

STATE OF NEVADA

**DEPARTMENT OF ADMINISTRATION
DIVISION OF HUMAN RESOURCE MANAGEMENT**

Gaming Control Board, Conference Room
1919 College Parkway
Carson City, Nevada

and

Grant Sawyer Building, Room 2450
Gaming Control Board
555 East Washington Avenue
Las Vegas, Nevada

The sites will be connected by videoconference. The public is invited to attend at either location.

**REGULATIONS WORKSHOP
MINUTES**

Wednesday, July 17, 2013

Speakers Present: Shelley Blotter (Deputy Administrator , DHRM), Shannon Chambers (Deputy Director, B & I), Ron Cuzze (President, Nevada State Law Enforcement Officers' Association, NSLEOA), Amy Davey (Personnel Officer, AHRS (Agency Human Resource Services)), Carrie Hughes (Personnel Analyst ,DHRM), Kimberley King (NDOT), Peter Long (Deputy Administrator, DHRM), Kareen Masters (DHHS), Sarina Rupert (Personnel Services, DETR), Christine Ripley (DHRM).

Present in Carson City: Annette Altman (NDMV), Michelle Barnes, Dana Carvin, (DHRM), Lee-Ann Easton (Administrator, DHRM), Kim Eberly (DETR), Michelle Garton (DHRM), Beverly Ghan (DHRM), Teri Hack (Personnel Analyst, NDF), Debra Harvey (Nevada Division of Environmental Protection), Krista Heald, Gennie Hudson (AHRS), Chrissy Miller (DHRM), Sandra Persson (DPS), Tawny Polito, Lauren Risinger, Anke Simpson (Nevada State Parks), Sherri Vondrak (NDOT), Denise Woo-Seymour (Personnel Analyst ,DHRM).

Present in Las Vegas: Judy Atwood (Colorado River Commission), Willette Gerald (NDMV), Larry Hamilton (UNLV), Kathy Levell (DHRM – AHRS), Jimmy Oseguera (AHRS), Katie Rich (DHRM).

1. CALL TO ORDER AND WELCOME

Shelley Blotter, Deputy Administrator, (DHRM): Opened the meeting at 8:40 a.m. She welcomed participants to the Division of Human Resource Management (DHRM) Regulation Workshop. She asked everyone to sign in. She indicated the purpose of the workshop was to solicit comments from affected parties with regard to proposed regulations for permanent adoption. She explained that the regulations might be considered at the next Personnel Commission meeting in September 2013 or on a future date. She indicated

that staff would provide an explanation and then she would take comments following each short presentation for individual or a grouping of regulations. She added that comments would be summarized for the Personnel Commission.

2. REVIEW OF PROPOSED CHANGES TO NAC 284

a) Proposed Amendment to NAC 284.361

Use of lists and consideration of eligible persons-

Shelley Blotter, Deputy Administrator (DHRM): Stated that Peter Long would be discussing the proposed change to the regulation.

Peter Long, Deputy Administrator (DHRM): Explained that NAC 284.361 proposed by the DHRM would require agencies to interview at least five eligible persons in the first ten ranks rather than all persons in the first five ranks. He said that with the change all competitive appointments from ranked lists would be made from available persons in a rank of persons who receive the ten highest scores on the examination rather than in a rank of persons who receive the five highest scores. He indicated that the change would allow a greater number of individuals an opportunity to be selected for an interview for a vacancy in addition to providing agencies with a larger candidate pool allowing the best hiring decisions possible.

He indicated that the reason the DHRM was proposing this change was because there had been multiple concerns expressed by agencies and applicants/eligible persons. Agencies had noted that the best candidates were often number six or seven or eight and from eligible applicants, they expressed the view that they were a number six and yet could not get an interview. He stated many times the difference between rank five and six would be one point. He added that the DHRM felt that having that arbitrary cut off was not providing agencies with the best resource to get the best candidate. He explained that everyone on the list would have met the minimum qualifications but individual agencies would know best what skill set and other qualifications would be best for a particular position.

