



**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
*Division of Human Resource Management*  
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**MEMORANDUM**  
**HR #68-16**

August 31, 2016

**TO:** DHRM Listserv Recipients

**FROM:** Peter Long, Administrator *Peter Long*  
Division of Human Resource Management

**SUBJECT:** NOTICE OF PUBLIC HEARING – Amendments to NAC 284

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The regulation changes included with this memorandum are being proposed for adoption at the September 30, 2016 Personnel Commission meeting. This meeting will be held at 9:00 a.m. at the Legislative Counsel Building, 401 South Carson Street, Room 3138, Carson City, Nevada, 89701 with videoconferencing to the Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada, 89101.

Please circulate or post the attached *Notice of Public Hearing* along with the text of the proposed regulations, or otherwise notify your employees.

Attachments

**NOTICE OF INTENT TO ACT UPON A REGULATION**  
**Notice of Hearing for the Permanent Adoption and Amendment of Regulations of the**  
**Department of Administration**  
**Division of Human Resource Management**

The Personnel Commission will hold a public hearing at 9:00 a.m., on September 30, 2016 at the Legislative Counsel Building, 401 South Carson Street, Room 3138, Carson City, Nevada and by video conference at the Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of regulations that pertain to Chapter 284 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations will not result in an increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other State or local governmental agencies.
- These regulations do not establish any new fee or increase an existing fee.

| <b><u>LCB File:</u></b> | <b><u>NAC#:</u></b> | <b><u>Regulation Lead Line:</u></b>  |
|-------------------------|---------------------|--|
| <b>R017-16</b>          | NEW                 | “Child” interpreted.   |
|                         | NEW                 | “Parent” interpreted.  |
|                         | NEW                 | “In loco parentis” defined.  |
|                         | NAC 284.523         | Definitions.   |
|                         | NAC 284.52315       | “Child” defined.   |
|                         | NAC 284.5237        | “Parent” defined.  |
| <b>R024-16</b>          | NAC 284.5405        | Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer.   |
|                         | NAC 284.551         | Sick leave: Credit upon rehiring, reemployment or transfer.  |
| <b>R076-16</b>          | NEW                 | Request for extension to complete internal administrative investigation.   |
|                         | NAC 284.6561        | Hearing.   |
| <b>R097-16</b>          | NEW                 | “Reassignment” defined.  |
|                         | NEW                 | Rate of Pay: Reassignment.   |
|                         | NEW                 | Reassignment: Process for placement of a permanent classified employee with a disability as part of the accommodation process. |
|                         | NAC 284.094         | “Reclassification” defined.  |
|                         | NAC 284.120         | Adoption by reference of federal law, regulations and manual regarding persons with disabilities.                              |
|                         | NAC 284.439         | Reports of appointments.   |
|                         | NAC 284.611         | Separation for physical, mental or emotional disorder.   |
| <b>R100-16</b>          | NEW                 | Appeal of refusal to examine or certify.   |
|                         | NAC 284.152         | Appeal of allocation of position or change in classification.  |

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Department of Administration, Division of Human Resource Management, 100 N. Stewart Street, Suite 200, Carson City, Nevada 89701, Attention: Shelley Blotter. Written submissions must be received by the Division of Human Resource Management on or before September 30, 2016. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted and amended will be on file at the Nevada State Library, Archives and Public Records, 100 North Stewart Street, Carson City, Nevada, 89701, for inspection by members of the public during business hours. Additionally, copies of this notice and the regulations to be adopted and amended will be available at the Division of Human Resource Management, 100 North Stewart Street, Suite 200, Carson City, Nevada and 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada, 89101; and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption or amendment of any regulation, the agency, if requested to do so by an interested person, either before adoption or amendment or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption or amendment and incorporate therein its reason for overruling the consideration urged against its adoption or amendment.

This notice of hearing has been posted at the following locations:

**Carson City**

Blasdel Building, 209 East Musser Street  
Nevada State Library & Archives Building, 100 North Stewart Street  
Nevada State Capitol Building, 101 North Carson Street  
Legislative Counsel Bureau, 401 South Carson Street

**Las Vegas**

Grant Sawyer Building, 555 East Washington Street

**Websites**

Legislative Counsel Bureau website: [www.leg.state.nv.us](http://www.leg.state.nv.us)  
Nevada Public Notice website: <http://notice.nv.gov>  
Division of Human Resource Management website: [www.hr.nv.gov](http://www.hr.nv.gov)

**REGULATIONS PROPOSED  
FOR PERMANENT ADOPTION OR AMENDMENT**

**LCB File No. R017-16**

**Section 1. Chapter 284 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation:**

**Section 2.**

**Explanation of Proposed Change:** As NAC 284.5811 requires, in almost all cases, an employee to use his or her applicable paid leave (e.g., sick leave) concurrent with the Family and Medical Leave Act's (FMLA) provisions, the difference in definition of key terms (i.e., child, parent) between the FMLA regulations and Nevada Administrative Code (NAC) creates difficulty and potential liability in the administration of FMLA leave. The amendments in Sections 2, 3 and 4 of LCB File No. R017-16 are proposed by the Division of Human Resource Management with the intent of defining "child" and "parent" as used in the Attendance and Leaves section of NAC 284 in a manner that is consistent with the interpretation by the Wage and Hour Division of the United States Department of Labor of the definitions of "son or daughter" and "parent" set forth in the federal FMLA regulations.

The intent of the amendment is to have the same definition for "child" in NAC 284 as the United States Department of Labor's (DOL) FMLA definition for "son or daughter". However since the United States Department of Labor has further interpreted the term "son or daughter" as used in the FMLA regulations (see United States Department of Labor; Administrator's Interpretation No. 2010-3; June 22, 2010; dol.gov), the proposed amendment to NAC 284 includes any DOL interpretation as well. The Administrator's interpretation clarifies the definition of "son or daughter" by addressing the criteria for an individual to be "in loco parentis" (i.e., assuming responsibilities of a parent without a biological or legal relationship) to a "son or daughter". Specifically, the interpretation changes the word "and" to "or" in outlining the "in loco parentis" criteria of day-to-day responsibilities to care for ~~and~~ [or] financially support a child. This amendment is proposed to maintain consistency and for ease of administration.

