



DEPARTMENT OF PERSONNEL
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MEMO PERD #09/08
February 6, 2008

TO: Designees for Rules Distribution

FROM: Todd Rich, Director *T.R.R.*
Department of Personnel

SUBJECT: REVISION #2, RULES FOR STATE PERSONNEL
ADMINISTRATION

Attached is Revision # 2 to the *Rules for State Personnel Administration*. All changes resulted from regulations adopted by the Personnel Commission at the December 14, 2007 meeting with one exception; pages 19-24 are to correct an error in page sequencing made in Revision # 1. The regulations at the December Personnel Commission meeting went into effect on January 30, 2008.

This revision can be added to your rulebooks by replacing the existing page with a similarly numbered page. In addition, the complete text of *the Rules for State Personnel Administration* is available on our website at www.dop.nv.gov. Revisions # 1 and 2 are also available separately on the website for downloading or printing to update an existing hardcopy.

Corrected pages with corresponding section of the rulebook are listed in the chart below:

SECTION	PAGE NOS.
Filling Vacancies in Employment	13-16, 27-28
Probationary Periods	1-4
Attendance and Leaves	13-14, 19-26
Disciplinary Procedures	5-6
Personnel Records	3-4

Please ensure everyone on your distribution list receives a copy. If you have any questions regarding this information, please contact Paula Scheufler at (775) 684-0149 or pscheufler@dop.nv.gov.

Thank you for your assistance.

Attachment

TR:sb

cc: Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives

- (a) Positions in classes having a maximum salary of \$12,500 or less as of December 31, 1980, where the regular procedures for examination and certification are impracticable; and
 - (b) Classes where applicants for promotion are not normally available.
- These regulations may be different from the regulations concerning certifications and appointments for other positions in the classified service.”

NRS 284.309 states, “Waiver of examination if fewer than five qualified applicants. If a competitive examination is required for a vacancy and fewer than five qualified applicants respond after extensive efforts at recruitment, the examination may be waived and the Director may submit the applications of the qualified applicants without certification to the appointing authority for selection.”

NRS 284.320 states in part, “Appointments requiring exceptional scientific, professional or expert qualifications.

1. In case of a vacancy in a position where peculiar and exceptional qualifications of a scientific, professional or expert character are required, and upon satisfactory evidence that for specific reasons competition in that case is impracticable, and that the position can best be filled by the selection of some designated person of high and recognized attainments in the required qualities, the Director may suspend the requirements of competition.
2. The Director may suspend the requirements of competitive examination for positions requiring highly professional qualifications if past experience or current research indicates a difficulty in recruitment or if the qualifications include a license or certification.”

NRS 284.327 states, “Temporary limited appointment of persons with disabilities.

1. To assist persons with disabilities certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, appointing authorities are encouraged and authorized to make temporary limited appointments of certified persons with disabilities for a period not to exceed 700 hours notwithstanding that the positions so filled are continuing positions. A person with a disability who is certified by the Rehabilitation Division must be placed on the appropriate list for which he is eligible. Each such person must possess the training and experience necessary for the position for which he is certified. The Rehabilitation Division must be notified of an appointing authority’s request for a list of eligibility on which the names of one or more certified persons with disabilities appear. A temporary limited appointment of a certified person with a disability pursuant to this section constitutes the person’s examination as required by NRS 284.215.
2. The Commission shall adopt regulations to carry out the provisions of subsection 1.
3. This section does not deter or prevent appointing authorities from employing:
 - (a) A person with a disability if he is available and eligible for permanent employment.
 - (b) A person with a disability who is employed pursuant to the provisions of subsection 1 in permanent employment if he qualifies for permanent employment before the termination of his temporary limited appointment.
4. If a person appointed pursuant to this section is subsequently appointed to a permanent position during or after the 700-hour period, the 700 hours or portion thereof counts toward the employee’s probationary period.”

NAC 284.364 Lists of persons with disabilities who are eligible for temporary limited appointments. (NRS 284.065, 284.155, 284.250, 284.327)

1. Pursuant to NRS 284.327, the Rehabilitation Division of the Department of Employment, Training and Rehabilitation may provide to the Department of Personnel the names of persons with disabilities certified by the Rehabilitation Division who are eligible for temporary limited appointments of 700 hours’ duration. Upon receipt from the Rehabilitation Division of the job

applications and job recommendations, the Department of Personnel will evaluate the information against the job requirements and minimum qualifications of the recommended classes. Through noncompetitive means, the names of qualified persons will be placed in a 700-hour category on the eligible list and certified to the requesting agency for consideration.

2. A current probationary or permanent state employee who occupies a permanent full-time position is not eligible for the provisions of this section unless his disability jeopardizes his continued employment in his present position and placement on the list does not merely circumvent the provisions of this chapter governing promotion or transfer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 12-26-91; 7-6-92; R098-99, 9-27-99; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.367 Promotional lists: Use; order of names. (NRS 284.065, 284.155, 284.250)

1. If a promotional list of eligible persons is used to fill a vacancy after the initial recruitment:

(a) The recruitment which created the list must have been open to employees of the appointing authority which requests the list; and

(b) The order of names must be changed to reflect the priority prescribed by NAC 284.358.

2. Certification may be made from the names highest on the list after promotional or promotional and open lists for the class are combined if either of the following occurs:

(a) The appointing authority certifies in writing to the Department of Personnel that, in accordance with the provisions of NAC 284.297, it is in the best interest of the agency to expand the certification to allow eligible persons from other groups to be considered on the basis of merit.

(b) One or more promotional lists exist for a class which otherwise qualifies for open competition because the class is designated in the classification plan as entry level or as a class which normally has a lack of promotional candidates.

↳ If lists are combined, the names on the list must be in order of merit.

3. At the request of an appointing authority, one or more promotional lists must be established from an existing open competitive list and certified for a vacancy.

4. A list of eligible persons established from a recruitment in which the order of priority was changed must not be certified in that order for a new vacancy unless the appointing authority complies with the provisions of paragraph (a) of subsection 2. These names will be used to establish one or more lists as may be appropriate.

(Added to NAC by Dep't of Personnel, eff. 6-18-86; A 4-20-90; A by Personnel Comm'n by R024-05, 10-31-2005)

NAC 284.370 Integration of subsequent lists; material changes. (NRS 284.065, 284.155, 284.205, 284.250)

1. The names of eligible persons on current lists may be integrated onto subsequent lists for the same class if there has been no material change in the qualification requirements. If the list is a ranked list, the names of eligible persons will be integrated according to the final scores of those eligible persons.

2. As used in this section, "material change" includes, without limitation, a change in the minimum qualifications for the class or the subject matter, scope or weights of various phases of the examination.

[Personnel Div., Rule V § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000; A by Personnel Comm'n by R183-03, 1-27-2004; R141-07, 1-30-2008)

NAC 284.371 Correction of errors in certification. (NRS 284.065, 284.155, 284.250)

If the Department of Personnel finds that an error occurred which resulted in a failure to properly certify a name to an agency, the Department will take appropriate action to correct the error. The correction will not invalidate any appointment which was previously made from the certification

unless the Director or Commission determines, pursuant to subsection 2 of NAC 284.345, that the appointment should be invalidated because the error was intentional.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.380)

NAC 284.373 Inquiry of availability of eligible person. (NRS 284.065, 284.155, 284.250)

1. While an eligible person may be contacted to determine his availability, no attempt may be made to obtain a waiver in order to alter the ranking of any person on the list.