He stated another reason for the proposed change which was they had surveyed all the Western states including Arizona, California, Idaho, Oregon, Utah, Washington and Wyoming and noted that none of them used rank lists. The exception was where the appointing authority could request a certain number of ranks and that would be what the state would provide. He added that they had also surveyed the local jurisdictions: Clark County and they only used ranking lists for two entities, the fire department and juvenile probation; the City of Las Vegas and they ranked based on not absolute scores but a range of scores; Carson City used no rank lists; City of Reno used rank lists; the City of Elko used rank lists but based on the number of applicants the appointing authority wanted; Washoe County did use rank lists; and the Metro Police Department, used rank lists but they were derived from a variety of three kinds of tests and they were required to hire as per the scoreboard. He indicated that was the rationale for proposing the change.

He stated that the DHRM had a pre-workshop, workshop to review the proposed changes and address any concerns. He noted the response was positive from the agency side. He said they received feedback from several associations.

Shelley Blotter, Deputy Administrator, (DHRM): Encouraged any participants who had comments to make them and they would be passed on to the Personnel Commission and for public record.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, (NSLEOA): Noted as Mr. Long had stated there had been a pre-workshop on the proposed changes. He stated that what he was talking about was the hiring and promotion of law enforcement which might be different from many other areas. He said with respect to hiring, they were in agreement and felt the more people on the list the better it would be and gave some examples. He commented that with regard to promotions they were in total disagreement with the proposed changes. He explained they felt if they were not getting the best people in the top five then perhaps they were not asking the right questions. He stated that having the number of ten would make the process

open to 'money business'. He noted that with regard to the issue of promotions they would oppose it to the end. He indicated that he was representing the NSLEOA. He added that he had members in all 22 state law enforcement agencies.

Peter Long, Deputy Administrator (DHRM): Thanked Mr. Cuzze for his participation in the pre-workshop, workshop. He referred to one of the concerns raised by Mr. Cuzze in which he had stated that the Department of Public Safety (DPS) was not in agreement in the proposed changes. Mr. Long noted that they had received input from their Director Jim Wright who had said that he and the personnel officer had discussed it and they did not have any issues with the proposed changes.

Amy Davey, Personnel Officer, AHRS (Agency Human Resource Services): Stated that after the pre-workshop, workshop she sent out all of the proposed regulation changes to the 14 agencies that they served, the administrators and the directors. She noted that she had received quite a bit of feedback, all positive to this regulation change, in particular Business & Industry (B & I), the Department of Taxation, and the Department of Agriculture. She commented that the feedback reflected a perspective that it did allow management and the agencies more flexibility to find specific skill sets. She added that it allowed employees within the agencies who might already be doing the job or know the work to be in that pool of candidates being considered.

Shannon Chambers, Deputy Director for Business & Industry: Stated that they fully supported the change to the regulation. She stated that she had specific instances of employees that were that number six or seven and doing the job for eight, ten, twelve years and more than qualified and this would allow them to be promoted or obtain a new position. She added that previously they had not been eligible due to their ranking. She thought that the current process was not the best for securing the best employees. She repeated they were fully in support of the change.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, (NSLEOA): Indicated that he agreed with Shannon Chambers. He noted that he agreed it should be the top five.

Shelley Blotter, Deputy Administrator, (DHRM) : Indicated they would move to the next section as there were no more comments.

Peter Long, Deputy Administrator (DHRM): Stated that he would like information included into the record. He indicated that Jeanine Nelson (HR Services Manager, UNR) was not able to attend but provided written input and stated they were in support of the revision to NAC 284.361. In addition he had received written input from Jeanine Lake from AFSCME (American Federation of State, County and Municipal Employees) and they had stated that they were in opposition to proposed revision.

Shelley Blotter, Deputy Administrator, (DHRM) : Reminded attendees that if anyone else wanted to submit a written comment please submit them within the next two weeks.

b) Proposed Amendment to NAC 284.373 Inquiry of availability of eligible persons-

Shelley Blotter, Deputy Administrator, (DHRM): Stated that Peter Long would be discussing the proposed change of the regulation.

Peter Long, Deputy Administrator (DHRM): Stated the amendment proposed by the DHRM would change the number of days in which an eligible person had to respond to an inquiry of availability by electronic mail, voice mail or any other electronic message from three days to two days. He indicated that the change would reduce the time needed to fill available positions allowing agencies to move through the list of eligible persons more expeditiously. He commented that it was the opinion of the DHRM and from input they had received, that communication now was almost instantaneous. Applicants received an email as soon as they are eligible. Agencies received the eligible list and often emailed applicants as it was more effective. The DHRM was

therefore asking that the response to either an email or voicemail message be changed from three to two days. He explained it did not mean an agency could not choose to wait an additional day but it would give them the option if they wished to act sooner.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, (NSLEOA): Stated that the NSLEOA opposed this amendment.

