

**LCB File No. R069-02**

**PROPOSED REGULATION OF THE  
DEPARTMENT OF PERSONNEL**

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

**Workshop Notice:** The Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada, telephone number (775) 684-0119, is proposing the permanent adoption, amendment or repeal of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

**A workshop has been set for 9:00 a.m. on May 22, 2002,** at the Nevada Department of Transportation, Room 302, 1263 South Stewart Street, Carson City, Nevada and via video conference at the Nevada Department of Transportation, Training Room A, 123 East Washington Avenue, Las Vegas, Nevada.

**ACTION:**

**NAC REGULATION**

Sections proposed for permanent amendment

Creation of new class, reclassification of position or reallocation of existing class 284.126	
Special adjustments to pay	284.206
Compensation for differentials in shifts	284.210
Active lists: Removal and reactivation of names; refusal to consider certain persons	284.374
Use of lists and consideration of eligible persons	284.378
Preparation and discussion of reports; request for review	284.470
Annual leave: Records	284.540
Catastrophic leave: Voluntary repayment for hours used	284.577

Section proposed for repeal

Sick leave: Records	284.570
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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 East Musser Street, Room 300, Carson City, Nevada, telephone number (775) 684-0119, or 555 East Washington Avenue, Suite 1400, 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 9:00 a.m. on July 2, 2002,** at the Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada and by video conference at the Legislative Building, Room 4100, 401 South

Carson Street, 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 the 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, views or arguments, in written form, to Phil Hauck, Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204. **Written submissions must be received by the Department of Personnel on or before June 12, 2002.**

A copy of this notice and the regulations to be adopted, amended, or repealed will be on file at the State Library and Archives, 100 North 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, amended, or repealed will be available at the Department of Personnel, 209 East Musser Street, Room 300, Carson City, Nevada, or at the Department of Personnel, 555 East Washington Avenue, Suite 1400, 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 adoption, 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 principle 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 East Musser Street  
Nevada State Library and Archives, 100 North Stewart Street  
Capitol Building, Main Floor  
Legislative Building, Room 4100, 401 South Carson Street  
NDOT, Room 302, 1263 South Stewart Street

**LAS VEGAS**

Grant Sawyer State Office Building  
555 East Washington Avenue  
  
NDOT, Training Room A,  
123 East Washington Avenue

**ALL STATE AGENCIES**

**ALL NEVADA COUNTY PUBLIC LIBRARIES**

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**NOTE:** We are pleased to make reasonable accommodations for individuals 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 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Debra Berry at (775) 684-0110, no later than five working days prior to the meeting.

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## PROPOSED REGULATION OF THE DEPARTMENT OF PERSONNEL

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

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies that the effective date of a classification decision will not be impacted by the subsequent receipt of an application or a passing examination score which confirms the qualifications of the incumbent.

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

1. For the purposes of this section:

(a) "Agency personnel officer" means the director of personnel within the University and Community College System of Nevada 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 department of personnel or agency personnel officer must be notified on the appropriate form. If the creation, reclassification or reallocation is approved, the department of personnel 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 will be the date on which form NPD-19 is received by the department of personnel or agency personnel officer unless information ~~concerning the qualifications of the incumbent or information~~ which 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 which confirms the qualifications of the incumbent will not have a bearing on the effective date of the reclassification.* 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 department of personnel 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.

~~3.~~ 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 University and Community College System of Nevada, the budget division of the applicable institution. The proposed change may not be required of an employee nor be submitted to the department of personnel until funding for it is approved. If the change is approved by the department of personnel, the effective date will be determined by the budget division.

~~{4-}~~ 5. In effecting a reclassification pursuant to subsection 2 or 3, 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. If an employee does not meet the minimum qualifications to reclassify his position, he is not eligible for promotion, but may be eligible for a special adjustment to his pay pursuant to NAC 284.206.

~~{5-}~~ 6. The establishment of a new class, or reallocation of a class or a class series based on an occupational study conducted by the department of personnel, becomes effective when the funding is provided by the legislature in the biennial operating budget for this state.