2. An eligible person must respond to an inquiry of availability within:

(a) Six days after an inquiry by mail has been postmarked;

(b) Three days after an inquiry by electronic mail has been sent;

(c) Twenty-four hours after a written inquiry is hand-delivered;

(d) Twenty-four hours after an oral inquiry has been made if the oral inquiry was made during a conversation with the eligible person; or

(e) If an oral inquiry by telephone was attempted and a voicemail or other similar kind of electronic message was left, 3 days after that message was left.

3. An exception to a time limit may be granted by the originating agency.

[Personnel Div., Rule V § G, eff. 8-11-73; A 4-4-78]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.382)

NAC 284.374 Active lists: Removal and reactivation of names; refusal to consider certain persons. (NRS 284.065, 284.155, 284.250, 284.295)

1. The names of eligible persons will be removed from the active lists for any of the following causes:

(a) Appointment after certification to fill a full-time permanent position in the class for which the examination was given.

(b) Expiration of the term of eligibility.

(c) Separation of a person who is eligible for promotion from the state service.

(d) Failure by an eligible person to respond within the required time to an inquiry of availability.

(e) A statement by the eligible person that he is not willing to accept any type of appointment from the eligible list.

(f) Any of the causes listed in NRS 284.240 pursuant to which the Director may refuse to examine or certify an eligible person, failure to disclose convictions as required by NAC 284.321 or, if the employee has been laid off, reemployment pursuant to subsection 7 of NAC 284.630.

2. An appointing authority need not consider an eligible person more than three times from a recruitment. Consideration of an applicant for other than full-time permanent positions must not be counted for the purposes of this subsection.

3. An appointing authority need not consider an otherwise eligible person who cannot perform the essential functions of the position with or without reasonable accommodation.

4. An appointing authority may refuse to consider an eligible person who has been subject to a suspension, demotion or termination as a result of an upheld or uncontested disciplinary action in the preceding 12 months. The 12-month period begins on the effective date of the uncontested action or, if it is contested, on the date the hearing officer issues his final decision upholding a suspension, demotion or termination. If an employee is removed from consideration pursuant to this subsection, the appointing authority must notify the employee of that fact in writing before interviewing the next candidate or making its selection. The employee has 3 working days after being notified that he has been removed from consideration pursuant to this subsection to notify the appointing authority of any discrepancy in the information in his personnel file which led to the removal of the employee from consideration. The appointing authority may not make its selection:

(a) If the employee does not notify the appointing authority of a discrepancy, until after the end of the period pursuant to which the employee may notify the appointing authority of a discrepancy; or

(b) If the employee notifies the appointing authority of a discrepancy, until after the appointing authority determines whether the removal of the employee from consideration pursuant to this subsection was appropriate.

5. An appointing authority shall refuse to consider an eligible person whose appointment to a position will violate NRS 281.210, NAC 284.375 or a policy approved by the Commission pursuant to NAC 284.375.

6. An eligible person whose name has been removed from an active list may request that his name be reactivated by stating his reasons for the request. If the Department of Personnel determines that the reasons are justified, and the person's term of eligibility has not otherwise expired, his name may be reactivated.

[Personnel Div., Rule V § E, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 12-26-91; 7-1-94; 8-16-96, eff. 10-1-96; A by Personnel Comm'n by R069-02, 8-14-2002; R182-03, 1-27-2004; R143-05 & R144-05, 12-29-2005)

NRS 284.240 states, "Grounds for refusal to examine or certify. The Director may refuse to examine an applicant or, after examination, may refuse to certify an eligible person who:

1. Lacks any of the preliminary requirements established for the examination for the position or employment for which he applies.

2. Submitted to a screening test administered pursuant to NRS 284.4066, the results of which indicated the presence of a controlled substance, and the person did not provide the proof required by NRS 284.4066.

3. Has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct.

4. Has been dismissed from the public service for delinquency or misconduct.

5. Has made a false statement of any material fact.

6. Has, directly or indirectly, given, rendered or paid, or promised to give, render or pay, any money, service or other valuable thing to any person for, or on account of or in connection with, his examination, appointment or proposed appointment.

7. Has practiced, or attempted to practice, any deception or fraud in his application, in his certificate, in his examination, or in securing his eligibility or appointment."

NRS 284.245 states, "Statement of Director upon refusal to examine or certify; appeal to Commission.

1. When the Director refuses to examine an applicant or, after an examination, refuses to certify an eligible person, the applicant or eligible person may request the Director to furnish to him a statement of the reasons for the refusal to examine or the refusal to certify, as the case may be. The Director shall furnish the statement upon request.

2. If the Director refuses to examine an applicant or, after an examination, refuses to certify an eligible person, that person may take an appeal to the Commission in accordance with regulations adopted by the Commission. If the Commission finds that the Director is in error in refusing to examine an applicant or in refusing to certify an eligible person, the Commission shall order the Director to examine or certify, and he shall comply."

(b) Has a right of reemployment if his last performance evaluation was standard or better. The right of reemployment is based on the same formula as that used for other employees except that it extends only to the cost center or division from which his employment was terminated. This right must not operate to the detriment of a permanent full-time employee.

5. As used in this section, “cost center” means an organizational unit or group of organizational units within the Employment Security Division of the Department of Employment, Training and Rehabilitation.

(Added to NAC by Dep’t of Personnel, eff. 8-28-85; A 8-1-91; A by Personnel Comm’n by R183-03, 1-27-2004)

NAC 284.437 Underfilling of positions. (NRS 284.065, 284.155, 284.305)

1. Except as provided in subsection 4, before a position may be underfilled it must be approved in writing by the Department of Personnel. The Department of Personnel will only approve a position to be underfilled if there are less than five eligible ranks on the appropriate list who are available for appointment.

2. Except as otherwise provided in subsection 4, if a position is approved to be underfilled, the Department of Personnel will begin a recruitment for the class of the position unless a recruitment within 12 months before the approval failed to produce sufficient applicants on the appropriate list.

3. Except as otherwise provided in subsection 4, the position may not continue to be underfilled for more than 30 working days after five or more ranks of eligible persons on the appropriate list who are available for appointment are certified to the appointing authority.

4. Subsections 1, 2 and 3 do not apply to the underfilling of a position:

(a) If the position is authorized at or below the journey level and an employee fills that position in a class which is a training or intermediate level preparatory to promotion;

(b) If an employee’s position is reclassified pursuant to NAC 284.138; or

(c) If an appointing authority has requested and received approval from the Department of Personnel to underfill a position because money is not available and that fact has been certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency which is not funded from the General Fund or the Nevada System of Higher Education, by the administrator of that agency or System.

5. An employee or former employee may not be selected through noncompetitive means to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the employee currently holds or, in the case of a former employee, the current grade of the position the person formerly held.

(Added to NAC by Dep’t of Personnel, eff. 8-28-85; A by Personnel Comm’n by R183-03, 1-27-2004)

NRS 284.307 states, “Automatic advancement of person in training or preparatory position. An employee who holds a position classified as a training or preparatory position may advance automatically to a position having a higher classification after he meets the minimum qualifications for the higher classification and receives the recommendation of the appointing authority for that advancement.”

