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STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
515 E. Musser Street, Suite 101 | Carson City, Nevada 89701
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MEMORANDUM
HR#21-24

April 22, 2024

TO: DHRM Listserv Recipients

FROM: Bachera Washington, Administrator
Division of Human Resource Management

SUBJECT: NOTICE OF WORKSHOP – Amendments to NAC 284

The regulation changes included with this memorandum are being proposed for proposed for permanent adoption. In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 9:00 a.m. on May 8, 2024, at the Nevada State Library and Archives Building, 100 N. Stewart Street, Room 110, Carson City, Nevada with videoconferencing to the Eureka Building, 7251 Amigo Street, Suite 120, Las Vegas Nevada.

Please circulate and post the attached *Notice of Workshop to Solicit Comments on Proposed Permanent Regulations* along with the text of the proposed regulations.

Attachments



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REGULATION WORKSHOP

DATE: May 8, 2024
TIME: 9:00 a.m.
PLACE: Nevada State Library and Archives Eureka Building
100 N. Stewart Street 7251 Amigo Street
Room 110 Suite 120
Carson City, Nevada Las Vegas, Nevada

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

Meeting materials are available on the Division of Human Resource Management's website at:

http://hr.nv.gov/Boards/Master_Meetings_Calendar/

AGENDA

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

<u>NAC #</u>	<u>Regulation Leadline</u>
NEW	Succession plan; appointments.
NEW	Certification of employees who prepare succession plans.
284.058	"Eligible person" defined.
284.313	Limitation of competition in recruitment; applications.
284.204	Adjustment of steps within same grade: Conditions for approval; request; effective date; revocation.

284.886

Screening test for controlled substance required of applicant for position affecting public safety; exception.

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 5 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 regulation workshop, please contact Michelle Garton at mgarton@admin.nv.gov.

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

NV State Library and Archives, 100 N. Stewart Street
515 E. Musser Street
Legislative Counsel Bureau (LCB), 401 S. Carson Street
Nevada State Capitol Building, 101 N. Carson Street

LAS VEGAS

Eureka Building, 7251 Amigo Street, Suite 120

WEBSITES

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 participate in the meeting. If special arrangements for the meeting are necessary, please notify Michelle Garton at (775) 684-0131 or mgarton@admin.nv.gov 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) 684-0131, is proposing the permanent adoption and amendment of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 9:00 a.m. on May 8, 2024, at the Nevada State Library and Archives Building, 100 N. Stewart Street, Room 110, Carson City, Nevada with videoconferencing to the Eureka Building, 7251 Amigo Street, Suite 120, 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:

Meeting materials are available on the Division of Human Resource Management’s website at:

<http://hr.nv.gov/Boards/Master Meetings Calendar/>

<u>NAC #</u>	<u>Regulation Leadline</u>
NEW	Succession plan; appointments.
NEW	Certification of employees who prepare succession plans.
284.058	“Eligible person” defined.
284.313	Limitation of competition in recruitment; applications.
284.204	Adjustment of steps within same grade: Conditions for approval; request; effective date; revocation.
284.886	Screening test for controlled substance required of applicant for position affecting public safety; exception.

A copy of all materials relating to the proposal may be obtained by contacting the Division of Human Resource Management at (775) 684-0131 or mgarton@admin.nv.gov. 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 Listserv and posted at the following locations:

CARSON CITY
NV State Library and Archives, 100 N. Stewart Street
515 E. Musser Street

Legislative Counsel Bureau, 401 S. Carson Street
Nevada State Capitol Building, 101 N. Carson Street

LAS VEGAS

Eureka Building, 7251 Amigo Street, Suite 120

WEBSITES

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 NEVADA COUNTY PUBLIC LIBRARIES

NOTE: We are pleased to make reasonable accommodations for individuals with disabilities who wish to participate in the meeting. If special arrangements for the meeting are necessary, please notify Michelle Garton at (775) 684-0131 or mgarton@admin.nv.gov no later than five working days before the meeting.

Explanation of Proposed Change: The following amendments, proposed by the Division of Human Resource Management (DHRM), simplify the regulations, and brings them in line with the succession plan process, and removes the certification requirement.

NEW Succession plan; appointments.

~~1. An appointing authority may submit to the Administrator a written request for the approval of a succession plan to prepare employees for promotion to particular positions.~~

~~2. The~~ **1. A** succession plan must be prepared in the form prescribed by the Division of Human Resource Management **and submitted to the Administrator.**

3. Except as otherwise provided in NRS 284.305, as amended by section 2 of Senate Bill No. 87, chapter 59, Statutes of Nevada 2023, at page 285, and section 96 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3572, and NRS 284.327, as amended by section 100 of Senate Bill No. 431, chapter 532, Statutes of Nevada 2023, at page 3573, if the Administrator has approved a succession plan ~~submitted by the appointing authority pursuant to subsection 1, the appointing authority may submit to the Administrator a written request to appoint an employee to a position set forth in the succession plan. If an employee meets the requirements set forth in the succession plan, the Administrator may approve the appointment of~~ the **appointing authority may appoint the** employee, regardless of whether the employee meets the other minimum qualifications for the position.

~~NEW Certification of employees who prepare succession plans. Before preparing a succession plan described in section 2 of this regulation, any employee whose duties include the preparation of succession plans must be certified in the preparation of succession plans by completing the appropriate training class offered by the Division of Human Resource Management. The appointing authority and the supervisor of an employee whose duties include the preparation of succession plans are responsible for ensuring that the employee is certified in the preparation of succession plans pursuant to subsection 1 before the employee prepares a succession plan described in section 2 of this regulation.~~

NAC 284.058 “Eligible person” defined. “Eligible person” means any person who : ~~meets the required minimum qualifications and;~~

1. