

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)

NEW “Reassignment” defined. “Reassignment” or “reassign” means a noncompetitive placement of an employee as a reasonable accommodation to a position within the same grade or, if a position in the same grade is not available, to a position in a class with a lower grade for which the employee meets the minimum qualifications and is able to perform the essential functions.

(Added to NAC by Personnel Comm’n by R097-16, eff. 11-2-2016)

NAC 284.094 “Reclassification” defined. (NRS 284.065) “Reclassification” means a change in *the* 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; **R097-16, 11-2-2016**)

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 where employees are in classifications which are training or intermediate levels preparatory to promotion to the journey level class.

[Personnel Div., Rule I § D subsec. 30, eff. 4-14-76]—(NAC A by Personnel Comm’n by R183-03, 1-27-2004)

NAC 284.112 “Working day” defined. (NRS 284.065) “Working day,” for the purpose of a grievance or an appeal, means Monday to Friday, inclusive, excluding holidays.

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

NAC 284.1125 “Work-related injury or occupational disease” defined. (NRS 284.065) “Work-related injury or occupational disease” means any injury or illness suffered by an employee that arises out of and in the course of his or her employment in the classified service and for which an employee has filed a claim pursuant to chapter 616A, 616B, 616C, 616D or 617 of NRS.

(Added to NAC by Personnel Comm’n by R142-05, eff. 12-29-2005)

NAC 284.113 “Working day” interpreted. (NRS 284.065, 284.155, 284.345) As used in NRS 284.350 and 284.355, the Administrator will interpret “working day” to mean a period of work consisting of 8 hours.

(Added to NAC by Dep’t of Personnel by R031-98, eff. 4-17-98; A by Personnel Comm’n by R065-98, 7-24-98)

NAC 284.114 Affirmative action program and equal employment opportunity. (NRS 284.065)

1. The Division of Human Resource Management is responsible for establishing, coordinating and evaluating an affirmative action program for this State.

2. The Division of Human Resource Management will cooperate and consult with agencies to:

(a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, sexual orientation, gender identity or expression, religion, color, national origin, age, genetic information or disability.

(b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for persons to enter the system and progress in it to the extent of their merit.

3. As used in this section, “gender identity or expression” has the meaning ascribed to it in NRS 281.370.

[Personnel Div., Rule I § C, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 7-6-92; R098-99, 9-27-99; A by Personnel Comm’n by R055-10, 6-30-2010; R023-11, 10-26-2011)

NRS 284.012 states, “Policy concerning employment of persons with disabilities. Subject to other applicable provisions of this chapter, it is the policy of this State that persons with disabilities must be afforded equal opportunities in employment by the State, by its political subdivisions and in all other employment supported in whole or in part by the State.”

NRS 233B.070 states in part, “Effective date of permanent, temporary and emergency regulations; dissemination of regulation; duties of Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.”

NRS 284.130 states, “Assistance of state and local officers. The Administrator may request officers and employees in the Executive Department of the State Government or local officers or employees to aid in carrying out the provisions of this chapter, and insofar as it may be consistent with their other duties, these officers and employees shall give such aid upon the Administrator’s written request.”

NAC 284.116 Computation of time. (NRS 284.065) In computing a period of time mentioned in this chapter, the day of the act or event from which the period begins is not counted and the last day is counted unless the last day is a Saturday, Sunday or state holiday. If the last day is a Saturday, Sunday or state holiday, the period ends on the next day that is not a Saturday, Sunday or state holiday.

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

NAC 284.120 Adoption by reference of federal law, regulations and manual regarding persons with disabilities. (NRS 284.065)

1. For the purposes of determining the meaning of “essential functions of a position,” “*interactive process*,” “person with a disability,” “qualified person with a disability” and “reasonable accommodation,” the Division of Human Resource Management hereby adopts by reference and will refer to:

- (a) The Americans with Disabilities Act of 1990 (Public Law 101-336).
- (b) The ADA Amendments Act of 2008 (Public Law 110-325).
- (c) The provisions of 29 C.F.R. Part 1630.
- (d) The *Technical Assistance Manual* for the Americans with Disabilities Act.

2. A copy of the materials adopted by reference pursuant to this section may be obtained at no charge from the United States Equal Employment Opportunity Commission at the Internet address <http://www.eeoc.gov>.

(Added to NAC by Dep’t of Personnel, eff. 7-6-92; A 10-27-97; R082-00, 8-2-2000; A by Personnel Comm’n by R059-09, 10-27-2009; **R097-16, 11-2-2016**)

NAC 284.122 Severability. (NRS 284.065) If any of the provisions of this chapter are held, for any reason, to be invalid, it is intended that the validity of the remaining provisions not be affected thereby.

[Personnel Div., Rule XVIII, eff. 8-11-73]

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

1. An employee affected by the allocation of a position to a grade or class or by a change in classification as a result of a study regarding classifications, or the agency where such actions have occurred, may, within **30** days after the date of receipt of written notice of the action, file a written appeal of the action with the Administrator. The appeal must:

(a) Address the points outlined in the Division of Human Resource Management's recommendation regarding the proper classification for the position in question; and

(b) Indicate the points with which the appellant disagrees and express the reasons for the disagreement.

2. The Administrator will issue a decision on the appeal within **30** days after receiving the appeal unless:

(a) He or she is prohibited from doing so because of the number of appeals resulting from a study regarding classifications;

(b) There is an agreement with the appellant to extend the limitation of time for the issuance of the decision; or

(c) The Administrator delegates the duty to decide the appeal to a designated representative pursuant to subsection 3.

3. The Administrator may delegate the duty to decide the appeal to a designated representative if the Administrator is unavailable or reasonably believes he or she has a conflict of interest. If the Administrator makes such a delegation, the designated representative shall issue a decision on the appeal within **30** days after the Administrator received the appeal.

4. The appellant or the agency affected by the decision may, within 30 days after receipt of written notice of the decision of the Administrator or his or her designated representative, appeal the decision to the Commission. The appeal must:

(a) Be in writing;

(b) Be addressed to the Administrator;

(c) Address the points outlined in the decision regarding the proper classification for the position in question; and

(d) Indicate the points with which the appellant or the agency disagrees and express the reasons for the disagreement.

(Added to NAC by Dep't of Personnel, eff. 9-17-87; A 3-1-96; R031-98, 4-17-98; A by Personnel Comm'n by R203-07, 4-17-2008; **R100-16, 11-2-2016**)

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- (II) At the lowest step of the new grade,
→ whichever pay is higher and in accordance with the provisions of NAC 284.179.
- (b) A special adjustment to an employee's pay for performing supervisory duties which is granted in accordance with paragraph (c) of subsection 2 of NAC 284.206 is the present level of pay for the purpose of calculating a promotional increase authorized by paragraph (a) only if the employee has received the special adjustment to his or her pay for more than 6 months of continuous full-time service.
- (c) If an employee has been demoted, he or she may not, within 1 year after the demotion, receive a promotional increase in pay that is greater than the increase which he or she would have otherwise been entitled to receive had he or she not been demoted unless the Administrator approves the promotional increase.
- (d) This subsection does not apply when an employee is reemployed or reappointed to his or her former grade within 1 year after holding that grade.
2. As used in this section, "present level of pay" means a rate of pay that is equal to the amount that is assigned to the step within the grade which is closest to, but does not exceed, the employee's pay after a special adjustment to pay pursuant to the provisions of NAC 284.206.
- (Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013; A by R064-14, 10-24-2014)

NAC 284.173 Rate of pay: Effect of demotion. (NRS 284.065, 284.155, 284.175)
Except as otherwise provided in paragraph (b) of subsection 1 of NAC 284.618, an employee who is demoted must be paid at a step within the grade of the class to which he or she was demoted as follows:

1. Except as otherwise provided in subsections 2 to 5, inclusive, if the employee has attained permanent status in the class from which he or she was demoted and the demotion is instituted at the employee's request or is acceptable to the employee, the appointing authority shall pay him or her at a step in the grade of the class to which he or she was demoted which is equal to or less than his or her base rate of pay in the position from which he or she was demoted, but not greater than the highest step of the class to which he or she was demoted.
2. An exception to subsection 1 may be granted by the appointing authority to pay an employee at a rate that does not fall within the grade of the class to which he or she is demoted if the appointing authority determines that the demotion is in the best interest of the employee and the State of Nevada. If such an exception is granted:
 - (a) The employee's base rate of pay will be limited to three grade levels above the grade of the class to which he or she is demoted or his or her base rate of pay in the position from which he or she was demoted, whichever is less.
 - (b) The employee's base rate of pay in the position to which he or she was demoted will be frozen until it falls within the grade of the class to which he or she was demoted or for a maximum of 2 years after the date of demotion, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that has been approved by the Legislature.
 - (c) If the employee's frozen base rate of pay does not fall within the grade of the class to which he or she was demoted within the 2-year period, his or her base rate of pay will be adjusted to the highest step within the grade of the class to which he or she was demoted.
3. If an employee accepts a promotion and is demoted before attaining permanent status in the class, he or she must be paid at a step in the grade of the class to which he or she was demoted which is equivalent to the base rate of pay to which he or she would have been entitled had he or she not been promoted.