NAC 284.4375 Automatic advancement. (NRS 284.065, 284.155, 284.175)

1. For the purposes of this section, “automatic advancement” or “automatically advanced” means the progression of an employee to the authorized grade of the position,

but not exceeding the journey level. Automatic advancement occurs without recruitment and may occur without examination. It is based upon the employee's:

- (a) Meeting minimum qualifications;
- (b) Satisfactory performance; and
- (c) Endorsement by his appointing authority.

2. In determining the status of an employee who has been automatically advanced:

(a) The provisions in subsection 2 of NAC 284.170, governing an employee's pay on promotion, apply.

(b) If the employee had attained permanent status in the class from which he was automatically advanced, he retains that status in the new class.

(c) If the employee had not attained permanent status in the class from which he was automatically advanced, he must remain in probationary status in the new class until he has worked in that class for a period equal to the remaining portion of the probationary period that is required for the new class.

3. An employee returning from a military leave of absence pursuant to NRS 284.359 to a position that provides for automatic advancement must successfully complete the probationary period for the position before receiving automatic advancement. Automatic advancement must be granted to the employee as of the date on which permanent status would have been granted if the employee had not taken a military leave of absence.

[Personnel Div., Rule I § C subsec. 23, eff. 4-14-76; + Rule III part § G, eff. 8-11-73; A 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 11-16-95; R147-01, 1-22-2002)—(Substituted in revision for NAC 284.190); A by Personnel Comm'n by R141-07, 1-30-2008)

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, 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) Promotion;
- (f) Reinstatement; or
- (g) 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)

PROBATIONARY PERIODS

NRS 284.290 states in part, “Probationary period...”

1. All original competitive appointments to and promotions within the classified service must be for a fixed probationary period of 6 months, except that a longer period not exceeding 1 year may be established for classes of positions in which the nature of the work requires a longer period for proper evaluation of performance.”

NAC 284.442 Length of probationary period. (NRS 284.065, 284.155, 284.290) All classes at grade 20 or higher must be assigned a 1-year (full-time equivalent) probationary period. All classes lower than grade 20 will be assigned a 6-month (full-time equivalent) probationary period.

[Personnel Div., Rule VIII § A part subsec. 1, eff. 8-11-73; A 7-3-76]—(NAC A by Dep’t of Personnel, 10-26-84; R146-01, 1-18-2002)

NAC 284.444 Application of probationary period. (NRS 284.065, 284.155, 284.290)

1. A probationary employee who transfers:
 - (a) Within the same class must serve the remaining portion of the probationary period.
 - (b) From one class to another class must serve a new probationary period.
2. An employee who transfers from the unclassified or nonclassified service to the classified service must serve a new probationary period. Except for those unclassified employees who transfer pursuant to subsection 2 of NAC 284.398, the status of a permanent employee may not be attained until the satisfactory completion of the probationary period.
3. An employee who is reinstated must serve a new probationary period unless it is waived in writing by the appointing authority. If an appointing authority waives the probationary period, the status of the appointment of the employee is permanent.
4. A probationary employee who is reappointed must serve a new probationary period.
5. A permanent employee who is reappointed to a class:
 - (a) At a higher grade level must serve a trial period unless it is waived by the appointing authority.
 - (b) At the same grade level or a lower grade level is not required to serve a probationary period.
6. An employee who is laid off, but who is reemployed within 1 year, must serve a new probationary period if he is reemployed in a different class or in a different department than that from which he was laid off and he is subject to the provisions of subsection 8 of NAC 284.630.
7. A person with a permanent disability arising from a work-related injury or occupational disease who is reemployed in a different class or option than his regular position must serve a new probationary period as required by NAC 284.6018.
8. A person who is on a military leave of absence pursuant to NRS 284.359 is entitled to return to the status of appointment held at the time he commenced the military leave of absence. If the employee did not complete the probationary period, he will only be required to complete the remaining portion thereof. Upon his successful completion of the probationary period, permanent status must be granted to the employee as of the date on which permanent status would have been granted if the employee had not taken a military leave of absence.
9. Promotion to a vacant position requires a new probationary period. Promotions which result from reclassification are governed by NAC 284.134 and 284.138.
10. Except as otherwise provided in subsection 11:
 - (a) No probationary period will be required if a permanent employee is demoted.
 - (b) A new probationary period will be required if a probationary employee is demoted.
11. An employee who is restored to his former position pursuant to NAC 284.462 following a promotional appointment must serve the portion of his probationary period which was remaining at the time of his promotion.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-21-89; 8-1-91; 12-26-91; 3-1-96; A by Personnel Comm'n by R142-05 & R143-05, 12-29-2005; R141-07, 1-30-2008)

NAC 284.446 Time counted toward completion of probationary period. (NRS 284.065, 284.155, 284.290)

1. Except as otherwise provided in subsection 4 and in NAC 284.4375, a probationary employee must perform his duties continuously in the classified service for either 6 months or 1 year (full-time equivalent) as required for the class in which he is employed to attain permanent status.

2. Service in provisional, emergency, or special disabled status must be credited towards a probationary period if it is immediately followed by probationary or permanent status in the same class.

3. Service in a seasonal position must be credited towards the probationary period for the class.

4. If an employee of a governmental agency transfers to the classified service pursuant to NRS 284.022 and subsection 2 of NAC 284.398, the time which he spent in the comparable class in the governmental agency counts toward the probationary period which is required for the state class. If the employee has satisfactorily completed the equivalent of the State's probationary period for the new class, the employee is entitled to transfer with permanent status. All continuous service which is equivalent to full-time employment in the governmental agency before the transfer counts towards permanent employee status.

[Personnel Div., Rule VIII § A part subsec. 1, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84; 1-22-90; 8-1-91; 7-6-92; 3-1-96)

NAC 284.448 Time not counted toward completion of probationary period. (NRS 284.065, 284.155, 284.290) The following types of leave or temporary status do not count toward the completion of any probationary period:

1. Authorized military leave for active service, as set forth in subsection 8 of NAC 284.444.

2. Authorized military leave for training beyond the 15 paid working days in any 1 calendar year, as set forth in subsection 8 of NAC 284.444.

3. Except as otherwise provided in NAC 284.580, any leave without pay and catastrophic leave, combined, in excess of 240 hours or, in the case of an exempt classified employee, 30 working days, in a year if the regular work schedule of the employee is 80 hours or less biweekly. If the regular work schedule of an employee is more than 80 hours biweekly, the employee must be allotted additional leave without pay and catastrophic leave in proportion to the number of hours his regular work schedule exceeds 80 hours biweekly. As used in this subsection, "year" means a period equal to 12 months of full-time equivalent service measured backward from the employee's pay progression date.

4. Time which is served in a temporary position pursuant to NAC 284.414.

5. Any hours worked which exceed 40 in a week.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 5-27-86; 3-27-92; 9-16-92; 11-16-95; 3-1-96; R147-01, 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004; R141-07, 1-30-2008)

NAC 284.450 Adjustment of probationary period. (NRS 284.065, 284.155, 284.290)

1. Except as otherwise provided in NAC 284.448, if a probationary employee has not, during his prescribed probationary period, worked the required number of months (full-time equivalent) which are established for the probationary period for the class, his probationary period must be extended until he has worked the required number of months.

2. An employee who changes from working full-time to part-time or the reverse will have his probationary period adjusted to equal the required number of months of service which are applicable to the probationary period of the class.

