

NOTICE OF INTENT TO ACT UPON A REGULATION
Notice of Hearing for the Permanent Adoption and Amendment
of Regulations of the
Personnel Commission

The Personnel Commission will hold a public hearing at 9:00 a.m. on December 7, 2018, at the State Library and Archives, Room 110, 100 North Stewart Street, Carson City, Nevada with videoconferencing to the Grant Sawyer Building, Room 1400, 555 East Washington Avenue, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of regulations that pertain to Chapter 284 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations will not result in an increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other State or local governmental agencies.
- These regulations do not establish any new fee or increase an existing fee.

<u>LCB File:</u>	<u>Section:</u>	<u>NAC:</u>	<u>Leadline or Description</u>
R163-18	Sec.1	NEW	Restoration 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.
	Sec. 2	284.058	“Eligible person” defined.
	Sec. 3	284.108	“Trial period” defined.
	Sec. 4	284.444	Application of probationary period.
	Sec. 5	284.448	Time not counted toward completion of probationary period.
R164-18	Sec. 1	284.172	Rate of pay: Effect of promotion.
	Sec. 2	284.204	Adjustment of steps within same grade: Conditions for approval; request; effective date; revocation.
	Sec. 3	284.206	Special adjustments to pay.
	Sec. 4	284.360	Certification and provision of certain lists by Division of Human Resource Management; certification of eligible persons on ranked or unranked lists or waiver of lists.
	Sec. 5	284.374	Active lists: Removal and reactivation of names; no requirement or refusal to consider certain persons.
	Sec. 6	284.437	Underfilling of positions.
R166-18	Sec. 1	284.468	Standards for performance of work.
	Sec. 2	284.576	Catastrophic leave: Use and administration; appeal of denial.
R175-18	Sec. 1		Amends Chapter 284 to add sections 2 and 3.
	Sec. 2	NEW	“Gender identity or expression” defined.

Sec. 3	NEW	“Sexual orientation” defined.
Sec. 4	284.010	Definitions.
Sec. 5	284.114	Affirmative action program and equal employment opportunity.
Sec. 6	284.374	Active lists: Removal and reactivation of names; no requirement or refusal to consider certain persons.
Sec. 7	284.470	Preparation, filing, contents, discussion and distribution of reports; powers and duties of employees; review; adjustment of grievances.
Sec. 8	284.602	Resignations.
Sec. 9	284.718	Confidential records.
Sec. 10	284.726	Access to confidential records.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Department of Administration, Division of Human Resource Management, 209 East Musser Street, Suite 101, Carson City, Nevada 89701, Attention: Frank Richardson. Written submissions must be received by the Division of Human Resource Management on or before December 7, 2018. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted and amended will be on file at the Nevada State Library, Archives and Public Records, 100 North Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additionally, copies of this notice and the regulations to be adopted and amended will be available at the Division of Human Resource Management, 100 North Stewart Street, Suite 200, Carson City, Nevada, and 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada; and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption and amendment of any regulation, the agency, if requested to do so by an interested person, either before adoption and amendment, or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and amendment, and incorporate therein its reason for overruling the consideration urged against its adoption and amendment.

This notice of hearing has been posted at the following locations:

Carson City

Blasdel Building, 209 East Musser Street

Nevada State Library & Archives Building, 100 North Stewart Street

Legislative Counsel Bureau, 401 South Carson Street

Las Vegas

Grant Sawyer Building, 555 East Washington Avenue

Websites

Legislative Counsel Bureau website: www.leg.state.nv.us

Nevada Public Notice website: <http://notice.nv.gov>

Division of Human Resource Management website: www.hr.nv.gov

EXPLANATIONS OF PROPOSED CHANGES
LCB File No. R163-18

Section 1: NEW Restoration 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.

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 restored 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.

Section 2: NAC 284.058 “Eligible person” defined.

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.”

Section 3: NAC 284.108 “Trial period” defined.

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.

Section 4: NAC 284.444 Application of probationary period.

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

Section 5: NAC 284.448 Time not counted toward completion of probationary period.

This amendment makes a conforming change based on the amendments proposed in other sections of this LCB File.

EXPLANATIONS OF PROPOSED CHANGES
LCB File No. R164-18

Section 1: NAC 284.172 Rate of pay: Effect of promotion.

This amendment, proposed by the Division of Human Resource Management, allows an appointing authority to request an accelerated rate under NAC 284.204 for an employee that is receiving a promotion.

Section 2: NAC 284.204 Adjustment of steps within same grade: Conditions for approval; request; effective date; revocation.

