

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R142-05

Effective December 29, 2005

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

AUTHORITY: §§1, 2, 3 and 19, NRS 284.065; §4, NRS 284.065, 284.155 and 284.175; §5, NRS 284.065, 284.155, 284.175, 284.345, 284.355 and 284.3626; §§6, 9-11, 15 and 17, NRS 284.065 and 284.155; §7, NRS 284.065, 284.155, 284.345 and 284.350; §8, NRS 284.065, 284.155, 284.345 and 284.355; §§12 and 13, NRS 284.065, 284.155 and 284.327; §14, NRS 284.065, 284.155, 284.327 and 284.345; §§16 and 18, NRS 284.065, 284.155 and 284.305.

A REGULATION relating to the State Personnel System; revising the provisions governing work-related injuries and occupational diseases; and providing other matters properly relating thereto.

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

“Work-related injury or occupational disease” means any injury or illness suffered by an employee that arises out of and in the course of his employment in the classified service and for which an employee has filed a claim pursuant to chapter 616A, 616B, 616C, 616D or 617 of NRS.

Sec. 2. NAC 284.010 is hereby amended to read as follows:

284.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 284.022 to 284.112, inclusive, *and section 1 of this regulation*, have the meanings ascribed to them in those sections.

Sec. 3. NAC 284.095 is hereby amended to read as follows:

284.095 “Reemployment” means a noncompetitive appointment of a current or former employee to a class for which he has reemployment rights, as provided in this chapter, because of military service, layoff, a permanent disability arising from a ~~[disability related to work,]~~ *work-related injury or occupational disease*, seasonal separation, reallocation, or reclassification of his position to a lower grade.

Sec. 4. NAC 284.182 is hereby amended to read as follows:

284.182 1. An employee receives a new pay progression date if he is:

- (a) Promoted to a position that results in an increase of two grades or more; or
- (b) Reinstated.

2. An employee who is:

- (a) Promoted to a position that results in an increase of one grade;
- (b) In a position that is reclassified to a higher class as a result of an individual classification study or an occupational study;
- (c) Transferred to a position without receiving an increase in grade;
- (d) Reappointed to a position at a grade that he formerly held;
- (e) Reemployed and has remained continuously employed; or
- (f) Demoted,

↪ retains the pay progression date he held before the action described in paragraphs (a) to (f), inclusive, occurred.

3. If a person who is eligible for military reemployment is reemployed, he retains the pay progression date held when he separated from this State for his service in the military.

4. If an employee was promoted but is being restored to his former position pursuant to the provisions of NAC 284.462, the date of appointment and pay progression date of the former position must be restored.

5. Except as otherwise provided in this subsection and subsection 6, an employee's pay progression date must be adjusted:

(a) To equal 1 year of full-time equivalent service for an employee who changes from full-time employment to part-time employment or from part-time employment to full-time employment; or

(b) On a day-for-day basis for the amount of time the employee:

(1) Was separated from state service if the employee is reemployed within 1 year after the date on which he was laid off or received a seasonal separation.

(2) Was separated from state service if the employee is a person with a permanent disability arising from a ~~[disability related to work]~~ *work-related injury or occupational disease* who is reemployed within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

(3) Was on leave without pay, or on catastrophic leave, if the employee is:

(I) A nonexempt employee and the leave without pay or catastrophic leave was in excess of 240 hours; or

(II) An exempt classified employee and the leave without pay or catastrophic leave was in excess of 30 working days,

↪ in a year, except for leave without pay for a work-related injury or illness pursuant to NRS 281.390 or on a military leave of absence pursuant to NRS 284.359 or a leave of absence without pay during a fiscal emergency pursuant to NAC 284.580. An employee whose base hours are

more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation. As used in this subparagraph, “year” means a period equal to 12 months of full-time equivalent service measured backward from the employee’s pay progression date.

6. If the number of total hours of leave without pay or catastrophic leave of a nonexempt employee that exceed 240 hours is less than one day of full-time equivalent service for the pay class designation of the employee, an adjustment will not be made for those hours.

7. If an employee is on leave without pay, or on catastrophic leave, on his pay progression date, any adjustment to his pay progression date will be made after he returns to work.