~~{6-}~~ 7. From the date that the department of personnel formally announces the beginning of an occupational study until the date that the occupational study is funded by the legislature:

(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 department of personnel.

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

**Explanation of Proposed Change:** This amendment, proposed by the State of Nevada Employees Association, would continue to grant employees who work for the Department of Human Resources a 5 percent special adjustment for working in an assaultive environment, if they received the adjustment on June 30, 2002. These employees must work in the previously designated assaultive environment no less than ten hours a week. Additionally, nurses and technicians who are currently employed and those employed in the future by the Department of Human Resources, in a previously designated assaultive environment, would receive the special adjustment to pay.

**NAC 284.206 Special adjustments to pay. (NRS 284.155, 284.175)**

1. The department of personnel may approve a special adjustment to pay equivalent to 5 percent of the employee's base rate of pay 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 and responsibilities for at least 16 consecutive workdays before the increase becomes effective.

The adjustment to pay pursuant to this paragraph is effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities. The adjustment

to pay 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. If the employee will be required to carry out the assigned duties and responsibilities of the higher grade for 1 year or less, the appointing authority may request a temporary reclassification pursuant to NAC 284.132.

(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;

(1) Is not part of the supervision or management responsibilities for a program that is provided for in the class specification; and

(2) Includes, without limitation, selection, work assignment, training, work review, performance evaluation and discipline of employees.

(d) An employee:

(1) Who is required regularly to perform custodial work and clean up human bodily waste in a medical, clinical or inpatient facility.

(2) Of the division of mental health and developmental services of the department of human resources or the division of child and family services of the department of human resources:

(I) Who provides mental health services to inpatients;

(II) Whose principal place of work ~~is determined by the administrator of that division~~ *as determined by current practice* to be located in an assaultive environment; and

(III) Who is required to provide medical treatment, maintain buildings, instruct academic courses or provide therapy.

The adjustment to pay pursuant to this paragraph will be granted ~~only when such duties are not required of the class as a whole and~~ *to employees who as of June 30, 2002 received the 5 percent additional pay for working in an assaultive environment and who are physically in the assaultive environment no less than ten hours a week, and granted to all nurses and technicians who work in an assaultive environment.* It will be 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 work in a unit that is designated by the administrator of that division to be located in an assaultive environment for 1 hour or more per shift must also receive the adjustment for each hour and portion thereof that he works in the unit. An exempt classified employee who is assigned to work in a unit that is designated by the administrator to be located in an assaultive environment for any portion of a workday must receive the adjustment for all his regularly scheduled hours of employment on that workday.

(e) Except as otherwise provided in this paragraph, an employee who conducts a formal training program for employees. The training program 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 employees' progress in the program; and

(4) Result in the award of a certificate of completion or advancement in a class series to the journey level.

If an adjustment to pay is granted pursuant to this paragraph, the adjustment begins when the employee starts conducting the training program and ends when the training 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 will not be considered for this special adjustment.

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

(g) An employee of the department of corrections who is responsible for the supervision of a group of inmates assigned to a work area of an institution and who is responsible for implementing security procedures, including, without limitation:

(1) Securing the work area from inmates who are not authorized to enter the work area;

(2) Accounting for all inmates who have been assigned to the work area; and

(3) Accounting for all materials, tools and equipment in the work area.

The adjustment to pay pursuant to this paragraph will be granted only if such duties are not provided for in the class specification.

(h) An employee who is authorized by the legislature to receive such an adjustment to his pay.

2. The department of personnel may approve a special adjustment to the pay of an employee who occupies a position in which the duties have been recognized through the classification process as being at a higher level, but who does not meet the minimum qualifications for the class. The special adjustment to the employee's pay must be equivalent to 2.5 percent of the employee's base rate of pay if the employee performs duties classified one grade higher than his current position, or 5 percent of the employee's base rate of pay if the employee performs duties classified two or more grades higher than his current position. A special adjustment to an employee's pay made pursuant to this subsection may continue in effect from the date on which the position questionnaire is received:

(a) Until the employee meets the minimum qualifications and is promoted;

(b) For 1 year after the effective date of the special adjustment to pay; or

(c) Until the date the higher level duties are removed,

whichever occurs first.

