



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
209 E. Musser Street, Suite 101 | Carson City, Nevada 89701
Phone: (775) 684-0150 | www.hr.nv.gov | Fax: (775) 684-0124

REGULATIONS WORKSHOP

DATE: December 12, 2017

TIME: 1:30 p.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>
284.544	Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation.
284.589	Administrative leave with pay.
284.656	Notice.
284.6561	Hearing.
NEW	Procedure to request hearing to determine reasonableness of dismissal, demotion or suspension.
284.778	Request for hearing and other communications.
284.882	Administration of screening tests.

284.888

Request for employee to submit to screening test: Interpretation of grounds; completion of required form.

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 and amendment of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 1:30 p.m. on Tuesday, December 12, 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>
284.544	Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation.
284.589	Administrative leave with pay.
284.656	Notice.
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NEW	Procedure to request hearing to determine reasonableness of dismissal, demotion or suspension.
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284.888	Request for employee to submit to screening test: Interpretation of grounds; completion of required form.

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: This amendment, proposed by the Division of Human Resource Management, will conform to the current language in NAC 284.5775. Similar language was removed in 2005 as “unnecessary and redundant Family and Medical Leave Act language.” However, the current language when read on its face appears to be in conflict with NAC 284.5775, subsection 5 of NRS 281.390 and current State of Nevada workers’ compensation practice. The amendment is intended to clarify which type of leave may be used to supplement an employee’s wages when receiving benefits for a workers’ compensation temporary total disability.

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. *Except as otherwise provide in NAC 284.5775, ~~A~~ 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 *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. Such an employee may, while he or she is on such leave, ~~elects~~ elect* to use his or her accrued annual leave *in lieu of being placed on leave of absence without pay.*

3. *Except as otherwise provided in NAC 284.5775, ~~An~~ 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)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, makes a conforming change based on the proposed amendment to NAC 284.6561, included below. This amendment will ensure that 8 hours of administrative leave is provided for preparation for a “pre-disciplinary review,” as that phrase is proposed to replace the word “hearing” in NAC 284.6561. The word “hearing” will now refer to hearings to determine the reasonableness of dismissal, demotion or suspension, as provided in NRS 284.390.

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 *pre-disciplinary review or 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)

<p>Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, makes a conforming change based on the proposed amendment to NAC 284.6561, included below. The phrase “pre-disciplinary review” is proposed to replace the word “hearing” in NAC 284.6561. The word “hearing” will now refer to hearings to determine the reasonableness of dismissal, demotion or suspension, as provided in NRS 284.390.</p>

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~~ *pre-disciplinary review* 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~~ *pre-disciplinary review*.

(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~~ *pre-disciplinary review* 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)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, replaces the word "hearing" with the phrase "pre-disciplinary review", to clarify that this informal meeting is different than, and occurs prior to, a hearing to determine the reasonableness of a dismissal, demotion or suspension pursuant to NRS 284.390.

The amendment clarifies that the employee will be given the opportunity to rebut the claims supporting the proposed disciplinary action and provide any mitigating circumstances.

The amendment also clarifies that the effective date of the discipline is the *first* day the discipline takes effect. In the case of a dismissal or demotion, there is only one clear effective date of the discipline. In order to apply one clear effective date of discipline in the case of a suspension, it is necessary to use the first date of the suspension as the effective date. This will clarify that an employee who receives a suspension has the same rights to appeal, 10 working days, as an employee who is dismissed or demoted.

Lastly, subsection 9 of this regulation is proposed to be removed and will now be included as the newly proposed regulation which provides the requirements to file an appeal.

NAC 284.6561 ~~[Hearing.]~~ *Pre-disciplinary review*. (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]~~ *pre-disciplinary review* before the proposed action must be followed:

1. A ~~[hearing]~~ *pre-disciplinary review* must be scheduled on the employee's behalf unless waived in writing by the employee pursuant to subsection 2. The ~~[hearing]~~ *pre-disciplinary review* 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]~~ *pre-disciplinary review* 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]~~ *pre-disciplinary review* may be changed.

2. The employee may waive the right to a ~~[hearing]~~ *pre-disciplinary review* 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.]~~ *pre-disciplinary review*. 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.]~~ *pre-disciplinary review*, the employee may examine all materials that are to be used by the person conducting the ~~[hearing.]~~ *pre-disciplinary review*. The employee is entitled to administrative leave with pay as provided in NAC 284.589 to prepare for ~~[the hearings]~~ *any pre-disciplinary review* 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. *The employee will be given the opportunity to rebut the allegations presented and provide mitigating information.* 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.]~~ *pre-disciplinary review*.

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.

↪ *The effective date of the action is the first day the disciplinary action takes effect.*

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)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will place procedures and requirements related to requesting a hearing to determine the reasonableness of a dismissal, demotion or suspension into a separate regulation. Removing this language from NAC 284.6561 will ensure that it is clear that these procedures are to be used specifically when requesting a hearing pursuant to NRS 284.390.

The amendment also clarifies that the effective date of the discipline is the *first* day the discipline takes effect. In the case of a dismissal or demotion, there is only one clear effective date of the discipline. In order to apply one clear effective date of discipline in the case of a suspension, it is necessary to use the first date of the suspension as the effective date. This will clarify that an employee who receives a suspension has the same rights to appeal, 10 working days, as an employee who is dismissed or demoted.

