

**ADOPTED REGULATION OF THE  
DEPARTMENT OF PERSONNEL**

**LCB File No. R146-01**

§§2-11, inclusive, effective January 18, 2002

§1 effective February 4, 2002

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

AUTHORITY: §1, NRS 284.345; §§2-4 and 7-11, NRS 284.155; §§5 and 6, NRS 284.155 and 284.3626.

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

*An employee in the public service who performs active military service in the Armed Forces of the United States or any other category of persons designated by the President of the United States or the governor of this state, including, without limitation, the Commissioned Corps of the Public Health Service, in time of war or emergency, is entitled to civil leave with reduced pay pursuant to this section for the period of such service. The pay that such an employee is entitled to receive pursuant to this section is the difference between the pay he would have otherwise received as a state employee and his pay for active military service. If his pay for active military service is greater than the pay he would have otherwise received as a state employee, the employee will not receive any additional pay pursuant to this section while he is in active military service.*

**Sec. 2.** NAC 284.132 is hereby amended to read as follows:

284.132 1. An appointing authority, an employee or the department of personnel may request a temporary classification which allows the classification of a position for a temporary

period of 1 year or less. Each appointment which is designated as temporary must have specific criteria established which justify the grade of the position and the projected date of expiration of the period. A position which no longer meets this criteria will revert back to the class from which it was reclassified. This method of classification is subject to the following conditions:

(a) Temporary classifications must meet the allocation standards and the criteria established for the class before this method may be used. The classification must be approved by the department of personnel before the appointment.

(b) An employee who is appointed to a temporary class must sign the payroll document. This signature acknowledges that the employee understands the conditions of the reclassification and its projected date of expiration.

2. If the employee meets the minimum qualifications for the temporary classification, he:

(a) Retains his status of appointment; and

(b) Must complete the remaining portion of the probationary period currently being served, if any, based on the requirements of the new class.

FLUSH An incumbent who has reverted to his previous class is entitled to the step, pay progression date and status of appointment he would have attained if he had not been appointed to the temporary class.

3. An employee who is promoted pursuant to this section must receive a new pay progression date if his promotion results in an increase of at least two grades. The rate of compensation for the employee will be determined in accordance with the provisions of NAC 284.170 governing compensation on promotion.

4. In case of a layoff, the temporarily assigned employee's class of layoff is his former class. The time served in the temporary class is counted for seniority purposes if it was in the same occupational ~~class,~~ *group*, as provided in NRS 284.171.

**Sec. 3.** NAC 284.398 is hereby amended to read as follows:

284.398 1. An unclassified employee who has less than 4 months of service and whose appointment was immediately preceded by an appointment in the classified service in which the person was a permanent employee may transfer back into the classified service under the same conditions and with the same benefits as classified employees, except that the duties and compensation of the position to which the person is transferred must be similar, as determined by the department of personnel, to either the unclassified position or to a previously held classified position.

2. Employees of any governmental agency which is acquired for administration by the state pursuant to NRS 284.022 may transfer into the classified service or unclassified service with the rights and benefits authorized by the legislature.

3. An employee who transfers into the classified service:

(a) Must complete an application and meet the minimum requirements for qualification to the class of the position to which he is transferring;

(b) Must have his date of transfer and appointment to the classified position effective immediately following the last day of employment in the unclassified or nonclassified position ~~and~~ *unless he was employed as a legislative employee at the conclusion of a regular session of the legislature to whom subsection 6 of NRS 284.3775 applies;* and

(c) May retain the credits which he has earned for annual and sick leave and longevity.

4. A transfer of an employee to a similar class requires the approval of the department of personnel.

**Sec. 4.** NAC 284.442 is hereby amended to read as follows:

284.442 All classes at grade ~~23~~ **20** or higher must be assigned a 1-year (full-time equivalent) probationary period. All classes lower than grade ~~23~~ **20** will be assigned a 6-month (full-time equivalent) probationary period.

**Sec. 5.** NAC 284.575 is hereby amended to read as follows:

284.575 As used in NRS 284.362:

1. “Lengthy convalescence” means a period of disability which an attending physician expects to exceed 10 *consecutive* weeks.

2. “Life threatening” means a condition which is diagnosed by a physician as creating a substantial risk of death.