*NEW "Child" interpreted. Except for the purposes of NAC 284.5235 and 284.562, the Division of Human Resource Management shall interpret and construe the definition of "child" set forth in NAC 284.52315 in a manner that is consistent with the interpretation by the Wage and Hour Division of the United States Department of Labor of the definition of "son or daughter" set forth in 29 C.F.R. § 825.122(d).*

**Section 3.**

**Explanation of Proposed Change:** As NAC 284.5811 requires, in almost all cases, an employee to use his or her applicable paid leave (e.g., sick leave) concurrent with the Family and Medical Leave Act's (FMLA) provisions, the difference in definition of key terms (i.e., child, parent) between the FMLA regulations and Nevada Administrative Code (NAC) creates difficulty and potential liability in the administration of FMLA leave. The amendments in Sections 2, 3 and 4 of LCB File No. R017-16 are proposed by the Division of Human Resource Management with the

intent of defining “child” and “parent” as used in the Attendance and Leaves section of NAC 284 in a manner that is consistent with the interpretation by the Wage and Hour Division of the United States Department of Labor of the definitions of “son or daughter” and “parent” set forth in the federal FMLA regulations.

The definition of “parent” in the federal FMLA regulations references the definition of “son or daughter”. “Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as defined in paragraph (d) of this section.” (29 C.F.R. § 825.122(c)). As the United States Department of Labor has further interpreted the term “son or daughter” as used in the FMLA regulations (see United States Department of Labor; Administrator’s Interpretation No. 2010-3; June 22, 2010; dol.gov), this amendment is proposed to maintain consistency and for ease of administration.

***NEW “Parent” interpreted. The Division of Human Resource Management shall interpret and construe the definition of “parent” set forth in NAC 284.5237 in a manner that is consistent with the interpretation by the Wage and Hour Division of the United States Department of Labor of the definition of “parent” set forth in 29 C.F.R. § 825.122(c).***

#### **Section 4.**

**Explanation of Proposed Change:** As NAC 284.5811 requires, in almost all cases, an employee to use his or her applicable paid leave (e.g., sick leave) concurrent with the Family and Medical Leave Act’s (FMLA) provisions, the difference in definition of key terms (i.e., child, parent) between the FMLA regulations and Nevada Administrative Code (NAC) creates difficulty and potential liability in the administration of FMLA leave. The amendments in Sections 2, 3 and 4 of LCB File No. R017-16 are proposed by the Division of Human Resource Management with the intent of defining “child” and “parent” as used in the Attendance and Leaves section of NAC 284 in a manner that is consistent with the interpretation by the Wage and Hour Division of the United States Department of Labor of the definitions of “son or daughter” and “parent” set forth in the federal FMLA regulations.

This amendment to NAC 284 provides a definition of “in loco parentis”, which is referenced in the definitions of “child” and “parent”, consistent with the United States Department of Labor’s use of the term in its interpretation of “son or daughter” and “parent” (see United States Department of Labor; Administrator’s Interpretation No. 2010-3; June 22, 2010; dol.gov) The Administrator’s interpretation clarifies the definition of “son or daughter” by addressing the criteria for an individual to be “in loco parentis” (i.e., assuming responsibilities of a parent without a biological or legal relationship) to a “son or daughter”. Specifically, the interpretation changes the word “and” to “or” in outlining the “in loco parentis” criteria of day-to-day responsibilities to care for and financially support a child. This amendment is proposed to maintain consistency and for ease of administration.

***NEW “In loco parentis” defined.***

***1. “Person standing in loco parentis” or “person who stood in loco parentis” means:***

***(a) For the purposes of NAC 284.52315, a person who has day-to-day responsibilities to care for or financially support a child; and***

*(b) For the purposes of NAC 284.5237, a person who had the day-to-day responsibilities to care for or financially support an employee when the employee was a child.*

*2. For the purposes of this section, a biological or legal relationship between the person and the child or between the person and the employee when the employee was a child, as applicable, is not necessary.*

**Section 5. NAC 284.523 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment incorporates the three new regulations proposed in LCB File No. R017-16 (e.g., “Child” interpreted, “Parent” interpreted, “In loco parentis” defined) in the “definitions” regulation (i.e., NAC 284.523) pertaining to the Attendance and Leaves section of the Nevada Administrative Code Chapter 284.

**NAC 284.523 Definitions. (NRS 284.065, 284.155, 284.345)** As used in NAC 284.523 to 284.598, inclusive, *and sections 2, 3 and 4 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 284.5231 to 284.52375, inclusive, *and section 4 of this regulation* have the meanings ascribed to them in those sections.

(Added to NAC by Dep’t of Personnel, eff. 3-23-94; A by R082-00, 8-2-2000; A by Personnel Comm’n by R060-09, 11-25-2009)

**Section 6. NAC 284.52315 is hereby amended to read as follows:**

**Explanation of Proposed Change:** As NAC 284.5811 requires, in almost all cases, an employee to use his or her applicable paid leave (e.g., sick leave) concurrent with the Family and Medical Leave Act’s (FMLA) provisions, the difference in definition of key terms (i.e., child, parent) between the FMLA regulations and Nevada Administrative Code (NAC) creates difficulty and potential liability in the administration of FMLA leave. The amendments in Sections 2, 3 and 4 of LCB File No. R017-16 are proposed by the Division of Human Resource Management with the intent of defining “child” and “parent” as used in the Attendance and Leaves section of NAC 284 in a manner that is consistent with the interpretation by the Wage and Hour Division of the United States Department of Labor of the definitions of “son or daughter” and “parent” set forth in the federal FMLA regulations.

This amendment will define “parent”, as used in NAC 284, in a manner that is consistent with the interpretation of “parent” by the Wage and Hour Division of the United States Department of Labor. This amendment is proposed to maintain consistency and for ease of administration.

