

CHAPTER 284

STATE PERSONNEL SYSTEM

GENERAL PROVISIONS

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Bolded and italicized text indicates changes to regulations that have been approved by the Legislative Commission, as well as statute changes that were passed by the 2015 Legislature. These changes are in effect, but are not yet codified.

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NAC 284.0746 “Part-time employment” defined. (NRS 284.065) “Part-time employment” means a work schedule that is less than 100 percent of the full-time equivalent established for an employee’s pay class designation.

(Added to NAC by Dep’t of Personnel by R147-01, eff. 1-22-2002)

NAC 284.0748 “Pay class designation” defined. (NRS 284.065) “Pay class designation” means the designation set by the Division of Human Resource Management for a group of employees whose pay is calculated in a similar manner, including, without limitation, the maximum number of full-time equivalent hours in a biweekly or semimonthly pay period, the method of reporting hours worked and whether pay is calculated on the basis of hours worked or an annual salary.

(Added to NAC by Dep’t of Personnel by R147-01, eff. 1-22-2002)

NAC 284.075 “Pay progression date” defined. (NRS 284.065) Except as otherwise provided in this chapter, “pay progression date” means the date on which an employee completes 1 year of employment equivalent to full-time service following the appointment to his or her current grade.

(Added to NAC by Dep’t of Personnel by R043-99, eff. 9-27-99)

NAC 284.076 “Permanent employee” defined. (NRS 284.065) “Permanent employee” means an employee who has successfully completed the probationary period for any class he or she has held during continuous classified service. The term does not include a person who:

1. Is reemployed after having been laid off and is serving a new probationary period as required by subsection 8 of NAC 284.630; or
2. Is reemployed pursuant to NAC 284.6014 after having sustained a permanent disability and is serving a new probationary period as required by subsection 2 of NAC 284.6018.

(Added to NAC by Dep’t of Personnel, eff. 8-1-91; A 3-1-96; A by Personnel Comm’n by R183-03, 1-27-2004; R143-05, 12-29-2005)

NAC 284.078 “Permanent status” defined. (NRS 284.065) “Permanent status” means the standing an employee achieves in a class when:

1. He or she has successfully completed the probationary period for the class; or
2. His or her appointment does not require a new probationary period and he or she does not hold another type of status of appointment for the class.

[Personnel Div., Rule I § D subsec. 20, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84)

NAC 284.086 “Position” defined. (NRS 284.065) “Position” means a group of duties and responsibilities that have been assigned to a single job.

[Personnel Div., Rule I § D subsec. 21, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84)

NAC 284.087 “Positive reporting employee” defined. (NRS 284.065) “Positive reporting employee” means an employee who is required to record on a time sheet all hours that he or she is in paid status.

(Added to NAC by Dep’t of Personnel by R147-01, eff. 1-22-2002)

NAC 284.0875 “Premises of the workplace” defined. (NRS 284.065) “Premises of the workplace” means any building, office, vehicle or location, or any part thereof, specifically intended to serve as a place where work is performed by an employee during the course of a workday, including, without limitation, irregular shifts, or any other building, office, vehicle or location at or in which an employee is authorized to perform work by the agency with which he or she is employed. The term includes parking lots, garages or vehicle depots that are owned or leased by the State. The term does not include a location that constitutes an employee’s usual and customary living quarters, except when the living quarters are also used to care for children pursuant to a state program or as otherwise authorized by the State.

(Added to NAC by Personnel Comm’n by R147-06, eff. 12-07-2006)

NAC 284.088 “Promotion” defined. (NRS 284.065) “Promotion” means an advancement to a position in a class which has a higher grade than the class previously held.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A by Personnel Comm’n by R183-03, 1-27-2004; *R102-15, 1-1-2016*)

NAC 284.0915 “Rating of performance” defined. (NRS 284.065) “Rating of performance” means the overall rating of an employee’s performance efficiency, character and conduct which is included in the report on performance of an employee.

(Added to NAC by Dep’t of Personnel by R031-98, eff. 4-17-98)

NAC 284.092 “Reallocation” defined. (NRS 284.065) “Reallocation” means the assignment of a class to a higher grade or a lower grade.

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

NAC 284.093 “Reappointment” defined. (NRS 284.065) “Reappointment” means a noncompetitive appointment of a current employee to a class he or she formerly held or to a comparable class.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 8-1-91; A by Personnel Comm’n by R183-03, 1-27-2004)

NAC 284.094 “Reclassification” defined. (NRS 284.065) “Reclassification” means a reassignment or change in allocation of a position by:

1. Raising it to a class with a higher grade;
2. Reducing it to a class with a lower grade; or
3. Moving it to another class at the same grade on the basis of significant changes in kind, difficulty or responsibility of the work performed.

[Personnel Div., Rule I § D subsec. 23, eff. 8-11-73; renumbered as subsec. 24, 4-14-76]—
(NAC A by Dep’t of Personnel, 10-26-84)

NAC 284.095 “Reemployment” defined. (NRS 284.065) “Reemployment” means a noncompetitive appointment of a current or former employee to a class for which he or she has reemployment rights, as provided in this chapter, because of military service, layoff, a permanent disability arising from a work-related injury or occupational disease, seasonal separation, reallocation or reclassification of his or her position to a lower grade.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 3-1-96; A by Personnel Comm’n by R142-05, 12-29-2005)

NAC 284.0955 “Rehire” defined. (NRS 284.065) “Rehire” means any appointment to the classified service following a separation from the classified service.

(Added to NAC by Dep’t of Personnel, eff. 4-19-88)

NAC 284.096 “Reinstatement” defined. (NRS 284.065) “Reinstatement” means a noncompetitive appointment of a former permanent employee to a class he or she formerly held or to a comparable class.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 8-1-91)

NAC 284.097 “Reviewing officer” defined. (NRS 284.065) “Reviewing officer” means:

1. The supervisor of the person who prepared a report on performance of an employee; or
2. Such other person designated by the appointing authority,

↳ who reviews the report on performance upon the request of the employee pursuant to paragraph (b) of subsection 9 of NAC 284.470.

(Added to NAC by Personnel Comm’n by R038-03, eff. 10-30-2003; A by R144-05, 12-29-2005; R056-10, 10-26-2011; **R041-15, 12-21-2015**)

NAC 284.0975 “Risk Management Division” defined. “Risk Management Division” means the Risk Management Division of the Department of Administration.

(Supplied in codification)

NAC 284.099 “Sexual conduct” defined. (NRS 284.065) “Sexual conduct” means:

1. Ordinary sexual intercourse;
2. Anal intercourse;
3. Fellatio, cunnilingus or other oral-genital contact;
4. Physical contact by a person with the genitals or pubic area of another person for the purpose of arousing or gratifying the sexual desire of either person;
5. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purpose of arousing or gratifying the sexual desire of either person;

or

6. Masturbation or the lewd exhibition of genitals.

(Added to NAC by Personnel Comm’n by R147-06, eff. 12-7-2006)

NAC 284.0995 “Sexual harassment” defined. (NRS 284.065) “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other speech or physical conduct of a sexual nature when:

1. Submission to such speech or conduct is made either explicitly or implicitly a term or condition of a person’s employment;
2. Submission to or the rejection of such speech or conduct by a person is used as the basis for employment decisions affecting that person; or
3. Such speech or conduct has the purpose or effect of unreasonably interfering with a person’s work performance or creating an intimidating, hostile or offensive working environment.

(Added to NAC by Personnel Comm’n by R147-06, eff. 12-7-2006)

NAC 284.100 “Standard workweek” defined. (NRS 284.065) “Standard workweek” means a work schedule of five shifts with the same number of hours each day and a maximum of 40 hours per week throughout the year. The work schedule is Monday through Friday.

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

NAC 284.102 “Step” defined. (NRS 284.065) “Step” means the number assigned by the Division of Human Resource Management to identify a specific rate of pay within a grade.
[Personnel Div., Rule I § D subsec. 25, eff. 8-11-73; renumbered as subsec. 27, 4-14-76]—
(NAC A by Dep’t of Personnel, 10-26-84; R197-99, 1-26-2000; R147-01, 1-22-2002)

NAC 284.104 “Trainee level” defined. (NRS 284.065) “Trainee level” means the level of performance within an occupational specialty at which an employee is in the process of acquiring the knowledge, skills and abilities to perform at the journey level.
(Added to NAC by Personnel Comm’n by R024-05, eff. 10-31-2005)

NAC 284.106 “Transfer” defined. (NRS 284.065) “Transfer” means:

1. A noncompetitive appointment in which an employee moves from one position to another position in the same class or a related class with the same grade; or
2. A competitive appointment in which an employee moves from one position to a position in a different class with the same grade.

[Personnel Div., Rule I § D subsec. 26, eff. 8-11-73; renumbered as subsec. 28, 4-14-76]—
(NAC A by Dep’t of Personnel, 10-26-84; 11-16-95)

NAC 284.108 “Trial period” defined. (NRS 284.065) “Trial period” means the 6-month or 1-year probationary period served by a permanent employee who has been promoted to a vacant position.
(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 8-1-91; 12-26-91)

NRS 284.140 states, “Unclassified service: Composition. The unclassified service of the State consists of the following state officers or employees in the Executive Department of the State Government who receive annual salaries for their services:

1. Members of boards and commissions, and heads of departments, agencies and institutions required by law to be appointed.
2. Except as otherwise provided in NRS 223.085, 223.570 and 223.600, all persons required by law to be appointed by the Governor or heads of departments or agencies appointed by the Governor or by boards.
3. All employees other than clerical in the Office of the Attorney General and the State Public Defender required by law to be appointed by the Attorney General or the State Public Defender.
4. Except as otherwise provided by the Board of Regents of the University of Nevada pursuant to NRS 396.251, officers and members of the teaching staff and the staffs of the Agricultural Extension Department and Experiment Station of the Nevada System of Higher Education, or any other state institution of learning, and student employees of these institutions. Custodial, clerical or maintenance employees of these institutions are in the classified service. The Board of Regents of the University of Nevada shall assist the Administrator in carrying out the provisions of this chapter applicable to the Nevada System of Higher Education.
5. All other officers and employees authorized by law to be employed in the unclassified service.”

NAC 284.110 “Underfill” defined. (NRS 284.065) “Underfill” means the filling of a position with an employee holding a position in a lower classification, except for those situations

NAC 284.180 Rate of pay: Nonclassified or unclassified employees or other certain employees appointed to classified service. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, if a nonclassified or unclassified employee or an employee included in the Personnel System pursuant to the provisions of NRS 284.022 is appointed without a break in service to the classified service, he or she may, at the discretion of the appointing authority:

(a) Be paid at a step which corresponds to or is below his or her rate of pay as a nonclassified or unclassified employee if it is within the grade of the class to which he or she is appointed;

(b) Be paid at the first step in the new grade to which he or she is appointed; or

(c) Receive a special adjustment to his or her pay pursuant to subsection 1 of NAC 284.204 or NAC 284.206.

2. An exception to subsection 1 may be made if a nonclassified or unclassified employee who was an employee of the Legislative Branch of State Government employed at the conclusion of a regular session of the Legislature pursuant to NRS 284.3775 transfers to state service.

3. An employee who was previously employed in the classified service and is appointed pursuant to the provisions of subsection 1 may not be paid at a step and grade which is greater than he or she received at the time he or she left the classified service, unless he or she has held the unclassified or nonclassified position for more than 1 year.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013)

NAC 284.182 Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date. (NRS 284.065, 284.155, 284.175)

1. An employee receives a new pay progression date if he or she is:

(a) Promoted to a position that results in an increase of two grades or more; or

(b) Reinstated.

2. An employee who is:

(a) Promoted to a position that results in an increase of one grade;

(b) In a position that is reclassified to a higher class as a result of an individual classification study or an occupational study;

(c) Transferred to a position without receiving an increase in grade;

(d) Reappointed to a position at a grade that he or she formerly held;

(e) Reemployed and has remained continuously employed; or

(f) Demoted,

↳ retains the pay progression date held before the action described in paragraphs (a) to (f), inclusive, occurred.

3. If a person who is eligible for military reemployment is reemployed, he or she retains the pay progression date held when separated from this State for his or her service in the military.

4. If an employee was promoted but is being restored to his or her former position *or class* pursuant to the provisions of NAC 284.462, the date of appointment and pay progression date of the former position must be restored. ***If, pursuant to subparagraph (1) of paragraph (c) of subsection 2 of NAC 284.462, the employee is placed in a position in a class equal to or lower than the class of the position held by the employee immediately before the promotion, the pay progression date of the former position must be restored.***

5. Except as otherwise provided in this subsection and subsection 6, an employee's pay progression date must be adjusted:

(a) To equal 1 year of full-time equivalent service for an employee who changes from full-time employment to part-time employment or from part-time employment to full-time employment; or

(b) On a day-for-day basis for the amount of time the employee:

(1) Was separated from state service if the employee is reemployed within 1 year after the date on which he or she was laid off or received a seasonal separation.

(2) Was separated from state service if the employee is a person with a permanent disability arising from a work-related injury or occupational disease who is reemployed within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013.

(3) Was on leave without pay, or on catastrophic leave, if the employee is:

(I) A nonexempt employee and the leave without pay or catastrophic leave was in excess of 240 hours; or

(II) An exempt classified employee and the leave without pay or catastrophic leave was in excess of 30 working days,

↳ in a year, except for leave without pay for a work-related injury or illness pursuant to NRS 281.390 or on a military leave of absence pursuant to NRS 284.359 or a leave of absence without pay during a fiscal emergency pursuant to NAC 284.580. An employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his or her pay class designation. As used in this subparagraph, “year” means a period equal to 12 months of full-time equivalent service measured backward from the employee’s pay progression date.

6. If the number of total hours of leave without pay or catastrophic leave of a nonexempt employee that exceed 240 hours is less than 1 day of full-time equivalent service for the pay class designation of the employee, an adjustment will not be made for those hours.

7. If an employee is on leave without pay, or on catastrophic leave, on his or her pay progression date, any adjustment to his pay progression date will be made after he or she returns to work.

[Personnel Div., Rule III part § G, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 8-28-85; 5-27-86; 8-22-86; 4-19-88; 7-21-89; 10-18-89; 3-27-92; 7-6-92; 9-16-92; 11-16-95; 3-1-96; 10-27-97; R043-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm’n by R182-03, 1-27-2004; R022-05, 10-31-2005; R142-05, 12-29-2005; **R102-15, 1-1-2016**)

NAC 284.186 Date of promotion coinciding with pay progression date. (NRS 284.065, 284.155, 284.175) If the date of an eligible employee’s promotion coincides with his or her pay progression date, the merit pay increase must be granted first and the promotional increase must be applied to the higher rate.

[Personnel Div., Rule III part § G, eff. 8-11-73; A 4-14-76]—(NAC A by Dep’t of Personnel, 10-26-84; R043-99, 9-27-99; R147-01, 1-22-2002)

NAC 284.194 Merit pay increase: Granting or withholding; delay because of administrative or clerical error. (NRS 284.065, 284.155, 284.175, 284.335)

1. An employee whose last rating of performance was standard or better and who has not attained the top step of his or her grade must receive a merit pay increase of one step on his or her pay progression date. Unless the employee receives a subsequent rating of performance that is substandard, an employee will receive a merit pay increase of one step for each additional year of employment equivalent to full-time service until he or she reaches the top step of the grade.

2. An employee whose last rating of performance was substandard is not eligible for a merit pay increase until his or her overall performance improves to standard or better. If a subsequent report on performance is not filed with the Administrator within the 90-day period required by subsection 4 of NRS 284.340, the employee’s performance will be deemed standard and he or she will be entitled to the merit pay increase effective on the date on which the subsequent report on

performance was due. The date on which a report on performance is received by the Administrator or an employee of the Division of Human Resource Management is the date on which the report is filed.

3. If a merit pay increase is withheld as provided in subsection 2 because a rating of performance was substandard, the employee's pay progression date must not be affected.

4. If a merit pay increase is delayed solely because of an administrative or clerical error, the increase must be made effective on the date on which the increase was properly due.

[Personnel Div., Rule III part § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-16-95; R031-98, 4-17-98; R043-99, 9-27-99; R147-01, 1-22-2002)

NAC 284.196 Merit pay increase: Credit for service under certain circumstances. (NRS 284.065, 284.155, 284.175)

1. Service in any provisional, temporary, special disabled or emergency status that is immediately followed by probationary or permanent status must be credited toward eligibility for a merit pay increase.

2. Service in a seasonal position must be credited toward eligibility for a merit pay increase. An incumbent in such a seasonal position must complete 1 year of full-time equivalent service before he or she is eligible for a merit pay increase.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004)

NAC 284.204 Adjustment of steps within same grade. (NRS 284.065, 284.155, 284.175)

1. The Division of Human Resource Management may approve an adjustment of steps within the same grade to:

(a) Allow an appointing authority the flexibility to adjust the rate of pay for a position that will be filled by a person from a pool of eligible persons who are applying for the position on an open competitive basis in order to:

(1) Meet a difficult recruiting problem in which an effort to recruit a person for a position or class has failed to produce at least five eligible persons who are available to work, or the recruitment for the position or class has been deemed historically difficult. Such an adjustment of steps may be approved by the Division of Human Resource Management for a class for a period of 1 year.

(2) Employ a person whose education or experience is superior to those of another eligible person and who exceeds the minimum qualifications of the class. Any experience or education which is considered by the appointing authority pursuant to this subparagraph must be given a greater weight for those areas which are directly related to the position than general education and experience.

(b) Maintain an equitable relationship in the status of steps among the employees of the appointing authority if a disparity exists. An adjustment will not be granted pursuant to this section if the disparity in steps is:

(1) Among employees of different agencies; or

(2) A result of:

(I) The length of service of employees;

(II) An adjustment in pay which was attained in a former class; or

(III) An adjustment in pay for an employee who resides in a particular geographical area.

(c) Maintain an appropriate differential, not to exceed two steps, between the base rate of pay of a supervisor and the base rate of pay of an employee who is in the direct line of authority of the

supervisor. An adjustment may be granted pursuant to this paragraph if, before the adjustment, the base rate of pay of the employee is the same or greater than the base rate of pay of the supervisor.

2. Before granting an adjustment of steps pursuant to this section, the appointing authority must submit a request on a form prescribed by the Division of Human Resource Management to the Division of Human Resource Management which:

- (a) Specifies the qualifying conditions and justification for the request; and
- (b) Certifies that the appointing authority has, where applicable:

(1) Considered the requirements for the pay required to meet the need described in subparagraph (1) of paragraph (a) of subsection 1;

(2) Considered the qualifications of any other eligible person who is available for work for the purposes of subparagraph (2) of paragraph (a) of subsection 1;

(3) Ensured that the adjustment is feasible on the basis of its fiscal effects;

(4) Ensured that the adjustment will not cause inequity between current employees which would require adjustments in the steps of those employees which are not feasible on the basis of the fiscal effects of such adjustments; and

(5) Prepared and maintained an accurate record of the consideration of the factors listed in this section.

3. If an adjustment of steps pursuant to this section is approved by the Division of Human Resource Management, the effective date of such an adjustment is the date on which a request that complies with subsection 2 is received by the Division of Human Resource Management or the personnel office of the agency at which the employee who is receiving the adjustment is employed. If a request for an adjustment of steps is delayed because an administrative or clerical error prevented the delivery of the request, the effective date must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment must not exceed 6 months from the date on which the Division of Human Resource Management receives the request.

4. An adjustment of steps which is made pursuant to subparagraph (1) of paragraph (a) of subsection 1 may be revoked when:

(a) The recruiting problem which caused the adjustment was due to the geographical location of the position; and

(b) The employee transfers to an area where a recruiting problem does not exist.

↳ The employee must be placed at the step he or she would have received if he or she had not received the adjustment.

(Added to NAC by Dep't of Personnel, eff. 8-14-90; A 7-1-94; R197-99, 1-26-2000; R147-01, 1-22-2002; R015-02, 5-2-2002; A by Personnel Comm'n by R134-12, 10-4-2013)

NAC 284.206 Special adjustments to pay. (NRS 284.065, 284.155, 284.175, 284.340, 284.384)

1. The Division of Human Resource Management may approve a special adjustment to the pay of an employee pursuant to this section. A request for a special adjustment to pay may be initiated by an employee, the appointing authority or the Division of Human Resource Management. A special adjustment to pay does not constitute a promotion.

2. An employee may receive a special adjustment to pay equivalent to 5 percent of the employee's base rate of pay during any period in which:

(a) The employee works out of his or her class on a continuing basis and performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase, the employee must be assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification and carry out the duties and responsibilities for at least 16

consecutive workdays before the increase becomes effective. The adjustment to pay pursuant to this paragraph is effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities. The adjustment to pay must not continue for more than 6 months in any 12-month period unless:

(1) The employee is underfilling a position pursuant to NAC 284.437 and recruitment has failed to produce a sufficient number of applicants on the appropriate list.

(2) The duties and responsibilities that the employee has been carrying out have been assumed from one or more positions that have not been authorized to be filled because of a hiring freeze or fiscal emergency. A hiring freeze or fiscal emergency must be certified by the Chief of the Budget Division or, in the case of an agency that does not receive money from the State General Fund or the Nevada System of Higher Education, certified by the administrator of that agency or the System.

(3) The appointing authority submits a written request to the Administrator accompanied by documentation justifying an extension of the 6-month period and certifies that money is available to pay for the continuation of the special adjustment to pay. The Administrator may authorize the continuation of the special adjustment to pay after receiving the request and documentation and determining that the extension of the 6-month period is a business necessity and in the best interest of the State.

(b) The employee is required to use bilingual skills or sign language for persons who are deaf at least 10 percent of his work time.

(c) The employee is supervising other employees of the same or a higher grade if the supervision:

(1) Is not part of the supervision or management responsibilities for a program that is provided for in the class specification; and

(2) Includes, without limitation, selection, work assignment, training, work review, reports on performance and discipline of employees.

(d) The employee is required regularly to perform custodial work and clean up human bodily waste in a medical, clinical or inpatient facility.

(e) Except as otherwise provided in this paragraph, the employee is conducting a formal training program for employees. The training program must:

(1) Be conducted weekly;

(2) Consist of training on the job and in the classroom or training only in the classroom;

(3) Include a test to determine the employees' progress in the program; and

(4) Result in the award of a certificate of completion or advancement in a class series to the journey level.

➔ If an adjustment to pay is granted pursuant to this paragraph, the adjustment begins when the employee starts conducting the training program and ends when the training program is completed. An adjustment will not be granted if the duty to conduct training is clearly set forth in the class specification. Informal orientation given to new employees will not be considered for this special adjustment.

(f) The employee, if employed as a law enforcement officer, is assigned to motorcycle duty.

(g) The employee, if employed by the Department of Corrections, is responsible for the supervision of a group of inmates assigned to a work area of an institution and who is responsible for implementing security procedures, including, without limitation:

(1) Securing the work area from inmates who are not authorized to enter the work area;

(2) Accounting for all inmates who have been assigned to the work area; and

(3) Accounting for all materials, tools and equipment in the work area.

↪ The adjustment to pay pursuant to this paragraph will be granted only if such duties are not provided for in the class specification.

(h) The employee is authorized by the Legislature to receive such an adjustment to his or her pay.

3. An employee may receive a special adjustment to pay if he or she occupies a position in which the duties have been recognized through the classification process as being at a higher level, but who does not meet the minimum qualifications for the class. The special adjustment to the employee's pay must be equivalent to 2.5 percent of the employee's base rate of pay if the employee performs duties classified one grade higher than his or her current position, or 5 percent of the employee's base rate of pay if the employee performs duties classified two or more grades higher than his or her current position. A special adjustment to an employee's pay made pursuant to this subsection may continue in effect from the date on which the position questionnaire is received:

(a) Until the employee meets the minimum qualifications and is promoted;

(b) For 1 year after the effective date of the special adjustment to pay; or

(c) Until the date the higher level duties are removed,

↪ whichever occurs first.

4. Except as otherwise provided in paragraph (a) of subsection 2, any special adjustment to pay made pursuant to subsection 2 must be revoked when the conditions justifying it cease to exist.

5. Except as otherwise provided in this section, the effective date of a special adjustment to pay is the date on which the written request is received by the Division of Human Resource Management or the personnel office of the agency at which the employee who is receiving the special adjustment to pay is employed. If the request for the special adjustment to pay is delayed because an administrative or clerical error prevented its delivery, the effective date of the special adjustment to pay must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment to pay must not exceed 6 months from the date on which the Division of Human Resource Management receives the written request.

[Personnel Div., Rule III § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 1-26-87; 9-17-87; 12-17-87; 7-14-88; 1-22-90; 8-14-90; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R197-99, 1-26-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R090-02, 8-14-2002; R038-03, 10-30-2003; R007-11, 10-26-2011)

REVISER'S NOTE.