[Personnel Div., Rule VIII § A part subsec. 1, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 3-1-96)

NRS 284.290 states in part, “Probationary period; dismissal or demotion.

2. Dismissals or demotions may be made at any time during the probationary period in accordance with regulations adopted by the Commission.”

NAC 284.458 Rejection of probationary employees. (NRS 284.065, 284.155, 284.290)

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

2. An 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 the decision by the appointing authority to reject the employee during his probationary period.

3. A probationary period does not create a contractual relationship between the employee and employer.

4. If a report of separation is not received by the employee or the Department of Personnel 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)

NRS 284.300 states, “Restoration of promotional appointee who fails to attain permanent status.

1. Any promotional appointee who fails to attain permanent status in the position to which he was promoted, or who is dismissed for cause other than misconduct or delinquency on his part from the position to which he was promoted, either during the probationary period or at the conclusion thereof by reason of the failure of the appointing authority to file a request for his continuance in the position, shall be restored to the position from which he was promoted.

2. Nothing contained in this section shall be construed to prevent any employee of the classified service from competing for places upon lists of persons eligible for original appointments.”

NAC 284.462 Restoration of promoted employee to former position. (NRS 284.065, 284.155, 284.290)

1. For the purposes of this section only, “promotion” means any movement into a vacant position which has a higher grade than the position previously occupied by a classified employee who has served 6 months of continuous (full-time equivalent) service.

2. An employee promoted pursuant to subsection 1 who fails to attain permanent status in the position to which he was promoted or who is dismissed for a cause other than misconduct or delinquency on his part from the position to which he was promoted, either during the probationary period or at its conclusion, must be restored to the position from which he was promoted.

3. If an employee fails to attain permanent status and is restored to his former position, the appointing authority which is effecting the restoration must give written notice to the agency from which the employee was promoted at least 30 calendar days before the effective date. The agency which is taking action to restore the employee to his former position is liable for the payment of the employee during this 30-day period unless the agency to which the employee is

being restored agrees to accept the employee before the expiration of that period. An employee does not gain permanent status if a report of separation or notice of intent to restore an employee to his former position has been provided to the employee and filed with the Department of Personnel on or before the last day of his probationary period, even though the separation or restoration takes place after the last day of the probationary period.

4. A demotion from probationary status in a higher class to the former lower level class may not be appealed.

[Personnel Div., Rule VIII § C subsec. 4, eff. 8-11-73; A 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89)

2. Except as otherwise provided in subsection 1 of NAC 284.551, an employee who is rehired is not entitled to the restoration of accrued and unused sick leave which remains in his account at the time of his separation.

[Personnel Div., Rule VII § D subsec. 5, eff. 8-11-73; A and renumbered as subsec. 4, 2-5-82; Rule VII § D subsec. 5, eff. 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 4-19-88; 7-14-88)

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 is laid off is entitled to the restoration of the accrued and unused sick leave remaining in his account at the time of his layoff.

2. The balance of a seasonal employee's sick leave must be restored to him for each subsequent term of appointment if the employee is rehired within 1 year after the date of his 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 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 sick leave is charged to the agency to which he is appointed.

5. If a nonclassified employee, an unclassified employee of the Nevada System of Higher Education or an employee covered by NRS 284.022 is appointed to the classified or unclassified service without a break in service, his sick leave must be recomputed to reflect the amount that would have accrued to him as a classified or unclassified employee less any sick leave which he used during his nonclassified, 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)

NAC 284.552 Sick leave: Service in provisional, emergency or temporary status; seasonal employees. (NRS 284.065, 284.155, 284.345, 284.355)

1. Service in provisional, emergency or temporary status, including, without limitation, temporary limited appointments pursuant to NRS 284.327 of persons with disabilities who are certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation and service provided by an employee who has a work-related injury or occupational disease pursuant to a temporary assignment as set forth in NAC 284.6004, must be credited towards sick leave.

2. Service in a special position which is temporary in the Nevada System of Higher Education may be credited towards sick leave if it is immediately followed by probationary or permanent status.

3. An employee in a seasonal position must be credited with sick leave.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-6-92; A by Personnel Comm'n by R145-05, 12-29-2005)

INFORMATIONAL NOTE: 29 C.F.R. §785.43 Medical attention.

Time spent by an employee in waiting for and receiving medical attention on the premises or at the direction of the employer during the employee's normal working hours on days when he is working constitutes hours worked.

NAC 284.554 Sick leave: Authorized use. (NRS 284.065, 284.155, 284.345, 284.355)

An employee is entitled to use sick leave if:

1. He is unable to perform the duties of his position because he is sick, injured or physically incapacitated due to a medical condition;
2. The employee is physically incapacitated due to pregnancy or childbirth and is therefore unable to perform the duties of the employee's position;
3. He is quarantined;
4. He is receiving required medical, psychological, optometric or dental service or examination;
5. He is receiving counseling through an employee assistance program for a condition which would otherwise qualify pursuant to the provisions of this section; or
6. There is an illness, death or other authorized medical need in his immediate family and he complies with the requirements of NAC 284.558 or 284.562.

[Personnel Div., Rule VII § D part subsec. 6, eff. 8-11-73; A 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 4-20-90; 11-16-95; A by Personnel Comm'n by R141-07, 1-30-2008)

NAC 284.558 Sick leave: Illness in employee's immediate family. (NRS 284.065, 284.155, 284.345, 284.355)

1. Except as otherwise provided in this section, if an employee is needed to provide care for a member of his immediate family with an illness or other authorized medical need, the employee may use his accumulated sick leave, not to exceed 120 hours in any 1 calendar year. An employee is not subject to this 120-hour limitation if the leave is approved under the Family and Medical Leave Act.

2. The appointing authority may approve an exception to the 120-hour limitation or the requirement that the immediate family member be living in the employee's household. To obtain an exception, the employee must submit his request in writing to the appointing authority, accompanied by a certification from a provider of health care that substantiates the need for the employee's participation.

3. The appointing authority may require the employee to submit supplemental information which includes a second and third medical opinion as provided in subsection 2 of NAC 284.566.

[Personnel Div., Rule VII § D part subsec. 6, eff. 8-11-73; A and renumbered as subsec. 7, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.562 Sick leave or catastrophic leave: Death in employee's immediate family. (NRS 284.065, 284.155, 284.345, 284.355, 284.3626)

1. If a member of the employee's immediate family dies, he may use his accumulated sick leave, or request approval for catastrophic leave pursuant to NAC 284.576, not to exceed 5 working days for each death.

2. For the purposes of this section, "immediate family" means the employee's parents, spouse, children, brothers, sisters, grandparents, great-grandparents, uncles, aunts, nephews, grandchildren, nieces, great-grandchildren, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather-in-law, grandmother-in-law, great-grandfather-in-law, great-grandmother-in-law, uncle-in-law, aunt-in-law, brother-in-law, sister-in-law, grandson-in-law, grand-daughter-in-law, nephew-in-law, niece-in-law, great-grandson-in-law, great-granddaughter-in-law, stepparents and stepchildren.

3. If a reasonable amount of additional time is needed for traveling related to funeral arrangements, the appointing authority shall approve an exception to this limitation.