**NAC 284.52315 “Child” defined.**

**1.** “Child” means a person who is:

~~1-] (a)~~ *(a)* A biological, adopted or foster child, a stepchild, a legal ward or ~~the] a~~ *a* child of a person ~~[with the daily responsibility of caring for and financially supporting]~~ *standing in loco parentis* to that child; and

~~2-] (b)~~ *(b)* Except as otherwise provided in NAC 284.5235 and 284.562, under 18 years of age or *who* is 18 years of age or older and incapable of ~~fearing for himself or herself]~~ *self-care* because of a ~~mental or]~~ physical *or mental* disability ~~[-] at the time the requested leave is to commence.~~

*2. The term includes a person who meets the definition of “child” as interpreted by the Division of Human Resource Management pursuant to section 2 of this regulation.*

3. *As used in this section:*

(a) *“Incapable of self-care” means that a person requires active assistance or supervision to provide daily self-care in three or more of the:*

(1) *Activities of daily living which include adaptive activities, including, without limitation, caring appropriately for personal grooming and hygiene, bathing, dressing and eating; or*

(2) *Instrumental activities of daily living which include, without limitation, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories and using a post office.*

(b) *“Physical or mental disability” means a physical or mental impairment that substantially limits one or more of the major life activities of a person, as those terms are defined in 29 C.F.R. § 1630.2(h), (i) and (j).*

(Added to NAC by Dep’t of Personnel, eff. 3-23-94; A by Personnel Comm’n by R096-03, 10-30-2003)

**Section 7. NAC 284.5237 is hereby amended to read as follows:**

**Explanation of Proposed Change:** As NAC 284.5811 requires, in almost all cases, an employee to use his or her applicable paid leave (e.g., sick leave) concurrent with the Family and Medical Leave Act’s (FMLA) provisions, the difference in definition of key terms (i.e., child, parent) between the FMLA regulations and Nevada Administrative Code (NAC) creates difficulty and potential liability in the administration of FMLA leave. The amendments in LCB File No. R017-16 are proposed by the Division of Human Resource Management with the intent of defining “child” and “parent” as used in the Attendance and Leaves section of NAC 284 in a manner that is consistent with the interpretation by the Wage and Hour Division of the United States Department of Labor of the definitions of “son or daughter” and “parent” set forth in the federal FMLA regulations.

This amendment will define “parent”, as used in the Attendance and Leaves heading of the NAC 284, in a manner that is consistent with the interpretation of “parent” by the Wage and Hour Division of the United States Department of Labor.

**NAC 284.5237 “Parent” defined. (NRS 284.065, 284.155, 284.345) “**

**1. “Parent” means ~~the~~ a biological , *adopted or foster* parent *or stepparent* of an employee or ~~the~~ a person who ~~had the daily responsibility of caring for and financially supporting~~ *stood in loco parentis to* the employee when the employee was a child.**

**2. *The term includes a person who meets the definition of “parent” as interpreted by the Division of Human Resource Management pursuant to section 3 of this regulation.***

**3. The term does not include a parent of the spouse of an employee.**

(Added to NAC by Dep’t of Personnel, eff. 3-23-94)

**LCB File No. R024-16**

**Section 1. NAC 284.5405 is hereby amended to read as follows:**

**Explanation of Proposed Change:** The following amendment, proposed by the Division of Human Resource Management, changes the procedures related to the transfer of nonclassified, employees of the Nevada System of Higher Education, and employees included in NRS 284.022,

to the nonclassified, unclassified or classified service. As the Nevada System of Higher Education currently has no unclassified employees, the regulation has been amended to clarify which Nevada System of Higher Education employees will have all or a portion of their annual leave balance transferred to their new appointments. The requirement for the annual leave to be recomputed has been removed to allow employees to retain their full benefit when transferring.

**NAC 284.5405 Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer. (NRS 284.065, 284.155, 284.345, 284.350)**

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 or her total service with the State after he or she 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 or her total state service. He or she may use the annual leave immediately upon accruing it if he or she has completed a total of 6 months of employment.

3. An employee with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his or her total state service. He or she may use the annual leave immediately upon accruing it if he or she 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 or she received payment in a lump sum on the date of the layoff. The rate of pay at which he or she is rehired applies to the buying back of annual leave.

5. An employee with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he or she 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 or she received payment in a lump sum at the time of separation. The rate of pay at which he or she 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 the layoff, the amount of the unpaid annual leave he or she had earned before the layoff must be restored.

7. If a person eligible for military reemployment is reemployed, he or she accrues annual leave at the rate which he or she would have earned if he or she 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 the employee's annual leave is charged to the agency to which he or she is appointed.

9. If a nonclassified employee, an ~~unclassified~~ employee ~~of~~ *occupying a position within* 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 *nonclassified*, classified or unclassified service, his or her annual leave ~~[must be recomputed to reflect the amount that would have accrued to him or her as a classified or unclassified employee less any annual leave which he or she used during his or her 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 or her credit from his or her former employer. ~~[If the amount of annual leave which is recomputed pursuant to this subsection results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of annual leave.]~~

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-19-88; 3-27-92; 11-12-93; 3-1-96; R031-98, 4-17-98; A by Personnel Comm'n by R096-03, 10-30-2003; R022-05, 10-31-2005; R142-05 & R145-05, 12-29-2005)

**Section 2. NAC 284.551 is hereby amended to read as follows:**

**Explanation of Proposed Change:** The following amendment, proposed by the Division of Human Resource Management, changes the procedures related to the transfer of nonclassified, employees of the Nevada System of Higher Education, and employees included in NRS 284.022, to the nonclassified, unclassified or classified service. As the Nevada System of Higher Education currently has no unclassified employees, the regulation has been amended to clarify which Nevada System of Higher Education employees will have all or a portion of their sick leave balance transferred to their new appointments. The requirement for the sick leave to be recomputed has been removed to allow employees to retain their full benefit when transferring.

**NAC 284.551 Sick leave: Credit upon rehiring, reemployment or transfer. (NRS 284.065, 284.155, 284.345, 284.355)**

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

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

3. An employee who is reemployed within 1 year after sustaining a permanent disability arising from a work-related injury or occupational disease as determined pursuant to NAC 284.6013 is entitled to restoration of the accrued and unused sick leave that remained in his or her account at the time of separation.

