

**PROPOSED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R166-18

September 10, 2018

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

AUTHORITY: §1, NRS 284.065, 284.155 and 284.335; §2, NRS 284.065, 284.155, 284.3626 and 608.0198.

A REGULATION relating to the State Personnel System; revising the job elements of an employee's position upon which a standard of performance of work is based; clarifying that any catastrophic leave taken by certain employees related to domestic violence counts toward the total hours of certain leave such an employee is entitled to take related to domestic violence; revising certain information concerning the donation and use of catastrophic leave that an appointing authority is required to provide to the Administrator of the Division of Human Resource Management of the Department of Administration; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the appointing authorities of the various state departments, agencies and institutions to: (1) establish standards of work performance for each class of positions; and (2) provide each employee with a copy of the standards for his or her position. (NRS 284.335) Existing regulations provide that a standard for the performance of work is a written statement prepared on a form prescribed by the Division of Human Resource Management of the Department of Administration of the results or behavior expected of an employee when the job elements of the employee's position are satisfactorily performed. (NAC 284.468) **Section 1** of this regulation revises the job elements of positions.

Existing law requires an employer to provide certain hours of leave to an employee who has been employed by the employer for at least 90 days and: (1) who is a victim of an act which constitutes domestic violence; or (2) whose family or household member is a victim of an act which constitutes domestic violence that is not alleged to have been perpetrated by the employee. Specifically, existing law provides that such an employee is entitled to 160 hours of leave during a 12-month period and specifies that such leave may be paid or unpaid. That leave may be used: (1) for treatment of a health condition related to the act of domestic violence; (2) to obtain counseling or assistance related to the act of domestic violence; (3) to participate in any court proceedings related to the act of domestic violence; or (4) to establish a safety plan. (NRS 608.0198) Existing law additionally authorizes each appointing authority to establish an account for catastrophic leave. Existing law authorizes an employee who is affected by a catastrophe and

has used all of his or her accrued annual, sick and compensatory time to request that the appointing authority transfer a specified number of hours of leave from the account for catastrophic leave to his or her account for his or her personal use. (NRS 284.3621, 284.3622, 284.3623) Existing law defines a catastrophe to include a serious illness which is life threatening or which will require a lengthy convalescence. (NRS 284.362; NAC 284.575) Existing regulations prescribe certain requirements for the appointing authority to approve such a request. (NAC 284.576) **Section 2** of this regulation clarifies that any hours of catastrophic leave used by an employee who has been employed in the Executive Department of the State Government for at least 90 days for a catastrophe which resulted from the employee being a victim of domestic violence, or from an immediate family member being a victim of an act which constitutes domestic violence and the employee is not the perpetrator, count toward the 160 hours of leave related to domestic violence in a calendar year to which the employee is entitled under existing law. However, **section 2** does not limit the number of hours that the employee may receive as catastrophic leave for the serious illness that resulted from the act of domestic violence. Such an employee is authorized by existing law to take 1,040 hours of catastrophic leave in a calendar year. (NRS 284.3622)

Existing law requires each appointing authority to report certain information concerning the use of an account for catastrophic leave to the Administrator of the Division of Human Resource Management of the Department of Administration. (NRS 284.3625; NAC 284.576) **Section 2** removes a requirement that each appointing authority provide information regarding the period and nature of the disability for each employee using catastrophic leave.

Section 1. NAC 284.468 is hereby amended to read as follows:

284.468 1. A standard for the performance of work is a written statement prepared on a form prescribed by the Division of Human Resource Management of the results or behavior, or both, expected of an employee when the job elements of the employee's position are satisfactorily performed under existing working conditions. Standards are required for all classified positions.

2. The appointing authority is responsible for ensuring that each position has standards and that each employee is evaluated using those standards. The supervisor has responsibility for establishing the initial standards, but the employee must be given the opportunity to provide comments when the standards for his or her position are revised.

3. The appointing authority has final approval of the standards for a position.

4. Standards must be reviewed annually and amended when appropriate.

5. Each employee must be provided with a copy of the standards for his or her position.

6. As used in this section, “job elements” means ~~the principal assignments, job tasks, goals, objectives, responsibilities or related factors, or any combination thereof.~~ :

(a) Quality of work;

(b) Quantity of work;

(c) Work habits;

(d) Relationships with other persons;

(e) Taking action independently;

(f) Meeting work commitments;

(g) Analyzing situations and materials; and

(h) If supervising the work of other persons is part of the responsibilities of an employee, supervising the work of other persons.

