



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
209 E. Musser Street, Suite 101 | Carson City, Nevada 89701
Phone: (775) 684-0150 | www.hr.nv.gov | Fax: (775) 684-0122

MEMORANDUM
HR#41-17

August 9, 2017

TO: DHRM Listserv Recipients

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

SUBJECT: NOTICE OF WORKSHOP - Amendments to NAC 284

The regulation changes included with this memorandum are being proposed for permanent adoption. In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 9:00 a.m. on Wednesday, August 30, 2017, at the Legislative Counsel Bureau, 401 S. Carson Street, Room 2135, Carson City, Nevada and by video conference at the Grant Sawyer Building, 555 E. Washington Avenue, Room 4412E, Las Vegas, Nevada.

Please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Permanent Regulations* along with the text of the proposed regulations, or otherwise notify your employees.

PL:krh/cl

Enclosures



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DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
209 E. Musser Street, Suite 101 | Carson City, Nevada 89701
Phone: (775) 684-0150 | www.hr.nv.gov | Fax: (775) 684-0124

REGULATIONS WORKSHOP

DATE: August 30, 2017

TIME: 9:00 a.m.

PLACE: Legislative Counsel Bureau Grant Sawyer Building
Room 2135 Room 4412E
401 S. Carson Street 555 E. Washington Avenue
Carson City, Nevada Las Vegas, Nevada

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

AGENDA

1. Call To Order
2. Review of proposed changes to NAC 284:

| <u>NAC #</u> | <u>Regulation Leadline</u> |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| NEW | Filling a vacancy. |
| NEW | “Spouse” defined. |
| NAC 284.114 | Affirmative action program and equal employment opportunity. |
| NAC 284.027 | “Budget Division” defined. |
| NAC 284.126 | Creation of new class, reclassification of position or reallocation of existing class. |
| NAC 284.2508 | Compensatory time: Use. |
| NAC 284.458 | Rejection of probationary or trial status employees. |
| NEW | Letter of Instruction: Use and administration. |
| NEW | Report of suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver’s license. |
| NAC 284.653 | Driving under the influence; unlawful acts involving controlled substance. |
| NAC 284.890 | Transportation of employee to and from location of screening test. |
| NAC 284.692 | Agreement for extension of time to file grievance or take required action. |

3. Adjournment

This workshop will be conducted in accordance with the Open Meeting Law (NRS 241.020).

NOTE: Comments by the general public will be taken following a description of the proposed regulation changes. Public comment may be limited to 15 minutes per person at the discretion of the staff member conducting the workshop.

If anyone has questions or wishes to discuss in further detail, the items scheduled for this regulations workshop, please contact Shelley Blotter at (775) 684-0105.

Notices have been posted on the Division of Human Resource Management's website at www.hr.nv.gov and at the following locations:

CARSON CITY

Blasdel Building, 209 E. Musser Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson
Street

LAS VEGAS

Grant Sawyer State Office Building,
555 E. Washington Avenue

LCB website: www.leg.state.nv.us
Nevada Public Notice
website: www.notice.nv.gov

We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Division of Human Resource Management, in writing, at 100 N. Stewart Street, Suite 200, Carson City, Nevada 89701-4204 or call Nora Johnson at (775) 684-0135, no later than five working days before the meeting.

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED PERMANENT REGULATIONS**

The Division of Human Resource Management, 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0148, is proposing the permanent adoption and amendment of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 9:00 a.m. on Wednesday, August 30, 2017, at the Legislative Counsel Bureau, 401 S. Carson Street, Room 2135, Carson City, Nevada and by video conference at the Grant Sawyer Building, 555 E. Washington Avenue, Room 4412E, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following topics that may be addressed in the proposed regulations:

| <u>NAC #</u> | <u>Regulation Leadline</u> |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| NEW | Filling a vacancy. |
| NEW | “Spouse” defined. |
| NAC 284.114 | Affirmative action program and equal employment opportunity. |
| NAC 284.027 | “Budget Division” defined. |
| NAC 284.126 | Creation of new class, reclassification of position or reallocation of existing class. |
| NAC 284.2508 | Compensatory time: Use. |
| NAC 284.458 | Rejection of probationary or trial status employees. |
| NEW | Letter of Instruction: Use and administration. |
| NEW | Report of suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver’s license. |
| NAC 284.653 | Driving under the influence; unlawful acts involving controlled substance. |
| NAC 284.890 | Transportation of employee to and from location of screening test. |
| NAC 284.692 | Agreement for extension of time to file grievance or take required action. |

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Division of Human Resource Management at 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0148, or 555 E. Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-0034. A reasonable fee for copying may be charged. The agency’s small business impact statement is attached.

