



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
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MEMO PERD #35/12

August 23, 2012

TO: Designees for Rules Distribution

FROM: Lee-Ann Easton, Administrator *Lee-Ann Easton*
Division of Human Resource Management

SUBJECT: Revision #1, Rules for State Personnel Administration

Attached is Revision #1 to the *Rules for State Personnel Administration* (NRS and NAC Chapter 284). Revision #1 reflects regulations approved by the Legislative Commission that have not been codified and were not included in the publication distributed on July 16, 2012.

Please note that NAC 284 on the Nevada Legislature's Law Library webpage does not reflect all regulations that are approved and in effect. The complete text of the *Rules for State Personnel Administration*, including **all** revisions, is available on the Division of Human Resource Management's (DHRM) website under "Rules" at www.dop.nv.gov (formerly the Department of Personnel) for downloading and printing to update an existing hardcopy.

Updated pages with corresponding sections of the rulebook are listed in the chart below:

SECTION	PAGE NO.
Cover Pages	Cover pages
Table of Contents	iii - iv, vii - x
Disciplinary Procedures	L5 - L6
Adjustment of Grievances	M1- M2, M7-M10
Prohibitions and Offenses	O3 - O8
Appendix - NRS References	7- 8

Please ensure that everyone on your distribution list receives a copy. If you have any questions, please contact Michelle Garton at mgarton@admin.nv.gov or (775) 684-0136.

Thank you for your assistance.

Attachment

LE:dws/tp

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

Rules for State Personnel Administration



*State of Nevada
Department of Administration
Division of Human Resource Management*

***Rules for State Personnel Administration
NRS and NAC 284
and Other Selected Sections***

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284.140	Reclassification of class or position to lower grade: Status of incumbent.	5
284.150	Class specifications.....	6
284.152	Appeal of allocation of position or change in classification.	6

COMPENSATION SECTION C

284.158	Range of pay based on full-time employment; semimonthly or biweekly payment; payment of part-time, intermittent, per diem and positive reporting employees.	1
284.170	Initial rate of pay; effect of promotion, demotion, transfer, reappointment or reemployment; minimum step for continuous employee; rate of pay for nonclassified or unclassified employee appointed to classified position.....	2
284.182	Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date.	5
284.186	Date of promotion coinciding with pay progression date.....	6
284.194	Merit pay increase: Granting or withholding; delay because of administrative or clerical error.	6
284.196	Merit pay increase: Credit for service under certain circumstances.....	7
284.204	Adjustment of steps within same grade.	7
284.206	Special adjustments to pay.....	8
284.208	Compensation for dangerous duty.	10
284.210	<i>Differential rate of pay for qualifying shift.....</i>	<i>11</i>
284.214	Compensation for being called back to work; compensation for person required to appear as witness.....	12
284.218	Compensation for standby status.	13
284.220	Change of time to or from daylight savings time.	14
284.228	Shift trading: Agreement; responsibilities.....	14
284.242	Overtime: Authorization.	17
284.245	Overtime: Consideration of paid-leave status in calculation.	17
284.248	Overtime: Employee who works in two positions; exceptions.....	17
284.250	Overtime: Compensation.	18
284.2508	Compensatory time: Use.	18
284.252	Compensatory time: Request for payment for certain portions.	18
284.253	Compensatory time: Rate of pay.	19
284.2535	Compensatory time: Firefighters.	19
284.254	Compensatory time: Payment upon transfer.	19
284.255	Holidays: Holiday pay.	20
284.256	Holidays: Compensation for working.	22
284.257	Holidays: Designation of time for holiday pay; adjustment of work schedule if holiday occurs on employee's day off.	22
284.258	Compensation for time spent traveling.....	22
284.262	Longevity pay: Eligibility.	23
284.270	Longevity pay: Required rating of performance.	23
284.274	Longevity pay: Dates of payment and eligibility; responsible agency.	24

284.278	Longevity pay: Formulas for calculation.....	24
284.282	Longevity pay: Particular circumstances.	25
284.284	Longevity pay: Return to state service.....	26
284.290	Retained rates of pay.	26
284.292	Notification of uncollected overpayment.	27
284.294	Reimbursement for furnishing own tools.	27

FILLING VACANCIES IN EMPLOYMENT SECTION D

Recruitment

284.295	Determining type of recruitment.	1
284.297	Considerations regarding determination to expand recruitment to open competition.	2
284.2975	Designation of class for which applicants for promotion are not normally available	2
284.301	Length of recruitment.....	2
284.305	Continuous recruitment.	2
284.309	Notice of recruitment: Publicized job announcement.	3
284.313	Limitation of competition in recruitment; applications.	3
284.317	Investigations of applicants; minimum age requirement.....	5
284.321	Convictions: Disclosure; factors for consideration.	5
284.325	Preferences for veterans.	6

Examinations

284.329	Competitive examinations: Use and administration.....	7
284.333	Centers for assessment: Selection and training of assessors; administration of examinations.	8
284.338	Minimum passing scores; computation of final scores.	9
284.341	Review of examinations; disputes regarding results.....	9
284.345	Correction of errors in rating, scoring or computing results.	10
284.349	Retaking examination for same class.	10
284.353	Allocation of time used by employees for examinations and interviews.....	10

Lists of Eligible Persons

284.358	Types of lists and priority for use.	12
284.360	Reemployment lists; certification or waiver of lists.	12
284.361	Use of lists and consideration of eligible persons.	13
284.364	Lists of persons with disabilities who are eligible for temporary limited appointments.	16
284.367	Promotional lists: Use; order of names.	16
284.370	Integration of subsequent lists.	16
284.371	Correction of errors in certification.	17

