



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

**MEMO PERD #51/07**  
October 30, 2007

**TO:** Nevada County Libraries  
State Library and Archives

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

A handwritten signature in black ink, appearing to read "T. R. Rich".

**SUBJECT:** REGULATION CHANGES

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The regulation changes included with this memorandum are being proposed for adoption at the December 14, 2007, Personnel Commission meeting. This meeting will be held at 9:00 a.m. at the Legislative Building, 401 South Carson Street, Room 4100, Carson City, Nevada and by video conference in Las Vegas at the Grant Sawyer Building, 555 East Washington Ave, Room 4401, Las Vegas, Nevada.

Enclosed is a copy of the *Notice of Intent to Act Upon A Regulation* and the *text of the proposed regulations*. We are asking libraries to post this information to inform the public of the hearing.

TR:sb

Enclosures



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**NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Hearing for the Amendment of Regulations of the**

**Department of Personnel**

The Personnel Commission will hold a public hearing at 9:00 a.m., on December 14, 2007, at the Legislative Building, 401 S. Carson Street, Room 4100 and in Las Vegas at the Grant Sawyer Building, Room 4401, 555 East Washington Avenue via videoconferencing. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to chapter 284 of the Nevada Administrative Code.

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

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

<b><u>Regulation Leadline:</u></b>	<b><u>NAC #</u></b>
Integration of subsequent lists; material changes	284.370
Automatic advancement	284.4375
Application of probationary period	284.444
Time not counted toward completion of probationary period	284.448
Preparation, filing, contents, discussion and distribution of reports; power and duties of employees; review; adjustment of grievances	284.470
Appeal of decision of reviewing officer	284.478
Catastrophic leave: Use and administration; appeal of denial	284.576
Administrative leave with pay	284.589
Driving under the influence; unlawful acts involving controlled substance	284.653
Submission, form and contents of grievances; informal discussions	284.678
Submission of grievance to next appropriate level	284.682
Filing of grievance with administrator of department; action by administrator	284.690

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to Department of Personnel, 209 E. Musser Street, Suite 300, Carson City, Nevada 89701, Attention Shelley Blotter. Written submissions must be received by the Department of Personnel on or before November 23, 2007. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the Department of Personnel, 209 E. Musser Street, Carson City, and 555 East Washington Avenue, Las Vegas, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

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

This notice of hearing 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)  
Main branch of Nevada County Public Libraries

**LAS VEGAS**

Grant Sawyer State Office Building  
555 East Washington Avenue

Additionally, this notice has been sent to all State agencies.

## REGULATION CHANGES PROPOSED FOR PERMANENT ADOPTION

### Sec. 1. NAC 284.370 is hereby amended to read as follows:

**Explanation of Proposed Change:** This amendment, proposed by Department of Personnel, repeals subsection 2 of this regulation. When an exam is materially revised, it is based on the need to improve the screening tool used to evaluate a candidate's ability to perform the work of the job. Therefore, it is appropriate for all candidates to take the revised/new exam prior to being placed on the eligibility list.

### **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. If a material change occurs, eligible persons from other current lists for the same class may be offered the choice of retaking the examination or integrating their previous score, but only if they also meet any new qualification requirements. The decision to retake the examination cannot be reversed once any phase of the new examination has been taken. The results of the most recent examination will prevail.]~~

[3.] 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)

### Sec. 2. NAC 284.4375 is hereby amended to read as follows:

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, changes this regulation to comply with the revised federal Uniformed Services Employment and Reemployment Rights Act (USERRA). It clarifies that when an employee returns following a military leave of absence and is in a position that allows for automatic progression following the successful completion of any remaining period of probation, the automatic progression takes effect retroactively to the date it would have occurred had it not been for the time spent on a military leave absence.

### **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 to a position that provides for automatic advancement must successfully complete the probationary period for the position and then receive automatic advancement. Upon the successful completion of the remaining portion of the employee's probationary period, automatic advancement must be granted as of the date it would have been granted had it not been for the 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)

### **Sec. 3. NAC 284.444 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, changes this regulation to comply with the revised federal Uniformed Services Employment and Reemployment Rights Act (USERRA). This change clarifies that when an employee completes the remaining portion of his probationary period upon his return from a military leave of absence, his permanent status is awarded retroactively to the date he would have received it had he not been on a military leave of absence.

### **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 entitled to reemployment because of his military service is entitled to return to the status of appointment held at the time of his separation from the state service for military purposes. If the employee did not complete the probationary period, he will only be required to complete the remaining portion thereof. *Upon the successful completion of the remaining portion of the employee's probationary period, permanent status must be granted as of the date it would have been granted had it not been for the 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)

#### **Sec. 4. NAC 284.448 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, changes this regulation to comply with the revised federal Uniformed Services Employment and Reemployment Rights Act (USERRA). This change clarifies that while time on military leave is not counted as time served towards completion of a probationary period, it must be granted retroactively once the time served is completed in accordance with subsection 8 of NAC 284.444.

**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.

2. *Except as otherwise provided in subsection 8 of NAC 284.444, ~~Authorized~~ authorized* military leave for training beyond the 15 paid working days in any 1 calendar year.

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)

**Sec. 5. NAC 284.470 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel removes the ability for an employee to file a grievance related to a performance evaluation as the review process exists which allows an employee to dispute his performance appraisal up to the Agency Director level (NAC 284.478, 284.678 and 284.690).

**NAC 284.470 Preparation, filing, contents, discussion and distribution of reports; power and duties of employees; review; [~~adjustment of grievances~~]. (NRS 284.065, 284.155, 284.340, 284.384)**

1. A person shall not complete a report on performance unless he has completed the training provided or approved by the Director concerning the preparation of a report on performance.
2. A report on performance must be prepared on the form prescribed by the Department of Personnel.
3. A report on performance must be filed at the times prescribed by NRS 284.340, but may be filed more frequently at the discretion of the supervisor of the employee. If a report on performance is not filed on or before the times specified in NRS 284.340, the performance of the employee shall be deemed to be standard.
4. If any information that would have affected the rating of performance of an employee during a period of evaluation becomes available after the date on which the report on performance of the employee is filed for that period, the information may be included in the report on performance for the current period of evaluation and taken into consideration in determining the rating of performance for the current period of evaluation.
5. When a report on performance is given which reports the overall rating of performance of an employee as substandard:
  - (a) The report must contain a written notice that such reports affect both merit pay increases and the employee's eligibility for longevity pay; and
  - (b) An additional report on the performance of the employee must, in accordance with subsection 4 of NRS 284.340, be filed at least once every 90 days after the initial report that includes the substandard rating until the performance of the employee improves to standard or disciplinary action is taken against the employee.
6. Except as otherwise provided in subsection 7, the preparation of each report on performance must include a discussion between the employee and his immediate supervisor. Within 10 working days after the discussion takes place:
  - (a) The employee must complete and sign the appropriate section on the report on performance and return the report to his supervisor for forwarding to the reviewing officer or appointing authority.
  - (b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify the specific points of disagreement, if such specificity is provided, and return the response to his supervisor. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request.
7. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 6 because of an extended absence, the immediate supervisor of the employee shall cause the report to be mailed to the employee. Within 10 working days after the date on which the employee receives the report:
  - (a) The employee must complete and sign the appropriate section on the report on performance and mail the report to his supervisor for forwarding to the appointing authority or reviewing officer.
  - (b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify any specific point of disagreement, if the report provides such specificity, and mail his response to his supervisor. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request for review from the employee. For the purposes of this paragraph, a report on performance or request for review is

deemed to have been received on the third day after the date on which the report or request is postmarked.

8. A copy of each report on performance must be provided to the employee and filed with the Department of Personnel. If any written comments are added to a report on performance after a copy of the report has been provided to the employee pursuant to this subsection:

(a) A copy of the revised report which includes the written comments must be provided to the employee; and

(b) The employee may respond, in writing, to the additional comments in the revised report not later than 10 working days after he receives a copy of the revised report and submit the response to the Department of Personnel for inclusion in his file of employment.

9. An employee and his appointing authority may agree in writing to extend one or more of the periods prescribed in subsection 6 or 7.

10. If a reviewing officer fails to respond to a request for review from an employee within the time required by this section, the employee may ~~[institute the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.]~~ **file for a review with the Agency Director.**

[Personnel Div., Rule IX § A, eff. 8-11-73; A 12-28-75]—(NAC A by Dep't of Personnel, 10-26-84; 9-17-87; 10-18-89; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R197-99, 1-26-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002; R096-03, 10-30-2003; R144-05, 12-29-2005)

**Sec. 6. NAC 284.478 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, limits an employee's ability to appeal his performance evaluation above the level of the Agency Director. The purpose of the reviewing officer is to provide an unbiased assessment of the employee's performance evaluation and as such there is already an appeal process in place.

