



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
209 E. Musser Street, Suite 101 | Carson City, Nevada 89701
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REGULATIONS WORKSHOP

DATE: July 11, 2017

TIME: 9:00 a.m.

PLACE: Legislative Counsel Bureau Grant Sawyer Building
Room 2135 Room 4412E
401 S. Carson Street 555 E. Washington Avenue
Carson City, Nevada Las Vegas, Nevada

The sites will be connected by videoconference. The public is invited to attend at either location.

AGENDA

1. Call To Order
2. Review of proposed changes to NAC 284:

<u>NAC #</u>	<u>Regulation Leadline</u>
NEW	Reasonable break times and place to express milk.
NEW	Request for break times and place to express milk.
NEW	“Complaint” defined.
NEW	Submission of complaint to Employee-Management Committee.
NAC 284.0735	“Organizational climate study” defined.
NAC 284.112	“Working day” defined.
NAC 284.589	Administrative leave with pay.
Section 1 of LCB File No. R076-15	Removal of ineligible grievance or complaint from procedure.
NAC 284.662	Providing assistance to employee.
NAC 284.680	Date of receipt of grievance or complaint.
NAC 284.692	Agreement for extension of time to file grievance or complaint, or take required action.
NAC 284.6952	Request for resolution conference; appointment of facilitator; effect of request for resolution conference on jurisdiction of Employee-Management Committee.

NAC 284.6955	Hearing before the Employee-Management Committee: Procedure.
NAC 284.6957	Hearing before the Employee-Management Committee: Continuance.
NAC 284.696	Unlawful discrimination.
NAC 284.697	When resolution of grievance or complaint becomes binding.
NAC 284.358	Types of lists and priority for use.
NAC 284.360	Reemployment lists; certification or waiver of lists.
NAC 284.361	Use of lists and consideration of eligible persons.
NAC 284.364	Lists of persons with disabilities who are eligible for temporary limited appointments.
NAC 284.325	Preferences for veterans.
NAC 284.321	Convictions: Disclosure; factors for consideration.
NEW	Accommodation for employee affected by domestic violence.
NAC 284.539	Annual leave: Written request; approval or denial; authorized use.
NAC 284.554	Sick leave: Authorized use.
NAC 284.578	Leave of absence without pay.
Section 1 of LCB File No. R100-16	Appeal of refusal to examine or certify.

3. Adjournment

This workshop will be conducted in accordance with the Open Meeting Law (NRS 241.020).

NOTE: Comments by the general public will be taken following a description of the proposed regulation changes. Public comment may be limited to 15 minutes per person at the discretion of the staff member conducting the workshop.

If anyone has questions or wishes to discuss in further detail, the items scheduled for this regulations workshop, please contact Shelley Blotter at (775) 684-0105.

Notices have been posted on the Division of Human Resource Management's website at www.hr.nv.gov and at the following locations:

CARSON CITY

Blasdel Building, 209 E. Musser Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson
Street

LAS VEGAS

Grant Sawyer State Office Building,
555 E. Washington Avenue

LCB website: www.leg.state.nv.us

Nevada Public Notice

website: www.notice.nv.gov

We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Division of Human Resource Management, in writing, at 100 N. Stewart Street, Suite 200, Carson City, Nevada 89701-4204 or call Nora Johnson at (775) 684-0135, no later than five working days before the meeting.

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

The Division of Human Resource Management, 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0148, is proposing the permanent adoption, amendment and repeal of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 9:00 a.m. on Tuesday, July 11, 2017, at the Legislative Counsel Bureau, 401 S. Carson Street, Room 2135, Carson City, Nevada and by video conference at the Grant Sawyer Building, 555 E. Washington Avenue, Room 4412E, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following topics that may be addressed in the proposed regulations:

<u>NAC #</u>	<u>Regulation Leadline</u>
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NEW	Request for break times and place to express milk.
NEW	“Complaint” defined.
NEW	Submission of complaint to Employee-Management Committee.
NAC 284.0735	“Organizational climate study” defined.
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NAC 284.6957	Hearing before the Employee-Management Committee: Continuance.
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NAC 284.360	Reemployment lists; certification or waiver of lists.
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NAC 284.325	Preferences for veterans.
NAC 284.321	Convictions: Disclosure; factors for consideration.
NEW	Accommodation for employee affected by domestic violence.
NAC 284.539	Annual leave: Written request; approval or denial; authorized use.
NAC 284.554	Sick leave: Authorized use.
NAC 284.578	Leave of absence without pay.
Section 1 of LCB File No. R100-16	Appeal of refusal to examine or certify.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Division of Human Resource Management at 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0148, or 555 E. Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-0034. A reasonable fee for copying may be charged. The agency's small business impact statement is attached.

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

CARSON CITY

Blasdel Building, 209 E. Musser Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson
Street

LAS VEGAS

Grant Sawyer State Office Building,
555 E. Washington Avenue

LCB website: www.leg.state.nv.us
Division of Human Resource Management
website: www.hr.nv.gov
Nevada Public Notice
website: www.notice.nv.gov

In addition, this Notice of Workshop to Solicit Comments on Proposed Permanent Regulations has been sent to:

ALL STATE AGENCIES
ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Division of Human Resource Management, in writing, at 100 N. Stewart Street, Suite 200, Carson City, Nevada 89701-4204 or call Nora Johnson at (775) 684-0135, no later than five working days before the meeting.

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to add a new section providing reasonable break times and a place for an employee who is a nursing mother with a child under the age of 1 to express breast milk.

This amendment, proposed by the Division of Human Resource Management, amends NAC 284 by adding a new section to allow an employee to use accrued annual leave or compensatory time to make up the difference if she determines that her rest periods do not allow enough time to express milk. This new section also includes the requirement that a clean place must be provided that is not a bathroom.