4. 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 or her sick leave is charged to the agency to which he or she is appointed.

5. If a nonclassified employee, an ~~[unclassified]~~ employee ~~[of]~~ *occupying a position within the Nevada System of Higher Education*, or an employee covered by NRS 284.022 is appointed to the *nonclassified*, classified or unclassified service without a break in service, his or her sick leave ~~[must be recomputed to reflect the amount that would have accrued to him or her as a classified or unclassified employee less any sick leave which he or she used during his or her nonclassified, Nevada System of Higher Education or governmental agency employment and the remaining balance]~~ will be transferred to the new appointment. ~~[If the amount of sick leave which is recomputed pursuant to this subsection results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of sick leave.]~~

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 4-19-88; 3-1-96; A by Personnel Comm'n by R142-05 & R145-05, 12-29-2005)

**LCB File No. R076-16**

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

**Explanation of Proposed Change:** The following amendment, proposed by the Division of Human Resource Management, creates procedures related to a request for an extension of time to complete an internal administrative investigation.

Subsection 1 explains the procedures to be followed by an appointing authority when an internal administrative investigation cannot be completed and the employee notified of the determination within the 90 day period pursuant to NRS 284.387.

Subsection 2 of this regulation explains the procedures to be followed by an appointing authority when an internal administrative investigation cannot be completed during the length of time of an extension granted by the Administrator. This step in the process will only take place if an extension of up to 60 days was granted past the 90 day limitation, and an appointing authority has requested an additional extension. Such an extension cannot be granted without the approval of the Governor.

The Division of Human Resource Management will be offering an amendment to the newly proposed regulation to include “administrative” to “internal investigation,” as highlighted and underlined below, at the meeting of the Personnel Commission.

***NEW Request for extension to complete internal administrative investigation.***

***1. Pursuant to subsection 2 of NRS 284.387, if an appointing authority wishes to request an initial extension of not more than 60 days from the Administrator to complete an internal administrative investigation that could lead to disciplinary action against an employee pursuant to NRS 284.385 and make a determination as a result of the investigation, the appointing authority must:***

***(a) Submit the request to the Administrator on a form prescribed by the Division of Human Resource Management on or before the 90th day after the employee was provided notice of the allegations against the employee;***

***(b) Explain in the request why the appointing authority is unable to complete the internal administrative investigation and make a determination within 90 days after the employee was provided notice of the allegations; and***

***(c) Provide a copy of the request to the employee who is the subject of the internal administrative investigation.***

***2. If an initial extension is granted pursuant to subsection 1 and the appointing authority is unable to complete the internal administrative investigation and make a determination within the period of the extension, the appointing authority may request an additional extension to be approved by the Governor. If the appointing authority wishes to request an additional extension, the appointing authority must:***

***(a) Submit the request in writing to the Administrator, for submission to the Governor, on or before the expiration date of the initial extension;***

***(b) Explain in the request why the appointing authority is unable to complete the internal administrative investigation and make a determination within the period of the initial extension; and***

*(c) Provide a copy of the request to the employee who is the subject of the internal administrative investigation.*

*3. The Administrator may deny a request for an extension that is not submitted within the period required by paragraph (a) of subsection 1.*

*4. The Governor may deny a request for an extension that is not submitted within the period required by paragraph (a) of subsection 2.*

**Section 2. NAC 284.6561 is hereby amended to read as follows:**

**Explanation of Proposed Change:** S.B. 62 of the 2015 Legislative Session amends NRS 284.385, which is related to the dismissal, involuntary demotion and suspension of State of Nevada employees in the classified service. The requirement for delivery in person or by mail in subsection 3 of NRS 284.385 has been removed. Language has been added to the statute requiring that regulations be adopted setting forth the procedures for properly notifying a classified employee of dismissal, suspension or involuntary demotion.

This amendment, proposed by the Division of Human Resource Management, will provide increased speed of delivery and reliability by modernizing methods by which agencies may provide notice of the disciplinary actions listed above. The amendment will allow agencies to use alternative carriers to the U.S. Postal Service, such as Federal Express or United Parcel Service, as long as the carrier provides proof that the notice was sent and that it was delivered.

**NAC 284.6561 Hearing. (NRS 284.065, 284.155, 284.383, 284.385, 284.390)** Except as otherwise provided in NAC 284.6563, if an appointing authority proposes that a permanent employee be dismissed, suspended or demoted, the following procedure for a hearing before the proposed action must be followed:

1. A hearing must be scheduled on the employee's behalf unless waived in writing by the employee pursuant to subsection 2. The hearing must be scheduled to take place not earlier than 7 working days after the written notice of the proposed action is delivered or deemed received pursuant to subsection 2 of NAC 284.656. The hearing must not be scheduled on a day which is not a regular working day for the employee. If the appointing authority or his or her designated representative and the employee agree, the date of the hearing may be changed.

2. The employee may waive the right to a hearing before the proposed action in writing. If the employee makes such a waiver, the employee may not be dismissed, suspended or demoted before the proposed effective date. The waiver does not waive the employee's right to an appeal after the action is taken.

3. The appointing authority or his or her designated representative shall conduct the hearing. The designated representative must be a person with the authority to recommend a final decision to the appointing authority. The appointing authority shall render the final decision.

4. At any time after receiving the notice and before the hearing, the employee may examine all materials that are to be used by the person conducting the hearing. The employee is entitled to administrative leave with pay as provided in NAC 284.589 to prepare for the hearings regarding his or her suspension, demotion or dismissal.

5. This process is an informal proceeding between the two parties, the appointing authority and his or her designated representative and the employee, who meet together to discuss the proposed action. Witnesses are not allowed to attend, but each party may be accompanied by a person of his or her choice.

6. The employee may respond both orally and in writing to the appointing authority or his or her designated representative at the hearing.

7. The employee must be:

(a) Given a copy of the finding or recommendation, if any, resulting from the hearing; and

(b) ~~Informed,~~ **Notified** in writing ~~of~~ of the appointing authority's decision regarding the proposed action **and the reasons therefor** on or before the effective date of the action.

