

PROPOSED REGULATION OF THE DEPARTMENT OF PERSONNEL

**NOTICE OF WORKSHOP**  
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS  
and  
**NOTICE OF HEARING**  
for  
**THE ADOPTION, AMENDMENT AND REPEAL**  
of  
**REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

**Workshop Notice:** The Department of Personnel, 209 E. Musser Street, Carson City, Nevada, telephone number (702) 687-4050, is proposing the adoption, amendment and repeal of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

**A workshop has been set for 9:30 a.m. on May 15, 1998,** at the Grant Sawyer Building, 555 E. Washington Street, Room 1412, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the proposed changes to the following sections of the Nevada Administrative Code.

<b>ACTION</b>	<b>NAC REGULATION</b>
Interpretation of working day for leave.	NEW
Special adjustments to salaries.	284.206
Compensation for differentials in shifts.	284.210
Longevity pay: Dates of payment and eligibility.	284.274
Preparation of reports.	284.470
Causes for disciplinary action.	284.650
Appeal of grievance to higher level.	284.682

A copy of all materials relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 E. Musser Street, Room 300, Carson City, Nevada, telephone number (702) 687-4050, or 555 E. Washington Avenue, Suite 1200, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

**Hearing Notice:** The Personnel Commission will hold a public hearing at 9:30 a.m. on June 11, 1998, Legislative Building, 401 South Carson Street, Room 3161, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations. 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.

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations should not result in any 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.
- A statement of the need for and purpose of the proposed regulations precedes the text of each regulation included in the attached document.

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, view or arguments, in written form, to Phil Hauck, Department of Personnel, 209 E. Musser Street, Room 101, Carson City, Nevada 89701-4204. **Written submissions must be received by the Department of Personnel on or before May 18, 1998.**

A copy of this notice and the regulations to be adopted and amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted and amended will be available at the Department of Personnel, 209 East Musser, Room 300, Carson City, Nevada, or at the Department of Personnel, 555 East Washington Avenue, 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. The text of each regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal. Copies 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 of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The notice of the Workshop and Hearing has been posted at the following locations:

CARSON CITY

Blasdel Building, 209 E. Musser Street  
 Carson City Court House, 198 N. Carson Street  
 Capitol Press Corps, Basement Capitol Building  
 Nevada State Library, 100 Stewart Street  
 Capitol Building

LAS VEGAS

Grant Sawyer State Office Building  
 555 East Washington Avenue

ALL STATE AGENCIES

ALL NEVADA COUNTY PUBLIC LIBRARIES

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***NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 E. Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Linda Meyers at 687-3718, no later than five working days prior to the meeting.***

LCB File No. R065-98

PROPOSED REGULATION OF THE DEPARTMENT OF PERSONNEL

Section 1. Section 4 of LCB File No. R031-98, which was adopted by the director of the Department of Personnel and was filed with the Secretary of State on April 17, 1998, is hereby amended to read as follows:

Explanation of Change: This amendment to the regulation approved at the March Personnel Commission meeting is proposed by the Department of Personnel to define "working day" when determining the amount of sick leave granted to an employee.

As used in NRS 284.350 and 284.355, the director will interpret "working day: to mean a period of work consisting of 8 hours.

Section 2. NAC 284.206 is hereby amended to read as follows:

**Explanation of Change:** This amendment proposed by the Department of Personnel is intended to standardize pay practices by providing for a percentage adjustment when the new personnel/payroll system is implemented. We currently provide for percentage increases to base pay when an employee is in standby status or performing dangerous duty.

**284.206 Special adjustments to salaries.**

1. Except as otherwise provided in subsection 6, the department of personnel may approve a special adjustment to a salary equivalent to one grade to recognize conditionally:

(a) An employee who works out of his class on a continuing basis and who performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase the employee must:

(1) Be assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification; and

(2) Carry out the duties for at least 16 consecutive workdays before the increase becomes effective.

The adjustment in salary must not continue for more than 6 months in any 12-month period unless the person is underfilling a position pursuant to NAC 284.437 and recruitment has failed to produce a sufficient number of applicants on the appropriate list.

(b) An employee required to use bilingual skills or sign language for the deaf at least 10 percent of his work time.

(c) An employee supervising other employees of the same or a higher grade if the supervision is not of a program or function which is provided for in the specification of the class.

(d) An employee of the mental hygiene and mental retardation division of the department of human resources or the division of child and family services of the department of human

resources or of the department of prisons which provides mental health services to inpatients, who is required regularly to perform custodial work and clean up human bodily wastes, or, if his principal place of work is located in an assaultive environment as determined by the administrator, to provide medical treatment, maintain buildings, instruct academic courses or provide therapy. The adjustment will be:

- (1) Granted only when such duties are not required of the class as a whole; and
- (2) Granted only once although the employee performs more than one duty described in this paragraph.

Except as otherwise provided in this paragraph, such an employee who is assigned to the unit located in an assaultive environment for 1 or more hours but who is not assigned there permanently must also receive the adjustment for each hour and portion thereof he works in the unit. An excluded classified employee who is assigned to the unit located in an assaultive environment for any portion of a workday but who is not assigned there permanently must receive the adjustment for all of his regularly scheduled hours of employment on that workday.