[Personnel Div., Rule VII § D part subsec. 6, eff. 8-11-73; A and renumbered as subsec. 8, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 11-16-95)

NAC 284.577 Catastrophic leave: Repayment for hours used; receipt of workers' compensation benefits. (NRS 284.065, 284.155, 284.175, 284.345, 284.3626)

1. Except as otherwise provided in subsection 2, an employee who has used hours from an account for catastrophic leave may voluntarily repay the account for those hours.

2. An employee who is entitled to catastrophic leave and workers' compensation benefits may not receive more than 100 percent of his pay for the period of his leave. An employee must repay the account for catastrophic leave when the combined benefit of catastrophic leave and workers' compensation exceeds his normal rate of pay.

3. The amount required to repay the hours from an account for catastrophic leave must be based on the employee's normal rate of pay at the time he used the hours.

(Added to NAC by Dep't of Personnel, eff. 11-16-95; A by Personnel Comm'n by R069-02, 8-14-2002)

NRS 284.360 states in part, "Leave of absence without pay.

1. Any person holding a permanent position in the classified service may be granted a leave of absence without pay. Leave of absence may be granted to any person holding a position in the classified service to permit acceptance of an appointive position in the unclassified service. Leave of absence must be granted to any person holding a position in the classified service to permit acceptance of a position in the Legislative Branch during a regular or special session of the Legislature, including a reasonable period before and after the session if the entire period of employment in the Legislative Branch is continuous.

2. If a person is granted a leave of absence without pay to permit acceptance of an appointive position in the unclassified service or a position in the Legislative Branch, any benefits earned while he is in the:

(a) Classified service are retained and must be paid by the employer in the classified service, whether or not the person returns to the classified service.

(b) Unclassified service or employed by the Legislative Branch are retained and must be paid by the appointing authority in the unclassified service or by the Legislative Branch, if he does not return to the classified service, or by the employer in the classified service, if he returns to the classified service.

3. Any person in the unclassified service, except members of the academic staff of the Nevada System of Higher Education, may be granted by the appointing authority a leave of absence without pay for a period not to exceed 6 months.

4. Officers and members of the faculty of the Nevada System of Higher Education may be granted leaves of absence without pay as provided by the regulations prescribed pursuant to subsection 2 of NRS 284.345.

5. Except as otherwise provided in subsection 6, a person in the classified or unclassified service who:

(a) Is the natural parent of a child who is less than 6 months old; or

(b) Has recently adopted a child,

must be granted, upon request, a leave of absence without pay for a period not to exceed 12 weeks. Such a request by natural parents must be submitted at least 3 months before the date upon which the requested leave will begin, unless a shorter notice is approved by the employer. Such a request by adoptive parents must be submitted not fewer than 2 working days after the parents receive notice of the approval of the adoption. This subsection does not affect the rights of an employee set forth in NRS 284.350 or 284.355.

6. The provisions of subsection 5 are effective only if the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq., or a subsequent federal law ceases to provide for a parental leave of absence of at least 12 weeks."

NAC 284.5775 Temporary total disability: Use of sick leave, compensatory time, annual leave and catastrophic leave; leave of absence without pay. (NRS 284.065, 284.155, 284.345, 284.350, 284.355, 284.3626) An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may:

1. Elect to receive payment for all or part of the difference between his normal pay and the benefits received by:
 - (a) Using his accrued sick leave as provided in subsection 1 or 3 of NRS 281.390;
 - (b) Using his accrued compensatory time;
 - (c) Using his accrued annual leave if he:
 - (1) Is on family and medical leave for a serious health condition that prevents him from performing one or more of the essential functions of his position; or
 - (2) Elected to use his accrued sick leave pursuant to NRS 281.390 and has exhausted all of his accrued sick leave; or
 - (d) Using catastrophic leave if he has exhausted all of his accrued annual leave, sick leave and compensatory time and his request for catastrophic leave has been approved pursuant to NAC 284.576; or

2. Elect to be placed on leave of absence without pay in accordance with subsection 5 of NRS 281.390.

(Added to NAC by Dep't of Personnel by R031-98, eff. 4-17-98; A by R082-00, 8-2-2000)

NAC 284.5777 Temporary total disability: Workers' compensation travel leave to receive medical treatment (NRS 284.065, 284.155, 284.175, 284.345)

1. An appointing authority shall grant leave to an employee in the classified or unclassified service of the State to receive medical treatment for a work-related injury or occupational disease if the employee:

- (a) Qualified for benefits for a temporary total disability pursuant to NRS 616C.475; and
- (b) After returning to work, is required to travel more than 50 miles one way from his place of employment to receive such medical treatment.

2. An appointing authority shall pay an employee who is granted leave pursuant to subsection 1:

(a) If he is a nonexempt employee, his regular hourly rate of pay for each hour that he is absent from his place of employment for such leave.

(b) If he is an exempt classified employee or an exempt unclassified employee and he is absent from his place of employment for a full day for such leave, his regular rate of pay for each such day.

3. Leave granted pursuant to this section must be taken as workers' compensation travel leave and must not be deducted from any sick leave, annual leave, compensatory leave or any other personal leave that may be available to the employee.

(Added to NAC by Personnel Comm'n by R221-05, eff. 2-23-2006)

NAC 284.578 Leave of absence without pay. (NRS 284.065, 284.155, 284.345)

1. Except as otherwise provided in NRS 284.360, an appointing authority may grant a leave of absence without pay to an employee for not more than 1 year for any satisfactory reason.

2. The Commission may grant leaves of absence without pay in excess of 1 year for purposes deemed beneficial to the public service.

3. An appointing authority may require an employee on leave of absence without pay to submit every 2 weeks a statement of his intent to return to work.

4. If the reason for granting the leave no longer exists, the appointing authority may revoke the leave after notifying the employee in writing and allowing, so far as is practicable, not less than 5 working days after the date of notification for the employee to return to work.

5. An employee shall request leave without pay at least 30 days in advance of when the need for the leave is foreseeable, if practicable.

6. An employee may not use leave without pay in lieu of sick leave or annual leave without approval of the appointing authority.

7. An employee who is using leave pursuant to the Family and Medical Leave Act may not use leave without pay until he has exhausted his accrued sick leave, annual leave and catastrophic leave as required by NAC 284.5811.

[Personnel Div., Rule VII § E subsecs. 1-4, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; 10-27-97; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.580 Leave of absence without pay during fiscal emergency of State or agency. (NRS 284.065, 284.155, 284.175, 284.345, 284.360)

1. Upon the request of an appointing authority, the Department of Administration may authorize the appointing authority to place a nonexempt employee on a leave of absence without pay for a fiscal emergency of the State or an agency during any period for which the Governor has declared that the State or an agency will experience a shortfall in revenue or for any other reason is in a state of fiscal emergency.

2. All employees in the same classification must be treated equitably with respect to being placed on a leave of absence without pay pursuant to this section unless an employee volunteers to be placed on such a leave of absence.

3. The appointing authority shall reduce the pay of an employee who is placed on a leave of absence without pay pursuant to subsection 1 by an amount equal to the pay that the employee would otherwise receive for the hours for which the leave is approved.

4. The hours for which payment is withheld pursuant to subsection 3:

(a) Must be treated as hours in paid status for the purposes of NAC 284.182, 284.255, 284.282, 284.448, 284.538, 284.5385, 284.544 and 284.614.

(b) Must not be considered as time worked in calculating overtime.