8. ***The notice given pursuant to paragraph (b) of subsection 7 may be given in person or by means of any delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received. If the notice is sent by means of a delivery service, the notice must be sent to the employee's last known address. The notice must not be given by electronic mail, the use of social media or other electronic means. If the notice is returned without having been received by the employee, the employee's date of receipt shall be deemed to be the third day after the date the notice was sent. As used in this subsection, "social media" has the meaning ascribed to it in subsection 7 of NAC 284.656.***

9. An employee who has been dismissed, demoted or suspended may request a hearing before the hearing officer of the Division of Human Resource Management pursuant to NRS 284.390 within 10 working days after the effective date of his or her dismissal, demotion or suspension. Such a request must be addressed to the Administrator and submitted on the form provided by the Division of Human Resource Management.

(Added to NAC by Personnel Comm'n by R063-09, eff. 11-25-2009; A by R011-11, 10-26-2011)

### **LCB File No. R097-16**

**Section 1. Chapter 284 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.**

### **Section 2.**

**Explanation of Proposed Change:** S.B. 62 of the 2015 Legislative Session allows the Personnel Commission to adopt regulations for the non-competitive appointment of an employee with a disability. As a result, several amendments have been proposed which are intended to bring the State's reasonable accommodation process into closer alignment with the Americans with Disabilities Act's (ADA) provisions.

The Division of Human Resource Management proposes a new section to define the term "reassignment"/"reassign" for the purposes of accommodation of a classified employee. The amendment specifically applies to classified employees; however, the State's reassignment obligation under the ADA applies to all employees including those in unclassified and non-classified positions.

The Division of Human Resource Management will be offering amendments to the proposed regulation at the meeting of the Personnel Commission. The language proposed for removal is indicated with a strikethrough, and the language proposed for addition is highlighted and underlined.

*NEW “Reassignment” defined. “Reassignment” or “reassign” means a noncompetitive placement of a permanent **an** employee as a reasonable accommodation, ~~with the approval of the appointing authority~~, to a position within the same grade or, if a position in the same grade is not available, to a position in a class with a lower grade for which the employee meets the minimum qualifications and is able to perform the essential functions.*

### Section 3.

**Explanation of Proposed Change:** S.B. 62 of the 2015 Legislative Session allows the Personnel Commission to adopt regulations for the non-competitive appointment of an employee with a disability. As a result, several amendments have been proposed which are intended to bring the State’s reasonable accommodation process into closer alignment with the Americans with Disabilities Act’s (ADA) provisions.

The Division of Human Resource Management proposes a new section to NAC 284. If an employee is reassigned to a position with the same grade as his or her position held immediately before the reassignment, the determination of the employee’s rate of pay for the new position must follow NAC 284.175, Rate of pay: Effect of transfer. If an employee is reassigned to a position with a lower grade than his or her position held immediately before the reassignment, the determination of the employee’s rate of pay for the new position must follow subsection 1 of NAC 284.173, Rate of pay: Effect of demotion.

*NEW Rate of pay: Reassignment. If an employee is reassigned to a position which is in:*

- 1. The same grade which he or she currently holds, the employee’s base rate of pay in the position to which he or she was reassigned will be determined in accordance with the provisions of NAC 284.175.*
- 2. A lower grade than he or she currently holds, the employee’s base rate of pay in the position to which he or she was reassigned will be determined in accordance with the provisions of subsection 1 of NAC 284.173.*

### Section 4.

**Explanation of Proposed Change:** S.B. 62 of the 2015 Legislative Session allows the Personnel Commission to adopt regulations for the non-competitive appointment of an employee with a disability. As a result, several amendments have been proposed which are intended to bring the State’s reasonable accommodation process into closer alignment with the Americans with Disabilities Act’s (ADA) provisions.

The Division of Human Resource Management proposes a new section to establish a method of retaining a qualified employee with a disability who is no longer able to perform the essential functions of his or her current position by noncompetitively placing him or her into another position within the State. The amendment specifically applies to classified employees; however, the State’s reassignment obligation under the ADA applies to all employees including those in unclassified and non-classified positions.

The newly proposed section describes the reassignment process that will be used when a classified employee can no longer perform the essential functions of his or her position with or without

reasonable accommodation. As part of the interactive process, the Division will work with the State agency of the employee to determine if a vacant or soon to be vacant position is available and if the employee meets the minimum qualifications. The Equal Employment Opportunity Commission in its own posted Policy on Reasonable Accommodations outlines that when considering reassignment, they consider positions currently vacant and positions which they have “reason to believe will become vacant within 60 days from the date the search is initiated.”

An offer of appointment to a position at the employee’s same grade level within the employee’s agency will be made first. If no such position is available, then the search will be broadened into different agencies. If no position is available at the employee’s current grade, the search is expanded into looking for the position with the closest grade to the employee’s current grade. And, if multiple positions exist with the closest grade to the employee’s current grade in the employee’s current agency, another agency or multiple agencies, consideration of the position(s) in the employee’s current agency will be made first.

The term “agency” has been defined to clarify that both departments as defined in regulation and other organizations such as boards, commissions and elected officials shall participate in the interactive process. The terms “geographical location” and “undue hardship” are defined by adopting references in Nevada Administrative Code and federal regulation. Additionally, the term “soon to be vacant” is defined as meaning a position that the Division of Human Resource Management is aware has or will have an imminent vacancy, for which no list has been certified and the employee will be able to fill within 30 days.

The Division of Human Resource Management will be offering amendments to the proposed regulation at the meeting of the Personnel Commission. The language proposed for removal is indicated with a strikethrough, and the language proposed for addition is highlighted and underlined.

