An employee must report the suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license to his or her appointing authority within 5 working days after the suspension, revocation or cancellation occurs if the employee was required to possess the professional or occupational license, certificate or permit or driver's license at the time of appointment as stated in the standards of work performance, essential functions or class specifications for the position, or in other documentation provided

to the employee at the time of appointment, or required thereafter pursuant to federal or state law.

2. If an employee fails to make the report required pursuant to subsection 1:

(a) The appointing authority may immediately dismiss the employee pursuant to subsection 2 of NAC 284.646; or

(b) Appropriate disciplinary or corrective action may be taken against the employee pursuant to NAC 284.650.

Sec. 2. NAC 284.646 is hereby amended to read as follows:

284.646 1. An appointing authority may dismiss an employee for any cause set forth in NAC 284.650 if:

(a) The agency with which the employee is employed has adopted any rules or policies which authorize the dismissal of an employee for such a cause; or

(b) The seriousness of the offense or condition warrants such dismissal.

2. An appointing authority may immediately dismiss an employee *pursuant to the standards and procedures set forth in NAC 284.6563* for the following causes, unless the conduct is authorized pursuant to a rule or policy adopted by the agency with which the employee is employed:

(a) Intentionally viewing or distributing pornographic material at the premises of the workplace, including, without limitation, intentionally viewing or distributing pornographic material on any computer owned by the State, unless such viewing or distributing is a requirement of the employee's position ; ~~†~~

(b) Unauthorized release or use of confidential information ; ~~†~~

(c) Participation in sexual conduct on the premises of the workplace, including, without limitation, participation in sexual conduct in a vehicle that is owned by the State ; ~~⚡~~

(d) Absence without approved leave for 3 consecutive days during which the employee is scheduled to work ; ~~⚡~~

(e) The suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license if the possession of the professional or occupational license, certificate or permit or driver's license is a requirement of the position at the time of appointment as stated in the standards of work performance, essential functions or class specifications for the position, or in other documentation provided to the employee at the time of appointment, or required thereafter pursuant to federal or state law ; ~~⚡~~

(f) Threatening another person with a deadly weapon during any time in which the employee is:

(1) On the premises of the workplace; or

(2) Conducting state business or otherwise performing any duties of employment ; ~~⚡~~

(g) Stealing or misappropriating any property that is owned by the State or located on state property ~~⚡~~ ; *or*

(h) Failure to report the suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license when required pursuant to section 1 of this regulation.

3. The rights and procedures set forth in NAC 284.655 to 284.6563, inclusive, apply to any dismissal made pursuant to this section.

4. As used in this section:

(a) "Material" has the meaning ascribed to it in NRS 201.2581.

(b) "Nudity" has the meaning ascribed to it in NRS 201.261.

(c) "Pornographic material" means material that, all or in part, contains any description or representation of nudity, sexual conduct, sexual excitement or sado-masochistic abuse which predominantly appeals to the prurient, shameful or morbid interest of adults and is without serious literary, artistic, political or scientific value.

(d) "Sado-masochistic abuse" has the meaning ascribed to it in NRS 201.262.

(e) "Sexual excitement" has the meaning ascribed to it in NRS 201.264.

Sec. 3. NAC 284.650 is hereby amended to read as follows:

284.650 Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violates a provision of NAC 284.653 or 284.738 to 284.771, inclusive.
2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.
3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.
4. Discourteous treatment of the public or fellow employees while on duty.
5. Incompetence or inefficiency.
6. Insubordination or willful disobedience.
7. Inexcusable neglect of duty.
8. Fraud in securing appointment.
9. Prohibited political activity.
10. Dishonesty.

11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.
12. Drug or alcohol abuse as described in NRS 284.4062 and NAC 284.884.
13. Conviction of any criminal act involving moral turpitude.
14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription or any other illegally used substances while on duty.
15. Unauthorized absence from duty or abuse of leave privileges.
16. Violation of any rule of the Commission.
17. Falsification of any records.
18. Misrepresentation of official capacity or authority.
19. Violation of any safety rule adopted or enforced by the employee's appointing authority.
20. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his or her appointing authority.
21. Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.
22. Failure to participate in any investigation of alleged discrimination, including, without limitation, an investigation concerning sexual harassment.
23. Failure to participate in an administrative investigation authorized by the employee's appointing authority.

24. Failure to report the suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license when required pursuant to section 1 of this regulation.

Sec. 4. NAC 284.890 is hereby amended to read as follows:

284.890 *1.* If an *appointing authority requests an* employee ~~is required~~ to submit to a screening test ~~is~~ *based on a reasonable belief that the employee is under the influence of alcohol or a controlled substance or any other drug and the employee has not refused to submit to the screening test*, the appointing authority shall provide transportation for the employee to the location of the test.

2. After the employee submits to the screening test, the appointing authority shall ~~provide~~, *as appropriate:*

- (a) Provide* transportation for the employee to his or her home ~~is~~ ;
- (b) Assist the employee in arranging his or her own transportation; or*
- (c) Arrange for emergency medical assistance if the appointing authority or any other person reasonably believes, based on objective facts, that the employee is in need of emergency medical assistance.*