284.5385	Annual leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability.	7
284.539	Annual leave: Written request; approval or denial; authorized use.	8
284.5395	Annual leave: Payment upon separation from service.	8
284.540	Records of earned and used leave.	8
284.5405	Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer.	8
284.541	Annual leave: Service in provisional, special disabled, emergency or temporary status; seasonal employees.	10
284.5415	Annual leave and sick leave: Exception employees.	11
284.542	Sick leave: Part-time employees.	12
284.544	Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation.	12
284.546	Sick leave: Unused credit; special sick leave.	13
284.548	Sick leave: Reinstatement of dismissed employee.	13
284.550	Sick leave: Separation from service.	13
284.551	Sick leave: Credit upon rehiring, reemployment or transfer.	13
284.552	Sick leave: Service in provisional, emergency or temporary status; seasonal employees.	14
284.554	Sick leave: Authorized use.	14
284.558	Sick leave: Illness in employee's immediate family.	15
284.562	Sick leave or catastrophic leave: Death in employee's immediate family.	15
284.566	Sick leave: Approval by appointing authority; medical certification.	15
284.568	Sick leave: Placing employee on sick leave; conditions for return to work.	16
284.575	Catastrophic leave: Interpretation of certain statutory terms.	19
284.576	Catastrophic leave: Use and administration; appeal of denial.	19
284.577	Catastrophic leave: Repayment for hours used; receipt of workers' compensation benefits.	20
284.5775	Temporary total disability: Use of sick leave, compensatory time, annual leave and catastrophic leave; leave of absence without pay.	21
284.5777	Temporary total disability: Workers' compensation travel leave to receive medical treatment.	22
284.578	Leave of absence without pay.	22
284.580	Leave of absence without pay during fiscal emergency of State or agency.	23
284.581	Adoption by reference of federal law and regulations.	23
284.5811	Family and medical leave: Maximum amount in 12-month period; eligibility; use.	24
284.5813	Family and medical leave: Records.	24
284.582	Civil leave with pay to serve on jury or as witness.	25
284.586	Civil leave with pay to vote.	26
284.587	Civil leave with pay for certain volunteers or when absence is necessary to meet disaster or emergency.	27
284.588	Civil leave with reduced pay when performing certain service in time of war or emergency.	27
284.589	Administrative leave with pay.	28

284.5895	Accounting for absences of exempt classified and unclassified employees.....	29
284.594	Unauthorized and unreported absences.	30
284.598	Breaks in continuous service.....	31

WORK-RELATED INJURIES AND OCCUPATIONAL DISEASES SECTION J

284.600	Definitions.....	1
284.6002	Physical assessments.	1
284.6004	Temporary assignment: Conditions for offer; termination; subsequent assignment; medical examination.	1
284.6008	Temporary assignment: Location; jurisdiction of appointing authority; effect of jurisdiction of another appointing authority; classification and payment of employee.....	2
284.6012	Temporary assignment: Effect of family and medical leave.....	3
284.6013	Determination of effective date of permanent disability.	3
284.6014	Eligibility of employee with permanent disability for reemployment.....	3
284.6015	Risk Management Division to provide certain information regarding permanent disability of employee to Division of Human Resource Management and appointing authority.	4
284.6017	Placement on reemployment list of name of employee with permanent disability.....	4
284.6018	Status following reemployment of person with permanent disability; restoration of name to reemployment list following failure of such person to complete probationary period; rights of employee after expiration of right to reemployment.	5
284.6019	Limitations on eligibility for reemployment of person with permanent disability.....	5

SEPARATIONS FROM SERVICE SECTION K

284.602	Resignations.....	2
284.608	Termination of seasonal employee.	2
284.611	Separation for physical, mental or emotional disorder.....	5
284.612	Layoffs: Definitions.....	6
284.614	Layoffs: Procedure.....	6
284.618	Layoffs: Voluntary demotions.	7
284.626	Layoffs: Notice.	7
284.630	Layoffs: Reemployment.....	8
284.632	Layoffs: Calculation of seniority.	9

DISCIPLINARY PROCEDURES SECTION L

284.638	Warnings and written reprimands.....	4
NEW	<i>Impartial fact-finding investigation.....</i>	5
284.642	<i>Suspensions and demotions.</i>	5
284.646	<i>Dismissals.</i>	5

284.650	Causes for disciplinary action.....	6
284.653	Driving under the influence; unlawful acts involving controlled substance.....	7
284.656	Notice.....	8
284.6561	Hearing.....	8
284.6563	Notice and hearing not required in certain circumstances	9

ADJUSTMENT OF GRIEVANCES SECTION M

284.658	<i>“Grievance” defined.</i>	2
284.662	Providing assistance to employee.	3
284.678	Submission, form and contents of grievance; informal discussions.	3
284.680	Date of receipt of grievance.....	4
284.682	Appeal of grievance to next appropriate level.....	4
284.686	Submission of grievance to head of division or department.	4
284.690	Filing of grievance with highest administrator of department; action by highest administrator.	5
284.692	Agreement for extension of time to file grievance or take required action.....	6
284.695	Submission of grievance to Employee-Management Committee.	6
NEW	<i>Resolution Conference.</i>	7
284.6955	<i>Hearing before Employee-Management Committee: Procedure.</i>	7
284.6957	Hearing before Employee-Management Committee: Continuance.	8
284.696	<i>Unlawful discrimination.</i>	8
284.697	When resolution of grievance becomes binding.....	9

PERSONNEL RECORDS SECTION N

284.702	Reports of personnel actions.	1
284.710	Order of processing personnel documents.	1
284.714	Official roster: Inspection; contents.....	2
284.718	Confidential records.	3
284.726	Access to confidential records.....	4
284.730	Retention and disposal of records.	5
284.734	Prohibition against maintenance of secret files.....	5

