



**DEPARTMENT OF PERSONNEL**  
**209 East Musser Street, Room 101**  
**Carson City, Nevada 89701-4204**  
**(775) 684-0150**  
**<http://dop.nv.gov>**

**MEMO PERD #45-07**  
October 9, 2007

**TO:** Personnel Commission Members  
Department Directors  
Division Administrators  
Agency Personnel Liaisons  
Agency Personnel Representatives  
Designees for Rules Distribution  
Employee Representatives  
Interested Parties

**FROM:** Todd C. Rich, Director  
Department of Personnel

Handwritten signature of Todd C. Rich in black ink.

**SUBJECT:** NOTICE OF WORKSHOP - Amendments to NAC 284

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The regulation changes included with this memorandum are being proposed for permanent adoption at the March 14, 2008, Personnel Commission meeting. This meeting will be held at 9:00 a.m. at the Legislature Building, 401 South Carson Street, Room TBD, Carson City, Nevada. A videoconference link will also be available at the Grant Sawyer Building, 555 East Washington Avenue, Room TBD, Las Vegas, Nevada.

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 November 6, 2007, at the Legislature Building, 401 South Carson Street, Room 2134, Carson City, Nevada and via videoconference at the Grant Sawyer Building, 555 East Washington Avenue, Room 4406, Las Vegas, Nevada. An informational note precedes each regulation, which explains the nature and purpose of the proposed change to regulation.

Please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Changes to NAC 284* along with the *text of the proposed regulations* or otherwise notify your employees.



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## **NOTICE OF WORKSHOP**

### **TO SOLICIT COMMENTS ON PROPOSED CHANGES TO NAC 284**

**Workshop Notice:** The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0119, is proposing the permanent adoption, amendment or repeal of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

**A workshop has been set for 9:00 a. m. on November 6, 2007,** at the Legislature Building, 401 South Carson Street, Room 2134, Carson City, Nevada, and via videoconference at the Grant Sawyer Building, 555 East Washington Avenue, Suite 4406, in Las Vegas, Nevada.

#### **ACTION - NEWLY PROPOSED REGULATIONS FOR PERMANENT ADOPTION**

#### **NAC REGULATION**

Appeal of allocation of position or change in classification	NAC 284.152
Differential rate of pay for qualifying shift	NAC 284.210
Reinstatement of former permanent employee	NAC 284.386
Civil leave with pay to serve on jury or as witness	NAC 284.582
Presentation and contents of petitions	NAC 284.830

A copy of all documents relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 Musser Street, Room 300, Carson City, Nevada, telephone number (775) 684-0119, or 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations will not result in an increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other State or local governmental agencies.
- These regulations do not establish any new fee or increase an existing fee.
- A statement of the need for and the purpose of the proposed regulations precedes the text of each regulation included in the attached document.

The notice of the Workshop has been posted at the following locations:

**CARSON CITY**

Blasdel Building, 209 East Musser Street  
Nevada State Library and Archives, 100 Stewart St.  
Capitol Building, Main Floor  
Legislative Building, 401 South Carson Street  
**Department of Personnel Web Site [www.dop.nv.gov](http://www.dop.nv.gov)**

**LAS VEGAS**

Grant Sawyer State Office Building  
555 East Washington Avenue

**ALL STATE AGENCIES**

**ALL NEVADA COUNTY PUBLIC LIBRARIES**

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**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 Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Honey Garibaldi at (775) 684-0119, no later than five working days prior to the Workshop.*

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## REGULATIONS PROPOSED FOR PERMANENT ADOPTION

**Sec 1. NAC 284.152 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, details an appellant's responsibility when appealing the results of a classification study to the Personnel Commission. The intent of this amendment is to provide the Personnel Commission with information regarding the appellant's rationale for their disagreement with the classification study result, as they must do when appealing to the Director.

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

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

- (a) Address the points outlined in the Department of Personnel's recommendation regarding the proper classification for the position in question; and
- (b) Indicate the points with which the appellant disagrees and express the reasons why he disagrees.

2. The Director will issue a decision on the appeal within 20 working days after he receives the appeal unless:

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

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

4. The appellant or the agency affected by the decision may [~~appeal it to the Commission~~] within 30 days after receipt of written notice of the decision from the Director[-] *submit a written appeal to the Commission that is addressed to the Director.*

*The appeal must:*

- (a) Address the points outlined in the decision regarding the proper classification for the position in question; and*
- (b) Indicate the points with which the appellant disagrees and express the reasons why he disagrees.*

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

**Sec 2. NAC 284.210 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, allows employees that normally do not work a shift differential qualifying shift to receive compensatory time at the rate of time and one-half on their shift differential (7.5%). Currently shift differential is not coded when an employee accrues compensatory time. For those employees that normally work a shift differential qualifying shift, compensatory time is paid at the employee's normal rate of pay when the time is used which can include shift differential (PSD). This regulation ensures that employees that normally would not be eligible for shift differential on accrued compensatory time will receive a similar benefit.