4. If the demotion is instituted by the appointing authority for disciplinary reasons and is not covered by subsection 2, the appointing authority shall determine the step in the grade of the class to which the employee was demoted at which the employee will be paid.

5. If an employee is demoted during his or her probationary period in state service, the appointing authority may pay the demoted employee at any step in the grade of the class to which the employee was demoted that is not greater than his or her base rate of pay before the demotion.

(Added to NAC by Personnel Comm'n by R133-12, eff. 10-4-2013; A by R008-14, 6-23-14)

NAC 284.175 Rate of pay: Effect of transfer. (NRS 284.065, 284.155, 284.175) Except as otherwise provided in NAC 284.204, if an employee transfers to a position in the same or a related class, he or she must maintain the step held before the transfer.

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

NAC 284.176 Rate of pay: Effect of reappointment. (NRS 284.065, 284.155, 284.175)

1. If an employee is reappointed to a position which is in:

(a) The grade which he or she currently holds, he or she retains his or her step.

(b) A higher grade and the appointment occurs within 1 year after the date on which he or she last held that grade, the employee must be placed at the step which he or she last held in that grade.

(c) A higher grade and the reappointment occurs more than 1 year after he or she held that grade, his or her pay must be calculated pursuant to the provisions relating to promotion in NAC 284.172.

2. Any exception to subsection 1 must be approved by the Division of Human Resource Management based upon a written request and justification for the exception submitted by the appointing authority.

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

NAC 284.177 Rate of pay: Effect of reemployment. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in this section, if a person is reemployed, he or she must be placed at the step which most closely corresponds to the base rate of pay which he or she held at the time of his or her layoff or separation.

2. Except as otherwise provided in subsection 3, an exception to subsection 1 may be made if the conditions in NAC 284.204 exist, or if money is not available as certified by the Chief of the Budget Division or, in the case of an agency that is not funded from the State General Fund or the Nevada System of Higher Education, as certified by the administrator of that agency or the System. If an exception to subsection 1 is made pursuant to this subsection because the agency does not have sufficient money available, the employee retains the right of reemployment.

3. If a person who is eligible for military reemployment is reemployed, the provisions of subsection 1 apply except that the period of the military service must be included in calculating the step at which he or she will be placed.

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

NEW Rate of pay: Reassignment. If an employee is reassigned to a position which is in:

1. The same grade which he or she currently holds, the employee's base rate of pay in the position to which he or she was reassigned will be determined in accordance with the provisions of NAC 284.175.

2. A lower grade than he or she currently holds, the employee's base rate of pay in the position to which he or she was reassigned will be determined in accordance with the provisions

of subsection 1 of NAC 284.173.

(Added to NAC by Personnel Comm'n by R097-16, eff. 11-2-2016)

NAC 284.179 Rate of pay: Minimum step for continuous employees hired before 1975. (NRS 284.065, 284.155, 284.175) An employee who has been continuously employed without a break in service may not have his or her step set below:

1. Step 4 of any grade if his or her date of hire is before April 26, 1973; or
2. Step 3 of any grade if his or her date of hire is before May 3, 1975, but on or after April 26, 1973, except for disciplinary reasons which result in demotion.

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

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 *departments or* 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; and
 - (4) 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 *department or* 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 *moves from one position to another position in either a different area within the department or agency in which the employee is currently employed or a different department or agency than the department or agency in which the employee is currently employed, and* a similar recruiting problem does not exist *in the new area, department or agency.*
➤ 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; **R060-16, 6-28-16**)

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 therefor 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)

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(a) If the employee does not notify the appointing authority of a discrepancy, until after the end of the period pursuant to which the employee may notify the appointing authority of a discrepancy; or

(b) If the employee notifies the appointing authority of a discrepancy, until after the appointing authority determines whether the removal of the employee from consideration pursuant to this subsection was appropriate.

5. An appointing authority shall refuse to consider an eligible person whose appointment to a position will violate NRS 281.210, NAC 284.375 or a policy approved by the Commission pursuant to NAC 284.375.

6. An eligible person whose name has been removed from an active list may request that his or her name be reactivated by stating his or her reasons for the request. If the Division of Human Resource Management determines that the reasons are justified, and the person's term of eligibility has not otherwise expired, his or her name may be reactivated.

[Personnel Div., Rule V § E, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 12-26-91; 7-1-94; 8-16-96, eff. 10-1-96; A by Personnel Comm'n by R069-02, 8-14-2002; R182-03, 1-27-2004; R143-05 & R144-05, 12-29-2005; R023-13, 10-23-2013)

NRS 284.240 states, "Grounds for refusal to examine or certify. The Administrator may refuse to examine an applicant or, after examination, may refuse to certify an eligible person who:

1. Lacks any of the preliminary requirements established for the examination for the position or employment for which the applicant or eligible person applies.
2. Submitted to a screening test administered pursuant to NRS 284.4066, the results of which indicated the presence of a controlled substance, and the person did not provide the proof required by NRS 284.4066.
3. Has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct.
4. Has been dismissed from the public service for delinquency or misconduct.
5. Has made a false statement of any material fact.
6. Has, directly or indirectly, given, rendered or paid, or promised to give, render or pay, any money, service or other valuable thing to any person for, or on account of or in connection with, the examination, appointment or proposed appointment of the applicant or eligible person.
7. Has practiced, or attempted to practice, any deception or fraud in the application, certificate or examination of the applicant or eligible person, or in securing the eligibility or appointment of the applicant or eligible person."

NRS 284.245 states, "Statement of Administrator upon refusal to examine or certify; appeal to Commission.

1. When the Administrator refuses to examine an applicant or, after an examination, refuses to certify an eligible person, the applicant or eligible person may request the Administrator to furnish to the applicant or eligible person a statement of the reasons for the refusal to examine or the refusal to certify, as the case may be. The Administrator shall furnish the statement upon request.

2. If the Administrator refuses to examine an applicant or, after an examination, refuses to certify an eligible person, the applicant or eligible person may take an appeal to the Commission in accordance with regulations adopted by the Commission. If the Commission finds that the Administrator is in error in refusing to examine an applicant or in refusing to certify an eligible

person, the Commission shall order the Administrator to examine or certify, and the Administrator shall comply.”

NEW Appeal of refusal to examine or certify.

1. An applicant affected by the refusal of the Administrator to examine the applicant or an eligible person affected by the refusal of the Administrator to certify the eligible person may file a written appeal of the action with the Administrator not later than 30 days after the applicant or eligible person receives from the Administrator, in accordance with subsection 1 of NRS 284.245, a statement of the reasons for the refusal to examine or the refusal to certify, as applicable. The appeal must:

(a) Address the points outlined in the statement; and
(b) Indicate the points in the statement with which the applicant or eligible person disagrees and express the reasons for the disagreement.

2. The Administrator will issue a decision on the appeal within 30 working days after receiving the appeal unless:

(a) He or she is prohibited from doing so because of the number of appeals resulting from other determinations regarding his or her refusal to examine or certify;

(b) There is an agreement with the applicant or eligible person to extend the limitation of time for the issuance of the decision; or

(c) The Administrator delegates the duty to decide the appeal to a designated representative pursuant to subsection 3.

3. The Administrator may delegate the duty to decide the appeal to a designated representative if the Administrator is unavailable or reasonably believes he or she has a conflict of interest. If the Administrator makes such a delegation, the designated representative shall issue a decision on the appeal within 30 working days after the Administrator received the appeal.

