

**PROPOSED REGULATION OF THE
DEPARTMENT OF PERSONNEL**

LCB File No. R058-01

July 25, 2001

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

AUTHORITY: §§1, 2, 4, 6 and 7, NRS 284.155; §§3, 5, 8 and 9, NRS 284.155 and 284.175; §10, NRS 284.155 and 284.345; §§11-13, NRS 284.155 and 284.407.

Section 1. Chapter 284 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Dating or sexual relationship” means a relationship between two adult persons that involves consensual sexual relations or may reasonably lead to consensual sexual relations.*

Sec. 3. 1. *Except as otherwise provided in NAC 284.530:*

(a) If the shift of an employee includes any part of 2 consecutive calendar days and the majority of the hours worked by the employee during that shift occur on a legal holiday, the employing agency shall:

*(1) Designate the entire shift as being composed of hours worked on a legal holiday;
and*

(2) Ensure that the hours worked during that shift are so designated on the applicable timesheet of the employee.

(b) An employee is entitled to holiday premium pay for all hours worked during a shift which is designated pursuant to paragraph (a) as being composed of hours worked on a legal

holiday, except that, with respect to each legal holiday, no more than one shift that includes any part of that legal holiday may be so designated for each employee.

2. As used in this section, “holiday premium pay” means compensation at the rate of one and one-half times an employee’s regular rate of pay.

Sec. 4. NAC 284.010 is hereby amended to read as follows:

284.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 284.022 to 284.112, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 5. NAC 284.278 is hereby amended to read as follows:

284.278 1. Except as otherwise provided in subsection ~~3, an eligible part-time employee, or an eligible full-time employee who works less than full time for a portion of the 6-month qualifying period, is entitled to receive longevity pay based on the following formula:~~

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~~The number of
hours worked~~

~~_____ X _____ longevity increment = longevity payment for 6 months
1044 hours~~

~~2. Except as otherwise provided in subsection 3, an employee whose regularly scheduled work shift is more than 40 hours per week or 80 hours biweekly is entitled to receive longevity pay based on the following formula:~~

~~The number of hours
worked during 6-month
qualifying period
_____ X longevity increment = longevity payment for 6 months
Total scheduled work
hours during 6-month
qualifying period~~

~~3. Prorated longevity pay for an eligible part-time or full-time excluded classified employee or eligible part-time or full-time excluded unclassified employee must be calculated using the following formula:~~

~~The number of 8-hour days
worked during 6-month
qualifying period
_____ X longevity increment = longevity payment for 6 months
130.5 days~~

~~4.] 2, longevity pay for classified employees and unclassified employees must be calculated based on the following formula:~~

*The number of hours
worked during the 6-month
qualifying period*

_____ X longevity increment = longevity payment for the 6-month period
Total full-time equivalent
hours for the pay class
during the 6-month
qualifying period

2. Longevity pay for excluded classified employees and excluded unclassified employees must be calculated based on the following formula:

The number of 8-hour days
worked during the 6-month
qualifying period

_____ X longevity increment = longevity payment for the 6-month period
Total full-time equivalent
days for the pay class during
the 6-month qualifying period

3. For the purpose of this section, the department of personnel will designate pay classes and full-time equivalent hours or full-time equivalent days for each pay class.

4. As used in this section, “hours ~~[]~~ worked” does not include overtime hours unless ~~an~~ employee:

~~—(a) Is working~~ :

(a) The full-time equivalent hours for the pay class of the employee is more than 40 hours per week ~~f~~;

~~—(b) The overtime hours are part of his regularly scheduled hours; and~~

~~—(c)] or 80 hours biweekly; and~~

(b) Payment for the overtime hours is compensation, as defined in NRS 286.025.

Sec. 6. NAC 284.375 is hereby amended to read as follows:

284.375 1. Except as otherwise provided in subsection 2 and NRS 281.210, an appointing authority shall not appoint a person to a position in the classified service on or after :

(a) October 1, 1996, if, upon his appointment, the person will be the immediate supervisor, or will be in the direct line of authority, of:

~~[(a)] (1)~~ A spouse, child, parent or sibling of the person;

~~[(b)] (2)~~ The spouse of a child, parent or sibling of the person; or

~~[(c)] (3)~~ An aunt, uncle, niece, nephew, grandparent, grandchild or first cousin of the person.