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

4. A special adjustment to pay authorized by this section does not constitute a promotion.

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

6. Except as otherwise provided in this section, the effective date of a special adjustment to pay is the date on which the written request is received by the department of personnel or the personnel office of the agency at which the employee who is receiving the special adjustment to pay is employed. If the request for the special adjustment to pay is delayed because an administrative or clerical error prevented its delivery, the effective date of the special adjustment to pay must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment to pay must not exceed 6 months from the date on which the department of personnel receives the written request.

**Sec. 3. NAC 284.206 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Human Resources, would allow Psychiatric Nurses, Licensed Practical Nurses, Mental Health Technicians, and Developmental Services Technicians in the Department of Human Resources whose duties include direct contact and interaction with clients for at least one-half of their scheduled shift to continue to receive the adjustment until the affected employees' pay, as of June 30, 2002, including the special adjustment, can be offset by pay increases, excluding merit pay increases.

**NAC 284.206 Special adjustments to pay. (NRS 284.155, 284.175)**

1. The department of personnel may approve a special adjustment to pay equivalent to 5 percent of the employee's base rate of pay 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 and responsibilities for at least 16 consecutive workdays before the increase becomes effective.

The adjustment to pay pursuant to this paragraph is effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities. The adjustment to pay 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. If the employee will be required to carry out the assigned duties and responsibilities of the higher grade for 1 year or less, the appointing authority may request a temporary reclassification pursuant to NAC 284.132.

(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;

(1) Is not part of the supervision or management responsibilities for a program that is provided for in the class specification; and

(2) Includes, without limitation, selection, work assignment, training, work review, performance evaluation and discipline of employees.

(d) An employee:

(1) Who is required regularly to perform custodial work and clean up human bodily waste in a medical, clinical or inpatient facility.

(2) Of the division of mental health and developmental services of the department of human resources or the division of child and family services of the department of human resources:

(I) Who ~~provides mental health services to inpatients;~~  
~~— (II) Whose principal place of work is determined by the administrator of that division to be located in an assaultive environment; and~~

~~— (III) Who is required to provide medical treatment, maintain buildings, instruct academic courses or provide therapy.~~

~~The adjustment to pay pursuant to this paragraph will be granted only when such duties are not required of the class as a whole and will be 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 work in a unit that is designated by the administrator of that division to be located in an assaultive environment for 1 hour or more per shift must also receive the adjustment for each hour and portion thereof that he works in the unit. An exempt classified employee who is assigned to work in a unit that is designated by the administrator to be located in an assaultive environment for any portion of a workday must receive the adjustment for all his regularly scheduled hours of employment on that workday.]~~ *is employed as a nurse, mental health technician or developmental services technician in units designated by the division administrator as an acute unit of a psychiatric hospital, or a forensic unit for mentally disordered offenders, or a unit in a mental retardation facility for clients with severe behavioral disorders;*

*(II) Whose work duties include direct contact and interaction with clients for at least one-half of his scheduled work shift; and*

*(III) Who has received a special adjustment to pay for performing certain work in an assaultive environment, as authorized by former subsection 1d.(2), for at least one-half of his working time during the three months immediately prior to June 30, 2002, must have his base rate of pay, as of June 30, 2002, plus the 5 percent adjustment, frozen at that level. The pay will remain frozen until future pay adjustments, excluding merit pay increases, offset the 5 percent adjustment authorized by former subsection 1d.(2) for working in an assaultive work environment.*

(e) Except as otherwise provided in this paragraph, an employee who conducts a formal training program for employees. The training program 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 employees' progress in the program; and
- (4) Result in the award of a certificate of completion or advancement in a class series to the journey level.

If an adjustment to pay is granted pursuant to this paragraph, the adjustment begins when the employee starts conducting the training program and ends when the training 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 will not be considered for this special adjustment.

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

(g) An employee of the department of corrections who is responsible for the supervision of a group of inmates assigned to a work area of an institution and who is responsible for implementing security procedures, including, without limitation:

- (1) Securing the work area from inmates who are not authorized to enter the work area;
- (2) Accounting for all inmates who have been assigned to the work area; and
- (3) Accounting for all materials, tools and equipment in the work area.