Sec. 5. NAC 284.282 is hereby amended to read as follows:

284.282 1. Except as otherwise provided in NAC 284.580 for a leave of absence without pay during a fiscal emergency, an employee who is on leave without pay or catastrophic leave, or any combination of both, for the entire 6-month period of qualification is not entitled to longevity pay for that period.

2. The payment for longevity pay for a full-time employee will not be prorated pursuant to NAC 284.278 if:

(a) He is an exempt classified employee or exempt unclassified employee and he uses an amount of leave without pay or catastrophic leave, or any combination of both, that equals 30 days or less in a calendar year; or

(b) He is a nonexempt employee, the base hours established for his pay class designation are 40 hours per week or 80 hours biweekly and he uses 240 hours or less of leave without pay or catastrophic leave, or any combination of both, in a calendar year.

3. If the base hours established for a pay class designation exceed 40 hours per week or 80 hours biweekly, an employee in that pay class designation must be allotted leave without pay and catastrophic leave in proportion to his base hours and full-time equivalency. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limits set forth in subsections 2 and 4.

4. A part-time employee must be allotted leave without pay and catastrophic leave in proportion to his base hours and the full-time equivalency for his pay class designation. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limit set for a full-time employee in his pay class designation pursuant to subsection 2.

5. An employee who retires pursuant to the provisions of chapter 286 of NRS or who dies during the 6-month qualifying period is eligible for longevity pay according to the applicable formula in NAC 284.278.

6. An employee who is laid off and is rehired within 1 year after the date of layoff is eligible for the longevity pay he would have earned if he had not been laid off. The longevity pay must be calculated as if the employee had been on leave without pay pursuant to subsection 2.

7. A person with a permanent disability arising from a ~~[disability related to work]~~ *work-related injury or occupational disease* who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is eligible for the longevity pay he would have earned if he had not been separated from state service. The longevity pay of such an employee must be calculated as if the employee had been on leave without pay pursuant to subsection 2.

8. An employee is eligible to earn service credit for the calculation of longevity pay when he is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS and he uses accrued sick leave, accrued annual leave or accrued compensatory time to meet the difference between his normal pay and the benefits he receives. Such an employee ceases to earn service credit for the calculation of longevity pay when he is placed on a leave of absence without pay or catastrophic leave.

9. Service in a seasonal position must be credited toward the calculation of longevity pay if the employee is employed on December 31 and June 30 and if the requirements for eligibility for longevity pay have been met. If an employee in a seasonal position is not on the payroll on those two dates and he is reemployed within 12 months, the employee is entitled to receive prorated longevity pay for his service during the previous longevity period.

10. If a person is on leave of absence without pay for military service pursuant to NRS 284.359 or is reemployed within 90 days after the military service, the time during which he was not in paid status because of his military service will be counted as service credit for the calculation of longevity pay. The person is eligible for longevity pay for the time he is in paid status in accordance with the provisions of subsection 2.

11. If a nonclassified employee or an employee covered by NRS 284.022 is appointed without a break in service to the classified or unclassified service, the previous time served is counted for the purpose of calculating longevity pay, but the employee is not eligible for any retroactive longevity pay.

Sec. 6. NAC 284.444 is hereby amended to read as follows:

284.444 1. A probationary employee who transfers:

(a) Within the same class must serve the remaining portion of the probationary period.

(b) From one class to another class must serve a new probationary period.

2. An employee who transfers from the unclassified or nonclassified service to the classified service must serve a new probationary period. Except for those unclassified employees who transfer pursuant to subsection 2 of NAC 284.398, the status of a permanent employee may not be attained until the satisfactory completion of the probationary period.

3. An employee who is reinstated must serve a new probationary period unless it is waived in writing by the appointing authority. If an appointing authority waives the probationary period, the status of the appointment of the employee is permanent.

4. A probationary employee who is reappointed must serve a new probationary period.

5. A permanent employee who is reappointed to a class:

(a) At a higher grade level must serve a trial period unless it is waived by the appointing authority.

(b) At the same grade level or a lower grade level is not required to serve a probationary period.

6. An employee who is laid off, but who is reemployed within 1 year, must serve a new probationary period if he is reemployed in a different class or in a different department than that from which he was laid off and he is subject to the provisions of subsection 6 of NAC 284.630.