The regulation of the Personnel Commission filed with the Secretary of State on August 14, 2002 (LCB File No. R090-02), which amended this section, contains the following provision not included in NAC:

"Sec. 2. Notwithstanding the amendatory provisions of section 1 of this regulation [NAC 284.206], an employee who is employed by the Division of Mental Health and Developmental Services [now the Division of Public and Behavioral Health] of the Department of Human Resources [now Department of Health and Human Services] or by the Division of Child and Family Services of the Department of Human Resources to work in a psychiatric hospital, a forensic unit for mentally disordered offenders or a residential mental retardation facility will continue to receive his base rate of pay plus an amount equal to the adjustment to pay until future adjustments to pay, not including pay increases based on merit, offset the initial adjustment to pay that was in effect as of June 30, 2002, if:

1. The employee's work duties include direct contact and interaction with clients for at least half of his scheduled work shift; and

2. The employee received an adjustment to pay for performing certain work in an assaultive environment as determined by the Administrator of the Division of Mental Health and Developmental Services of the Department of Human Resources or the Division of Child and Family Services of the Department of Human Resources, for at least half of his working time during the 3 months immediately before June 30, 2002."

NAC 284.208 Compensation for dangerous duty. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 3, only the following groups, under the conditions described, are entitled to receive pay for dangerous duty:

- (a) Employees engaged in scuba or skin diving.
- (b) Employees who perform duties at a height of more than 16 feet above the floor in a building or 16 feet above ground level outside of a building if the work is performed on portable equipment or outside of a railed or protected area.
- (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 or her 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 or she 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 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.

[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)

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.

(e) Employee who is not required to leave the premises where he or she is residing or located at the time of notification in order to respond to a call.

(f) Employee who is called back to work if:

(1) The work begins 1 hour or less before or after his or her scheduled work shift;

(2) The time for beginning the work is set at the employee's request; or

(3) The work begins during the same 2-hour period previously paid for call back pay.

3. An employee who is required to appear as a witness in court or at an administrative hearing:

(a) During his or her regularly scheduled time off; and

(b) Concerning a matter which relates directly to his or her job,

↪ 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. For each additional hour 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. If he or she receives a witness fee as well as this compensation, the employee shall remit the witness fee to the agency by which he is employed.

[Personnel Div., Rule III § J, eff. 8-11-73]—(NAC A by Dep't of Personnel, 12-13-83; 10-26-84; 9-17-87; 11-12-93; 3-23-94; 10-27-97; R147-01, 1-22-2002)

NRS 480.320 states, “Payment of cadets. The Nevada Highway Patrol shall not authorize any payment to a cadet for remaining ready for duty if the cadet is attending an authorized training academy for which room and board is provided at no cost to the cadet.”

NAC 284.218 Compensation for standby status. (NRS 284.065, 284.155, 284.175)

1. A nonexempt employee in the classified service of the State is on standby status when he or she is:

- (a) Directed to remain available for notification to work during specified hours;
- (b) Prepared to work if the need arises;
- (c) Able to report to work within a reasonable time;
- (d) Directed by his or her supervisor to carry a paging device, provide a telephone number where he or she may be notified or provide any other acceptable means for notification; and
- (e) Allowed to use the time during which he or she is waiting for notification to work for his or her personal pursuits

2. When a nonexempt employee in the classified service of the State who is on standby status begins the performance of his or her regular duties after receiving notice to work, he or she ceases to be on standby status and qualifies for straight time or overtime pay, whichever is applicable, for the actual time worked. Upon completion of the work, he or she returns to standby status for the remainder of the time he or she has been directed to be available to work.

3. A nonexempt employee in the classified service of the State is entitled to receive additional pay, or equivalent compensatory time off, at the rate of 5 percent of his or her normal rate of pay for every hour he or she is on standby status.

4. Cash payment is the preferred method of compensation pursuant to this section, but compensatory time off, not to exceed the maximum allowed pursuant to subsection 3 of NAC 284.250, must be granted in lieu of cash payment if the employee requests compensatory time and the agency approves the request.

5. Any class designated by statute as a 24-hour class does not automatically qualify for this additional pay.

[Personnel Div., Rule III § K, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 8-26-83; 10-26-84; 7-22-87; 3-23-94; R147-01, 1-22-2002)

NAC 284.220 Change of time to or from daylight saving time. (NRS 284.065, 284.155, 284.175)

1. An employee, other than an exempt classified employee or exempt unclassified employee, who loses an hour of work during his or her scheduled shift because of a change of time to daylight saving time may, with the approval of the appointing authority, elect to take an hour of annual leave, compensatory time or leave without pay or must be scheduled to work an additional hour.

2. An employee, other than an exempt classified employee or exempt unclassified employee, who is required to work an additional hour during his or her scheduled shift because of a change of time to standard daylight time is entitled to receive overtime pay or compensatory time as approved by the agency.

(Added to NAC by Dep’t of Personnel, eff. 4-19-88; A 3-23-94; R147-01, 1-22-2002)

NAC 284.228 Shift trading: Agreement; responsibilities. (NRS 284.065, 284.155, 284.175, 284.345)

1. An employee may enter into a written agreement to trade shifts with another employee who is employed by the same state agency if each employee who enters into the agreement:

- (a) Does so solely at his or her option as described in 29 C.F.R. § 553.31;

(b) Performs work in the same class; and

(c) Obtains approval to enter into the agreement from the appointing authority of the state agency that employs him or her.

2. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he or she agreed to work, he or she is responsible for entering into a written agreement to trade shifts with another employee who satisfies the requirements of subsection 1 to ensure that the shift is worked. Except as otherwise provided in subsection 5, if the employee is unable to enter into an agreement with an employee who satisfies the requirements of subsection 1 to work the shift that he or she agreed to work, the state agency that employs the employee who was originally scheduled to work that shift before any agreements to trade shifts were entered into pursuant to this subsection or subsection 1 shall:

(a) Reduce that employee's accrued annual leave or accrued compensatory time by the number of hours in the shift; or

(b) If that employee does not have annual leave or compensatory time available, place the employee on leave without pay for the number of hours in the shift,

↳ unless that employee works the shift he or she was originally scheduled to work.

3. Except as otherwise provided in subsection 5, if an employee works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2, the state agency that employs the employees shall pay each employee as if he or she had worked his or her regularly scheduled hours of employment on that workday.

4. The state agency that employs an employee who works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2 may exclude the hours worked by the employee pursuant to the agreement from the calculation of the hours for which the employee is entitled to receive:

(a) Credit for overtime work pursuant to NRS 284.180; and

(b) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.

5. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he or she agreed to work because on the date that the shift occurs he or she no longer satisfies the requirements of subsection 1 and the other employee who is a party to the agreement has already worked the shift which he or she agreed to work pursuant to that agreement or another employee has worked that shift as provided in an agreement entered into pursuant to subsection 2, the state agency shall:

(a) Reduce the pay, accrued annual leave or accrued compensatory time of the employee who no longer satisfies the requirements of subsection 1 by the number of hours in the shift that was worked for him or her; and

(b) If the hours worked by the other employee pursuant to the original agreement or as provided in an agreement entered into pursuant to subsection 2 were excluded from the calculation described in subsection 3, include those hours in the calculation of the hours for which that employee is entitled to receive:

(1) Credit for overtime work pursuant to NRS 284.180; and

(2) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.

6. The appointing authority shall maintain accurate records of each agreement entered into by its employees pursuant to subsection 1 or 2.

(Added to NAC by Dep't of Personnel by R015-02, eff. 5-2-2002; A by Personnel Comm'n by R038-03, 10-30-2003)

NRS 284.180 states in part, “overtime;...

2. Credit for overtime work directed or approved by the head of an agency or the representative of the head of the agency must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

3. Except as otherwise provided in subsections 4, 6, 7 and 9, overtime is considered time worked in excess of:

- (a) Eight hours in 1 calendar day;
- (b) Eight hours in any 16-hour period; or
- (c) A 40-hour week.

4. Firefighters who choose and are approved for a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year, regardless of the actual number of hours worked or on paid leave during any biweekly pay period. A firefighter so assigned is entitled to receive 1/26 of the firefighter’s annual salary for each biweekly pay period. In addition, overtime must be considered time worked in excess of:

- (a) Twenty-four hours in one scheduled shift; or
- (b) Fifty-three hours average per week during one work period for those hours worked or on paid leave.

➔ The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firefighters. In addition to the regular amount paid such a firefighter for the deemed average of 56 hours per week, the firefighter is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.

5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

6. For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.

7. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour work schedule within a biweekly pay period and who choose and are approved for such a work schedule will be considered eligible for overtime only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.

8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.

9. This section does not supersede or conflict with existing contracts of employment for employees hired to work 24 hours a day in a home setting. Any future classification in which an employee will be required to work 24 hours a day in a home setting must be approved in advance by the Commission.

10. All overtime must be approved in advance by the appointing authority or the designee of the appointing authority. No officer or employee, other than a director of a department or the chair of a board, commission or similar body, may authorize overtime for himself or herself. The chair of a board, commission or similar body must approve in advance all overtime worked by members of the board, commission or similar body.

11. The Budget Division of the Department of Administration shall review all overtime worked by employees of the Executive Department to ensure that overtime is held to a minimum. The Budget Division shall report quarterly to the State Board of Examiners the amount of overtime worked in the quarter within the various agencies of the State.”

NRS 284.148 states, “Unclassified and classified service: Persons exempt pursuant to Federal Fair Labor Standards Act; determination of exempt positions by Division.

1. An elected officer or an employee in the unclassified service who is on the personal staff of an elected officer, an appointed head of a department or division who serves at the pleasure or discretion of an elected officer or an executive, administrative or professional employee within the meaning of the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq.:

- (a) Must be paid on a salary basis, within a maximum amount established by law;
- (b) Is not entitled to compensation for overtime; and
- (c) Is not subject to disciplinary suspensions for less than 1 week.

2. An employee in the classified service who is an executive, administrative or professional employee within the meaning of the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and who is either a head of a department, division or bureau, or a doctoral level professional:

- (a) Must be paid on a salary basis;
- (b) Is not entitled to compensation for overtime; and
- (c) Is not subject to disciplinary suspensions for less than 1 week.

3. Unless otherwise specified by statute, the Division shall determine which positions in the classified and unclassified service are subject to the provisions of this section.”

NRS 281.100 (overtime) states, “Hours of service of employees of State and political subdivisions; exceptions; penalty.

1. Except as otherwise provided in this section and NRS 284.180, the services and employment of all persons who are employed by the State of Nevada, or by any county, city, town, township or other political subdivision thereof, are limited to not more than 8 hours in any 1 calendar day and not more than 40 hours in any 1 week.

2. The period of daily employment mentioned in this section commences from the time the employee takes charge of any equipment of the employer or acts as an assistant or helper to a person who is in charge of any equipment of the employer, or enters upon or into any conveyance of or operated by or for the employer at any camp or living quarters provided by the employer for the transportation of employees to the place of work.

3. This section does not apply to:

(a) Officials of the State of Nevada or of any county, city, town, township or other political subdivision thereof, or employees of the State whose employment is governed by NRS 284.148.

(b) Employees of the State of Nevada or of any county, city, town, township or other political subdivision thereof who:

(1) Are engaged as employees of a fire department, or to nurses in training or working in hospitals, or to police, deputy sheriffs or jailers;

(2) Chose and are approved for a variable workday or variable 80-hour work schedules within a biweekly pay period;

(3) Work more than 8 hours but not more than 10 hours in any 1 workday or 40 hours in any 1 workweek;

(4) Are executive, administrative, professional or supervisory employees; or

(5) Are covered by a collective bargaining agreement which establishes hours of service.

(c) Employees of the Legislative Counsel Bureau.

(d) Work done directly by any public utility company pursuant to an order of the Public Utilities Commission of Nevada or other public authority.

4. Any employee whose hours are limited by subsection 1 may be permitted, or in case of emergency where life or property is in imminent danger may be required, at the discretion of the officer responsible for the employment of the employee, but subject to any agreement made

pursuant to NRS 284.181, to work more than the number of hours limited. If so permitted or required, the employee is entitled to receive, at the discretion of the responsible officer:

- (a) Compensatory vacation time; or
- (b) Overtime pay.

5. Any officer or agent of the State of Nevada, or of any county, city, town, township, or other political subdivision thereof, whose duty it is to employ, direct or control the services of an employee covered by this section, who violates any of the provisions of this section as to the hours of employment of labor as provided in this section, is guilty of a misdemeanor.”

NAC 284.242 Overtime: Authorization. (NRS 284.065, 284.155, 284.175)

1. If a nonexempt employee is required to work overtime, the overtime must be authorized pursuant to subsection 10 of NRS 284.180 and communicated to the employee at least 4 hours in advance by the responsible supervisor before being worked, unless an unpredictable emergency prevents prior approval and communication.

2. If a nonexempt employee requests to work overtime, the overtime must be authorized in advance pursuant to subsection 10 of NRS 284.180.

[Personnel Div., Rule III § L subsecs. 4-6, eff. 8-11-73; renumbered as subsecs. 3-5, 10-10-76]—(NAC A by Dep’t of Personnel, 10-26-84; 3-23-94; R147-01, 1-22-2002)

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)

NAC 284.248 Overtime: Employee who works in two positions; exceptions. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, a nonexempt employee who works in two positions in one department or different departments must work or be in paid status in excess of 8 hours per day or 40 hours per week in combined work time in both positions to receive compensation for overtime. An appointing authority shall consider an employee’s employment with another department when considering his or her agency’s liability for compensation for overtime.

2. The hours worked voluntarily by an employee on an occasional or sporadic basis in a different capacity from his or her regular employment must not be combined with the hours worked by the employee in his or her regular employment for the purposes of determining the appointing authority’s liability for compensation for overtime. As used in this subsection, “occasional or sporadic basis” means infrequently, irregularly or occurring in scattered instances.

3. An employee who qualifies for overtime compensation pursuant to subsection 1 must be paid:

- (a) At the highest rate of pay of the two positions; or
- (b) If the employee and the appointing authority have agreed in writing before the performance of the work requiring overtime, at the rate of pay of the position for which the work is performed.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 5-27-86; 3-23-94; 11-16-95; R147-01, 1-22-2002)

NAC 284.250 Overtime: Compensation. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, the method of compensating an employee for overtime is cash payment which is computed at the rate of time and one-half of the employee's normal rate of pay as required pursuant to NRS 284.180.

2. The employee and the appointing authority may enter into an agreement which complies with the provisions of 29 C.F.R. § 553.23 for compensating a nonexempt employee for overtime with compensatory time in lieu of cash payment.

3. Compensatory time may not be accrued in excess of 120 hours unless an agreement entered into pursuant to subsection 2 provides for the accrual of additional hours of compensatory time, not to exceed 240 hours. Overtime liability incurred in excess of these limits must be paid in cash. The appointing authority may pay in cash for compensatory time accrued below these limits.

[Personnel Div., Rule III § L subsecs. 9-11, eff. 8-11-73; renumbered as subsecs. 8-10, 10-10-76]—(NAC A by Dep't of Personnel, 10-26-84; 9-30-88; 11-12-93; 3-23-94; R031-98, 4-17-98; R147-01, 1-22-2002)

NAC 284.2508 Compensatory time: Use. (NRS 284.065, 284.155, 284.175, 284.345)

1. At the direction of the appointing authority, compensatory time must be used within a reasonable time after it is accrued.

2. Unless it would cause an undue hardship to the agency, a request for the use of compensatory time may not be unreasonably denied if the request is made at least 2 weeks in advance of the first date on which the employee wishes to use his or her compensatory time.

3. Unless it would cause an employee to forfeit an amount of annual leave pursuant to subsection 2 of NRS 284.350, an employee must, to the extent possible, exhaust his or her compensatory time before he uses his or her available annual leave.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.252 Compensatory time: Request for payment for certain portions. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, an employee who has accrued more than 60 hours of compensatory time may request, in writing, payment in cash for the amount of compensatory time that exceeds 60 hours.

2. Except as otherwise provided in this subsection, an employee who is subject to an agreement which provides for the accrual of up to 240 hours of compensatory time may request, in writing, payment in cash for any compensatory time accrued in excess of 120 hours. An exception to this subsection may be made for payment of all compensatory time accrued in excess of 60 hours to:

(a) A firefighter who submits a request for payment on or before April 1, if payment is made during the month of April.

(b) A district brand inspector who submits a request for payment on or before September 1, if payment is made during the month of September.

(c) A 24-hour duty officer of the Division of Emergency Management of the Department of Public Safety who has accumulated more than 60 hours of compensatory time during any 12 consecutive months.

3. A request for payment in cash for compensatory time pursuant to this section may not be unreasonably denied. Such a request may be denied if:

(a) The Chief of the Budget Division certifies that there is insufficient money available in the State General Fund; or

(b) In the case of an agency that is not supported from the State General Fund, the administrator of that agency certifies that the agency has insufficient money available.

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 9-30-88; 3-23-94; R147-01, 1-22-2002)

NAC 284.253 Compensatory time: Rate of pay. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, an employee who terminates his or her employment must be paid for compensatory time at a rate that is an average of the normal rate of pay received by the employee during the last 3 years of the employee's employment, or the final normal rate of pay received by the employee, whichever is higher.

2. Any other employee must be paid for compensatory time at his or her normal rate of pay.

(Added to NAC by Dep't of Personnel, eff. 5-27-86; A 11-16-95; R147-01, 1-22-2002)

NAC 284.2535 Compensatory time: Firefighters. (NRS 284.065, 284.155, 284.175, 284.180)

1. A firefighter who works a 24-hour shift and who elects to receive compensatory time off for the overtime he or she works is entitled to accrue 2.1 hours of compensatory time for each hour of overtime worked.

2. If a firefighter receives a cash payment for his or her accrued compensatory time, the payment must be calculated at his or her normal rate of pay.

3. When a firefighter is appointed to a job classification with a work schedule of 40 hours per week, the compensatory time of the firefighter must be converted to the amount of compensatory time that would have been accrued if the firefighter worked 40 hours per week.

4. When an employee with a work schedule of 40 hours per week is appointed to a job as a firefighter with an average work schedule of 56 hours per week, the compensatory time of the employee must be converted to the amount of compensatory time that would have been accrued if the person worked 56 hours per week.

(Added to NAC by Dep't of Personnel, 9-13-91, eff. 10-1-91; A 12-26-91; 3-27-92; R147-01, 1-22-2002)

NAC 284.254 Compensatory time: Payment upon transfer. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, if a nonexempt employee who has accrued compensatory time transfers from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority, the accrued compensatory time must be paid by the agency he or she is leaving, unless the receiving agency agrees in writing to assume the liability for the compensatory time and the employee concurs.

2. The accrued compensatory time of an employee transferring to an exempt position must be paid by the agency the employee is leaving.

3. As used in this section, "exempt position" means a position in the classified or unclassified service that is subject to the provisions of NRS 284.148.

[Personnel Div., Rule III § L subsec. 12, eff. 8-11-73; renumbered as subsec. 11, 10-10-76]—
(NAC A by Dep't of Personnel, 10-26-84; 10-27-97; R147-01, 1-22-2002)

NRS 236.015 states, "Legal holidays; closing of state, county and city offices, courts, public schools and Nevada System of Higher Education.

1. The following days are declared to be legal holidays for state, county and city governmental offices:

January 1 (New Year's Day)

Martin Luther King, Jr.'s birthday is on January 15 but is to be observed on the third Monday in January

Washington's birthday is on February 22 but is to be observed on the third Monday in February

Last Monday in May (Memorial Day)

July 4 (Independence Day)

First Monday in September (Labor Day)

Nevada Day is October 31 but is to be observed on the last Friday in October

November 11 (Veterans Day)

Fourth Thursday in November (Thanksgiving Day)

Friday following the fourth Thursday in November (Family Day)

December 25 (Christmas Day)

Any day that may be appointed by the President of the United States for public fast, Thanksgiving or as a legal holiday except for any Presidential appointment of the fourth Monday in October as Veterans Day.

2. Except as otherwise provided by NRS 293.560 and 293C.527, all state, county and city offices, courts, public schools and the Nevada System of Higher Education must close on the legal holidays enumerated in subsection 1 unless in the case of appointed holidays all or a part thereof are specifically exempted.

3. If January 1, July 4, November 11 or December 25 falls upon a:

(a) Sunday, the Monday following must be observed as a legal holiday.

(b) Saturday, the Friday preceding must be observed as a legal holiday."

NAC 284.255 Holidays: Holiday pay. (NRS 284.065, 284.155, 284.175, 284.180, 284.345)

1. For the purpose of this section, "holiday pay" means payment for a holiday at a nonexempt employee's normal rate of pay plus the differential rate of pay for the shift, when applicable, or compensatory time at a straight-time rate.

2. Except as otherwise provided in paragraph (c) of subsection 3 and subsections 5 and 7, a full-time nonexempt employee whose base hours are 40 hours per week or 80 hours biweekly is entitled to receive 8 hours of holiday pay for any holiday that he or she is in paid status during any portion of his or her shift immediately preceding the holiday.

3. Except as otherwise provided in subsections 5 and 7:

(a) A full-time nonexempt employee whose base hours exceed 40 hours per week or 80 hours biweekly and who is in paid status during any portion of his or her shift immediately preceding a holiday is entitled to receive holiday pay equal to the pay he or she receives for his or her average workday. For the purposes of this paragraph:

(1) The average workday of a nonexempt employee is determined by dividing the total base hours of work per year by 2,088 and multiplying the quotient by 8.

(2) A firefighter assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.

(b) A part-time nonexempt employee is entitled to receive holiday pay when he or she is in paid status during any portion of his or her shift immediately preceding the holiday if a holiday occurs on a normally scheduled workday of the employee. Except as otherwise provided in this paragraph, if such an employee is not required to work his or her normally scheduled workday on the holiday, the amount of holiday pay must equal the amount that he or she would have been paid

if there had not been a holiday, but may not exceed the equivalent of his or her pay for 8 hours of work.

(c) A:

(1) Full-time nonexempt employee with an innovative workweek agreement may earn additional holiday pay on an hour-for-hour basis for any hours he or she works in excess of the holiday pay provided in paragraph (a) and in subsection 2, not to exceed the number of hours in his or her established workday as set forth in his or her innovative workweek agreement.

(2) Part-time nonexempt employee may earn holiday pay on an hour-for-hour basis for any hours he or she works on a holiday, not to exceed the number of hours in his or her established workday.

4. If a holiday occurs on the regularly scheduled workday of a nonexempt employee and his or her normal schedule of work is more than 8 hours, he or she must be in paid status or be placed on leave without pay for any difference between his or her holiday pay and his or her normal work schedule. An appointing authority may adjust the work schedule of such an employee for the week during which the holiday occurs in lieu of placing the employee on paid leave or leave without pay.

5. A nonexempt employee who is scheduled to work on a holiday shall report any absence from duty and the reason therefore to his or her supervisor or designated representative as prescribed in writing by the agency. An employee who does not work on that holiday and who fails to report his or her absence to his or her supervisor or a designated representative pursuant to this subsection is not eligible to receive holiday pay.

6. A nonexempt employee whose employment begins on a holiday is eligible to receive holiday pay pursuant to subsections 2 and 3 if he or she is in paid status during his or her scheduled shift.

7. A nonexempt employee whose employment is terminated:

(a) The day immediately preceding a holiday is not entitled to receive holiday pay for that holiday.

(b) Except as otherwise provided in paragraph (c) of subsection 3, on a holiday on which he or she is working must be paid holiday pay for the actual hours he or she works on the holiday. If a nonexempt employee gives notice that he or she is terminating his or her employment on a holiday and he or she is not scheduled to work on the holiday, the last day on which he or she works or is in paid status is his or her date of termination.

8. The agency that lists a nonexempt employee as an “employee of record” on a holiday is responsible for the payment of holiday pay for that holiday to that employee. For the purposes of this subsection, an “employee of record” is a person employed by the state agency that is required to claim the person as an employee of the agency.

9. The salary of an exempt classified or exempt unclassified employee is not affected by a holiday.

[Personnel Div., Rule VII § B subsec. 2, eff. 8-11-73; A 7-3-76]—(NAC A by Dep’t of Personnel, 10-26-84; 8-28-85; 1-26-87; 9-17-87; 4-19-88; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; R098-99, 9-27-99; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm’n by R096-03, 10-30-2003; R145-05, 12-29-2005)

NAC 284.256 Holidays: Compensation for working. (NRS 284.065, 284.155, 284.175, 284.180)

1. As used in this section, “holiday premium pay” means pay or compensatory time at an employee’s normal rate of pay for hours designated as worked on a holiday, except those hours that are considered overtime pursuant to NRS 284.180.

2. A nonexempt employee who works on a holiday is entitled to receive holiday premium pay, overtime pay or compensatory time for the hours he or she works on the holiday, in addition to any holiday pay that he or she is entitled to be paid pursuant to NAC 284.255. A nonexempt employee who elects to receive compensatory time for the hours he or she works on a holiday must not exceed the limits on the accrual of compensatory time set forth in NAC 284.250.

[Personnel Div., Rule VII § B part subsec. 3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 7-21-89; 9-13-91; 3-23-94; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R022-11, 10-26-2011)—(Substituted in revision for NAC 284.530)

NAC 284.257 Holidays: Designation of time for holiday pay; adjustment of work schedule if holiday occurs on employee's day off. (NRS 284.065, 284.155, 284.175)

1. For compensation for holiday pay pursuant to NAC 284.255 and payment for actual hours worked on a holiday pursuant to NAC 284.256, the appointing authority shall designate whether such compensation will be based on the:

- (a) Calendar day; or
- (b) Entire shift of the employee.