NEW Reasonable break times and place to express milk. An employee who is the mother of a child under 1 year of age must be permitted to take reasonable breaks to express milk. Her appointing authority shall:

- 1. If the employee determines that her rest periods are not sufficient to express milk:
 - (a) Approve the use of accrued annual leave, accrued compensatory time or leave without pay to make up the difference between her normal rest period and the time she uses to express milk and for reasonable breaks other than her rest periods to express milk; or*
 - (b) Permit the employee to modify her work schedule to make up the difference between her normal rest period and the time she uses to express milk and for reasonable breaks other than her rest periods to express milk.**
- 2. Provide a place, other than a bathroom, that is reasonably free of dirt or pollution, protected from the view of others, and free from intrusion by others.*

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to add a new section providing reasonable break times and a place for an employee who is a nursing mother with a child under the age of 1 to express breast milk.

This amendment, proposed by the Division of Human Resource Management, establishes the requirement that Executive Branch departments or agencies must create a procedure for a nursing mother to request time and a place to express milk. This amendment also encourages working with such an employee to determine her specific needs, even if she is on leave from work. Finally, this amendment describes when a request for break times and a place to express milk is deemed to have been received by a department or agency.

NEW Request for break times and place to express milk.

- 1. Each department or agency within the Executive Branch shall develop a procedure for an employee to request reasonable break times and place for the expression of milk as provided for in section 2 of Assembly Bill No. 113, chapter 281, Statutes of Nevada 2017.*
- 2. Every effort should be made to address the specific employee's needs. If the employee is on leave at the time the request is received, including Family and Medical Leave, the department or agency may attempt to contact and consult with the employee.*
- 3. A request for break times and place to express milk is deemed to be received by a department or agency:
 - (a) On the date on which the employee or his or her chosen representative personally delivers the request, transmits it by facsimile machine, or submits it by email; or**

(b) If the employee mails a request, 3 days after:

(1) The date on which the request was postmarked; or

(2) The date on the return receipt if sent by certified mail.

4. Within 5 working days after the employee's request is deemed to have been received by the department or agency, the department or agency shall answer the request.

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to add a new section providing reasonable break times and a place for an employee who is a nursing mother with a child under the age of 1 to express breast milk.

This amendment, proposed by the Division of Human Resource Management, creates a definition for the term "complaint" as ascribed in Assembly Bill 113 of the 2017 Legislative Session.

NEW "Complaint" defined. As used in NAC 284.662 to 284.697, and NAC 284.589, a "complaint" has the meaning ascribed to it in section 2 of Assembly Bill No. 113, chapter 281, Statutes of Nevada 2017.

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, describes the procedures a State of Nevada employee must take if he or she is aggrieved by the failure of his or her department or agency to comply with the provisions of Assembly Bill 113 of the 2017 Legislative Session. The amendment requires that the complaint be submitted on a form provided by the Division, includes required time frames, and addresses the Employee-Management Committee's duties when a complaint is received.

NEW Submission of complaint to Employee-Management Committee.

1. If:

(a) An employee is not satisfied with the response by the department or agency or there is no response by the department or agency, pursuant to the employee's request for reasonable break times and place for the expression of breast milk; or

(b) It is alleged that an officer or employee has retaliated, or directed or encouraged another person to retaliate against an employee pursuant to section 3 of Assembly Bill No. 113, chapter 281, Statutes of Nevada 2017,

↪ the employee may request consideration of a complaint by the Committee pursuant to its rules.

2. The employee must submit the complaint, on the form provided by the Division of Human Resource Management, to the Committee within 10 working days following his or her

receipt of the response from the department or agency, or within 10 working days after the date of the alleged retaliation. If the employee does not receive a response within 8 working days after the complaint was deemed to be received by the department or agency, the employee may submit a complaint pursuant to this section. The complaint must include the specific points of disagreement or contention and supporting evidence. The Committee will, within 28 working days after the receipt of the employee's request:

(a) Answer the request without a hearing if the case is based upon the Committee's previous decisions or if the complaint does not fall within its jurisdiction; or

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

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

(2) Provide notice to the employee by:

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

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

(3) Render a decision within 10 days after the closure of the hearing.

(c) For the purpose of determining placement on upcoming Committee meetings' agendas, a complaint has priority over a grievance.

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, makes a conforming change to include "complaints" in the methods used by the Division to complete an organizational climate study.

NAC 284.0735 "Organizational climate study" defined. (NRS 284.065, 284.155)
"Organizational climate study" means an independent study conducted by the Division of Human Resource Management to assess and evaluate the culture, effectiveness of management, employee morale and internal communication of an organization through a variety of methods, including, without limitation:

1. Surveys;
2. Interviews, including, without limitation, exit interviews;
3. Review of policies, procedures and internal communications;
4. Review of issues related to recruitment;
5. Review of data relating to employees, including, without limitation, statistics relating to turnover; and
6. Review of grievances *or complaints* filed by employees.

(Added to NAC by Personnel Comm'n by R137-12, eff. 10-23-2013)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, makes a conforming change to include complaints in the definition of “working day” so that the time frames included in the complaint process are defined.

NAC 284.112 “Working day” defined. (NRS 284.065) “Working day,” for the purpose of a grievance, *complaint*, or an appeal, means Monday to Friday, inclusive, excluding holidays.
(Added to NAC by Dep’t of Personnel, eff. 10-26-84)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, makes a conforming change to allow administrative leave for the appearance of an employee who has filed a complaint at a hearing of the Employee-Management Committee in which the complaint will be heard. This amendment will require an appointing authority to grant administrative leave for up to 8 hours for the preparation for such a hearing.

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 , *a complainant*, 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)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, will provide the authority to the Division of Human Resource Management to remove a complaint from the procedure if it is determined that the complaint is not eligible pursuant to Assembly Bill 113 of the 2017 Legislative Session. The amendment also includes several conforming changes to include "complaint" in the provisions.