5. Regardless of whether an employee volunteers to be placed on a leave of absence pursuant to subsection 1, after notifying the employee in writing and allowing a reasonable period for the employee to return to work, an appointing authority:

(a) Shall revoke the placement of any employee on a leave of absence without pay pursuant to subsection 1 upon a declaration by the Governor that the fiscal emergency no longer exists.

(b) May revoke the placement of any employee on any leave of absence without pay pursuant to subsection 1 for any other bona fide reason.

(Added to NAC by Dep't of Personnel, eff. 9-16-92; A 11-12-93; 3-23-94; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.581 Adoption by reference of federal law and regulations. (NRS 284.065, 284.155, 284.345)

1. For the purposes of NAC 284.523 to 284.598, inclusive, the Department of Personnel hereby adopts by reference:

(a) The Family and Medical Leave Act of 1993 (Public Law 103-3), as amended.

(b) The Fair Labor Standards Act of 1938, as amended, and 29 C.F.R. Part 541.

2. A copy of the Family and Medical Leave Act, the Fair Labor Standards Act or 29 C.F.R. Part 541 may be obtained at no charge from the United States Government, Wage and Hour Division, P.O. Box 3136, Reno, Nevada 89505-3136, telephone (775) 784.5200, or from the United States Government, Wage and Hour Division, 1050 Flamingo Road, Suite 321, Las Vegas, Nevada 89119, telephone (702) 699-5581.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000)

NAC 284.5811 Family and medical leave: Maximum amount in 12-month period; eligibility; use. (NRS 284.065, 284.155, 284.345, 284.350, 284.355, 284.3626)

1. An employee who is entitled to take leave pursuant to the Family and Medical Leave Act is limited to a total of 12 weeks of such leave during a rolling 12-month period. The rolling 12-month period is measured backward from the date an employee uses any leave pursuant to the Family and Medical Leave Act.

2. To calculate eligibility for leave pursuant to the Family and Medical Leave Act, each hour that an employee is in paid status in the 12-month period immediately preceding the leave must be considered as time worked.

3. Except as otherwise provided in subsection 4, an employee who meets the requirements for eligibility for and who is taking leave pursuant to the Family and Medical Leave Act must exhaust his accrued sick leave, accrued annual leave and catastrophic leave before he may use leave without pay. Any accrued sick leave, accrued annual leave, catastrophic leave and holiday pay to which the employee is entitled pursuant to NAC 284.255 runs concurrently with the leave granted pursuant to the Family and Medical Leave Act if the employee is otherwise eligible for that sick leave, annual leave, catastrophic leave or holiday pay.

4. If an employee is absent from work as the result of a work-related injury or illness and he meets the requirements for eligibility for leave due to a serious health condition pursuant to the Family and Medical Leave Act:

(a) Any amount of time that the employee is absent from work during that period will be designated as leave pursuant to the Family and Medical Leave Act; and

(b) The employee may elect to use paid leave or leave without pay for the portion of time that he is not being compensated for the work-related injury or illness.

5. An appointing authority may require an employee to provide medical documentation to support his need for leave pursuant to the Family and Medical Leave Act due to a serious health condition of the employee or of a spouse, parent or child of the employee.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R096-03, 10-30-2003; R145-05, 12-29-2005)

NAC 284.5813 Family and medical leave: Records. (NRS 284.065, 284.155, 284.345)

Each appointing authority shall maintain accurate records of family and medical leave used by its employees, including any form approved for requesting family and medical leave.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; 3-1-96; R082-00, 8-2-2000)

NRS 6.190 Terminating or threatening to terminate employment because of jury duty prohibited; civil action for unlawful termination; requiring employee to use sick leave or vacation time or to work certain hours prohibited; notice to employer; dissuasion from service as juror.

1. Any person, corporation, partnership, association or other entity who is:

(a) An employer; or

(b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment,

is of a person who is a juror or who has received a summons to appear for jury duty, and who deprives the juror or person summoned of his employment, as a consequence of his service as a juror or prospective juror, or who asserts to the juror or person summoned that his service as a juror or prospective juror will result in termination of his employment, is guilty of a gross misdemeanor.

2. A person discharged from employment in violation of subsection 1 may commence a civil action against his employer and obtain:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits;

(c) Damages equal to the amount of the lost wages and benefits;

(d) Reasonable attorney's fees fixed by the court; and

(e) Punitive or exemplary damages in an amount not to exceed \$50,000.

3. If a person is summoned to appear for jury duty, the employer and any employee, agent or officer of the employer shall not, as a consequence of the person's service as a juror or prospective juror:

(a) Require the person to use sick leave or vacation time; or

(b) Require the person to work:

- (1) Within 8 hours before the time at which he is to appear for jury duty; or
- (2) If his service has lasted for 4 hours or more on the day of his appearance for jury duty, including his time going to and returning from the place where the court is held, between 5 p.m. on the day of his appearance for jury duty and 3 a.m. the following day.

È Any person who violates the provisions of this subsection is guilty of a misdemeanor.

4. Each summons to appear for jury duty must be accompanied by a notice to the employer of the person summoned. The notice must inform the employer that the person has been summoned for jury duty and must include a copy of the provisions of subsections 1, 2 and 3. The person summoned, if he is employed, shall give the notice to his employer at least 3 days before he is to appear for jury duty.

5. Except as otherwise provided in this section, any person who in any manner dissuades or attempts to dissuade a person who has received a summons to appear for jury duty from serving as a juror is guilty of a misdemeanor.

NRS 50.070 states in part, “Termination or threat of termination of employment because of service as witness prohibited; penalty; remedies.

1. Any person, corporation, partnership, association or other entity who is:

(a) An employer; or

(b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment, of a person who is a witness or who has received a summons to appear as a witness in a judicial or administrative proceeding, who deprives the witness or person summoned of his employment, as a consequence of his service as a witness or prospective witness, or who asserts to the witness or person summoned that his service as a witness or prospective witness will result in termination of his employment, is guilty of a misdemeanor.”

NAC 284.582 Civil leave with pay to serve on jury or as witness. (NRS 284.065, 284.155, 284.175, 284.345)

1. Except as otherwise provided in subsection 2, civil leave with pay must be granted to any employee who is required, during his normal hours of work, to serve:

(a) On a jury; or

(b) As a witness in a court or at an administrative hearing if he is not a party to the action and the action is not related to his job.

↳ The period of the leave must not be deducted from the balance of his annual leave. An employee who is granted the leave must receive his regular pay while on the leave, and he may retain any fee paid to him for his service as a juror or witness.

2. If an employee, in his official capacity as a state employee and as part of his required duties, serves as a witness during his regular working hours, he shall accept any witness fee offered to him and relinquish it to the agency by which he is employed.

3. If an employee is paid travel expenses and subsistence allowances by the court or public agency for which he performs service as a witness, he may retain that payment only if the State has not provided him payment for the same purpose. If the State has provided him such a payment, he shall relinquish it to the agency by which he is employed.

4. An agency shall attempt to adjust the working hours of employees who work night shifts and are called as witnesses or for jury duty during the day. If an agency feels this is impractical, in the case of jury duty, it shall petition the court to excuse the juror.

[Personnel Div., Rule VII § E subsec. 5, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 12-13-83, 10-26-84; 5-27-86; R147-01, 1-22-2002; A by Personnel Comm’n by R145-05, 12-29-2005)

NRS 293.463 states, “Employees may absent themselves from employment to vote: Procedure; penalty.