4. An applicant or eligible person may, within 30 working days after receipt of written notice issued pursuant to subsection 2 or 3 of the decision of the Administrator or his or her designated representative, appeal the decision to the Commission. The appeal must:

(a) Be in writing;

(b) Be addressed to the Administrator;

(c) Address the points outlined in the decision issued pursuant to subsection 2 or 3 regarding the refusal to examine or certify the applicant or eligible person; and

(d) Indicate the points in the decision with which the applicant or eligible person disagrees and express the reasons for the disagreement.

(Added to NAC by Personnel Comm’n by R100-16, eff. 11-2-2016)

Appointments

NRS 284.145 states. “Appointment to position in unclassified service from registers of eligible persons. Officers authorized by law to make appointments to positions in the unclassified service and appointing officers of departments or institutions whose employees are exempt from the provisions of this chapter may make appointments from appropriate registers of eligible persons maintained by the Division without affecting the continuance of the names on the list.”

NRS 281.210 states, “Officers of State, political subdivision and Nevada System of Higher Education prohibited from employing relatives; exceptions; penalties.

1. Except as otherwise provided in this section, it is unlawful for any person acting as a school trustee, state, township, municipal or county officer, or as an employing authority of the Nevada System of Higher Education, any school district or of the State, any town, city or county, or for any state or local board, agency or commission, elected or appointed, to employ in any capacity on behalf of the State of Nevada, or any county, township, municipality or school district thereof, or the Nevada System of Higher Education, any relative of such a person or of any member of such a board, agency or commission who is within the third degree of consanguinity or affinity.

2. This section does not apply:

(a) To school districts, when the teacher or other school employee is not related to more than one of the trustees or person who is an employing authority by consanguinity or affinity and receives a unanimous vote of all members of the board of trustees and approval by the Department of Education.

(b) To school districts, when the teacher or other school employee has been employed by an abolished school district or educational district, which constitutes a part of the employing county school district, and the county school district for 4 years or more before April 1, 1957.

(c) To the spouse of the warden of an institution or manager of a facility of the Department of Corrections.

(d) To relatives of officers and employees who are blind of the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation when those relatives are employed as automobile drivers for those officers and employees.

3. Nothing in this section:

(a) Prevents any officer in this State, employed under a flat salary, from employing any suitable person to assist in any such employment, when the payment for the service is met out of the personal money of the officer.

(b) Disqualifies any widow with a dependent as an employee of any officer or board in this State, or any of its counties, townships, municipalities or school districts.

4. A person employed contrary to the provisions of this section must not be compensated for the employment.

5. Any person violating any provisions of this section is guilty of a gross misdemeanor.”

NRS 284.305 states, “Provisions and regulations for filling positions in classified service without competition.

1. Except as otherwise provided in subsection 2, positions in the classified service may be filled without competition only as provided in NRS 284.155, **284.300**, 284.307, 284.309, 284.310, 284.315, 284.320, 284.325, 284.327, 284.330, 284.375 and 284.3775.

2. The Commission may adopt regulations which provide for filling positions in the classified service without competition in cases involving:

(a) *The appointment, upon approval of the appointing authority, of a current employee with a disability to a position at or below the grade of his or her position if the employee:*

(1) *Has successfully completed a probationary period for any class he or she has held during continuous classified service; and*

(2) *Becomes unable to perform the essential functions of his or her position with or without reasonable accommodation;*

(b) The demotion of a current employee;

- (c) The reemployment of a current or former employee who was or will be adversely affected by layoff, military service, reclassification or a permanent partial disability arising out of and in the course of the employment of the current or former employee; or
- (d) The reappointment of a current employee.”

NRS 613.333 “Unlawful employment practices: Discrimination for lawful use of any product outside premises of employer which does not adversely affect job performance or safety of other employees.” may be found preceding NAC 284.638.

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.”

NAC 284.375 Appointing authority prohibited from appointing related persons under certain circumstances; exceptions. (NRS 284.065, 284.155)

1. Except as otherwise provided in subsection 2 and NRS 281.210, an appointing authority shall not appoint a person to a position in the classified service on or after:

(a) October 1, 1996, if, upon his or her appointment, the person will be in the direct line of authority of:

- (1) A spouse, child, parent or sibling of the person;
- (2) The spouse of a child, parent or sibling of the person; or
- (3) An aunt, uncle, niece, nephew, grandparent, grandchild or first cousin of the person.

(b) September 6, 2001, if, upon his or her appointment, the person will be in the direct line of authority of a person with whom he or she is in a dating relationship.

2. An appointing authority may adopt a written policy authorizing the appointment of persons to a position or class of positions that would otherwise be prohibited by the provisions of subsection 1 if the appointing authority determines that, for the positions for which the policy applies, the enforcement of the provisions of subsection 1 will be impracticable and cause an undue hardship to the appointing authority. In making this determination, the appointing authority may consider, among other factors, the difficulty in recruiting applicants for the positions for which the policy applies.

3. A written policy adopted pursuant to subsection 2:

- (a) Must comply with the provisions of NRS 281.210; and
- (b) Is effective upon approval by the Commission.

(Added to NAC by Dep’t of Personnel, 8-16-96, eff. 10-1-96; A by R058-01, 9-6-2001; A by Personnel Comm’n by R183-03, 1-27-2004)

NAC 284.377 Persons who become related after appointment: Appointing authority required to take corrective action; notification of appointing authority required. (NRS 284.065, 284.155)

1. Except for relationships allowed pursuant to NRS 281.210 and NAC 284.375, if a supervisor and an employee who is in the direct line of authority of the supervisor become related or involved in a dating relationship after the supervisor and employee have been appointed to their respective positions, the appointing authority shall ensure that, as soon as practicable, the employees do not continue to hold positions in which one of the employees is in the direct line of authority of the other employee.

2. A supervisor who becomes related to, or involved in a dating relationship with, an employee in the direct line of authority of the supervisor shall notify the appointing authority within 10 working days after the supervisor and employee become related or involved in the dating relationship.

3. Upon receiving notification of a relationship from a supervisor pursuant to subsection 2, the appointing authority shall request from each of the employees involved a recommendation for action to be taken to ensure that the employees do not continue to hold positions in which one of the employees is in the direct line of authority of the other employee.

4. In determining the manner in which to comply with the provisions of subsection 1, the appointing authority is not required to accept a recommendation for action to be taken submitted pursuant to this section.

(Added to NAC by Dep't of Personnel, 8-16-96, eff. 10-1-96; A by R058-01, 9-6-2001)

NRS 284.254 states, "Preference on list for person separated from service because agency terminated. In establishing lists of eligible persons, a preference must be allowed for each person in the classified service who has been separated from the service because the agency by which he was employed was terminated pursuant to NRS 232B.100."

NRS 284.330 states, "Reinstatement of permanent appointee after separation without prejudice. Any person who has held a position by permanent appointment in the classified service under the law and rules, and who has been separated from the service without prejudice, may be eligible for reinstatement to a position in the same or similar grade or class in the classified service, subject to the rules and regulations established in accordance with the provisions of this chapter."

NRS 284.380 states in part, "Layoffs; reemployment lists.

4. The name of every regular employee so laid off must be placed on an appropriate reemployment list."

NRS 286.440 "Redeposit of withdrawn contributions upon return to service: Procedure." may be found preceding NAC 284.611.

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

1. An appointing authority may reinstate a former permanent employee following his or her termination from state employment, including, without limitation, a former permanent employee who was laid off and is entitled to have his or her name appear on a reemployment list pursuant to NAC 284.630, if the former permanent employee was separated without prejudice. A separation 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

(b) For a reappointment to a comparable class, the Division of Human Resource Management approves the reappointment.

2. An employee who desires reappointment must make his or her interest known to the hiring agency.

3. The grade of the class to which an employee is reappointed may only exceed the grade of the class he or she formerly held or a comparable class if the former or comparable class has been reallocated.

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

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91; 10-27-97; A by Personnel Comm'n by R183-03, 1-27-2004)

INFORMATIONAL NOTE: 29 CFR §1630.2 Definitions...

(p) *Undue hardship*—(1) *In general.* *Undue hardship* means, with respect to the provision of an accommodation, significant difficulty or expense incurred by a covered entity, when considered in light of the factors set forth in paragraph (p)(2) of this section.