The adjustment to pay pursuant to this paragraph will be granted only if such duties are not provided for in the class specification.

(h) An employee who is authorized by the legislature to receive such an adjustment to his pay.

2. The department of personnel may approve a special adjustment to the pay of an employee who occupies a position in which the duties have been recognized through the classification process as being at a higher level, but who does not meet the minimum

qualifications for the class. The special adjustment to the employee's pay must be equivalent to 2.5 percent of the employee's base rate of pay if the employee performs duties classified one grade higher than his current position, or 5 percent of the employee's base rate of pay if the employee performs duties classified two or more grades higher than his current position. A special adjustment to an employee's pay made pursuant to this subsection may continue in effect from the date on which the position questionnaire is received:

- (a) Until the employee meets the minimum qualifications and is promoted;
- (b) For 1 year after the effective date of the special adjustment to pay; or
- (c) Until the date the higher level duties are removed,

whichever occurs first.

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

4. A special adjustment to pay authorized by this section does not constitute a promotion.

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

6. Except as otherwise provided in this section, the effective date of a special adjustment to pay is the date on which the written request is received by the department of personnel or the personnel office of the agency at which the employee who is receiving the special adjustment to pay is employed. If the request for the special adjustment to pay is delayed because an administrative or clerical error prevented its delivery, the effective date of the special adjustment to pay must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment to pay must not exceed 6 months from the date on which the department of personnel receives the written request.

#### **Sec. 4. NAC 284.210 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, would limit eligibility for the shift differential rate of pay to employees assigned to a work unit which provides 24-hour services. A "day shift" employee would only be eligible to receive the shift differential rate of pay if he works 4 or more hours between 6 p.m. and 7 a.m. in addition to working a day shift of at least 8 hours, and would receive the differential rate of pay only for the hours worked between 6 p.m. and 7 a.m., exclusive of his assigned day shift hours worked.

#### **NAC 284.210 Compensation for differentials in shifts. (NRS 284.155, 284.175)**

1. As used in this section ~~["qualifying shift" means a period of work of at least 8 hours, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m.] :~~

*(a) "Day shift" means a period of work of 8 hours or more in which at least half of the hours assigned fall between the hours of 8:00 a.m. and 5 p.m.*

*(b) "Differential rate of pay" means an adjustment in pay equivalent to an additional 5 percent of an employee's normal rate of pay.*

*(c) "Second shift" means a period of work of 8 hours or more in which at least half of the hours assigned fall between the hours of 3:00 p.m. and midnight.*

*(d) "Third shift" means a period of work of 8 hours or more in which at least half of the hours assigned fall between the hours of midnight and 9 a.m.*

2. ~~Except as otherwise provided in this section, an employee must receive compensation equivalent to 5 percent of his normal rate of pay for all hours worked within a shift if the employee works a qualifying shift. If an~~ Only employees who are assigned to a work unit which is required to provide 24-hour services are eligible to receive a differential rate of pay.

3. A nonexempt employee in the classified service will receive the differential rate of pay:

(a) If he works a second shift or third shift. In such cases, an employee must receive the differential rate of pay for all hours worked on that day.

(b) If he works a day shift and additionally works 4 or more hours between 6 p.m. and 7 a.m. In such cases, an employee must receive the differential rate of pay for the hours worked between 6 p.m. and 7 a.m. exclusive of his assigned day shift hours worked.

4. An exempt classified employee must receive the differential rate of pay for all his regularly scheduled hours of employment on a workday if the employee ~~works a qualifying shift for any portion of a workday, he must receive such compensation for all his regularly scheduled hours of employment on that workday.~~

~~3.]~~ is assigned to a second shift or third shift.