**NAC 284.210 Differential rate of pay for qualifying shift. (NRS 284.065, 284.155, 284.175)**

1. As used in this section:

(a) "Differential rate of pay" means an adjustment in pay equivalent to an additional 5 percent of an employee's normal rate of pay.

(b) "Qualifying shift" means a period of work of 8 hours or more, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m. The term includes, without limitation, a period of work of 8 hours that is reduced to 7 hours because of a change of time to daylight saving time.

2. An employee is eligible for the differential rate of pay if he works in a unit which provides services requiring multiple shifts within a 24-hour period and he is:

(a) A nonexempt employee in the classified service who works:

(1) A qualifying shift; or

(2) Any shift of at least 8 hours that is other than a qualifying shift plus 4 or more hours between 6 p.m. and 7 a.m. In such cases, an employee must receive the differential rate of pay for only the hours worked between 6 p.m. and 7 a.m.

(b) An exempt classified employee assigned to a qualifying shift. In such cases, an employee must receive the differential rate of pay for all his regularly scheduled hours of employment on that workday.

3. If an employee is assigned to a qualifying shift when he is on paid leave or a holiday occurs, he must receive the differential rate of pay for that shift.

4. Except as otherwise provided in subsection 3, if a nonexempt employee in the classified service is assigned to a qualifying shift and the employee is not in paid status for the entire period of that shift, the employee must receive the differential rate of pay for the portion of the shift in which he is in paid status.

5. A nonexempt employee in the classified service who works overtime pursuant to NRS 284.180 in conjunction with a qualifying shift must be paid overtime at the differential rate of pay.

6. *A nonexempt employee in the classified service who works overtime pursuant to NRS 284.180 in conjunction with a qualifying shift and is not normally assigned to a qualifying shift must be paid overtime at the differential rate of pay or receive the equivalent compensatory time.*

[Personnel Div., Rule III § I, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, eff. 12-17-87; 7-21-89; 3-23-94; 10-27-97; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002; R022-05, 10-31-2005)

### Sec 3. NAC 284.386:

**Explanation of Discussion:** This regulation was adopted as a temporary regulation effective January 8, 2007 and then as a permanent regulation on September 14, 2007; however, the Personnel Commission Chairman encouraged the Department and interested parties to continue to discuss the issues raised at the hearing regarding the impact on current employees, the criteria evaluated by the Department of Personnel, and the requirement for reinstated employees to meet the current minimum qualifications for the job.

#### **NAC 284.386 Reinstatement of former permanent employee. (NRS 284.065, 284.155, 284.305)**

1. Except as otherwise provided in subsection 4, an appointing authority may reinstate a person who has held permanent status in state employment and who was not dismissed from state employment pursuant to NAC 284.646:

(a) Within a 2-year period following his termination from state employment; or

(b) After the 2-year period following his termination from state employment, with the approval of the Department of personnel.

2. The grade of the class to which a person is reinstated may only exceed the current grade of the class he formerly held or a comparable class if that class has been reallocated.

3. Except as otherwise provided in subsection 2, a person may not be reinstated to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the person formerly held.

4. A reinstatement to a similar class requires the approval by the Department of Personnel before the appointing authority may make a commitment to reinstate.

5. It is the responsibility of a person seeking reinstatement to make his interest known by providing a new application to the appointing authority.

6. The person must meet the current minimum qualifications for the class for which the reinstatement is sought.

[Personnel Div., Rule VI § C, eff. 8-11-73; A 10-10-76]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 10-18-89; 11-12-93; 10-27-97; A by Personnel Comm'n by R183-03, 1-27-2004)

**Sec 4. NAC 284.582 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, adds language as is consistent with the changes to NRS 6.190 made during the 2007 Legislative Session. It clarifies that an employee cannot be required to use either sick leave or annual leave when required to serve on a jury. The proposed amendment also references NRS 6.190 to ensure that State agencies are following the statute regarding working hours prior to the start of jury duty for the affected employee.

**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 *sick leave or* 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. *In accordance with NRS 6.190*, [A~~n~~] *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)

**Sec 5. NAC 284.830 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, changes the timelines for parties wishing to petition the adoption, amendment, or repeal of a regulation from 90 days to 120 days to allow appropriate processing time for the Department of Personnel. This amendment is necessitated by the changes made in chapter 233B of NRS during the 2007 Legislative Session. NRS 233B now requires that language approved by the Legislative Counsel must be posted for at least 30 days.

**NAC 284.830 Presentation and contents of petitions. (NRS 284.065)**

1. Petitions to initiate the adoption, amendment or repeal of a regulation must be presented in writing in a letter addressed to the Director at least [~~90~~] **120** days before a regularly scheduled meeting of the Commission.
2. Petitions to protest the adoption, amendment or repeal of a regulation must be presented in writing in a letter addressed to the Director at least 20 days before a regularly scheduled meeting of the Commission.
3. Such a petition must contain or be accompanied by relevant data, views and arguments. If a petition is for a new regulation or an amendment to an existing regulation, the petitioner shall also submit the proposed language.

[Personnel Div., Rule XVII § C subsecs. 1 & 2 + Rule XVII § D subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 8-14-90)