7. A person with a permanent disability arising from a ~~[disability-related to work]~~ *work-related injury or occupational disease* who is reemployed in a different class or option than his regular position must serve a new probationary period as required by NAC 284.6018.

8. A person who is entitled to reemployment because of his military service is entitled to return to the status of appointment held at the time of his separation from the state service for

military purposes. If the employee did not complete the probationary period, he will only be required to complete the remaining portion thereof.

9. Promotion to a vacant position requires a new probationary period. Promotions which result from reclassification are governed by NAC 284.134 and 284.138.

10. Except as otherwise provided in subsection 11:

(a) No probationary period will be required if a permanent employee is demoted.

(b) A new probationary period will be required if a probationary employee is demoted.

11. An employee who is restored to his former position pursuant to NAC 284.462 following a promotional appointment must serve the portion of his probationary period which was remaining at the time of his promotion.

Sec. 7. NAC 284.5405 is hereby amended to read as follows:

284.5405 1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his total service with the State after he has completed 3 years of continuous service. The employee must requalify after each break in service.

2. An employee who is rehired within 1 year after being laid off accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed a total of 6 months of employment.

3. An employee with a permanent disability arising from a ~~[disability related to work]~~ *work-related injury or occupational disease* who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his total state service. He may

use his annual leave immediately upon accruing it if he has completed a total of 6 months of employment.

4. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he received payment in a lump sum on the date of the layoff. The rate of pay at which he is rehired applies to the buying back of annual leave.

5. An employee with a permanent disability arising from a ~~[disability-related-to-work]~~ *work-related injury or occupational disease* who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he received payment in a lump sum at the time of separation. The rate of pay at which he is reemployed applies to the buying back of annual leave.

6. If an employee who was laid off before completing 6 months of employment is rehired within 1 year after his layoff, the amount of the unpaid annual leave he had earned before the layoff must be restored to him.

7. If a person eligible for military reemployment is reemployed, he accrues annual leave at the rate which he would have earned if he had not left state service.

8. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his annual leave is charged to the agency to which he is appointed.

9. If a nonclassified employee, an unclassified employee of the Nevada System of Higher Education or an employee included in the State Personnel System pursuant to NRS 284.022 is appointed without a break in service to the classified or unclassified service, his annual leave must be recomputed to reflect the amount that would have accrued to him as a classified or

unclassified employee less any annual leave which he used during his nonclassified, Nevada System of Higher Education, or governmental agency employment, and the remaining balance will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual as set forth in NRS 284.350 and NAC 284.538. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility of the employee who is transferring annual leave to seek payment of any excess amount of annual leave remaining to his credit from his former employer.

Sec. 8. NAC 284.551 is hereby amended to read as follows:

284.551 1. An employee who is rehired within 1 year after he is laid off is entitled to the restoration of the accrued and unused sick leave remaining in his account at the time of his layoff.

2. The balance of a seasonal employee's sick leave must be restored to him for each subsequent term of appointment if the employee is rehired within 1 year from the date of his last seasonal separation.

3. An employee with a permanent disability arising from a ~~[disability related to work]~~ *work-related injury or occupational disease* who is reemployed following a separation from state service within 1 year after the date he sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to restoration of the accrued and unused sick leave that remained in his account at the time of separation.

4. If a person who is eligible for reemployment because of his military service is reemployed, he is entitled to the restoration of the accrued and unused sick leave remaining in his account at the time of separation.

5. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority the balance of his sick leave is charged to the agency to which he is appointed.

6. If a nonclassified employee, an unclassified employee of the ~~[University and Community College System of Nevada,]~~ *Nevada System of Higher Education*, or an employee covered by NRS 284.022 is appointed to the classified or unclassified service without a break in service, his sick leave must be recomputed to reflect the amount that would have accrued to him as a classified or unclassified employee less any sick leave which he used during his nonclassified, University, or governmental agency employment and the remaining balance will be transferred to the new appointment.

Sec. 9. NAC 284.598 is hereby amended to read as follows:

284.598 The following are not breaks in continuous service:

1. Authorized military leave for active service if the person is reemployed within 90 calendar days after an honorable discharge from military service.