This Notice of Workshop to Solicit Comments on Proposed Permanent Regulations has been sent to all persons on the agency’s mailing list for administrative regulations and posted at the following locations:

CARSON CITY

Blasdel Building, 209 E. Musser Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson
Street

LAS VEGAS

Grant Sawyer State Office Building,
555 E. Washington Avenue

LCB website: www.leg.state.nv.us
Division of Human Resource Management
website: www.hr.nv.gov
Nevada Public Notice website: www.notice.nv.gov

In addition, this Notice of Workshop to Solicit Comments on Proposed Permanent Regulations has been sent to:

ALL STATE AGENCIES
ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Division of Human Resource Management, in writing, at 100 N. Stewart Street, Suite 200, Carson City, Nevada 89701-4204 or call Nora Johnson at (775) 684-0135, no later than five working days before the meeting.

Explanation of Proposed Change: Proposed by the Division of Human Resource Management, this amendment adds a new section to NAC 284. When filling a vacancy in the classified system, utilizing the open competitive or non-competitive process, an agency’s human resources staff must check with the Division of Human Resource Management to verify if any candidates are available through reemployment, through reassignment, or on a list of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327, and they may also check for the availability of transfers.

NEW Filling a vacancy. Prior to filling any vacancy, an appointing authority shall contact the Division of Human Resource Management to determine if anyone is available through reemployment, through reassignment, or on a list of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327. The appointing authority may also check to see if anyone is available through transfer. If no such persons exist, an appointing authority may proceed by filling the vacancy through the non-competitive or competitive process.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, amends NAC 284 by adding a new section to define “spouse” to include an individual who is in a marriage or who is in a domestic partnership, pursuant to the relevant statutes. This term is used throughout NAC 284, particularly as it relates to filling vacancies and attendance and leave regulations.

NEW “Spouse” defined. “Spouse” means a person who has entered into a marriage as provided by NRS 122.010 or a domestic partnership as provided by NRS 122A.100 or 122A.500 and the union has not been dissolved.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, amends NAC 284.114 to include that a “domestic partnership” may not be used as a basis for discrimination in the personnel management system in the State of Nevada. This amendment is based on NRS 122A.200, which states that a public agency in the State of Nevada shall not discriminate against a person on the basis that the person is a domestic partner rather than a spouse. The definition of “domestic partnership,” pursuant to NRS 122A.040, has also been included in this amendment.

NAC 284.114 Affirmative action program and equal employment opportunity. (NRS 284.065)

1. The Division of Human Resource Management is responsible for establishing, coordinating and evaluating an affirmative action program for this State.
2. The Division of Human Resource Management will cooperate and consult with agencies to:
 - (a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, sexual orientation, gender identity or expression, religion, color, national origin, age, genetic information ~~or~~, disability ~~or~~, *or domestic partnership.*

(b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for persons to enter the system and progress in it to the extent of their merit.

3. As used in this section, “gender identity or expression” has the meaning ascribed to it in NRS 281.370.

4. As used in this section, “domestic partnership” has the meaning ascribed to it in NRS 122A.040.

[Personnel Div., Rule I § C, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 7-6-92; R098-99, 9-27-99; A by Personnel Comm’n by R055-10, 6-30-2010; R023-11, 10-26-2011)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, makes a conforming change to NAC 284.027, reflecting the movement of the Budget Division from the Department of Administration to the Governor’s Finance Office.

NAC 284.027 “Budget Division” defined. “Budget Division” means the Budget Division of the ~~[Department of Administration.]~~ *Governor’s Finance Office.*
(Supplied in codification)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, makes a conforming change to NAC 284.126, reflecting the movement of the Budget Division from the Department of Administration to the Governor’s Finance Office.

