

**ADOPTED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R059-10

Effective October 15, 2010

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

AUTHORITY: §1, NRS 284.065.

A REGULATION relating to the State Personnel System; revising provisions relating to the release of certain confidential records; and providing other matters properly relating thereto.

Section 1. 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 subparagraph 2 of paragraph (a) 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 (g) to (j), 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 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.

(h) Persons who are involved in processing records for the transaction of business within and between state agencies.

(i) Persons who are involved in processing records for the transaction of business that is authorized by 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. Except as otherwise provided in subsection 6, 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 an employee assistance program offered by the State of Nevada 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. 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 Committee on Catastrophic Leave created pursuant to NRS 284.3627, 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.]~~

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE NO. R059-10**

INFORMATIONAL STATEMENT

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

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 notices of intent to act upon a regulation were sent by 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
Nevada State Library and Archives 100 Stewart St Carson City, NV 89701	Capitol Building Main Floor Carson City, NV 89701
Legislative Building 401 S. Carson St Carson City, NV 89701	Gaming Control Board 1919 College Parkway Carson City, NV 89701

Attached are excerpts from the minutes from the workshop that apply to this regulation.

A public hearing by the Nevada Personnel Commission was held on September 17, 2010. There were no comments received from the public regarding this regulation.

2. The number of persons who:

- (a) **Attended each hearing:** September 17, 2010, Personnel Commission meeting (hearing), 30 attendees
- (b) **Testified at each hearing:** September 17, 2010, Personnel Commission meeting, 1 testified
- (c) **Submitted written comments:** None

- 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 to the proposed regulation.

- 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:**

There is no additional cost to the agency for 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.**

There are no other state or government agency regulations that the proposed amendment duplicates.

- 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 businesses.

SUMMARY OF THE WORKSHOP TO SOLICIT COMMENTS ON THE PROPOSED REGULATIONS OF THE STATE DEPARTMENT OF PERSONNEL

February 25, 2009
CARSON CITY, NEVADA

Attendees in Carson City:

Teresa Thienhaus, Director, Department of Personnel
Shelley Blotter, Division Administrator of Employee and Management Services, Department of Personnel
Mark Evans, Supervisory Personnel Analyst, Department of Personnel
Amy Davey, Personnel Analyst III, Department of Personnel
Carrie Hughes, Staff Specialist, Department of Personnel
Ricky Burdick, Administrative Assistant II, Department of Personnel
Colleen Cohan-Scott, Equal Employment Opportunity Officer, Department of Corrections
Renee Travis, Personnel Officer I, Department of Administration
Todd Rich, Administrative Coordinator, Gaming Control Board
Kareen Masters, Deputy Director, Department of Health and Human Services
Teri Hack, Personnel Technician III, Department of Conservation and Natural Resources
Janet Damschen, Employee Relations Manager, Nevada System of Higher Education
Barbara Dieringer, Training Officer II, Department of Personnel
Troy Orosco, Training Officer II, Department of Personnel
Todd Rich, Administrative Coordinator, Gaming Control Board

Attendees in Las Vegas:

Mark Anastas, Division Administrator of Recruitment and Retention, Department of Personnel
Jill Pressman, Training Officer II, Department of Personnel.

The workshop commenced at 1:30 p.m. Shelley Blotter welcomed everyone to the meeting and asked them to sign in.

The purpose of today's workshop is to solicit comments from effected parties with regard to the regulations proposed for permanent adoption. These regulations will be considered for adoption by the Personnel Commission at their May 21, 2010 meeting.

If the regulations are adopted, they will go into effect when filed with the Secretary of State which will be approximately 40 days after the Personnel Commission meeting.

REGULATION CHANGES PROPOSED FOR PERMANENT ADOPTION

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NAC 284.726 is hereby amended to read as follows:

Explanation of Proposed Change: This proposed change eliminates a statement that says that the refusal of the Director to provide certain entities with confidential records can be appealed. There is no established process for this appeal.

NAC 284.726 Access to confidential records. (NRS 284.065, 284.155, 284.335, 284.407)

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 subparagraph 2 of paragraph (a) 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 subsections 3 and 4, access to an employee's file of employment containing any of the items listed in paragraphs (g) to (j), 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 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.
- (h) Persons who are involved in processing records for the transaction of business within and between state agencies.
- (i) Persons who are involved in processing records for the transaction of business that is authorized by 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. Except as otherwise provided in subsection 6, 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 in subsection 7, access to information concerning the employee's usage or balance of annual leave and sick is limited to the employee, the employee's immediate supervisor and the employee's appointing authority or his designated representative of the appointing authority.

5. Except as otherwise provided by specific statute, records maintained by an employee assistance program offered by the State of Nevada must not be released without written permission signed by the employee to whom the records pertain.

6. 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.

7. 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 Employee-Management Committee, a hearings officer, the Commission, the Committee on Catastrophic Leave created pursuant to NRS 284.3627, 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.~~]

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R024-05, 10-31-2005; R141-07, 1-30-2008; R065-09, 10-27-2009)

Mark Evans read the following statement:

The final change listed in item H is to NAC 284.726 Access to confidential records. Paragraph 7 of the current regulation states that if the Director of the Department of Personnel or appointing authorities will not release any confidential information under their control to the specific groups listed in the regulation, the decision may be appealed. However, the regulation does not state who the decision should be appealed to and does not provide a process for the appeal. In most cases, the parties would have other means to request this information such as a subpoena or getting this information through other sources. Therefore, we are recommending deleting this provision in the regulation.

Shelley Blotter requested public comments or questions regarding proposed change.

There were no questions, comments, opposition or discussion on this section.

Shelley Blotter called the workshop closed at 1:54 P.M.