1. Any registered voter may absent himself from his place of employment at a time to be designated by the employer for a sufficient time to vote, if it is impracticable for him to vote before or after his hours of employment. A sufficient time to vote shall be determined as follows:

(a) If the distance between the place of such voter’s employment and the polling place where such person votes is 2 miles or less, 1 hour.

(b) If the distance is more than 2 miles but not more than 10 miles, 2 hours.

(c) If the distance is more than 10 miles, 3 hours.

2. Such voter may not, because of such absence, be discharged, disciplined or penalized, nor shall any deduction be made from his usual salary or wages by reason of such absence.

3. Application for leave of absence to vote shall be made to the employer or person authorized to grant such leave prior to the day of the election.

4. Any employer or person authorized to grant the leave of absence provided for in subsection 1, who denies any registered voter any right granted under this section, or who otherwise violates the provisions of this section, is guilty of a misdemeanor.”

NAC 284.586 Civil leave with pay to vote. (NRS 284.065, 284.155, 284.345, 293.463)
Civil leave with pay must be granted to allow an employee time off to vote subject to the conditions established in NRS 293.463. If an employee determines he will need time off to vote, he must submit a request for civil leave with pay to the person authorized to grant such leave before the day of the election.

[Personnel Div., Rule VII § E subsec. 7, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; A by Personnel Comm’n by R145-05, 12-29-2005)

NRS 281.147 states, “Leave of absence for duty as American National Red Cross disaster technician. Any public officer or employee of the State or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is classified by the American National Red Cross as a disaster technician must be relieved from his duties, upon the request of the American National Red Cross and the approval of his employer, to assist the American National Red Cross during an emergency or disaster described in NRS 414.020 which occurs in this state or California, Oregon, Idaho, Utah or Arizona, without loss of his regular compensation for a period of not more than 15 working days in any calendar year. No such absence may be a part of the annual vacation of the public officer or employee which is provided for by law.”

NRS 284.357 states, “Deduction from salary for service during working hours as volunteer firefighter, volunteer medical technician, volunteer reserve member of police department or sheriff’s office or volunteer ambulance driver or attendant prohibited.

1. All employees, whether in the classified or in the unclassified service of the State of Nevada, must be paid their salaries as fixed by law without diminution on account of any time spent away from state employment while acting as:

(a) Volunteer firefighter of any regular organized and recognized fire department in the protection of life or property;

(b) Volunteer emergency medical technicians certified pursuant to chapter 450B of NRS;

(c) Volunteer reserve members of a police department or a sheriff’s office; or

(d) Volunteer ambulance drivers or attendants,

↪ during working hours or fractions thereof which should otherwise have been devoted to state employment.

2. As used in this section, “volunteer ambulance driver or attendant” means a person who is a

driver of or attendant on an ambulance owned or operated by:

- (a) A nonprofit organization that provides volunteer ambulance service in any county, city or town in this state; or
- (b) A political subdivision of this state.”

NAC 284.587 Civil leave with pay for certain volunteers or when absence is necessary to meet disaster or emergency. (NRS 284.065, 284.155, 284.345) Civil leave with pay must be granted to an employee who meets the requirements of NRS 284.357, and may also be granted by the appointing authority to an employee whose absence from the job is necessary to meet a disaster or emergency.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A by R146-01, 1-18-2002)

NRS 284.345 states in part, “Regulations for attendance and leaves of absence;

- 1. the Commission shall adopt regulations for attendance and leave with or without pay or reduced pay in the various classes of positions in the public service.”

NAC 284.588 Civil leave with reduced pay when performing certain service in time of war or emergency. (NRS 284.065, 284.155, 284.175, 284.345) An employee in the public service who performs active military service in the Armed Forces of the United States or any other category of persons designated by the President of the United States or the Governor of this State, including, without limitation, the Commissioned Corps of the Public Health Service, in time of war or emergency, is entitled to civil leave with reduced pay pursuant to this section for the period of such service. The pay that such an employee is entitled to receive pursuant to this section is the difference between the pay he would have otherwise received as a state employee and his pay for active military service. If his pay for active military service is greater than the pay he would have otherwise received as a state employee, the employee will not receive any additional pay pursuant to this section while he is in active military service.

(Added to NAC by Dep’t of Personnel by R146-01, 1-18-2002, eff. 2-4-2002)

NAC 284.589 Administrative leave with pay. (NRS 284.065, 284.155, 284.345)

- 1. An appointing authority may grant administrative leave with pay to an employee:
 - (a) To relieve the employee of his duties during the active investigation of a suspected criminal violation or the investigation of alleged wrongdoing;
 - (b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his position;
 - (c) For up to 30 days to remove the employee from the workplace when he has committed or threatened to commit an act of violence;
 - (d) For up to 2 hours to donate blood; or
 - (e) To relieve the employee of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.
- 2. The appointing authority, upon approval of the Risk Management Division of the Department of Administration, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.
- 3. Except as otherwise provided in subsection 4, an appointing authority or the Department of Personnel may grant administrative leave with pay to an employee for any of the following purposes:
 - (a) His participation in, or attendance at, activities which are directly or indirectly related to the employee’s job or his employment with the State but which do not require him to participate or attend in his official capacity as a state employee.

(b) Closure of the employee's office or work site caused by a natural disaster or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

(c) His appearance as an aggrieved employee or a witness at a hearing of the Committee.

(d) His appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the Department of Personnel.

(e) His appearance to provide testimony at a meeting of the Commission.

4. An appointing authority or the Department of Personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (c), (d) or (e) of subsection 3 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed for him to testify at the hearing or meeting;

(b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and

(c) The absence of the employee will not cause an undue hardship to the operations of his appointing authority or adversely impact the provision of services to clients or to the public.

5. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:

(a) The initial appointment and one follow-up appointment if the employee receives counseling through an employee assistance program.

(b) His attendance at a health fair which has been authorized by the Board of the Public Employees' Benefits Program.

(c) His participation in an official capacity as a member of a committee or board created by statute on which he serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.

(d) Up to 8 hours for preparation for hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656.

(e) Up to 8 hours for preparation for hearings regarding his involuntary transfer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; A by Personnel Comm'n by R038-03, 10-30-2003; R183-03, 1-27-2004; R145-05, 12-29-2005; R141-07, 1-30-2008)

NRS 281.1275 states in part, "Reduction in salary of certain public officers and employees for part-day absence from work prohibited; accounting for part-day absence; exception.

1. Except as permitted by the federal Family and Medical Leave Act of 1993, the salary of a public officer or employee of the state or any agency thereof, or of a political subdivision or any agency thereof, who is not entitled pursuant to federal or state law, local ordinance, or policy or contract of employment to earn overtime at the rate of time and one-half, must not be reduced for an absence from work for part of a day."

NAC 284.5895 Accounting for absences of exempt classified and unclassified employees. (NRS 284.065, 284.155, 284.345)

1. An absence of an exempt classified employee or exempt unclassified employee for a full workday shall be deemed to be an absence for a period equal to his regularly scheduled hours of employment on that workday.

2. Except when an absence for part of a workday is authorized for family and medical leave, an exempt classified employee or exempt unclassified employee must only account for an absence of one or more full workdays by the use of leave appropriate to the absence and is not required to account for any absence for part of a workday.

