

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB FILE NO. R134-22I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/29/2022**

Explanation of Proposed Change: The following amendment, proposed by the Division of Human Resource Management, will allow for agencies to maintain the assignment of duties and responsibilities to a position in question through the reclassification process, rather than needing to allocate those duties to other positions.

Section 1. NAC 284.126 is hereby amended to read as follows:

NAC 284.126 Creation of new class, reclassification of position or reallocation of existing class. (NRS 284.065, 284.155)

1. For the purposes of this section:

(a) "Agency personnel officer" means the Director of Personnel within the Nevada System of Higher Education or any person holding a position in the classified service with the title of Personnel Officer.

(b) "Significant change" means a change in the duties and responsibilities assigned to a position in a class that:

- (1) Is outside of the scope of the class as described by the class specification;
- (2) Is not part of the scope of responsibility of the position; and
- (3) Results in the preponderance of duties and responsibilities being allocated to a different class.

2. If an appointing authority or an employee proposes the creation of a new class, a reclassification of a position to a different class or the reallocation of an existing class based upon a gradual accumulation of duties and responsibilities which results in a significant change and is intended to be permanent, the Division of Human Resource Management or agency personnel officer must be notified on the appropriate form. If the creation, reclassification or reallocation is approved, the Division of Human Resource Management will allocate the position to one of the existing classes in the classification plan or to a new, revised or reallocated class as appropriate.

3. The effective date of the classification decision will be the date on which form NPD-19 is received by the Division of Human Resource Management or agency personnel officer unless information that substantially affects the decision concerning the creation, reclassification or reallocation is received after this date. In that case, the effective date will be the date on which the appropriate information necessary to make the decision is received. However, the subsequent receipt of an application or examination score that confirms the qualifications of an incumbent will not have a bearing on the effective date. If the form was prepared but delayed due to an administrative or clerical error, the effective date must be determined by the appointing authority and must be based upon the date on which the form should reasonably have been submitted to the Division of Human Resource Management or agency personnel officer. In no case, however, may a retroactive adjustment because of an administrative or clerical error exceed 6 months after the date of receipt.

4. If an agency makes or anticipates making a significant change in the duties for a position or the agency anticipates a reorganization which will require the reclassification of an existing position, the reallocation of an existing class or the creation of a new class, it shall advise the Budget Division of the Department of Administration or, in the case of the Nevada System of Higher Education, the budget division of the applicable institution. The proposed change may not be required of an employee nor be submitted to the Division of Human Resource Management until funding for it is approved. If the change is approved by the Division of Human Resource Management, the effective date will be determined by the Budget Division.

5. In effecting a reclassification pursuant to subsection 2 or 4, the appointing authority must review and take into consideration the organizational structure and the qualifications of the incumbent before assigning new duties to a position which are intended to be permanent. No position will be reclassified to a higher grade through the individual classification process if the incumbent does not meet the minimum qualifications for the higher level position ***† or is unable to meet the minimum qualifications of the position as an underfill within one year of the reclassification date.*** If an employee does not ***or will not*** meet the minimum qualifications to reclassify his or her position, the employee is not eligible for promotion, but may be eligible for a special adjustment to his or her pay pursuant to NAC 284.206.

6. The establishment of a new class or reallocation of a class in an occupational study which results in a fiscal cost becomes effective when the funding is provided by the Legislature in the biennial operating budget for this State.

7. From the date on which the Division of Human Resource Management formally announces the beginning of an occupational study until the date on which the occupational study becomes effective:

(a) An existing position in the occupational study that has a significant change may only be reclassified to an existing class.

(b) An existing class in the occupational study must not be reallocated to a different grade.

(c) A new position may be allocated to an existing class or a new class as determined by the Division of Human Resource Management.

8. The Division of Human Resource Management may reclassify a position, absent significant change, if it is determined that a position was classified incorrectly or if a position's classification is more consistent with a class that was either subsequently created or revised.

[Personnel Div., Rule II § D subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 8-14-90; 12-26-91; 11-16-95; 10-27-97; R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002; R038-03, 10-30-2003)

Explanation of Proposed Change: The Division of Human Resource Management (DHRM) continues to identify positions that have been misclassified either at their initial classification, through agency reorganization or loss of staff, positions were missed during occupational group studies, or positions would be more appropriately classified in series' that have subsequently been created. The following amendment, proposed by DHRM, will allow DHRM to reclassify these positions, absent significant change, when they became vacant so an incumbent would not adversely be affected if a downward reclassification was recommended.

Sec. 2. NAC 284.130 is hereby amended to read as follows:

NAC 284.130 Investigations of classifications. (NRS 284.065, 284.155)

1. The Division of Human Resource Management may investigate the classification of any existing position on the written request of an appointing authority or an employee or on its own initiative.

2. *If an existing position has been identified as being misclassified, the agency shall submit to the Division of Human Resource Management the required information to effect the correct classification of the position upon such position becoming vacant.*

[Personnel Div., Rule II § E, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

Explanation of Proposed Change: The following amendment, proposed by the Division of Human Resource Management, will change all deadlines related to appeals of refusal to examine or certify to calendar days for consistency.

NAC 284.3745 Refusal to examine applicant or certify eligible person: Review of action; appeal. (NRS 284.065, 284.155, 284.245)

1. An applicant affected by a refusal to examine the applicant or an eligible person affected by a refusal to certify the eligible person may request a review of the action by the supervisor of recruitment of the Division of Human Resource Management not later than 30 calendar days after the applicant or eligible person receives notification of the refusal to examine or the refusal to certify, as applicable.

2. The supervisor of recruitment of the Division of Human Resource Management shall conduct the review and return it to the applicant or eligible person within 10 *calendar* days after receipt of the request for review. If the applicant or eligible person is not satisfied with the review by the supervisor of recruitment of the Division of Human Resource Management, the applicant or eligible person may request that the Administrator provide, in accordance with NRS 284.245, a statement of the reasons for the refusal to examine or the refusal to certify, as applicable. Such a request must be made within 30 calendar days after receipt of the response by the supervisor of recruitment.

3. An applicant or eligible person may, within 30 ~~working~~ *calendar* days after receipt of the statement of the Administrator provided pursuant to subsection 2, appeal the decision to the Commission. The appeal must:

- (a) Be in writing;
- (b) Be addressed to the Administrator;
- (c) Address the points outlined in the statement issued pursuant to subsection 2 regarding the refusal to examine or certify the applicant or eligible person; and
- (d) Indicate the points in the statement with which the applicant or eligible person disagrees and express the reasons for the disagreement.

(Added to NAC by Personnel Comm'n by R100-16, eff. 11-2-2016; A by R039-17, 10-31-2017)