(2) *Factors to be considered.* In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

(i) The nature and net cost of the accommodation needed under this part, taking into consideration the availability of tax credits and deductions, and/or outside funding;

(ii) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;

(iii) The overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type and location of its facilities;

(iv) The type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and

(v) The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

Appendix to Title 29, Part 1630—Interpretive Guidance on Title I of the Americans with Disabilities Act “The appropriate reasonable accommodation is best determined through a flexible, interactive process that involves both the employer and the individual with a disability... When an individual with a disability has requested a reasonable accommodation to assist in the performance of a job, the employer, using a problem solving approach, should:

(1) Analyze the particular job involved and determine its purpose and essential functions;

(2) Consult with the individual with a disability to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation;

(3) In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position; and

(4) Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the employer...”

NEW Reassignment: Process for placement of a classified employee with a disability as part of the accommodation process.

1. The Division of Human Resource Management shall assist an appointing authority with the reassignment of an employee with a disability who is unable to perform the essential functions of his or her position with or without reasonable accommodation by identifying any

vacant or soon to be vacant positions for which the employee meets the minimum qualifications. Those vacant or soon to be vacant positions may include positions that are outside of the geographical location of the employee. A refusal by the employee of an offer of a position that is outside of the geographical location of the employee will not affect the employee's reassignment rights pursuant to this section. The employee will continue to be referred to positions pursuant to this section until the reassignment rights of the employee are exhausted in accordance with subsection 10.

2. The appointing authority of the employee shall, through the interactive process, determine if a vacant or soon to be vacant position at the employee's current grade exists within the employee's agency. If such a position is identified and the employee meets the minimum qualifications, as determined by the Division of Human Resource Management pursuant to NAC 284.317, and is able to perform the essential functions of the position with or without reasonable accommodation, the appointing authority shall offer the employee the position unless the appointing authority demonstrates that such an appointment would cause an undue hardship to the appointing authority.

3. If the appointing authority of the employee is not able to reassign the employee pursuant to subsection 2, the appointing authority of the employee shall notify the Division of Human Resource Management. For at least 30 days after receipt of the notification, the Division of Human Resource Management shall place the employee on reassignment lists for any vacant or soon to be vacant positions being filled at the grade of the current position of the employee if the employee meets the minimum qualifications for the positions and has expressed an interest in those positions. If such a position is determined to be available and it is determined through the interactive process that the employee is able to perform the essential functions of the position with or without reasonable accommodation, the employee must be offered the position unless it is demonstrated that such an appointment would cause an undue hardship.

4. If reassignment is not available pursuant to subsection 2 or 3, the appointing authority of the employee shall, through the interactive process, determine if a vacant or soon to be vacant position below the grade of the current position of the employee exists within the employee's agency. If such a position is identified and the employee meets the minimum qualifications, as determined by the Division of Human Resource Management pursuant to NAC 284.317, and is able to perform the essential functions of the position with or without reasonable accommodation, the appointing authority shall:

(a) Consider the employee for any such positions in the order of the grade of the positions beginning with the grade closest to the grade of the current position of the employee if multiple positions with different grades are determined to be available within the employee's agency; and

(b) Offer the employee such a position unless the appointing authority demonstrates that such an appointment would cause an undue hardship to the appointing authority.

5. If reassignment is not available pursuant to subsection 2, 3 or 4, the appointing authority of the employee shall notify the Division of Human Resource Management. For at least 30 days after receipt of the notification, the Division of Human Resource Management shall place the employee on reassignment lists for vacant or soon to be vacant positions being filled at or below the grade of the current position of the employee if the employee meets the minimum qualifications for the positions and has expressed an interest in those positions. If such a position is determined to be available and it is determined through the interactive process that the employee is able to perform the essential functions of the position with or without reasonable accommodation, the employee must be offered the position unless it is demonstrated that such an appointment would cause an undue hardship.

6. *The appointing authority of an employee to whom subsection 1 applies may offer the employee a position in the employee's agency below the grade of the current position of the employee if:*

(a) *A vacant or soon to be vacant position at the grade of the current position of the employee is not identified within the employee's agency;*

(b) *The employee meets the minimum qualifications of the position as determined by the Division of Human Resource Management pursuant to NAC 284.317; and*

(c) *It is determined that the employee is able to perform the essential functions of the position with or without reasonable accommodation unless it is demonstrated that such an appointment would cause an undue hardship.*

↪ *If the employee accepts the position offered pursuant to this subsection, the employee may continue to exercise his or her reassignment rights pursuant to subsections 1 to 5, inclusive, and subsections 7 to 12, inclusive, for a period of 60 days following the appointment.*

7. *An employee may not be reassigned to underfill a vacant or soon to be vacant position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the employee currently occupies.*

8. *After the reassignment of an employee is made pursuant to this section, the status of appointment of the employee will be determined in accordance with NAC 284.444.*

9. *The reassignment of an employee which is made pursuant to this section will take precedence over all other types of appointments and use of lists, including, without limitation, the lists, other than reemployment lists, set forth in NAC 284.358.*

10. *Except as otherwise provided in subsection 6, reassignment rights pursuant to this section are exhausted when an employee:*

(a) *Accepts a reassignment at or below the grade of the current position of the employee;*

(b) *Accepts a position through a competitive or noncompetitive appointment;*

(c) *Notifies the appointing authority in writing that he or she no longer wishes to seek reassignment;*

(d) *Has not been appointed from any of the lists on which his or her name was included in accordance with this section and the Division of Human Resource Management determines that there are no other positions available;*

(e) *Refuses a position within his or her geographical location that is at or below the grade of the current position of the employee; or*

(f) *Accepts reemployment pursuant to NAC 284.6014.*

11. *The provisions of this section do not prohibit an employee from accepting another position through a competitive or noncompetitive appointment.*

12. *As used in this section:*

(a) *"Agency" includes:*

(1) *A department as defined in NAC 284.055;*

(2) *Any other entity of the Executive Branch of State Government which employs persons in the classified service, including, without limitation, the office of an elected officer;*

(3) *A division of the Department of Health and Human Services; and*

(4) *Any division or institution of the Nevada System of Higher Education.*

(b) *"Geographical location" has the meaning ascribed to it in NAC 284.612.*

(c) *"Soon to be vacant" means a position in which:*

(1) *The Division of Human Resource Management is aware will have an imminent vacancy;*

(2) *A list has not been certified for the position; and*

(3) The employee will be able and available to fill the position within 30 days after the position becomes open.

(d) "Undue hardship" has the meaning ascribed to it in 29 C.F.R. § 1630.2.

(Added to NAC by Personnel Comm'n by R097-16, eff. 11-2-2016)

NRS 284.310 states, "Provisional appointment.

1. Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the Administrator is unable to certify from any appropriate eligible list for the vacancy, the Administrator may issue a provisional permit or certify a suitable person to fill the vacancy provisionally only until a selection and appointment can be made after competitive examination.

2. No person may receive more than one provisional appointment or serve more than 6 months in any 12-month period as a provisional appointee.

3. A provisional appointee must meet the minimum qualifications established for the class of positions involved."

NAC 284.406 Provisional appointments. (NRS 284.065, 284.155)

1. An appointing authority may make a provisional appointment pursuant to NRS 284.310 if there are fewer than five ranks of eligible persons available for appointment to the position.

2. The Division of Human Resource Management will begin the recruitment within 30 days after the effective date of the provisional appointment.

3. A provisional appointment may not continue for longer than 30 days after a list of five or more ranks of eligible persons who are available for appointment has been certified.

[Personnel Div., Rule VI § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 11-16-95; A by Personnel Comm'n by R183-03, 1-27-2004)

NRS 284.315 states, "Emergency appointment. In case of an emergency, an appointment may be made without regard to the provisions of this chapter relative to appointments, but in no case shall such appointment continue longer than 60 working days in any 12-month period."

NAC 284.410 Emergency appointments. (NRS 284.065, 284.155)

1. In the case of an emergency, an appointing authority may make an appointment pursuant to NRS 284.315.

2. For the purposes of this section, an emergency exists when the appointment is necessary to prevent the stoppage of public business, loss of life, or extensive damage to persons or property.

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

NRS 284.325 states, "Temporary appointment.

1. The Commission shall adopt regulations not inconsistent with this section for the certification of qualified persons for temporary service.