2. Separation because of layoff if a former employee is reemployed within 1 year after the date he was laid off.

3. Reemployment of a seasonal employee within 1 year after the end of the previous seasonal appointment.

4. Separation because an employee sustained a permanent disability arising from a ~~[disability related to work,]~~ *work-related injury or occupational disease*, if the former employee

was reemployed not later than 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

Sec. 10. NAC 284.600 is hereby amended to read as follows:

284.600 As used in NAC 284.600 to 284.6019, inclusive, unless the context otherwise requires:

1. ~~["Disability related to work" means any injury or occupational disease suffered by an employee that arises out of and in the course of his employment in the classified service of the State.~~

~~—2.]~~ "Employee" means an employee who is in the classified service of the State. The term does not include an employee of the ~~[University and Community College System of Nevada]~~ *Nevada System of Higher Education* who is *in a temporary appointment as* described in subsection 4 of NRS 284.325.

~~[3.]~~ 2. "Regular position" means the position an employee ~~[with a disability related to work]~~ held at the time:

- (a) Of his *work-related* injury; or
- (b) He became aware of his occupational disease and its relationship to his employment in the classified service of the State.

Sec. 11. NAC 284.6002 is hereby amended to read as follows:

284.6002 1. ~~[Except as otherwise provided in subsection 4, an]~~ *An* appointing authority shall require an employee who has a ~~[disability related to work]~~ *work-related injury or occupational disease* to submit to the appointing authority a physical assessment ~~[of the disability that is]~~ prepared by the employee's treating physician or chiropractor. The appointing

authority may require the employee to submit a physical assessment after each visit to the physician or chiropractor or after only those visits designated by the appointing authority.

2. Each physical assessment must:

(a) Be reported on ~~[the appropriate]~~ a form *that provides at least the same information as the form for physical assessments* prescribed by the Division of Industrial Relations of the Department of Business and Industry ~~[. The appointing authority shall provide the appropriate form to the employee.] ; and~~

(b) Contain ~~[any limitations or]~~ *all* restrictions imposed on the employee's ability to work by the treating physician or chiropractor.

3. An employee who is required to submit a physical assessment shall deliver or mail the assessment to the appointing authority within 3 working days after the date of his visit to his treating physician or chiropractor.

~~[4.— If an employee is on family and medical leave because of a disability related to work, he may, in lieu of submitting physical assessments required pursuant to subsection 1, submit to his appointing authority certification from a provider of health care substantiating the need for family and medical leave in the manner prescribed by the Family and Medical Leave Act.]~~

Sec. 12. NAC 284.6004 is hereby amended to read as follows:

284.6004 1. ~~[An]~~ *The* appointing authority shall ~~[offer]~~ *prepare a written description of the duties of a temporary assignment to be offered* to an employee ~~[who has a disability related to work]~~ *with a work-related injury or occupational disease. If the employee's treating physician or chiropractor approves the return of the employee to work, the appointing authority shall offer, in writing,* a temporary assignment that is modified according to ~~[the~~

~~limitations or~~ any restrictions imposed ~~[on the employee's ability to work]~~ by the employee's treating physician or chiropractor if:

(a) The ~~[employee is unable to perform]~~ restrictions prevent the employee from performing the duties of his regular position;

(b) The employee ~~[files, in a timely manner:~~

~~—— (1) A notice of the injury or occupational disease pursuant to NRS 616C.015 or 617.342;~~
and

~~—— (2) A claim for compensation pursuant to NRS 616C.020 or 617.344;~~

~~—— (c) The employee's treating physician or chiropractor approves the return of the employee to work;~~

~~—— (d)]~~ has an accepted or pending claim for compensation pursuant to NRS 616C.065 or 617.356;

(c) An appropriate temporary assignment is available;

~~[(e)]~~ (d) The temporary assignment is not prohibited by the source that funds the employee's regular position; and

~~[(f)]~~ (e) The employee would otherwise be employed by the appointing authority if he had not incurred the ~~[disability related to work.]~~ work-related injury or occupational disease.

