

**PROPOSED REGULATION OF THE  
PERSONNEL COMMISSION**

**LCB FILE NO. R017-211**

**The following document is the initial draft regulation proposed  
by the agency submitted on 07/01/2021**

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

**Explanation of Proposed Change:** Senate Bill 51 of the 2021 Legislative Session (SB 51) amends Chapter 284 of the Nevada Revised Statutes to create the Sex- and Gender-based Harassment and Discrimination Investigation Unit and places into law various requirements of the Division of Human Resource Management and agency appointing authorities.

SB 51 allows the Administrator of the Division of Human Resource Management to make a decision to release any information related to a report of sex- or gender-based harassment or discrimination. This amendment codifies the process an employee must use to appeal the disclosure of any information related to a report of sex- or gender-based harassment or discrimination.

*NEW Appeal of determination to release confidential records.*

*1. Pursuant to section 5 of Senate Bill 51 of the 2021 Legislative Session, an employee affected by a decision by the Administrator to disclose any information related to a report of sex- or gender-based harassment or discrimination that identifies the employee as the person who reported the allegation, a person who is the subject of such a report or a person who claims to have witnessed an employee being harassed or discriminated against based on his or her sex or gender, shall be notified at least 10 days before ordering the release of the information.*

*2. A person who receives notice pursuant to subsection 1 may, within 10 days after receipt of a determination to disclose the information, file a written appeal of the decision with the Commission. The appeal must:*

- (a) Be in writing;*
- (b) Be addressed to the Administrator;*
- (c) Address the points outlined in the decision regarding the disclosure of the information; and*
- (d) Indicate the points with which the appellant disagrees and express the reasons for the disagreement.*

**NAC 284.726 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Senate Bill 51 of the 2021 Legislative Session (SB 51) amends Chapter 284 of the Nevada Revised Statutes to create the Sex- and Gender-based Harassment and Discrimination Investigation Unit and places into law various requirements of the Division of Human Resource Management and agency appointing authorities.

This amendment, proposed by the Division of Human Resource Management, amends NAC 284.726 to include the exception provided in SB 51 that allows the Administrator of the Division of Human Resource Management to make a decision to release any information related to a report of sex- or gender-based harassment or discrimination.

The amendment also changes the term “sexual harassment” to “sex- and gender-based harassment” based on the amendment to the definition in NAC 284.0995.

**NAC 284.726 Access to confidential records. (NRS 284.065, 284.155, 284.335, 284.4066, 284.4068, 284.407)**

1. Except as otherwise provided in this subsection and subsections 2 and 11, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority's decision to hire that person is limited to the appointing authority or his or her designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of subparagraph (2) of paragraph (a) of subsection 1 of NAC 284.204, information relating to the education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.

2. Except as otherwise provided in subsection 11 and NRS 284.4068, access to information concerning the results of an applicant's screening test which indicate the presence of a controlled substance is limited to an appointing authority or his or her designated representative and the Administrator or his or her designated representative.

3. Except as otherwise provided in subsections 11 and 12, access to an employee's record of employment containing any of the items listed in paragraphs (g) to (j), inclusive, of subsection 1 of NAC 284.718 is limited to:

(a) The employee.

(b) The employee's representative when a signed authorization from the employee is presented or is in his or her record of employment.

(c) An appointing authority or his or her designated representative.

(d) Persons who are authorized pursuant to any state or federal law or an order of a court.

(e) The State Board of Examiners if the Board is considering a claim against the State of Nevada filed pursuant to chapter 41 of NRS which involves the employee.

(f) Persons who are involved in processing records for the transaction of business within and between state agencies.

(g) Persons who are involved in processing records for the transaction of business that is authorized by the employee.

4. The portion of an employee's record of employment that concerns the health, medical condition or disability of the employee or a member of his or her immediate family must be kept in a locked cabinet, separate from any other portion of the employee's record of employment.

5. Except as otherwise provided in subsection 11, access to any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct is limited to:

(a) The employee.

(b) The Administrator or a designated representative of the Administrator.

(c) The appointing authority or a designated representative of the agency with which the employee is employed.

(d) Persons who are authorized pursuant to any state or federal law or an order of a court.

(e) The Governor or a designated representative of the Governor.

6. Except as otherwise provided in *section 6 of Senate Bill 51 of the 2021 Legislative Session and* subsections 11 and 12 *of this section*, access to any notes, records, recordings or findings of an investigation conducted by the Division of Human Resource Management relating to ~~sexual~~ *sex- and gender-based* harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority is limited to:

(a) An appointing authority.

(b) A designated representative of the agency with which the employee is employed.

(c) Persons who are authorized pursuant to any state or federal law or an order of a court.

(d) The Governor or a designated representative of the Governor.

7. Except as otherwise provided in subsections 11 and 12, access to any notes, records, recordings, findings or other information obtained from an internal study conducted by an agency that directly relate to an employee's performance or conduct is limited to:

(a) The employee.

(b) The appointing authority or a designated representative of the agency with which the employee is employed.

(c) Persons who are authorized pursuant to any state or federal law or an order of a court.

(d) The Governor or a designated representative of the Governor.

8. Except as otherwise provided in subsections 11 and 12, access to any notes, records, recordings, findings or other information obtained from an internal administrative investigation conducted pursuant to NRS 284.387 is limited to:

(a) The employee who is the subject of the internal administrative investigation and who requests a hearing pursuant to NRS 284.390.

(b) The appointing authority or a designated representative of the agency by which the employee who is the subject of the internal administrative investigation is employed.

(c) Persons who are authorized pursuant to any state or federal law or an order of a court.

(d) The Governor or a designated representative of the Governor.

9. Except as otherwise provided by specific statute, records maintained by an employee assistance program offered by the State of Nevada must not be released without written permission signed by the employee to whom the records pertain.

10. Upon request, the Division of Human Resource Management will provide the home address of any employee maintained by the Division of Human Resource Management in the employee's record of employment to the Division of Welfare and Supportive Services of the Department of Health and Human Services, the Department of Employment, Training and Rehabilitation and the Internal Revenue Service.

11. The Administrator or the appointing authority, or a designated representative, shall authorize the release of any confidential records under his or her control which are requested by the Employee-Management Committee, a hearings officer, the Commission, the Committee on Catastrophic Leave created pursuant to NRS 284.3627, the Nevada Equal Rights Commission, the United States Equal Employment Opportunity Commission or a court.

12. The appointing authority or a designated representative of the agency with which the employee is employed shall authorize the release of any confidential records under his or her control which are requested by the Division of Human Resource Management for the purpose of conducting a ~~sexual~~ *sex- and gender-based* harassment or other discrimination investigation.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R024-05, 10-31-2005; R141-07, 1-30-2008; R065-09, 10-27-2009, R059-10, 10-15-2010; R137-12 & R045-13, 10-23-2013; R044-15; 12-21-2015; R175-18, 1-30-2019; R018-19 & R124-19, 6-8-2020)

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