2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.
 3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.
 4. Discourteous treatment of the public or fellow employees while on duty.
 5. Incompetence or inefficiency.
 6. Insubordination or willful disobedience.
 7. Inexcusable neglect of duty.
 8. Fraud in securing appointment.
 9. Prohibited political activity.
 10. Dishonesty.
 11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.
 12. Drug or alcohol abuse as described in NRS 284.4062 and NAC 284.884.
 13. Conviction of any criminal act involving moral turpitude.
 14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription or any other illegally used substances while on duty.
 15. Unauthorized absence from duty or abuse of leave privileges.
 16. Violation of any rule of the Commission.
 17. Falsification of any records.
 18. Misrepresentation of official capacity or authority.
 19. Violation of any safety rule adopted or enforced by the employee's appointing authority.
 20. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his appointing authority.
 21. Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.
 22. Failure to participate in any investigation of alleged discrimination, including, without limitation, an investigation concerning sexual harassment.
 23. Failure to participate in an administrative investigation authorized by the employee's appointing authority.
- [Personnel Div., Rule XII § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 12-26-91; 7-1-94; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; R147-06, 12-7-2006)

NRS 193.105 states in part, "Termination of employment, removal from office or impeachment of public employee or officer upon conviction for sale of controlled substance.

1. If, during the course of his employment, an employee of the State or of any political subdivision of the State is convicted on or after October 1, 1989, of violating any federal or state law prohibiting the sale of any controlled substance, the employer upon discovery of the conviction shall terminate the employment of the employee."

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 484.379; 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 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 a conviction of any offense described in this section to his appointing authority within 5 working days after it occurs. If he fails to make that report, he 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 147-06, 12-7-2006; R141-07, 1-30-2008)

NAC 284.656 Notice and hearing. (NRS 284.065, 284.155, 284.383, 284.385, 284.390)

1. Except as otherwise provided in subsection 2, if an appointing authority proposes that a permanent employee be dismissed, suspended or demoted, the following procedure must be followed unless waived in writing by the employee:

(a) The employee must be given at least 10 working days' written notice of the proposed action. The notice must be on the form provided by the Department of Personnel and may be given in person or by mail. If it is mailed, the notice must be mailed to the employee's last known address by registered or certified mail, return receipt requested. The date stamped on the receipt by the postal service is the date of delivery. If the notice is returned without a return receipt signed by the employee, the employee's date of receipt shall be deemed to be the third day after the date of the mailing.

(b) The notice must:

(1) Specify the proposed date on which the action is effective.

(2) Inform the employee that a hearing has been scheduled on his behalf and specify the date, time and place of the hearing.

(3) Specify the charges, the reasons for them and the cause of action contained in NAC 284.650 on which the proposed action is based.

(c) The hearing must be scheduled to take place no earlier than 7 working days after the written notice of the proposed action is delivered or deemed received pursuant to paragraph (a). The hearing may not be scheduled on a day which is not a regular working day for the employee.

(d) If the appointing authority or his designated representative and the employee agree, the date of the hearing may be changed.

(e) The notice of the proposed action must be signed by the appointing authority or his designated representative. Upon its receipt, the employee must be asked to sign the notice. If he refuses to sign the notice, his refusal must be noted on the notice. The employee's signature is not an admission by him of any of the allegations set forth in the notice.

(f) The employee may examine, at any time after receiving the notice and before the hearing, all materials which are to be used by the person conducting the hearing. The employee is entitled

(d) Any document which is used by the Department of Personnel or an agency in the process of interviewing an applicant, including, without limitation, a document containing interview questions, evaluation tools used for rating applicants and any notes concerning an applicant that were taken by a person as part of the process of rating an applicant;

(e) Materials used in examinations, including suggested answers for oral examinations;

(f) Records and files maintained by an employee assistance program offered by the State of Nevada;

(g) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;

(h) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;

(i) Any information contained on a person's application or relating to his status as an eligible person; and

(j) Information in the file or record of employment of a current or former employee which relates to his:

(1) Performance;

(2) Conduct, including any disciplinary actions taken against him;

(3) Race, ethnic identity or affiliation, sex, disability or date of birth;

(4) Home telephone number; or

(5) Social security number.

2. If the employee has requested that his personal mailing address be listed as confidential, his file must be so designated and list his business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

(a) The employee dies; or

(b) The employee signs a release.

4. Any records in the possession of the Committee on Catastrophic Leave created pursuant to NRS 284.3627 that reveal the health, medical condition or disability of a current or former employee or a member of his immediate family are confidential.

5. Any notes, records, recordings or findings of an investigation conducted by the Department of Personnel relating to sexual harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority are confidential.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93; R058-01, 9-6-2001; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004; R024-05, 10-31-2005; R141-07, 1-30-2008)

NAC 284.726 Access to confidential records. (NRS 284.065, 284.155, 284.335, 284.407)

1. Except as otherwise provided in this subsection, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority's decision to hire that person is limited to the appointing authority or his designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of subparagraph 2 of paragraph (a) of subsection 1 of NAC 284.204, information relating to the education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.

2. Except as otherwise provided in subsection 3, access to an employee's file of employment containing any of the items listed in paragraphs (g) to (j), inclusive, of subsection 1 of NAC 284.718 is limited to:

(a) The employee.

(b) The employee's representative when a signed authorization from the employee is presented or is in his employment file.

(c) The appointing authority or a designated representative of the agency by which the employee is employed.

(d) The Director or his designated representative.

(e) An appointing authority, or his designated representative, who is considering the employee for employment in his agency.

(f) Persons who are authorized pursuant to any state or federal law or an order of a court.

(g) The State Board of Examiners if the Board is considering a claim against the State of Nevada filed pursuant to chapter 41 of NRS which involves the employee.

(h) Persons who are involved in processing records for the transaction of business within and between state agencies.

(i) Persons who are involved in processing records for the transaction of business that is authorized by the employee.

3. Information concerning the health, medical condition or disability of an employee or a member of his immediate family must be kept separate from the employee's file in a locked cabinet. Except as otherwise provided in subsection 6, access to such information is limited to the employee, his current supervisor, and the appointing authority or his designated representative.

4. Except as otherwise provided by specific statute, records maintained by an employee assistance program offered by the State of Nevada must not be released without written permission signed by the employee to whom the records pertain.

5. Upon request, the Department of Personnel will provide the personal mailing address of any employee on file with the Department to the State Controller's Office and the Internal Revenue Service.

6. The Director or the appointing authority, or his designated representative, shall authorize the release of any confidential records under his control which are requested by the Committee, a hearings officer, the Commission, the Committee on Catastrophic Leave created pursuant to NRS 284.3627, the Nevada Equal Rights Commission or a court. If the Director or his designated representative determines that the release of any confidential record is not necessary for those purposes, the decision may be appealed.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R024-05, 10-31-2005; R141-07, 1-30-2008)

NAC 284.730 Retention and disposal of records. (NRS 284.065) All records of the Department of Personnel will be retained or disposed of in accordance with the records retention and disposal schedule approved by the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

[Personnel Div., Rule XVI § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R182-03, 1-27-2004)

NAC 284.734 Prohibition against maintenance of secret files. (NRS 284.065, 284.155) Except as otherwise provided in NAC 284.718 and 284.726, no appointing authority may maintain secret files regarding any employee.

[Personnel Div., Rule XVI § E, eff. 8-11-73]