Section 1 of LCB File No. R076-15 Removal of ineligible grievance *or complaint* from procedure.

1. If the Division of Human Resource Management determines that a request for the adjustment of a ~~grievance~~:

(a) *Grievance* is not eligible for the procedure set forth in NAC 284.658 to 284.6957, inclusive, because the person who submitted the request is not a person described in subsection 1 of NAC 284.658 or because a hearing is provided for the grievance pursuant to federal law or NRS 284.165, 284.245, 284.3629, 284.376 or 284.390, *or*

(b) *Complaint is not eligible for the procedure set forth in NAC 284.658 to 284.6957, inclusive, because the person who submitted the request is not a person described in section 2 of Assembly Bill No. 113, chapter 281, Statutes of Nevada 2017,*

↳ the Division must, as soon as practicable:

~~(a)~~ (I) Remove the request from the procedure for the adjustment of grievances *or complaints* set forth in NAC 284.658 to 284.6957, inclusive; and

~~(b)~~ (2) Provide to the person who submitted the request and the agency in which the grievance *or complaint* arose:

~~(1)~~ (I) Notice that the Division has determined that the request is not eligible for the procedure for the adjustment of grievances *or complaints* set forth in NAC 284.658 to 284.6957, inclusive, and an explanation for that determination;

~~(2)~~ (II) Notice that the Division has removed the request from the procedure for the adjustment of grievances *or complaints* set forth in NAC 284.658 to 284.6957, inclusive;

~~(3)~~ (III) If applicable, information relating to the appropriate procedure for resolving the person's concern; and

~~(4)~~ (IV) Information relating to the person's right to appeal the determination to the Committee.

2. If the Division of Human Resource Management determines that a request for the adjustment of a grievance *or complaint* is not eligible for the procedure for the adjustment of grievances *or complaints* set forth in NRS 284.658 to 284.6957, inclusive, the person who submitted the request may appeal the determination to the Committee.

(Added to NAC by Personnel Comm'n by R076-15, eff. 4-4-2016)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, makes conforming changes to include "complaint" in the provisions allowing an employee to seek assistance with the complaint process, prohibiting discrimination of an employee for filing a complaint or assisting an employee with a complaint, and ensures that the assistance of the Division is available to all parties to a complaint.

NAC 284.662 Providing assistance to employee. (NRS 284.065, 284.155, 284.384)

1. An employee filing for a review of a grievance *or complaint* may be assisted or represented by any person of his or her choosing, if the person agrees to act in this capacity, at any step of the procedure except the initial informal discussion with his or her immediate supervisor.

2. If the assistant is a state employee, he or she may only assist on his or her own time.

3. An employee may not be discriminated against in recruitment, examination, appointment, training, promotion, retention, classification or any other personnel action for informally seeking or formally filing a request to have his or her grievance *or complaint* reviewed, testifying on behalf of another employee, helping another employee prepare a grievance ~~report~~ *or complaint* or acting as a representative of any employee requesting a review of a grievance *or complaint*.

4. To assist in resolving an employee's grievance *or complaint*, the resources and consultation available from the Division of Human Resource Management and the personnel offices of the agency must be made available to all parties.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R096-03, 10-30-2003)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, describes when a complaint is deemed to have been received by the Division of Human Resource Management.

NAC 284.680 Date of receipt of grievance *or complaint*. (NRS 284.065, 284.155, 284.384)

1. For the purposes of NAC 284.682, 284.686 and 284.690, a grievance is deemed to have been received at each step in the grievance procedure

~~1. On~~ *on* the date on which the employee or his or her chosen representative personally delivers the grievance, transmits it by facsimile machine or submits it via the Internet using the Employee Incident Tracking System within the Nevada Employee Action and Timekeeping System developed by the Division of Human Resource Management, which is available at <https://nvapps.state.nv.us/NEATS/admin/Home.aep>; ~~or~~

2. *For the purposes of Section 4 of this regulation, a complaint is deemed to have been received by the Division of Human Resource Management on the date on which the employee or his or her chosen representative personally delivers the complaint, transmits it by facsimile machine, or submits it by email; or*

3. If the employee mails ~~the~~ *a* grievance *or complaint*, 3 days after:

(a) The date on which the grievance *or complaint* was postmarked; or

(b) The date on the return receipt if sent by certified mail.

(Added to NAC by Personnel Comm'n by R065-98, eff. 7-24-98; A by R044-08, 8-26-2008)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

As a result of increased use of electronic mail, the Division will accept an agreement for the extension of time to file a grievance in the body of a message sent via electronic mail, if both parties have expressed agreement to the extension. This amendment, proposed by the Division of Human Resource Management, removes the requirement that an agreement for extension of time to file a grievance or complaint must be submitted on a form provided by the Division of Human Resource Management in order to bring the regulation into alignment with current practice. This will also apply to agreements to extend the time to file a complaint.

NAC 284.692 Agreement for extension of time to file grievance *or complaint*, or take required action. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in subsection, the time limit for filing a grievance and for taking any other action required by either party at any step in the grievance procedure may be extended by the mutual agreement of the employee who may file the grievance and the appointing authority or his or her designated representative.

~~2.~~ An agreement to an extension of time entered into pursuant to *this* subsection ~~is~~ must be ~~in writing~~

~~(a) Made~~ *made* in writing ~~on a form prescribed by the Division of Human Resource Management; and~~

~~(b) Signed by:~~

~~(1) The~~ *and authorized by both the* employee ~~;~~ *and*

~~(2) The~~ *and the* appointing authority or his or her designated representative.

2. Except as otherwise provided in subsection 3, the time limit for filing a complaint and for taking any other action required by either party in the complaint procedure may be extended by the mutual agreement of the employee who may file the complaint and the appointing authority or his or her designated representative. An agreement to an extension of time entered into pursuant to this subsection must be made in writing and authorized by both the employee and the appointing authority or his or her designated representative.