NAC 284.126 Creation of new class, reclassification of position or reallocation of existing class. (NRS 284.065, 284.155)

1. For the purposes of this section:

(a) “Agency personnel officer” means the Director of Personnel within the Nevada System of Higher Education or any person holding a position in the classified service with the title of Personnel Officer.

(b) “Significant change” means a change in the duties and responsibilities assigned to a position in a class that:

- (1) Is outside of the scope of the class as described by the class specification;
- (2) Is not part of the scope of responsibility of the position; and
- (3) Results in the preponderance of duties and responsibilities being allocated to a different class.

2. If an appointing authority or an employee proposes the creation of a new class, a reclassification of a position to a different class or the reallocation of an existing class based upon a gradual accumulation of duties and responsibilities which results in a significant change and is intended to be permanent, the Division of Human Resource Management or agency personnel officer must be notified on the appropriate form. If the creation, reclassification or reallocation is approved, the Division of Human Resource Management will allocate the position to one of the existing classes in the classification plan or to a new, revised or reallocated class as appropriate.

3. The effective date of the classification decision will be the date on which form NPD-19 is received by the Division of Human Resource Management or agency personnel officer unless information that substantially affects the decision concerning the creation, reclassification or

reallocation is received after this date. In that case, the effective date will be the date on which the appropriate information necessary to make the decision is received. However, the subsequent receipt of an application or examination score that confirms the qualifications of an incumbent will not have a bearing on the effective date. If the form was prepared but delayed due to an administrative or clerical error, the effective date must be determined by the appointing authority and must be based upon the date on which the form should reasonably have been submitted to the Division of Human Resource Management or agency personnel officer. In no case, however, may a retroactive adjustment because of an administrative or clerical error exceed 6 months after the date of receipt.

4. If an agency makes or anticipates making a significant change in the duties for a position or the agency anticipates a reorganization which will require the reclassification of an existing position, the reallocation of an existing class or the creation of a new class, it shall advise the Budget Division of the ~~[Department of Administration]~~ *Governor's Finance Office* or, in the case of the Nevada System of Higher Education, the budget division of the applicable institution. The proposed change may not be required of an employee nor be submitted to the Division of Human Resource Management until funding for it is approved. If the change is approved by the Division of Human Resource Management, the effective date will be determined by the Budget Division.

5. In effecting a reclassification pursuant to subsection 2 or 4, the appointing authority must review and take into consideration the organizational structure and the qualifications of the incumbent before assigning new duties to a position which are intended to be permanent. No position will be reclassified to a higher grade through the individual classification process if the incumbent does not meet the minimum qualifications for the higher level position. If an employee does not meet the minimum qualifications to reclassify his or her position, the employee is not eligible for promotion, but may be eligible for a special adjustment to his or her pay pursuant to NAC 284.206.

6. The establishment of a new class or reallocation of a class in an occupational study which results in a fiscal cost becomes effective when the funding is provided by the Legislature in the biennial operating budget for this State.

7. From the date on which the Division of Human Resource Management formally announces the beginning of an occupational study until the date on which the occupational study becomes effective:

(a) An existing position in the occupational study that has a significant change may only be reclassified to an existing class.

(b) An existing class in the occupational study must not be reallocated to a different grade.

(c) A new position may be allocated to an existing class or a new class as determined by the Division of Human Resource Management.

[Personnel Div., Rule II § D subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 8-14-90; 12-26-91; 11-16-95; 10-27-97; R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002; R038-03, 10-30-2003)

Explanation of Proposed Change: Senate Bill 361 of the 2017 Legislative Session amends NRS 613 to require an employer to provide accommodations to an employee who is a victim of domestic violence or whose family or household member is a victim of domestic violence. These accommodations could include the movement of the employee's desk or office, a modified work schedule, a new telephone number, or anything else that would not create an undue hardship for the employer. This bill also amends NRS 613 to make it unlawful for an employer to discharge,

discipline, discriminate against in any manner or deny promotion, or threaten such action, any employee who has requested accommodations as listed above, requested leave pursuant to section 1 of the bill, attended court proceedings, or has an act of violence committed against them at the employee's workplace.