**Sec. 6.** NAC 284.576 is hereby amended to read as follows:

284.576 1. An account for catastrophic leave may be established for an employee when he or a member of his immediate family experiences a catastrophe and the employee has used all of his accrued leave.

2. An employee who is affected by a catastrophe and has used or is about to use all of his leave may request, on the appropriate form, the transfer of leave to an account for catastrophic leave for his personal use after the balance of all of his leave has been used. *Such a request must be accompanied by a statement from a physician on a form provided by the committee on catastrophic leave created pursuant to NRS 284.3627 which substantiates the necessity of the leave.*

3. When a member of the immediate family of an employee is affected by a catastrophe, the appointing authority of the employee may require substantiating evidence that the member of the immediate family requires the employee's attendance before approving the transfer of leave to an account for catastrophic leave for use by the employee. Such evidence may include a statement by an attending physician regarding the status of the catastrophe.

4. The ~~{approval or denial of the request is at the discretion of the}~~ appointing authority ~~{~~ ~~who shall take}~~ *shall approve or deny a request for catastrophic leave, taking* into consideration the nature of the catastrophe and the expected duration of the leave. *The decision of the appointing authority may be appealed to the committee on catastrophic leave pursuant to NRS 284.3629.*

5. An employee who wishes to donate hours to an account for catastrophic leave for use by another employee who has been approved to receive the donated hours shall notify his appointing authority on the appropriate form of his intent to donate the leave. The appointing authority of the employee donating the leave shall submit a copy of the form to the appointing authority of the employee receiving the leave. The appointing authority of the recipient shall use the notice to effect a transfer of leave from the account of the donor to the account of the recipient when the recipient needs to use those hours. If more than one notice of intent to donate leave is received by the recipient's appointing authority on behalf of the recipient, the notices must be maintained in chronological order and used, one at a time as needed, according to the date in which they were received.

6. A donor and his appointing authority must be notified on the appropriate form when the donated leave specifically designated for use by another employee has been used or if the amount of leave donated is in excess of the amount approved for use by the recipient. Excess

leave must be restored to the account of the donor within 30 working days after the last day on which the recipient was eligible to receive catastrophic leave.

7. The appointing authority shall provide the following information on a calendar year basis or as requested by the director:

(a) Each employee under its authority, identified by a number assigned in accordance with subsection 8, donating or using catastrophic leave, his grade and rate of pay and the number of hours and dollar value of the leave donated, excluding any excess leave restored to the account of a donor, pursuant to subsection 6, or used by the employee;

(b) The period and nature of the disability for each employee using catastrophic leave; and

(c) A comparison of the average dollar value of the accounts for catastrophic leave based on the average rate of pay of the donors and the average dollar value of the leave taken by the recipients.

8. The appointing authority shall assign numbers to employees for the purposes of subsection 7 in a sequential order and in such a manner that ensures the confidentiality of the identity of those employees.

9. Hours donated to an account for catastrophic leave must be donated in increments of 8 hours.

10. As used in this section, "immediate family" has the meaning ascribed to it in NAC 284.562.

**Sec. 7.** NAC 284.587 is hereby amended to read as follows:

284.587 Civil leave with pay must be granted to an employee who meets the requirements of NRS 284.357, and may also be granted by the appointing authority to an employee whose absence from the job is necessary to meet a ~~public~~ *disaster or* emergency.

**Sec. 8.** NAC 284.612 is hereby amended to read as follows:

284.612 For the purposes of NAC 284.612 to 284.630, inclusive:

1. “Geographical location” means:

- (a) Clark, Lincoln, Nye ~~[,]~~ and Esmeralda counties;
- (b) Carson City, Lyon, Churchill, Storey, Douglas, Mineral ~~[,]~~ and Washoe counties;
- (c) Pershing, Humboldt, Elko, Lander, Eureka ~~[,]~~ and White Pine counties; *or*
- (d) Any city located outside of this state.

2. “Option” means a clearly identified subclassification mentioned in the class specification approved by the commission.