3. The provisions of this section do not apply to a grievance *or complaint* that has been submitted to the Committee.

(Added to NAC by Personnel Comm'n by R023-05, eff. 10-31-2005)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, incorporates the ability of an employee who submits a complaint, or an administrator or his or her designee, to request a resolution conference to discuss the complaint and possible resolutions.

Additionally, to bring the regulation into alignment with subparagraph (c) of subsection 2 of NRS 284.384, this amendment ensures participation by both parties if either party requests a resolution conference.

NAC 284.6952 Request for resolution conference; appointment of facilitator; effect of request for resolution conference on jurisdiction of Employee-Management Committee. (NRS 284.065, 284.155, 284.384)

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

2. *If an employee is not satisfied with the decision rendered by the department or agency pursuant to Section 2 of this regulation and submits a request for consideration of a complaint by the Committee pursuant to Section 4 of this regulation, the employee or the highest administrator or his or her designee may request a resolution conference to meet informally in the presence of a neutral facilitator to discuss the complaint and possible resolutions.*

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

~~[3. Upon receipt of a request for a]~~ 4. *If either party requests a* resolution conference, the Division shall appoint a neutral facilitator to conduct the resolution conference *and both parties must participate*. The facilitator must not be affiliated with either party.

~~[4.]~~ 5. The submission of a request for a resolution conference does not deprive the Committee of jurisdiction to consider the grievance *or complaint* if:

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

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

6. *If a party to a complaint submits a request for a resolution conference, the Division will attempt to arrange a resolution conference prior to the scheduled hearing. If a requested resolution conference cannot be arranged within the period between the request for a resolution conference and the scheduled hearing, the Division will provide the Committee, upon request, with the basis for the failure to arrange a resolution conference.*

(Added to NAC by Personnel Comm'n by R026-11, 12-30-2011, eff. 1-1-2012)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, incorporates “complaint” into the procedure for a hearing before the Employee-Management Committee.

NAC 284.6955 Hearing before Employee-Management Committee: Procedure. (NRS 284.065, 284.155, 284.384) If a hearing is held to determine the proper disposition of a grievance pursuant to NAC 284.695, *or a complaint pursuant to Section 4 of this regulation*, the following procedure must be followed:

1. Each party shall submit to the Clerk of the Committee 12 copies of the set of documents and materials to be presented at the hearing or any rescheduled hearing. These copies must be submitted not less than 15 working days before the scheduled date of the hearing. The Clerk of the Committee shall forward one copy of the set of the documents and materials of each party to the other party.

2. If the employee fails to comply with subsection 1, the Chair or a member of the Committee designated by the Chair may reschedule the hearing to the next time designated for such hearings, but in no case earlier than 20 working days after the originally scheduled date of the hearing. If the employer fails to comply with subsection 1, the Chair or a member of the Committee designated by the Chair may reschedule the hearing at his or her discretion. If the employee fails to comply with the provisions of subsection 1 for a rescheduled hearing, the grievance *or complaint* must be dismissed with prejudice unless he or she can show in writing to the Committee’s satisfaction that the reason for noncompliance was beyond his or her control.

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

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

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

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

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

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

7. If a subpoena is issued for a document and the person named in the subpoena determines that the document contains confidential information, the person must provide to the Committee by the date specified in the subpoena:

(a) Two copies of the original document, submitted under seal, and

(b) One copy of the document with the confidential information redacted.

8. For good cause shown, the Committee may take testimony from a person by telephone or video conference whether or not the person is at a location designated on the agenda as a location for the hearing.

9. Upon proper recognition by the Chair or the member of the Committee designated to act as the Chair during the hearing, any member of the Committee may ask a question of a party or witness at any time during the hearing.

(Added to NAC by Personnel Comm'n, eff. 8-1-91; A by Dep't of Personnel, 11-16-95; A by Personnel Comm'n by R026-11, 12-30-2011, eff. 1-1-2012; R076-15, 4-4-2016)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, allows a party to request to have a complaint held in abeyance. The Chair of the Employee-Management Committee may grant such a request if good cause is shown.

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

1. A party may request a continuance of a hearing to determine the proper disposition of a grievance pursuant to NAC 284.695 or request to have a grievance *or complaint* held in abeyance. The party must submit the request to the Clerk of the Committee at least 12 working days before the scheduled hearing, unless the party received personal notice of the hearing less than 21 working days before the hearing pursuant to subsection 2 of NAC 284.695, in which case he or she may request a continuance as long as the request is made at least 4 working days before the scheduled hearing.

2. The Chair or a member of the Committee designated by the Chair may grant a request for a continuance *of a hearing to determine the proper disposition of a grievance pursuant to NAC 284.695* or a request to have a grievance *or complaint* held in abeyance if good cause is shown.

(Added to NAC by Dep't of Personnel, eff. 3-27-92; A 11-16-95; A by Personnel Comm'n by R076-15, 4-4-2016)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, removes the word “complaint” from the regulation pertaining to unlawful discrimination, as “complaint” will now be a defined term.

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

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

(a) Report the alleged discrimination to:

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

(2) The Attorney General;

(3) The employee’s appointing authority;

(4) An equal employment opportunity officer;

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

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

(b) Except as otherwise provided in NRS 284.384, use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive; or

(c) File a ~~complaint~~ *charge* with:

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

(2) The United States Equal Employment Opportunity Commission.

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

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95; A by Personnel Comm’n by R023-05, 10-31-2005; R026-11, 12-30-2011, eff. 1-1-2012)

Explanation of Proposed Change: Assembly Bill 113 of the 2017 Legislative Session amends NRS 281 to prohibit retaliation for the use of break time or a place to express milk, as well as for taking any action to ensure compliance with these requirements. This bill also amends NRS 281 by adding a new section authorizing a public employee to file a complaint with the Employee-Management Committee for certain violations by his or her public employer, and amends NRS 284 to instruct the Personnel Commission to adopt regulations to provide for the adjustment of a complaint.

