

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB FILE NO. R163-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/22/2018**

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

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will lay out the options for an employee if he or she voluntarily transfers to a position and either fails to complete the trial period in the position or voluntarily chooses to revert to the position from which they transferred.

If a permanent employee voluntarily transfers and fails to complete the trial period in the new position, or chooses to revert, he or she must be reverted to the position from which the employee transferred if such position is vacant, or to the same class that is vacant, to a comparable class that is vacant and which the employee meets the minimum qualifications, or be placed on a reemployment list.

An agency from which an employee transfers must be given at least 30 calendar days' notice when an employee fails to complete the trial period at the new agency, or voluntarily chooses to revert to the previous agency. Subsection 2 includes steps an appointing authority must take when an employee is reverted pursuant to this regulation. Subsection 3 includes steps an employee and an agency must take when an employee voluntarily chooses to revert pursuant to this regulation.

NEW Reversion of permanent employee who voluntarily transfers and either fails to complete trial period in the new position or voluntarily chooses to revert to his or her prior position during his or her trial period.

1. A permanent classified employee who voluntarily transfers and either fails to complete his or her trial period in the position to which he or she transferred to or voluntarily chooses to revert must, in the following order, be:

(a) Appointed to the position from which the employee transferred, if vacant;

(b) Appointed to a position in the agency from which the employee voluntarily transfers which is vacant, and which is in the same class as the position held by the employee immediately before the transfer;

(c) Appointed to a position in the agency from which the employee voluntarily transfers which is vacant, and which is in a comparable class as the position held by the employee immediately before the transfer and for which the employee meets the minimum qualifications;

(d) Appointed to a class lower than the class of the position held by the employee immediately

before the transfer and for which the employee meets the minimum qualifications; or

(e) Placed on the reemployment list for other classes at or below the position held prior to the transfer for which the employee meets the minimum qualifications.

2. If an employee fails to complete the trial period and is reverted to his or her former position or otherwise placed pursuant to subsection 1, the appointing authority which takes such action must give written notice to the agency from which the employee transferred at least 30 calendar days before the effective date of the action. The agency which is taking the action is liable for the payment of the employee during this 30-day period unless the agency receiving the employee agrees to accept the employee before the expiration of that period. An

employee does not gain permanent status if 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 trial period, even though the action takes place after the last day of the trial period.

3. If an employee voluntarily chooses to revert to his or her prior position, he or she must notify his or her current agency. The agency must then give written notice to the agency from which the employee transferred at least 30 calendar days before the effective date of the action. The agency which is taking the action is liable for the payment of the employee during this 30-day period unless the agency receiving the employee agrees to accept the employee before the expiration of that period. An employee does not gain permanent status if 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 trial period, even though the action takes place after the last day of the trial period.

Sec. 2. NAC 284.058 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Legislative Counsel Bureau, will include lists that do not require competition into the types of lists for which an individual could be considered an “eligible person.”

NAC 284.058 “Eligible person” defined. (NRS 284.065) “Eligible person” means any person who ~~[applies, is eligible, competes and successfully passes all phases of an examination and is placed on an appropriate eligible list.]~~ *meets the required minimum qualifications and:*

- 1. Applies, successfully passes all phases of an examination, when required, and is placed on the appropriate eligible list; or*
- 2. Is eligible to be placed on a list pursuant to subparagraphs (a), (b), (c) or (d) of subsection 1 of NAC 284.358.*

[Personnel Div., Rule I § D subsec. 12, eff. 8-11-73]

Sec. 3. NAC 284.108 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, expands the definition of “trial status” to include the 6-month or 1-year period an employee who voluntarily transfers must serve.

NAC 284.108 “Trial period” defined. (NRS 284.065) “Trial period” means the 6-month or 1-year probationary period served by a permanent employee who has been promoted *or voluntarily transfers* to a vacant position.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 8-1-91; 12-26-91)

Sec. 4. NAC 284.444 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will require a permanent employee who voluntarily transfers to serve a trial period.

NAC 284.444 Application of probationary *or trial* period. (NRS 284.065, 284.155, 284.290, 284.300)

1. A probationary employee who transfers:
 - (a) Within the same class must serve the remaining portion of the probationary period.
 - (b) From one class to another class must serve a new probationary period.

2. *A permanent employee who voluntarily transfers to the same class or a comparable class must serve a trial period.*

~~12~~ **3.** An employee who transfers from the unclassified or nonclassified service to the classified service must serve a new probationary period. Except for those unclassified employees who transfer pursuant to subsection 2 of NAC 284.398, the status of a permanent employee may not be attained until the satisfactory completion of the probationary period.

~~13~~ **4.** An employee who is reinstated must serve a new probationary period unless it is waived in writing by the appointing authority. If an appointing authority waives the probationary period, the status of the appointment of the employee is permanent.

~~14~~ **5.** A probationary employee who is reappointed must serve a new probationary period.

~~15~~ **6.** A permanent employee who is reappointed to a class:

(a) At a higher grade level must serve a trial period unless it is waived by the appointing authority.

(b) At the same grade level or a lower grade level is not required to serve a probationary trial period.

~~16~~ **7.** An employee who is laid off, but who is reemployed within 1 year, must serve a new probationary period if reemployed in a different class or in a different department than that from which he or she was laid off, and the employee is subject to the provisions of subsection 8 of NAC 284.630.

~~17~~ **8.** A person with a permanent disability arising from a work-related injury or occupational disease who is reemployed in a different class or option than his or her regular position must serve a new probationary period as required by NAC 284.6018.

~~18~~ **9.** A person who is on a military leave of absence pursuant to NRS 284.359 is entitled to return to the status of appointment held at the time he or she commenced the military leave of absence. If the employee did not complete the probationary period, he or she will only be required to complete the remaining portion thereof. Upon successful completion of the probationary period, permanent status must be granted to the employee as of the date on which permanent status would have been granted if the employee had not taken a military leave of absence.

~~19~~ **10.** Promotion to a vacant position requires a new probationary *or trial* period. Promotions which result from reclassification are governed by NAC 284.134 and 284.138.

~~10~~ **11.** Except as otherwise provided in subsection ~~11~~ **12:**

(a) No probationary period will be required if a permanent employee is demoted.

(b) A new probationary period will be required if a probationary employee is demoted.

~~11~~ **12.** An employee who is restored to his or her former position or class pursuant to NAC 284.462 following a promotional appointment must serve the portion of the trial period which was remaining at the time of the promotion. No probationary period is required if, pursuant to

subparagraph (1) of paragraph (c) of subsection 2 of NAC 284.462, an employee is placed in a position in a class equal to or lower than the class held by the employee immediately before the promotion.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-21-89; 8-1-91; 12-26-91; 3-1-96; A by Personnel Comm'n by R142-05 & R143-05, 12-29-2005; R141-07, 1-30-2008; R102-15, 12-21-2015, eff. 1-1-2016)