This amendment, proposed by the Division of Human Resource Management, allows the approval of accrued compensatory leave, if available, to an employee who has been employed for at least 90 calendar days, and who is a victim of domestic violence. The regulation also allows the approval of accrued compensatory leave, if available, to an employee who has been employed for at least 90 calendar days when his or her spouse, domestic partner, minor child, certain other family members, or a member of his or her household is a victim of domestic violence. The maximum allowable amount of a combination of all leave types (annual, sick, leave without pay and compensatory leave) is 160 hours in a 12-month period, which begins at the time the domestic violence occurs.

NAC 284.2508 Compensatory time: Use. (NRS 284.065, 284.155, 284.175, 284.345)

1. At the direction of the appointing authority, compensatory time must be used within a reasonable time after it is accrued.

2. Unless it would cause an undue hardship to the agency, a request for the use of compensatory time may not be unreasonably denied if the request is made at least 2 weeks in advance of the first date on which the employee wishes to use his or her compensatory time.

3. Unless it would cause an employee to forfeit an amount of annual leave pursuant to subsection 2 of NRS 284.350, an employee must, to the extent possible, exhaust his or her compensatory time before he uses his or her available annual leave.

4. Compensatory leave may be used in accordance with section 7 of Senate Bill No. 361, chapter 613, Statutes of Nevada 2017. If such leave is available, and the employee has been employed for at least 90 calendar days if any of the following persons are a victim of an act which constitutes domestic violence as defined in NRS 33.018:

(a) Employee, who is not the alleged perpetrator;

(b) Spouse;

(c) Domestic partner;

(d) Minor child; or

(e) Parent or other adult person who is related within the first degree of consanguinity or affinity to the employee, or other adult person who is or was actually residing with the employee at the time of the act which constitutes domestic violence as defined in NRS 33.018.

↪ The combination of all leave taken pursuant to section 7 of Senate Bill No. 361, chapter 613, Statutes of Nevada 2017 must not exceed 160 hours in the 12-month period immediately following the date of the act of domestic violence.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management (Division), addresses the rejection from probation and trial status, and that an affected employee may not file an appeal or grievance as a result of a rejection.

The amendment will also provide the authority to the Administrator of the Division or his or her designee to remove a request for an appeal hearing or a grievance from the grievance process when filed by an employee as a result of a rejection from probation or a trial period.

NAC 284.458 Rejection of probationary *or trial status* employees. (NRS 284.065, 284.155, 284.290)

1. During a probationary period, ~~[an]~~ *a probationary* employee may be rejected for any lawful reason, as determined by his or her appointing authority. An employee rejected pursuant to this subsection has no appeal *or grievance* rights.

2. ~~[An]~~ *A permanent* employee who is serving a trial period may not ~~[use the grievance procedure set forth in NAC 284.658 to 284.6957, inclusive, to]~~ appeal *or grieve* the decision by the appointing authority to reject the employee during his or her probationary period.

3. If the Division of Human Resource Management receives a request for an appeal hearing or a grievance which is determined not eligible pursuant to subsections 1 or 2 of this regulation, the Division Administrator or his or her designee may remove the appeal or grievance.

~~[3.]~~ *4.* A probationary period does not create a contractual relationship between the employee and employer.

~~[4.]~~ *5.* If a report of separation is not received by the employee or the Division of Human Resource Management by the close of business on the last day of the probationary period, the employee is considered to have satisfactorily completed the probationary period and acquired permanent status.

[Personnel Div., Rule VIII § C subsecs. 1-3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-12-93; 11-16-95)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, amends NAC 284 by adding a new section to place letters of instruction, a commonly used coaching tool, into regulation. The new regulation explains how a letter of instruction is to be used and clarifies that it is not part of the disciplinary process. The regulation outlines what a letter of instruction should contain, and that it must not contain any threat of disciplinary action or consequences. Also included is the requirement for a discussion about the contents of the letter of instruction between the supervisor and employee, and the retention of a letter of instruction is addressed.

NEW Letter of instruction: Use and administration.