2. If a work shift designated pursuant to paragraph (b) of subsection 1 occurs on 2 consecutive calendar days:

(a) The employee may receive compensation related to the holiday for his or her entire shift only if 50 percent or more of the shift occurs on the holiday;

(b) The appointing authority shall ensure that the compensable hours related to the holiday are so designated on the time sheet of the employee; and

(c) The appointing authority of an employee who has two or more scheduled shifts on a holiday shall designate only one shift on the holiday for which the employee may receive compensation related to the holiday.

3. If a holiday occurs on the day off of a full-time nonexempt employee, the appointing authority may adjust the work schedule of the employee for the week during which the holiday occurs. If a holiday occurs on the day off of an exempt classified employee or exempt unclassified employee, the appointing authority may adjust the work schedule of the employee for the week during which the holiday occurs or for a subsequent week.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)—(Substituted in revision for NAC 284.532)

NAC 284.258 Compensation for time spent traveling. (NRS 284.065, 284.155, 284.175)

1. An employee who is otherwise entitled to pay for overtime may earn overtime for traveling if:

(a) His or her actual work time and the travel time exceed his or her normal workday of at least 8 hours; or

(b) The travel occurs on his or her regularly scheduled day off.

2. Such an employee begins traveling when he or she leaves his or her workstation, or home if so authorized, and continues until he or she reaches the geographical location for his or her work assignment.

3. In determining the amount of travel time granted, the overtime claimed for additional reimbursement must be justified against the "normal" travel time as determined by the previous travel experience of the agency. If the additional travel time was caused by the employee's choice of transportation, overtime compensation will not be paid for the portion of the travel time that exceeds the "normal" travel time. Unless the appointing authority determines that the additional travel time is justified, an employee who has travel layovers or delays in transportation is limited

to 4 hours of overtime, if applicable, plus per diem expenses. An employee may not be compensated for the time spent traveling during the normal time he or she spends commuting to and from work.

4. An employee who must travel and stay over to continue work on his or her next regularly scheduled workday is not considered to be working on his or her regularly scheduled day off and is not eligible for overtime pay. Such an employee is allowed to claim the standard per diem expenses.

5. Any travel by an employee on a holiday will be compensated pursuant to the provisions of NAC 284.255, 284.256 and 284.257.

[Personnel Div., Rule III § L subsec. 16, eff. 8-11-73; renumbered as subsec. 15, 10-10-76]—(NAC A by Dep’t of Personnel, 10-26-84; 7-1-94; R147-01, 1-22-2002)

INFORMATIONAL NOTE: NRS 284.358 Civil leave with reduced pay when performing active military service in time of war or emergency.” may be found following NAC 284.589.

NAC 284.290 Retained rates of pay. (NRS 284.065, 284.155, 284.175)

1. An employee who is reclassified downward is entitled to a retained rate of pay if:

(a) The employee has been in the same class for the equivalent of 6 months or more of full-time employment immediately preceding the downward reclassification; and

(b) The reclassification is the result of a reorganization or other legitimate reason over which the employee has no control.

2. If an employee is entitled to a retained rate of pay pursuant to this section, the employee’s base rate of pay remains unaffected for 2 years after the effective date of the downward reclassification. At the end of the 2-year period, the employee’s base rate of pay will be frozen until it falls within the range of the grade to which he or she was reclassified or for a maximum of 2 years, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that have been approved by the Legislature. If the employee’s frozen base rate of pay does not fall within the range of the grade to which he or she was reclassified within the 2-year period, his or her base rate of pay will be adjusted to the highest step within the lower grade to which he or she was reclassified.

3. If the employee voluntarily accepts another position within the time period prescribed in subsection 2, he or she may no longer retain his or her base rate of pay.

4. The employee is entitled to reemployment rights to his or her former class and option in his or her department for 1 year after the date of notification of the reclassification as provided in NAC 284.140.

5. This section does not apply to an employee who is occupying a position which is temporarily reclassified to a higher class and is later restored to the former class pursuant to NAC 284.132.

[Personnel Div., Rule III § O, eff. 8-11-73; renumbered as § P, 9-6-74; A 10-6-78]—(NAC A by Dep’t of Personnel, 10-26-84; 9-17-87; 7-1-94; 3-1-96; R098-99, 9-27-99; R147-01, 1-22-2002)

INFORMATIONAL NOTE: Payroll Overpayment. The Office of the State Controller’s accounting policies and procedures state that all agencies should notify Personnel/Payroll immediately upon discovery of any overpayment, especially when there has been a termination of employment.

NAC 284.292 Notification of uncollected overpayment. (NRS 284.065, 284.155, 284.175) If the Division of Human Resource Management determines that an employee in the classified or unclassified service has been paid in a manner which is contrary to the applicable laws and regulations and the agency has been unsuccessful in collecting the overpayment, the Division of Human Resource Management will notify the State Controller after it has reviewed the circumstances with the agency concerned.

[Personnel Div., Rule XVI § A subsec. 2, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 7-14-88; R147-01, 1-22-2002)—(Substituted in revision for NAC 284.706)

NRS 289.800 states, “Reimbursement for cost to repair or replace uniform, accessories or safety equipment damaged or destroyed in performance of duties. In addition to the compensation required by NRS 281.121, a state agency that employs a person:

1. Upon whom some or all of the powers of a peace officer are conferred pursuant to:
 - (a) Subsection 1 of NRS 289.180, subsection 1 of NRS 289.220 or paragraph (e) of subsection 1 of NRS 289.270; or
 - (b) Paragraph (d) of subsection 1 of NRS 289.270 and who is employed by the Nevada Highway Patrol; and
2. Who is required to purchase and wear a uniform or other clothing, accessories or safety equipment while performing the person’s duties for the State as a peace officer,
↪ may, after first obtaining the written approval of the Director of the Department of Administration, reimburse that person for the cost to repair or replace the person’s required uniform or other clothing, accessories or safety equipment if it is damaged or destroyed, by means other than ordinary wear and tear, while the person is performing the person’s duties for the State as a peace officer.”

NAC 284.294 Reimbursement for furnishing own tools. (NRS 284.065, 284.155, 284.175)

1. An employee who is required to furnish his or her own tools may elect to be reimbursed for the use, loss, theft and breakage of the tools at the rate of \$35 per month if the monetary value of the tools is more than \$300 and less than \$1,000, or at the rate of \$50 per month if the monetary value exceeds \$1,000. This monthly allowance must not be considered part of the employee’s base rate of pay.

2. The payment of reimbursement pursuant to subsection 1 absolves the agency of any responsibility for the employee’s tools if the loss per occurrence is \$1,000 or less. If the loss is more than \$1,000 and is covered under the terms and conditions of the policy of property insurance or program of self-insurance maintained by the State, the loss must be paid by the insurer or the State, as appropriate.

3. If the employee does not elect to be paid a monthly reimbursement for furnishing his or her own tools pursuant to subsection 1 and a loss occurs which is covered by the policy of property insurance or program of self-insurance maintained by the State, the first \$1,000 of the loss must be paid to the employee by the agency and the balance by the insurer or the State, as appropriate.

4. Agencies must approve and maintain a listing of those tools which are required.

5. As used in this section, “tools” does not include weapons or other protective equipment.

[Personnel Div., Rule III § P, eff. 8-11-73; renumbered as § Q 9-6-74]—(NAC A by Dep’t of Personnel, 8-26-83; 7-14-88; 10-27-97; R147-01, 1-22-2002)

without prejudice must be determined by the appointing authority using the standards contained in NRS 284.240.

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

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

4. A reinstatement to a similar class requires the approval by the Division of Human Resource Management before the appointing authority may make a commitment to reinstate.

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

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

[Personnel Div., Rule VI § C, eff. 8-11-73; A 10-10-76]—(NAC A by Dep’t of Personnel, 8-26-83; 10-26-84; 10-18-89; 11-12-93; 10-27-97; A by Personnel Comm’n by R183-03, 1-27-2004; R009-14, 6-23-14)

NRS 284.375 states, (Transfers) “Conditions. In accordance with regulations established by the Commission, transfers in the classified service may be made from one position to another position within the same grade when the duties are similar and when such action is specifically approved by the Administrator.”

NAC 284.390 Transfers initiated by employees. (NRS 284.065, 284.155, 284.375)

1. An employee may request a transfer from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority if the positions are in the same class or a comparable class.

2. An employee who wishes a transfer to a position in the same class must:

(a) Make his or her interest known to the hiring agency; or

(b) Submit a request for a transfer to the Division of Human Resource Management to have his or her name placed on a transfer list for a position in the same class.

3. For a transfer to a position in a comparable class:

(a) The employee must submit an application to the hiring agency; and

(b) The Division of Human Resource Management must approve the request for a transfer.

4. An employee may not transfer through noncompetitive means to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the employee currently occupies.

[Personnel Div., Rule VI § D subsecs. 1-4, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 8-26-83; 10-26-84; 6-18-86; 7-21-89; 8-1-91; 10-27-97; A by Personnel Comm’n by R183-03, 1-27-2004)

NRS 284.376 states, “Involuntary transfer; hearing; remedies.

1. Within 10 working days after the effective date of a transfer pursuant to the provisions of NRS 284.375, a permanent classified employee who has been transferred without the employee’s consent may request in writing a hearing before the hearing officer of the Commission to determine whether the transfer was made for the purpose of harassing the employee. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee’s transfer. The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive.

2. If the hearing officer determines that the transfer was made for the purpose of harassing the employee, the transfer must be set aside and the employee must be returned to the employee's former position. If the transfer caused the employee to be away from the employee's original headquarters, the employee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for the period the transfer was in effect.
3. The decision of the hearing officer is binding on the parties."

NAC 284.394 Transfers initiated by appointing authorities. (NRS 284.065, 284.155, 284.375)

1. Except as otherwise provided in subsection 2, an appointing authority may, after giving 5 working days' notice, transfer for the convenience of this State any employee to another position in:

(a) The same class; or

(b) A comparable class with the approval of the Division of Human Resource Management.

2. The notice required by subsection 1 need not be given if the transfer does not exceed 10 working days. If a bona fide or justifiable emergency exists, a transfer may be made immediately with the prior approval of the Division of Human Resource Management.

3. A transfer pursuant to this section must not be made to harass or discipline an employee.

4. A permanent employee who is required to transfer to a different geographical location and who declines the transfer has the same rights provided in NAC 284.630 as an employee who is laid off.

5. If an employee requests a hearing to appeal an involuntary transfer pursuant to NRS 284.376, the appointing authority may temporarily assign the employee, on a per diem basis, to transfer pending disposition of the appeal.

6. As used in this section, "geographical location" has the meaning ascribed to it in NAC 284.612.

[Personnel Div., Rule VI § D subsec. 5, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-18-89; A by Personnel Comm'n by R183-03, 1-27-2004; **R042-15, 12-21-2015**)

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

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

NRS 284.3775 states, "Transfer of certain employees in Judicial Branch, unclassified service or Legislative Branch to classified service; exceptions; rights of employee in classified service who accepted position in Legislative Branch.

1. Except as otherwise provided in this section, employees of the Supreme Court, employees of the Court of Appeals *or* employees in the unclassified service of the Executive Branch of the Government of the State of Nevada who have served for 4 consecutive months or more are entitled to transfer to a position having similar duties and compensation in the classified service of the State on the same basis as employees may transfer within the classified service from a position under one appointing authority to a position under another appointing authority.

2. An employee of the Legislative Branch of the Government of the State of Nevada who has served for 4 consecutive months or more is entitled to transfer to:

(a) Any position in the classified service of the State having similar duties and compensation; or

(b) Any other position in the classified service of the State for which the employee is qualified, without regard to the duties and compensation of the position.

↳ **Except as otherwise provided in this subsection and subsection 6, such an employee is entitled to transfer to such a position on the same basis as employees may transfer within the classified service from a position under one appointing authority to a position under another appointing authority.**

3. The benefit conferred by **subsections 1 and 2** includes any exemption from the taking of a competitive examination, retention of credits for annual and sick leave, and priority on the lists of eligible persons to the extent that such privileges are accorded to employees transferring within the classified service.

4. Except as otherwise provided in subsection **6**, the benefits conferred by subsection 1 do not apply to an employee in the unclassified service who is the chief officer of a department or division.

5. Except as otherwise provided in this subsection and subsection **6**, a person may not transfer pursuant to subsection 1 to a class composed of:

(a) Professionally qualified persons; or

(b) Officers and administrators who set broad policies and exercise responsibility for the execution of those policies.

↳ A person may transfer to a class described in paragraph (a) or (b) if that class is provided for pursuant to subsection 2 of NRS 284.155.

6. The restrictions provided in subsections **4** and **5** do not apply to:

(a) An employee of the Legislative Branch of Government; or

(b) An employee of the Supreme Court, an employee of the Court of Appeals or an employee in the unclassified service of the Executive Branch of Government whose appointment to that position was immediately preceded by an appointment in the classified service, except that an employee *described in this paragraph* may only transfer to a position in the classified service that has duties and compensation that are similar either to the employee's current position or to a position the employee previously held in the classified service.

7. An employee in the classified service of the State who is granted leave without pay to accept a position in the Legislative Branch of Government during a regular or special session:

(a) Is entitled to be restored to the employee's previous position in the classified service upon the completion of the legislative session without loss of seniority or benefits. Seniority must be calculated as if the employee had not taken the leave.

(b) Is eligible to fill vacancies in positions within the classified service to the extent that the employee would be eligible if the employee was not on leave from the employee's position in the classified service.

8. An employee of the Legislative Branch of the Government of the State of Nevada who is employed at the conclusion of a regular session of the Legislature and is eligible at that time pursuant to subsection **2** to transfer to a position in the classified service of the State may transfer to such a position on or before November 1 following session notwithstanding the termination of the employee's employment with the Legislative Branch of Government before that date.

9. For the purposes of this section, the weekly compensation of ***an employee of the Legislative Branch of Government who is paid a daily salary during a legislative session is seven times the daily salary.***"

NAC 284.398 Transfers to classified service; certain transfers to unclassified service. (NRS 284.065, 284.155, 284.375)

1. An unclassified employee who has less than 4 months of service and whose appointment was immediately preceded by an appointment in the classified service in which the person was a permanent employee may transfer back into the classified service under the same conditions and with the same benefits as classified employees, except that the duties and compensation of the position to which the person is transferred must be similar, as determined by the Division of Human Resource Management, to either the unclassified position or to a previously held classified position.

2. Employees of any governmental agency which is acquired for administration by the State pursuant to NRS 284.022 may transfer into the classified service or unclassified service with the rights and benefits authorized by the Legislature.

3. An employee who transfers into the classified service:

(a) Must complete an application and meet the minimum qualifications for the class of the position to which he or she is transferring;

(b) Must have his or her date of transfer and appointment to the classified position effective immediately following the last day of employment in the unclassified or nonclassified position unless he or she was employed as a legislative employee at the conclusion of a regular session of the Legislature to whom subsection 8 of NRS 284.3775, *as amended by section 2 of Senate Bill No. 510, chapter 355, Statutes of Nevada 2015, at page 1993*, applies; and

(c) May retain the credits which he or she has earned for annual and sick leave.

[Personnel Div., Rule VI § D subsec. 6, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-14-88; 1-22-90; 8-1-91; 3-23-94; R146-01, 1-18-2002; A by Personnel Comm'n by R183-03, 1-27-2004; *R043-15, 12-21-2015*)

NAC 284.400 Acceptance of new appointment: Notice to current appointing authority. (NRS 284.065, 284.155) An employee who accepts an appointment to a position under the jurisdiction of another appointing authority shall provide not less than 2 weeks' written notice to his or her current appointing authority before beginning service in the new position, unless the employee and both appointing authorities mutually agree to a shorter period of notice.

(Added to NAC by Dep't of Personnel, eff. 11-16-95; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.402 Voluntary demotions. (NRS 284.065, 284.155, 284.305)

1. Except as otherwise provided in this section, an employee may request or accept a demotion to a position in a class with a lower grade. The demotion may be permitted if the employee meets the minimum qualifications and if the appointing authority approves.

2. An employee may not be demoted through noncompetitive means to underfill a position at grade 30 or higher if the position for which the employee is requesting or accepting a demotion is allocated at a higher grade than the position the employee currently occupies.

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

NAC 284.404 Reappointments. (NRS 284.065, 284.155, 284.305)

1. A current employee may be reappointed to a class he or she formerly held or to a comparable class if:

(a) The employee meets the current minimum qualifications and the appointing authority approves the reappointment; and

PROBATIONARY PERIODS

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

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

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

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

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

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

11. An employee who is restored to his or her former position *or class* pursuant to NAC 284.462 following a promotional appointment must serve the portion of the *trial* period which was remaining at the time of the promotion. ***No probationary period is required if, pursuant to subparagraph (1) of paragraph (c) of subsection 2 of NAC 284.462, an employee is placed in a position in a class equal to or lower than the class held by the employee immediately before the promotion.***

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-21-89; 8-1-91; 12-26-91; 3-1-96; A by Personnel Comm'n by R142-05 & R143-05, 12-29-2005; R141-07, 1-30-2008; ***R102-15, 1-1-2016***)

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

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

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

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

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

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

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

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

2. Authorized military leave for training beyond the 15 paid working days ***authorized by NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, at page 1914, during a 12-month period, as prescribed in NAC 284.5875.***

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 or her regular work schedule exceeds 80 hours biweekly. As used in this subsection, "year" means a period equal to 12 months of full-time equivalent service measured backward from the employee's pay progression date.

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

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

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 5-27-86; 3-27-92; 9-16-92; 11-16-95; 3-1-96; R147-01, 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004; R141-07, 1-30-2008; ***R039-15, 10-27-15***)

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

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

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

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

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

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

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

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

2. An employee who is serving a trial period may not use the grievance procedure set forth in NAC 284.658 to 284.6957, inclusive, to appeal the decision by the appointing authority to reject the employee during his or her probationary period.

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

4. If a report of separation is not received by the employee or the Division of Human Resource Management by the close of business on the last day of the probationary period, the employee is considered to have satisfactorily completed the probationary period and acquired permanent status.

[Personnel Div., Rule VIII § C subsecs. 1-3, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-12-93; 11-16-95)

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

1. *The Commission shall adopt regulations requiring that a promotional appointee who fails to attain permanent status in the position to which the appointee was promoted, or who is dismissed for cause other than misconduct or delinquency on the appointee’s part from the position to which the appointee was promoted, either during the probationary period or at the conclusion thereof by reason of the failure of the appointing authority to file a request for the appointee’s continuance in the position, must be:*

(a) Restored to the position from which the appointee was promoted unless the position has been filled by an employee with greater seniority;

(b) Placed in a position other than the position from which the appointee was promoted and for which a vacancy exists in the class held immediately before the promotion; or

(c) If no position described in paragraph (a) or (b) exists:

(1) Appointed to a position for which a vacancy exists in a class equal to or lower than the class held immediately before the promotion; or

(2) Placed on an appropriate reemployment list.

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

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

1. For the purposes of this section only, “promotion” means any movement into a vacant position which has a higher grade than the position previously occupied by a classified employee who has ***completed an initial probationary period.***

2. An employee ***who is promoted and*** fails to attain permanent status in the position to which he or she was promoted or who is dismissed for a cause other than misconduct or delinquency on his or her part from the position to which he or she was promoted, either during the probationary period ***for that position*** or at its conclusion, must, ***in the following order,*** be:

(a) ***Restored*** to the position from which ***the employee*** was promoted, ***unless that position is held by an employee with greater seniority;***

(b) ***If the position from which the employee was promoted is held by an employee with greater seniority, appointed to another position in the agency from which the employee was promoted:***

(1) ***For which a vacancy exists; and***

(2) ***Which is in the same class as the position held by the employee immediately before the promotion; or***

(c) ***If the position from which the employee was promoted is held by an employee with greater seniority and a position described in paragraph (b) does not exist:***

(1) ***Appointed to a position in the agency from which the employee was promoted:***

(I) ***For which a vacancy exists;***

(II) ***Within a class equal to or lower than the class of the position held by the employee immediately before the promotion; and***

(III) ***For which the employee meets the minimum qualifications; or***

(2) ***Placed on the reemployment list for other classes for which the employee meets the minimum qualifications.***

3. If an employee fails to attain permanent status and is restored to his or her former position ***or otherwise placed pursuant to subsection 2,*** the appointing authority which ***takes such action*** must give written notice to the agency from which the employee was promoted at least 30 calendar days before the effective date ***of the action.*** The agency which is taking ***the*** action is liable for the payment of the employee during this 30-day period unless the agency ***receiving*** the employee agrees to accept the employee before the expiration of that period. An employee does not gain permanent status if ***notice of the action*** has been provided to the employee and filed with the Division of Human Resource Management on or before the last day of his or her ***trial*** period, even though the ***action*** takes place after the last day of the ***trial*** period.

4. ***If an employee is restored to the position from which he or she was promoted and displaces an employee with less seniority pursuant to paragraph (a) of subsection 2, the displaced employee must be placed, in the following order, unless the displaced employee waives his or her rights to be placed pursuant to this subsection:***

(a) ***In a vacant position in the agency with which the displaced employee is employed in the same class;***

(b) ***In a vacant position in the agency with which the displaced employee is employed in a comparable class for which the employee meets the minimum qualifications;***

(c) In a vacant position in the agency with which the displaced employee is employed in a class with a lower grade that is closest to the grade most recently held by the employee for which the employee meets the minimum qualifications; or

(d) If a vacant position is not available for the employee pursuant to paragraph (a), (b) or (c) and the employee has attained permanent status with the State, the employee must be placed on the reemployment list for other classes for which the employee meets the minimum qualifications.

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

6. *For the purposes of calculating an employee's seniority for paragraph (a) of subsection 2:*

(a) Except as otherwise provided in this section, the total number of years of continuous full-time equivalent service up to the effective date of the rejection from probationary status must be included.

(b) Except as otherwise provided in subsection 7, the sum of the calculation made pursuant to paragraph (a) or, if applicable, subsection 10 must be reduced by the following periods if those periods occurred during the 36 months immediately preceding the date of the notification of rejection from probationary status:

(1) For a nonexempt employee, any combination of leave without pay and catastrophic leave in excess of 240 hours in the period preceding the date of the notification of rejection from probationary status equal to 12 months of full-time equivalent service;

(2) For an exempt classified employee, any combination of leave without pay and catastrophic leave in excess of 30 working days in the period preceding the date of the notification of rejection from probationary status equal to 12 months of full-time equivalent service; and

(3) Any time covered by a report on performance which rated the employee below standard, excluding evaluations received within 75 calendar days before the notification of rejection from probationary status.

7. *For the purposes of the reduction in the calculation of seniority required by paragraph (b) of subsection 6:*

(a) The reduction may not include:

(1) A leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580;

(2) A leave of absence without pay for a work-related injury or illness pursuant to NRS 281.390; or

(3) A military leave of absence pursuant to NRS 284.359.

(b) As set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 6, an employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his or her pay class designation.

8. *For the purposes of calculating an employee's seniority for paragraph (a) of subsection 2, if seniority is otherwise equal, seniority must be determined in the following order:*

(a) Total time within the occupational group;

(b) Total time within the department; and

(c) By lot.

9. *For the purposes of calculating seniority for reemployment, if seniority is otherwise equal, seniority must be determined by lot.*

10. *A department may request from the Commission approval to calculate the number of years of continuous full-time equivalent service of an employee of the department by doubling the time spent by the employee in his or her present occupational group as categorized by NRS 284.171 and adding that amount to the time spent by the employee in all former occupational groups up to the date of rejection from probationary status. If the Commission approves the*

request of the department to calculate the number of years of service pursuant to this section, the department shall use this method to calculate the number of years of service:

(a) Only to determine whether an employee will be restored to the position from which the employee was promoted and not for the placement of an employee on a reemployment list; and

(b) Until the department seeks from and is granted approval by the Commission to revert to the method of calculating the number of years of service set forth in paragraph (a) of subsection 6.

[Personnel Div., Rule VIII § C subsec. 4, eff. 8-11-73; A 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; *A by Personnel Comm'n by R102-15, 1-1-16*)

REPORTS ON PERFORMANCE

NRS 284.335 states in part, “Standards; records and ratings for service.

1. The appointing authorities and other supervising officers of the various state departments, agencies and institutions, after consultation with the Administrator, shall establish standards of work performance for each class of positions. Each appointing authority shall provide each of its employees with a copy of the standards for the employee’s position.
2. The Administrator shall maintain service records of performance efficiency, character and conduct by a system of service ratings based upon those standards.
3. The Commission shall adopt regulations with respect to service ratings, and prescribe the extent to which service ratings must be considered in determining the advisability of transfers, the promotion of an employee to a higher class, the question of demotion or dismissal of any employee, increases and decreases in salary of an employee within the salary range established under this chapter and in all other decisions relating to the status of employees.”