***NEW Reassignment: Process for placement of a permanent classified employee with a disability as part of the accommodation process.***

***1. The Division of Human Resource Management shall assist an appointing authority with the reassignment of a ~~permanent~~ an employee with a disability who is unable to perform the essential functions of his or her position with or without reasonable accommodation by identifying any vacant or soon to be vacant positions for which the employee meets the minimum qualifications. Those vacant or soon to be vacant positions may include positions that are outside of the geographical location of the employee. A refusal by the employee of an offer of a position that is outside of the geographical location of the employee will not affect the employee’s reassignment rights pursuant to this section. The employee will continue to be referred to positions pursuant to this section until the reassignment rights of the employee are exhausted in accordance with subsection 10.***

***2. The appointing authority of the employee shall, through the interactive process, determine if a vacant or soon to be vacant position at the employee’s current grade exists within the employee’s agency. If such a position is identified and the employee meets the minimum qualifications, as determined by the Division of Human Resource Management pursuant to NAC 284.317, and is able to perform the essential functions of the position with or without reasonable accommodation, the appointing authority shall offer the employee the position unless the***

*appointing authority demonstrates that such an appointment would cause an undue hardship to the appointing authority.*

*3. If the appointing authority of the employee is not able to reassign the employee pursuant to subsection 2, the appointing authority of the employee shall notify the Division of Human Resource Management. For at least 30 days after receipt of the notification, the Division of Human Resource Management shall place the employee on reassignment lists for any vacant or soon to be vacant positions being filled at the grade of the current position of the employee if the employee meets the minimum qualifications for the positions and has expressed an interest in those positions. If such a position is determined to be available, **and** the appointing authority of the position shall **determines**, through the interactive process, ~~determine~~ if the employee is able to perform the essential functions of the position with or without reasonable accommodation. ~~With the approval of the appointing authority of the position,~~ the employee may **shall** be offered the position.*

*4. If reassignment is not available pursuant to subsection 2 or 3, the appointing authority of the employee shall, through the interactive process, determine if a vacant or soon to be vacant position below the grade of the current position of the employee exists within the employee's agency. If such a position is identified and the employee meets the minimum qualifications, as determined by the Division of Human Resource Management pursuant to NAC 284.317, and is able to perform the essential functions of the position with or without reasonable accommodation, the appointing authority shall:*

*(a) Consider the employee for any such positions in the order of the grade of the positions beginning with the grade closest to the grade of the current position of the employee if multiple positions with different grades are determined to be available within the employee's agency; and*

*(b) Offer the employee such a position unless the appointing authority demonstrates that such an appointment would cause an undue hardship to the appointing authority.*

*5. If reassignment is not available pursuant to subsection 2, 3 or 4, the appointing authority of the employee shall notify the Division of Human Resource Management. For at least 30 days after receipt of the notification, the Division of Human Resource Management shall place the employee on reassignment lists for vacant or soon to be vacant positions being filled at or below the grade of the current position of the employee if the employee meets the minimum qualifications for the positions and has expressed an interest in those positions. If such a position is determined to be available, **and** the appointing authority of the position shall **determines**, through the interactive process, ~~determine~~ if the employee is able to perform the essential functions of the position with or without reasonable accommodation. ~~With the approval of the appointing authority of the position,~~ the employee may **shall** be offered the position.*

*6. The appointing authority of an employee to whom subsection 1 applies may offer the employee a position in the employee's agency below the grade of the current position of the employee if:*

*(a) A vacant or soon to be vacant position at the grade of the current position of the employee is not identified within the employee's agency;*

*(b) The employee meets the minimum qualifications of the position as determined by the Division of Human Resource Management pursuant to NAC 284.317; and*

*(c) The appointing authority determines that the employee is able to perform the essential functions of the position with or without reasonable accommodation.*

*↳ If the employee accepts the position offered pursuant to this subsection, the employee may continue to exercise his or her reassignment rights pursuant to subsections 1 to 5, inclusive, and subsections 7 to 12, inclusive, for a period of 60 days following the appointment.*

7. *An employee may not be reassigned to underfill a vacant or soon to be vacant position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the employee currently occupies.*

8. *After the reassignment of an employee is made pursuant to this section, the status of appointment of the employee will be determined in accordance with NAC 284.444.*

9. *The reassignment of an employee which is made pursuant to this section will take precedence over all other types of appointments and use of lists, including, without limitation, the lists, other than reemployment lists, set forth in NAC 284.358.*

10. *Except as otherwise provided in subsection 6, reassignment rights pursuant to this section are exhausted when an employee:*

(a) *Accepts a reassignment at or below the grade of the current position of the employee;*  
(b) *Accepts a position through a competitive or noncompetitive appointment;*  
(c) *Notifies the appointing authority in writing that he or she no longer wishes to seek reassignment;*

(d) *Has failed to be appointed from any of the lists on which his or her name was included in accordance with this section and the Division of Human Resource Management determines that there are no other positions available;*

(e) *Refuses a position within his or her geographical location that is at or below the grade of the current position of the employee;*

(f) *Has been referred to the Public Employees' Retirement System and has refused disability retirement; or*

(g) *Accepts reemployment pursuant to NAC 284.6014.*

11. *The provisions of this section do not prohibit an employee from accepting another position through a competitive or noncompetitive appointment.*

12. *As used in this section:*

(a) *"Agency" includes:*

(1) *A department as defined in NAC 284.055;*

(2) *Any other entity of the Executive Branch of Government which employs persons in the classified service, including, without limitation, the office of an elected officer; ~~and~~*

(3) *A division of the Department of Health and Human Services; and*

(4) A division of the Nevada System of Higher Education.

(b) *"Geographical location" has the meaning ascribed to it in NAC 284.612.*

(c) *"Soon to be vacant" means a position in which:*

(1) *The Division of Human Resource Management is aware will have an imminent vacancy;*

(2) *A list has not been certified for the position; and*

(3) *The employee will be able and available to fill the position within 30 days after the position becomes open.*

(d) *"Undue hardship" has the meaning ascribed to it in 29 C.F.R. § 1630.2.*

**Section 5. NAC 284.094 is hereby amended to read as follows:**

**Explanation of Proposed Change:** S.B. 62 of the 2015 Legislative Session allows the Personnel Commission to adopt regulations for the non-competitive appointment of an employee with a disability. As a result, several amendments have been proposed to bring the State's reasonable accommodation process into closer alignment with the Americans with Disabilities Act's (ADA) provisions. The following amendment, proposed by the Division of Human Resource Management,



removes the word “reassignment” because it will now be a defined term as a part of the reasonable accommodation process.