PROHIBITIONS AND OFFENSES SECTION O

284.738	Conflicting activities.	4
284.742	<i>Appointing authorities authorized to define conflicting activities.</i>	4
284.746	Acceptance of favors.....	4
284.750	Use of position to secure or grant privileges.....	5
284.754	Contracts with State.	5
284.758	Use of privileged information.	5
284.762	Suppression of information.....	5
284.766	Full-time service required.	5

284.770	Political activities.	5
284.771	Sexual harassment.	7

PRACTICE BEFORE THE DIVISION OF HUMAN RESOURCE MANAGEMENT SECTION P

Hearings Before the Hearing Officer

284.774	Scope.....	2
284.778	Request for hearing and other communications.	2
284.780	Selection of qualified hearing officer.....	2
284.782	Time and place; notice; provision of reasonable accommodation to party with disability.....	3
284.786	Continuances.	3
284.788	Conduct of hearings on appeal.	4
284.794	Evidence.	4
284.798	Decision must be based on evidence presented.	4
284.802	Form of testimony.	4
284.806	Evidence must be authenticated.	5
284.814	Appearance and procedure at hearing.	5
284.818	Decision by hearing officer.....	5

Adoption, Amendment or Repeal of Regulations

284.826	Notice.....	5
284.830	Presentation and contents of petitions.	5
284.834	Action on petitions to initiate adoption, amendment or repeal.	6
284.838	Declaratory judgments.	6

Hearings Before the Personnel Commission

284.850	Scope.....	6
284.854	Request for appeal and other communication.	6
284.858	Time and place; notice; provision of reasonable accommodation to party with disability.....	6
284.862	Hearings open to public.....	6
284.866	Commencement of hearing.	7
284.870	Appearance and representation of party; manner of hearing.....	7
284.874	Decision of Commission.....	7

USE OF ALCOHOL OR DRUGS SECTION Q

284.880	Definitions.	4
284.882	Administration of screening tests.	4
284.884	Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath.	4

(c) All employees, except pilots, for time spent in single engine aircraft or helicopters when required to do so by the employer.

(d) Employees required to handle or use explosives.

(e) Employees performing maintenance or abatement on materials containing lead paint or asbestos, or both, in any area in which personal protective equipment must be worn in compliance with 29 C.F.R. Part 1910, Subpart I.

2. Except as otherwise provided in this subsection and subsection 3, an employee who performs any dangerous duty must receive additional pay equal to 10 percent of his or her normal rate of pay for each hour in which he or she performs any dangerous duty. An exempt classified employee who performs any dangerous duty for any portion of a workday must receive the additional pay for all his regularly scheduled hours of employment on that workday.

3. An employee described in subsection 1 is not entitled to receive pay for dangerous duty if the duties that he performs are an inherent and regular part of the duties assigned to the class of which the employee is a member. These duties need not appear in the class specification of the employee. Compensation for the performance of those duties may be made only if the duties performed by the employee would not be required of the class as a whole.

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 9-17-87; 3-23-94; R082-00, 8-2-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004)

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 7 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 must not receive the differential rate of pay for more than 8 hours worked in a shift.

3. An employee is eligible for the differential rate of pay if he or she works in a unit which provides services requiring multiple shifts within a 24-hour period and 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 7 p.m. and 7 a.m. ***Except as otherwise provided in subsection 2, in*** such cases, an employee must receive the differential rate of pay for only the hours worked between 7 p.m. and 7 a.m.

(b) An exempt classified employee assigned to a qualifying shift. ***Except as otherwise provided in subsection 2, in*** such cases, an employee must receive the differential rate of pay for all his or her regularly scheduled hours of employment on that workday.

4. Except as otherwise provided in subsection 2, if an employee is assigned to a qualifying shift when he or she is on paid leave or a holiday occurs, he or she must receive the differential rate of pay for that shift.

5. Except as otherwise provided in subsection 2 or 4, 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 or she is in paid status.

[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; **R077-11, 12-30-2011; R008-12, 5-30-2012**)

INFORMATIONAL NOTE: *Changes made to NAC 284.210 on December 30, 2011 will expire on July 7, 2013. The regulation will read as follows:*

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 or she works in a unit which provides services requiring multiple shifts within a 24-hour period and 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 or her regularly scheduled hours of employment on that workday.

3. If an employee is assigned to a qualifying shift when he or she is on paid leave or a holiday occurs, he or she 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 or she 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.

NAC 284.214 Compensation for being called back to work; compensation for person required to appear as witness. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, an employee must be paid 2 hours of call back pay at the rate of time and one-half of his or her normal rate of pay if his or her employer calls the employee back to work during his or her scheduled time off without having notified him or her before the completion of his or her last normal working day. For each additional hour that such an employee works after the 2 hours for which he or she is paid call back pay, the employee must be paid overtime at the rate of time and one-half of his or her normal rate of pay if he or she is eligible pursuant to NRS 284.180.

2. Subsection 1 does not apply to any:

(a) Employee who is called into work while on standby status

(b) Exempt classified employee or exempt unclassified employee.

(c) Employee who works part-time or intermittently unless he or she has worked 8 hours in 1 calendar day.

(d) Employee who performs duties pursuant to an understanding with the agency whereby the employee is given discretion as to performance of the duties and the duties are initiated by the action of the employee. In such a case, the employee receives compensation at the appropriate rate only for the actual time spent in the performance of those duties.

requested. If the notice is mailed, the effective date of the dismissal, involuntary demotion or suspension shall be deemed to be the date of delivery or if the letter is returned to the sender, 3 days after mailing.

4. No employee in the classified service may be dismissed for religious or racial reasons.

NEW: Impartial fact-finding investigation

1. Except as otherwise provided in subsection 2, before an appointing authority may dismiss, suspend or demote a permanent employee, the appointing authority must first ensure that an impartial fact-finding investigation has been conducted to determine that evidence exists to justify the dismissal, suspension or demotion.