(e) Except as otherwise provided in this paragraph, an employee who conducts a formal program of training for employees in an occupational class series. The training must:

- (1) Be conducted weekly;
- (2) Consist of training on the job and in the classroom or training only in the classroom;
- (3) Include a test to determine the employee's progress in the program; and
- (4) Result in the award of a certificate of completion or advancement in a training class series to the journey level.

If granted, the adjustment begins when the employee starts conducting the program of training and ends when the program is completed. An adjustment will not be granted if the duty to conduct training is clearly set forth in the class specification. Informal orientation given to new employees in a class series will not be considered for this special adjustment.

(f) An investigator of the state industrial insurance system who is required by his appointing authority to carry a concealed weapon and to investigate threats of violence against employees of the agency and who has been authorized by the appropriate law enforcement agency to carry a concealed weapon.

(g) A law enforcement officer who is assigned to motorcycle duty.

(h) An employee of the department of prisons who regularly supervises, or is responsible for the supervision of, a group of inmates assigned to a work area of a prison and who is responsible for implementing security procedures, including, without limitation, securing the work area from inmates who are not authorized to enter, accounting for all inmates who have been assigned to the work area and accounting for all materials, tools and equipment in the work area. This adjustment will be granted only if such duties are not provided for in the class specification.

(i) An employee who occupies a position in which the duties have been recognized pursuant to a position questionnaire as being at a higher level, but who does not meet the minimum qualifications for promotion to the new grade. The special adjustment may continue in effect from the date the position is reclassified or the position questionnaire is received:

- (1) Until the employee meets the minimum qualifications and is promoted;
- (2) For 1 year after the effective date of the special salary adjustment; or
- (3) Until the date the higher level duties are removed,

whichever occurs first.

2. A request for a special adjustment to a salary made pursuant to this section may be initiated by an employee, the appointing authority or the department of personnel.

3. A special adjustment authorized by this section does not constitute a promotion.

4. Any special adjustment made pursuant to subsection 1 must be revoked when the conditions justifying it cease to exist.

5. Except as otherwise provided in this section, the effective date of a special adjustment to a salary is the date the appropriate document is received by the department of personnel. If a special adjustment to a salary is delayed because an administrative or clerical error prevented the delivery of a prepared document to the department, the effective date must be determined by the appointing authority and must be based on the date the document should reasonably have been submitted to the department of personnel. A retroactive adjustment due to administrative or clerical error must not exceed 6 months from the date of receipt of the document.

**6. Commencing with the initial use of an integrated computerized financial system by the state controller and the department of transportation to process payroll, the department of personnel may approve a special adjustment pursuant to subsection 1, in an amount equivalent to 5 percent of the employee's regular hourly rate. For the purposes of paragraph (b) of subsection 2 of NAC 284.170. "present level of salary" shall be deemed to equal the amount that coincides with the half step within the grade which is closest to, but does not exceed, the employee's salary after the special adjustment.**

Section 3. NAC 284.210 is hereby amended to read as follows:

**Explanation of Change:** This amendment proposed by the department of Personnel is intended to standardize pay practices by providing for a percentage adjustment when the new personnel/payroll system is implemented. We currently provide for percentage increases to base pay when an employee is in standby status or performing dangerous duty.

**284.210 Compensation for differentials in shifts.**

1. Except as otherwise provided in this **subsection** section, compensation equivalent to an adjustment of one grade must be authorized for an employee for all hours worked within a work shift if the employee is assigned to a qualifying shift. An excluded classified employee who is assigned to a qualifying shift for any portion of a workday must receive such compensation for all of his regularly scheduled hours of employment on that workday.

2. One shift qualifies an employee to receive the compensation.

3. The compensation applies during the time when an employee is on sick and annual leave, holidays and other leave with pay if the employee is still assigned to that shift when the leave is taken.

4. Any hours exceeding the qualifying 8-hour shift are eligible for overtime at the differential rate of pay for that shift if they are worked by an employee other than an excluded classified employee, in conjunction with, immediately before or following the shift.

5. A qualifying shift, including the times at which the shift started and ended, must be clearly designated on the employee's time sheet and approved by the employee's supervisor.

**6. Commencing with the initial use of an integrated computerized financial system by the state controller and the department of transportation to process payroll the amount of the adjustment to compensation authorized by subsection 1 must be equivalent to 5 percent of the employee's regular hourly rate.**

**[6.]7.** As used in this section, "qualifying shift" means a scheduled period of work of at least 8 hours, of which 4 hours must fall within the hours from 6 p.m. to 7 a.m.

Section 4.

The director of the department of personnel will publicly declare the date on which the state controller and the department of transportation have commenced using an integrated computerized financial system to process payroll.

Section 5. NAC 284.274 is hereby amended to read as follows:

**Explanation of Change:** This amendment proposed by the Department of Personnel places responsibility for the payment of an employee's longevity pay with the agency where the employee is employed when he becomes eligible for the longevity payment.