NAC 284.468 Standards for performance of work. (NRS 284.065, 284.155, 284.335)

1. A standard for the performance of work is a written statement prepared on a form prescribed by the Division of Human Resource Management of the results or behavior, or both, expected of an employee when the job elements of the employee’s position are satisfactorily performed under existing working conditions. Standards are required for all classified positions.
2. The appointing authority is responsible for ensuring that each position has standards and that each employee is evaluated using those standards. The supervisor has responsibility for establishing the initial standards, but the employee must be given the opportunity to provide comments when the standards for his or her position are revised.
3. The appointing authority has final approval of the standards for a position.
4. Standards must be reviewed annually and amended when appropriate.
5. Each employee must be provided with a copy of the standards for his or her position.
6. As used in this section, “job elements” means the principal assignments, job tasks, goals, objectives, responsibilities or related factors, or any combination thereof.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 8-28-85; A by Personnel Comm’n by R038-03 & R068-03, 10-30-2003)

NRS 284.337 states, “Reports: Duties of supervisor. An employee whose duties include the supervision of an employee who holds a position in the classified service shall:

1. For filing at the times specified in NRS 284.340, prepare reports on the performance of that employee. In preparing a report, the supervisory employee shall meet with the employee to:
 - (a) Discuss goals and objectives;
 - (b) Evaluate the employee’s improvement in performance and personal development;
 - (c) Discuss the report; and
 - (d) Provide to the employee information relating to the Merit Award Program established by NRS 285.020.
2. Provide the employee with a copy of the report.
3. Transmit the report to the appointing authority.”

NRS 284.340 states, “Reports: Duties of appointing authority. Each appointing authority shall:

1. Report to the Administrator, in writing, the efficiency of the subordinates and employees of the appointing authority, and other information, in such manner as the Commission may prescribe by regulation.
2. File reports with the Administrator on the performance, during the probationary period, of each of the employees of the appointing authority who holds a position in the classified service. A report must be filed at the end of the 2nd and 5th months of employment if the probationary period is 6 months, or at the end of the 3rd, 7th and 11th months of employment if the probationary period is 12 months.
3. File a report annually with the Administrator on the performance of each of the employees of the appointing authority who holds a position in the classified service and has attained permanent status. The report must be filed at the end of the 12th month next following the attainment of permanent status, and at the end of every 12th month thereafter. If the report is not filed on or before the required date, the performance of the employee shall be deemed to be standard.
4. If any report the appointing authority files with the Administrator on the performance of an employee who holds a position in the classified service includes a rating of substandard, file with the Administrator an additional report on the performance of the employee at least every 90 days until the performance improves to standard or until any disciplinary action is taken.
5. Provide the employee with a copy of each report filed.”

NAC 284.470 Preparation, filing, contents, discussion and distribution of reports; powers and duties of employees; review; adjustment of grievances. (NRS 284.065, 284.155, 284.340, 284.383, 284.384)

1. A person shall not complete a report on performance unless he or she has completed the training provided or approved by the Administrator concerning the preparation of a report on performance.

2. A report on performance must be prepared on the form prescribed by the Division of Human Resource Management.

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.

4. If a report on performance is filed on or before the times specified in NRS 284.340, the overall rating of performance of the employee will be reflected in the employee’s file of employment and the employee will receive a merit pay increase if he or she is otherwise eligible for the increase pursuant to NAC 284.194.

5. 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 ***for the purpose of determining the salary of the employee and the employee will receive a merit pay increase if he or she is otherwise eligible for the increase pursuant to NAC 284.194. If an untimely report on performance:***

(a) Is filed thereafter, the employee’s file of employment will be updated to reflect the overall rating of performance of the employee as reported, but that rating will not affect any merit pay increase to which the employee is otherwise entitled.

(b) Is not filed thereafter, the employee’s file of employment will not include an overall rating of performance of the employee for that period of evaluation.

6. If the performance of an employee falls below standard, his or her supervisor shall inform the employee promptly and specifically of the deficiencies in the performance of the employee regardless of whether a report on performance of the employee is completed or filed.

7. 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.

8. 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 merit pay increases; 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.

9. Except as otherwise provided in subsection 10, the preparation of each report on performance must include a discussion between the employee and his or her 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 the supervisor for forwarding to the reviewing officer or appointing authority.

(b) If the employee contests the report on performance and requests a review, he or she must respond to the report in writing, identify the specific points of contention, if such specificity is provided, and return the response to the supervisor. Except as otherwise provided in this paragraph, the reviewing officer shall respond in writing on a form prescribed by the Division of Human Resource Management within 10 working days after the supervisor receives the request for review. If the reviewing officer is not the appointing authority, the reviewing officer must submit to the appointing authority a recommendation to uphold or modify the report on performance. The appointing authority shall review the recommendation of the reviewing officer regarding the contested report on performance and render a final decision to the employee within 10 working days after receiving the recommendation.

10. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 9 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 the supervisor for forwarding to the appointing authority or reviewing officer.

(b) If the employee contests the report on performance and requests a review, he or she must respond to the report in writing, identify any specific point of contention, if the report provides such specificity, and mail the response to the supervisor. Except as otherwise provided in this paragraph, the reviewing officer shall respond in writing on a form prescribed by the Division of Human Resource Management within 10 working days after the supervisor receives the request for review. If the reviewing officer is not the appointing authority, the reviewing officer must submit to the appointing authority a recommendation to uphold or modify the report on performance. The appointing authority shall review the recommendation of the reviewing officer regarding the report on performance and render a final decision to the employee within 10 working days after receiving the recommendation. 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.

11. A copy of each report on performance and, if applicable, any written response to such a report requested by an employee pursuant to subsection **9** or **10** must be provided to the employee and filed with the Division of Human Resource Management.

12. 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 subsection **11**:

(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 receiving a copy of the revised report and submit the response to the Division of Human Resource Management for inclusion in his or her file of employment.

13. An employee and his or her appointing authority *or the designee of the appointing authority* may agree in writing to extend one or more of the periods prescribed in subsection **9** or **10**.

14. 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.

[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; R174-08, 9-29-2008; R056-10, 10-26-2011; R007-11, 10-26-2011; **R041-15, 12-21-2015; R043-15, 12-21-2015**)

NAC 284.474 Employee entitled to copy of report. (NRS 284.065, 284.155, 284.340) Each employee must be given a copy of the report prepared by the supervisor measuring the employee's performance and development on the job. The report will not become official until signed by the rater. If requested, a copy must be provided to the employee at the time of the discussion between the supervisor and the employee. After the processing has been completed, a copy with all appropriate signatures will be provided the employee.

[Personnel Div., Rule IX § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.478 Appeal of decision of reviewing officer. (NRS 284.065, 284.155, 284.340, 284.384) Upon completion of the review process conducted pursuant to NAC 284.470, a permanent employee may appeal a contested report on performance through the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.

[Personnel Div., Rule IX § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-18-89; R197-99, 1-26-2000; A by Personnel Comm'n by R007-11, 10-26-2011)

ATTENDANCE AND LEAVES

NAC 284.523 Definitions. (NRS 284.065, 284.155, 284.345) As used in NAC 284.523 to 284.598, inclusive, unless the context otherwise requires, the words and terms defined in NAC 284.5231 to 284.52375, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by R082-00, 8-2-2000; A by Personnel Comm'n by R060-09, 11-25-2009)

NAC 284.5231 "Care" defined. (NRS 284.065, 284.155, 284.345) "Care" means the activities performed or attention provided when an employee:

1. Provides psychological comfort and reassurance to his or her spouse, child or parent with a serious health condition who is receiving inpatient or home care;
2. Substitutes for another person who is caring for the employee's spouse, child or parent who has a serious health condition;
3. Makes arrangements for any change in the care of his or her spouse, child or parent with a serious health condition; or
4. Provides physical or psychological care to his or her spouse, child, parent or other member of his or her immediate family who is unable to provide for his or her own:
 - (a) Basic medical, hygienic or nutritional needs;
 - (b) Safety; or
 - (c) Transportation to a provider of health care.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.52315 "Child" defined. (NRS 284.065, 284.155, 284.345) "Child" means a person who is:

1. A biological, adopted or foster child, a stepchild, a legal ward or the child of a person with the daily responsibility of caring for and financially supporting that child; and
2. Except as otherwise provided in NAC 284.5235 and 284.562, under 18 years of age or is 18 years of age or older and incapable of caring for himself or herself because of a mental or physical disability.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by Personnel Comm'n by R096-03, 10-30-2003)

INFORMATIONAL NOTE: For more information on the FMLA, see the Division of Human Resource Management's *Family and Medical Leave Act (FMLA) Overview* or the Department of Labor's 29 CFR Part § 825 The Family and Medical Leave Act of 1993 Final Rule.

NAC 284.52345 "Family and Medical Leave Act" defined. (NRS 284.065, 284.155, 284.345) "Family and Medical Leave Act" means the Family and Medical Leave Act of 1993 adopted by reference in NAC 284.581.

(Added to NAC by Dep't of Personnel by R082-00, eff. 8-2-2000)

INFORMATIONAL NOTE: Pursuant to NRS 122A.200, the term "spouse" as used in chapter 284 of the Nevada Administrative Code includes registered domestic partners.

NAC 284.5235 “Immediate family” defined. (NRS 284.065, 284.155, 284.345)
“Immediate family” means:

1. The employee’s parents, spouse, children, regardless of age, brothers, sisters, grandparents, great-grandparents, uncles, aunts, nephews, grandchildren, nieces, great-grandchildren and stepparents.

2. If they are living in the employee’s household, the employee’s father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather-in-law, grandmother-in-law, great-grandfather-in-law, great-grandmother-in-law, uncle-in-law, aunt-in-law, brother-in-law, sister-in-law, grandson-in-law, granddaughter-in-law, nephew-in-law, niece-in-law, great-grandson-in-law and great-granddaughter-in-law.

3. The employee’s next of kin if the employee is entitled to take leave pursuant to the Family and Medical Leave Act to care for a covered service member.

(Added to NAC by Dep’t of Personnel, eff. 3-23-94; A by Personnel Comm’n by R060-09, 11-25-2009)

NAC 284.5237 “Parent” defined. (NRS 284.065, 284.155, 284.345) “Parent” means the biological parent of an employee or the person who had the daily responsibility of caring for and financially supporting the employee when the employee was a child. The term does not include a parent of the spouse of an employee.

(Added to NAC by Dep’t of Personnel, eff. 3-23-94)

NRS 629.031 states, “Provider of health care” defined. Except as otherwise provided by a specific statute:

1. “Provider of health care” means:

(a) A physician licensed pursuant to chapter 630, 630A or 633 of NRS;

(b) A physician assistant;

(c) A dentist;

(d) A licensed nurse;

(e) A dispensing optician;

(f) A *speech-language pathologist*;

(g) An *audiologist*;

(h) An optometrist;

(i) A practitioner of respiratory care;

(j) A registered physical therapist;

(k) An occupational therapist;

(l) A podiatric physician;

(m) A licensed psychologist;

(n) A licensed marriage and family therapist;

(o) A licensed clinical professional counselor;

(p) A music therapist;

(q) A chiropractor;

(r) An athletic trainer;

(s) A perfusionist;

(t) A doctor of Oriental medicine in any form;

(u) A medical laboratory director or technician;

(v) A *person who holds a license as an attendant or who is certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS*;

(w) A pharmacist;
 (x) A licensed dietitian;
 (y) *An associate in social work, a social worker, an independent social worker or a clinical social worker licensed pursuant to chapter 641B of NRS;*
 (z) *An alcohol and drug abuse counselor or a problem gambling counselor who is certified pursuant to chapter 641C of NRS;*
 (aa) *An alcohol and drug abuse counselor or a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS; or*
 (bb) *A medical facility as the employer of any person specified in this subsection.*

2. For the purposes of NRS 629.051, 629.061, 629.065 and 629.077, the term includes a facility that maintains the health care records of patients.

3. For the purposes of NRS 629.400 to 629.490, inclusive, the term includes:

(a) A person who holds a license or certificate issued pursuant to chapter 631 of NRS; and
 (b) A person who holds a current license or certificate to practice his or her respective discipline pursuant to the applicable provisions of law of another state or territory of the United States.”

NAC 284.52375 “Provider of health care” defined. (NRS 284.065, 284.155, 284.345)
 “Provider of health care” means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state or country in which the doctor practices.
2. A podiatric physician, a dentist, a clinical psychologist, an optometrist or a chiropractor who is authorized to practice as a podiatric physician, a dentist, a clinical psychologist, an optometrist or a chiropractor by the state or country in which he or she practices and who is performing within the scope of his or her practice as defined by the law of that state or country.
3. A nurse practitioner, nurse midwife, physician assistant or clinical social worker who is authorized to practice as a nurse practitioner, nurse midwife, physician assistant or clinical social worker by the state or country in which he or she practices and who is performing within the scope of his or her practice as defined by the law of that state or country.
4. A practitioner in Christian Science who is listed with The First Church of Christ, Scientist, in Boston, Massachusetts. The list of practitioners may be obtained from the Christian Science Committee on Publication for Nevada, 2994 Talbot Street, Las Vegas, Nevada 89169, by telephone at (702) 807-8026, by electronic mail at nevada@compub.org or on the online directory located at www.christianscience.com.
5. A provider of health care, as defined in NRS 629.031, acting within the scope of his or her license whose certification of the existence of a serious health condition is acceptable to substantiate a claim for benefits under the Public Employees’ Benefits Program.

(Added to NAC by Dep’t of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000; A by Personnel Comm’n by R135-12, 10-4-2013)

NRS 281.110 states, “State offices to maintain minimum 40-hour workweeks; variable schedules for workweek; posting of days and hours of operation.

1. The offices of all state officers, departments, boards, commissions and agencies must maintain not less than a 40-hour workweek.
2. Variable workweek scheduling may be required in those agencies where coverage is needed on Saturdays, Sundays and legal holidays or on other days or during other hours, as necessary.

3. The offices of all state officers, departments, boards, commissions and agencies must physically post the days and hours of operation at the office. If the days or hours of operation for the office change, the new days and hours of operation must be:

- (a) Posted physically at the office;
- (b) Posted on the website of the office, if any; or
- (c) Otherwise noticed publicly,

↳ at least 30 days before the change becomes effective.”

NRS 284.180 states in part, “innovative workweeks;...

8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.”

NAC 284.524 Reporting for work; workweeks and workdays; periods for meals and rest. (NRS 284.065, 284.155, 284.345)

1. An employee shall report for a work shift on time and ready to perform the duties and tasks assigned to his or her position.

2. Except as otherwise provided in this subsection, the workweek for state employees is 40 hours. A workweek of a different number of hours may be established to meet the needs of state agencies in compliance with the provisions of NRS 281.100, 281.110 and 284.180. The workday for a full-time state employee who works a standard or nonstandard work schedule consists of two work periods separated by a 1/2- to 1-hour meal period. Insofar as practicable, the meal period must occur in the middle of the work shift. A rest period of 15 minutes must be granted for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

3. Except as otherwise provided in subsections 4 and 5, an appointing authority shall provide a meal period and rest period to an employee who has an innovative work schedule during each workday as follows:

(a) A 1/2- to 1-hour meal period must be provided during each period of work that exceeds 6 hours. Insofar as practicable, the meal period must occur in the middle of the work shift.

(b) A rest period of 15 minutes must be provided for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

4. The requirement to relieve an employee for a 1/2- to 1-hour meal period does not apply to an employee who receives a paid meal period.

5. The requirement for a rest period does not apply to an employee who works:

(a) Directly with the inmates at a correctional institution.

(b) For the Division of Public and Behavioral Health of the Department of Health and Human Services and who:

(1) Maintains or monitors the equipment in a heat plant which operates 24 hours a day; and

(2) Works a straight 8-hour work shift.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 4-20-90; 8-1-91; 11-12-93; R031-98, 4-17-98; R098-99, 9-27-99; A by Personnel Comm’n by R068-03, 10-30-2003; R145-05, 12-29-2005)

NAC 284.525 Reduction of hours by mutual agreement. (NRS 284.065, 284.155, 284.345) Except with respect to a leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580, an appointing authority and an employee may reduce the employee’s working hours to less than full time by mutual agreement.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A by Personnel Comm’n by R096-03, 10-30-2003)

NAC 284.5255 Time sheets. (NRS 284.065, 284.155, 284.175, 284.345)

1. Except as otherwise provided in subsection 2, an employee shall provide an accurate accounting of the hours worked and leave used during a pay period on the appropriate form provided by his or her employer, including, without limitation, the specific times at which his or her work shifts started and ended. Entries must be made to account for all hours in the pay period, as prescribed by the employer. The employee shall submit the form in a timely manner to his or her supervisor or the designated representative of the supervisor.

2. An exempt classified employee or exempt unclassified employee shall provide on the appropriate form an accurate accounting of leave used pursuant to NAC 284.5895.

3. An employee who falsifies his or her time sheet or who causes or attempts to cause another employee to falsify a time sheet may be subject to disciplinary action pursuant to NAC 284.650.

4. An employee's supervisor is responsible for reviewing the employee's time sheet and verifying the accuracy of all hours worked and leave used by the employee.

5. The supervisor or the person who is responsible for coordinating the payroll of the agency may change an entry on an employee's time sheet in accordance with the policy of the agency. If a change is made to an entry on the employee's time sheet, the employee must be notified of the change. If the employee contests a change to an entry on his or her time sheet, he or she is entitled only to his or her base pay for the workweek in question. The contested entry must be resolved as soon as practicable, and any adjustment must be made during the next pay period following the resolution of the contested entry.

6. A supervisor who is negligent in reviewing and certifying the accuracy of an employee's time sheet may be subject to disciplinary action pursuant to NAC 284.650.

(Added to NAC by Dep't of Personnel, eff. 11-16-95; A 10-27-97; R031-98, 4-17-98; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 236.015 "Legal holidays;..." may be found preceding NAC 284.255.

NRS 284.350 states, "Annual leave.

1. Except as otherwise provided in subsections 2, 3 and 4, an employee in the public service, whether in the classified or unclassified service, is entitled to annual leave with pay of 1 1/4 working days for each month of continuous public service. The annual leave may be cumulative from year to year not to exceed 30 working days. The Commission may by regulation provide for additional annual leave for long-term employees and for prorated annual leave for part-time employees.

2. Except as otherwise provided in this subsection, any annual leave in excess of 30 working days must be used before January 1 of the year following the year in which the annual leave in excess of 30 working days is accumulated or the amount of annual leave in excess of 30 working days is forfeited on that date. If an employee:

(a) On or before October 15, requests permission to take annual leave; and

(b) The employee's request for leave is denied in writing for any reason,

→ the employee is entitled to payment for any annual leave in excess of 30 working days which the employee requested to take and which the employee would otherwise forfeit as the result of the denial of the employee's request, unless the employee has final authority to approve use of the employee's own accrued leave and the employee received payment pursuant to this subsection for any unused annual leave in excess of 30 working days accumulated during the immediately preceding calendar year. The payment for the employee's unused annual leave must be made to the employee not later than January 31.

3. Officers and members of the faculty of the Nevada System of Higher Education are entitled to annual leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.

4. The Commission shall establish by regulation a schedule for the accrual of annual leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of annual leave at the same rate proportionately as employees who work a 40-hour week accrue annual leave.

5. No elected state officer may be paid for accumulated annual leave upon termination of the officer's service.

6. During the first 6 months of employment of any employee in the public service, annual leave accrues as provided in subsection 1, but no annual leave may be taken during that period.

7. No employee in the public service may be paid for accumulated annual leave upon termination of employment unless the employee has been employed for 6 months or more.

8. Upon the request of an employee, the appointing authority of the employee may approve the reduction or satisfaction of an overpayment of the salary of the employee that was not obtained by the fraud or willful misrepresentation of the employee with a corresponding amount of the accrued annual leave of the employee.”

NAC 284.538 Annual leave: Computation; part-time employees; long-term employees. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in this subsection and NAC 284.5415, to compute the amount of annual leave to which an employee is entitled, an employee must be considered to work not more than 40 hours each week. If an employee occupies more than one position in different departments, he or she must be considered to work not more than 40 hours each week in each position.

2. A part-time employee is entitled to receive annual leave that is prorated based on the number of hours he or she is in paid status, excluding overtime.

3. An employee who holds two or more part-time positions in state service may combine the number of hours he or she is in paid status for all positions to compute annual leave, excluding overtime.

4. The basis for the computation of annual leave to which an exempt classified employee or exempt unclassified employee is entitled must not exceed the number of hours authorized in the biennial operating budget of this State for his or her position.

5. For each calendar month of full-time service, an employee is entitled to accrue annual leave at the rate of:

(a) One and one-half days per month for an employee who has completed 10 years or more but less than 15 years of continuous full-time or part-time state service; or

(b) One and three-fourths days per month for an employee who has completed 15 years or more of continuous full-time or part-time state service.

➔ If an employee has not been in continuous public service, the period before the interruption will not be counted except as otherwise provided in NAC 284.5405.

[Personnel Div., Rule VII § C, eff. 8-11-73; A 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 3-27-92; 9-16-92; 11-16-95; 10-27-97; R031-98, 4-17-98; A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 281.390 states, “Sick leave of public employees: Election of benefits; amount limited when eligible for benefits for industrial or occupational disease.

1. When any public employee is eligible at the same time for benefits for temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and for any sick leave benefit, the employee may, by giving notice to the employer of the employee, elect to continue to receive the employee’s normal salary instead of the benefits pursuant to those chapters until benefit, the employee may, by giving notice to the employer of the employee, elect to continue to receive the employee’s normal salary instead of the benefits pursuant to those chapters until the employee’s accrued sick leave time is exhausted. The employer shall notify the insurer that provides industrial insurance for that employer of the election. The employer shall continue to pay the employee the employee’s normal salary but charge against the employee’s accrued sick leave time as taken during the pay period an amount which represents the difference between the employee’s normal salary and the amount of any benefit for temporary total disability received, exclusive of reimbursement or payment of medical or hospital expenses pursuant to chapters 616A to 616D, inclusive, or 617 of NRS for that pay period.

2. When the employee’s accrued sick leave time is exhausted, payment of the employee’s normal salary pursuant to subsection 1 must be discontinued and the employer shall promptly notify the insurer that provides industrial insurance for that employer so that it may begin paying the benefits to which the employee is entitled directly to the employee.

3. An employee who declines to make the election provided in subsection 1, may use all or part of the sick leave benefit normally payable to the employee while directly receiving benefits for temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS, but the amount of sick leave benefit paid to the employee for any pay period must not exceed the difference between the employee’s normal salary and the amount of any benefit received, exclusive of reimbursement or payment of medical or hospital expenses pursuant to those chapters for that pay period.

4. If the amount of the employee’s sick leave benefit is reduced pursuant to subsection 3 below the amount normally payable, the amount of sick leave time charged against the employee as taken during that pay period must be reduced in the same proportion.

5. The public employee may decline to use any or part of the sick leave benefit normally payable to the employee while receiving benefits pursuant to chapters 616A to 616D, inclusive, or 617 of NRS. During that time, the employee must be considered on leave of absence without pay.”

NAC 284.5385 Annual leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in NAC 284.580, an employee does not accrue annual leave during the time he or she is on leave without pay or on catastrophic leave.

2. A person who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and makes the election provided in:

(a) Subsection 1 or 3 of NRS 281.390 is entitled to accrue annual leave during the period he or she is receiving those benefits and is being paid an amount of sick leave equal to the difference between his or her normal pay and the benefits received.

(b) Subsection 5 of NRS 281.390 must be placed on leave of absence without pay, unless the employee is on family and medical leave because a serious health condition prevents him or her from performing one or more of the essential functions of his or her position. Such an employee may, while on such leave, elect to use his or her accrued annual leave in lieu of being placed on leave of absence without pay.

3. An employee who does not have enough sick leave to make up the difference between his or her normal pay and the benefits for a temporary total disability must be placed on leave of

absence without pay for the time he or she is receiving such benefits and the balance of time not covered by sick leave or other paid leave. The employee accrues annual leave only for the time he or she is in paid status, excluding overtime.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 12-17-87; 7-14-88; 7-21-89; 8-1-91; 3-27-92; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.539 Annual leave: Written request; approval or denial; authorized use. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided by the Family and Medical Leave Act, an appointing authority shall determine the time when annual leave is taken after considering the needs of the agency and the seniority and wishes of the employee. Annual leave may not be granted in excess of the accumulated annual leave.

2. A written request for annual leave that is submitted by an employee within a reasonable time before the date upon which the annual leave is requested to commence must be approved or denied by the appointing authority, in writing, before the date upon which the annual leave is requested to commence or within 15 days after the appointing authority receives the request, whichever is sooner.

3. The appointing authority may deny a request for annual leave for good and sufficient reason. The appointing authority may not prohibit an employee from using at least 5 consecutive days of annual leave in any calendar year.

4. An employee shall request annual leave at least 30 days in advance if the need for leave is foreseeable and the annual leave is to be taken in conjunction with a planned leave of absence without pay.

5. An employee who has accumulated both annual leave and compensatory time off, and who may lose annual leave at the end of the calendar year, may elect to use the annual leave instead of the compensatory time for approved leave. In all other instances, compensatory time must, as far as practicable, be exhausted before annual leave is used.

6. An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may use his or her accrued annual leave pursuant to NAC 284.5775.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 6-18-86; 9-17-87; 7-14-88; 4-20-90; 3-23-94; 11-16-95; R031-98, 4-17-98; R082-00, 8-2-2000; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.5395 Annual leave: Payment upon separation from service. (NRS 284.065, 284.155, 284.175, 284.350) An employee who has completed 6 months of continuous service and who has separated from state service must be paid a lump-sum payment for any unused annual leave which he or she has earned through the date of separation.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R147-01, 1-22-2002)

NAC 284.540 Records of earned and used leave. (NRS 284.065, 284.155, 284.345) Each appointing authority shall keep accurate records of earned and used leave unless these records are maintained by a centralized time and attendance system.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R069-02, 8-14-2002)

NRS 284.022 “Inclusion of employees of certain governmental agencies in State Personnel System.” may be found preceding NAC 284.010.

