

**PROPOSED REGULATION OF
THE LABOR COMMISSIONER**

LCB File No. R152-98

September 27, 1998

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

AUTHORITY: §§2-8, NRS 613.225.

Section 1. Chapter 613 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 8, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Participant” means a person who is employed pursuant to a welfare-to-work program.*

Sec. 4. *“Welfare-to-work program” means a program described in 20 C.F.R. § 645.220 (b)(3) or (4).*

Sec. 5. *An employer shall not employ a participant in a position:*

1. That is the same or substantially equivalent to a position within the same organizational unit which was vacated by an employee who was laid off with the right to be recalled to work;

2. That is the same or substantially equivalent to a position within the same organizational unit for which the employer has caused an involuntary reduction in the hours of work of an employee to less than full time;

3. *For which a vacancy was created by the employer terminating the employment of an employee for the purpose of hiring a participant; or*

4. *For which an involuntary reduction in the work force of the employer was caused for the purpose of hiring a participant.*

Sec. 6. 1. *An employee or participant may request a hearing before the labor commissioner to determine whether an employer has violated the provisions of section 5 of this regulation. The request must be submitted to the labor commissioner on a form provided by him not later than 60 days after the alleged violation occurred.*

2. *The hearing must be conducted in the manner prescribed in NRS 607.205 to 607.215, inclusive.*

Sec. 7. 1. *The labor commissioner may require the employee or participant who requested a hearing pursuant to section 6 of this regulation and the employer who allegedly violated the provisions of section 5 of this regulation to appear before him for an informal resolution of the controversy at a location within the county where the employee or participant resides.*

2. *The employee or participant and the employer may be represented by counsel at the informal hearing.*

3. *An informal hearing conducted pursuant to this section must not be recorded. Any matter discussed or material presented at the informal hearing may not be admitted into evidence at a subsequent formal hearing. The labor commissioner will inform all parties at the beginning of the informal hearing that such material or discussion may not be used at a subsequent formal hearing.*

4. *The holding of an informal hearing does not prevent the labor commissioner from requiring a formal hearing.*

5. *If the labor commissioner determines that the matter cannot be not resolved at the informal hearing, he will conduct a formal hearing to resolve the matter.*

Sec. 8. *If the labor commissioner determines, after notice and a hearing is held pursuant to section 6 of this regulation, that the employer has violated the provisions of section 5 of this regulation, the labor commissioner may:*

1. *Order the employer to reinstate the employee immediately to his former position, without the loss of seniority or benefits, and pay to the employee the wages lost by the employee as a result of the violation;*

2. *Suspend the payments that the employer is entitled to receive for his participation in the welfare-to-work program; or*

3. *Prohibit the employer from participating in the welfare-to-work program.*