Amy Davey, Personnel Officer, AHRS (Agency Human Resource Services): Stated that they had not received any specific feedback from their agencies one way or the other. She acknowledged that at times it was important for agencies to have that option if it was critical for them to fill a position quickly.

Peter Long, Deputy Administrator (DHRM): Stated that BCN (Business Center North) was in support of the change. He noted that in correspondence from Jeanine Lake from (AFSCME) they had not indicated that they were not comfortable with the change.

c) Proposed Amendment to NAC 284.374

Active lists: Removal and reactivation of names: refusal to consider certain persons-

Shelley Blotter, Deputy Administrator, (DHRM): Stated that Peter Long would be discussing the proposed change of the regulation.

Peter Long, Deputy Administrator (DHRM): Stated that the amendment proposed by the DHRM would reduce the number of times an agency must consider an eligible person from three times to one time. He explained that the change would increase efficiency of the hiring process by not requiring agencies to interview an otherwise eligible person when the person had previously interviewed for a position from the same recruitment. He stated the rationale for proposing the change was that many times an agency for various reasons might not be interested in appointing that person to a particular position. He said they were reducing the list of eligible down by one. He said the proposed change would not prevent an agency from considering that person more than once if they chose to. He said it would serve to save time for the agency in interviewing an applicant if they were not interested in hiring them.

Shelley Blotter, Deputy Administrator, (DHRM): Called for comments.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, (NSLEOA): Stated that their association held a neutral position on this proposed change.

Amy Davey, Personnel Officer, AHRS (Agency Human Resource Services): Stated that two of their agencies felt that this was very beneficial for them. These agencies were Enterprise IT Services and the Department of Taxation. She commented that both agencies hired technical-oriented positions for which the candidate pool was small and she elaborated on how this proposed amendment would assist them. She also noted that the Department of Taxation with many of their specialized positions including their auditors had indicated that they would like to see this change.

Peter Long, Deputy Administrator (DHRM): Stated that UNR (University of Nevada – Reno) supported the proposed amendment. He noted that Jeanine Lake from AFSCME opposed the proposed amendment.

d) Proposed Amendment to NAC 284.531

Furlough leave-

Shelley Blotter, Deputy Administrator, (DHRM): Stated that this was the same regulation adopted by the Personnel Commission as an emergency regulation. She stated that none of the text of the regulation was changed except for Subsection 10 which reverted to the new Furlough Bill. She confirmed that everything else remained the same from the previous two-year period.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, (NSLEOA): Asked if there was any change in latitude for the agencies that worked 10-12 shifts.

Shelley Blotter, Deputy Administrator, (DHRM): Responded that the maximum allowed for a work week would be 12 hours. She confirmed that that was in place as of the permanent regulation over the last biennium. She stated the emergency regulation that was first adopted limited it to eight hours a week and the permanent allowed up to 12 hours.

e) Proposed Amendment to NAC 284.5811
Family and medical leave: Maximum amount in a 12 month period

Carrie Hughes, Personnel Analyst, (DHRM): Stated that the DHRM was proposing a permanent amendment to NAC.284.5811. She noted that the amendment would clarify that an employee may not be required to use his or her accrued paid leave when on approved FMLA (Family and Medical Leave Act) leave and also receiving payment from a disability benefit plan such as short or long-term disability at the same time. She added that the amendment would bring the regulation into compliance with the FMLA federal regulations. She noted that an agency and an employee may jointly agree to allow the employee to supplement his or her disability benefit with his or her applicable accrued paid leave.

Kareen Masters, Deputy Director, (DHHS): Stated that if she understood the federal regulations the time still would count toward the employee's FMLA entitlement. She suggested an amendment and modification to Subsection 5 and elaborated on this. She said that she had known in the past that employees did have the ability to use their paid leave and then apply for their short-term disability and would receive both at the same time. She indicated that she had never known that they had the ability to say that they could not do that.