(b) The effective date of this regulation, if, upon his appointment, the person will be the immediate supervisor, or will be in the direct line of authority, of a person with whom he is in a dating or sexual relationship.

2. An appointing authority may adopt a written policy authorizing the appointment of persons to a position or class of positions ~~[in violation of]~~ *that would otherwise violate the provisions of* subsection 1 if the appointing authority determines that, for the positions for which the policy applies, the enforcement of the provisions of subsection 1 will be impracticable and cause an undue hardship to the appointing authority. In making this determination, the

appointing authority may consider, among other factors, the difficulty in recruiting applicants for the positions for which the policy applies.

3. A written policy adopted pursuant to subsection 2 ~~[must:~~

~~—(a) Be]:~~

(a) Must not violate the provisions of NRS 281.210; and

(b) Is not effective unless approved by the commission . ~~]; and~~

~~—(b) Comply with the provisions of NRS 281.210.~~

~~—4. If]~~

4. Upon the approval by the commission of a written policy ~~[which is]~~ adopted by the appointing authority pursuant to this section , ~~[is approved by the commission,]~~ the appointing authority shall provide a copy of the policy to each employee who is appointed to a position for which the policy applies.

Sec. 7. NAC 284.377 is hereby amended to read as follows:

284.377 1. ~~[If]~~ *Except as otherwise provided in NRS 281.210, if* employees of an appointing authority become related *or become involved in a dating or sexual relationship* in such a manner that, if the relationship had existed when the employees were appointed, the appointing authority would have been prohibited from appointing one of those employees pursuant to NAC 284.375 , ~~[for a policy developed pursuant to NAC 284.375,]~~ the appointing authority shall ensure that, as soon as practicable after the employees become related ~~[]~~ *or become involved in a dating or sexual relationship,* the employees do not continue to hold positions in which one of the employees is the immediate supervisor, or is in the direct line of authority, of the other employee.

2. Employees who become related *or become involved in a dating or sexual relationship* after they have been appointed to their positions as described in subsection 1 shall, within 10 working days after they become related ~~[]~~ *or become involved in a dating or sexual relationship*:

- (a) Notify the appointing authority of the relationship; and
- (b) Submit to the appointing authority a recommendation for action to be taken by the appointing authority to ensure that the employees do not continue to hold positions in which one of the employees is the immediate supervisor, or is in the direct line of authority, of the other employee.

3. In determining the manner in which to comply with the provisions of subsection 1, the appointing authority is not required to accept a recommendation submitted pursuant to subsection 2.

Sec. 8. NAC 284.526 is hereby amended to read as follows:

284.526 1. For the purpose of this section, “paid status” means the time an employee is working, is on leave approved pursuant to NAC 284.580 or is on leave with pay, excluding overtime hours or catastrophic leave.

2. A full-time employee working other than a standard work week is entitled to the same number of paid holidays as a full-time employee working the equivalent standard work week.

3. Except as otherwise provided in subsections 11 and 12, a full-time employee who works 40 hours per week, does not work on a holiday and is in paid status during any portion of his scheduled shift immediately before the holiday is entitled to receive 8 hours of holiday pay.

4. Except as otherwise provided in subsections 11 and 12, a full-time employee who works more than 40 hours per week or 80 hours biweekly, is not scheduled to work on a holiday and is

in paid status during any portion of his scheduled shift before the holiday is entitled to receive an amount of holiday pay equal to the pay received for his average workday. The average workday of an employee is determined by dividing the total scheduled hours of work per year by 2,088 and multiplying the quotient by 8. For the purposes of this subsection, a fireman assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.

5. Except as otherwise provided in ~~[subsection]~~ *subsections* 11 and 12, an employee ~~[who is scheduled to work on a holiday and]~~ who works any portion of ~~[his scheduled shift]~~ *a legal holiday* is eligible to receive holiday pay in the amount provided in subsection 3 or 4. ~~[The]~~ *An* employee *who works an innovative work week* is entitled to earn additional holiday pay on an hour-for-hour basis for any hours worked in addition to the period represented by the holiday pay ~~[if the hours are worked as part of the employee's normally scheduled shift.]~~ *up to the number of hours of his established workday.* Any hours worked ~~[in addition to the normally scheduled shift]~~ *by the employee that exceed his established workday* do not qualify for additional holiday pay.