2. The investigation described in subsection 1 may be waived if the employee agrees in writing with the allegations on which the dismissal, suspension or demotion is based.

(Added to NAC by Personnel Comm'n by R027-11, eff. 12-30-2011)

NAC 284.642 Suspensions and demotions. (NRS 284.065, 284.155, 284.383, 284.385)

1. If other forms of disciplinary or corrective action have proved ineffective, or if the seriousness of the offense or condition warrants, an employee may be:

(a) Suspended without pay for a period not to exceed 30 calendar days for any cause set forth in this chapter; or

(b) Demoted for any cause set forth in this chapter.

2. An exempt classified employee may only be suspended without pay in increments of one or more full workweeks.

3. The rights and procedures set forth in NAC 284.656 ***and sections 2 and 3 of NAC 284.6561 and section 1 of LCB File No. R027-11*** apply to any disciplinary action taken pursuant to this section.

[Personnel Div., Rule XII § B, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; R147-01, 1-22-2002; A by Personnel Comm'n by R147-06, 12-7-2006; R063-09, 11-25-2009; ***R027-11, 12-30-2011***)

NAC 284.646 Dismissals. (NRS 284.065, 284.155, 284.383, 284.385)

1. An appointing authority may dismiss an employee for any cause set forth in NAC 284.650 if:

(a) The agency with which the employee is employed has adopted any rules or policies which authorize the dismissal of an employee for such a cause; or

(b) The seriousness of the offense or condition warrants such dismissal.

2. An appointing authority may immediately dismiss an employee for the following causes, unless the conduct is authorized pursuant to a rule or policy adopted by the agency with which the employee is employed:

(a) Intentionally viewing or distributing pornographic material at the premises of the workplace, including, without limitation, intentionally viewing or distributing pornographic material on any computer owned by the State, unless such viewing or distributing is a requirement of the employee's position.

(b) Unauthorized release or use of confidential information.

(c) Participation in sexual conduct on the premises of the workplace, including, without limitation, participation in sexual conduct in a vehicle that is owned by the State.

(d) Absence without approved leave for 3 consecutive days during which the employee is scheduled to work.

(e) The suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license if the possession of the professional or occupational license, certificate or permit or driver's license is a requirement of the position at the time of appointment as stated in the standards of work performance, essential functions or class specifications for the position, or in other documentation provided to the employee at the time of appointment, or required thereafter pursuant to federal or state law.

(f) Threatening another person with a deadly weapon during any time in which the employee is:

(1) On the premises of the workplace; or

(2) Conducting state business or otherwise performing any duties of employment.

(g) Stealing or misappropriating any property that is owned by the State or located on state property.

(3) The rights and procedures set forth in NAC 284.656 *and sections 2 and 3 of NAC 284.6561 and section 1 of LCB File No. R027-11* apply to any dismissal made pursuant to this section.

(4) As used in this section:

(a) "Material" has the meaning ascribed to it in NRS 201.2581.

(b) "Nudity" has the meaning ascribed to it in NRS 201.261.

(c) "Pornographic material" means material that, all or in part, contains any description or representation of nudity, sexual conduct, sexual excitement or sado-masochistic abuse which predominantly appeals to the prurient, shameful or morbid interest of adults and is without serious literary, artistic, political or scientific value.

(d) "Sado-masochistic abuse" has the meaning ascribed to it in NRS 201.262.

(e) "Sexual excitement" has the meaning ascribed to it in NRS 201.264.

[Personnel Div., Rule XII § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; R147-06, 12-7-2006; R063-09, 11-25-09; **R027-11, 12-30-2011**)

NAC 284.650 Causes for disciplinary action. (NRS 284.065, 284.155, 284.383)

Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violates a provision of NAC 284.653 or 284.738 to 284.771, inclusive.

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.

ADJUSTMENT OF GRIEVANCES

NRS 284.384 states, “Adjustment of certain grievances: Regulations; appeal to Employee-Management Committee; enforcement of binding decisions of Employee-Management Committee; representation of employee. [Effective January 1, 2012.]

1. The Commission shall adopt regulations which provide for the adjustment of grievances for which a hearing is not provided by federal law or NRS 284.165, 284.245, 284.3629, 284.376 or 284.390. Any grievance for which a hearing is not provided by NRS 284.165, 284.245, 284.3629, 284.376 or 284.390 is subject to adjustment pursuant to this section.

2. The regulations must provide procedures for:

(a) Consideration and adjustment of the grievance within the agency in which it arose.

(b) Submission to the Employee-Management Committee for a final decision if the employee is still dissatisfied with the resolution of the dispute.

(c) If requested by an employee or agency, the use of a resolution conference to resolve a grievance.

3. The regulations must include provisions for:

(a) Submitting each proposed resolution of a dispute which has a fiscal effect to the Budget Division of the Department of Administration for a determination by that Division whether the resolution is feasible on the basis of its fiscal effects; and

(b) Making the resolution binding.

4. Any grievance which is subject to adjustment pursuant to this section may be appealed to the Employee-Management Committee for a final decision. Except as otherwise provided in subsection 3, a final decision of the Committee is binding. The Committee or an employee may petition a court of competent jurisdiction for enforcement of the Committee’s binding decisions.

5. The employee may represent himself or herself at any hearing regarding a grievance which is subject to adjustment pursuant to this section or be represented by an attorney or other person of the employee’s own choosing.

6. As used in this section, “grievance” means an act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement.

NRS 241.033 states Meeting to consider character, misconduct, competence or health of person or to consider appeal of results of examination: Written notice to person required; exception; public body required to allow person whose character, misconduct, competence or health is to be considered to attend with representative and to present evidence; attendance of additional persons; copy of record.