**NAC 284.478 Appeal of decision of reviewing officer.** (NRS 284.065, 284.155, 284.384) A permanent employee may *not* appeal a decision of a reviewing officer ~~[pursuant to NAC 284.470 through the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.]~~ **beyond the level of the Agency Director.**

[Personnel Div., Rule IX § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-18-89; R197-99, 1-26-2000)

**Sec. 7. NAC 284.576 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel removes the language that places an employee on approved leave without pay in an event that the employee is approved to receive catastrophic leave donations, but there are not enough donations to pay the employee for the absence.

**NAC 284.576 Catastrophic leave: Use and administration; appeal of denial.** (NRS 284.065, 284.155, 284.3621, 284.3626)

1. An account for catastrophic leave may be established for an employee when he or a member of his immediate family experiences a catastrophe and the employee has used all of his accrued leave.



2. An employee who is affected by a catastrophe and has used or is about to use all of his leave may request, on the appropriate form, the transfer of leave to an account for catastrophic leave for his personal use after the balance of all of his leave has been used. Such a request must be accompanied by a statement from a physician on a form provided by the Committee on Catastrophic Leave created pursuant to NRS 284.3627 which substantiates the necessity of the leave.

3. When a member of the immediate family of an employee is affected by a catastrophe, the appointing authority of the employee may require substantiating evidence that the member of the immediate family requires the employee's attendance before approving the transfer of leave to an account for catastrophic leave for use by the employee. Such evidence may include a statement by an attending physician regarding the status of the catastrophe.

4. The appointing authority shall approve or deny a request for catastrophic leave, taking into consideration the nature of the catastrophe and the expected duration of the leave. The decision of the appointing authority may be appealed to the Committee on Catastrophic Leave pursuant to NRS 284.3629.

~~[ 5. An employee whose request for catastrophic leave for a specified period of time has been approved and who has not had any or enough donations transferred to his account for catastrophic leave established pursuant to subsection 1 shall be deemed to be on approved leave without pay for the same period of time that was approved for the catastrophic leave. If a subsequent donation of hours to the employee's account for catastrophic leave is received before the last day of the approved period of catastrophic leave, the donation must be applied retroactively to cover the beginning of the period of leave that was taken without pay.]~~

[6.] 5. An employee who wishes to donate hours to an account for catastrophic leave for use by another employee who has been approved to receive the donated hours shall notify his appointing authority on the appropriate form of his intent to donate the leave. The appointing authority of the employee donating the leave shall submit a copy of the form to the appointing authority of the employee receiving the leave. The appointing authority of the recipient shall use the notice to effect a transfer of leave from the account of the donor to the account of the recipient when the recipient needs to use those hours. If more than one notice of intent to donate leave is received by the recipient's appointing authority on behalf of the recipient, the notices must be maintained in chronological order and used, one at a time as needed, according to the date in which they were received.

[7.] 6. A donor and his appointing authority must be notified on the appropriate form when the donated leave specifically designated for use by another employee has been used or if the amount of leave donated is in excess of the amount approved for use by the recipient. Excess leave must be restored to the account of the donor within 30 working days after the last day on which the recipient was eligible to receive catastrophic leave.

[8.] 7. The appointing authority shall provide the following information on a calendar year basis or as requested by the Director:

(a) Each employee under its authority, identified by a number assigned in accordance with subsection [9] 8, donating or using catastrophic leave, his grade and rate of pay and the number of hours and dollar value of the leave donated, excluding any excess leave restored to the account of a donor, pursuant to subsection [7] 6, or used by the employee;

(b) The period and nature of the disability for each employee using catastrophic leave; and

(c) A comparison of the average dollar value of the accounts for catastrophic leave based on the average rate of pay of the donors and the average dollar value of the leave taken by the recipients.

[9.] 8. The appointing authority shall assign numbers to employees for the purposes of subsection [8] 7 in a sequential order and in such a manner that ensures the confidentiality of the identity of those employees.

[10.] **9.** Hours donated to an account for catastrophic leave must be donated in increments of 8 hours.

[11.] **10.** As used in this section, “immediate family” has the meaning ascribed to it in NAC 284.562.

(Added to NAC by Dep’t of Personnel, eff. 10-18-89; A 8-14-90; 3-23-94; R146-01, 1-18-2002; A by Personnel Comm’n by R145-05, 12-29-2005)

**Sec. 8. NAC 284.589 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Nevada State Law Enforcement Officers Association, allows an appointing authority to grant not more than 4 hours of paid administrative leave for an aggrieved employee to prepare documents for his presentation before the Employee-Management Committee.

