

**PROPOSED REGULATION OF THE
HUMAN RESOURCES COMMISSION**

LCB File No. R167-24

August 16, 2024

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

AUTHORITY: §§ 1-3, NRS 284.065 and 284.345.

A REGULATION relating to human resources; revising provisions relating to administrative leave with pay for state employees; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Human Resources Commission of the Division of Human Resource Management of the Department of Administration to adopt regulations necessary to carry out provisions of law relating to the Human Resources System, including regulations for attendance and leave with or without pay for state employees. (NRS 284.065, 284.345) Existing regulations establish circumstances under which it is: (1) mandatory for a state employee to receive administrative leave with pay; and (2) discretionary for a state employee to be granted administrative leave with pay. (NAC 284.589) **Sections 1 and 3** of this regulation create separate sections of the Nevada Administrative Code for mandatory and discretionary administrative leave by: (1) removing discretionary administrative leave with pay from the existing section in **section 3**; and (2) reenacting discretionary leave with pay in **section 1**. **Section 2** of this regulation makes a conforming change to apply the definitions in existing regulations to the new section created by **section 1**.

Section 1 makes it discretionary for a permanent employee to receive administrative leave with pay for any period between: (1) the employee’s failure to complete a trial period after a voluntary transfer; and (2) the restoration of the employee to his or her former position or any other placement.

Sections 1 and 3 add attendance at a resolution conference or mediation related to employment with the State to the circumstances under which administrative leave with pay is mandatory or discretionary.

Existing regulations make it mandatory for an appointing authority to grant administrative leave with pay to an employee to attend an initial appointment and one follow-up appointment for counseling through an employee assistance program. (NAC 284.589) **Section 3** instead makes it mandatory for an employee to receive administrative leave with pay for any appointment provided free of charge through an employee assistance program.

Section 1. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

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 a matter described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 2 of NAC 284.589.

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

(k) His or her appearance at a resolution conference requested pursuant to NAC 284.6952 or any mediation relating to a disciplinary or corrective action or a grievance.

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 with pay to a permanent employee for any period between:

(a) The failure of the permanent employee to complete a trial period in a position to which the permanent employee voluntarily transferred; and

(b) The earlier of the restoration of the permanent employee to the position from which the permanent employee transferred or another placement pursuant NAC 284.460.

Sec. 2. NAC 284.523 is hereby amended to read as follows:

284.523 As used in NAC 284.523 to 284.598, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 284.5231 to 284.52375, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NAC 284.589 is hereby amended to read as follows:

284.589 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 6, 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.†~~ An appointing authority or the Division of Human Resource Management shall grant administrative leave with pay to an employee for a purpose set forth in ~~{paragraph (h), (i) or (j)}~~ *paragraphs (h) to (k), inclusive*, of subsection 4 *of section 1 of this regulation* if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed to testify at the hearing or meeting ~~†~~ *or to participate in the resolution conference or mediation;*

(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.

~~†~~ **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}~~ *Any* appointment ~~{if the employee receives}~~ *to receive* counseling *provided free of charge* through an employee assistance program, including, without limitation, consultations provided in person or telephonically.

(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.

~~{8.}~~ **3.** In addition to any leave to which an employee is entitled pursuant to paragraph (a) of subsection ~~{7.}~~ **2**, an appointing authority or the Division of Human Resource Management shall grant up to 96 hours of administrative leave with pay to an employee who is a veteran during the first 12 months of his or her employment for:

(a) Attending an appointment with a provider of health care for purposes of determining whether he or she has a service-connected disability; or

(b) Receiving health care services relating to a service-connected disability.

~~19.1~~ 4. As used in this section:

(a) “Health care services” means services for the diagnosis, prevention, treatment, care or relief of a health condition, illness, injury or disease, including, without limitation, mental health services.

(b) “Provider of health care” has the meaning ascribed to it in NRS 629.031.