



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

**MEMO PERD #53-08**  
September 5, 2008

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

FROM: Todd Rich, Director  
Department of Personnel

SUBJECT: NOTICE OF WORKSHOP - Amendments to NAC 284

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The regulation changes included with this memorandum are being proposed for adoption. In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 9:00 a.m. on September 26th at the Legislative Building, 401 S. Carson Street, Room 2135, Carson City, Nevada and by video conference at the Grant Sawyer Building, 555 East Washington Avenue, Room 4406 in Las Vegas, Nevada. An informational note precedes the regulations, which explains the nature and purpose of the proposed change to the regulations.

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

A handwritten signature in cursive script, appearing to read "Todd Rich".

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Todd Rich, Director  
Department of Personnel

TR:vk  
Enclosures



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

The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0119, is proposing the temporary Amendment/Repeal of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 9:00 A.M. on September 26, 2008 at the Legislative Building, 401 S. Carson Street, Room 2135 in Carson City, Nevada, and via video conference at the Grant Sawyer Building, 555 E. Washington Avenue, Room 4406 in Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

<u>Regulation Leadline:</u>	<u>NAC #</u>
Overtime: Consideration of paid-leave status in calculation (Repeal)	284.245
Unauthorized and unreported absences (Amend)	284.594
Confidential Records (Amend)	284.718
Access to Confidential Records (Amend)	284.726

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Department of Personnel offices at 209 E. 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.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations.

**CARSON CITY**

Blasdel Building, 209 East Musser Street  
Nevada State Library and Archives, 100 Stewart St.  
Legislative Building, 401 S. Carson Street

**ALL STATE AGENCIES**

**ALL NEVADA COUNTY PUBLIC LIBRARIES**

**LAS VEGAS**

Grant Sawyer State Office Building  
555 East Washington Avenue

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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 Carrie Hughes at (775) 684-0119, no later than five working days before the meeting.*

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Date: September 8, 2008

## TEMPORARY REGULATIONS PROPOSED FOR ADOPTION

### Section 1. NAC 284.245 is repealed as follows:

**Explanation of change:** The repeal of this regulation, proposed by the Department of Personnel, makes an adjustment in the calculation of overtime in order to conform to the Fair Labor Standards Act (FLSA). The FLSA does not require payment for time not worked, such as vacations, sick leave or federal or other holidays. These benefits are matters of agreement between an employer and an employee. Considering paid leave as time worked in calculating overtime makes the State's practices consistent with those of private employers and eliminates an unnecessary financial burden to the State.

**NAC 284.245 Overtime: Consideration of paid-leave status in calculation.** (NRS 284.065, 284.155, 284.175) [~~Paid leave status is considered as time worked in calculating overtime.~~]

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

### Sec. 2. NAC 284.594 is amended as follows:

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, clarifies that an employee who has an unauthorized or unreported absence may be subject to disciplinary action under NAC 284.646.

**NAC 284.594 Unauthorized and unreported absences.** (NRS 284.065, 284.155, 284.175, 284.345)

1. An unauthorized and unreported absence must be considered an absence without leave and a deduction of pay must be made for the absence.
2. An unreported absence may be considered an absence without leave, and a deduction of pay may be made for the absence.
3. An employee who has an unauthorized or unreported absence may be subject to disciplinary action pursuant to **NAC 284.646 or** NAC 284.650.
4. A deduction from the pay of an exempt classified employee or exempt unclassified employee must be made in increments of a full workday.

[Personnel Div., Rule VII § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 1-26-87; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

**Sec. 3. NAC 284.718 is amended as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, recognizes that there can exist a clear connection between an employee's leave balances and his medical history as it relates to protections provided by the Family Medical Leave Act and the Americans with Disabilities Act. Classifying leave balances as confidential employee information will insure that State employees applying for other jobs within State service are not eliminated from consideration through discriminatory practices resulting from the release of leave usage information.

**NAC 284.718 Confidential records. (NRS 284.065, 284.155, 284.407)**

1. The following types of information, which are maintained by the Department of Personnel or the personnel office of an agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished to the Department of Personnel on the condition that the source remain confidential;

(b) Any document which is used by the Department of Personnel or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(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 the Employee Assistance Program;

(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; [Ø]

(5) *Annual leave and sick leave usage and balances; or*

(6) 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)

**Sec 4. NAC 284.726 is hereby amended as follows:**

**Explanation of Proposed Change:** This amendment, proposed by the Department of Personnel, recognizes that there can exist a clear connection between an employee's leave balances and his medical history as it relates to protections provided by the Family Medical Leave Act and the Americans with Disabilities Act. This amendment balances the employee's right to confidentiality with the employer's record keeping requirements.

**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] 7,

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 in subsection 7, access to annual leave and sick leave usage and balances is limited to the employee, his current supervisor, and the appointing authority or his designated representative.***

5. Except as otherwise provided by specific statute, records maintained by the Employee Assistance Program must not be released without written permission signed by the employee to whom the records pertain.

~~[5-]~~ 6. 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-]~~ 7. 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)