**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) **For up to 4 hours to prepare documents as outlined in NAC 284.6955.**

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

~~(e)~~ (e) 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)~~ (f) 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 ~~(e), (d) or (e)~~ (d), (e), or (f) 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 the 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)

**Sec. 9. NAC 284.653 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies that an employee may seek assistance from an employee assistance program but is not restricted to the Employee Assistance Program offered by the State of Nevada.

**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 [~~the Employee Assistance Program~~] *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)

**Sec. 10. NAC 284.678 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel removes the language that allows an employee to file a grievance related to a performance appraisal consistent with the proposed change in NAC 284.470 and 284.478.

**NAC 284.678 Submission, form and contents of grievance; informal discussions. (NRS 284.065, 284.155, 284.384)**

1. Except as otherwise provided in [~~subsection 3 and~~] NAC 284.692, an employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.

2. If the employee submits a letter, it must include:

(a) His name;

(b) His most recent date of hire;

(c) His position;

(d) His department, division and section;

(e) His mailing address;

(f) His business telephone number;

(g) A statement that he is filing a formal grievance;

(h) The date, time and place of the event or the date the employee learns of the event leading to the grievance;

(i) A concise statement of his grievance;

(j) A detailed description of his grievance, including the names of other persons involved in the event, if any;

(k) A proposed solution of his grievance;

(l) His signature; and

(m) The date he signed the statement.

~~[3. Except as otherwise provided in NAC 284.692, if a grievance relates to a decision of a reviewing officer about a performance evaluation, an employee must file a grievance that identifies the specific points of disagreement, if such specificity is provided, not later than 10 working days after the date the employee receives the decision of the reviewing officer. Except as otherwise provided in NAC 284.692, if the grievance relates to the failure of a reviewing officer to respond to a request for a review within the time required by NAC 284.470, an employee must file a grievance not later than~~

~~10 working days after the date on which the time for such a response expired. A grievance filed pursuant to this subsection must be filed with:~~

- ~~—(a) The appointing authority; or~~
- ~~—(b) If the appointing authority is the immediate supervisor of the employee or the reviewing officer, the person who is at the next level of the grievance process.]~~

[Personnel Div., Rule XV § A part subsec. 1, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 3-23-94; R197-99, 1-26-2000; A by Personnel Comm'n by R023-05, 10-31-2005)

**Sec. 11. NAC 284.682 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Nevada State Law Enforcement Officers Association, requires an appointing authority to provide a copy of a formal agreement settling a grievance with the Employee-Management Committee (EMC). This provision applies to each step in the grievance process.

**NAC 284.682 Submission of grievance to next appropriate level. (NRS 284.065, 284.155, 284.384)**

1. If the correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the Department of Personnel determines that the submission of the grievance to the supervisor would be a useless act, the aggrieved employee may appeal directly to the next appropriate level.

2. Except as otherwise provided in NAC 284.692, an employee has 10 working days to refer his grievance to the next level after:

- (a) He receives notification of the action; or
- (b) The passage of 10 working days after his grievance is deemed to have been received,

↪ whichever occurs first, at each step in the procedure.

***3. If during the grievance process a formal agreement is reached by an employee and the appointing authority before the Employee-Management Committee hears the grievance, both parties shall sign the agreement and the appointing authority shall provide a copy of the agreement to the Employee-Management Committee.***

[Personnel Div., Rule XV § A part subsec. 1, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005)

**Sec. 15. NAC 284.690 is hereby amended to read as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel removes the language that allows an employee to file a grievance related to a performance appraisal consistent with the proposed change in NAC 284.470.

**NAC 284.690 Filing of grievance with administrator of department; action by administrator. (NRS 284.065, 284.155, 284.384)**

1. If the employee has not received satisfactory relief within 10 working days after his grievance is deemed to have been received by the head of the division, he may file his grievance with the highest administrator of the department. Except as otherwise provided in NAC 284.692, the administrator may hold a hearing within 10 working days after receiving the employee's grievance.

2. Except as otherwise provided in NAC 284.692, the highest administrator may render a decision following the hearing or allow the grievance to be forwarded directly to the Committee within 10 working days.

3. ~~[In rendering a decision concerning a performance evaluation, an administrator shall address the findings of fact to the specific points of disagreement referred to in the grievance of the employee.~~

4.] Within the established time limitations, including any extensions to those time limitations obtained pursuant to NAC 284.692, the highest administrator may appoint a person or committee composed of managers and employees to assist in the finding of facts and recommending a course of action.

[Personnel Div., Rule XV § A subsec. 4, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005)