This amendment, proposed by the Division of Human Resource Management, incorporates “complaint” into the provisions governing when the resolution of a complaint becomes binding.

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

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

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

(b) The Committee renders a final decision.

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

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

Explanation of Proposed Change: Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the 700-hour lists for appointment to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, makes mandatory the use of list of persons with disabilities, and incorporates the phrase "700-hour list," as the program is commonly referred, into the provision. Additionally, the amendment removes the term "transfer lists," as that type of list is generally no longer utilized. However, the amendment makes mandatory the use of the more specific "Legislature transfer lists," which entitle certain employees of the Legislative Branch to certain positions within the classified service of the State, pursuant to NRS 284.3775.

NAC 284.358 Types of lists and priority for use. (NRS 284.065, 284.155, 284.250, 284.327)

1. The types of lists of eligible persons and the priority for their use are as follows:

(a) Reemployment lists.

(b) ~~Lists~~ *700-hour lists* of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 ~~[, at the option of the appointing authority.]~~.

(c) ~~Transfer lists, at the option of the appointing authority.]~~ *Legislature transfer lists pursuant to NRS 284.3775.*

(d) Divisional promotional lists.

(e) Departmental promotional lists.

(f) Statewide promotional lists.

(g) Lists of persons determined to be eligible from open competitive recruitments.

(h) Lists of eligible persons of comparable classes.

2. The names on each list must be used as prescribed in NAC 284.361.

3. The open and promotional lists referred to in paragraphs (d) to (h), inclusive, of subsection 1 must be:

(a) Based on the type of recruitment prescribed by the Division of Human Resource Management; and

(b) Described in the publicized job announcement.

↪ The establishment of any other type of list from the initial recruitment must be in accordance with NAC 284.367.

[Personnel Div., Rule V § A, eff. 8-11-73]—(NAC A by Dep't of Personnel, 4-20-90; 7-6-92; A by Personnel Comm'n by R183-03, 1-27-2004)

Explanation of Proposed Change: Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the 700-hour lists for appointment to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, establishes the order of lists to be used if no reemployment list is available. If none is available, the 700-hour list will be certified next. If that type of list is unavailable, the Legislature transfer list will be certified, if available.

Additionally, this amendment removes subsection 5, because transfer lists no longer exist, and candidates in the 700-hour category will be certified on a separate and specific list.

NAC 284.360 Reemployment lists; certification or waiver of lists. (NRS 284.065, 284.155, 284.250)

1. Upon receipt of the appropriate form from an appointing authority for a list of eligible candidates in a specific class, the Division of Human Resource Management will verify the availability of a reemployment list for that class. If a reemployment list is available, the Division of Human Resource Management will provide the reemployment list to the appointing authority. Eligible persons who appear on reemployment lists are ranked in order of seniority. Except as otherwise provided in subsection 2 of NAC 284.6017, placement on a reemployment list will be determined using the criteria governing the determination of seniority for layoff pursuant to NAC 284.632.

2. If there is no reemployment list available, *a 700-hour list of persons with disabilities will be certified pursuant to NRS 284.387.*

3. *If there is no 700-hour list of persons with disabilities available, a Legislature transfer list will be certified, if available.*

4. *If a list pursuant to subsection 1, 2 or 3 does not exist,* the Division of Human Resource Management will, in accordance with subsections ~~[3.]~~ 5 and ~~[4.]~~ 6, certify the names of eligible persons on ranked or unranked lists, or waive the list.

~~[3.]~~ 5. The names of eligible persons on ranked lists will appear in the order of the total rating which they earned in the examination, including preferences for veterans and residents.

~~[4.]~~ 6. The Division of Human Resource Management may certify a list of eligible applicants who are not ranked, or may waive the list, for:

- (a) A class that is grade 20 or below;
- (b) A class designated in the classification plan as entry level; or
- (c) A class designated in the classification plan as a class for which applicants for promotion are not normally available.

~~[5.—Eligible persons who have requested a transfer and persons with disabilities who are eligible for temporary limited appointments pursuant to NAC 284.364 will be certified on the same list as other eligible persons and may be considered at the option of the appointing authority.]~~

~~[6.]~~ 7. Only an eligible person who has indicated the willingness to accept the location of the vacancy and the other conditions of employment will be certified.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004; R024-05, 10-31-2005)

Explanation of Proposed Change: Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the 700-hour lists for appointment to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, places the conditions that apply to the use of reemployment lists into subsection 1, allowing the new subsection 2 to apply to all offers of employment, not only offers of reemployment. This will establish a timeframe for an offer of a 700-hour appointment or a Legislative transfer appointment to be accepted. It is necessary to expand this portion of the regulation so that the hiring agency can move to the next type of list, if an offer of employment is not answered in the established timeframes.

NAC 284.361 Use of lists and consideration of eligible persons. (NRS 284.065, 284.155, 284.250) When using lists of persons who are eligible and considering eligible persons who have been certified, the following conditions apply:

1. When a reemployment list is certified ~~[:]~~ ~~—(a) Eligible]~~, persons who are available for appointment and who are certified on reemployment lists, other than seasonal reemployment lists, must be hired in the order in which they appear unless the appointing authority, upon submitting written justification, obtains the written concurrence of the Governor to deviate from the order of priority or to hire from another list. The appointing authority must make the written justification available for examination by affected persons or their designated representatives.

~~[(b)]~~ 2. A person must accept or refuse an offer of ~~[reemployment:]~~ **employment:**

~~[(1)]~~ (a) If the offer of ~~[reemployment]~~ **employment** is sent by mail to the person, within 6 calendar days after the postmarked date appearing on the envelope in which the offer was mailed; or

~~[(2)]~~ (b) If the offer is an oral offer of ~~[reemployment,]~~ **employment**, within 3 business days after the oral offer has been made.