This amendment also adds the requirement that the written notification of an appointing authority's decision regarding proposed disciplinary action must accompany such a request.

NEW Procedure to request hearing to determine reasonableness of dismissal, demotion or suspension.

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. The effective date is the first day the disciplinary action takes effect. Such a request must be addressed to the Administrator and submitted on the form provided by the Division of Human Resource Management and must be accompanied by the written notification of the appointing authority's decision regarding the proposed action given as required by paragraph b of subsection 7 of NAC 284.6561.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, makes a housekeeping change to the regulation, as suggested by the leadline. When an employee submits an appeal of the disciplinary action, he or she is requesting a hearing, which this amendment will clarify. The new requirement that the appointing authority's decision regarding the proposed action given is also included in this amendment.

NAC 284.778 Request for hearing and other communications. (NRS 281.641, 284.065, 284.155, 284.376, 284.390)

1. A request for ~~[an appeal]~~ *a hearing* must be addressed to the Administrator and submitted on the form provided by the Division of Human Resource Management. *The request must be accompanied by the written notification of the appointing authority's decision regarding the proposed action given as required by paragraph b of subsection 7 of NAC 284.6561.*

2. A copy of any written communication directed to a hearing officer must be sent to the clerk assigned to the hearing officer.

3. A party shall not communicate with a hearing officer regarding the merits of a case:

(a) Except in the presence of all parties to the hearing; or

(b) Unless all parties to the hearing are notified of the communication in advance.

4. Unless otherwise agreed upon in writing by all parties, an offer or demand of settlement made by a party must not be disclosed to or proposed by a hearing officer before the issuance of a final decision by the hearing officer.

[Personnel Div., Hearings Procedures § (A) subsec. (1), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R192-09, 6-30-2010, eff. 7-1-2010; R011-11, 10-26-2011; R042-15, 12-21-2015)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will conform the regulation to the regulatory requirements for breath alcohol testing mandated by the United States Department of Transportation (DOT). Effective January 1, 2018 (see pages 52240 and 52246, Federal Register, Vol. 82, No. 217), DOT will allow the use of breath-testing devices approved by the National Highway Traffic Safety Administration but not yet published on the “Conforming Products List of Evidential Breath Alcohol Measurement Devices” in the Federal Register. Using one standard for breath-testing devices will prevent confusion regarding which collection sites can be utilized for DOT regulated breath alcohol testing and breath alcohol testing that is not regulated by DOT.

NAC 284.882 Administration of screening tests. (NRS 284.065, 284.155, 284.4065, 284.407) A screening test to detect the general presence of:

1. A controlled substance must comply with:

(a) The standards established by the United States Department of Health and Human Services which are hereby adopted by reference. A copy of the standards is available, without charge, from the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Division of Workplace Programs, 1 Choke Cherry Road, Rockville, Maryland 20857; and

(b) Any supplementary standards and procedures established by the Commission.

2. Alcohol by testing a person's breath must be conducted using a breath-testing device ~~[certified in accordance with the “Conforming Products List of Evidential Breath Alcohol Measurement Devices” published in the Federal Register]~~ *approved* by the National Highway Traffic Safety Administration of the United States Department of Transportation.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 10-27-97; R082-00, 8-2-2000; A by Personnel Comm'n by R066-09, 10-27-2009; R009-11, 10-26-2011)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will clarify that the requirements outlined in subsection 1 of NRS 284.4065 (e.g., inform the employee in writing “whether the test will be for alcohol or drugs, or both”) do not apply to the situations outlined in subsection 2 of NRS 284.4065 (e.g., “has or is involved in a work-related accident, motor vehicle crash or injury”).

This amendment also makes conforming changes based on amendments made by the Nevada Legislature in 2015. At that time, the Legislature amended certain sections of existing law by

changing the word “accident” to “crash,” and by adding “motor vehicle crash” when an “accident” is intended to include both a motor vehicle crash and an accidental incident of another type.

NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required form. (NRS 284.065, 284.155, 284.407)

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his or her duties safely and efficiently include, but are not limited to:

(a) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;

(b) The odor of alcohol or a controlled substance on the breath of the employee;

(c) Observation of the employee consuming alcohol; or

(d) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source.

2. Except as otherwise provided in subsection 3, before requiring an employee to submit to a screening test, the supervisor of the employee must complete a form provided by the Division of Human Resource Management.

3. The provisions of subsection 2 do not apply if an appointing authority requests an employee to submit to a screening test pursuant to ~~paragraph (b) of~~ subsection 2 of NRS 284.4065.

4. For the purposes of subsection 2 of NRS 284.4065 : ~~[, as amended by section 8 of Senate Bill No. 62, chapter 225, Statutes of Nevada 2015, at page 1049:]~~

(a) “Substantial damage to property” includes, but is not limited to:

(1) The operation of a motor vehicle in such a manner as to cause more than \$500 worth of property damage; or

(2) The operation of a motor vehicle in such a manner as to cause two *crashes which cause damage to* property ~~[accidents]~~ within a 1-year period.

(b) “Work-related accident, *motor vehicle crash* or injury” means an accident, *motor vehicle crash* or injury that occurs in the course of employment or that involves an employee on the premises of the workplace.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; A by Personnel Comm’n by R066-09, 10-27-2009; R193-09, 4-20-2010; R010-11, 10-26-2011; R044-15, 1-1-2016)



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
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November 15, 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

November 15, 2017

Date