

**PROPOSED REGULATION OF THE
DIVISION OF HUMAN RESOURCE MANAGEMENT OF THE
DEPARTMENT OF ADMINISTRATION**

LCB FILE NO. R167-24I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/27/2024**

Explanation of Proposed Change: The amendment and proposed new regulation, proposed by the Division of Human Resource Management (DHRM), will provide clarity and ease of use by dividing the existing regulation into separate regulations outlining the nondiscretionary and discretionary bases of administrative leave, extending the provision for employee assistance program counseling and codifying current practice in relation to resolution conferences, mediation and rejection from a trial period.

Currently, an employee is entitled to administrative leave for up to two counseling appointments through an employee assistance program in an undefined period of time. The amendment will change the amount of administrative leave from two appointments to the number of appointments an employee is entitled to through the State's employee assistance program and establishes a time period for the administrative leave allowance (i.e., a fiscal year). The State's current contract for employee assistance program services provides up to four counseling appointments per issue per fiscal year.

The amendment and proposed new regulation provide administrative leave for participating in a resolution conference or mediation. Additionally, the proposed new regulation allows an appointing authority to grant administration leave to remove an employee from the workplace between rejection from a trial period and reversion to the employee's previous position.

NAC 284.589 ~~Administrative~~ *Nondiscretionary administrative leave with pay.* (NRS 284.065, 284.155, 284.345, 284.383, 284.385, 284.390)

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

~~(a) To relieve the employee of his or her duties during the active investigation of a suspected criminal violation or the investigation of alleged wrongdoing;~~

~~(b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his or her position;~~

~~(c) For up to 30 days to remove the employee from the workplace when he or she has committed or threatened to commit an act of violence; or~~

~~(d) To relieve the employee of his or her duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.~~

~~2. The appointing authority, upon approval of the Risk Management Division, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.~~

~~3. If an employee is granted administrative leave with pay pursuant to subsection 1 or 2, the employee must be available:~~

~~(a) By telephone to the supervisor of the employee; and~~

~~(b) To report to a work site or another location, as directed by the supervisor of the employee, during regular business hours.~~

~~4. Except as otherwise provided in subsection 5, an appointing authority or the Division of Human Resource Management may grant administrative leave with pay to an employee for any of the following purposes:~~

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

~~(b) His or her safety during an emergency when employees have been authorized by the Governor not to report to work or to leave work before the end of their shifts during the emergency, including, without limitation, emergencies relating to enemy attacks or other hostile actions, natural causes or other catastrophes, except for employees who are designated as essential and notified that they are required to report to work or remain at work.~~

~~(c) Closure of the employee's office or work site caused by a natural disaster, pandemic 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.~~

~~(d) Closure, as a result of a pandemic, of a school or a center or facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result of a pandemic, of a program attended by the employee's dependent child. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.~~

~~(e) Up to 2 hours for participating in Veterans Day at the Legislature established pursuant to NRS 236.047, if the employee is a veteran.~~

~~(f) Up to 2 hours for donating blood.~~

~~(g) For attending a general employee benefits orientation or an educational session relating to employee benefits, including, without limitation, retirement and deferred compensation.~~

~~(h) His or her appearance as an aggrieved employee, an employee who filed a complaint described in NAC 284.658 or a witness at a hearing of the Committee.~~

~~(i) His or her appearance as a witness at a hearing regarding a matter described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 7.~~

~~(j) His or her appearance to provide testimony at a meeting of the Commission.~~

~~5. To the extent not already covered in subsection 4, during any period in which a state of emergency or declaration of disaster has been proclaimed pursuant to NRS 414.070, an appointing authority may grant administrative leave with pay to an employee for purposes related to health and safety.~~

~~6. 1. An appointing authority or the Division of Human Resource Management shall grant administrative leave with pay to an employee for **1** a purpose set forth in paragraph (h), (i) or (j) of subsection 4 :~~

~~(a) His or her appearance as an aggrieved employee, an employee who filed a complaint described in NAC 284.658 or a witness at a hearing of the Committee.~~

~~(b) His or her appearance as a witness at a hearing regarding a matter described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 2.~~

~~(c) His or her appearance to provide testimony at a meeting of the Commission.~~

~~(d) His or her participation in a resolution conference or mediation.~~

~~↳ if:~~

~~(a) The employee requests the administrative leave for a period of time that is reasonably needed 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 the appointing authority or adversely impact the provision of services to clients or to the public.~~

~~7. 2. 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}~~ *In person or telephonic appointments for counseling* through an employee assistance program ~~{, including, without limitation, consultations provided in person or telephonically}~~ *up to the number of appointments provided by the State's employee assistance program in a fiscal year.*

(b) His or her attendance at a health fair or related event coordinated by the Public Employees' Benefits Program.

