

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R065-98

May 19, 1998

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

AUTHORITY: §§1-12, NRS 284.155; §§2-4, NRS 284.175; §5, NRS 284.335; and §6, 284.383.

Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

For the purposes of NAC 284.682, 284.686 and 284.690, a grievance is deemed to have been received at each step in the grievance procedure:

- 1. On the date on which the employee or his chosen representative personally delivers the grievance or transmits it by facsimile machine; or*
- 2. If the employee mails the grievance, the third day after the date on which the grievance was postmarked.*

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

284.206 1. ~~[The]~~ *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 to a salary 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.

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

284.210 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.*

7. As used in this section, "qualifying shift" means a 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.

Sec. 4. NAC 284.274 is hereby amended to read as follows:

284.274 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. 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.*

Sec. 5. NAC 284.470 is hereby amended to read as follows:

284.470 1. A person shall not complete a report on performance unless he has completed the training provided or approved by the director concerning the preparation of a report on performance.

2. A report on performance must be prepared on the form prescribed by the department of personnel.

3. When a report on performance is given which reports the rating of 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. [The] *Except as otherwise provided in subsection 5, the* preparation of each report on performance must include a discussion between the employee and his immediate supervisor.

[The employee shall] *If the employee agrees with the report on performance, he must* complete and sign the appropriate section on the report on 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 on 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 *to the employee* within 10 working days after receiving the request.

5. *If an employee is unavailable for a discussion of the report on performance pursuant to subsection 4 because of an extended absence, the immediate supervisor of the employee shall cause the report to be mailed to the employee. If the employee agrees with the report on performance, he must complete and sign the appropriate section on the report and mail the report to his supervisor for forwarding to the appointing authority within 10 working days after the date on which the employee received the report, unless the employee and his supervisor mutually agree to extend the period during which the employee must respond. If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing and identify any specific point of disagreement, if the report provides such specificity. The employee must mail his response to his supervisor within 10 working days after the date on which the employee received the report, unless the employee and his supervisor mutually agree to extend the period during which the employee must respond. The reviewing officer shall respond to the employee in writing within 10 working days after the reviewing officer receives the request for review from the employee, unless the reviewing officer and the employee mutually agree to extend the period during which the reviewing officer must respond. For the purposes of this subsection, a report on performance or request for review is deemed to have been received on the third day after the date on which the report or request is postmarked.*

6. A copy of each report on performance must be filed with the department of personnel.

Sec. 6. NAC 284.650 is hereby amended to read as follows:

284.650 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 violates 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 a professional or occupational license, certificate or permit or driver's license if the possession of the professional or occupational license, certificate or permit or driver's license is a requirement of the position at the time of appointment as stated in the standards of work performance, essential functions or specification of class for the position, or in other documentation provided to the employee at the time of appointment, or required thereafter pursuant to federal or state law.
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, without limitation, irregular shifts. The term does not include parking lots, garages, or vehicle depots, unless those areas constitute an employee's usual and customary work site, or locations that serve as both living quarters and work sites, 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. Any act of violence, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery, which arises out of or in the course of the performance of the employee's duties.

Sec. 7. NAC 284.682 is hereby amended to read as follows:

284.682 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 [he] :

(a) He receives notification of the action ; or

(b) The passage of 10 working days after the receipt of his grievance, whichever occurs first, at each step in the procedure.

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

Sec. 8. NAC 284.686 is hereby amended to read as follows:

284.686 1. If, within 10 working days after the [delivery of his statement to] *receipt of an employee's grievance by* his immediate supervisor, the employee has not received satisfactory relief, he may forward the grievance to the head of the major division of the department in which he works. In those cases where a department is not subdivided into divisions, he may forward his request directly to the highest administrator in the department.

2. Additional managers or supervisors may become involved or a review committee may make a recommendation to the administrator of the agency.

Sec. 9. NAC 284.690 is hereby amended to read as follows:

284.690 1. If the employee has not received satisfactory relief within 10 working days after the [delivery] receipt of his grievance [to] by the head of the division, he may file his grievance with the highest administrator of the department. The administrator may hold a hearing within 10 working days after receiving the employee's grievance.

2. The highest administrator may render a decision following the hearing or allow the grievance to be forwarded directly to the committee within 10 working days.

3. In rendering a decision concerning a performance evaluation, an administrator shall address the findings of fact to the specific points of disagreement referred to in the grievance of the employee.

4. Within the established time limitations, the highest administrator may appoint a person or committee composed of managers and employees to assist in the finding of facts and recommending a course of action.

Sec. 10. Section 4 of LCB File No. R031-98, which was adopted by the department of personnel and filed with the secretary of state on April 17, 1998, is hereby amended to read as follows:

Sec. 4 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.

Sec. 11. For the purposes of subsections 6 of NAC 284.206 and 284.210, the director of the department of personnel shall publicly declare the date on which the state controller and the department of transportation have commenced using an integrated computerized financial system to organize and maintain payroll.

Sec. 12. Section 4 of this regulation becomes effective on January 1, 1999.