5. If an employee is assigned to a ~~qualifying~~ second shift or third shift when he is on paid leave or a holiday occurs, he must receive the differential rate of pay for that shift~~].~~

~~4. Any hours exceeding the qualifying 8-hour shift are eligible for]~~

6. A nonexempt employee in the classified service who works a second or third shift and who works overtime pursuant to NRS 284.180 must be paid overtime at the differential rate of pay. ~~for that shift if the hours are worked by an employee other than an exempt classified employee, in conjunction with, immediately before or following the shift.~~

~~5. A qualifying shift, including, without limitation, 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.]~~

**Sec. 5. NAC 284.374 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel and the Personnel Taskforce, would allow an appointing authority to refuse to consider an eligible person if that employee has been subject to a written reprimand, suspension, demotion or termination as a result of an upheld or uncontested disciplinary action in the preceding 12-month period.

**NAC 284.374 Active lists: Removal and reactivation of names; refusal to consider certain persons.**

1. The names of eligible persons will be removed from the active lists for any of the following causes:

(a) Appointment after certification to fill a full-time permanent position in the class for which the examination was given.

(b) Expiration of the term of eligibility.

(c) Separation of a person who is eligible for promotion from the state service.

(d) Failure by an eligible person to respond within the required time to an inquiry of availability.

(e) A statement by the eligible person that he is not willing to accept any type of appointment from the eligible list.

(f) Any of the causes listed in NRS 284.240, NAC 284.314 or subsection 5 of NAC 284.630.

2. An appointing authority may refuse to consider an eligible person who has been considered by the appointing authority three times from the same list for the same class. Certification to other than full-time permanent positions will not be counted as a certification for the purposes of this subsection.

3. *An appointing authority may refuse to consider an eligible person if he has been subject to a written reprimand, suspension, demotion or termination as a result of an upheld or uncontested disciplinary action in the preceding 12-month period.*

4. An appointing authority shall refuse to consider an eligible person whose appointment to a position will violate NRS 281.210, NAC 284.375 or a policy approved by the commission pursuant to NAC 284.375.

~~4.~~ 5. An eligible person whose name has been removed from an active list may request that his name be reactivated by stating his reasons for the request. If the department of personnel determines that the reasons are justified, and the person's term of eligibility has not otherwise expired, his name may be reactivated.

**Sec. 6. NAC 284.378 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, would remove the requirement of reporting selective certifications to the Personnel Commission.

**NAC 284.378 Use of lists and consideration of eligible persons. (NRS 284.155, 284.250)**

When using lists of persons who are eligible and considering eligible persons who have been certified, the following conditions apply:

1. When a reemployment list is certified:

(a) Eligible persons who are available for appointment and who are certified on reemployment lists, other than seasonal reemployment lists, must be hired in the order in which they appear unless the appointing authority, upon submitting written justification, obtains the written concurrence of the governor to deviate from the order of priority or to hire from another list. The appointing authority must make the written justification available for examination by affected persons or their designated representatives.

(b) A person who receives a written offer of reemployment must accept or refuse the offer within 3 business days after the offer is received. If an offer of reemployment is mailed to a person, he must accept or refuse the offer within 6 days after the date of the postmark on the letter containing the offer. The failure to accept the offer within the prescribed time constitutes a refusal of the offer.

2. The appointing authority may request selective certification for a particular position if the normal method of certification does not provide candidates qualified to perform the duties of the position satisfactorily. Where selective certification is necessary, the appointing authority must furnish in writing the special requirements peculiar to the position and his reasons therefor. If the facts and reasons justify such a method of selection, the department of personnel may certify the highest ranking eligible persons who possess the special qualifications. ~~[Determination of special qualifications may require circularization of eligible persons before certification can be made.]~~

3. Certification of only eligible persons who are the same sex will not be made unless there is clear evidence that the duties assigned could be performed efficiently only by the sex specified.

4. ~~Authorization for selective certification will be made on an individual basis and, with the exception of clerical positions requiring typing, shorthand, or word processing, database or spreadsheet skills, subsequently reported to the commission at their next regular meeting.~~

~~5.~~ When using ranked lists other than those for reemployment, the appointing authority must attempt to communicate, as provided in NAC 284.382, with persons in the first five ranks to determine their availability and qualifications. The names on each type of list must be considered before names from the next succeeding list. If there are fewer than five ranks with persons who are available for appointment on a given list and the appointing authority requests a full complement of five ranks, the name or names at the top of the next succeeding list must be combined with those on the preceding list to establish five eligible ranks with persons who are available for appointment. Except as otherwise provided in subsection 7, all competitive appointments from ranked lists must be made from the persons who:

- (a) Are in a rank of persons who received the five highest scores on the examination; and
- (b) Are available for appointment.