1. Except as otherwise provided in subsection 7, a public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:

(a) Given written notice to that person of the time and place of the meeting; and

(b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be:

(1) Delivered personally to that person at least 5 working days before the meeting; or

(2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.

(b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is

warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

(1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and

(2) A statement of the provisions of subsection 4, if applicable.

3. The Nevada Athletic Commission is exempt from the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.

4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, the public body must allow that person to:

(a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;

(b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and

(c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

5. Except as otherwise provided in subsection 4, with regard to the attendance of persons other than members of the public body and the person whose character, alleged misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered, the chair of the public body may at any time before or during a closed meeting:

(a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or

(b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.

6. A public body shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035, upon the request of any person who received written notice of the closed meeting pursuant to subsection 1.

7. For the purposes of this section:

(a) A meeting held to consider an applicant for employment is not subject to the notice requirements otherwise imposed by this section.

(b) Casual or tangential references to a person or the name of a person during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.

NAC 284.658 "Grievance" defined. (NRS 284.065, 284.155, 284.384)

1. As used in NAC 284.341 and 284.658 to 284.697, inclusive, *and section 1 of LCB File No. R026-11*, a "grievance" means an act, omission or occurrence which a permanent employee feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement or a contested report on performance. The act, omission or occurrence must be established with factual information, including, but not limited to, the date, time and place of the act, omission or occurrence and the names of other persons involved.

2. For the purposes of NAC 284.341 and 284.658 to 284.697, inclusive, *and section 1 of LCB File No. R026-11*, the term "grievance" does not include any grievance for which a hearing is provided by *federal law or* NRS 284.165, **284.245, 284.3629**, 284.376 or 284.390.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 8-28-85; 10-18-89; 8-1-91; 3-27-92; R082-00, 8-2-2000; A by Personnel Comm'n by R023-05, 10-31-2005; R007-11, 10-26-2011; **R026-11, 1-1-2012**)

2. Hold a hearing to determine the proper disposition of the request. If a hearing is held, the Committee will:

(a) Except as otherwise provided in paragraph (b), provide at least 21 working days' written notice to all parties concerned.

(b) Provide notice to the employee by:

(1) Sending a written notification by certified mail, return receipt requested, at least 21 working days before the hearing; or

(2) Personally delivering a written notification to the employee at least 5 working days before the hearing, if the Chair approves of such notice.

(c) Render a decision within 45 days after the closure of the hearing.

[Personnel Div., Rule XV § A part subsec. 6, eff. 8-11-73; A 6-9-74; 7-3-76; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 10-18-89; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 3-27-92; 11-12-93; 3-23-94; 11-16-95; A by Personnel Comm'n by R118-10, 5-5-2011; R007-11, 10-26-2011)

NEW: Resolution conference

1. If an employee is not satisfied with the decision rendered by the highest administrator of the department pursuant to NAC 284.690 and submits a request for consideration of the grievance by the Committee pursuant to NAC 284.695, the employee or the highest administrator or his or her designee may request a resolution conference to meet informally in the presence of a neutral facilitator to discuss the grievance and possible resolutions.

2. Except as otherwise provided in this subsection, a request for a resolution conference may be submitted to the Division at any time after the employee submits his or her request for consideration of the grievance by the Committee. If the Committee has notified the parties of the date on which it will hold a hearing to consider the grievance, the request for a resolution conference may not be submitted less than 15 working days before that date.

3. Upon receipt of a request for a resolution conference, the Division shall appoint a neutral facilitator to conduct the resolution conference. The facilitator must not be affiliated with either party.

4. The submission of a request for a resolution conference does not deprive the Committee of jurisdiction to consider the grievance if:

(a) The parties are unable to reach an agreement for the resolution of the grievance at the resolution conference; or

(b) The parties reach an agreement for the resolution of the grievance at the resolution conference, but the employee subsequently notifies the Committee that the agreement has failed.

(Added to NAC by Personnel Comm'n by R026-11, eff. 1-1-2012)

NAC 284.6955 Hearing before Employee-Management Committee: Procedure. (NRS 284.065, 284.155, 284.384) If a hearing is held to determine the proper disposition of a grievance pursuant to NAC 284.695, the following procedure must be followed:

1. Each party shall submit to the Chair of the Committee or his or her designated representative 10 copies of the set of documents and materials to be presented at the hearing or any rescheduled hearing. These copies must be submitted not less than 12 working days before the scheduled date of the hearing. The Chair or his or her designated representative shall forward one copy of the set of the documents and materials of each party to the other party.

2. If the employee fails to comply with subsection 1, the Chair or his or her designated representative may reschedule the hearing to the next time designated for such hearings, but in no case earlier than 20 working days after the originally scheduled date of the hearing. If the employer fails to comply with subsection 1, the Chair or his or her designated representative may reschedule the hearing at his or her discretion. If the employee fails to comply with the

provisions of subsection 1 for a rescheduled hearing, his grievance must be dismissed with prejudice unless he or she can show in writing to the Committee's satisfaction that the reason for noncompliance was beyond his or her control.

3. Each document or material offered in evidence must be marked as follows:

(a) Documents or materials presented by the employee must be marked at the bottom of the page as "Exhibit____" indicated by consecutive Arabic numerals, beginning with the number "1."

(b) Documents or materials presented by the employer must be marked at the bottom of the page as "Exhibit____" indicated by consecutive letters of the English alphabet, beginning with the letter "A." If the employer offers more than 26 exhibits, the 27th exhibit must be marked as "Exhibit AA," the 28th exhibit as "Exhibit BB," and so forth.

4. All evidence offered at the hearing must be relevant and bear upon the grievance.

5. Each person who *provides a statement* at the hearing shall state his name, address, and occupation for the record.

6. It is the responsibility of each party to arrange for the appearance of all necessary witnesses. The Committee may request additional witnesses or information as it deems necessary.