3. “Seniority” is computed from the total time spent during currently continuous state service by doubling the time spent in the present occupational ~~[class,]~~ *group* as defined in NRS 284.171, and adding it to the time spent in all former occupational ~~[classes.]~~ *groups*. If seniority is otherwise equal, a choice must be ~~[based first,]~~ *made in the following order:*

- (a) *Based* on total time within the occupational ~~[class; second,]~~ *group*;
- (b) *Based* on total time within the department; and ~~[third, by]~~
- (c) *By* lot.

FLUSH For reemployment, ties are broken by lot.

**Sec. 9.** NAC 284.614 is hereby amended to read as follows:

284.614 1. Except as otherwise provided in NAC 284.438, 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 administrator 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 human resources and the University and Community College System of Nevada, the administrator of a division, with the approval of the director of the department, shall determine in what geographical location, class series, class and option the reduction of staff will have the least detrimental effect on operations and shall specify the layoffs accordingly.

(b) Within the department, and within the geographical location, class series, class and option selected, all employees of the department who are not permanent must be laid off 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 performance and seniority. In computing seniority, the time covered by a report on performance “below standard” or “unacceptable” made during the last 4 years must not be included, except that no report may be considered for the time covered within 75 calendar days before the notification of layoff was issued. Except as otherwise provided in this paragraph, the time “covered” by a report of substandard performance runs from the date the report was filed with the director until the date recorded on the employee’s subsequent report on performance as the date on which his performance improved to standard or better. If the subsequent report on performance is not filed within ~~[30 days after the date]~~ *the 90-day period* required by subsection 4 of NRS 284.340, the employee’s performance shall be deemed standard effective on the date the *subsequent* report on performance was due.



(d) In the department and within the geographical location, class series, class and option where layoffs are to take place, those employees with the least seniority must be laid off.

(e) For the purposes of this subsection, an appointing authority may consider whether positions are full time or part time and limit layoffs to full-time or part-time employees. Similar considerations may be given to and limitations placed on positions requiring selective certification pursuant to NAC 284.378.

2. When determining seniority for order of layoff:

(a) Seniority must be projected and counted up to the established date of layoff.

(b) Seniority for part-time employment must be prorated to its full-time equivalent.

(c) If a classified employee enters unclassified service and subsequently reenters classified service, his previous and current classified service is counted.

(d) Except as otherwise provided in NAC 284.580, any combination of authorized leave without pay and catastrophic leave for more than 240 hours or, in the case of an excluded classified employee, 30 working days, in a year, calculated pursuant to subsection 6 of NAC 284.182, is not counted.

(e) When an employee was separated from service with this state for any of the reasons that do not result in a break in continuous service as provided in NAC 284.598, the time during the separation is not counted.

**Sec. 10.** NAC 284.618 is hereby amended to read as follows:

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

(a) Within his current class series and option and may displace an employee therein; or

(b) Within the class series and option from which he was appointed during current continuous service and may displace an employee therein but only if he cannot be demoted pursuant to paragraph (a). If the class series from which he was employed was in a different occupational ~~class,~~ *group*, his seniority for the purposes of this paragraph only is based on the time he spent in the former occupational ~~class~~ *group* as provided in subsection 3 of NAC 284.612.

FLUSH The choice must be made in writing within 3 working days after notification of layoff. For the purposes of this section, divisions of the department of human resources and the University and Community College System of Nevada are considered 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 from which the other will be displaced. 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 284.378.

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

6. Displacement is always a downward movement, never a lateral movement.

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

8. The ~~salary paid~~ *pay of* the displacing employee cannot exceed the highest step for the lower class. If the current ~~salary~~ *pay* falls within the lower rate range, no reduction in ~~salary~~ *pay* may occur unless money is not available as certified by the chief of the budget division or, in the case of an agency which is not supported from the state general fund, as certified by the administrator of that agency.

**Sec. 11.** 1. This section and sections 2 to 10, inclusive, of this regulation become effective on January 18, 2002.

2. Section 1 of this regulation becomes effective on February 4, 2002.

**Informational Statement Concerning Adopted Regulation  
LCB File No. R146-01**

On December 7, 2001, the Personnel Commission approved the adoption of the attached amendments to Chapter 284 of NAC. The following is the informational statement concerning these actions as required in 233B.066:

1. On October 16, 2001, copies of the "Notice of Workshop" to solicit comments on proposed regulations and "Notice of Hearing" for the adoption, amendment and repeal of regulations were posted conspicuously in public buildings. On the same day, copies of the notices and the text of the proposed regulations were filed with the Legislative Counsel Bureau and the Nevada State Library. Also on October 16, 2001, 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 also sent to the State of Nevada Employees Association, the main public library in each county, all requesting parties, and members of the Personnel Commission.
2. The workshop was held at the Department of Transportation in Carson City on November 8, 2001. Twenty people attended the workshop on the proposed regulations. The proposed regulations were presented in two parts. Part I consisted of proposed regulation changes due to statutory changes, requests by interested parties and proposals by the Department of Personnel.

Part II contained proposed regulations changes as a result of a comprehensive review of the Compensation Section of the Rules for Personnel Administration. Carol Thomas explained that the Legislative Counsel Bureau would be adding sections to effect changes in the definitions, for example, from "excluded" to "exempt".

The explanation of change was read for each of the sections. Discussion was heard on the following sections: 284.526, 284.576, and 284.170. Agency personnel liaisons expressed their opposition to the State of Nevada Employee's Association proposed amendment to 284.526 and reservation regarding Public Safety's proposed amendment to 284.170. A summary of the public workshop is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

On Friday, December 7, 2001, a Personnel Commission hearing was held at the Grant Sawyer Office Building in Las Vegas, and all the proposed regulations were adopted except for section 7 of agenda item VI-A and subsections 1(b)5 and 1(c) of section 33 of agenda item VI-B. Sections 3 and 4 of agenda item VI-A and section 27 of agenda item VI-B were withdrawn from consideration prior to the hearing. Forty-eight people were in attendance in Las Vegas, and 23 were in attendance in Carson City via video conference.

During the hearing, Gary Wolff, from the Nevada Highway Patrol Association and Teamsters Local 14, and members of those organizations requested that section 1 of agenda item VI-A, Extended Military Leave for Active Military Service, be rewritten to compare the employee's base rate of pay in State service to their base rate of pay in the military. Testimony was heard which verified that the intent of the regulation was to make the employee whole in terms of pay while on active military service. Additional testimony indicated that the differential pay was a new benefit and that calculating the pay differential in a different manner may result in a higher cost impact which went beyond the intent of the regulation.

Comments were also received on section 6 of agenda item VI-A, Length of Probationary Period. Scott McKenzie, Executive Director, from the State of Nevada Employee's Association (SNEA) and a representative of their membership from the Department of Motor Vehicles provided testimony objecting to the lengthening of the probationary period for grades 20, 21, and 22. Jeanne Greene, Director, Department of Personnel responded that the current proposal was a result of an agreement made with SNEA during the last legislative session. Personnel Officers from Department of Human Resources, Department of Employment, Training and Rehabilitation, University of Nevada, Las Vegas and Business Center North testified that a longer probationary period was necessary to appropriately evaluate employees.

A lengthy discussion was held regarding section 7 of agenda item VI-A, Computation of Payments for Holidays. The SNEA provided testimony regarding their proposal to allow payment for holiday pay to equal an employee's regular hours of work (e.g., an employee who normally works 10 hours but has the day off due to the holiday would receive 10 hours of holiday pay). Gary Wolff provided supporting testimony for the amendments. The Department of Personnel and agency personnel liaisons from a variety of departments provided testimony in opposition to the proposed amendments.

The last comments received were regarding the proposed amendments to 284.204. Following the workshop, language had been inserted into 284.204 to allow an appointing authority to request an adjustment of steps for a supervisor whose base rate of pay was the same as or less than one of his subordinate staff members. The Department of Public Safety requested, during the hearing, that the amendment be modified to allow more discretion on the part on the appointing authority including making equity adjustments for other employees when one of their peers received pay differential adjustment. The Personnel Officer from Department of Corrections and Interim Director of Cultural Affairs asked for more time to consider the proposal and asked that the matter be tabled. Subsections 1(b)5 and 1(c) were tabled and the remainder of the amendments to 284.204 were approved.

A summary of the hearing is available upon request from the Department of Personnel, 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

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

4. These regulations do not have a direct economic effect on any business or the public
5. Enforcement of these regulations should not result in any increased cost to the Department of Personnel.
6. These regulations do not duplicate or overlap with other State or government regulations.