~~6.~~5. If the list is unranked or waived, the appointing authority must attempt to communicate, as provided in NAC 284.382, with at least five eligible persons he deems most qualified based upon a review of their respective qualifications as they relate to the position or class, or with all of the eligible persons if there are five or less. Except as otherwise provided in subsection 1, any eligible person who is certified from an unranked or waived list may be appointed.

~~7.~~6. If persons from fewer than five ranks of eligible persons are willing to accept appointment:

- (a) The appointing authority may make an appointment from among those remaining available eligible persons.
- (b) Certification and appointment may be made from other appropriate lists, including lists of higher grades as determined by the department of personnel. The names from other lists will follow those which have been certified, if any, from the original lists.
- (c) A new recruitment may be conducted.
- (d) A provisional appointment may be made only if the requirements of NAC 284.406 are met.

**Sec. 7. NAC 284.470 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Cultural Affairs, clarifies that only an *overall* rating of performance which is substandard will effect merit pay increases and an employee's eligibility for longevity pay. An individual duty which has been rated as substandard will not impact merit pay increases or longevity pay when the overall rating of performance for that rating period is standard or better.

**NAC 284.470 Preparation and discussion of reports; request for review. (NRS 284.155, 284.335)**

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 *overall* rating of performance of an employee as substandard, it must contain a written notice that such reports affect both merit pay increases and the employee's eligibility for longevity pay. More frequent reports may be made in the supervisor's discretion.

4. 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. Within 10 working days after the discussion takes place:

(a) If the employee agrees with the report on performance, he must complete and sign the appropriate section on the report on performance and return the report to his supervisor for forwarding to the appointing authority;

or

(b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing and identify the specific points of disagreement, if such specificity is provided. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor or other person designated by the agency to receive such requests receives 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. 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. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor or other person designated by the agency to receive such a request receives the request for review from the employee. 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.

7. An employee and his appointing authority may agree in writing to extend one or more of the periods prescribed in subsection 4 or 5.

8. If a reviewing officer fails to respond to a request for review from an employee within the time required by this section, the employee may institute the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.695, inclusive.

**Sec. 8. NAC 284.540 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, would reduce the recordkeeping required of an appointing authority when the leave records are maintained by a centralized time and attendance system such as the Integrated Financial System.

NAC 284.540 ~~[Annual leave: Records]~~ *Leave records.* Each appointing authority shall keep accurate records of earned and used ~~[annual leave . If the records are not maintained on a computer they must be maintained manually.]~~ *leave unless these records are maintained by a centralized time and attendance system.*

Sec. 9. NAC 284.577 is hereby amended to read as follows:

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, provides that an employee is only eligible to receive 100% of his pay while receiving catastrophic leave and workers' compensation benefits even when the workers' compensation benefits are paid after the leave is taken.

NAC 284.577 **Catastrophic leave:** ~~[Voluntary]~~ *repayment for hours used. The repayment of hours from an account for catastrophic leave must be based on the employee's normal rate of pay at the time he used the hours.*

1. An employee who has used hours from an account for catastrophic leave may voluntarily repay the account for those hours. ~~[The amount required to repay the hours must be based on his rate of pay at the time he used the hours.]~~

2. *An employee shall not receive more than 100% of his pay for the period of his leave when he is entitled to both catastrophic leave and workers' compensation benefits. The employee is required to repay the account for catastrophic leave when the combined benefit exceeds his normal rate of pay.*

Sec. 10. NAC 284.570 is hereby repealed.

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, consolidates they recordkeeping requirements for leave under NAC 284.540.

NAC 284.570 **Sick leave: Records**

~~[Each appointing authority shall maintain accurate records of earned and used sick leave . If the records are not maintained on a computer they must be maintained manually.]~~