1. A letter of instruction may be issued to an employee as a coaching or performance management tool to address and document expected job performance and/or behavior and is not part of the formal disciplinary process.

2. The letter of instruction should contain the following elements:

(a) A brief statement identifying the deficiency or area of concern;

(b) An outline of the supervisor's expectations for the employee's performance and/or behavior;

(c) Instructions or recommended course of action for overcoming the deficiency or area of concern, and/or additional training that will be provided to the employee; and

(d) A timeframe for completion of any recommended action items and for the employee's expected improvement.

3. *A letter of instruction must not include any reference to disciplinary action or consequences.*

4. *The supervisor and employee must meet to discuss the expected job performance and/or behavior outlined in the letter of instruction.*

5. *The supervisor will retain a copy of the letter of instruction in the employee's supervisor's working file. This document is not to be retained in the employee's permanent personnel file unless it is attached to subsequent disciplinary action as documentation of non-disciplinary measures taken prior to disciplinary action.*

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, amends NAC 284 by adding a new section to require an employee to report the suspension, revocation or cancellation of a variety of licenses and permits, which were required at the time of appointment, within 5 days of the suspension, revocation or cancellation. Subparagraph (e) of subsection 2 of NAC 284.646 allows for the immediate dismissal of an employee who has had such a license or permit suspended, revoked or cancelled, and a time frame requirement for an employee to report such action is an important basis for possible dismissal.

NEW Report of suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license.

1. *The suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license if the possession of the professional or occupational license, certificate or permit or driver's license is a requirement of the position at the time of appointment as stated in the standards of work performance, essential functions or class specifications for the position, or in other documentation provided to the employee at the time of appointment, or required thereafter pursuant to federal or state law must be reported by an employee to his or her appointing authority within 5 days of the suspension, revocation or cancellation.*

2. *If an employee fails to report his or her the suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license within the requirements of subsection 1, he or she may be:*

a. Dismissed immediately in accordance with NAC 284.646; or

b. Disciplined in accordance with NAC 284.650.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, requires an employee to report arrests and/or convictions related to drugs and/or alcohol. Additionally, the amendment includes that an employee is required to report such arrests and/or convictions for an offense that occurred during his or her personal time away from the workplace.

NAC 284.653 Driving under the influence; unlawful acts involving controlled substance. (NRS 284.065, 284.155, 284.383, 284.385, 284.407)

1. An employee is subject to any disciplinary action set forth in subsection 2, as determined by the appointing authority, if the employee is convicted of any of the following offenses:

(a) If the offense occurred while the employee was driving a state vehicle, or a privately owned vehicle on state business:

- (1) Driving under the influence in violation of NRS 484C.110; or
- (2) Any offense resulting from an incident in which the employee was:

- (I) Originally charged with driving under the influence; or
- (II) Charged with any other offense for which driving under the influence is an element of the offense.

(b) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance on the premises of the workplace or on state business.

2. An appointing authority may impose the following disciplinary actions if an employee is convicted of an offense set forth in subsection 1:

(a) For the first offense:

- (1) Dismissal;
- (2) Demotion, if permitted by the organizational structure of the agency for which he or she is employed;
- (3) Suspension for 30 calendar days; or
- (4) Suspension for 30 calendar days and demotion.

(b) For the second offense within 5 years, dismissal.

3. An employee who is suspended or demoted pursuant to subsection 2 must:

- (a) Agree to be evaluated through an employee assistance program; and
- (b) Complete any program of treatment recommended by the evaluation.

4. If an employee fails to complete the program of treatment, the appointing authority must dismiss the employee.

5. Pursuant to NRS 193.105, an employee who is convicted of violating any state or federal law prohibiting the sale of a controlled substance must be dismissed.

6. An employee must report ~~fa~~ *an arrest or conviction* of any offense described in this section *including an arrest or conviction for an offense that took place during nonworking hours* to his or her appointing authority within 5 working days after it occurs. If the employee fails to make that report, he or she must be dismissed.

