

Chapter 284 of NAC

LCB File No. T030-09

**ADOPTED TEMPORARY REGULATION OF  
THE PERSONNEL COMMISSION**

Filed with the Secretary of State on April 6, 2009

**Sec. 1. NAC 284.614 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This temporary amendment, proposed by the Department of Personnel in collaboration with the Department of Motor Vehicles, is to insure compliance with the Federal Real ID Act of 2005. The Act requires that certain employees of the Department of Motor Vehicles involved in the processing and issuing of drivers' licenses and identification cards be qualified to do so by a specified background investigation. The proposal will allow the disqualified employees to receive certain lay-off rights as opposed to being terminated.

**NAC 284.614 Layoffs: Procedure. (NRS 284.065, 284.155, 284.380)**

1. Except as otherwise provided in NAC 284.425, if it becomes necessary for a classified employee to be laid off because of a shortage of work or money, the abolition of a position, or some other material change in duties or organization:

(a) The director of the department shall determine in what geographical location, class series, class and option the reductions in staff will have the least detrimental effect on the operations of the department and shall specify layoffs accordingly. In the Department of Health and Human Services and the Nevada System of Higher Education, the administrator of a division may be designated to make these determinations with the approval of the director of the department.

(b) Within the department, geographical location, class series, class and option selected, all employees of the department who are not permanent must be separated from service before any permanent employees in the following order:

- (1) Emergency employees.
- (2) Temporary employees.
- (3) Provisional employees.
- (4) Probationary employees.

(c) If additional reductions are necessary, permanent employees must be laid off on the basis of seniority pursuant to NAC 284.632.

(d) In the department, geographical location, class series, class and option where layoffs are to take place, those employees with the least seniority must be laid off, transferred as set forth in subsection 2 or voluntarily demoted as set forth in NAC 284.618.

(e) An appointing authority may consider limiting layoffs to employees in full-time or part-time positions. Similar considerations may be given to and limitations placed on positions requiring selective certification pursuant to NAC 284.361.

2. If a permanent employee must be laid off for one of the reasons set forth in subsection 1, the appointing authority shall notify the employee that he may choose to:

(a) Transfer within his department, class and option into the position of the employee in his department, class and option with the least seniority;

(b) Be voluntarily demoted as set forth in NAC 284.618; or

(c) Exercise his reemployment rights as set forth in NAC 284.630.

3. Within 3 working days after an employee has been notified of his choices pursuant to subsection 2, he must designate in writing to the appointing authority the choice he will exercise.

4. For the purposes of this section, divisions of the Department of Health and Human Services and the Nevada System of Higher Education shall be deemed to be departments.

*5. Subsections 1 through 4 do not apply if an employee of the Department of Motor Vehicles involved in the processing and issuing of Drivers' Licenses is laid off as a result of receiving a disqualifying background investigation that is required by the Federal Real ID Act of 2005. A permanent employee who is laid off as a result of a background investigation for the Real ID Act has all rights provided in NAC 284.630.*

**Sec. 2. NAC 284.618 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This temporary amendment, proposed by the Department of Personnel in collaboration with the Department of Motor Vehicles, is to insure compliance with the Federal Real ID Act of 2005. The Act requires that certain employees of the Department of Motor Vehicles involved in the processing and issuing of drivers' licenses and identification cards be qualified to do so by a specified background investigation. The proposal will allow the disqualified employees to receive certain lay-off rights as opposed to being terminated.

**NAC 284.618 Layoffs: Voluntary demotions. (NRS 284.065, 284.155, 284.175, 284.380)**

1. In lieu of being laid off, a permanent employee may choose to be voluntarily demoted to a vacant position or displace an employee within the department and geographical location where employed to one of the next lower classes:

(a) Within his current class series and option; or

(b) Within the class series and option from which he was appointed to his current position during current continuous service if he cannot be demoted pursuant to paragraph (a).

↳ For the purposes of this subsection, divisions of the Department of Health and Human Services and the Nevada System of Higher Education shall be deemed to be departments.

2. No employee in a higher class may displace an employee in a lower class who has more seniority. If an employee chooses to displace another, he must displace the member of the next lower class who has the least seniority. If that member has more seniority, the displacing employee must descend further in the class series.