**NAC 284.094 “Reclassification” defined. (NRS 284.065)** “Reclassification” means a ~~reassignment or~~ change in *the* allocation of a position by:

1. Raising it to a class with a higher grade;
2. Reducing it to a class with a lower grade; or
3. Moving it to another class at the same grade on the basis of significant changes in kind, difficulty or responsibility of the work performed.

[Personnel Div., Rule I § D subsec. 23, eff. 8-11-73; renumbered as subsec. 24, 4-14-76]—(NAC A by Dep’t of Personnel, 10-26-84)

**Section 6. NAC 284.120 is hereby amended to read as follows:**

**Explanation of Proposed Change:** S.B. 62 of the 2015 Legislative Session allows the Personnel Commission to adopt regulations for the non-competitive appointment of an employee with a disability. As a result, several amendments have been proposed which are intended to bring the State’s reasonable accommodation process into closer alignment with the Americans with Disabilities Act’s (ADA) provisions.

This regulation identifies resources to find the meaning of “interactive process” as used in NAC 284, which is related to persons with disabilities and simplifies the direction on how a copy of the adopted materials can be obtained.

**NAC 284.120 Adoption by reference of federal law, regulations and manual regarding persons with disabilities. (NRS 284.065)**

1. For the purposes of determining the meaning of “essential functions of a position,” “*interactive process*,” “person with a disability,” “qualified person with a disability” and “reasonable accommodation,” the Division of Human Resource Management hereby adopts by reference and will refer to:

- (a) The Americans with Disabilities Act of 1990 (Public Law 101-336).
- (b) The ADA Amendments Act of 2008 (Public Law 110-325).
- (c) The provisions of 29 C.F.R. Part 1630.
- (d) The *Technical Assistance Manual* for the Americans with Disabilities Act.

2. A copy of the materials adopted by reference pursuant to this section may be obtained at no charge from the United States Equal Employment Opportunity Commission ~~Clearinghouse, by mail at P.O. Box 541, Annapolis Junction, Maryland 20701, by telephone at (800) 669-3362 or TDD (800) 800-3302 or~~ at the Internet address

~~[<http://www.eeoc.gov/eeoc/publications/index.cfm>]~~ <http://www.eeoc.gov>.

(Added to NAC by Dep’t of Personnel, eff. 7-6-92; A 10-27-97; R082-00, 8-2-2000; A by Personnel Comm’n by R059-09, 10-27-2009)

**Section 7. NAC 284.439 is hereby amended to read as follows:**

**Explanation of Proposed Change:** S.B. 62 of the 2015 Legislative Session allows the Personnel Commission to adopt regulations for the non-competitive appointment of an employee with a

disability. As a result, several amendments have been proposed to bring the State's reasonable accommodation process into closer alignment with the Americans with Disabilities Act's (ADA) provisions.

The amendment to this section, proposed by the Division of Human Resource Management, is necessary because the word "reassignment" will become a defined term describing a new appointment type. This type of appointment should be included in the reports of appointment pursuant to NRS 284.121.

**NAC 284.439 Reports of appointments. (NRS 284.065, 284.121, 284.155)** Reports of appointments made pursuant to NRS 284.121 must include the type of position, the type of appointment ~~(H)~~ and the employee's status of appointment as follows:

1. The type of classified position must be:
  - (a) Permanent;
  - (b) Special project;
  - (c) Temporary;
  - (d) Seasonal; or
  - (e) Intermittent.
2. The type of appointment to a classified position must be:
  - (a) Demotion;
  - (b) Reemployment;
  - (c) Transfer;
  - (d) Reappointment;
  - (e) **Reassignment**;
  - (f) Promotion;
  - ~~(f)~~ (g) Reinstatement; or
  - ~~(g)~~ (h) New hire.
3. The status of appointment in a classified position must be:
  - (a) Probationary for a nonpermanent employee;
  - (b) Permanent;
  - (c) Trial period for a permanent employee;
  - (d) Provisional;
  - (e) Emergency;
  - (f) Temporary; or
  - (g) Special disabled.

4. In the unclassified service, the type of position, type of appointment and status of appointment are each "unclassified."

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 8-1-91; 7-6-92; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.383)

**Section 8. NAC 284.611 is hereby amended to read as follows:**

**Explanation of Proposed Change:** S.B. 62 of the 2015 Legislative Session allows the Personnel Commission to adopt regulations for the non-competitive appointment of an employee with a disability. As a result several amendments have been proposed which are intended to bring the State's reasonable accommodation process into closer alignment with the Americans with Disabilities Act's (ADA) provisions. The following amendment, proposed by the Division of

Human Resource Management, is based upon S.B. 62 of the 2015 Legislative Session. The amendment clarifies that reassignment is the final type of reasonable accommodation that must be attempted prior to separating an employee due to “a physical, mental or emotional disorder”.

**NAC 284.611 Separation for physical, mental or emotional disorder. (NRS 284.065, 284.155, 284.355, 284.383, 284.385, 284.390)**

1. Before separating an employee because of a physical, mental or emotional disorder which results in the inability of the employee to perform the essential functions of his or her job, the appointing authority must:

(a) Verify with the employee’s physician or by an independent medical evaluation paid for by the appointing authority that the condition does not, or is not expected to, respond to treatment or that an extended absence from work will be required;

(b) Determine whether reasonable accommodation can be made to ~~enable~~ :

*(1) Enable the employee to perform the essential functions of his or her job; or*

*(2) Reassign the employee if the appointing authority of the employee has determined that:*

*(I) There is no reasonable accommodation that can be made to enable the employee to perform the essential functions of his or her job; or*

*(II) All reasonable accommodations, other than reassignment, would cause an undue hardship to the appointing authority.*

(c) Make a request to the Administrator of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to obtain the services provided by that Division, or if the employee is receiving worker’s compensation, request the services of the rehabilitation provider, to evaluate the employee’s condition and to provide any rehabilitative services possible; and

(d) Ensure that all reasonable efforts have been made to retain the employee.