2. Except as otherwise provided in subsection 3, temporary positions which occur, terminate or recur periodically must be filled by certification in accordance with the regulations adopted by the Commission.

3. An agency may appoint persons temporarily for less than 160 cumulative hours during any calendar year without regard to the regulations adopted by the Commission pursuant to subsection 1.

4. The limitation on hours set forth in subsection 3 does not apply to temporary or part-time service by:
- (a) A pupil attending the pupil's last 2 years of high school;
 - (b) A student employed by the college or university the student attends;
 - (c) A person certified for temporary service in accordance with NRS 284.327;
 - (d) An employee of an events center, museum or research center of the Nevada System of Higher Education;
 - (e) A person employed by the Nevada System of Higher Education in a temporary position which recurs periodically for the registration of students; or
 - (f) A person employed by the Nevada System of Higher Education to provide such assistance to a student with a disability or to a student with an identified academic disadvantage as it determines is necessary for the academic success of the student, including, without limitation, a person employed as a tutor, note taker, reader, sign interpreter or test proctor.
5. The acceptance or refusal by an eligible person of a temporary appointment does not affect the person's standing on the register for permanent employment, nor may the period of temporary service be counted as part of the probationary period in case of subsequent appointment to a permanent position.
6. Successive temporary appointments to the same position must not be made under this section.
7. As used in this section, "student with an identified academic disadvantage" includes, without limitation, a student who the Nevada System of Higher Education has determined requires the services of a tutor for success in a course of study."

NAC 284.414 Temporary appointments. (NRS 284.065, 284.155, 284.175, 284.325, 284.345)

1. A temporary appointment must not exceed 6 months in any 12-month period unless the appointment is authorized:

(a) As a replacement for an employee who is:

(1) Receiving benefits for temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; or

(2) On a leave of absence for active military service pursuant to NRS 281.145.

(b) To allow an employee to perform duties below the journey level while he or she is studying or training for advancement to an entry level professional class.

➔ The appointing authority shall indicate the probable duration of employment on its request for certification. Upon receipt of this request, the Division of Human Resource Management will certify the names of eligible persons from the appropriate eligible list who have noted that they will accept employment for the duration of the employment indicated.

2. Service under a temporary appointment immediately preceding appointment to a permanent position must be credited towards annual leave and merit pay increases. Sick leave may be earned for each month of service pursuant to NRS 284.355.

3. A special temporary appointment to a position within the Nevada System of Higher Education may not be used to fill regularly budgeted positions. Such appointments may be made without regard to the rules on certification or appointment and may be made on forms and under procedures prescribed by the Nevada System of Higher Education and approved by the Division of Human Resource Management. Time served under a special temporary appointment pursuant to this subsection may be credited towards annual leave, sick leave or merit pay increases if the

temporary appointment is immediately followed by a probationary or a permanent appointment.

[Personnel Div., Rule VI § I, eff. 8-11-73]—(NAC A by Dep't of Personnel, 7-22-87; 7-21-89; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003)

NRS 284.317 states, “Appointment of persons with disabilities. Full consideration must be given to the employment of a person with a disability for a position if the person is capable of performing the essential functions of the position with or without reasonable accommodations.”

NRS 284.327 states, “Temporary limited appointment of persons with disabilities.

1. To assist persons with disabilities certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, appointing authorities are encouraged and authorized to make temporary limited appointments of certified persons with disabilities for a period not to exceed 700 hours notwithstanding that the positions so filled are continuing positions. A person with a disability who is certified by the Rehabilitation Division must be placed on the appropriate list for which the person is eligible. Each such person must possess the training and experience necessary for the position for which the person is certified. The Rehabilitation Division must be notified of an appointing authority's request for a list of eligibility on which the names of one or more certified persons with disabilities appear. A temporary limited appointment of a certified person with a disability pursuant to this section constitutes the person's examination as required by NRS 284.215.

2. The Commission shall adopt regulations to carry out the provisions of subsection 1.

3. This section does not deter or prevent appointing authorities from employing:

(a) A person with a disability if the person is available and eligible for permanent employment.

(b) A person with a disability who is employed pursuant to the provisions of subsection 1 in permanent employment if the person qualifies for permanent employment before the termination of the person's temporary limited appointment.

4. If a person appointed pursuant to this section is subsequently appointed to a permanent position during or after the 700 hour period, the 700-hours or portion thereof counts toward the employee's probationary period.”

NAC 284.416 Temporary limited appointment of persons with disabilities. (NRS 284.065, 284.155, 284.327) The status of the appointment of an employee appointed pursuant to NRS 284.327 is that of special disabled.

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

NAC 284.425 Positions created by temporary projects. (NRS 284.065, 284.155)

1. An employee hired for a project of limited duration will not be afforded rights relating to layoffs at the end of the funding period if, in the judgment of the appointing authority, there is no assurance of refunding. If the appointing authority determines that these rights are in the best interest of State Government, he or she may so designate all appointments as having these rights on the appointment document.

2. Such an employee may be reinstated if he or she is eligible for this right. Details concerning temporary funding, time limits, and layoffs must be included on the original appointment document and at each successive time the project is renewed.

3. A project originally designated as including or as not including rights relating to layoffs

may not be redesignated upon refunding unless the funding status of the project has changed.

[Personnel Div., Rule VI § L, eff. 8-11-73; A 3-15-76]—(Substituted in revision for NAC 284.438)

NAC 284.434 Seasonal positions. (NRS 284.065, 284.155)

1. An appointment to a seasonal position may not exceed 9 months of full-time equivalent service in any 12-month period. A separation from a seasonal position which is a result of the lack of money or the lack of work must be made in accordance with NAC 284.608.

2. Persons eligible for seasonal reemployment must be offered employment in the order that they appear on the seasonal reemployment list before another type of list of eligible persons may be used.

3. Reemployment rights extending 1 year from the date of a seasonal employee's date of separation:

(a) Must be granted if the employee has attained permanent status; or

(b) May be granted, at the discretion of the appointing authority, if the employee has not attained permanent status,

↪ if the employee's last rating of performance was standard or better.

4. For the purposes of this section, a person's right to reemployment is limited to a seasonal position in the same class, option and department in which he or she last worked, except that an appointing authority may:

(a) Reemploy a former employee who held a seasonal position in another department if he or she is otherwise eligible.

(b) Reemploy a former employee who held a seasonal position in a comparable class if he or she is otherwise eligible and the Division of Human Resource Management approves.

5. To be eligible for reemployment, the former employee must:

(a) Notify the agency, in writing, stating the locations where he or she seeks reemployment; and

(b) Be available for the entire term of employment.

6. Seasonal reemployment lists must be maintained by the employing department, taking into account the provisions in subsection 1 of NAC 284.360 and subsections 3, 4 and 5 of this section.

7. An incumbent in a permanent position may request a seasonal position. By the voluntary acceptance of a seasonal position, an employee gives up any right to return to his or her former permanent position but, if eligible, may be reappointed.

[Personnel Div., Rule VI part § J, eff. 3-3-77]—(NAC A by Dep't of Personnel, 10-26-84; 8-1-91; 11-16-95; A by Personnel Comm'n by R183-03, 1-27-2004)

NAC 284.436 Intermittent positions. (NRS 284.065, 284.155, 284.340, 284.384)

1. An intermittent position is a position:

(a) That is filled by a person who may be called to work at any time;

(b) That is used to supplement the agency's full-time staff; and

(c) The compensation of which is separately identified in the budget of the agency.

2. An appointing authority may hire an employee in an intermittent position to supplement the full-time staff of an agency when the staffing needs of the agency fluctuate because of changes in the amount of work.

3. If a position is budgeted as an intermittent position, that position may only be underfilled pursuant to this chapter by an intermittent employee. An intermittent employee may only underfill a position that has been budgeted as an intermittent position.

4. An employee in an intermittent position who has attained permanent status:

(a) Must be given notice of any layoff affecting him or her not less than 1 week before the layoff; and

(b) Has a right of reemployment if his or her last report on performance was standard or better. The right of reemployment is based on the same formula as that used for other employees except that it extends only to the cost center or division from which his or her employment was terminated. This right must not operate to the detriment of a permanent full-time employee.

5. As used in this section, “cost center” means an organizational unit or group of organizational units within the Employment Security Division of the Department of Employment, Training and Rehabilitation.