(Added to NAC by Dep't of Personnel, eff. 7-22-87; A 4-20-90; 3-27-92; A by Personnel Comm'n by R147-06, 12-7-2006; R141-07, 1-30-2008)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will provide agencies flexibility in assuring that an employee is safely transported from the test location when he or she will not be returning to the workplace due to the end of a work day, a positive test result, or no immediate test result. The addition to the regulation allowing an employee to make his or her own transportation arrangements is intended to provide an employee with an additional option. It is not the intent to remove the agency's responsibility to ensure the employee's transportation. The amendment also allows an agency, as needed, to respond to an obvious medical crisis that happens prior to or during transportation of the employee following the test.

NAC 284.890 Transportation of employee to and from location of screening test. (NRS 284.065, 284.155, 284.407) If an employee is required to submit to a screening test, the appointing authority shall provide transportation for the employee to the location of the test. After the

employee submits to the screening test, the appointing authority, *as appropriate*, shall ~~provide transportation for the employee to his or her home~~ :

1. *Provide transportation for the employee to his or her home;*
2. *Assist the employee in arranging for an individual of the employee's choice to provide transportation for the employee; or*
3. *If a reasonable person, prior to or during transportation of the employee to his or her home, believes that the employee is in need of emergency medical assistance he or she will arrange for that assistance.*

(Added to NAC by Dep't of Personnel, eff. 12-26-91)

Explanation of Proposed Change: This amendment, proposed by the Department of Employment, Training and Rehabilitation, would allow for an exception to the mutual agreement requirement for an extension of time to file a grievance or take required action under certain circumstances, such as extended leave, which would be granted or denied by the Division of Human Resource Management.

An exception to the mutual agreement requirement is also allowable if an employee has also filed a charge with an equal employment opportunity (EEO) unit, such as an agency EEO unit, the Division of Human Resource Management's Sexual Harassment and Discrimination Unit, the Nevada Equal Rights Commission, or the federal Equal Employment Opportunity Commission. An extension related to this may be necessary to allow time for the completion of an investigation of the charge.

If the employee ultimately submits his or her grievance to the Employee-Management Committee (EMC), the EMC would have the ability to review an exception to the mutual agreement requirement at a hearing.

NAC 284.692 Agreement for extension of time to file grievance or take required action. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in subsection 3, the time limit for filing a grievance and for taking any other action required by either party at any step in the grievance procedure may be extended by the mutual agreement of the employee who may file the grievance and the appointing authority or his or her designated representative.

2. An agreement to an extension of time entered into pursuant to subsection 1 must be:

(a) Made in writing on a form prescribed by the Division of Human Resource Management; and

(b) Signed by:

(1) The employee; and

(2) The appointing authority or his or her designated representative.

3. *An exception to the mutual agreement requirement for grievance extension may be granted to the aggrieved Agency when documented circumstances prevent good faith attempts at grievance resolution at any Step in the process. Such documented circumstances include, but are not limited to, Leaves of Absence, mental, physical or emotional conditions, Short or Long Term Disability events, extended hospital stays or other approved short or long term care facilities stays including EAP treatment programs and facilities and/or a charge under investigation by EEO units, subject to Committee review.*

~~3.1~~ 4. The provisions of this section do not apply to a grievance that has been submitted to the Committee.

(Added to NAC by Personnel Comm'n by R023-05, eff. 10-31-2005)



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August 9, 2017

Regulation Small Business Impact Statement

Section 15 of Article 15 of the Nevada Constitution requires the Legislature to provide for a State merit system governing the employment of employees in the Executive Branch of State government and in 1969 the Legislature provided for such in NRS 284. Additionally, NRS 284.013 provides limitations to which employees of the Executive Branch are covered by NRS 284. NRS 284.065 authorizes the Personnel Commission to adopt regulations to carry out the provisions of this chapter.

Due to the limitations of the Nevada State Constitution and NRS 284, the Division of Human Resource Management staff has determined that the adoption of this proposed regulation does not affect small businesses, impose a significant economic burden on small businesses, nor will it restrict the formation, operation or expansion of small business. These regulations only impact employees moving into the nonclassified, classified, or unclassified service of the Executive Branch.

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 was prepared properly and is accurate.

Peter Long

Peter Long, Administrator

August 9, 2017

Date