Sec. 2. NAC 284.576 is hereby amended to read as follows:

284.576 1. An account for catastrophic leave may be established for an employee when he or she or a member of his or her immediate family experiences a catastrophe and the employee has used all of his or her accrued leave.

2. An employee who is affected by a catastrophe and has used or is about to use all of his or her leave may request, on the appropriate form, the transfer of leave to an account for catastrophic leave for his or her personal use after the balance of all of his or her leave has been used. Such a request must be accompanied by a statement from a physician on a form provided by the Committee on Catastrophic Leave created pursuant to NRS 284.3627 which substantiates the necessity of the leave.

3. When a member of the immediate family of an employee is affected by a catastrophe, the appointing authority of the employee may require substantiating evidence that the member of the immediate family requires the employee's attendance before approving the transfer of leave to an account for catastrophic leave for use by the employee. Such evidence may include a statement by an attending physician regarding the status of the catastrophe.

4. The appointing authority shall approve or deny a request for catastrophic leave, taking into consideration the nature of the catastrophe and the expected duration of the leave. The decision of the appointing authority may be appealed to the Committee on Catastrophic Leave pursuant to NRS 284.3629.

5. *Any hours of catastrophic leave used by an employee who has been employed in the public service for at least 90 days for a catastrophe which resulted from the employee being a victim of an act which constitutes domestic violence, or from an immediate family member being a victim of an act which constitutes domestic violence and the employee is not the alleged perpetrator, count toward the 160 hours of leave in a 12-month period to which the employee is entitled pursuant to NRS 608.0198.*

6. An employee who wishes to donate hours to an account for catastrophic leave for use by another employee who has been approved to receive the donated hours shall notify his or her appointing authority on the appropriate form of his or her intent to donate the leave. The appointing authority of the employee donating the leave shall submit a copy of the form to the appointing authority of the employee receiving the leave. The appointing authority of the recipient shall use the notice to effect a transfer of leave from the account of the donor to the account of the recipient when the recipient needs to use those hours. If more than one notice of intent to donate leave is received by the recipient's appointing authority on behalf of the

recipient, the notices must be maintained in chronological order and used, one at a time as needed, according to the date in which they were received.

~~{6.}~~ 7. A donor and his or her appointing authority must be notified on the appropriate form when the donated leave specifically designated for use by another employee has been used or if the amount of leave donated is in excess of the amount approved for use by the recipient. Except as otherwise provided in this subsection, excess leave must be restored to the account of the donor within 30 working days after the last day on which the recipient was eligible to receive catastrophic leave. If the donor is separated from state service before the excess leave is restored pursuant to this subsection, the excess leave must be transferred to the account for catastrophic leave of the appointing authority of the donor when the donation of leave was made.

~~{7.}~~ 8. The appointing authority shall ~~provide the following information on a calendar year basis~~ *annually*, or as requested by the Administrator ~~{.}~~, *provide to the Administrator:*

(a) ~~{Each employee under its authority, identified by a number}~~ *The number of each employee who donates or uses catastrophic leave* assigned in accordance with subsection 8 ~~{.}~~ ~~donating or using catastrophic leave, his or her}~~; *and*

(b) *The* grade and rate of pay and the number of hours and dollar value of the leave donated, excluding any excess leave restored to the account of a donor, pursuant to subsection ~~{6.}~~ 7, or used by ~~{the}~~ *each such* employee. ~~{.}~~ ~~and~~

~~—(b) The period and nature of the disability for each employee using catastrophic leave.~~

~~—8.}~~ 9. The appointing authority shall assign numbers to employees for the purposes of subsection ~~{7}~~ 8 in a sequential order and in such a manner that ensures the confidentiality of the identity of those employees.

~~19.~~ **10.** Hours donated to an account for catastrophic leave must be donated in increments of 8 hours.

~~10.~~ **11.** As used in this section, “immediate family” has the meaning ascribed to it in NAC 284.562.