6. An employee who works on a holiday must be in paid status on that holiday for the amount of time which is the difference between the time represented by his holiday pay and his normal work schedule for that holiday. If the employee has not worked enough hours to be in paid status, he must use sick leave, annual leave ~~[.]~~ or compensatory time to make up the difference.

7. Except as otherwise provided in subsection 11, an employee who is scheduled to work on a holiday, but does not work, is eligible for holiday pay in the manner provided in subsection 3 or 4.

8. A full-time employee whose employment begins on a holiday is entitled to receive holiday pay in accordance with subsection 3 or 4 if he is in paid status during his scheduled shift.

9. A full-time employee whose regular schedule of work is more than 8 hours, but who has the day off because of a holiday, may use annual leave, *use* compensatory ~~leave,~~ *time* or have his schedule adjusted for the amount of time in excess of the holiday pay to which he would be entitled pursuant to subsection 3 or 4. An employee who does not elect to use annual leave or compensatory time and whose schedule is not adjusted may, with the approval of the appointing authority, be placed on a leave of absence without pay.

10. An employee working a part-time standard, nonstandard or innovative work week must be paid holiday pay if:

(a) The holiday falls on a scheduled workday; and

(b) He is in paid status during his scheduled shift immediately before the holiday or on the holiday if his employment begins on that day.

FLUSH The amount of holiday pay must not exceed 8 hours but must otherwise equal what he would have been paid if there had not been a holiday.

11. An employee scheduled to work on a holiday who fails to report his absence to his supervisor or a designated representative as required by NAC 284.590 is not entitled to receive compensation for the holiday.

12. An employee whose employment is terminated:

(a) The day before the holiday is not entitled to receive compensation for the holiday.

(b) On a holiday on which he is working must be paid an amount for the holiday in proportion to the time he actually worked on the holiday. When an employee gives notice to

terminate on a holiday and is not scheduled to work on the holiday, the last day worked or in paid leave status is his date of termination.

13. An employee who transfers the day before a holiday becomes an employee of record in the new agency on the holiday and is entitled to receive compensation for the holiday from the new agency. An employee who transfers from an agency at the end of a shift on a holiday is entitled to receive compensation for the holiday from the previous agency.

14. An employee whose employment is not full-time employment is entitled to be paid holiday pay as provided in subsection 10.

15. Subsections 1 to 14, inclusive, do not apply to an excluded classified employee or excluded unclassified employee. The salary of an excluded classified employee or excluded unclassified employee must not be reduced solely because a holiday occurs on a scheduled workday of that employee.

Sec. 9. NAC 284.530 is hereby amended to read as follows:

284.530 1. *In addition to any holiday pay pursuant to NAC 284.526, if an employee works overtime hours on a legal holiday, the employee is entitled to holiday premium pay pursuant to section 3 of this regulation or overtime, but not both, for the actual hours of overtime worked on that legal holiday.*

2. An employee, other than an excluded classified employee or excluded unclassified employee, must receive either time and one-half cash payment or time and one-half compensatory time for holidays worked.

~~2~~ 3. An employee entitled to a cash payment pursuant to subsection ~~H~~ 2 who works on a holiday may elect to receive compensatory time off for the holiday in lieu of any cash payment pursuant to NAC 284.526 if such an election does not exceed the limits on compensatory time

imposed by NAC 284.250. All hours in excess of those limits must be paid in cash. The provisions of this subsection do not apply to a fireman who works a 24-hour shift.

Sec. 10. NAC 284.589 is hereby amended to read as follows:

284.589 1. An appointing authority may grant administrative leave with pay to an employee:

(a) To relieve him of his duties during the active investigation of a suspected criminal violation or the investigation of an alleged wrongdoing;

(b) For up to 2 hours to donate blood; or

(c) To relieve him of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.

2. Except as otherwise provided in subsection 3, an appointing authority or the department of personnel may grant administrative leave with pay to an employee for any of the following purposes:

(a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the state but which do not require him to participate or attend in his official capacity as a state employee.

(b) Closure of the employee's office or worksite caused by a natural disaster or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

(c) His appearance as an aggrieved employee or a witness at a hearing of the committee.

(d) His appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the department of personnel.

(e) His appearance to provide testimony at a meeting of the commission.

3. An appointing authority or the department of personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (c), (d) or (e) of subsection 2 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed for him to testify at the hearing or meeting;

(b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and

(c) The absence of the employee will not cause an undue hardship to the operations of his appointing authority or adversely impact the provision of services to clients or to the public.

4. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:

(a) The initial appointment and one follow-up appointment if the employee receives counseling through the employee assistance program.

(b) His attendance at a wellness fair which has been authorized by the ~~risk management division of the department of administration~~ *board of the public employees' benefits program*.

(c) His participation in an official capacity as a member of a committee or board created by statute on which he serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.

(d) Up to 8 hours for preparation for hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656.

Sec. 11. NAC 284.718 is hereby amended to read as follows:

284.718 1. The following types of information, which are maintained by the department of personnel or the personnel office of an agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished to the department of personnel on the condition that the source remain confidential;

(b) Any document which is used by the department of personnel or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(d) Materials used in examinations, including suggested answers for oral examinations;

(e) *Records and files maintained by the employee assistance program;*

(f) Reports by employers, appointing authorities ~~(f)~~ or law enforcement officials concerning the hiring, promotion ~~(f)~~ or background of applicants, eligible persons ~~(f)~~ or employees;

~~(f)~~ (g) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;

~~(g)~~ (h) Any information contained on a person's application or relating to his status as an eligible person; and

~~(h)~~ (i) Information in an employee's file or record of employment which relates to his:

(1) Performance;

(2) Conduct, including any disciplinary actions taken against him;

(3) Race, ethnic identity or affiliation, sex, disability, or date of birth; or

(4) Home telephone number.

2. If the employee has requested that his personal mailing address be listed as confidential, his file must be so designated and list his business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

- (a) The employee dies; or
- (b) The employee signs a release.

Sec. 12. NAC 284.726 is hereby amended to read as follows:

284.726 1. Except as otherwise provided in this subsection, 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 designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of paragraph (b) 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 3, access to an employee's file of employment containing any of the items listed in paragraphs ~~[(e) to (h),]~~ (f) to (i), 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 employment file.
- (c) The appointing authority or a designated representative of the agency by which the employee is employed.
- (d) The director of the department of personnel or his designated representative.

(e) An appointing authority, or his designated representative, who is considering the employee for employment in his agency.

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

(g) 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.

3. Information concerning the health, medical condition or disability of an employee or a member of his immediate family must be kept separate from the employee's file in a locked cabinet. Access to such information is limited to the employee, his current supervisor, and the appointing authority or his designated representative.

4. *Except as otherwise provided by specific statute, records maintained by the employee assistance program must not be released without written permission signed by the employee to whom the records pertain.*

5. Upon request, the department of personnel will provide the personal mailing address of any employee on file with the department to the state controller's office and the Internal Revenue Service.

~~6.~~ 6. The director or the appointing authority, or his designated representative, shall authorize the release of any confidential records under his control which are requested by the committee, a hearings officer, the commission, the Nevada equal rights commission or a court. If the director or his designated representative determines that the release of any confidential record is not necessary for those purposes, the decision may be appealed.

Sec. 13. NAC 284.884 is hereby amended to read as follows:

284.884 1. ~~Except as otherwise provided in subsections 2 and 3, an employee must not have a concentration of alcohol in his blood or breath greater than .05 gram by weight of alcohol~~

~~per 100 milliliters of his blood or per 210 liters of his breath while on duty. Disciplinary action may be taken by the appointing authority who has a reasonable belief that an employee is under the influence of alcohol or drugs in accordance with the provisions of NAC 284.888 if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .05 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty.~~

~~—2.] An employee [who is required to be certified by the peace officers’ standards and training commission] must not have a concentration of alcohol in his blood or breath greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty. Disciplinary action may be taken by the appointing authority [who has a reasonable belief that an employee is under the influence of alcohol or drugs] in accordance with the provisions of NAC [284.888] 284.638 to 284.656, inclusive, if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty.~~

~~{3.— An employee who is required to have a commercial driver’s license or to transport people on a regular basis as a primary function of his job must not have a concentration of alcohol in his blood or breath greater than .04 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty. Disciplinary action may be taken by the appointing authority who has a reasonable belief that an employee is under the influence of alcohol or drugs in accordance with the provisions of NAC 284.888 if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .04 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty.~~

~~4.1~~ 2. A positive result on a screening test of a person's breath must be confirmed by a second screening test. The second screening test must be conducted immediately after receipt of the positive result of the first screening test.