

# PROPOSED REGULATION OF THE PERSONNEL COMMISSION

## LCB File No. R068-19

January 15, 2020

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

AUTHORITY: §§1 and 4, NRS 284.065, 284.155 and 284.290; §2, NRS 284.065, 284.155, 284.290 and 284.300; §3, NRS 281.145, 284.065, 284.155, 284.290 and 284.345.

A REGULATION relating to the State Personnel System; revising provisions relating to the probationary period or trial period for employees in the State Personnel System; and providing other matters properly relating thereto.

### Legislative Counsel's Digest:

Existing law requires an employee in the State Personnel System to complete a fixed probationary period before receiving the status of a permanent employee. (NRS 284.290) Existing regulations prescribe: (1) the length of this probationary period; and (2) the manner in which requirements concerning this probationary period apply to employees. (NAC 284.442, 284.444) Existing regulations require a permanent employee to serve a trial period if the employee has been promoted to or voluntarily transfers to a vacant position. (NAC 284.108, 284.444) **Section 1** of this regulation specifies the duration of the trial period based on classes. **Section 2** of this regulation authorizes the appointing authority to waive the trial period required for a permanent employee who voluntarily transfers within the same class or from one class to another comparable class. **Section 2** requires this waiver to be in writing and provides that if such a waiver is granted, the employee is entitled to the status of appointment held at the time he or she transferred. **Section 2** also makes a non-substantive change to the order of the provisions relating to the application of a probationary period.

Existing regulations specify the manner in which certain types of leave, status or service count toward the completion of any probationary period for an employee in the State Personnel System. (NAC 284.448) **Section 3** of this regulation clarifies the manner in which such leave, status or service count toward the completion of a trial period for an employee in the State Personnel System.

Existing regulations prescribe criteria for the adjustment of a probationary period if a probationary employee: (1) has not, during his or her prescribed probationary period, worked the required number of months established for the probationary period; or (2) changes from working full-time to part-time or the reverse. (NAC 284.450) **Section 4** of this regulation applies the same rules to a permanent employee serving a trial period.

**Section 1.** NAC 284.442 is hereby amended to read as follows:

284.442 All classes at grade 20 or higher must be assigned a 1-year (full-time equivalent) probationary period ~~or~~ *or trial period*. All classes lower than grade 20 will be assigned a 6-month (full-time equivalent) probationary period ~~or~~ *or trial period*.

**Sec. 2.** NAC 284.444 is hereby amended to read as follows:

284.444 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 must serve a trial period if he or she voluntarily transfers:

- (a) Within the same class; or
- (b) From one class to another class and such classes are comparable classes ~~or~~,

*↪ unless the trial period is waived in writing by the appointing authority. If the appointing authority waives the trial period, the employee is entitled to the status of appointment held at the time he or she transferred.*

3. ~~{An employee who transfers from the unclassified or nonclassified service to the classified service must serve}~~ *Promotion to a vacant position requires* 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.}~~ *or trial period. A promotion that results from a reclassification is governed by NAC 284.134 and 284.138.*

4. *Except as otherwise provided in subsection 11:*

- (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.*

5. 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.

~~15.1~~ 6. A probationary employee who is reappointed must serve a new probationary period.

~~16.1~~ 7. A permanent employee who is reappointed to a class:

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

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

~~17.1~~ 8. 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.

~~18.1~~ 9. 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.

~~19.1~~ 10. 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.

~~{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.~~

~~—11. Except as otherwise provided in subsection 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.~~

~~—12.} **11.** 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.~~

*12. 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.*

**Sec. 3.** NAC 284.448 is hereby amended to read as follows:

284.448 The following types of leave or temporary status do not count toward the completion of any probationary period ~~{~~ *or trial period:*

1. Authorized military leave for active service, as set forth in subsection ~~{9} 10~~ of NAC 284.444.

2. Authorized military leave for training beyond the 15 paid working days authorized by NRS 281.145 during a 12-month period, as prescribed in NAC 284.5875.

3. Except as otherwise provided in NAC 284.580, any leave without pay and catastrophic leave, combined, in excess of 240 hours or, in the case of an exempt classified employee, 30 working days, in a year if the regular work schedule of the employee is 80 hours or less biweekly. If the regular work schedule of an employee is more than 80 hours biweekly, the employee must be allotted additional leave without pay and catastrophic leave in proportion to the number of hours his or her regular work schedule exceeds 80 hours biweekly. As used in this subsection, “year” means a period equal to 12 months of full-time equivalent service measured backward from the employee’s pay progression date.

4. Time which is served in a temporary position pursuant to NAC 284.414.

5. Any hours worked which exceed 40 in a week.

**Sec. 4.** NAC 284.450 is hereby amended to read as follows:

284.450 1. Except as otherwise provided in NAC 284.448, if a probationary employee *or a permanent employee serving a trial period* has not, during his or her prescribed probationary period ~~or~~ *or trial period*, worked the required number of months (full-time equivalent) which are established for the probationary period *or trial period* for the class, his or her probationary period *or trial period* must be extended until he or she has worked the required number of months.

2. An employee who changes from working full-time to part-time or the reverse will have his or her probationary period *or trial period* adjusted to equal the required number of months of service which are applicable to the probationary period *or trial period* of the class.