(Added to NAC by Dep’t of Personnel, eff. 8-28-85; A 8-1-91; A by Personnel Comm’n by R183-03, 1-27-2004; R007-11, 10-26-2011)

NAC 284.437 Underfilling of positions. (NRS 284.065, 284.155, 284.305)

1. Except as provided in subsection 4, before a position may be underfilled, it must be approved in writing by the Division of Human Resource Management. The Division of Human Resource Management will only approve a position to be underfilled if there are less than five eligible ranks on the appropriate list who are available for appointment.

2. Except as otherwise provided in subsection 4, if a position is approved to be underfilled, the Division of Human Resource Management will begin a recruitment for the class of the position unless a recruitment within 12 months before the approval failed to produce sufficient applicants on the appropriate list.

3. Except as otherwise provided in subsection 4, the position may not continue to be underfilled for more than 30 working days after five or more ranks of eligible persons on the appropriate list who are available for appointment are certified to the appointing authority.

4. Subsections 1, 2 and 3 do not apply to the underfilling of a position:

(a) If the position is authorized at or below the journey level and an employee fills that position in a class which is a training or intermediate level preparatory to promotion;

(b) If an employee’s position is reclassified pursuant to NAC 284.138; or

(c) If an appointing authority has requested and received approval from the Division of Human Resource Management to underfill a position because money is not available and that fact has been certified by the Chief of the Budget Division or, in the case of an agency which is not funded from the General Fund or the Nevada System of Higher Education, by the administrator of that agency or System.

5. An employee or former employee may not be selected 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 holds or, in the case of a former employee, the current grade of the position the person formerly held.

(Added to NAC by Dep’t of Personnel, eff. 8-28-85; A by Personnel Comm’n by R183-03, 1-27-2004)

NRS 284.307 states, “Automatic advancement of person in training or preparatory position. An employee who holds a position classified as a training or preparatory position may advance automatically to a position having a higher classification after the employee meets the minimum qualifications for the higher classification and receives the recommendation of the appointing authority for that advancement.”

NAC 284.4375 Automatic advancement. (NRS 284.065, 284.155, 284.175)

1. For the purposes of this section, “automatic advancement” or “automatically advanced” means the progression of an employee to the authorized grade of the position, but not exceeding the journey level. Automatic advancement occurs without recruitment and may occur without examination. It is based upon the employee’s:

- (a) Meeting minimum qualifications;
- (b) Satisfactory performance; and
- (c) Endorsement by his or her appointing authority.

2. In determining the status of an employee who has been automatically advanced:

(a) The provisions in NAC 284.172, governing an employee’s pay on promotion, apply.

(b) If the employee had attained permanent status in the class from which he or she was automatically advanced, the employee retains that status in the new class.

(c) If the employee had not attained permanent status in the class from which he or she was automatically advanced, the employee must remain in probationary status in the new class until he or she has worked in that class for a period equal to the remaining portion of the probationary period that is required for the new class.

3. An employee returning from a military leave of absence pursuant to NRS 284.359 to a position that provides for automatic advancement must successfully complete the probationary period for the position before receiving automatic advancement. Automatic advancement 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.

[Personnel Div., Rule I § C subsec. 23, eff. 4-14-76; + Rule III part § G, eff. 8-11-73; A 4-14-76]—(NAC A by Dep’t of Personnel, 10-26-84; 7-21-89; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm’n by R141-07, 1-30-2008; R133-12, 10-4-2013)

NAC 284.439 Reports of appointments. (NRS 284.065, 284.121, 284.155) Reports of appointments made pursuant to NRS 284.121 must include the type of position, the type of appointment and the employee’s status of appointment as follows:

1. The type of classified position must be:

- (a) Permanent;
- (b) Special project;
- (c) Temporary;
- (d) Seasonal; or
- (e) Intermittent.

2. The type of appointment to a classified position must be:

- (a) Demotion;
- (b) Reemployment;
- (c) Transfer;
- (d) Reappointment;
- (e) **Reassignment**;
- (f) Promotion;
- (g) Reinstatement; or
- (h) New hire.

3. The status of appointment in a classified position must be:

- (a) Probationary for a nonpermanent employee;
- (b) Permanent;
- (c) Trial period for a permanent employee;
- (d) Provisional;

- (e) Emergency;
- (f) Temporary; or
- (g) Special disabled.

4. In the unclassified service, the type of position, type of appointment and status of appointment are each “unclassified.”

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 8-28-85; 8-1-91; 7-6-92; A by Personnel Comm’n by R183-03, 1-27-2004; ***R097-16, 11-2-2016***)—(Substituted in revision for NAC 284.383)

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ATTENDANCE AND LEAVES

NAC 284.523 Definitions. (NRS 284.065, 284.155, 284.345) As used in NAC 284.523 to 284.598, inclusive, *and sections 2, 3 and 4 of LCB File No. R017-16*, unless the context otherwise requires, the words and terms defined in NAC 284.5231 to 284.52375, inclusive, *and section 4 of LCB File No. R017-16* 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; *R017-16, 11-2-2016*)

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)

1. "Child" means a person who is:

(a) A biological, adopted or foster child, a stepchild, a legal ward or *a* child of a person *standing in loco parentis to* that child; and

(b) Except as otherwise provided in NAC 284.5235 and 284.562, under 18 years of age or *who* is 18 years of age or older and incapable of *self-care* because of a physical *or mental* disability *at the time the requested leave is to commence*.

2. *The term includes a person who meets the definition of "child" as interpreted by the Division of Human Resource Management pursuant to section 2 of LCB File No. R017-16.*

3. *As used in this section:*

(a) *"Incapable of self-care" means that a person requires active assistance or supervision to provide daily self-care in three or more of the:*

(1) Activities of daily living which include adaptive activities, including, without limitation, caring appropriately for personal grooming and hygiene, bathing, dressing and eating; or

(2) Instrumental activities of daily living which include, without limitation, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories and using a post office.

(b) *"Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of a person, as those terms are defined in 29 C.F.R. § 1630.2(h), (i) and (j).*

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by Personnel Comm'n by R096-03, 10-30-2003; *R017-16, 11-2-2016*)

NEW Child” interpreted. Except for the purposes of NAC 284.5235 and 284.562, the Division of Human Resource Management shall interpret and construe the definition of “child” set forth in NAC 284.52315 in a manner that is consistent with the interpretation by the Wage and Hour Division of the United States Department of Labor of the definition of “son or daughter” set forth in 29 C.F.R. § 825.122(d).

(Added to NAC by Personnel Comm’n by R017-16, eff. 11-2-2016)

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)

NEW “In loco parentis” defined.

1. “Person standing in loco parentis” or “person who stood in loco parentis” means:

(a) For the purposes of NAC 284.52315, a person who has day-to-day responsibilities to care for or financially support a child; and

(b) For the purposes of NAC 284.5237, a person who had the day-to-day responsibilities to care for or financially support an employee when the employee was a child.

2. For the purposes of this section, a biological or legal relationship between the person and the child or between the person and the employee when the employee was a child, as applicable, is not necessary.

(Added to NAC by Personnel Comm’n by R017-16, eff. 11-2-2016)

NAC 284.5237 “Parent” defined. (NRS 284.065, 284.155, 284.345)

1. “Parent” means a biological, adopted or foster parent or stepparent of an employee or a person who stood in loco parentis to the employee when the employee was a child.

2. *The term includes a person who meets the definition of “parent” as interpreted by the Division of Human Resource Management pursuant to section 3 of LCB File No. R017-16.*

3. 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; *A by Personnel Comm’n by R017-16, 11-2-2016*)

NEW “Parent” interpreted. The Division of Human Resource Management shall interpret and construe the definition of “parent” set forth in NAC 284.5237 in a manner that is consistent with the interpretation by the Wage and Hour Division of the United States Department of Labor of the definition of “parent” set forth in 29 C.F.R. § 825.122(c).

(Added to NAC by Personnel Comm’n by R017-16, eff. 11-2-2016)

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 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;*

(f) A dispensing optician;

(g) An optometrist;

(h) *A speech-language pathologist;*

(i) *An audiologist;*

(j) A practitioner of respiratory care;

(k) A registered physical therapist;

(l) An occupational therapist;

(m) A podiatric physician;

(n) A licensed psychologist;

(o) A licensed marriage and family therapist;

(p) A licensed clinical professional counselor;

(q) A music therapist;

(r) A chiropractor;

(s) An athletic trainer;

(t) A perfusionist;

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

(v) A medical laboratory director or technician;

(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 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 therefor.
 - (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)

➔ For the purposes of this subsection, interest shall be computed at the assumed investment income rate used in the actuarial valuation of the System next preceding the date of repayment under paragraph (a) or agreement under paragraph (b).