2. A temporary assignment offered pursuant to subsection 1 must be terminated ~~[if]~~ if any of the following occurs:

(a) Ninety days have elapsed after the date on which the employee ~~[accepts]~~ began the assignment;

(b) ~~[When the]~~ The employee's treating physician or chiropractor certifies that the employee has permanent restrictions that prevent him from returning to his regular position;

(c) ~~[When the]~~ *The* assignment is no longer available;

(d) ~~[When the]~~ *The* employee's treating physician or chiropractor certifies that the employee ~~[is capable of performing]~~ *can perform* the duties of his regular position;

~~[(e) When the employee's claim for compensation for the disability that is filed pursuant to NRS 616C.020 or 617.344 is denied pursuant to NRS 616C.065 or 617.356; or~~

~~—(f) When the] or~~

(e) *The* employee terminates his employment or retires . ~~[(~~

~~↪ whichever occurs earlier.]~~

3. *If the employee's claim for compensation pursuant to NRS 616C.065 or 617.356 is denied, the temporary assignment may be terminated at the discretion of the appointing authority.*

4. An appointing authority may offer an employee who has a ~~[disability related to work an additional]~~ *work-related restriction imposed by the employee's treating physician or chiropractor one subsequent* temporary assignment if:

(a) The ~~[employee has returned to work at his regular position and is temporarily unable to perform]~~ *recovery period for the work-related injury or occupational disease continues to prevent the employee from performing all* the duties of ~~[that position;~~

~~—(b) The period for recovering from a subsequent treatment for the same disability prevents the employee from continuing to perform the duties of]~~ his regular position ~~[(; and~~

~~—(c) The additional]~~ , *but the employee is performing at least 51 percent of such duties; or*

(b) *The employee returns to work at his regular position but again becomes temporarily unable to perform the duties of his position due to restrictions imposed by the employee's treating physician or chiropractor because of the work-related injury or occupational disease.*

5. *The subsequent* temporary assignment ~~[is]~~ *must be* recommended by the appointing authority's insurer.

~~[4.]~~ 6. Any additional temporary assignment must be limited ~~[to the time set forth]~~ in *accordance with* subsection 2.

~~[5.—As used in this section, “insurer” has the meaning ascribed to it in NRS 616A.270.]~~

7. *An employee with a work-related injury or occupational disease may be required to submit himself for medical examination pursuant to the requirements set forth in NRS 616C.140 or 617.370 if his treating physician or chiropractor does not approve a temporary assignment to be offered to the employee.*

Sec. 13. NAC 284.6008 is hereby amended to read as follows:

284.6008 1. A temporary assignment offered to an employee pursuant to NAC 284.6004 must be located less than 25 miles from the location of his regular position, unless the employee accepts a temporary assignment in a different geographical location.

2. A temporary assignment offered to an employee must be under the jurisdiction of the employee's appointing authority if such an assignment is available. If ~~[it is not so]~~ *such an assignment is not* available, the appointing authority shall ~~[contact the]~~ :

(a) *Contact the Risk Management Division of the Department of Administration or the office of the Nevada System of Higher Education that assists with claims for a work-related injury or occupational disease;*

(b) *Contact the* Department of Personnel ; and ~~[determine if a]~~

(c) *Determine if an appropriate* temporary assignment ~~[that is modified according to the limitations or restrictions imposed on the employee's ability to work]~~ is available under the jurisdiction of another appointing authority.

3. If the employee is offered a temporary assignment under the jurisdiction of another appointing authority ~~[-~~:

~~—(a) The], the employee shall be deemed to remain in his regular position as the~~ temporary assignment does not constitute a transfer to ~~[-the position under the jurisdiction of the other appointing authority-~~

~~—(b) The employee shall be deemed to remain in his regular position.~~

~~—(c) The employee's original appointing authority is responsible for the payment of the employee's pay.] that position.~~

4. *For the duration of the temporary assignment, the duties assigned to the employee may not be used as a basis to:*

(a) Reclassify the employee's regular position; or

(b) Reallocate the class in which the employee is employed.