~~[(2)]~~ 3. The appointing authority may request selective certification for a particular position if the normal method of certification does not provide candidates qualified to perform the duties of the position satisfactorily. Where selective certification is necessary, the appointing authority shall furnish in writing the special requirements peculiar to the position and his or her reasons therefor. If the facts and reasons justify such a method of selection, the Division of Human Resource Management may certify the highest ranking eligible persons who possess the special qualifications.

~~[(3)]~~ 4. Certification of only eligible persons who are the same sex will not be made unless there is clear evidence that the duties assigned could be performed efficiently only by the sex specified.

~~[(4)]~~ 5. When using ranked lists other than those for reemployment, the appointing authority shall attempt to communicate, as provided in NAC 284.373, with at least 5 persons in the first 10

ranks to determine their availability and qualifications. The names on each type of list must be considered before names from the next succeeding list. If there are fewer than 10 ranks with persons who are available for appointment on a given list and the appointing authority requests a full complement of 10 ranks, the name or names at the top of the next succeeding list must be combined with those on the preceding list to establish 10 eligible ranks with persons who are available for appointment. Except as otherwise provided in subsection 6, all competitive appointments from ranked lists must be made from the persons who:

- (a) Are in a rank of persons who received the 10 highest scores on the examination; and
- (b) Are available for appointment.

~~[5.]~~ **6.** If the list is unranked or waived, the appointing authority shall attempt to communicate, as provided in NAC 284.373, with at least five eligible persons he or she deems most qualified based upon a review of their respective qualifications as they relate to the position or class, or with all of

the eligible persons if there are five or less. Except as otherwise provided in subsection 1, any eligible person who is certified from an unranked or waived list may be appointed.

~~[6.]~~ **7.** If persons from fewer than five ranks of eligible persons are willing to accept appointment:

(a) The appointing authority may make an appointment from among those remaining available eligible persons.

(b) Certification and appointment may be made from other appropriate lists, including lists of higher grades as determined by the Division of Human Resource Management. The names from other lists will follow those which have been certified, if any, from the original lists.

(c) A new recruitment may be conducted.

(d) A provisional appointment may be made only if the requirements of NAC 284.406 are met.

[Personnel Div., Rule V § F, eff. 8-11-73; A 2-5-82]—(NAC A by Dep’t of Personnel, 10-26-84; 7-21-89; 11-16-95; 11-16-95; R082-00, 8-2-2000; A by Personnel Comm’n by R069-02, 8-14-2002; R183-03, 1-27-2004; R025-13, 10-23-2013)—(Substituted in revision for NAC 284.378)

Explanation of Proposed Change: Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the 700-hour lists for appointment to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, includes language mandating the appointment of a certified person with a disability, and details how appointments should be made from the 700-hour lists when more than one applicant from the 700-hour list is qualified.

NAC 284.364 Lists of persons with disabilities who are eligible for temporary limited appointments. (NRS 284.065, 284.155, 284.250, 284.327)

1. Pursuant to NRS 284.327, the Rehabilitation Division of the Department of Employment, Training and Rehabilitation may provide to the Division of Human Resource Management the names of persons with disabilities certified by the Rehabilitation Division who are eligible for temporary limited appointments of 700 hours’ duration. Upon receipt from the Rehabilitation Division of the job applications and job recommendations, the Division of Human Resource

Management will evaluate the information against the job requirements and minimum qualifications of the recommended classes. Through noncompetitive means, the names of qualified persons will be placed ~~[in]~~ *on* a 700-hour ~~[category on the eligible]~~ list and certified to the requesting agency for ~~[consideration.]~~ *appointment. Should there be more than one qualified person on the list, the appointing authority shall appoint the most qualified person based upon a review of the respective qualifications as they relate to the position or class and who can perform the essential functions of the position.*

2. A current probationary or permanent state employee who occupies a permanent full-time position is not eligible for the provisions of this section unless his or her disability jeopardizes his or her continued employment in his or her present position and placement on the list does not merely circumvent the provisions of this chapter governing promotion or transfer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 12-26-91; 7-6-92; R098-99, 9-27-99; A by Personnel Comm'n by R183-03, 1-27-2004)

Explanation of Proposed Change: Existing law requires points to be added to the passing grade on a competitive examination of veterans or a widow or widower of a veteran. Assembly Bill 309 of the 2017 Legislative Session amends subsection 2 of NRS 284.260 by removing the restriction on applying veterans' preference points to more than one promotional examination.

This amendment, proposed by the Division of Human Resource Management, amends NAC 284.325 to remove the restriction of use of veterans' preference points in regulation.

NAC 284.325 Preferences for veterans. (NRS 284.065, 284.155, 284.205, 284.250) An applicant must declare his or her intention to request veterans' preference points pursuant to NRS 284.260 before the examination. Proof of eligibility for preference as a veteran must be submitted no later than the last day on which the applicant takes the last phase of the ranking portion of the examination. ~~[If the examination is a promotional examination, the placement of the employee's name on the promotional list exhausts the veterans' preference points for that employee for all future promotional examinations.]~~

[Personnel Div., Rule IV § L, 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) — (Substituted in revision for NAC 284.342)

Explanation of Proposed Change: Assembly Bill 384 of the 2017 Legislative Session amends NRS 284 to add a new section providing that the criminal history of an applicant or other qualified person under consideration for employment in the classified or unclassified service may not be considered until the final in-person interview, a conditional offer of employment, or the applicant has been certified by the Administrator, whichever occurs first.

This amendment, proposed by the Division of Human Resource Management, repeals NAC 284.321, as the regulation is related to the consideration of criminal history when an employment application is being reviewed, rather than the time periods now listed in Assembly Bill 384 of the 2017 Legislative Session.