NRS 284.350 “Annual Leave.” may be found preceding NAC 284.538.

NAC 284.5405 Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his or her total service with the State after he or she has completed 3 years of continuous service. The employee must requalify after each break in service.

2. An employee who is rehired within 1 year after being laid off accrues annual leave at a rate based on his or her total state service. He or she may use the annual leave immediately upon accruing it if he or she has completed a total of 6 months of employment.

3. An employee with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his or her total state service. He or she may use the annual leave immediately upon accruing it if he or she has completed a total of 6 months of employment.

4. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he or she received payment in a lump sum on the date of the layoff. The rate of pay at which he or she is rehired applies to the buying back of annual leave.

5. An employee with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he or she received payment in a lump sum at the time of separation. The rate of pay at which he or she is reemployed applies to the buying back of annual leave.

6. If an employee who was laid off before completing 6 months of employment is rehired within 1 year after the layoff, the amount of the unpaid annual leave he or she had earned before the layoff must be restored.

7. If a person eligible for military reemployment is reemployed, he or she accrues annual leave at the rate which he or she would have earned if he or she had not left state service.

8. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of the employee’s annual leave is charged to the agency to which he or she is appointed.

9. If a nonclassified employee, an unclassified employee of the Nevada System of Higher Education or an employee included in the State Personnel System pursuant to NRS 284.022 is appointed without a break in service to the classified or unclassified service, his or her annual leave must be recomputed to reflect the amount that would have accrued to him or her as a classified or unclassified employee less any annual leave which he or she used during his or her nonclassified, Nevada System of Higher Education or governmental agency employment, and the remaining balance will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual as set forth in NRS 284.350 and NAC 284.538. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility of the employee who is

transferring annual leave to seek payment of any excess amount of annual leave remaining to his or her credit from his or her former employer. If the amount of annual leave which is recomputed pursuant to this subsection results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of annual leave.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-19-88; 3-27-92; 11-12-93; 3-1-96; R031-98, 4-17-98; A by Personnel Comm'n by R096-03, 10-30-2003; R022-05, 10-31-2005; R142-05 & R145-05, 12-29-2005)

NAC 284.541 Annual leave: Service in provisional, special disabled, emergency or temporary status; seasonal employees. (NRS 284.065, 284.155, 284.345, 284.350)

1. Service in a provisional, special disabled, emergency or temporary status must be credited toward annual leave if it is immediately preceded or followed by a status of appointment which enables the employee to obtain the required 6 months of continuous service.

2. Service in a special position, which is temporary, in the University may be credited toward annual leave if it is immediately followed by probationary or permanent status.

3. An employee in a seasonal position who works a combined amount of time which equals 6 months is eligible for annual leave. The employee may choose to maintain the balance of the annual leave or receive a payment in lieu of annual leave upon separation from the seasonal position if he or she has completed the qualifying period of 6 months. An employee who is not paid for his or her annual leave upon separation from a seasonal position and who does not return to state service within 1 year must be paid the balance of his or her annual leave no later than 1 year after termination if he or she has completed the qualifying period of 6 months.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-6-92)

NRS 284.355 states, "Leave for sickness and disability: Accrual; payment for unused leave; employees with mental or emotional disorders; forfeiture of leave.

1. Except as otherwise provided in this section, all employees in the public service, whether in the classified or unclassified service, are entitled to sick and disability leave with pay of 1 1/4 working days for each month of service, which may be cumulative from year to year. After an employee has accumulated 90 working days of sick leave, the amount of additional unused sick leave which the employee is entitled to carry forward from 1 year to the next is limited to one-half of the unused sick leave accrued during that year, but the Commission may by regulation provide for subsequent use of unused sick leave accrued but not carried forward because of this limitation in cases where the employee is suffering from a long-term or chronic illness and has used all sick leave otherwise available to the employee.

2. Upon the retirement of an employee, the employee's termination through no fault of the employee or the employee's death while in public employment, the employee or the employee's beneficiaries are entitled to payment:

(a) For the employee's unused sick leave in excess of 30 days, exclusive of any unused sick leave accrued but not carried forward, according to the employee's number of years of public service, except service with a political subdivision of the State, as follows:

- (1) For 10 years of service or more but less than 15 years, not more than \$2,500.
- (2) For 15 years of service or more but less than 20 years, not more than \$4,000.
- (3) For 20 years of service or more but less than 25 years, not more than \$6,000.
- (4) For 25 years of service, not more than \$8,000.

(b) For the employee's unused sick leave accrued but not carried forward, an amount equal to one-half of the sum of:

- (1) The employee's hours of unused sick leave accrued but not carried forward; and
- (2) An additional 120 hours.

3. The Commission may by regulation provide for additional sick and disability leave for long-term employees and for prorated sick and disability leave for part-time employees.
4. An employee entitled to payment for unused sick leave pursuant to subsection 2 may elect to receive the payment in any one or more of the following forms:
 - (a) A lump-sum payment.
 - (b) An advanced payment of the premiums or contributions for insurance coverage for which the employee is otherwise eligible pursuant to chapter 287 of NRS. If the insurance coverage is terminated and the money advanced for premiums or contributions pursuant to this subsection exceeds the amount which is payable for premiums or contributions for the period for which the former employee was actually covered, the unused portion of the advanced payment must be paid promptly to the former employee or, if the employee is deceased, to the employee's beneficiary.
 - (c) The purchase of additional retirement credit, if the employee is otherwise eligible pursuant to chapter 286 of NRS.
5. Officers and members of the faculty of the Nevada System of Higher Education are entitled to sick and disability leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.
6. The Commission may by regulation provide policies concerning employees with mental or emotional disorders which:
 - (a) Use a liberal approach to the granting of sick leave or leave without pay to such an employee if it is necessary for the employee to be absent for treatment or temporary hospitalization.
 - (b) Provide for the retention of the job of such an employee for a reasonable period of absence, and if an extended absence necessitates separation or retirement, provide for the reemployment of such an employee if at all possible after recovery.
 - (c) Protect employee benefits, including, without limitation, retirement, life insurance and health benefits.
7. The Commission shall establish by regulation a schedule for the accrual of sick leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of sick leave at the same rate proportionately as employees who work a 40-hour week accrue sick leave.
8. The Division may investigate any instance in which it believes that an employee has taken sick or disability leave to which the employee was not entitled. If, after notice to the employee and a hearing, the Commission determines that the employee has taken sick or disability leave to which the employee was not entitled, the Commission may order the forfeiture of all or part of the employee's accrued sick leave."

NAC 284.5415 Annual leave and sick leave: Exception employees. (NRS 284.065, 284.155, 284.180, 284.345, 284.350, 284.355)

1. As used in this section:
 - (a) "Exception employee" means an employee whose normally scheduled hours of work are more than 80 hours biweekly; and
 - (b) "Regular employee" means an employee whose normally scheduled hours of work are 8 hours per day, 40 hours per week, or 80 hours biweekly.
2. An exception employee is entitled to accrue annual leave and sick leave based on his or her average workday. The average workday of such an employee must be determined by dividing the total scheduled hours of work per year by 2,088 and multiplying the quotient by 8.
3. When an exception employee is appointed to a job classification with a schedule of work as a regular employee, the accrued annual leave and sick leave of the exception employee must be

converted to the amount of annual leave and sick leave that would have been accrued as a regular employee.

4. When a regular employee is appointed to a job classification with a schedule of work as an exception employee, the accrued annual leave and sick leave of the regular employee must be converted to the amount of annual leave and sick leave that would have been accrued as an exception employee.

5. For the purposes of this section, a firefighter is an exception employee and shall be deemed to work an average of 56 hours per week and 2,912 hours per year.

(Added to NAC by Dep't of Personnel, 9-13-91, eff. 10-1-91; A 3-1-96)

NAC 284.542 Sick leave: Part-time employees. (NRS 284.065, 284.155, 284.345, 284.355)

1. A part-time employee is entitled to accrue sick leave at the rate of 1 1/4 days per month, which is prorated based on the number of hours the employee is in paid status, excluding overtime.

2. An employee who holds two or more part-time positions in the state service may combine the time in all positions for the purpose of computing the hours of accrued sick leave.

[Personnel Div., Rule VII § D subsec. 2, eff. 8-11-73; A and renumbered as subsec. 1, 2-5-82; § D subsec. 3, eff. 2-5-82]—(NAC A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 281.390 “Sick leave of public employees: Election of benefits; amount limited when eligible for benefits for industrial or occupational disease.” may be found preceding NAC 284.5385

NRS 287.0445 states, “Payment of premiums or contributions for state officer or employee injured in course of employment while member of Program. The participating state agency which employed a state officer or employee who:

1. Was injured in the course of that employment;
2. Receives compensation for a temporary total disability pursuant to NRS 616C.475; and
3. Was a member of the Program at the time of the injury,

↪ shall pay the State’s share of the cost of the premiums or contributions for the Program for that officer or employee for not more than 9 months after the injury or until the officer or employee is able to return to work, whichever is less. If the previous injury recurs within 1 month after the employee returns to work and the employee again receives compensation pursuant to NRS 616C.475 as a result of the previous injury, the participating state agency shall not, except as otherwise provided in this section, pay the State’s share of the cost of the premiums or contributions for the period during which the employee is unable to work as a result of the recurring previous injury. If the initial period of disability was less than 9 months, the participating state agency shall pay, during the recurrence, the State’s share of the costs of the premiums or contributions for a period which, when added to the initial period, equals not more than 9 months.”

NAC 284.544 Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation. (NRS 284.065, 284.155, 284.345, 284.355)

1. Except as otherwise provided in NAC 284.580, an employee does not accrue sick leave during the time he or she is on leave without pay or on catastrophic leave.

2. A person who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and:

(a) Makes the election provided in subsection 1 or 3 of NRS 281.390 is entitled to accrue sick leave during the period he or she is receiving those benefits and is being paid an amount of sick leave equal to the difference between his or her normal pay and the benefits received.

(b) Makes the election provided in subsection 5 of NRS 281.390 must be placed on leave of absence without pay, unless the employee elects to use his or her accrued annual leave.

3. An employee who does not have enough sick leave to make up the difference between his or her normal pay and the benefits for temporary total disability must be placed on leave of absence without pay for the time he or she is receiving such benefits and the balance of time not covered by paid leave. The employee accrues sick leave only for the time he or she is in paid status, excluding overtime.

4. To compute the amount of sick leave to which an employee is entitled, an employee must be considered to work not more than 40 hours each week. If an employee occupies more than one position in different departments, the amount of sick leave to which the employee is entitled must be computed based on not more than 40 hours each week in each position.

5. The basis for the computation of the amount of sick leave to which an exempt classified employee or exempt unclassified employee is entitled must not exceed the number of hours authorized in the biennial operating budget of this State for his or her position.

(Added to NAC by Dep't of Personnel, eff. 12-17-87; A 7-14-88; 7-21-89; 8-1-91; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.546 Sick leave: Unused credit; special sick leave. (NRS 284.065, 284.155, 284.345, 284.355) Unused sick leave accrued but not carried forward pursuant to the provisions of NRS 284.355 must be placed in a separate account. Sick leave accrued in a separate account pursuant to this section is designated as special sick leave. Special sick leave may be used if an employee has used all the sick leave otherwise available to him or her and meets the conditions, as applicable, of NAC 284.554, 284.566 and 284.568.

[Personnel Div., Rule VII § D subsec. 3, eff. 8-11-73; A and renumbered as subsec. 2, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 8-22-86; 11-16-95; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.548 Sick leave: Reinstatement of dismissed employee. (NRS 284.065, 284.155, 284.175, 284.345, 284.355) An employee who is dismissed and later reinstated by an order of a hearing officer must repay any money the employee received for payment of sick leave benefits. The amount of the payment may be deducted from the first available wage payments or any back pay owed to the employee. After the money is fully repaid pursuant to this section, the balance of the amount of sick leave that the employee had before he or she was dismissed must be restored to the employee.

(Added to NAC by Dep't of Personnel, eff. 4-20-90; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.550 Sick leave: Separation from service. (NRS 284.065, 284.155, 284.345, 284.355)

1. An employee who is being separated from service earns sick leave only through the last working day for which he or she is entitled to pay. If the last working day occurs earlier than the last day of the month, the sick leave must be prorated.

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

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

NAC 284.551 Sick leave: Credit upon rehiring, reemployment or transfer. (NRS 284.065, 284.155, 284.345, 284.355)

1. An employee who is rehired within 1 year after he or she is laid off is entitled to the restoration of the accrued and unused sick leave remaining in his or her account at the time of the layoff.

2. The balance of a seasonal employee's sick leave must be restored to him or her for each subsequent term of appointment if the employee is rehired within 1 year after the date of his or her last seasonal separation.

3. An employee who is reemployed within 1 year after sustaining a permanent disability arising from a work-related injury or occupational disease as determined pursuant to NAC 284.6013 is entitled to restoration of the accrued and unused sick leave that remained in his or her account at the time of separation.

4. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his or her sick leave is charged to the agency to which he or she is appointed.

5. If a nonclassified employee, an unclassified employee of the Nevada System of Higher Education or an employee covered by NRS 284.022 is appointed to the classified or unclassified service without a break in service, his or her sick leave must be recomputed to reflect the amount that would have accrued to him or her as a classified or unclassified employee less any sick leave which he or she used during his or her nonclassified, Nevada System of Higher Education or governmental agency employment and the remaining balance will be transferred to the new appointment. If the amount of sick leave which is recomputed pursuant to this subsection results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of sick leave.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 4-19-88; 3-1-96; A by Personnel Comm'n by R142-05 & R145-05, 12-29-2005)

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

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

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

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

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

INFORMATIONAL NOTE: 29 C.F.R. § 785.43 states, “Medical attention. Time spent by an employee in waiting for and receiving medical attention on the premises or at the direction of the employer during the employee’s normal working hours on days when he is working constitutes hours worked.”

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

An employee is entitled to use sick leave if the employee:

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

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

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

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

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

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

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

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

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

2. For the purposes of this section, “immediate family” means the employee’s parents, spouse, children, brothers, sisters, grandparents, great-grandparents, uncles, aunts, nephews, grandchildren, nieces, great-grandchildren, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather-in-law, grandmother-in-law, great-grandfather-in-law, great-grandmother-in-law, uncle-in-law, aunt-in-law, brother-in-law, sister-in-law, grandson-in-law, grand-daughter-in-

law, nephew-in-law, niece-in-law, great-grandson-in-law, great-granddaughter-in-law, stepparents and stepchildren.

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

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

NAC 284.566 Sick leave: Approval by appointing authority; medical certification. (NRS 284.065, 284.155, 284.345, 284.355)

1. An appointing authority may approve sick leave only after having ascertained that the absence was for an authorized reason. For absences in excess of 3 consecutive working days, or for cases of suspected abuse, the appointing authority may require that the employee submit substantiating evidence, which may include, but is not limited to, a certificate from a provider of health care of the need for the absence.

2. For absences for which medical certification is required, the appointing authority may require the employee to provide a second medical opinion. If a second medical opinion is required, an employee shall obtain the opinion from a provider of health care designated by the appointing authority. The employing agency shall pay for the consultation. The provider of health care who provides the second opinion of an employee's health condition shall certify as to the ability of the employee to perform his or her duties and responsibilities and when he or she believes the employee can return to work. The provider of health care who provides the second opinion of an immediate family member's health condition shall certify as to the health condition of the family member, the probable duration of the health condition and incapacity, and the need for the employee's assistance or presence. A copy of each opinion must be provided to the employee, the patient and the appointing authority, as appropriate. If the first and second opinions differ, the appointing authority may require the employee to provide a third medical opinion.

3. If a third medical opinion is required, an employee shall obtain the opinion from a provider of health care approved jointly by the employee and the appointing authority. If necessary, a list of three providers of health care from which the selection must be made may be requested from the medical society of the county in which the employee or, if applicable, the member of his or her immediate family, resides or works. If such a list is used, the selection of the third provider of health care must be made by the employee and appointing authority alternately striking one name off the list. The third opinion is final and binding. The employing agency shall pay for the consultation.

4. An employee shall request sick leave at least 30 days in advance if the need for leave is foreseeable and the sick leave is to be taken in conjunction with a planned leave of absence without pay.

5. An appointing authority may require a statement from a provider of health care that an employee is able to resume work if the requirement is related to the employee's ability to perform one or more of the essential functions of his or her position.

[Personnel Div., Rule VII § D subsec. 8, eff. 8-11-73; A and renumbered as subsec. 9, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R135-12, 10-4-2013)

NAC 284.568 Sick leave: Placing employee on sick leave; conditions for return to work. (NRS 284.065, 284.155, 284.345, 284.355)

1. An appointing authority may place an employee on sick leave if:

(a) Due to a known or suspected illness or injury, the employee is not performing at the level required by his or her position or is not able to perform the essential functions of the position with or without reasonable accommodation, as determined by the appointing authority pursuant to NAC 284.441; or

(b) The illness appears to be contagious.

2. If the appointing authority places the employee on sick leave pursuant to subsection 1, the appointing authority may require the employee, before the employee may return to work, to provide documentation from a provider of health care which verifies that the employee is medically able to perform the essential functions of the job with or without reasonable accommodation and does not have a contagious illness.

3. Except as otherwise provided in NRS 281.390, the appointing authority may require an eligible employee to use sick leave during the time family and medical leave is granted.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-6-92; 3-23-94; R082-00, 8-2-2000; A by Personnel Comm'n by R145-05, 12-29-2005; R135-12, 10-4-2013)

NRS 284.362 states, "Catastrophic leave: Definitions.

1. As used in NRS 284.362 to 284.3629, inclusive:

(a) "Catastrophe" means:

(1) The employee is unable to perform the duties of the employee's position because of a serious illness, accident *or motor vehicle crash* which is life threatening or which will require a lengthy convalescence;

(2) There is a serious illness, accident *or motor vehicle crash* which is life threatening or which will require a lengthy convalescence in the employee's immediate family; or

(3) There is a death in the employee's immediate family.

(b) "Committee" means the Committee on Catastrophic Leave created pursuant to NRS 284.3627.

2. The Commission shall adopt regulations further defining "catastrophe" to ensure that the term is limited to serious calamities."

NRS 284.3621 states, "Catastrophic leave: Account for catastrophic leave; transfer of hours to account; limitations on transfers; transfers between branches of government.

1. Each appointing authority may establish an account for catastrophic leave.

2. An employee of an appointing authority may request, in writing, that a specified number of hours of the employee's accrued annual or sick leave be transferred from the employee's account to the account for catastrophic leave.

3. An employee may not transfer to the account for catastrophic leave any hours of sick leave if the balance in the employee's account after the transfer is less than 240 hours.

4. The maximum number of hours which may be transferred by an employee in any 1 calendar year is 120. The minimum number of hours which may be transferred in any 1 calendar year is 8.

5. An employee may transfer hours to any such account for catastrophic leave for use by a particular employee in any branch of State Government who is eligible to receive them. A record of the source and number of hours of leave transferred among different appointing authorities for this purpose and the date of the transfer must be maintained by each appointing authority. Leave transferred in excess of the amount approved for use by a particular employee must be returned to the employee's account from which it originated. The Commission shall, by regulation, determine the procedure to return excess leave.

6. Any hours of annual or sick leave which are transferred from any employee's account to the account for catastrophic leave and not designated for use by a particular employee may not be returned or restored to the originating employee. This subsection does not prevent the employee from receiving leave pursuant to NRS 284.3622."

NRS 284.3622 states, “Catastrophic leave: Request for transfer to employee of hours from account for catastrophic leave.

1. An employee of an appointing authority may request, in writing, that a specified number of hours of leave be transferred from the account for catastrophic leave to the employee’s account. The maximum number of hours that may be transferred to an employee pursuant to this section is 1,040 in any 1 calendar year.

2. The request must include:

(a) The employee’s name, title and classification; and

(b) A description of the catastrophe and the expected duration of leave required for that catastrophe.

3. An employee may not receive any leave from the account for catastrophic leave until the employee has used all the employee’s accrued annual, sick and compensatory leave.

4. An employee who receives leave from the account for catastrophic leave is entitled to payment for that leave at a rate no greater than the employee’s own rate of pay.”

NRS 284.3623 states, “Catastrophic leave: Approval of transfer of hours to employee. The appointing authority may approve the transfer of a specified number of hours of leave from the account for catastrophic leave to the account of any employee who the appointing authority determines is eligible to receive such leave.”

NRS 284.3624 states, “Catastrophic leave: Review of status of employee regarding catastrophe; termination of leave; disposition of hours not used.

1. The appointing authority shall review the status of the employee regarding the catastrophe and determine when the need to take leave for the catastrophe no longer exists.

2. The appointing authority shall not grant any hours of leave from the account for catastrophic leave after:

(a) The need to take leave for the catastrophe ceases to exist; or

(b) The employee who is receiving the leave resigns or the employment of the employee with the appointing authority is terminated.

3. Any leave which the employee received from the account for catastrophic leave which was not used at the time the need to take leave for the catastrophe ceases to exist or upon the resignation or termination of the employment of the employee must be returned to the account for catastrophic leave.”

NRS 284.3625 states, “Catastrophic leave: Maintenance of records; reports to Administrator. Each appointing authority shall maintain records and report to the Administrator any information concerning the use of an account for catastrophic leave to evaluate the effectiveness, feasibility and cost to carry out the provisions of NRS 284.362 to 284.3629, inclusive.”

NRS 284.3626 states, “Catastrophic leave: Regulations of Commission. The Commission shall adopt regulations to carry out the provisions of NRS 284.362 to 284.3629, inclusive.”

NRS 284.3628 states, “Committee on Catastrophic Leave: Chair and Vice Chair; quorum; rules; hearings; Secretary.

1. The members of the Committee shall elect a Chair and Vice Chair from among their members. After the initial election, the Chair and Vice Chair serve in the office for a term of 1 year beginning on July 1 of each year. If a vacancy occurs in the office of Chair or Vice Chair, the members of the Committee shall elect a Chair or Vice Chair from among their members to serve for the remainder of the unexpired term.

2. Any three members of the Committee constitute a quorum, and a majority vote of the quorum is required to take action with respect to any matter.
3. The Committee shall adopt:
 - (a) Rules for its own management; and
 - (b) Such rules of practice and procedure as are necessary to carry out its duties.
4. The Committee shall hold such hearings as are necessary to carry out the provisions of NRS 284.3629.
5. The Administrator or the designee of the Administrator shall act as the nonvoting recording Secretary of the Committee.”

NRS 284.3629 states, “Committee on Catastrophic Leave: Appeal of decision of appointing authority; procedure; representation of employee; finality of decision; inapplicability of Open Meeting Law.

1. An employee aggrieved by any decision of an appointing authority made pursuant to NRS 284.362 to 284.3629, inclusive, may appeal from the decision by filing a written notice of appeal with the Committee within 10 days after the date of the decision.
2. The Committee shall:
 - (a) Within 5 days after receiving a notice of appeal, schedule a hearing on the merits of the appeal for a date not later than 20 days after its receipt of the notice.
 - (b) Cause notice of the date and time of the hearing to be given to the employee and the appointing authority by mail or by personal service.
 - (c) Conduct the hearing expeditiously and informally. Technical rules of evidence do not apply at the hearing.
3. The employee may file a written request with the Committee to give preference in scheduling the hearing. The request must set forth facts showing that the seriousness of the alleged catastrophe requires an expedited appeal.
4. The employee may represent himself or herself at the hearing or be represented by an attorney or other person of the employee’s own choosing.
5. The Committee shall:
 - (a) Render a decision in writing within 10 days after the hearing, setting forth the reasons therefore.
 - (b) Cause notice of the decision to be given to the employee and the appointing authority by mail or by personal service.
6. The decision of the Committee is final and is not subject to judicial review or the procedure for the adjustment of grievances pursuant to NRS 284.384.
7. A meeting or hearing held by the Committee to carry out the provisions of this section and the Committee’s deliberations on the information or evidence received are not subject to any provision of chapter 241 of NRS.”

NAC 284.575 Catastrophic leave: Interpretation of certain statutory terms. (NRS 284.065, 284.155, 284.362, 284.3626) As used in NRS 284.362:

1. “Lengthy convalescence” means a period of disability which an attending physician expects to exceed 10 consecutive weeks.
 2. “Life threatening” means a condition which is diagnosed by a physician as creating a substantial risk of death.
- (Added to NAC by Dep’t of Personnel, eff. 8-14-90; A by R146-01, 1-18-2002)

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 she or a member of his or her immediate family experiences a catastrophe and the employee has used all of his or her accrued leave.

2. An employee who is affected by a catastrophe and has used or is about to use all of his or her leave may request, on the appropriate form, the transfer of leave to an account for catastrophic leave for his or her personal use after the balance of all of his or her 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 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 or her appointing authority on the appropriate form of his or her 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.

6. A donor and his or her 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. Except as otherwise provided in this subsection, 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. If the donor is separated from state service before the excess leave is restored pursuant to this subsection, the excess leave must be transferred to the account for catastrophic leave of the appointing authority of the donor when the donation of leave was made.

