

**ADOPTED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R090-02

Effective August 14, 2002

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

AUTHORITY: §§1 and 2, NRS 284.175.

Section 1. NAC 284.206 is hereby amended to read as follows:

284.206 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.

FLUSH 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 ~~f:~~

~~— (1) Who~~ *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 designated 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.~~

FLUSH ~~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.]~~

(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.

FLUSH 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.

FLUSH 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,

FLUSH 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. 2. Notwithstanding the amendatory provisions of section 1 of this regulation, an employee who is employed by the division of mental health and developmental services of the department of human resources or by the division of child and family services of the department of human resources to work in a psychiatric hospital, a forensic unit for mentally disordered offenders or a residential mental retardation facility will continue to receive his base rate of pay plus an amount equal to the adjustment to pay until future adjustments to pay, not including pay increases based on merit, offset the initial adjustment to pay that was in effect as of June 30, 2002, if:

1. The employee's work duties include direct contact and interaction with clients for at least half of his scheduled work shift; and
2. The employee received an adjustment to pay for performing certain work in an assaultive environment as determined by the administrator 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, for at least half of his working time during the 3 months immediately before June 30, 2002.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R090-02

The Personnel Commission adopted regulations assigned LCB File No. R090-02 which pertain to special adjustments to pay (chapter 284 of the Nevada Administrative Code) on July 2, 2002.

Notice date: 5/3/2002
Hearing date: 7/2/2002

Date of adoption by agency: 7/2/2002
Filing date: 8/14/2002

INFORMATIONAL STATEMENT

1. On May 3, 2002, copies of the "Notice of Workshop" to solicit comments on proposed regulations and "Notice of Hearing" for the adoption, amendment and repeal of regulations were posted conspicuously in public buildings and on the Department of Personnel's website. On the same day, copies of the notices and the text of the proposed regulations were filed with the Legislative Counsel Bureau and the Nevada State Library. Also on May 3, 2002, all State agencies were notified by memorandum of the proposed actions. Copies of the notices with the text of the proposed regulations were included with the memorandum for dissemination among State employees. Copies of the notices and text of the proposed regulations were also sent to the State of Nevada Employees Association, the main public library in each county, all requesting parties, and members of the Personnel Commission.
2. The workshop was held at the Department of Transportation in Carson City and, via video conference, in Las Vegas on May 22, 2002. Twenty-nine people attended the workshop on the proposed regulations.

The explanation of change was read for each of the sections. There were no questions, comments, opposition or discussion on the proposed amendments to NAC 284.126, 284.378, 284.470, 284.540, 284.577, and 284.540.

Amendments to NAC 284.206 were requested by both the State of Nevada Employee's Association and the Department of Human Resources. As the two proposals were in conflict of each other, they were drafted separately. Wally Tarantino, representing 16 employees at Lakes Crossing Center who had filed grievance with the Employee Management Committee, presented some of the concerns these employees had with the proposed regulation change. Mr. Tarantino also expressed concern that an unfavorable working environment would be created if employees in the same classification and having the same duties are not receiving the special adjustment. There were no other questions, comments, opposition or discussion on the two proposals to amend NAC 284.206.

Questions and comments were heard regarding the proposed amendments to NAC 284.210. Robert Chisel testified that NDOT's current shift differential practices encouraged their employees to work overtime and stay on the job during emergencies.

This practice cost their agency very little in comparison to their total payroll. Thor Dyson, Assistant District Engineer for NDOT, and Kathy Naumann, Teamsters Local 14, supported a more liberal shift differential policy in order to encourage employees to work beyond their normal shift in times of emergencies. Several agency representatives asked for clarification regarding shift times, citing specific impact of the proposed changes on their budgets and on their employees.

The only comment received regarding the proposed amendments to NAC 284.374 was from Wally Tarantino. He questioned whether the proposed change would encourage more employees to contest written reprimands and/or file grievances to retain eligibility on promotional lists.

A summary of the public workshop is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

On Tuesday, July 2, 2002, a Personnel Commission hearing was held at the Grant Sawyer Building in Las Vegas. Fifty-six people were in attendance in Las Vegas, and 37 were in attendance in Carson City via video conference.

During the hearing, Shelley Blotter, from the Department of Personnel, gave a brief overview of the intent of the proposed regulation changes in LCB File No. R069-02. The Department of Personnel requested that revised language be adopted for sections 1, 2, 3 and 6. The Commission unanimously approved adoption of these sections as revised without objection from the public. Sections 4 and 5 were also unanimously approved for adoption without objection.

The proposed amendments in LCB File No. R090-02 and R091-02 were discussed prior to any action being taken. Scott Mackenzie, Executive Director, State of Nevada Employee's Association spoke in favor of the proposed amendment in LCB File No. R091-02. He stated he was withdrawing the request for nurse and technician classes to continue to receive the special adjustment for working in an assaultive environment indefinitely, but requested that current employees continue to receive the adjustment. Wally Tarantino, attorney, testified that he had recently represented 16 Lakes Crossing Center employees before the Employee Management Committee. He asserted that Lakes Crossing Center is still an assaultive environment and the employees who work there should continue to receive this special adjustment to salary. He also stated that this section, if adopted, would result in inequities between current employees and those hired in the future. Gary Wolff, Teamsters Local 14 and Nevada Highway Patrol Association representative stated he supported Mr. Tarantino's comments. Three employees of Lake's Crossing testified in support of the SNEA proposal.

Kareen Masters, Personnel Officer and Mike Willden, Director, Department of Human Resources, and Carol Brandenburg, Administrator of the Division of Mental Health and Developmental Services, provided testimony in support of the proposed amendment in LCB File No. R090-02. Their testimony included an explanation of why the amendment is appropriate and the approximate number of employees impacted. Six employees from

Desert Willow hospital and Lakes Crossing Center testified on the negative impact of the Department of Human Resources proposed amendment. Commissioner Enus requested that a compromise be reached on the proposed language when the first motion to adopt the Department of Human Resources proposed amendments to NAC 284.206 did not pass. Commissioner Skaggs amended his motion to adopt agenda Item V, section 3 to include all classes impacted by the removal of the special adjustment to pay for working in an assaultive environment in the reviser's note. The revised motion passed 3 to 1, with Commissioner Horgan voting against the motion.

A summary of the hearing is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

3. The regulations do not affect businesses; therefore, their comments were not solicited.
4. These regulations do not have a direct economic effect on any business or the public.
5. Enforcement of these regulations should not result in any increased cost to the Department of Personnel.
6. These regulations do not duplicate or overlap with other State or government regulations.