This amendment, proposed by the Division of Human Resource Management, removes subparagraph (c) of subsection 1, which requires maintenance of an appropriate differential, not to exceed two steps, between the base rate of pay of a supervisor and the base rate of pay of an employee of that supervisor. The intent of this amendment is to maintain equity and consistency across State agencies.

Section 3: NAC 284.206 Special adjustments to pay.

This amendment makes conforming changes based on the amendments proposed in other sections of this LCB File.

Section 4: NAC 284.360 Certification and provision of certain lists by Division of Human Resource Management; certification of eligible persons on ranked or unranked lists or waiver of lists.

This amendment will allow the Administrator of the Division of Human Resource Management to make a determination to certify a list of eligible applicants who are not ranked, or to waive the list, in addition to the three options included in subsection 6 of the regulation.

Section 5: NAC 284.374 Active lists: Removal and reactivation of names; no requirement or refusal to consider certain persons.

This amendment, proposed by the Division of Human Resource Management, clarifies that the 12-month period to refuse to consider an eligible person who has been subject to discipline includes decisions by a hearing officer or decisions by any reviewing court.

Section 6: NAC 284.437 Underfilling of positions.

This amendment, proposed by the Division of Human Resource Management, will allow the underfill of a position at any level in a series. An appointing authority may use his or her discretion to underfill a position at or below the journey level. However, an appointing authority must obtain the approval of the Division of Human Resource Management to underfill those positions above the journey level in the series. This changes the current process which only allows a position to be underfilled at or below the journey level.

EXPLANATIONS OF PROPOSED CHANGES
LCB File No. R166-18

Section 1: NAC 284.468 Standards for performance of work.

This amendment, proposed by the Division of Human Resource Management, revises the terms previously used to define “job elements,” to include the new terms to be used in a revised process to complete reports on performance of State of Nevada classified employees.

Section 2: NAC 284.576 Catastrophic leave: Use and administration; appeal of denial.

This amendment, proposed by the Division of Human Resource Management, will no longer require agencies to report on the nature of the disability.

EXPLANATIONS OF PROPOSED CHANGES
LCB File No. R175-18

Section 1: Chapter 284 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Section 2: NEW “Gender identity or expression” defined.

This amendment, proposed by the Legislative Counsel Bureau, defines “Gender identity or expression” for the purposes of Chapter 284 of the Nevada Administrative Code, to have the meaning ascribed to it in NRS 0.034.

Section 3: NEW “Sexual orientation” defined.

This amendment, proposed by the Legislative Counsel Bureau, defines “Sexual orientation” for the purposes of Chapter 284 of the Nevada Administrative Code, to have the meaning ascribed to it in NRS 0.055.

Section 4: NAC 284.010 Definitions.

This amendment incorporates the two new definitions proposed in this file (e.g. “Gender identity or expression” defined and “Sexual orientation” defined) into the General Provisions pertaining to Chapter 284 of the Nevada Administrative Code.

Section 5: NAC 284.114 Affirmative action program and equal employment opportunity.

This amendment makes a conforming change based on the proposed addition of the definition, “Gender identity or expression” defined.

Section 6: NAC 284.374 Active lists: Removal and reactivation of names; no requirement or refusal to consider certain persons.

This amendment, proposed by the Division of Human Resource Management, makes a conforming change to reference an employee’s “personnel file” to refer instead to a “record of employment.” Throughout this LCB File, the new term, “record of employment,” is intended to be broader than the “personnel file,” as it will contain information held either by a State of Nevada agency or the Division of Human Resource Management.

Section 7: NAC 284.470 Preparation, filing, contents, discussion and distribution of reports; powers and duties of employees; review; adjustment of grievances.

This amendment, proposed by the Division of Human Resource Management, makes a conforming change to reference an employee’s “file” to refer instead to a “record of employment.”

Section 8: NAC 284.602 Resignations.

This amendment, proposed by the Division of Human Resource Management, makes a conforming change to reference an employee’s “file” to refer instead to a “record of employment.”

Section 9: NAC 284.718 Confidential records.

This amendment, proposed by the Division of Human Resource Management, clarifies that information either held by the Division or an agency is not public record and will not be released unless specifically allowed in NAC 284.726.

This amendment also adds several types of information to be included in an employee's record of employment. In addition, this amendment makes several housekeeping changes.

Section 10: NAC 284.726 Access to confidential records.

This amendment, proposed by the Division of Human Resource Management, broadens access to confidential records among State of Nevada agencies. As the State of Nevada is one employer under State and federal employment laws, this will allow ease in sharing information, including but not limited to, information related to health and disability information, leave balances, and performance. Agencies will still be able to limit access to this information using security protocols built into the human resource management data systems.