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

(a) Each employee under its authority, identified by a number assigned in accordance with subsection 8, donating or using catastrophic leave, his or her 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 6, or used by the employee; and

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

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

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

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; R136-12, 10-4-2013)

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

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

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

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

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

NRS 284.360 states, “Leave of absence without pay.

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

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

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

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

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

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

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

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

(b) Has recently adopted a child,

→ must be granted, upon request, a leave of absence without pay for a period not to exceed 12 weeks. Such a request by natural parents must be submitted at least 3 months before the date upon which the requested leave will begin, unless a shorter notice is approved by the employer.

Such a request by adoptive parents must be submitted not fewer than 2 working days after the parents receive notice of the approval of the adoption. This subsection does not affect the rights of an employee set forth in NRS 284.350 or 284.355.

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

NRS 281.390 “Sick leave of public employees: Election of benefits; amount limited when eligible for benefits for industrial or occupational disease.” may be found preceding NAC 284.5385.

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

1. Elect to receive payment for all or part of the difference between his or her normal pay and the benefits received by:

- (a) Using his or her accrued sick leave as provided in subsection 1 or 3 of NRS 281.390;
- (b) Using his or her accrued compensatory time;
- (c) Using his or her accrued annual leave if he or she:

(1) Is on family and medical leave for a serious health condition that prevents him or her from performing one or more of the essential functions of his or her position; or

(2) Elected to use his or her accrued sick leave pursuant to NRS 281.390 and has exhausted all of his or her accrued sick leave; or

(d) Using catastrophic leave if he or she has exhausted all of his or her accrued annual leave, sick leave and compensatory time and his or her request for catastrophic leave has been approved pursuant to NAC 284.576; or

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

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

NRS 616C.475 states, “Amount and duration of compensation; limitations; requirements for certification of disability; offer of light-duty employment.

1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his or her dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.

2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his or her dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his or her dependents are entitled to receive such benefits when the injured employee is released from incarceration if the injured employee is certified as temporarily totally disabled by a physician or chiropractor.

3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within 14 working days after receipt of the initial certification of disability and regularly thereafter.

4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.
5. Payments for a temporary total disability must cease when:
 - (a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;
 - (b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or
 - (c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.
6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.
7. A certification of disability issued by a physician or chiropractor must:
 - (a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;
 - (b) Specify whether the limitations or restrictions are permanent or temporary; and
 - (c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 or 4 of NRS 616C.090.
8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of the employee's accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:
 - (a) Is substantially similar to the employee's position at the time of his or her injury in relation to the location of the employment and the hours the employee is required to work;
 - (b) Provides a gross wage that is:
 - (1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his or her injury; or
 - (2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his or her injury; and
 - (c) Has the same employment benefits as the position of the employee at the time of his or her injury."

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

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

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

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

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

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

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

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

NRS 392.4577 states, "Employer required to grant leave to parent to participate in school conferences and other school-related activities; conditions; exception.

1. Except as otherwise provided in subsection 5, an employer shall grant a parent, guardian or custodian of a child who is enrolled in a public school leave from his or her place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:

(a) Attend parent-teacher conferences;

(b) Attend school-related activities during regular school hours;

(c) Volunteer or otherwise be involved at the school in which his or her child is enrolled during regular school hours; and

(d) Attend school-sponsored events.

↳ The leave must be at a time mutually agreed upon by the employer and the employee.

2. An employer may require:

(a) An employee to provide a written request for the leave at least 5 school days before the leave is taken; and

(b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in public school.

5. The provisions of this section do not apply if an employee is afforded pursuant to the provisions of a collective bargaining agreement:

(a) At least 4 hours of leave or more per school year for the purposes set forth in subsection 1 and subject to the same provisions as subsections 2, 3 and 4; and

(b) Substantially similar protections and remedies for violations by the employer as those that are set forth in NRS 392.920.

6. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year."

NRS 392.920 states, "Employer prohibited from threatening or taking retaliatory action against parent for parent's participation in certain school conferences and school-related activities; penalty; authorization for parent to file claim with Labor Commissioner.

1. It is unlawful for an employer or an agent of the employer to:

(a) Terminate the employment of, or to demote, suspend or otherwise discriminate against, a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the school attended by the child;

(2) Is notified during his or her work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to NRS 392.4577 if the employer is subject to the requirements of that section; or

(b) Assert to the person that his or her appearance or prospective appearance at such a conference, the receipt of such a notification during his or her work or leave taken pursuant to NRS 392.4577 will result in the termination of his or her employment or a demotion, suspension or other discrimination in the terms and conditions of the person's employment.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may file a claim or complaint with the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a claim or complaint. If the Labor Commissioner determines that the claim or complaint is valid and enforceable, the Labor Commissioner shall provide notice and opportunity for a hearing pursuant to NRS 607.205 to 607.215, inclusive.

4. If the Labor Commissioner issues a written decision in favor of the employee, the Labor Commissioner may award in addition to any remedies and penalties provided in chapters 607 and 608 of NRS:

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

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

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

NRS 394.179 states, “Parental involvement: Employer required to grant leave to parent to participate in school conferences and other school-related activities; conditions; exception.

1. Except as otherwise provided in subsection 5, an employer shall grant a parent, guardian or custodian of a child who is enrolled in a private school leave from his or her place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:

(a) Attend parent-teacher conferences;

(b) Attend school-related activities during regular school hours;

(c) Volunteer or otherwise be involved at the school in which his or her child is enrolled during regular school hours; and

(d) Attend school-sponsored events.

↳ The leave must be at a time mutually agreed upon by the employer and the employee.

2. An employer may require:

(a) An employee to provide a written request for the leave at least 5 school days before leave is taken; and

(b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the private school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in private school.
5. The provisions of this section do not apply if an employee is afforded pursuant to the provisions of a collective bargaining agreement:
 - (a) At least 4 hours of leave or more per school year for the purposes set forth in subsection 1 and subject to the same provisions as subsections 2, 3 and 4; and
 - (b) Substantially similar protections and remedies for violations by the employer as those that are set forth in NRS 394.1795.
6. As used in this section, “employer” means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.”

NAC 284.578 Leave of absence without pay. (NRS 284.065, 284.155, 284.345, 284.360)

1. Except as otherwise provided in NRS 284.360, an appointing authority may grant a leave of absence without pay to an employee for not more than 1 year for any satisfactory reason.
2. The Commission may grant leaves of absence without pay in excess of 1 year for purposes deemed beneficial to the public service.
3. An appointing authority may require an employee on leave of absence without pay to submit every 2 weeks a statement of his or her intent to return to work.
4. If the reason for granting the leave no longer exists, the appointing authority may revoke the leave after notifying the employee in writing and allowing, so far as is practicable, not less than 5 working days after the date of notification for the employee to return to work.
5. An employee shall request leave without pay at least 30 days in advance of when the need for the leave is foreseeable, if practicable.
6. An employee may not use leave without pay in lieu of sick leave or annual leave without approval of the appointing authority.
7. An employee who is using leave pursuant to the Family and Medical Leave Act may not use leave without pay until the employee has exhausted all the accrued sick leave, accrued annual leave, accrued compensatory time and catastrophic leave that the employee is eligible to use based on the nature of the absence, as required by NAC 284.5811.

[Personnel Div., Rule VII § E subsecs. 1-4, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 3-23-94; 10-27-97; A by Personnel Comm’n by R145-05, 12-29-2005; R060-09, 11-25-2009)

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

1. Upon the request of an appointing authority, the Department of Administration may authorize the appointing authority to place a nonexempt employee on a leave of absence without pay for a fiscal emergency of the State or an agency during any period for which the Governor has declared that the State or an agency will experience a shortfall in revenue or for any other reason is in a state of fiscal emergency.
2. All employees in the same classification must be treated equitably with respect to being placed on a leave of absence without pay pursuant to this section unless an employee volunteers to be placed on such a leave of absence.
3. The appointing authority shall reduce the pay of an employee who is placed on a leave of absence without pay pursuant to subsection 1 by an amount equal to the pay that the employee would otherwise receive for the hours for which the leave is approved.
4. The hours for which payment is withheld pursuant to subsection 3:

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

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

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

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

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

(Added to NAC by Dep't of Personnel, eff. 9-16-92; A 11-12-93; 3-23-94; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003; **R043-15; 12-21-2015**)

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

1. For the purposes of NAC 284.523 to 284.598, inclusive, the Division of Human Resource Management hereby adopts by reference:

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

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

2. A copy of the Family and Medical Leave Act, the Fair Labor Standards Act or 29 C.F.R. Part 541 may be obtained at no charge from the United States Government, Wage and Hour Division, P.O. Box 3136, Reno, Nevada 89505-3136, telephone (775) 784-5200, or from the United States Government, Wage and Hour Division, 1050 Flamingo Road, Suite 321, Las Vegas, Nevada 89119, telephone (702) 699-5581.

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

INFORMATIONAL NOTE: Based on the federal Family and Medical Leave Act (29 C.F.R. § 825.110 (b)(3)), catastrophic leave should be counted when determining the employee's 12 months of employment for FMLA eligibility. However, catastrophic leave is not counted in the calculation when determining if the employee has "worked" 1,250 hours in the previous 12 months. The hours an employee was in "paid status" (NAC 284.0742) are used to determine the hours "worked."

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

1. Except as otherwise provided in subsection 2, an employee who is entitled to take leave pursuant to the Family and Medical Leave Act is limited to a total of 12 weeks of such leave during a rolling 12-month period. The rolling 12-month period is measured backward from the date an employee uses any leave pursuant to the Family and Medical Leave Act.

2. An employee who is entitled to take leave pursuant to the Family and Medical Leave Act to care for a covered service member is limited to a total of 26 weeks of such leave during a single 12-month period.

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

4. Except as otherwise provided in subsections 5 and 6, an employee who meets the requirements for eligibility for and who is taking leave pursuant to the Family and Medical Leave Act must exhaust all the accrued sick leave, accrued annual leave, accrued compensatory time and

catastrophic leave that the employee is eligible to use based on the nature of the absence before using leave without pay. Any accrued sick leave, accrued annual leave, accrued compensatory time, catastrophic leave and holiday pay to which the employee is entitled pursuant to NAC 284.255 runs concurrently with the leave granted pursuant to the Family and Medical Leave Act if the employee is otherwise eligible for that sick leave, annual leave, compensatory time, catastrophic leave or holiday pay.

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

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

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

6. If an employee is absent from work as the result of a non work-related injury or illness, the employee is receiving compensation for the injury or illness from a disability benefit plan and the employee meets the requirements for eligibility for leave due to a serious health condition pursuant to the Family and Medical Leave Act:

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

(b) The employee may use paid leave for the time that the employee is being compensated for the non-work related injury or illness if the employee has entered into an agreement with the appointing authority to use the paid leave. If the employee and the appointing authority have not entered into such an agreement, the employee may not elect to use and the appointing authority may not require the employee to use paid leave for that time.

7. An appointing authority may require an employee to provide medical or other appropriate documentation to support his or her need for leave pursuant to the Family and Medical Leave Act.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R096-03, 10-30-2003; R145-05, 12-29-2005; R060-09, 11-25-2009; R021-13, 10-23-2013)

NAC 284.5813 Family and medical leave: Records. (NRS 284.065, 284.155, 284.345)
Each appointing authority shall maintain accurate records of family and medical leave used by its employees, including any form approved for requesting family and medical leave.

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

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

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

(a) An employer; or

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

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

2. A person discharged from employment in violation of subsection 1 may commence a civil action against his or her employer and obtain:
 - (a) Wages and benefits lost as a result of the violation;
 - (b) An order of reinstatement without loss of position, seniority or benefits;
 - (c) Damages equal to the amount of the lost wages and benefits;
 - (d) Reasonable attorney's fees fixed by the court; and
 - (e) Punitive or exemplary damages in an amount not to exceed \$50,000.
3. If a person is summoned to appear for jury duty, the employer and any employee, agent or officer of the employer shall not, as a consequence of the person's service as a juror or prospective juror:
 - (a) Require the person to use sick leave or vacation time; or
 - (b) Require the person to work:
 - (1) Within 8 hours before the time at which the person is to appear for jury duty; or
 - (2) If the person's service has lasted for 4 hours or more on the day of his or her appearance for jury duty, including the person's time going to and returning from the place where the court is held, between 5 p.m. on the day of his or her appearance for jury duty and 3 a.m. the following day.

➔ Any person who violates the provisions of this subsection is guilty of a misdemeanor.
4. Each summons to appear for jury duty must be accompanied by a notice to the employer of the person summoned. The notice must inform the employer that the person has been summoned for jury duty and must include a copy of the provisions of subsections 1, 2 and 3. The person summoned, if the person is employed, shall give the notice to his or her employer at least 3 days before the person is to appear for jury duty.
5. Except as otherwise provided in this section, any person who in any manner dissuades or attempts to dissuade a person who has received a summons to appear for jury duty from serving as a juror is guilty of a misdemeanor."

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

1. Any person, corporation, partnership, association or other entity who is:
 - (a) An employer; or
 - (b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment,

➔ of a person who is a witness or who has received a summons to appear as a witness in a judicial or administrative proceeding, who deprives the witness or person summoned of his or her employment, as a consequence of his or her service as a witness or prospective witness, or who asserts to the witness or person summoned that his or her service as a witness or prospective witness will result in termination of his or her employment, is guilty of a misdemeanor.
2. A person discharged from employment in violation of subsection 1 may commence a civil action against his or her employer and obtain:
 - (a) Wages and benefits lost as a result of the violation;
 - (b) An order of reinstatement without loss of position, seniority or benefits;
 - (c) Damages equal to the amount of the lost wages and benefits; and
 - (d) Reasonable attorney's fees fixed by the court."

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

1. Except as otherwise provided in subsection 2, civil leave with pay must be granted to any employee who is required, during his or her normal hours of work, to serve:
 - (a) On a jury; or

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

↪ The period of the leave must not be deducted from the balance of the employee's sick leave or annual leave. An employee who is granted the leave must receive his or her regular pay while on the leave and may retain any fee paid to him or her for serving as a juror or witness.

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

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

4. In accordance with NRS 6.190, an agency shall attempt to adjust the working hours of employees who work night shifts and are called as witnesses or for jury duty during the day. If an agency feels this is impractical, in the case of jury duty, it shall petition the court to excuse the juror.

[Personnel Div., Rule VII § E subsec. 5, eff. 8-11-73]—(NAC A by Dep't of Personnel, 12-13-83, 10-26-84; 5-27-86; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005; R203-07, 4-17-2008)

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

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

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

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

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

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

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

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

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

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

NRS 281.147 states, "Leave of absence for duty as American National Red Cross disaster technician. Any public officer or employee of the State or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is classified by the American

National Red Cross as a disaster technician must be relieved from the officer's or employee's duties, upon the request of the American National Red Cross and the approval of the employer of the officer or employee, to assist the American National Red Cross during an emergency or disaster described in NRS 414.020 which occurs in this state or California, Oregon, Idaho, Utah or Arizona, without loss of the officer's or employee's regular compensation for a period of not more than 15 working days in any calendar year. No such absence may be a part of the annual vacation of the public officer or employee which is provided for by law."

NRS 281.149 states, "Leave of absence for duty as emergency communications technician.

1. Any public officer or employee of the State or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is an emergency communications technician must be relieved from the officer's or employee's duties, upon the request of the Division of Emergency Management of the Department of Public Safety or a local organization for emergency management and the approval of the employer of the officer or employee, to assist the division or local organization for emergency management during a disaster or emergency that occurs in this state, California, Oregon, Idaho, Utah or Arizona, without loss of the officer's or employee's regular compensation for a period of not more than 15 working days in any calendar year. No such absence may be a part of the annual vacation of the public officer or employee which is provided for by law.

2. As used in this section:

(a) "Disaster" has the meaning ascribed to it in NRS 414.0335.

(b) "Emergency" has the meaning ascribed to it in NRS 414.0345.

(c) "Emergency communications technician" means a person who is:

(1) Licensed by the Federal Communications Commission as an amateur radio operator;

and

(2) A member of:

(I) The Radio Amateur Civil Emergency Service or a successor organization sponsored by the agency of the Federal Government for emergency management; or

(II) The Amateur Radio Emergency Service or a successor organization sponsored by the American Radio Relay League or its successor.

(d) "Local organization for emergency management" has the meaning ascribed to it in NRS 414.036."

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

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

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

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

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

(d) Volunteer ambulance drivers or attendants,

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

2. As used in this section, "volunteer ambulance driver or attendant" means a person who is a driver of or attendant on an ambulance owned or operated by:

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

NRS 414.070 states in part, “Additional powers of Governor during emergency or disaster. The provisions of this section are operative only during the existence of a state of emergency or declaration of disaster. The existence of such an emergency or disaster may be proclaimed by the Governor or by resolution of the Legislature if the Governor in his or her proclamation, or the Legislature in its resolution, finds that an attack upon the United States has occurred or is anticipated in the immediate future, or that a natural, technological or man-made emergency or disaster of major proportions has actually occurred within this State, and that the safety and welfare of the inhabitants of this State require an invocation of the provisions of this section. Any such emergency or disaster, whether proclaimed by the Governor or by the Legislature, terminates upon the proclamation of the termination thereof by the Governor, or the passage by the Legislature of a resolution terminating the emergency or disaster...”

NAC 284.587 Civil leave with pay for certain public officers or employees or when absence is necessary to meet state of emergency or declaration of disaster. (NRS 284.065, 284.155, 284.345) Civil leave with pay must be granted to an employee who meets the requirements of NRS 281.149 or 284.357, and may also be granted by the appointing authority to an employee whose absence from the job is necessary to meet a state of emergency or declaration of disaster proclaimed by the Governor or by resolution of the Legislature pursuant to NRS 414.070.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A by R146-01, 1-18-2002; A by Personnel Comm’n by R133-12, 10-4-2013)

NRS 281.145 states, “Leave of absence for military duty.

1. Except as otherwise provided in subsection 2, any public officer or employee of the State or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is an active member of the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Air Force Reserve or the Nevada National Guard must be relieved from the officer’s or employee’s duties, upon the officer’s or employee’s request, to serve under orders ***including, without limitation, orders for training or deployment,*** without loss of the officer’s or employee’s regular compensation for a period of not more than ***the number of hours equivalent to 15 working days in any 12-month period, as prescribed in subsection 3 or 4, as applicable.*** No such absence may be a part of the ***officer’s or*** employee’s annual vacation provided for by law.

2. ***In addition to the leave authorized pursuant to subsection 1, any*** public officer or employee of the State or any agency thereof whose work schedule includes Saturday or Sunday and who is an active member of the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Air Force Reserve or the Nevada National Guard must be relieved from the officer’s or employee’s duties, upon the officer’s or employee’s request, for a period of not more than ***the number of hours equivalent to 24*** working days in any ***12-month period, as prescribed in subsection 3, to serve under orders for training that is scheduled on a Saturday or Sunday, including, without limitation, monthly and annual training.*** No such absence may be a part of the ***officer’s or*** employee’s annual vacation provided for by law. ***An officer or employee is not entitled to receive his or her regular compensation for any hours in a working day in which***

the officer or employee serves under orders for training pursuant to this subsection if his or her military pay for the service is equal to or exceeds his or her regular compensation for those hours. If the officer's or employee's military pay does not exceed his or her regular compensation for those hours, the officer or employee is entitled to receive, in addition to his or her military pay for those hours, the difference between the regular compensation that the officer or employee would have otherwise received as an officer or employee and his or her military pay for those hours. An officer or employee is not entitled to:

(a) Receive any other compensation for which he or she would otherwise be eligible, including, without limitation, compensation pursuant to NRS 284.358; or

(b) Use any annual leave, compensatory time or other paid leave or any unpaid leave that is required as a result of statewide economic conditions,

↳ for any hours for which the officer or employee receives compensation pursuant to this subsection.

3. The Personnel Commission created by NRS 284.030 shall adopt regulations prescribing for each agency of the State the 12-month period during which an officer or employee of the agency is eligible to take the number of working days of leave set forth in subsections 1 and 2.

4. A political subdivision shall establish the 12-month period during which an officer or employee of an agency of the political subdivision or an agency thereof is eligible to take the number of working days of leave set forth in subsection 1.

5. As used in this section:

(a) "Work schedule" means the working days that an officer or employee is regularly assigned to work. The term does not include, without limitation, any temporary change in assigned working days unless the change becomes permanent.

(b) "Working day" means a period of work consisting of the number of hours that a public officer or employee is regularly scheduled to work. The term does not include, without limitation, overtime, or any time in which the officer or employee is on standby status or has been called back to work during his or her scheduled time off."

NRS 284.358 states, "Civil leave with reduced pay when performing active military service in time of war or emergency.

1. An officer or employee in the public service who performs active military service in the Armed Forces of the United States or any other category of persons designated by the President of the United States or the Governor of this State, including, without limitation, the Commissioned Corps of the United States Public Health Service, in time of war or emergency is entitled to civil leave with reduced pay for the period of such service.

2. The pay that an officer or employee is entitled to receive pursuant to this section is the difference between the pay that the officer or employee would have otherwise received as an officer or employee and the officer's or employee's pay for active military service. If the officer's or employee's pay for active military service is greater than the pay that the officer or employee would have otherwise received as an officer or employee, the officer or employee is not entitled to receive any additional pay pursuant to this section while the officer or employee performs active military service.

3. As used in this section, "pay for active military service" means the base pay that a person receives for active military service as determined by the rank or grade of the person. The term does not include any other type of pay that a person may be entitled to receive for active military service, including, without limitation, imminent danger pay or family separation allowance."

NRS 284.359 states, “Military leave of absence; reinstatement. A permanent or probationary employee who performs active military service under the provisions of any national military service or training act, or who voluntarily serves in the Armed Forces of the United States in time of war, or in such types of service as the Commission by regulation may prescribe, is, upon application, entitled to leave of absence without pay for the period of such service plus a period not to exceed 90 days. If within that period the employee applies for reinstatement, the employee must be reinstated to the employee’s former class of position, or to a class of position having like seniority, status and pay, or, if those positions have been abolished, to the nearest approximation thereof consistent with the circumstances.”

NAC 284.5875 Military leave with pay. (NRS 281.145, 284.065, 284.345)

1. *Except as otherwise provided in subsection 2, the 12-month period during which a public officer or employee of an agency of the State is eligible to take the number of working days of leave set forth in subsection 1 or 2 of NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, at page 1914, is a calendar year.*

2. *The 12-month period during which a public officer or employee of the Office of the Military is eligible to take the number of working days of leave set forth in subsection 1 or 2 of NRS 281.145, as amended by section 1 of Assembly Bill No. 388, chapter 340, Statutes of Nevada 2015, at page 1914, is a federal fiscal year.*

(Added to NAC by Personnel Comm’n by R138-13, eff. 6-23-14; **R039-15, 10-27-15**)

NRS 284.4065 “Screening tests: General provisions.” may be found preceding NAC 284.880.

NAC 284.589 Administrative leave with pay. (NRS 284.065, 284.155, 284.345, 284.383, 284.385, 284.390)

1. An appointing authority may grant administrative leave with pay to an employee:

(a) To relieve the employee of his or her 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 or her position;

(c) For up to 30 days to remove the employee from the workplace when he or she has committed or threatened to commit an act of violence;

(d) For up to 2 hours to donate blood;

(e) To relieve the employee of his or her duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065, *as amended by section 8 of Senate Bill No. 62, chapter 225, Statutes of Nevada 2015, at page 1049*; or

(f) To attend a general employee-benefits orientation or an educational session relating to employee benefits, including, without limitation, retirement and deferred compensation.

2. The appointing authority, upon approval of the Risk Management Division, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.

3. If an employee is granted administrative leave with pay pursuant to subsection 1 or 2, the employee must be available:

(a) By telephone to the supervisor of the employee; and

(b) To report to a work site or another location, as directed by the supervisor of the employee, ↪ during regular business hours.

4. Except as otherwise provided in subsection 5, an appointing authority or the Division of Human Resource Management may grant administrative leave with pay to an employee for any of the following purposes:

(a) His or her participation in, or attendance at, activities which are directly or indirectly related to the employee's job or employment with the State but which do not require him or her to participate or attend in an official capacity as a state employee.

(b) His or her safety during an emergency when employees have been authorized by the Governor not to report to work or to leave work before the end of their shifts during the emergency, including, without limitation, emergencies relating to enemy attacks or other hostile actions, natural causes or other catastrophes, except for employees who are designated as essential and notified that they are required to report to work or remain at work.

(c) Closure of the employee's office or work site caused by a natural disaster, pandemic 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.

(d) Closure, as a result of a pandemic, of a school or a center or facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result of a pandemic, of a program attended by the employee's dependent child. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

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

(f) His or her appearance as a witness at a hearing ***regarding a matter described in subparagraph (1), (2) or (3) of paragraph (e) of subsection 6.***

(g) His or her appearance to provide testimony at a meeting of the Commission.

5. An appointing authority or the Division of Human Resource Management shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (e), (f) or (g) of subsection 4 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed 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 the appointing authority or adversely impact the provision of services to clients or to the public.

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

(a) The initial appointment and one follow-up appointment if the employee receives counseling through an employee assistance program, including, without limitation, consultations provided in-person or telephonically.