2. A separation pursuant to this section is only justified when:

(a) The information obtained through the procedures specified in subsection 1 supports the decision to separate;

(b) The employee is not on sick leave or other approved leave; and

(c) A referral has been made to the Public Employees’ Retirement System and the employee has been determined to be ineligible for, or has refused, disability retirement.

3. A permanent employee separated pursuant to this section is entitled to the same rights and privileges afforded permanent employees who are dismissed for disciplinary reasons. The procedures contained in NAC 284.656, 284.6561 and 284.6563 must be followed, and he or she may appeal the separation to the hearing officer.

4. A permanent employee who is separated because of a physical, mental or emotional disorder is eligible for reinstatement pursuant to NAC 284.386 if he or she recovers from the disorder.

***5. As used in this section, “undue hardship” has the meaning ascribed to it in 29 C.F.R. § 1630.2.***

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 8-1-91; 12-26-91; 7-6-92; R197-99, 1-26-2000; A by Personnel Comm’n by R182-03, 1-27-2004; R143-05, 12-29-2005; R063-09, 11-25-2009, **R009-14, 6-23-14**)

**LCB File No. R100-16**

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

**Explanation of Proposed Change:** The following amendment, proposed by the Division of Human Resource Management, details the procedures for appealing the Administrator's refusal to examine or certify an applicant pursuant to NRS 248.245. Additionally, the new regulation will ensure that the Personnel Commission is provided with information regarding the appellant's rationale for his or her disagreement with the Administrator's decision not to examine an applicant or, after examination, certify an eligible person.

The process contained in the newly proposed regulation is modeled after NAC 284.152, as both types of appeals must be appealed to the Personnel Commission.

*NEW Appeal of refusal to examine or certify.*

*1. An applicant affected by the refusal of the Administrator to examine the applicant or an eligible person affected by the refusal of the Administrator to certify the eligible person may file a written appeal of the action with the Administrator not later than 30 days after the applicant or eligible person receives from the Administrator, in accordance with subsection 1 of NRS 284.245, a statement of the reasons for the refusal to examine or the refusal to certify, as applicable. The appeal must:*

*(a) Address the points outlined in the statement; and*

*(b) Indicate the points in the statement with which the applicant or eligible person disagrees and express the reasons for the disagreement.*

*2. The Administrator will issue a decision on the appeal within 30 working days after receiving the appeal unless:*

*(a) He or she is prohibited from doing so because of the number of appeals resulting from other determinations regarding his or her refusal to examine or certify;*

*(b) There is an agreement with the applicant or eligible person to extend the limitation of time for the issuance of the decision; or*

*(c) The Administrator delegates the duty to decide the appeal to a designated representative pursuant to subsection 3.*

*3. The Administrator may delegate the duty to decide the appeal to a designated representative if the Administrator is unavailable or reasonably believes he or she has a conflict of interest. If the Administrator makes such a delegation, the designated representative shall issue a decision on the appeal within 30 working days after the Administrator received the appeal.*

*4. An applicant or eligible person may, within 30 working days after receipt of written notice issued pursuant to subsection 2 or 3 of the decision of the Administrator or his or her designated representative, appeal the decision to the Commission. The appeal must:*

*(a) Be in writing;*

*(b) Be addressed to the Administrator;*

*(c) Address the points outlined in the decision issued pursuant to subsection 2 or 3 regarding the refusal to examine or certify the applicant or eligible person; and*

*(d) Indicate the points in the decision with which the applicant or eligible person disagrees and express the reasons for the disagreement.*

**Section 2. NAC 284.152 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Division of Human Resource Management, will bring the regulation in line with the time frame requirements of NRS 284.165.

**NAC 284.152 Appeal of allocation of position or change in classification. (NRS 284.065, 284.155, 284.384)**

1. An employee affected by the allocation of a position to a grade or class or by a change in classification as a result of a study regarding classifications, or the agency where such actions have occurred, may, within ~~[20-working]~~ 30 days after the date of receipt of written notice of the action, file a written appeal of the action with the Administrator. The appeal must:

- (a) Address the points outlined in the Division of Human Resource Management's recommendation regarding the proper classification for the position in question; and
- (b) Indicate the points with which the appellant disagrees and express the reasons for the disagreement.

2. The Administrator will issue a decision on the appeal within ~~[20-working]~~ 30 days after receiving the appeal unless:

- (a) He or she is prohibited from doing so because of the number of appeals resulting from a study regarding classifications;
- (b) There is an agreement with the appellant to extend the limitation of time for the issuance of the decision; or
- (c) The Administrator delegates the duty to decide the appeal to a designated representative pursuant to subsection 3.

3. The Administrator may delegate the duty to decide the appeal to a designated representative if the Administrator is unavailable or reasonably believes he or she has a conflict of interest. If the Administrator makes such a delegation, the designated representative shall issue a decision on the appeal within ~~[20-working]~~ 30 days after the Administrator received the appeal.

4. The appellant or the agency affected by the decision may, within 30 days after receipt of written notice of the decision of the Administrator or his or her designated representative, appeal the decision to the Commission. The appeal must:

- (a) Be in writing;
- (b) Be addressed to the Administrator;
- (c) Address the points outlined in the decision regarding the proper classification for the position in question; and
- (d) Indicate the points with which the appellant or the agency disagrees and express the reasons for the disagreement.

(Added to NAC by Dep't of Personnel, eff. 9-17-87; A 3-1-96; R031-98, 4-17-98; A by Personnel Comm'n by R203-07, 4-17-2008)

Brian Sandoval  
Governor



Patrick Cates  
Director

Peter Long  
Administrator

**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
*Division of Human Resource Management*  
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May 4, 2016

## **Regulation Small Business Impact Statement**

The Division of Human Resource Management has determined that the adoption of this proposed regulation does not impose a significant economic burden on small businesses, nor will it restrict the formation, operation or expansion of small business.

These regulations only impact the classified service of Executive Branch departments and the Nevada System of Higher Education.

*I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small business and that the information contained in this statement is accurate.*

  
\_\_\_\_\_  
Peter Long, Administrator

5/5/16  
\_\_\_\_\_  
Date