~~[NAC 284.321—Convictions: Disclosure; factors for consideration. (NRS 284.065, 284.155, 284.295)~~

~~—1.—Any applicant who has a record of a criminal conviction as an adult shall so indicate on his or her application. The application must be accompanied by a complete explanation of the conviction. The failure of the applicant to authorize the release of the information which relates to the conviction of a crime is cause for rejection of the applicant.~~

~~—2.—Any applicant who has a record of conviction for any moving traffic violations within the previous 5 years shall so indicate on his or her application, including the dates and nature of the violations and the fines imposed.~~

~~—3.—The Division of Human Resource Management or its designated representative, in determining whether to accept or refuse the application for a class, position or state service, will consider the type of position, the relevant statutory provisions, the intervening amount of time since the offense, the applicant’s age at the time of the offense and, if applicable, the applicant’s conduct during incarceration and any parole or probation, the reports from parole or probation officers concerning the applicant’s record of employment while on parole or probation and related factors.~~

~~—4.—All relevant public records must be made available to the appointing authority upon its request.]~~

[Personnel Div., Rule IV § E, eff. 8-11-73; A 6-9-74] — (NAC A by Dep’t of Personnel, 10-26-84; 5-27-86) — (Substituted in revision for NAC 284.314)

Explanation of Proposed Change: Senate Bill 361 of the 2017 Legislative Session amends NRS 613 to require an employer to provide accommodations to an employee who is a victim of domestic violence or whose family or household member is a victim of domestic violence. These accommodations could include a “transfer” or “reassignment,” a modified work schedule, a new telephone number, or anything else that would not create an undue hardship for the employer. Testimony on this bill clarified that the terms “transfer” and “reassignment” are intended to mean the movement of the employee’s desk or office. Because “transfer” and “reassignment” are defined terms in NRS 284, and to reflect the intent of the bill, this amendment utilizes the term “relocation” of the employee in subparagraph (a) of subsection 1.

This bill also amends NRS 613 to make it unlawful for an employer to discharge, discipline, discriminate against in any manner or deny promotion, or threaten such action, any employee who has requested accommodations as listed above, requested leave pursuant to section 1 of the bill, attended court proceedings, or has an act of violence committed against them at the employee’s workplace.

This amendment, proposed by the Division of Human Resource Management, will require an agency to provide the accommodations listed above, and also defines “family or household member” for the purposes of this section.

NEW Accommodation for employee affected by domestic violence.

1. An employee who is a victim of an act which constitutes domestic violence as defined in NRS 33.018, or whose family or household member is a victim of an act which domestic violence as defined in NRS 33.018, must be provided accommodations, including, without limitation:

(a) Relocation of employee, including relocation of assigned work space or assigned duty location;

(b) Modification of employee's work schedule;

(c) A new telephone number for work; or

(d) Any other reasonable accommodations which will not create an undue hardship deemed necessary to ensure the safety of the employee, the workplace, the employer or other employees.

2. For the purposes of this section, "family or household member" means the employee's spouse, domestic partner, minor child, or parent or any other adult person who is related within the first degree of consanguinity or affinity to the employee, or other adult person who is or was actually residing with the employee at the time of the act which constitutes domestic violence as defined in NRS 33.018.

3. For the purposes of this section, the relocation of an employee is not considered a "Transfer" as defined in NAC 284.106 and the employee may not appeal a relocation using the process for the appeal of a transfer as provided for in NRS 284.376.

Explanation of Proposed Change: Senate Bill 361 of the 2017 Legislative Session amends NRS 613 to require an employer to provide accommodations to an employee who is a victim of domestic violence or whose family or household member is a victim of domestic violence. These accommodations could include the movement of the employee's desk or office, a modified work schedule, a new telephone number, or anything else that would not create an undue hardship for the employer. This bill also amends NRS 613 to make it unlawful for an employer to discharge, discipline, discriminate against in any manner or deny promotion, or threaten such action, any employee who has requested accommodations as listed above, requested leave pursuant to section 1 of the bill, attended court proceedings, or has an act of violence committed against them at the employee's workplace.

This amendment, proposed by the Division of Human Resource Management, requires the approval of accrued annual leave, if available, to an employee who has been employed for at least 6 months, and who is a victim of domestic violence. The regulation also requires the approval of accrued annual leave, if available, to an employee who has been employed for at least six months pursuant to subsection 6 of NRS 284.350 when his or her spouse, domestic partner, minor child, certain other family members, or a member of his or her household is a victim of domestic violence. The maximum allowable amount of a combination of all leave types (annual, sick and leave without pay) is 160 hours in a 12-month period.

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.

7. Pursuant to section 7 of Senate Bill No. 361, chapter 613, Statutes of Nevada 2017, an appointing authority must grant annual leave, if the leave has been accrued and the employee has been employed for at least six months pursuant to subsection 6 of NRS 284.350, and any of the following persons are a victim of an act which constitutes domestic violence as defined in NRS 33.018:

(a) Employee, who is not the alleged perpetrator;

(b) Spouse;

(c) Domestic partner;

(d) Minor child; or

(e) Parent or other adult person who is related within the first degree of consanguinity or affinity to the employee, or other adult person who is or was actually residing with the employee at the time of the act which constitutes domestic violence as defined in NRS 33.018.

↪ The combination of all leave taken pursuant to section 7 of Senate Bill No. 361, chapter 613, Statutes of Nevada 2017 must not exceed 160 hours in a 12-month period.