**284.274 Longevity pay: Dates of payment and eligibility.**

1. Payments for longevity will be made every July and December.
2. The dates upon which employees become eligible for the semiannual payments are December 31 and June 30.
3. Except as otherwise provided in NAC 284.282, employees who are eligible and have not been separated from state service as of these dates will receive longevity pay.
4. **Effective as of January 1, 1999**, an agency is responsible for the payment of longevity pay due an employee if that employee is employed by the agency on the date the **[longevity worksheet authorizing the payment is required to be submitted to the central payroll section of the department of personnel]** **employee becomes eligible for the semiannual payment.**

Section 6. NAC 284.470 is hereby amended to read as follows:

**Explanation of Change:** This amendment proposed by the Department of Personnel is intended to address those conditions when an employee is unavailable for a discussion of his report of performance.

**284.470 Preparation of reports.**

1. A person shall not complete a report of performance unless he has completed the training provided or approved by the director concerning the preparation of a report on performance.
2. A report of performance must be prepared on the form prescribed by the department of personnel.

3. When a report of performance is given which rates the performance of an employee as substandard, it must contain a written notice that such reports affect both adjustments in salary based on merit and the employee's eligibility for longevity pay. More frequent reports may be made in the supervisor's discretion.

4. Except as provided in subsection 5, the preparation of each report of performance must include a discussion between the employee and his immediate supervisor. The employee shall complete and sign the appropriate section on the report of performance within 10 working days after the discussion takes place and return the report to his supervisor for forwarding to the appointing authority. If the employee disagrees with the report of performance and requests a review, he must respond and identify the specific points of disagreement, if such specificity is provided. The reviewing officer shall respond within 10 working days after receiving the request.

**5. The provisions of subsection 4 do not apply to an employee who is unavailable for a discussion of the report of performance due to an absence. In such a case, the report must be mailed to the employee. The employee must review and respond to the report of performance within 10 working days of receipt unless there is a mutual agreement with the supervisor to extend the time period. If the employee disagrees with the report of performance and requests a review, he must respond and identify the specific points of disagreement, if such specificity is provided. The reviewing officer shall respond within ten working days after receiving the request unless there is a mutual agreement with the employee to extend the time period. For the purposes of this subsection, the date of receipt of a performance evaluation or a requested review is the third day after it is postmarked for delivery.**

**5]6.** A copy of each report of performance must be filed with the department of personnel.

Section 7. NAC 284.650 is hereby amended to read as follows:

**Explanation of Change:** The following amendment is proposed by the Department of Personnel based on the recommendation of the workplace violence committee reviewing this issue.

**284.650 Causes for disciplinary action.**

Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violate a provision of NAC 284.653 or 284.738 to 284.771, inclusive.
2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.
3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.
4. Discourteous treatment of the public or fellow employees while on duty.
5. Incompetence or inefficiency.
6. Insubordination or willful disobedience.
7. Inexcusable neglect of duty.

8. Fraud in securing appointment.
9. Prohibited political activity.
10. Dishonesty.
11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.
12. Drug or alcohol abuse as described in NRS 284.4062 and NAC 284.884.
13. Conviction of any criminal act involving moral turpitude.
14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription, or any other illegally used substances while on duty and performing a function that does not involve the operation of a motor vehicle.
15. Unauthorized absence from duty or abuse of leave privileges.
16. Violation of any rule of the commission.
17. Falsification of any records.
18. Misrepresentation of official capacity or authority.
19. The suspension, revocation, or cancellation of the driver's license of an employee if the possession of a valid driver's license is required to perform an essential function of his job.
20. Violation of any safety rule adopted or enforced by the employee's appointing authority.
21. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his appointing authority. As used in this subsection, "workplace" means any building, office, or location specifically intended to serve as a place where work is performed by an employee during the course of a workday, including irregular shifts. The term does not include parking lots, garages, or vehicle depots, unless those areas constitute an employee's usual and customary worksite, or locations that serve as both living quarters and worksites, except when the living quarters are also used to care for children pursuant to a state program or as otherwise authorized by the state.

**22. Threatening, stalking, battering, intimidating or other acts of violence against state employees or members of the public arising out of or in the course of their work.**

Section 8. NAC 284.682 is hereby amended to read as follows:

**Explanation of Change:** This amendment proposed by the Department of Personnel is intended to clarify when the time frame begins for the purpose of filing a grievance at the next step in the grievance procedure.

**284.682 Appeal of grievance to higher level.**

1. If the correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the department of personnel determines that the submission of the grievance to the supervisor would be a useless act, the aggrieved employee may appeal directly to the next appropriate level.

2. An employee has 10 working days to refer his grievance to the next level after **it is formally received at each step in the grievance process or** he receives notification of the action at each step in the procedure.

3. The time limit for the grievance procedure may be extended by agreement of the parties.

**4. For the purposes of NAC 284.682 through NAC 284.695, the 10 working days commence with the first working day after the grievance is formally received at each step of the grievance process. The date of formal receipt is the date the grievant or his chosen representative signs the grievance form or statement and personally delivers or faxes it to the next level of supervision or three days after the date of the postmark if it is mailed.**