(c) His or her participation in an official capacity as a member of a committee or board created by statute on which he or she serves as a representative of state employees, including, without limitation, any time spent reviewing materials submitted in connection with any agenda item or otherwise preparing for the meeting. 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 any predisciplinary review.

(e) Up to 8 hours for preparation for any hearing described in paragraph (f).

(f) The appearance of the employee as a party at a hearing regarding:

(1) An alleged reprisal or retaliatory action against the employee for disclosing an improper governmental action as provided in NRS 281.641;

(2) An involuntary transfer of the employee as provided in NRS 284.376; or

(3) A suspension, demotion or dismissal of the employee as provided in NRS 284.390 and at a predisciplinary review as provided in NAC 284.6561.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; A by Personnel Comm'n by R038-03, 10-30-2003; R183-03, 1-27-2004; R145-05, 12-29-2005; R141-07, 1-30-2008; R061-09 & R081-09, 10-27-2009; R063-09, 11-25-2009; R058-10, 10-15-2010; R137-13, 6-23-14; R042-15, 12-21-2015; R033-17, 10-31-2017; R150-17, 6-26-2018; R016-19, 12-30-2019; R047-20, 7-6-2020)

NEW Discretionary administrative leave with pay.

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

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

(b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his or her position;

(c) For up to 30 days to remove the employee from the workplace when he or she has committed or threatened to commit an act of violence; or

(d) To relieve the employee of his or her duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.

2. The appointing authority, upon approval of the Risk Management Division, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.

3. If an employee is granted administrative leave with pay pursuant to subsection 1 or 2, the employee must be available:

(a) By telephone to the supervisor of the employee; and

(b) To report to a work site or another location, as directed by the supervisor of the employee, ↪ during regular business hours.

4. Except as otherwise provided in subsection 1 of NAC 284.589, an appointing authority or the Division of Human Resource Management may grant administrative leave with pay to an employee for any of the following purposes:

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

(b) His or her safety during an emergency when employees have been authorized by the Governor not to report to work or to leave work before the end of their shifts during the emergency, including, without limitation, emergencies relating to enemy attacks or other hostile actions, natural causes or other catastrophes, except for employees who are designated as essential and notified that they are required to report to work or remain at work.

(c) Closure of the employee's office or work site caused by a natural disaster, pandemic 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.

(d) Closure, as a result of a pandemic, of a school or a center or facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result of a pandemic, of a program attended by the employee's dependent child. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

(e) Up to 2 hours for participating in Veterans Day at the Legislature established pursuant to NRS 236.047, if the employee is a veteran.

(f) Up to 2 hours for donating blood.

(g) For attending a general employee benefits orientation or an educational session relating to employee benefits, including, without limitation, retirement and deferred compensation.

(h) His or her appearance as an aggrieved employee, an employee who filed a complaint described in NAC 284.658 or a witness at a hearing of the Committee.

(i) His or her appearance as a witness at a hearing regarding:

(1) An alleged reprisal or retaliatory action against the employee for disclosing an improper governmental action as provided in NRS 281.641;

(2) An involuntary transfer of the employee as provided in NRS 284.376; or

(3) A suspension, demotion or dismissal of the employee as provided in NRS 284.390 and at a predisciplinary review as provided in NAC 284.6561.

(j) His or her appearance to provide testimony at a meeting of the Commission.

(k) His or her participation in a resolution conference or mediation.

5. To the extent not already covered in subsection 4, during any period in which a state of emergency or declaration of disaster has been proclaimed pursuant to NRS 414.070, an appointing authority may grant administrative leave with pay to an employee for purposes related to health and safety.

6. An appointing authority may grant administrative leave to a permanent employee during the period between failure to complete a trial period and restoration to the employee's previous position.