(b) His or her attendance at a health fair or related event coordinated by the Public Employees' Benefits Program.

(c) His or her participation in an official capacity as a member of a committee or board created by statute on which he or she 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 ***any hearing described in paragraph (e).***

(e) ***The appearance of the employee as a party at a hearing regarding:***

(1) An alleged reprisal or retaliatory action against the employee for disclosing an improper governmental action as provided in NRS 281.641;

(2) *An involuntary transfer of the employee as provided in NRS 284.376; or*

(3) *A suspension, demotion or dismissal of the employee as provided in NRS 284.390 and NAC 284.6561.*

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; A by Personnel Comm'n by R038-03, 10-30-2003; R183-03, 1-27-2004; R145-05, 12-29-2005; R141-07, 1-30-2008; R061-09 & R081-09, 10-27-2009; R063-09, 11-25-2009; R058-10, 10-15-2010; R137-13, 6-23-14; **R042-15, 12-21-2015**)

NRS 284.345 states, "Regulations for attendance and leave of absence; personnel of Nevada System of Higher Education.

1. Except as otherwise provided in subsection 2, the Commission shall adopt regulations for attendance and leave with or without pay or reduced pay in the various classes of positions in the public service.

2. The Board of Regents of the University of Nevada shall adopt regulations for attendance and for leave with or without pay or with reduced pay, sabbatical leave, sick leave, emergency leave, annual leave, terminal leave, military leave and such other leave as the Board of Regents determines to be necessary or desirable for officers and members of the faculty of the Nevada System of Higher Education. Sabbatical leave with pay may not be granted to more than 2 percent of the teaching personnel of a branch or facility of the System with the rank of instructor or higher in any 1 year. No sabbatical leave with pay may be granted unless the person requesting the leave agrees in writing with the branch or facility to return to the branch or facility after the leave for a period not less than that required by the person's most recent contract of employment if the Nevada System of Higher Education desires the person's continued service."

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

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

2. The provisions of this section do not apply to an officer or employee of the Legislative Branch of Government, except an officer or employee of the legislative library."

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

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

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

3. An exempt classified employee or exempt unclassified employee must not account for an absence for a full workday by the use of a combination of accrued sick leave and accrued annual leave unless he or she:

(a) Is on family and medical leave; or

(b) Has been approved for catastrophic leave and the catastrophic leave is used as a supplement for the remaining sick and annual leave.

4. If an exempt classified employee or exempt unclassified employee does not have accrued leave appropriate to the absence in an amount sufficient to account for an authorized absence, the employee must be placed on leave of absence without pay for that workday unless he or she is approved to use catastrophic leave.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

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 unauthorized or 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 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; R062-09, 10-27-2009)

INFORMATIONAL NOTE: Certain personnel actions, such as transfers, authorized leave without pay and those separations listed below in NAC 284.598, do not constitute a break in continuous service but may result in adjustments to pay, benefits computation of seniority, and/or probationary periods as provided in this chapter.

NAC 284.598 Breaks in continuous service. (NRS 284.065, 284.155) The following are not breaks in continuous service:

1. Military leave for active service if the person returns from leave within 90 calendar days after an honorable discharge from military service.

2. A layoff if the employee is reemployed within 1 year after the date he or she was laid off.

3. A seasonal layoff if the employee is reemployed within 1 year after the end of the previous seasonal appointment.

4. A separation as a result of a permanent disability arising from a work-related injury or occupational disease, if the employee is reemployed within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013.

[Personnel Div., Rule VII § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 8-26-83; 4-19-88; 3-1-96; A by Personnel Comm'n by R022-05, 10-31-2005; R142-05 & R145-05, 12-29-2005)

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Division of Human Resource Management must be sent to the employee and a copy placed in the employee's personnel folder which is filed with the Division of Human Resource Management.

[Personnel Div., Rule XII § A, eff. 8-11-73; + Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-16-95; A by Personnel Comm'n by R056-10, 10-26-2011)

NRS 284.385 states, "Dismissals, demotions and suspensions.

1. An appointing authority may:

(a) Dismiss or demote any permanent classified employee when the appointing authority considers that the good of the public service will be served thereby.

(b) Except as otherwise provided in NRS 284.148, suspend without pay, for disciplinary purposes, a permanent employee for a period not to exceed 30 days.

2. Before a permanent classified employee is dismissed, involuntarily demoted or suspended, the appointing authority must consult with the Attorney General or, if the employee is employed by the Nevada System of Higher Education, the appointing authority's general counsel, regarding the proposed discipline. After such consultation, the appointing authority may take such lawful action regarding the proposed discipline as it deems necessary under the circumstances.

3. A dismissal, involuntary demotion or suspension does not become effective until the employee is notified in writing of the dismissal, involuntary demotion or suspension and the reasons therefor. The *Commission shall adopt regulations setting forth the procedures for properly notifying the employee of the dismissal, involuntary demotion or suspension and the reasons therefor.*

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

NAC 284.642 Suspensions and demotions. (NRS 284.065, 284.155, 284.383, 284.385, 284.390)

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 284.655 to 284.6563, inclusive, 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, 284.390)

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 284.655 to 284.6563, inclusive, 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; A by Personnel Comm'n by R147-06, 12-7-2006; R063-09, 11-25-2009; 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.
 17. Falsification of any records.
 18. Misrepresentation of official capacity or authority.
 19. Violation of any safety rule adopted or enforced by the employee's appointing authority.
 20. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his or her appointing authority.
 21. Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.
 22. Failure to participate in any investigation of alleged discrimination, including, without limitation, an investigation concerning sexual harassment.
 23. Failure to participate in an administrative investigation authorized by the employee's appointing authority.
- [Personnel Div., Rule XII § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 12-26-91; 7-1-94; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; R147-06, 12-7-2006)

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

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

NAC 284.653 Driving under the influence; unlawful acts involving controlled substance. (NRS 284.065, 284.155, 284.383, 284.385, 284.407)

1. An employee is subject to any disciplinary action set forth in subsection 2, as determined by the appointing authority, if the employee is convicted of any of the following offenses:
 - (a) If the offense occurred while the employee was driving a state vehicle, or a privately owned vehicle on state business:
 - (1) Driving under the influence in violation of NRS 484C.110; 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 or she is employed;

(3) Suspension for 30 calendar days; or

(4) Suspension for 30 calendar days and demotion.

(b) For the second offense within 5 years, dismissal.

3. An employee who is suspended or demoted pursuant to subsection 2 must:

(a) Agree to be evaluated through an employee assistance program; and

(b) Complete any program of treatment recommended by the evaluation.

4. If an employee fails to complete the program of treatment, the appointing authority must dismiss the employee.

5. Pursuant to NRS 193.105, an employee who is convicted of violating any state or federal law prohibiting the sale of a controlled substance must be dismissed.

6. An employee must report a conviction of any offense described in this section to his or her appointing authority within 5 working days after it occurs. If the employee fails to make that report, he or she 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 R147-06, 12-7-2006; R141-07, 1-30-2008)

NAC 284.655 Investigation; waiver. (NRS 284.065, 284.155, 284.387)

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 284.656 Notice. (NRS 284.065, 284.155, 284.383, 284.385, 284.390) Except as otherwise provided in NAC 284.6563, if an appointing authority proposes that a permanent employee be dismissed, suspended or demoted, the following procedure for providing notice of the proposed action must be followed:

1. The employee must be given at least 10 working days' written notice of the proposed action on the form provided by the Division of Human Resource Management.

2. The notice may be given in person or by *means of any delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received*. If the notice *is sent by means of a delivery service, the notice* must be *sent* to the employee's last known address. *The notice must not be given by electronic mail, the use of social media or other electronic means*. If the notice is returned without *having been received* by the employee, the employee's date of receipt shall be deemed to be the third day after the date *the notice was sent*.

3. The notice must:

- (a) Specify the proposed date on which the action is effective.
 - (b) Inform the employee that a hearing has been scheduled on his or her behalf in the manner prescribed in NAC 284.6561 and specify the date, time and place of the hearing.
 - (c) Specify the charges, the reasons for them and the cause of action contained in NAC 284.646 or 284.650 on which the proposed action is based.
4. The notice of the proposed action must be signed by the appointing authority or his or her designated representative before the notice is given to the employee.
 5. Upon its receipt, the employee must be asked to sign the notice. If he or she refuses to sign the notice, the refusal must be noted on the notice. The employee's signature is not an admission by him or her of any of the allegations set forth in the notice.
 6. If the employee does not understand the reasons for the proposed action or the procedures related to disciplinary actions, including, without limitation, the right to notice, a hearing and an appeal, the employee may seek an explanation from the appointing authority or another person in the agency familiar with the procedure.
 7. ***As used in this section, "social media" includes, without limitation, any electronic service or account or electronic content, including, without limitation, any video, photograph, blog, video blog, podcast, instant message, text message, electronic mail program or service, online service or Internet website profile.***

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 7-21-89; 8-1-91; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 11-12-93; 11-16-95; 11-16-95; A by Personnel Comm'n by R063-09, 11-25-2009; **R042-15, 1-1-2016**)

NAC 284.6561 Hearing. (NRS 284.065, 284.155, 284.383, 284.385, 284.390) Except as otherwise provided in NAC 284.6563, if an appointing authority proposes that a permanent employee be dismissed, suspended or demoted, the following procedure for a hearing before the proposed action must be followed:

1. A hearing must be scheduled on the employee's behalf unless waived in writing by the employee pursuant to subsection 2. The hearing must be scheduled to take place not earlier than 7 working days after the written notice of the proposed action is delivered or deemed received pursuant to subsection 2 of NAC 284.656. The hearing must not be scheduled on a day which is not a regular working day for the employee. If the appointing authority or his or her designated representative and the employee agree, the date of the hearing may be changed.
2. The employee may waive the right to a hearing before the proposed action in writing. If the employee makes such a waiver, the employee may not be dismissed, suspended or demoted before the proposed effective date. The waiver does not waive the employee's right to an appeal after the action is taken.
3. The appointing authority or his or her designated representative shall conduct the hearing. The designated representative must be a person with the authority to recommend a final decision to the appointing authority. The appointing authority shall render the final decision.
4. At any time after receiving the notice and before the hearing, the employee may examine all materials that are to be used by the person conducting the hearing. The employee is entitled to administrative leave with pay as provided in NAC 284.589 to prepare for the hearings regarding his or her suspension, demotion or dismissal.
5. This process is an informal proceeding between the two parties, the appointing authority and his or her designated representative and the employee, who meet together to discuss the proposed action. Witnesses are not allowed to attend, but each party may be accompanied by a person of his or her choice.

6. The employee may respond both orally and in writing to the appointing authority or his or her designated representative at the hearing.

7. The employee must be:

(a) Given a copy of the finding or recommendation, if any, resulting from the hearing; and

(b) Informed, in writing, of the appointing authority's decision regarding the proposed action on or before the effective date of the action.

8. An employee who has been dismissed, demoted or suspended may request a hearing before the hearing officer of the Division of Human Resource Management pursuant to NRS 284.390 within 10 working days after the effective date of his or her dismissal, demotion or suspension. Such a request must be addressed to the Administrator and submitted on the form provided by the Division of Human Resource Management.

(Added to NAC by Personnel Comm'n by R063-09, eff. 11-25-2009; A by R011-11, 10-26-2011)

NAC 284.6563 Notice and hearing not required in certain circumstances. (NRS 284.065, 284.155, 284.383, 284.385, 284.390)

1. The procedures specified in NAC 284.656 and 284.6561 need not be followed before dismissing or suspending a permanent employee if the circumstances give the appointing authority a reasonable cause to believe that the retention of an employee on active duty poses a threat to life, limb or property or may be seriously detrimental to the interests of the State.

2. If the circumstances set forth in subsection 1 are present, the appointing authority may temporarily assign the employee to duties in which those circumstances do not exist or, if the temporary assignment is not feasible:

(a) Immediately place the employee on administrative leave with pay until the procedures specified in NAC 284.656 and 284.6561 have been followed; or

(b) Immediately suspend or dismiss the employee. In this case the appointing authority, his or her designated representative, or the employee's supervisor shall attempt to inform the employee before the action is taken of the charges against him or her and provide the employee with an opportunity to rebut the charges. The procedures specified in NAC 284.656 and 284.6561 must be followed as soon as practicable after the immediate suspension or dismissal.

(Added to NAC by Personnel Comm'n by R063-09, eff. 11-25-2009)

NRS 284.390 states, "Hearing to determine reasonableness of dismissal, demotion or suspension; judicial review.

1. Within 10 working days after the effective date of an employee's dismissal, demotion or suspension pursuant to NRS 284.385, the employee who has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer of the Commission to determine the reasonableness of the action. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's dismissal, demotion or suspension.

2. The hearing officer shall grant the employee a hearing within 20 working days after receipt of the employee's written request unless the time limitation is waived, in writing, by the employee or there is a conflict with the hearing calendar of the hearing officer, in which case the hearing must be scheduled for the earliest possible date after the expiration of the 20 days.

3. The employee may represent himself or herself at the hearing or be represented by an attorney or other person of the employee's own choosing.

4. Technical rules of evidence do not apply at the hearing.

5. After the hearing and consideration of the evidence, the hearing officer shall render a decision in writing, setting forth the reasons therefor.
6. If the hearing officer determines that the dismissal, demotion or suspension was without just cause as provided in NRS 284.385, the action must be set aside and the employee must be reinstated, with full pay for the period of dismissal, demotion or suspension.
7. The decision of the hearing officer is binding on the parties.
8. Any petition for judicial review of the decision of the hearing officer must be filed in accordance with the provisions of chapter 233B of NRS.”

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person referred or information concerning the investigation, arrest or conviction of that person for a violation of any law.

2. An employer or labor organization shall allow an employee or person referred to submit a reasonable written explanation in direct response to any written entry in the records of employment regarding the employee or person. Any such written explanation must be reasonable in length, in a format prescribed by the employer and maintained by the employer or labor organization in the records of employment.

3. An employer or labor organization shall not maintain a secret record of employment regarding an employee or person referred.

4. Upon termination of employment, an employer shall allow an employee to inspect the employee's records of employment within 60 days after his or her termination of employment and shall, if requested by that former employee within that period, furnish the former employee with a copy of those records.

5. An employer or labor organization may only charge an employee or person referred an amount equal to the actual cost of providing access to and copies of his or her records of employment.

6. The employee or person referred shall, if the employee or person contends that any information contained in the records is inaccurate or incomplete, notify his or her employer or the labor organization in writing of that contention. If the employer or labor organization finds that the contention of that employee or person is correct, it shall change the information accordingly.

7. No copies may be furnished to an employee or former employee under this section unless the employee or former employee has been or was employed for more than 60 days.”

NAC 284.718 Confidential records. (NRS 284.065, 284.155, 284.355, 284.407)

1. The following types of information, which are maintained by the Division of Human Resource Management 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 Division of Human Resource Management on the condition that the source remain confidential;

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

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

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

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

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

- (i) Any information contained on a person's application or relating to his or her status as an eligible person; and
- (j) Information in the file or record of employment of a current or former employee which relates to the employee's:
 - (1) Performance;
 - (2) Conduct, including any disciplinary actions taken against the employee;
 - (3) Usage or balance of his or her annual leave and sick leave;
 - (4) Race, ethnic identity or affiliation, sex, genetic information, disability or date of birth;
 - (5) Home telephone number; or
 - (6) Social security number.
- 2. If the employee has requested that his or her personal mailing address be listed as confidential, the employee's file must be so designated and list his or her 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 or her immediate family are confidential.
- 5. Any notes, records, recordings or findings of an investigation conducted by the Division of Human Resource Management relating to sexual harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority are confidential.
- 6. Any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct are confidential.
- 7. Any notes, records, recordings, findings or other information obtained from an internal study conducted by an agency that directly relate to an employee's performance or conduct are confidential.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93; R058-01, 9-6-2001; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004; R024-05, 10-31-2005; R141-07, 1-30-2008; R065-09, 10-27-2009; R055-10, 6-30-2010; R137-12 & R045-13, 10-23-2013)

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

- 1. Except as otherwise provided in this subsection *and subsection 2*, 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 or her 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 *NRS 284.4068, as amended by section 10 of Senate Bill No. 62, chapter 225, Statutes of Nevada 2015, at page 1050, access to information concerning the results of an applicant's screening test which indicate the presence of a controlled substance is limited to the appointing authority or his or her designated representative and the Administrator or his or her designated representative.*

3. Except as otherwise provided in subsections 4 and 5, 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 or her employment file.
- (c) The appointing authority or a designated representative of the agency by which the employee is employed.
- (d) The Administrator or a designated representative.
- (e) An appointing authority, or a designated representative, who is considering the employee for employment in the 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.

4. Information concerning the health, medical condition or disability of an employee or a member of his or her immediate family must be kept separate from the employee's file in a locked cabinet. Except as otherwise provided in subsection **10**, access to such information is limited to the employee, his or her current supervisor, and the appointing authority or a designated representative.

5. Except as otherwise provided in subsection **10**, access to information concerning the employee's usage or balance of annual leave and sick leave is limited to the employee, the employee's immediate supervisor and the employee's appointing authority or the designated representative of the appointing authority.

6. Except as otherwise provided in subsection **10**, access to any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct is limited to:

- (a) The employee.
- (b) The Administrator or a designated representative of the Administrator.
- (c) The appointing authority or a designated representative of the agency with which the employee is employed.
- (d) Persons who are authorized pursuant to any state or federal law or an order of a court.
- (e) The Governor or a designated representative of the Governor.

7. Except as otherwise provided in subsection **10**, access to any notes, records, recordings, findings or other information obtained from an internal study conducted by an agency that directly relate to an employee's performance or conduct is limited to:

- (a) The employee.
- (b) The appointing authority or a designated representative of the agency by which the employee is employed.
- (c) Persons who are authorized pursuant to any state or federal law or an order of a court.
- (d) The Governor or a designated representative of the Governor.

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

9. Upon request, the Division of Human Resource Management will provide the personal mailing address of any employee on file with the Division of Human Resource Management to the State Controller's Office and the Internal Revenue Service.

10. The Administrator or the appointing authority, or a designated representative, shall authorize the release of any confidential records under his or her control which are requested by the Employee-Management 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.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R024-05, 10-31-2005; R141-07, 1-30-2008; R065-09, 10-27-2009, R059-10, 10-15-2010; R137-12 & R045-13, 10-23-2013; **R044-15; 12-21-2015**)

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

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

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

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

PROHIBITIONS AND OFFENSES

NRS 202.2491 states, “Smoking tobacco: Unlawful in certain public places; posting signs; designation of areas for smoking.

1. Except as otherwise provided in subsections 5 and 6 and NRS 202.24915, the smoking of tobacco in any form is prohibited if done in any:

- (a) Public elevator.
- (b) Public building.
- (c) Public waiting room, lobby or hallway of any:
 - (1) Medical facility or facility for the dependent as defined in chapter 449 of NRS; or
 - (2) Office of any chiropractor, dentist, physical therapist, physician, podiatric physician, psychologist, optician, optometrist or doctor of Oriental medicine.
- (d) Hotel or motel when so designated by the operator thereof.
- (e) Public area of a store principally devoted to the sale of food for human consumption off the premises.
- (f) Child care facility.
- (g) Bus used by the general public, other than a chartered bus, or in any maintenance facility or office associated with a bus system operated by any regional transportation commission.
- (h) School bus.
- (i) Video arcade.

2. The person in control of an area listed in paragraph (c), (d), (e) or (g) of subsection 1:

(a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b).

(b) May designate separate rooms or portions of the area which may be used for smoking, except for a room or portion of the area of a store described in paragraph (e) of subsection 1 if the room or portion of the area:

- (1) Is leased to or operated by a person licensed pursuant to NRS 463.160; and
- (2) Does not otherwise qualify for an exemption set forth in NRS 202.24915.

3. The person in control of a public building:

(a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b).

(b) Shall, except as otherwise provided in this subsection, designate a separate area which may be used for smoking.

↪ A school district which prohibits the use of tobacco by pupils need not designate an area which may be used by the pupils to smoke.

4. The operator of a restaurant with a seating capacity of 50 or more shall maintain a flexible nonsmoking area within the restaurant and offer each patron the opportunity to be seated in a smoking or nonsmoking area.

5. A business which derives more than 50 percent of its gross receipts from the sale of alcoholic beverages or 50 percent of its gross receipts from gaming operations may be designated as a smoking area in its entirety by the operator of the business.

6. The smoking of tobacco is not prohibited in:

(a) Any room or area designated for smoking pursuant to paragraph (b) of subsection 2 or paragraph (b) of subsection 3.

(b) A licensed gaming establishment. A licensed gaming establishment may designate separate rooms or areas within the establishment which may or may not be used for smoking.

7. As used in this section:

(a) “Child care facility” means an establishment operated and maintained to furnish care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children. The term does not include the home of a natural person who provides child care.

(b) “Licensed gaming establishment” has the meaning ascribed to it in NRS 463.0169.

(c) “Public building” means any building or office space owned or occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System.

(2) The State of Nevada and used for any public purpose, other than that used by the Department of Corrections to house or provide other services to offenders.

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

➔ If only part of a building is owned or occupied by an entity described in this paragraph, the term means only that portion of the building which is so owned or occupied.

(d) “School bus” has the meaning ascribed to it in NRS 483.160.

(e) “Video arcade” means a facility legally accessible to persons under 18 years of age which is intended primarily for the use of pinball and video machines for amusement and which contains a minimum of 10 such machines.”

NRS 331.220 states, “Surreptitious electronic surveillance prohibited; exceptions.

1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on the grounds of any facility owned or leased by the State of Nevada without the knowledge of the person being observed.

2. Subsection 1 does not apply to any electronic surveillance:

(a) Authorized by a court order issued to a public officer, based upon a showing of probable cause to believe that criminal activity is occurring on the property under surveillance;

(b) By a law enforcement agency pursuant to a criminal investigation;

(c) *By a peace officer pursuant to section 1 of this act; or*

(d) Which is necessary as part of a system of security used to protect and ensure the safety of persons on the grounds of the facility.”

NRS 281.621 states, “Declaration of public policy. It is hereby declared to be the public policy of this state that a state officer or employee and a local governmental officer or employee are encouraged to disclose, to the extent not expressly prohibited by law, improper governmental action, and it is the intent of the Legislature to protect the rights of a state officer or employee and a local governmental officer or employee who makes such a disclosure.”

NRS 199.280 states, “Resisting public officer. A person who, in any case or under any circumstances not otherwise specially provided for, willfully resists, delays or obstructs a public officer in discharging or attempting to discharge any legal duty of his or her office shall be punished:

1. Where a firearm is used in the course of such resistance, obstruction or delay, or the person intentionally removes, takes or attempts to remove or take a firearm from the person of, or the immediate presence of, the public officer in the course of such resistance, obstruction or delay, for a category C felony as provided in NRS 193.130.

2. Where a dangerous weapon, other than a firearm, is used in the course of such resistance, obstruction or delay, or the person intentionally removes, takes or attempts to remove or take a

weapon, other than a firearm, from the person of, or the immediate presence of, the public officer in the course of such resistance, obstruction or delay, for a category D felony as provided in NRS 193.130.

3. Where no dangerous weapon is used in the course of such resistance, obstruction or delay, for a misdemeanor.”

NRS 199.300 states, “Intimidating public officer, public employee, juror, referee, arbitrator, appraiser, assessor or similar person.

1. A person shall not, directly or indirectly, address any threat or intimidation to a public officer, public employee, juror, referee, arbitrator, appraiser, assessor or any person authorized by law to hear or determine any controversy or matter, with the intent to induce such a person contrary to his or her duty to do, make, omit or delay any act, decision or determination, if the threat or intimidation communicates the intent, either immediately or in the future:

(a) To cause bodily injury to any person;

(b) To cause physical damage to the property of any person other than the person addressing the threat or intimidation;

(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 the person is an officer or employee of the State, the person shall forfeit the person’s 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 required to determine prohibited conflicting activities and identify such activities and explain process of progressive discipline in policy. (NRS 284.065, 284.155, 284.383)

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.

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 284.6563, inclusive.

[Personnel Div., Rule XI § A part subsec. 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by 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 or her position to depart from the faithful and impartial discharge of his or her 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, gender identity or expression, 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. ***Except as otherwise provided in subsection 6***, 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, ***except that an employer may refuse to permit an employee to keep a service animal that is a miniature horse with him or her if the employer determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.***

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.”

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PRACTICE BEFORE DIVISION OF HUMAN RESOURCE MANAGEMENT

Hearings Before the Hearing Officer

NRS 284.391 states, “Hearings: Issuance of subpoenas; discovery; oaths; examination of witnesses.

1. The hearing officer may, upon application of any party to a hearing held pursuant to NRS 284.376 or 284.390, issue subpoenas requiring the attendance and testimony of witnesses at the proceeding.

2. The hearing officer may, upon motion of a party, direct that an opposing party participate in a discovery conference at which both parties and their counsel may put questions to the other party and receive answers, or request and receive copies of relevant documents or examine relevant documents and records and any other physical evidence which the opposing party intends to use at the hearing.

3. The hearing officer, or any agent or agency designated by the Commission for such purposes, may administer oaths and affirmations and examine witnesses.”