7. Upon proper recognition by the Chair or his or her designated representative, any member of the Committee may ask a question of a party or witness at any time during the hearing.

(Added to NAC by Personnel Comm'n, eff. 8-1-91; A by Dep't of Personnel, 11-16-95; **R026-11, 1-1-2012**)

NAC 284.6957 Hearing before Employee-Management Committee: Continuance. (NRS 284.065, 284.155, 284.384)

1. A party may request a continuance of a hearing to determine the proper disposition of a grievance pursuant to NAC 284.695 by submitting a request for a continuance to the Chair of the Committee or his or her designated representative at least 12 working days before the scheduled hearing, unless the party received personal notice of the hearing less than 21 working days before the hearing pursuant to subsection 2 of NAC 284.695, in which case he or she may request a continuance as long as the request is made at least 4 working days before the scheduled hearing.

2. The Committee may grant a request for a continuance if good cause is shown.

(Added to NAC by Dep't of Personnel, eff. 3-27-92; A 11-16-95)

NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:

(a) Report the alleged discrimination to:

(1) The division of the Division of Human Resource Management that investigates sexual harassment and discrimination;

(2) The Attorney General;

(3) The employee's appointing authority;

(4) An equal employment opportunity officer;

(5) A personnel representative of the department in which the employee is employed; or

(6) The office charged with enforcing affirmative action within the appropriate university, state college or community college which is part of the Nevada System of Higher Education;

(b) *Except as otherwise provided in NRS 284.384, use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive, and section 1 of LCB File No. R026-11; or*

(c) File a complaint with:

(1) The Nevada Equal Rights Commission pursuant to NRS 613.405; or

(2) The United States Equal Employment Opportunity Commission.

2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95; R023-05, 10-31-2005; ***R026-11, 1-1-2012***)

NAC 284.697 When resolution of grievance becomes binding. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in subsection 2, the resolution of a grievance is binding when:

(a) There is an agreement between the person filing the grievance and the appointing authority or the designated representative of the employing agency; or

(b) The Committee renders a final decision.

2. The appointing authority or the designated representative of the employing agency shall submit each proposed resolution of a grievance which has a fiscal effect to the Budget Division for a determination of whether the resolution is feasible on the basis of its fiscal effects. The resolution is binding only if it is so found.

(Added to NAC by Dep't of Personnel, eff. 8-28-85; A by Personnel Comm'n by R030-02, 5-2-2002)

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(c) To subject any person other than the person addressing the threat or intimidation to physical confinement or restraint; or

(d) To do any other act which is not otherwise authorized by law and is intended to harm substantially any person other than the person addressing the threat or intimidation with respect to the person's health, safety, business, financial condition or personal relationships.

2. The provisions of this section must not be construed as prohibiting a person from making any statement in good faith of an intention to report any misconduct or malfeasance by a public officer or employee.

3. A person who violates subsection 1 is guilty of:

(a) If physical force or the immediate threat of physical force is used in the course of the intimidation or in the making of the threat:

(1) For a first offense, a category C felony and shall be punished as provided in NRS 193.130.

(2) For a second or subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

(b) If no physical force or immediate threat of physical force is used in the course of the intimidation or in the making of the threat, a gross misdemeanor.

4. As used in this section, "public employee" means any person who performs public duties for compensation paid by the State, a county, city, local government or other political subdivision of the State or an agency thereof, including, without limitation, a person who performs a service for compensation pursuant to a contract with the State, county, city, local government or other political subdivision of the State or an agency thereof."

NRS 284.410 states, "False statement or report; fraud. No person shall make any false statement, certificate, mark, rating or report with regard to any examination, certification or appointment made under any provision of this chapter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter and the rules and regulations."

NRS 284.415 states, "Receipt or payment of consideration for appointment or promotion. No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the classified service."

NRS 284.420 states, "Obstruction of right to examination, eligibility, certification or appointment; furnishing special or secret information. An employee of the Division, examiner, or other person shall not defeat, deceive or obstruct any person in his or her right to examination, eligibility, certification or appointment under this chapter, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service."

NRS 284.425 states, "Member of subversive organization ineligible for appointment or employment in public service.

1. Any person who has been or remains a member of any subversive organization, as defined by the Attorney General of the United States, composed of two or more members, which directly or indirectly advocates, advises, teaches or practices the duty, necessity or propriety of controlling, conducting, seizing or overthrowing the Government of the United States, the government of this state, or the government of any political subdivision thereof, by force or violence, shall be ineligible for appointment to or employment in a position in the public service; and if he is an officer or employee of the State, he shall forfeit his office or position.

2. This chapter shall not be construed to prohibit the existence of an organization of state

employees, or to prohibit any state officer or employee from becoming a member of such an organization.”

NRS 284.430 states, “Penalties.

1. Any person who willfully violates any provision of this chapter or any provision of the rules and regulations prescribed hereunder shall be guilty of a misdemeanor.

2. Any person who is convicted of a misdemeanor under this chapter shall, for a period of 5 years, be ineligible for appointment to or employment in a position in the public service, and if the person is an officer or employee of the State, the person shall forfeit the person’s office or position.”

NRS 284.143 states, “Unclassified service: Certain persons may pursue other businesses or occupations or other office for profit. Except as otherwise provided in NRS 281.127, a person in the unclassified service of the State who has been appointed or employed for service in a department, division, agency or institution, other than a director of a department, may pursue any other business or occupation or hold any other office for profit if:

1. The other employment does not conflict with the duties the person is required to perform in the person’s unclassified service;

2. The other employment does not conflict with the hours during which the person is required to perform those duties; and

3. The person has obtained the approval of the person’s supervisor.”

NAC 284.738 Conflicting activities. (NRS 284.065, 284.155) Employees shall not engage in any employment, activity or enterprise which has been determined to be inconsistent, incompatible or in conflict with their duties as employees, or with the duties, functions or responsibilities of their appointing authorities or agencies by which they are employed.