2. Upon redepositing the member's withdrawn contributions, with interest, the member shall have restored completely the member's previous service credit which had been relinquished by the withdrawal of such contributions. If a member fails to perform fully an agreed repayment schedule, the member is entitled to service credit for previous service in the same proportion that the member's repayment of withdrawn contributions bears to the total amount of withdrawn contributions."

NRS 284.379 states, "Separation or disability retirement of employee with disability. In the employment of a person with a disability in the state service, continued efforts must be made to retain the person by making reasonable accommodations that enable the person to perform the essential functions of *his or her current* position and to enjoy the benefits and privileges of the position. An appointing authority shall consider separation or disability retirement if:

1. *An* employee can no longer perform the essential functions of the position with or without reasonable accommodations; and

2. *Without undue hardship, as that term is defined pursuant to the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., the employee cannot be appointed to a position for which a vacancy exists and for which the employee is qualified at or below the grade of the employee's current position."*

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

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 284.611 Separation for physical, mental or emotional disorder. (NRS 284.065, 284.155, 284.355, 284.383, 284.385, 284.390)

1. Before separating an employee because of a physical, mental or emotional disorder which results in the inability of the employee to perform the essential functions of his or her job, the appointing authority must:

(a) Verify with the employee's physician or by an independent medical evaluation paid for by the appointing authority that the condition does not, or is not expected to, respond to treatment or that an extended absence from work will be required;

(b) Determine whether reasonable accommodation can be made to:

(1) *Enable* the employee to perform the essential functions of his or her job; *or*

(2) *Reassign the employee if it has been determined that:*

(I) *There is no reasonable accommodation that can be made to enable the employee to perform the essential functions of his or her job; or*

(II) *All other reasonable accommodations would cause an undue hardship to the appointing authority.*

(c) Make a request to the Administrator of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to obtain the services provided by that Division, or if the employee is receiving worker's compensation, request the services of the rehabilitation

provider, to evaluate the employee's condition and to provide any rehabilitative services possible; and

(d) Ensure that all reasonable efforts have been made to retain the employee.

2. A separation pursuant to this section is only justified when:

(a) The information obtained through the procedures specified in subsection 1 supports the decision to separate;

(b) The employee is not on sick leave or other approved leave; and

(c) A referral has been made to the Public Employees' Retirement System and the employee has been determined to be ineligible for, or has refused, disability retirement.

3. A permanent employee separated pursuant to this section is entitled to the same rights and privileges afforded permanent employees who are dismissed for disciplinary reasons. The procedures contained in NAC 284.656, 284.6561 and 284.6563 must be followed, and he or she may appeal the separation to the hearing officer.

4. A permanent employee who is separated because of a physical, mental or emotional disorder is eligible for reinstatement pursuant to NAC 284.386 if he or she recovers from the disorder.

5. As used in this section, "undue hardship" has the meaning ascribed to it in 29 C.F.R. § 1630.2.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91; 12-26-91; 7-6-92; R197-99, 1-26-2000; A by Personnel Comm'n by R182-03, 1-27-2004; R143-05, 12-29-2005; R063-09, 11-25-2009, R009-14, 6-23-14; **R097-16, 11-2-2016**)

NRS 284.380 states, "Layoffs; reemployment lists.

1. In accordance with regulations, an appointing authority may lay off an employee in the classified service whenever the appointing authority deems it necessary by reason of shortage of work or money or of the abolition of a position or of other material changes in duties or organization.

2. Among other factors, an appointing authority shall consider, in the manner provided by regulation, the status, seniority and service rating of employees in determining the order of layoffs.

3. Within a reasonable time before the effective date of a proposed layoff, the appointing authority shall give written notice thereof to the Administrator. The Administrator shall make such orders relating thereto as the Administrator considers necessary to secure compliance with the regulations.

4. The name of every regular employee so laid off must be placed on an appropriate reemployment list."

NRS 286.3007 states in part, "Purchase by state agency for credit for service: Conditions.

3. If a state agency is required to reduce the number of its employees, it shall purchase credit for service pursuant to NRS 286.300 for any member who:

(a) Is eligible to purchase credit;

(b) Is eligible to retire or will be made eligible by the purchase of the credit;

(c) Agrees to retire upon completion of the purchase; and

(d) Has been employed by the agency for 5 or more years.

4. If a state agency is required to purchase credit pursuant to subsection 3, it shall pay 5 percent of the cost of purchasing the credit and an additional 5 percent of the cost for each year

that the person has been employed by the agency in excess of the minimum requirement of 5 years.”

NAC 284.612 Layoffs: Definitions. (NRS 284.065, 284.155, 284.380) For the purposes of NAC 284.612 to 284.632, inclusive:

1. “Geographical location” means:
 - (a) Clark, Lincoln, Nye and Esmeralda Counties;
 - (b) Carson City, Lyon, Churchill, Storey, Douglas, Mineral and Washoe Counties;
 - (c) Pershing, Humboldt, Elko, Lander, Eureka and White Pine Counties; or
 - (d) Any city located outside of this State.
2. “Option” means a clearly identified subclassification mentioned in the class specification approved by the Commission.

(Added to NAC by Dep’t of Personnel, eff. 8-26-83; A 10-26-84; 7-21-89; 11-16-95; R146-01, 1-18-2002; A by Personnel Comm’n by R096-03, 10-30-2003)

NAC 284.614 Layoffs: Procedure. (NRS 284.065, 284.155, 284.380)

1. Except as otherwise provided in NAC 284.425, if it becomes necessary for a classified employee to be laid off because of a shortage of work or money, the abolition of a position, or some other material change in duties or organization:

(a) The director of the department shall determine in what geographical location, class series, class and option the reductions in staff will have the least detrimental effect on the operations of the department and shall specify layoffs accordingly. In the Department of Health and Human Services and the Nevada System of Higher Education, the administrator of a division may be designated to make these determinations with the approval of the director of the department.

(b) Within the department, geographical location, class series, class and option selected, all employees of the department who are not permanent must be separated from service before any permanent employees in the following order:

- (1) Emergency employees.
- (2) Temporary employees.
- (3) Provisional employees.
- (4) Probationary employees.

(c) If additional reductions are necessary, permanent employees must be laid off on the basis of seniority pursuant to NAC 284.632.

(d) In the department, geographical location, class series, class and option where layoffs are to take place, those employees with the least seniority must be laid off, transferred as set forth in subsection 2 or voluntarily demoted as set forth in NAC 284.618.

(e) An appointing authority may consider limiting layoffs to employees in full-time or part-time positions. Similar considerations may be given to and limitations placed on positions requiring selective certification pursuant to NAC 284.361.

2. If a permanent employee must be laid off for one of the reasons set forth in subsection 1, the appointing authority shall notify the employee that he or she may choose to:

- (a) Transfer within his or her department, class and option into the position of the employee in his or her department, class and option with the least seniority;
- (b) Be voluntarily demoted as set forth in NAC 284.618; or
- (c) Exercise his or her reemployment rights as set forth in NAC 284.630.

3. Within 3 working days after an employee has been notified of his or her choices pursuant to subsection 2, he or she must designate in writing to the appointing authority the choice he or she will exercise.

4. For the purposes of this section, divisions of the Department of Health and Human Services and the Nevada System of Higher Education shall be deemed to be departments.

[Personnel Div., Rule XIII § B subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 8-28-85; 8-22-86; 7-21-89; 8-1-91; 3-27-92; 9-16-92; 11-16-95; 10-27-97; R031-98, 4-17-98; R043-99, 9-27-99; R146-01, 1-18-2002; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003; R143-05, 12-29-2005)

NAC 284.618 Layoffs: Voluntary demotions. (NRS 284.065, 284.155, 284.175, 284.380)

1. In lieu of being laid off, a permanent employee may choose to be voluntarily demoted to a vacant position or displace an employee within the department and geographical location where employed to one of the next lower classes:

(a) Within his or her current class series and option; or

(b) Within the class series and option from which he or she was appointed to his or her current position during current continuous service if he or she cannot be demoted pursuant to paragraph (a).