5. *An employee who accepts a temporary assignment offered pursuant to NAC 284.6004 is entitled to receive the base rate of pay he received for his regular position for the number of hours he works or is on paid leave during the temporary assignment. The appointing authority at the time of the work-related injury or occupational disease shall continue to pay the employee for the duration of the temporary assignment.*

Sec. 14. NAC 284.6012 is hereby amended to read as follows:

284.6012 Except as otherwise provided by the Family and Medical Leave Act, an employee who is granted family and medical leave because a ~~[-disability related to work]~~ *work-related injury or occupational disease* prevents him from performing one or more of the essential duties of his regular position:

1. ~~[May not be]~~ *Is not* required to accept a temporary assignment offered pursuant to NAC 284.6004 . ~~[in lieu of continuing on the family and medical leave that has been authorized by his appointing authority.]~~

2. May voluntarily accept a temporary assignment pursuant to NAC 284.6004. An employee who voluntarily accepts such a temporary assignment retains ~~[the]~~ *a limited* right to be returned to the position he held before the temporary assignment or an equivalent position ~~[pursuant to]~~ *subject to the provisions set forth in* the Family and Medical Leave Act . ~~[until the time served in the temporary assignment plus any family and medical leave taken during a rolling 12-month period pursuant to NAC 284.5811 exceeds 12 workweeks.]~~

Sec. 15. NAC 284.6013 is hereby amended to read as follows:

284.6013 For the purposes of NAC 284.6013 to 284.6019, inclusive, *the effective date* an employee shall be deemed to have ~~[sustained]~~ a permanent disability arising from a ~~[disability related to work on the date on which]~~ *work-related injury or occupational disease is the date* the insurer ~~[first causes notice to be delivered to him]~~ *delivers notice to the employee* stating that his treating physician or chiropractor has informed the insurer pursuant to NRS ~~[616C.590]~~ *616C.490* that the employee has permanent ~~[physical]~~ restrictions which prevent him from returning to work in his regular position.

Sec. 16. NAC 284.6014 is hereby amended to read as follows:

284.6014 1. An employee is eligible for reemployment under this section if:

- (a) He is a permanent employee;
- (b) He would otherwise have continued in his regular position;

(c) He is unable to perform the essential functions of his regular position, even with reasonable accommodation, because he has a permanent disability arising from a ~~disability related to work;~~ *work-related injury or occupational disease;*

(d) The Risk Management Division of the Department of Administration receives notification from the insurer certifying that the employee has a medical condition which, in the opinion of the medical adviser to the insurer, will result in a permanent partial disability;

(e) The Risk Management Division of the Department of Administration receives notification from the insurer certifying that the employee has permanent physical restrictions as a result of his permanent disability and that he is eligible for vocational rehabilitation benefits;

(f) The Risk Management Division of the Department of Administration receives notification from the insurer certifying that the employee's claim for benefits from the insurer is not being contested through the hearing and appeal process provided pursuant to chapters 616A to 617, inclusive, of NRS; and

(g) He submits to the Department of Personnel a completed job development form supplied by the Department not later than 30 days after the date on which he sustained his permanent disability.

2. A person is entitled to reemployment under this section only within the department that employed him at the time he sustained his permanent disability. Such entitlement to reemployment applies to the class and option of his regular position and to any class for which the employee qualifies that does not exceed the grade level of his regular position.

3. A person is entitled to reemployment under this section only in a full-time position if his regular position was on a full-time basis. A person whose regular position was on a part-time, seasonal or intermittent basis only is entitled to reemployment on the same basis as his regular

position. A person who is entitled to reemployment on a full-time basis may be reemployed on either a full-time or part-time basis, as appropriate, based on his permanent physical restrictions as certified by the insurer.

4. The employee, his appointing authority and his vocational rehabilitation counselor shall provide any necessary information for job development and reemployment on the forms prescribed by the Department of Personnel.

Sec. 17. NAC 284.6015 is hereby amended to read as follows:

284.6015 The Risk Management Division of the Department of Administration shall provide to the Department of Personnel and to an employee's appointing authority the following information regarding the employee when the information becomes known to the Division:

1. The date on which the employee sustained a permanent disability arising from a ~~[disability related to work;]~~ *work-related injury or occupational disease;*
2. The date on which the employee will no longer be eligible for vocational rehabilitation benefits;
3. Any written agreement signed by the employee for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation benefits; and
4. Any determination by the insurer that the employee is not entitled to compensation for a permanent partial disability.