Explanation of Proposed Change: Senate Bill 361 of the 2017 Legislative Session amends NRS 613 to require an employer to provide accommodations to an employee who is a victim of domestic violence or whose family or household member is a victim of domestic violence. These accommodations could include the movement of the employee's desk or office, a modified work schedule, a new telephone number, or anything else that would not create an undue hardship for the employer. This bill also amends NRS 613 to make it unlawful for an employer to discharge, discipline, discriminate against in any manner or deny promotion, or threaten such action, any employee who has requested accommodations as listed above, requested leave pursuant to section 1 of the bill, attended court proceedings, or has an act of violence committed against them at the employee's workplace.

This amendment, proposed by the Division of Human Resource Management, requires the approval of accrued sick leave, if available, to an employee who has been employed for at least 90 calendar days, and who is a victim of domestic violence. The regulation also requires the approval of accrued sick leave, if available, to an employee who has been employed for 90 calendar days

when his or her spouse, domestic partner, minor child, certain other family members, or a member of his or her household is a victim of domestic violence. The maximum allowable amount of a combination of all leave types (annual, sick and leave of absence without pay) is 160 hours in a 12-month period.

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.

7. Pursuant to section 7 of Senate Bill No. 361, chapter 613, Statutes of Nevada 2017, an appointing authority must grant accrued sick leave, if such leave is available, to an employee who has been employed for at least 90 calendar days if any of the following persons are a victim of an act which constitutes domestic violence as defined in NRS 33.018:

(a) Employee, who is not the alleged perpetrator;

(b) Spouse;

(c) Domestic partner;

(d) Minor child; or

(e) Parent or other adult person who is related within the first degree of consanguinity or affinity to the employee, or other adult person who is or was actually residing with the employee at the time of the act which constitutes domestic violence as defined in NRS 33.018.

↪ The combination of all leave taken pursuant to section 7 of Senate Bill No. 361, chapter 613, Statutes of Nevada 2017 must not exceed 160 hours in a 12-month period.

Explanation of Proposed Change: Senate Bill 361 of the 2017 Legislative Session amends NRS 613 to require an employer to provide accommodations to an employee who is a victim of domestic violence or whose family or household member is a victim of domestic violence. These accommodations could include the movement of the employee's desk or office, a modified work schedule, a new telephone number, or anything else that would not create an undue hardship for the employer. This bill also amends NRS 613 to make it unlawful for an employer to discharge, discipline, discriminate against in any manner or deny promotion, or threaten such action, any employee who has requested accommodations as listed above, requested leave pursuant to section 1 of the bill, attended court proceedings, or has an act of violence committed against them at the employee's workplace.

This amendment, proposed by the Division of Human Resource Management, requires the approval of leave of absence without pay to an employee who has been employed for at least 90

calendar days, and who is a victim of domestic violence. The regulation also requires the approval of leave of absence without pay to an employee who has been employed for 90 calendar days when his or her spouse, domestic partner, minor child, certain other family members, or a member of his or her household is a victim of domestic violence. The maximum allowable amount of a combination of all leave types (annual, sick and leave of absence without pay) is 160 hours in a 12-month period.

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 *of absence* 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 *of absence* 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 *of absence* 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.

8. Pursuant to section 7 of Senate Bill No. 361, chapter 613, Statutes of Nevada 2017, an appointing authority must grant a leave of absence without pay to an employee who has been employed for at least 90 calendar days if any of the following persons are a victim of an act which constitutes domestic violence as defined in NRS 33.018:

(a) Employee, who is not the alleged perpetrator;

(b) Spouse;

(c) Domestic partner;

(d) Minor child; or

(e) Parent or other adult person who is related within the first degree of consanguinity or affinity to the employee, or other adult person who is or was actually residing with the employee at the time of the act which constitutes domestic violence as defined in NRS 33.018.

↪ The combination of all leave taken pursuant to section 7 of Senate Bill No. 361, chapter 613, Statutes of Nevada 2017 must not exceed 160 hours in a 12-month period.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, reflects the steps in the process that are currently in place for an applicant to use if he or she wishes to pursue an appeal of the refusal to examine, or, if he or she is determined to be eligible, the refusal to certify. Within 30 days of being notified of either decision, the affected individual may first request a review by the Supervisor of the Recruitment section of the Division of Human Resource Management. Then, within 30 days, if the person remains unsatisfied, he or

she may request a written statement from the Administrator of the reasons for the refusal to examine, or, if eligible, refusal to certify. Finally, if the individual is still not satisfied, he or she may appeal the decision to the Personnel Commission, also within a 30 day time period.

Section 1 of LCB File No. R100-16 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.]~~ *within 30 calendar days following receipt of notification, request a review by the Division's Recruitment Supervisor of the determination.*

2. *If the applicant or eligible person is not satisfied with the response by the Division's Recruitment Supervisor, he or she may request that the Administrator provide a written statement of the reasons the applicant was denied examination or eligible person was denied certification. Such a request must be requested within 30 calendar days of receiving the Division's Recruitment Supervisor response.*

~~[4.]~~ 3. 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,]~~ *representative's written statement*, 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]~~ *statement* 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]~~ *statement* 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)



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
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June 21, 2017

Regulation Small Business Impact Statement

Section 15 of Article 15 of the Nevada Constitution requires the Legislature to provide for a State merit system governing the employment of employees in the Executive Branch of State government and in 1969 the Legislature provided for such in NRS 284. Additionally, NRS 284.013 provides limitations to which employees of the Executive Branch are covered by NRS 284. NRS 284.065 authorizes the Personnel Commission to adopt regulations to carry out the provisions of this chapter.

Due to the limitations of the Nevada State Constitution and NRS 284, the Division of Human Resource Management staff has determined that the adoption of this proposed regulation does not affect small businesses, impose a significant economic burden on small businesses, nor will it restrict the formation, operation or expansion of small business. These regulations only impact employees moving into the nonclassified, classified, or unclassified service of the Executive Branch.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small business and that the information contained in this statement was prepared properly and is accurate.

Peter Long

Peter Long, Administrator

June 21, 2017

Date