↪ For the purposes of this subsection, divisions of the Department of Health and Human Services and the Nevada System of Higher Education shall be deemed to be departments.

2. No employee in a higher class may displace an employee in a lower class who has more seniority. If an employee chooses to displace another, he or she must displace the member of the next lower class who has the least seniority. If that member has more seniority, the displacing employee must descend further in the class series.

3. The employees displaced reestablish the layoff class.

4. An employee may choose to displace another only if he or she meets the minimum qualifications for the class, option and position. For the purposes of this subsection, qualifications for a position may be different from those of the class and option only when selective certification is required pursuant to subsection 2 of NAC 284.361.

5. Full-time, part-time and seasonal employees must be treated separately and can only displace like employees.

6. Displacement is always a movement to a class at a lower grade.

7. A current employee who elects to displace another employee has priority over former employees already on reemployment lists.

8. The pay of the employee who is taking a voluntary demotion cannot exceed the highest step for the class to which the employee is being demoted. If the current pay falls within the lower rate range, no reduction in pay may occur unless money is not available as certified by the Chief of the Budget Division or, in the case of an agency which is not supported from the State General Fund, as certified by the administrator of that agency.

[Personnel Div., Rule XIII § B subsec. 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-21-89; 8-1-91; R146-01, 1-18-2002; A by Personnel Comm'n by R096-03, 10-30-2003; R143-05, 12-29-2005)

NAC 284.626 Layoffs: Notice. (NRS 284.065, 284.155, 284.380) All permanent employees to be laid off must be given written notice of the layoff at least 30 calendar days before the effective date of the layoff. A copy of the seniority calculations and layoff notice must be sent to the Division of Human Resource Management. The notice must specifically list the positions and locations where the employee has a current right to displace another employee, if those positions and locations are known at the time of notification.

[Personnel Div., Rule XIII § B subsec. 5, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 8-1-91; A by Personnel Comm'n by R143-05, 12-29-2005)

NAC 284.630 Layoffs: Reemployment. (NRS 284.065, 284.155, 284.250, 284.380)

1. Names of permanent employees who have received a layoff notice will be placed on the statewide reemployment list for the class and option of the position involved in the layoff, in order of seniority.

2. Names of permanent employees who have received a layoff notice will also be placed on the statewide reemployment list for other classes for which they qualify at or below the grade of the class held at the time of layoff, in order of seniority but behind those identified in subsection 1.

3. The employee shall provide an employment application and a list of classes and options he or she is seeking for reemployment to the Division of Human Resource Management within 30 days after his or her layoff date. The agency shall provide the seniority calculations to the Division of Human Resource Management.

4. Names of permanent employees who have received a layoff notice will be integrated with names of employees who are eligible for reemployment pursuant to NAC 284.6014.

5. Part-time employees are not entitled to be reemployed in full-time positions, and full-time employees are not entitled to be reemployed in part-time positions.

6. Seniority must be projected and counted up to the layoff date, or transfer date if the provisions of subsection 4 of NAC 284.394 apply. Seniority determines ranking on all reemployment lists and will not be recalculated unless the employee is affected by a subsequent layoff.

7. Each person on the list retains reemployment eligibility for 1 year after the layoff date. Except as otherwise provided in this section, reemployment rights are exhausted when a person accepts or declines an offer of employment in the class or a comparable class with the same grade in the department and geographical location of the layoff. Any exception to this provision must be approved by the Division of Human Resource Management. When a person accepts a position at a grade lower than that held at the time of layoff, his or her name will be removed from all reemployment lists that are equal to or below the grade accepted.

8. A permanent employee who has been laid off and is being reemployed in the department, class and option from which he or she was laid off must have his or her permanent status restored. A permanent employee who is reemployed in a different class or in a different department must serve a new probationary period. If the employee does not complete the probationary period, his or her name must be restored to the appropriate reemployment list for any remaining part of the year following the layoff date. When the right to reemployment expires, the person affected retains the right to reinstatement or reappointment pursuant to NAC 284.386 or 284.404.

[Personnel Div., Rule XIII § B subsec. 6, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-21-89; 8-1-91; 11-12-93; 3-1-96; A by Personnel Comm'n by R183-03, 1-27-2004; R143-05, 12-29-2005)

NAC 284.632 Layoffs: Calculation of seniority. (NRS 284.065, 284.155, 284.335, 284.380)

1. For the purposes of calculating an employee's seniority for NAC 284.614, 284.618 and 284.630:

(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 layoff must be included.

(b) Except as otherwise provided in subsection 2, the sum of the calculation made pursuant to paragraph (a) or, if applicable, subsection 5 must be reduced by the following periods if those periods occurred during the 36 months immediately preceding the date of the notification of layoff:

(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 layoff equal to 12 months of full-time equivalent service;

(2) For an exempt classified employee or exempt unclassified 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 layoff 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 layoff.

2. For the purposes of the reduction in the calculation of seniority required by paragraph (b) of subsection 1:

(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 1, 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.

3. For the purposes of calculating seniority for layoff, 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.

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

5. 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 layoff. 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 which employees will receive a layoff notice and not for the placement of those employees on the 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 1.

(Added to NAC by Personnel Comm'n by R096-03, eff. 10-30-2003; A by R182-03, 1-27-2004; R143-05, 12-29-2005)

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)

NEW Request for extension to complete internal administrative investigation.

1. Pursuant to subsection 2 of NRS 284.387, if an appointing authority wishes to request an initial extension of not more than 60 days from the Administrator to complete an internal administrative investigation that could lead to disciplinary action against an employee pursuant to NRS 284.385 and make a determination as a result of the investigation, the appointing authority must:

(a) Submit the request to the Administrator on a form prescribed by the Division of Human Resource Management on or before the 90th day after the employee was provided notice of the allegations against the employee;

(b) Explain in the request why the appointing authority is unable to complete the internal administrative investigation and make a determination within 90 days after the employee was provided notice of the allegations; and

(c) Provide a copy of the request to the employee who is the subject of the internal administrative investigation.

2. If an initial extension is granted pursuant to subsection 1 and the appointing authority is unable to complete the internal administrative investigation and make a determination within the period of the extension, the appointing authority may request an additional extension to be approved by the Governor. If the appointing authority wishes to request an additional extension, the appointing authority must:

(a) Submit the request in writing to the Administrator, for submission to the Governor, on or before the expiration date of the initial extension;

(b) Explain in the request why the appointing authority is unable to complete the internal administrative investigation and make a determination within the period of the initial extension; and

(c) Provide a copy of the request to the employee who is the subject of the internal administrative investigation.

3. The Administrator may deny a request for an extension that is not submitted within the period required by paragraph (a) of subsection 1.

4. The Governor may deny a request for an extension that is not submitted within the period required by paragraph (a) of subsection 2.

(Added to NAC by Personnel Comm'n by R076-16, eff. 11-2-2016)

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) **Notified** in writing of the appointing authority’s decision regarding the proposed action **and the reasons therefor** on or before the effective date of the action.

8. ***The notice given pursuant to paragraph (b) of subsection 7 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. As used in this subsection, “social media” has the meaning ascribed to it in subsection 7 of NAC 284.656.***

9. 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; **R076-16, 11-2-2016**)

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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NRS 392.920	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.	
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NRS 394.179	Parental involvement: Employer required to grant leave to parent to participate in school conferences and other school-related activities; conditions; exception.	
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NRS 414.070	Additional powers of Governor during emergency or disaster.	
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NRS 414.260	Membership in volunteer search and rescue or reserve unit of sheriff's department or Civil Air Patrol: Discharge of employee for membership prohibited; exceptions; civil remedy.	
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NRS 480.320	Payment of cadets.	
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NRS 613.075	Inspection by person who is subject of records; provision of copies upon request; cost of copies; person permitted to submit written explanation in response to information in records and to challenge accuracy; limitations.	
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NRS 613.330	<i>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.</i>	
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NRS 613.333	Unlawful employment practices: Discrimination for lawful use of any product outside premises of employer which does not adversely affect job performance or safety of other employees.	
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NRS 616C.475	Amount and duration of compensation; limitations; requirements for certification of disability; offer of light-duty employment.	
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NRS 629.031	<i>“Provider of health care” defined.</i>	
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