Carrie Hughes, Personnel Analyst, (DHRM): Stated that it was a change to the current regulation and she added that it was specifically addressed in the federal regulations. She noted that it was a change and stated that it had been discussed with Mark Evans and it was decided to address it on the forms. There would be notification of both the employee and employer being able to address the issue so the agency was aware of it.

Shelley Blotter, Deputy Administrator, (DHRM): Confirmed that they would look at the language and it might look different when it went up for adoption. She added that they had submitted it to legal counsel at the LCB (Legislative Counsel Bureau) for pre-adoption review.

Sarina Rupert, Personnel Services, (DETR): Stated she managed all the FMLA leave for the department. She asked if the leave or short-term disability leave counted towards the 480 hours.

Carrie Hughes, Personnel Analyst, (DHRM): Stated that the fact the employee was receiving disability plan benefits would not change whether that time was attributed to their entitlement period. She noted that it would still count towards the use of the 12 work weeks.

Sarina Rupert, Personnel Services, (DETR): Asked how the agency would account for that pay to go towards the 480 hours if they were not coding their timesheets to FMLA using leave or unpaid leave.

Carrie Hughes, Personnel Analyst, (DHRM): Stated one thing they had considered was administering it somewhat the way that Worker's Compensation would be supplemented by accrued paid leave. She stated she did not know how it would be coded. She added that they would code it to the FMLA. She mentioned several other areas that were discussed.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, (NSLEOA): Asked if this amendment affected the members of the NSLEOA. He was advised by Shelley Blotter that the answer was no, that it was separate and different. She confirmed it would have no impact.

f) Proposed Amendment to NAC 284.718 and NAC 284.726

New - Organizational climate study defined-

Confidential records-

Access to confidential records-

Christine Ripley, Personnel Analyst, (DHRM): Stated that the next three proposed regulations related to working on an organizational climate study and confidential records. She stated that the DHRM referred to two of these proposed regulations in a previous workshop. She noted during the pre-adoption review process the definition of an organizational climate study came into question. She stated the DHRM was proposing a new section which would define the term "*organizational climate study*" and as it was used in NAC 284.718 and 284.726. She said the term organizational climate study referred to an independent study conducted by the DHRM to assess and evaluate the organization's culture, overall management, effectiveness, employee morale and internal communications. She noted that these studies were performed at the request of the department director and were meant to be used as a management tool to resolve issues within their organization.

She referred to Section 7. NAC 284.718 – Confidential records and noted that it was proposed by the DHRM to have language that would designate any information obtained in the organizational climate study that directly reflected on any specific employee's performance. She added that conduct and performance would remain confidential regardless of the instrument used to gather section information whether it was a meeting, a written statement and/or through another process.

She referred to Section 8. NAC 284.726 – Access to confidential records and noted that it was proposed by the DHRM to add language that would establish which individuals would have access to information gathered as part of an organizational climate study. She stated that access to the information would be limited to: 1) the employee upon whose performance, information obtained in the survey would directly reflect; 2) to the administrator of the DHRM or a designated representative; 3) the appointing authority or a designated representative of the agency; 4) persons who were authorized pursuant to any state or federal law or court order; and 5) the governor or a designated representative.

Shelley Blotter, Deputy Administrator, (DHRM): Stated that they were discussing them as a group as they needed the definition to understand how it would apply to the confidential records regulations.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, (NSLEOA): Stated that the information was available to the employee not the association.

Shelley Blotter, Deputy Administrator, (DHRM): Responded that it was up to the employee to decide with whom they wished to share the information. She added that it did not need to be included in the regulation.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, (NSLEOA): Stated that to avoid problems down the line they were requesting that the information be available to the associations.

Kareen Masters, Deputy Director, (DHHS): Stated that with regard to the new section being created they thought that it should be broader than just a study conducted by the DHRM. She added that sometimes their own department would conduct such studies and they would want the same confidentiality provisions to apply to those studies as well.

Kimberley King, Human Resource Manager, NDOT (Nevada Department of Transportation): Stated that if the DHRM decided to add associations that they would like representation added as they might be represented by an attorney instead of an association. She stated that she also agreed with Kareen Masters, that NDOT did surveys and they would also like them to be covered.

3. Adjournment

Shelley Blotter, Deputy Administrator, (DHRM): Stated that there were no other persons coming forward so she confirmed that they would adjourn the workshop. She thanked all participants for attending and providing their valuable comments.