[Personnel Div., Rule XI § A subsec. 1, eff. 8-11-73]

NAC 284.742 Appointing authorities authorized to define conflicting activities. (NRS 284.065, 284.155)

1. Each appointing authority *shall* determine, subject to the approval of the Commission, those specific activities which, for employees under *its* jurisdiction, are *prohibited as* inconsistent, incompatible or in conflict with their duties as employees. *The appointing authority shall identify those activities in the policy established by the appointing authority pursuant to NRS 284.383, as amended by section 1.5 of Assembly Bill No. 179, chapter 272, Statutes of Nevada 2011, at page 1495.*

2. *If an appointing authority revises the policy described in subsection 1, the appointing authority shall provide a copy of the revised policy to each employee.*

3. *An appointing authority shall include in the policy described in subsection 1 an explanation of the process of progressive discipline as administered by the appointing authority. The process must conform to the provisions of NRS 284.383 and NAC 284.638 to 238.656, inclusive, and sections 2 and 3 of NAC 284.6561 and section 1 of LCB File No. R027-11.*

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; **R027-11, 12-30-2011**)

NAC 284.746 Acceptance of favors. (NRS 284.065, 284.155) No employee may seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity that would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]

NAC 284.750 Use of position to secure or grant privileges. (NRS 284.065, 284.155)

No employee may use his or her position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself or herself, any member of his or her household, any business entity with which he or she or a member of his or her household is associated, or any other person.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]

NAC 284.754 Contracts with State. (NRS 284.065, 284.155) An employee shall not enter into a private contract with the State in any capacity that may be construed as an extension of his or her assigned duties or responsibilities to the State.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73; A 4-4-78]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.758 Use of privileged information. (NRS 284.065, 284.155) If an employee acquires, through his or her public duties or relationships, any information which by law or practice is not at the time available to people generally, he or she may not use the information to further the economic interests of himself or herself or any other person or business entity.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]

NAC 284.762 Suppression of information. (NRS 284.065, 284.155) No employee may suppress any governmental report or other document because it might affect unfavorably his or her private financial interest.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]

NAC 284.766 Full-time service required. (NRS 284.065, 284.155) Each employee shall, during his or her hours of duty as an employee and subject to such other laws or regulations as pertain thereto, devote his or her full time, attention and efforts to state employment.

[Personnel Div., Rule XI § B, eff. 8-11-73]

NAC 284.770 Political activities. (NRS 284.065, 284.155) Employees may vote as they choose and express their political opinions on all subjects without recourse, except that no employee may:

1. Directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, monetary or nonmonetary contribution for a political purpose from anyone who is in the same department and who is a subordinate of the solicitor.

2. Engage in political activity during the hours of his or her state employment to improve the chances of a political party or a person seeking office, or at any time engage in political activity to secure a preference for a promotion, transfer or increase in pay.

[Personnel Div., Rule XI § C, eff. 8-11-73; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; R147-01, 1-22-2002)

INFORMATIONAL NOTE: The federal Hatch Act, as amended, 5 U.S.C. 1501-1508, prohibits certain types of political activity on the part of State employees whose principle employment is in a federally-funded program.

NRS 284.150 states, “Classified service: Composition; limitations on appointment,

transfer, promotion, demotion or discharge; discrimination prohibited.

1. The classified service of the State of Nevada is comprised of all positions in the public service now existing or hereafter created which are:

- (a) Lawfully designated as being in the classified service; and
- (b) Filled according to merit and fitness from eligible lists prepared upon the basis of examination, which must be open and competitive, except as otherwise provided in this chapter and NRS 209.161.

2. Except as otherwise provided in NRS 193.105, 209.161 and 416.070, a person must not be appointed, transferred, promoted, demoted or discharged in the classified service in any manner or by any means other than those prescribed in this chapter and the regulations adopted in accordance therewith.

3. A person must not be discriminated against on account of the person's religious opinions or affiliations, race, sex, age or disability."

NRS 281.370 states, "Actions concerning personnel to be based on merit and fitness; discrimination prohibited.

1. All personnel actions taken by state, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof must be based solely on merit and fitness.

2. State, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof shall not refuse to hire a person, discharge or bar any person from employment or discriminate against any person in compensation or in other terms or conditions of employment because of the person's race, creed, color, national origin, sex, sexual orientation, gender identity or expression, age, political affiliation or disability, except when based upon a bona fide occupational qualification.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

(c) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality."

NRS 613.330 states, "Unlawful employment practices: Discrimination on basis of race, color, religion, sex, sexual orientation, age, disability or national origin; interference with aid or appliance for disability; refusal to permit service animal at place of employment.

1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

2. It is an unlawful employment practice for an employment agency to:

(a) Fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age,

disability or national origin of that person; or

(b) Classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(c) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. It is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment.

7. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097."

NAC 284.771 Sexual harassment. (NRS 284.065, 284.155)

1. Sexual harassment violates the policy of this State and is a form of unlawful discrimination based on sex under state and federal law. An employee shall not engage in sexual harassment against another employee, an applicant for employment, or any other person in the workplace.

2. Sexual harassment is a very serious disciplinary infraction. An appointing authority may impose harsh disciplinary sanctions on, or dismiss, persons who commit sexual harassment, including, without limitation, first-time offenders.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95; A by Personnel Comm'n by R147-06, 12-7-2006)

NRS 233.160 states, "Complaint alleging unlawful discriminatory practices: Limitations on filing; contents; duties of Commission [Effective until the date the Governor declares that the Federal Government has determined that certain provisions of NRS provide rights and remedies for alleged discriminatory housing practices substantially equivalent to federal law.]