Sec. 18. NAC 284.6019 is hereby amended to read as follows:

284.6019 1. Except as otherwise provided in NAC 284.6018, a person is no longer eligible for reemployment pursuant to NAC 284.6014:

(a) If he signs a written agreement providing for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation benefits, unless such an agreement is subsequently rescinded in the manner set forth in NRS 616C.595;

(b) When he is no longer eligible for vocational rehabilitation benefits;

(c) When it is determined that the employee is not entitled to compensation for a permanent partial disability;

(d) If he accepts an offer of employment with the State of Nevada or another employer which accommodates his permanent ~~physical~~ restrictions or he is otherwise unavailable for employment;

(e) If he declines an offer of employment which accommodates his permanent ~~physical~~ restrictions and which is located in the same geographical location as his regular position;

(f) If he is dismissed from the position ~~for~~ *in* which he is reemployed for disciplinary reasons or because he retires;

(g) If he states his intention not to seek reemployment; or

(h) On or after the one year anniversary of the date on which he sustained his permanent disability ~~as~~ *as determined pursuant to NAC 284.6013.*

2. Reemployment rights must not be offered more than one time for the same disability ~~related to work~~ *resulting from a work-related injury or occupational disease.*

3. As used in this section, “geographical location” has the meaning ascribed to it in NAC 284.612.

Sec. 19. NAC 284.6006, 284.601 and 284.6016 are hereby repealed.

TEXT OF REPEALED SECTIONS

284.6006 Temporary assignment: Compensation; effect of duties assigned. (NRS 284.065, 284.155, 284.175, 284.327)

1. An employee who accepts a temporary assignment offered pursuant to NAC 284.6004 is entitled to receive the base rate of pay he received for his regular position for the number of hours he works or is on paid leave during the temporary assignment.

2. For the duration of the temporary assignment, the duties assigned to the employee may not be used as a basis to:

- (a) Reclassify the employee's regular position.
- (b) Reallocate the class in which the employee is employed.

284.601 Temporary assignment: Accommodation of limitations or restrictions on employee's ability to work; duties of appointing authority; requirement of medical examination under certain circumstances. (NRS 284.065, 284.155, 284.327)

1. A temporary assignment offered to an employee pursuant to NAC 284.6004 must accommodate the limitations or restrictions imposed on the employee's ability to work by the employee's treating physician or chiropractor, as set forth in the physical assessments required pursuant to NAC 284.6002.

2. An appointing authority shall:

(a) Prepare a description of the duties of a temporary assignment to be offered to an employee with a disability related to work. The temporary assignment must be approved, in writing, by the employee's treating physician or chiropractor before it is offered to the employee.

(b) Obtain the prior written approval of the employee's treating physician or chiropractor before making any changes in the duties of the temporary assignment that may not accommodate the limitations or restrictions imposed on the employee's ability to work.

3. An employee with a disability related to work may be required to submit himself for medical examination pursuant to the requirements set forth in NRS 616C.140 or 617.370 if his treating physician or chiropractor does not approve a temporary assignment to be offered to the employee.

284.6016 Family and medical leave for certain disabled employees. (NRS 284.065, 284.155, 284.305, 284.345) An employee who has a disability related to work that prevents him from performing one or more of the essential functions of his regular position may remain on family and medical leave as authorized by his appointing authority until his entitlement to such leave is exhausted. If the employee is eligible for reemployment pursuant to NAC 284.6014, he voluntarily may seek reemployment while he is on family and medical leave.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R142-05

The Personnel Commission adopted regulations assigned LCB File No. R142-05 which pertain to chapter 284 of the Nevada Administrative Code on November 8, 2005.

Notice date: 9/16/2005
Hearing date: 11/8/2005

Date of adoption by agency: 11/8/2005
Filing date: 12/29/2005

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.**

On September 16, 2005, a "Notice of Workshop" to solicit comments on proposed regulations and "Notice of Hearing" for the adoption and amendment of regulations was posted conspicuously in public buildings. On the same day, copies of the notices and the text of the proposed regulations were filed with the Nevada State Library and the Legislative Counsel Bureau. Also on September 16, 2005, 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 posted on the Department's website and also sent to all employee organizations, all Nevada county public libraries, all requesting parties, and members of the Personnel Commission.

On October 11, 2005, a workshop was held. Shelley Blotter, Chief, Technical Services Division, Department of Personnel, explained the purpose of the workshop and the process by which the proposed regulations would be reviewed and adopted. Ms. Blotter read the explanation of change for each of the sections and solicited comments.

Due to lack of audio communication with Las Vegas, the videoconference did not occur. Ms. Blotter stated that we would accept written comments from participants in the Las Vegas location.