3. The employees displaced reestablish the layoff class.

4. An employee may choose to displace another only if he meets the minimum qualifications for the class, option and position. For the purposes of this subsection, qualifications for a position may be different from those of the class and option only when selective certification is required pursuant to subsection 2 of NAC 284.361.

5. Full-time, part-time and seasonal employees must be treated separately and can only displace like employees.

6. Displacement is always a movement to a class at a lower grade.

7. A current employee who elects to displace another employee has priority over former employees already on reemployment lists.

8. The pay of the employee who is taking a voluntary demotion cannot exceed the highest step for the class to which the employee is being demoted. If the current pay falls within the lower rate range, no reduction in pay may occur unless money is not available as certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency which is not supported from the State General Fund, as certified by the administrator of that agency.

*9. Subsections 1 through 8 do not apply if an employee of the Department of Motor Vehicles involved in the processing and issuing of Drivers' Licenses is laid off as a result of receiving a disqualifying background investigation that is required by the Federal Real ID Act of 2005.*

**Sec. 3. NAC 284.626 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This temporary amendment, proposed by the Department of Personnel in collaboration with the Department of Motor Vehicles, is to insure compliance with the Federal Real ID Act of 2005. The Act requires that certain employees of the Department of Motor Vehicles involved in the processing and issuing of drivers' licenses and identification cards be qualified to do so by a specified background investigation. The proposal will allow the disqualified employees to receive certain lay-off rights as opposed to being terminated.

**NAC 284.626 Layoffs: Notice. (NRS 284.065, 284.155, 284.380)** All permanent employees to be laid off must be given written notice of the layoff at least 30 calendar days before the effective date of the layoff. A copy of the seniority calculations and layoff notice must be sent to the Department of Personnel. The notice must specifically list the positions and locations where the employee has a current right to displace another employee, if those positions and locations are known at the time of notification. *If an employee of the Department of Motor Vehicles is being laid off as a result of receiving a disqualifying background investigation that is required by the Federal Real ID Act the notice must specifically state that the employee has no right to displace another employee.*

**NOTICE OF ADOPTION OF REGULATION  
LCB FILE NO. T030-09**

The Personnel Commission adopted temporary regulations assigned LCB File No. T030-09, which pertain to chapter 284 of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulation, notice of workshop and notice of intent to act upon a regulation were sent by U.S. Mail and email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel  
Blasdel Building  
209 E. Musser St  
Carson City, NV 89701

Grant Sawyer State Office Bldg.  
555 E. Washington Blvd  
Suite 4401  
Las Vegas, NV 89101

Legislative Building  
401 S. Carson St  
Carson City, NV 89710

Nevada State Library and Archives  
100 Stewart St  
Carson City, NV 89701

Capitol Building  
Main Floor

Nevada Department of Transportation  
1263 S. Stewart Street  
Carson City, NV 89712

As a result of comments received at the workshop: No change was made as the only comment received was in support of the regulation (a copy of minutes from the workshop is attached).

**2. The number of persons who:**

- (a) Attended each hearing:** Personnel Commission meeting (hearing), 64 attendees
- (b) Testified at each hearing:** Personnel Commission meeting (hearing), 1 testified
- (c) Submitted written comments:** 0 comments

**3. A description of how comment was solicited from businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were not solicited, as the regulation does not affect businesses.

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.** There were no comments made at the Personnel Commission meeting in opposition to the proposed amendments.
5. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**
  - (a) Both adverse and beneficial effects; and
  - (b) Both immediate and long-term effects.

This regulation does not have a direct economic effect on either a regulated business or the public.

6. **The estimated cost to the agency for enforcement of the adopted regulation:**

No increased cost is anticipated to the Department of Personnel with the enforcement of this regulation.

7. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

This regulation does not overlap or duplicate any State, federal, or other governmental agency regulations.

8. **If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

This regulation does not include any provisions that are more stringent than any federal regulation.

9. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

No fees are associated with this regulation.

10. **Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

This regulation is specific to State government agencies and has no impact on small business.