1. A complaint which alleges unlawful discriminatory practices in:

(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.

(b) Employment or public accommodations must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.

↪ A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.

2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.

3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:

- (a) A copy of the complaint;
- (b) An explanation of the rights which are available to that party; and
- (c) A copy of the Commission's procedures."

NRS 288.230 states, "Legislative declaration; illegality of strikes.

1. The Legislature finds as facts:

(a) That the services provided by the State and local government employers are of such nature that they are not and cannot be duplicated from other sources and are essential to the health, safety and welfare of the people of the State of Nevada;

(b) That the continuity of such services is likewise essential, and their disruption incompatible with the responsibility of the State to its people; and

(c) That every person who enters or remains in the employment of the State or a local government employer accepts the facts stated in paragraphs (a) and (b) as an essential condition of the person's employment.

2. The Legislature therefore declares it to be the public policy of the State of Nevada that strikes against the State or any local government employer are illegal."

	<i>Separations from Service</i>	K-4
NRS 284.380	Layoffs; reemployment lists.	
	<i>Filling Vacancies in Employment</i>	D-22
	<i>Separations from Service</i>	K-5
NRS 284.381	Limitation on revocation of resignation by employee.	
	<i>Separations from Service</i>	K-2
NRS 284.383	Use of disciplinary measures; employee entitled to receive copy of findings or recommendations.	
	<i>Disciplinary Procedures</i>	L-1
NRS 284.384	Adjustment of certain grievances: Regulations; appeal to Employee-Management Committee; representation of employee.	
	<i>Adjustment of Grievances</i>	M-1
NRS 284.385	Dismissals, demotions and suspensions.	
	<i>Disciplinary Procedures</i>	L-4
NRS 284.387	Internal administrative investigations leading to certain disciplinary action: Right of employee to written notice of allegations before questioning and to representation.	
	<i>Disciplinary Procedures</i>	L-1
NRS 284.390	Hearing to determine reasonableness of dismissal, demotion or suspension; judicial review.	
	<i>Disciplinary Procedures</i>	L-10
NRS 284.391	Hearings: Issuance of subpoenas; discovery; oaths; examination of witnesses.	
	<i>Practice Before the Division of Human Resource Management</i>	P-1
NRS 284.392	Hearings: Subpoenas extend to all parts of State; service of subpoenas; attendance of witnesses.	
	<i>Practice Before the Division of Human Resource Management</i>	P-1
NRS 284.393	Hearings: Fees, mileage and expenses of witnesses.	
	<i>Practice Before the Division of Human Resource Management</i>	P-1
NRS 284.406	Policy concerning use of alcohol or drugs by state employees.	
	<i>Use of Alcohol or Drugs</i>	Q-1
NRS 284.4061	Definitions.	
	<i>Use of Alcohol or Drugs</i>	Q-1
NRS 284.4062	Employee who consumes or is under the influence of alcohol or drugs or who possesses controlled substance on duty...	
	<i>Use of Alcohol or Drugs</i>	Q-1
NRS 284.4063	Grounds for disciplinary action: Failure to notify supervisor after consuming certain drugs: failure or refusal to submit to screening test; failure of screening test.	
	<i>Use of Alcohol or Drugs</i>	Q-1
NRS 284.4064	Appointing authority authorized to require employee who has consumed drug to obtain clearance from physician; inquiry regarding use of alcohol or drug by employee; preventing employee from continuing work.	
	<i>Use of Alcohol or Drugs</i>	Q-2

NRS 284.4065	Screening tests: General provisions.	
	<i>Use of Alcohol or Drugs</i>	Q-2
NRS 284.4066	Screening tests: Applicants for positions affecting public safety required to take screening test; appointing authority authorized to consider results; provision of results to applicant upon request.	
	<i>Use of Alcohol or Drugs</i>	Q-2
NRS 284.4067	Screening tests: Applicants for positions affecting public safety required to take screening test; appointing authority authorized to consider results; provision of results to applicant upon request.	
	<i>Use of Alcohol or Drugs</i>	Q-3
NRS 284.4068	Screening tests: Results confidential; admissibility of results; security; disclosure.	
	<i>Use of Alcohol or Drugs</i>	Q-3
NRS 284.410	False statement or report; fraud.	
	<i>Prohibitions and Offenses</i>	O-3
NRS 284.415	Receipt or payment of consideration for appointment or promotion.	
	<i>Filling Vacancies in Employment</i>	D-20
	<i>Prohibitions and Offenses</i>	O-3
NRS 284.420	Obstruction of right to examination, eligibility, certification or appointment; furnishing special or secret information.	
	<i>Prohibitions and Offenses</i>	O-3
NRS 284.425	Member of subversive organization ineligible for appointment or employment in public service.	
	<i>Prohibitions and Offenses</i>	O-3
NRS 284.430	Penalties.	
	<i>Prohibitions and Offenses</i>	O-4
NRS 286.3007	Purchase by state agency of credit for service: Conditions.	
	<i>Separations from Service</i>	K-6
NRS 286.430	Withdrawal of contributions.	
	<i>Separations from Service</i>	K-3
NRS 286.440	Redeposit of withdrawn contributions upon return to service: Procedure.	
	<i>Separations from Service</i>	K-4
NRS 286.510	Eligibility: Age and service of police officers, firefighters and other employees; reduction of benefit for retirement before required age.	
	<i>Separations from Service</i>	K-1
NRS 287.0445	Payment of premiums or contributions for state officer or employee injured while member of Public Employees' Benefits Program.	
	<i>Attendance and Leaves</i>	I-12
NRS 288.230	Legislative declaration; illegality of strikes.	
	<i>Prohibitions and Offenses</i>	O-8
NRS 289.060	Notification and requirements for interrogation or hearing relating to investigation.	