- a. The following summarizes the comments made at the workshop regarding the proposed regulations:

There were no comments, questions, opposition, or discussion on NAC 284.600, 284.6008, 284.6013, 284.6015, 284.6019, 284.6006, 284.601, 284.6016.

NAC 284.6002, Physical assessments.

Mr. Phil Brittenham noted in NAC 264.600 occupational disease was struck and just continued with illness. To be consistent, it would be appropriate to state in

NAC 284.6002 work-related injury or illness and strike occupational disease. He feels occupational disease has a different connotation than illness.

NAC 284.6004, Temporary assignment: Conditions for offer; termination; additional assignments.

Kareen Masters, Deputy Director, Department of Health and Human Services, expressed concern regarding subsection 3 that states, “If a workers’ compensation claim is denied the temporary assignment can be terminated at the discretion of the appointing authority.” Ms. Masters’ understanding is that if someone were in the middle of a project, they would be allowed to complete the project. Ms. Masters feels the language needs to be tightened up because it leaves a major loophole that someone could continue someone on a temporary assignment. She thinks there are other methods to accomplish that through the Personnel Regulations and doesn’t think it should be part of this situation where someone who had filed a workers’ compensation claim now has some special status for continuing in temporary assignments for an indefinite period. In subsection 4 (b), “The employee is performing at least 51% of the duties of his regular position or...,” Ms. Masters stated that it is very difficult to be that discrete in determining what percentage of a regular position that someone is performing.

Ms. Blotter asked Mr. Jim Fry, Management Analyst IV, Risk Management Division to confirm that the 51% is in S.A.M. Mr. Fry confirmed that 51% is in S.A.M. Mr. Fry stated if someone has a workers’ compensation claim, you have to provide in writing what the job is within 10 days and that is in NRS 616. Mr. Fry gave an example: someone has a back injury and they find out later it was due to age rather than the injury, so it would not be a workers’ compensation claim because it is not work-related. This gives an out for the employer to say, “While this is no longer a workers’ comp. claim, we are providing you light duty, you still have an injury, and we are going to keep you in the light duty position. The 51% comes down to basically the employer saying, yes, I believe it is or it isn’t. It is very hard to judge but it is in S.A.M.

NAC 284.6012, Temporary assignment: Effect of family and medical leave.

Ms. Blotter stated we received a request to delete the words “pursuant to” in subsection 2. It will now read, “May voluntarily accept a temporary assignment pursuant to NAC 284.6004. An employee who voluntarily accepts such a temporary assignment retains the right to be returned to the position he held before the temporary assignment or an equivalent position subject to the provisions set for in the to the Family Medical Leave Act.

NAC 284.6014, Eligibility of employee with permanent disability for reemployment.

Mr. Fry stated in subsection 3, the committee discussed deleting the limitation of reemployment to the same Department where the employee was injured and requiring consideration of these reemployments in all agencies. Since the language has not been changed as discussed, Mr. Fry feels the current language does not comply with (1) return to work program, and (2) EEOC guidelines for ADA.

Ms. Blotter asked Mr. Fry if we have anything in writing from the Office of the Attorney General? Mr. Fry responded that we do not, but he could probably get the Attorney General's opinion.

Regulations presented at the workshop are attached for reference.

2. The number of persons who:

(a) Attended the hearing: 42 in Carson City and 3 in Las Vegas

(b) Testified at the hearing: 1

(c) Submitted written comments: 4. A summary of the workshop is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada, 89701-4204.

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

The regulations do not affect businesses; therefore, their comments were not solicited.

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.

Changes were made to proposed regulations based on written comments received, comments at the workshop, and based on the pre-adoption review by the Legislative Counsel Bureau.

5. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

These regulations do not have a direct economic effect on any business or on the public.

6. The estimated cost to the agency for enforcement of the regulations:

Enforcement of these regulations should not result in any increased cost to the Department of Personnel.

7. A description of any regulations of other State or governmental agencies which the regulations overlap or duplicate and a statement explaining why the duplication or

overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, provide the name of the regulating federal agency.

There is no duplication or overlapping created by these regulations.

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

These regulations are not more stringent than a 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.**

These regulations do not provide new or increase existing fees; therefore, no monies will be collected or used.