NRS 284.392 states, “Hearings: Subpoenas extend to all parts of State; service of subpoenas; attendance of witnesses. A subpoena issued pursuant to NRS 284.391 extends to all parts of the State and must be served in accordance with the provisions of N.R.C.P. 4(c). No witness may be required to attend at a place out of the county in which the witness resides unless the distance is less than 100 miles from the place of residence of the witness, except, upon affidavit of any party showing that the testimony of that witness is material and necessary, the hearing officer may endorse on the subpoena an order requiring the attendance of the witness in response to the subpoena.”

NRS 284.393 states, “Hearings: Fees, mileage and expenses of witnesses.

1. All witnesses appearing pursuant to subpoena, other than parties or officers or employees of the State or any political subdivision thereof, are entitled to receive fees and mileage in the same amounts and under the same circumstances as prescribed by law for witnesses in civil actions in the district courts.

2. Witnesses entitled to fees or mileage who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day are entitled, in addition to fees and mileage, to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearings.

3. Per diem and travel expenses must be paid by the party at whose request the witness is subpoenaed. The hearing officer may award as costs the amount of all such expenses to the prevailing party.”

NRS 281.641 states, “Reprisal or retaliatory action against state officer or employee who discloses improper governmental action: Written appeal; hearing; order; negative ruling may not be based on identity of persons to whom disclosure was made; rules of procedure.

1. If any reprisal or retaliatory action is taken against a state officer or employee who discloses information concerning improper governmental action within 2 years after the information is disclosed, the state officer or employee may file a written appeal with a hearing

officer of the Personnel Commission for a determination of whether the action taken was a reprisal or retaliatory action. The written appeal must be accompanied by a statement that sets forth with particularity:

(a) The facts and circumstances under which the disclosure of improper governmental action was made; and

(b) The reprisal or retaliatory action that is alleged to have been taken against the state officer or employee.

→ The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive, and the procedures adopted by the Personnel Commission pursuant to subsection 4.

2. If the hearing officer determines that the action taken was a reprisal or retaliatory action, the hearing officer may issue an order directing the proper person to desist and refrain from engaging in such action. The hearing officer shall file a copy of the decision with the Governor or any other elected state officer who is responsible for the actions of that person.

3. The hearing officer may not rule against the state officer or employee based on the person or persons to whom the improper governmental action was disclosed.

4. The Personnel Commission may adopt rules of procedure for conducting a hearing pursuant to this section that are not inconsistent with the procedures set forth in NRS 284.390 to 284.405, inclusive.

5. As used in this section, "Personnel Commission" means the Personnel Commission created by NRS 284.030."

NAC 284.774 Scope. (NRS 281.641, 284.065, 284.155, 284.376, 284.390)

1. NAC 284.774 to 284.818, inclusive, govern hearings in all cases relating to dismissals, suspensions, demotions and involuntary transfers before the hearing officer and hearings for a written appeal filed pursuant to NRS 281.641.

2. Except as otherwise provided in subsection 3, the hearing officer shall use the hearings procedures established in NAC 284.774 to 284.818, inclusive, and any hearings procedures provided by the Division of Human Resource Management if interested parties have proper notice of any procedural changes or are not prejudiced thereby. A copy of the hearings procedures is available by contacting the Division of Human Resource Management at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204.

3. Each hearing officer may adopt supplementary rules governing practice before him or her not inconsistent with the provisions of subsection 2. The supplementary rules must be made available, in writing, to all parties not less than 5 business days before a hearing.

[Personnel Div., Hearings Procedures § (C), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R192-09, 6-30-2010, eff. 7-1-2010)

NAC 284.778 Request for hearing and other communications. (NRS 281.641, 284.065, 284.155, 284.376, 284.390)

1. A request for an appeal must be addressed to the Administrator and submitted on the form provided by the Division of Human Resource Management.

2. A copy of any written communication directed to a hearing officer must be sent to the *clerk assigned to the hearing officer*.

3. A party shall not communicate with a hearing officer regarding the merits of a case:

(a) Except in the presence of all parties to the hearing; or

(b) Unless all parties to the hearing are notified of the communication in advance.

4. Unless otherwise agreed upon in writing by all parties, an offer or demand of settlement made by a party must not be disclosed to or proposed by a hearing officer before the issuance of a final decision by the hearing officer.

[Personnel Div., Hearings Procedures § (A) subsec. (1), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R192-09, 6-30-2010, eff. 7-1-2010; R011-11, 10-26-2011; **R042-15, 12-21-2015**)

NAC 284.780 Selection of qualified hearing officer. (NRS 284.065, 284.155, 284.376, 284.390)

1. For each hearing requested in a claim relating to a dismissal, suspension, demotion, involuntary transfer, or reprisal or retaliatory action, the Commission will provide for a qualified hearing officer.

2. If it is determined that the qualified hearing officer provided for pursuant to subsection 1 is precluded from serving due to a conflict of interest or is otherwise unavailable to serve as a hearing officer for the hearing, the Commission will provide for a qualified hearing officer who is available to serve as a hearing officer in the hearing.

(Added to NAC by Personnel Comm'n by R192-09, 6-30-2010, eff. 7-1-2010; A by R010-14, 10-24-2014)

NAC 284.782 Time and place; notice; provision of reasonable accommodation to party with disability. (NRS 284.065, 284.155, 284.376, 284.390)

1. The hearing officer shall convene the hearing at the time and place specified for the purpose of hearing the appeal.

2. Written notice of the time and place of the hearing must be given to the parties at least 10 days in advance. The notice must contain the information required for a party to request reasonable accommodation.

3. The hearing officer shall provide reasonable accommodation to a party with a disability who requests such accommodation within the time sufficient to make the accommodation.

[Personnel Div., Hearings Procedures § (B) subsec. (1), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; 7-6-92)

NAC 284.786 Continuances. (NRS 281.641, 284.065, 284.155, 284.376, 284.390)

1. Hearings may be continued beyond the period originally scheduled or recessed until a future date which is agreeable to the hearing officer and the parties if good cause is shown.

2. A party may request a continuance not later than 5 business days before the date of the scheduled hearing by filing a written motion or stipulation with the hearing officer. Notice of the motion or stipulation and a copy of the motion or stipulation must be sent to each party to the hearing and to the Division of Human Resource Management.

3. A party may contest a request for a continuance submitted by another party by filing a written motion with the hearing officer not later than 2 business days after receiving the notice of the request for a continuance. Notice of the motion and a copy of the motion must be sent to each party to the hearing and to the Division of Human Resource Management.

4. A hearing officer shall not grant a continuance requested on the day of a scheduled hearing, unless:

(a) The hearing officer, any party, the legal counsel for a party or a primary witness cannot attend the hearing because of an emergency;

(b) The hearing exceeds the time allotted for the day; or

(c) The hearing officer recesses the hearing until a future date.

5. If a hearing officer recesses a hearing until a future date pursuant to a request for a continuance which is filed on the day of the scheduled hearing, the hearing must be held not later than 20 business days after the date of the request for a continuance, unless there is a conflict with the schedule of the hearing officer.

[Personnel Div., Hearings Procedures § (A) subsec. (9), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R192-09, 6-30-2010, eff. 7-1-2010)

NAC 284.788 Conduct of hearings on appeal. (NRS 284.065, 284.155, 284.376, 284.390)

1. Except as otherwise provided in subsection 2, all hearings on appeals must be open to the public.

2. On the motion of either party, the hearing officer shall exclude from the hearing room witnesses in the matter not at the time under examination except the parties to the proceeding. No hearing may be closed to the public except on motion of either party for good cause shown.

3. A document or piece of physical evidence sought to be introduced during the hearing must first be identified for the record and the hearing officer may request the production of such records and the appearance of such persons as he or she requires.

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

NAC 284.794 Evidence. (NRS 284.065, 284.155, 284.376, 284.390)

1. The hearing officer shall determine the evidence upon the charges and specifications as set forth by the appointing authority in the appropriate documents, and shall not consider any additional evidence beyond the scope of the charges.

2. An employer's or employee's past performance by way of an act or a failure to act may be shown by competent evidence.

3. Reports, evaluations, and other written evidence may be considered only upon a showing that the parties were made aware of the contents of this material.

4. All testimony and exhibits offered at the hearing must be relevant and bear upon the matter in contention. Any testimony or exhibits which are considered by the hearing officer as not meeting this criterion may properly be excluded.

5. The hearing officer shall also consider the objection of either side to the introduction of evidence. Competence and relevance must be the primary test in ruling on objections.

[Personnel Div., Hearings Procedures § (A) subsecs. (3) & (4), eff. 11-28-65; A 6-9-74; + Rule XVI part § C, eff. 9-6-74]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.798 Decision must be based on evidence presented. (NRS 284.065, 284.155, 284.376, 284.390) The hearing officer shall make no assumptions of innocence or guilt but shall be guided in his or her decision by the weight of the evidence as it appears to him or her at the hearing.

[Personnel Div., Hearings Procedures § (A) subsec. (5), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.802 Form of testimony. (NRS 284.065, 284.155, 284.376, 284.390)

1. At the beginning of his or her testimony, each witness who has not previously testified in the hearing must be required to state his or her name, address and business, employment or position.

2. Testimony may be presented in the form of a statement or questions and answers.

USE OF ALCOHOL OR DRUGS

NRS 284.406 states, “Policy concerning use of alcohol or drugs by state employees. It is the policy of this state to ensure that its employees do not:

1. Report for work in an impaired condition resulting from the use of alcohol or drugs;
2. Consume alcohol while on duty; or
3. Unlawfully possess or consume any drugs while on duty, at a work site or on state property.”

NRS 284.4061 states, “Definitions. As used in NRS 284.406 to 284.407, inclusive, unless the context otherwise requires:

1. “Employee” means a person in the classified or unclassified service of the State.
2. “Screening test” means a test of a person’s:
 - (a) Breath or blood to detect the general presence of alcohol; or
 - (b) Urine to detect the general presence of a controlled substance or any other drug,
↳ which could impair that person’s ability to perform the duties of employment safely and efficiently.”

NRS 284.4062 states, “Employee who consumes or is under the influence of alcohol or drugs or who possesses controlled substance on duty is subject to disciplinary action; state agency required to refer certain employees to employee assistance program.

1. Except as otherwise provided in *subsections 3 and 4*, an employee who:
 - (a) Consumes or is under the influence of alcohol while on duty, unless the alcohol is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer’s instructions or in accordance with a lawfully issued prescription;
 - (b) Possesses, consumes or is under the influence of a controlled substance while on duty, at a work site or on state property, except in accordance with a lawfully issued prescription; or
 - (c) Consumes or is under the influence of any other drug which could interfere with the safe and efficient performance of the employee’s duties, unless the drug is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer’s instructions or in accordance with a lawfully issued prescription,
↳ is subject to disciplinary action. An appointing authority may summarily discharge an employee who, within a period of 5 years, commits a second act which would subject the employee to disciplinary action pursuant to this subsection.
2. ***Except as otherwise provided in subsection 3, a*** state agency shall refer an employee who:
 - (a) Tests positive for the first time in a screening test; and
 - (b) Has committed no other acts for which the employee is subject to termination during the course of conduct giving rise to the screening test,
↳ to an employee assistance program. An employee who fails to accept such a referral or fails to complete such a program successfully is subject to further disciplinary action.
3. ***The Commission may adopt regulations setting forth the circumstances under which a person who holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS is subject to disciplinary action pursuant to subsection 1 or must be referred to an employee assistance program pursuant to subsection 2.***
4. Subsection 1 does not apply to:
 - (a) An employee who consumes alcohol in the course of the employment of the employee while hosting or attending a special event.

(b) A peace officer who possesses a controlled substance or consumes alcohol within the scope of the peace officer's duties."

NRS 284.4063 states, "Grounds for disciplinary action: Failure to notify supervisor after consuming certain drugs; failure or refusal to submit to screening test; failure of screening test.

1. Except as otherwise provided in *subsection 2 and* subsection 5 of NRS 284.4065, an employee who:

(a) Fails to notify the employee's supervisor as soon as possible after consuming any drug which could interfere with the safe and efficient performance of the employee's duties;

(b) Fails or refuses to submit to a screening test as requested by a state agency pursuant to subsection 1 or 2 of NRS 284.4065; or

(c) After taking a screening test which indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested by the employee's appointing authority, that the employee had taken the controlled substance as directed pursuant to a current and lawful prescription issued in the employee's name,

↳ is subject to disciplinary action.

2. *The Commission may adopt regulations setting forth the circumstances under which a person who holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS is subject to disciplinary action pursuant to this section.*"

NRS 284.4064 states, "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.

1. If an employee informs the employee's appointing authority that the employee has consumed any drug which could interfere with the safe and efficient performance of the employee's duties, the appointing authority may require the employee to obtain clearance from the employee's physician before the employee continues to work.

2. If an appointing authority reasonably believes, based upon objective facts, that an employee's ability to perform the employee's duties safely and efficiently:

(a) May be impaired by the consumption of alcohol or other drugs, it may ask the employee whether the employee has consumed any alcohol or other drugs and, if so:

(1) The amount and types of alcohol or other drugs consumed and the time of consumption;

(2) If a controlled substance *other than marijuana* was consumed, the name of the person who prescribed its use; *and*

(3) *If marijuana was consumed, to provide proof that the employee holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS.*

(b) Is impaired by the consumption of alcohol or other drugs, it shall prevent the employee from continuing work and transport the employee or cause the employee to be transported safely away from the employee's place of employment in accordance with regulations adopted by the Commission."

NRS 284.4065 states, "Screening tests: General provisions.

1. Except as otherwise provided in subsection 2, an appointing authority may request an employee to submit to a screening test only if the appointing authority:

- (a) Reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing the employee's ability to perform the employee's duties safely and efficiently;
- (b) Informs the employee of the specific facts supporting its belief pursuant to paragraph (a), and prepares a written record of those facts; and
- (c) Informs the employee in writing:
- (1) Of whether the test will be for alcohol or drugs, or both;
 - (2) That the results of the test are not admissible in any criminal proceeding against the employee; and
 - (3) That the employee may refuse the test, but that the employee's refusal may result in the employee's dismissal or in other disciplinary action being taken against the employee.
2. An appointing authority may request an employee to submit to a screening test if the employee:
- (a) Is a law enforcement officer and, during the performance of the employee's duties, the employee discharges a firearm, other than by accident;
 - (b) During the performance of the employee's duties, drives a motor vehicle in such a manner as to cause bodily injury to the employee or another person or substantial damage to property;
- or*
- (c) ***Has or is involved in a work-related accident or injury.***
- For the purposes of this subsection, the Commission shall, by regulation, define the *terms* "substantial damage to ***property***" and "***work-related accident or injury.***"
3. An appointing authority may place an employee who submits to a screening test on administrative leave with pay until the appointing authority receives the results of the test.
4. An appointing authority shall:
- (a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at the employee's expense an independent test of the employee's urine or blood from a laboratory of the employee's choice which is certified by the United States Department of Health and Human Services.
 - (b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at the employee's expense an independent test of the employee's blood from a laboratory of the employee's choice.
 - (c) Provide the employee with the written results of the employee's screening test within 3 working days after it receives those results.
5. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the appointing authority fails to comply with the provisions of this section.
6. An appointing authority shall not use a screening test to harass an employee."
- NRS 284.4066 states, "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.**
1. Each appointing authority shall, subject to the approval of the Commission, determine whether each of its positions of employment affects the public safety. The appointing authority shall not hire an applicant for such a position unless the applicant submits to a screening test to detect the general presence of a controlled substance. Notice of the provisions of this section must be given to each applicant for such a position at or before the time of application.
 2. An appointing authority *shall* consider the results of a screening test in determining whether to employ an applicant. If those results indicate the presence of a controlled substance

other than marijuana, the appointing authority shall not hire the applicant unless the applicant provides, within 72 hours after being requested, proof that the applicant had taken the controlled substance as directed pursuant to a current and lawful prescription issued in the applicant's name.

3. An appointing authority shall, at the request of an applicant, provide the applicant with the results of the applicant's screening test.

4. *If the results of a screening test indicate the presence of a controlled substance, the appointing authority shall:*

(a) *Provide the Administrator with the results of the applicant's screening test.*

(b) *If applicable, inform the Administrator whether the applicant holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS.*

5. *The Commission may adopt regulations relating to an applicant for a position which affects the public safety who tests positive for marijuana and holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS."*

NRS 284.4067 states, "Screening tests: Requirements for administration; use; results.

1. A screening test:

(a) To detect the general presence of a controlled substance or any other drug, must be conducted by an independent laboratory that is certified by the United States Department of Health and Human Services.

(b) To detect the general presence of alcohol or of a controlled substance or any other drug, must be administered in such a manner as to protect the person tested from any unnecessary embarrassment.

2. Except as otherwise provided in subsection 3, a sample of urine provided for use in a screening test must not be used for any test or purpose without the prior written consent of the person providing the sample. The appointing authority shall ensure that the person retains possession and control of the person's sample until it is appropriately tagged and sealed with tamper-proof tape.

3. If the results of a screening test indicate the presence of any drug which could impair the ability of a person to perform the duties of employment safely and efficiently:

(a) The laboratory shall conduct another test of the same sample of urine to ascertain the specific substances and concentration of those substances in the sample; and

(b) The appointing authority shall provide the person tested with an opportunity to have the same sample tested at the person's expense by a laboratory of the person's choice certified by the United States Department of Health and Human Services."

NRS 284.4068 states, "Screening tests: Results confidential; admissibility of results; security; disclosure. Except as otherwise provided in NRS 239.0115 *and 284.4066*, the results of a screening test taken pursuant to NRS 284.4061 to 284.407, inclusive, are confidential and:

1. Are not admissible in a criminal proceeding against the person tested;

2. Must be securely maintained by the *Division, the* appointing authority, the designated representative of the appointing authority, *and any other person authorized to receive the results* separately from other files concerning personnel; and

3. Must not be disclosed to any person, except:

(a) Upon the written consent of the person tested;

- (b) As required by medical personnel for the diagnosis or treatment of the person tested, if the person is physically unable to give the person's consent to the disclosure;
- (c) As required pursuant to a properly issued subpoena;
- (d) When relevant in a formal dispute between the appointing authority and the person tested;
- (e) As required for the administration of a plan of benefits for employees; *or*
- (f) *As may be authorized pursuant to regulations adopted by the Commission.*"

NAC 284.880 Definitions. (NRS 284.065, 284.155, 284.407) As used in NAC 284.880 to 284.894, inclusive, unless the context otherwise requires:

1. "Employee" has the meaning ascribed to it in subsection 1 of NRS 284.4061.
2. "Screening test" has the meaning ascribed to it in subsection 2 of NRS 284.4061.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by Personnel Comm'n by R066-09, 10-27-2009)

NAC 284.882 Administration of screening tests. (NRS 284.065, 284.155, 284.4065, 284.407) A screening test to detect the general presence of:

1. A controlled substance must comply with:

(a) The standards established by the United States Department of Health and Human Services which are hereby adopted by reference. A copy of the standards is available, without charge, from the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Division of Workplace Programs, 1 Choke Cherry Road, Rockville, Maryland 20857; and

- (b) Any supplementary standards and procedures established by the Commission.

2. Alcohol by testing a person's breath must be conducted using a breath-testing device certified in accordance with the "Conforming Products List of Evidential Breath Alcohol Measurement Devices" published in the Federal Register by the National Highway Traffic Safety Administration of the United States Department of Transportation.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 10-27-97; R082-00, 8-2-2000; A by Personnel Comm'n by R066-09, 10-27-2009; R009-11, 10-26-2011)

NAC 284.884 Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath. (NRS 284.065, 284.155, 284.407)

1. An employee must not have a concentration of alcohol in his or her blood or breath greater than .02 gram by weight of alcohol per 100 milliliters of his or her blood or per 210 liters of his or her breath while on duty. Disciplinary action may be taken by the appointing authority in accordance with the provisions of NAC 284.638 to 284.6563, inclusive, if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .02 gram by weight of alcohol per 100 milliliters of his or her blood or per 210 liters of his or her breath while on duty.

2. A positive result on a screening test of a person's breath must be confirmed by a second screening test. The second screening test must be conducted immediately after receipt of the positive result of the first screening test.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by R058-01, 9-6-2001; A by Personnel Comm'n by R138-12, 10-4-2013)

NAC 284.886 Screening test for controlled substance required of applicant for position affecting public safety; exception. (NRS 284.065, 284.155, 284.407)

1. Except as otherwise provided in this section, an applicant for a position that is designated by the Personnel Commission as affecting public safety must submit to a screening test to detect the general presence of a controlled substance unless he or she is employed by the State in a position that is also designated as affecting public safety at the time he or she applies.

2. A person who has been laid off from a position affecting public safety and who is reemployed in a class affecting public safety within 1 year after the date he or she was laid off is not required to submit to a screening test pursuant to this section.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 3-23-94)

NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required form. (NRS 284.065, 284.155, 284.407)

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his or her duties safely and efficiently include, but are not limited to:

(a) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;

(b) The odor of alcohol or a controlled substance on the breath of the employee;

(c) Observation of the employee consuming alcohol; *or*

(d) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source.

2. Except as otherwise provided in subsection 3, before requiring an employee to submit to a screening test, the supervisor of the employee must complete a form provided by the Division of Human Resource Management.

3. The provisions of subsection 2 do not apply if an appointing authority requests an employee to submit to a screening test pursuant to paragraph (b) of subsection 2 of NRS 284.4065.

4. For the purposes of subsection 2 of NRS 284.4065, as amended by section 8 of Senate Bill No. 62, chapter 225, Statutes of Nevada 2015, at page 1049:

(a) "*Substantial* damage to property" includes, but is not limited to:

(1) The operation of a motor vehicle in such a manner as to cause more than \$500 worth of property damage; or

(2) The operation of a motor vehicle in such a manner as to cause two property accidents within a 1-year period.

(b) "*Work-related accident or injury*" means an accident or injury that occurs in the course of employment or that involves an employee on the premises of the workplace.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by Personnel Comm'n by R066-09, 10-27-2009; R193-09, 4-20-2010; R010-11, 10-26-2011; **R044-15, 1-1-2016**)

NAC 284.890 Transportation of employee to and from location of screening test. (NRS 284.065, 284.155, 284.407) If an employee is required to submit to a screening test, the appointing authority shall provide transportation for the employee to the location of the test. After the employee submits to the screening test, the appointing authority shall provide transportation for the employee to his or her home.

(Added to NAC by Dep't of Personnel, eff. 12-26-91)

NAC 284.892 Duties of employee who is referred to employee assistance program. (NRS 284.065, 284.155, 284.407)

1. If an employee is referred to an employee assistance program as a result of a positive result on a screening test or pursuant to NAC 284.653, he or she shall provide to the appointing authority:

(a) Evidence of his or her consultation with a counselor employed by an employee assistance program; and

(b) Any recommendation of the counselor with respect to his or her rehabilitation,
↳ within 5 working days after the date of the initial consultation.

2. The employee shall provide to the appointing authority on a monthly basis all recommendations of the counselor with respect to his or her rehabilitation.

3. The employee shall provide to the appointing authority evidence of his or her completion of any rehabilitation program recommended by the counselor within 5 working days after completing the program.

4. An employee who fails to provide evidence of his or her consultation with a counselor or successful completion of a rehabilitation program is subject to disciplinary action.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 11-12-93)

NAC 284.893 Return to work of employee who tests positive for alcohol or controlled substance while on duty. (NRS 284.065, 284.155, 284.407)

1. The appointing authority of an employee who tests positive for the presence of alcohol or a controlled substance while on duty and who, as a result, is subject to disciplinary action pursuant to NAC 284.646 or 284.650 but is not terminated shall, before allowing the employee to return to work, require the employee to:

(a) Provide to the appointing authority documentation from a counselor who is licensed or certified pursuant to chapter 641C of NRS or another health care provider who has training or experience in substance abuse counseling, which verifies that the employee is able to return to duty and perform the essential functions of his or her job.

(b) Submit to a screening test.

2. The employee is responsible for the cost of any:

(a) Counseling services the employee receives to verify that the employee is able to return to duty and perform the essential functions of his or her job and any documentation of those services; and

(b) Screening test,

↳ required pursuant to subsection 1.

3. An employee who fails or refuses to submit to a screening test required pursuant to subsection 1 is subject to disciplinary action, including, without limitation, termination, at the discretion of the employee's appointing authority.

(Added to NAC by Personnel Comm'n by R066-09, eff. 10-27-2009; A by R195-09, 4-20-2010; R138-12, 10-4-2013)

NAC 284.894 Treatment of applicant who tests positive; treatment of employee who tests positive twice within 5-year period. (NRS 284.065, 284.155, 284.407)

1. An applicant who tests positive for the use of a controlled substance must not be considered by an appointing authority for employment in any position which requires such testing and must be removed from all lists of eligible persons established from a recruitment that requires such testing until:

(a) One year after the time of the positive test; or

(b) The applicant provides evidence that he or she has successfully completed a rehabilitation program for substance abuse.

2. An employee who tests positive for the use of a controlled substance or alcohol for the second time within a 5-year period is subject to disciplinary action by the appointing authority and may be terminated at the discretion of the appointing authority.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 7-1-94; A by Personnel Comm'n by R194-09, 4-20-2010)

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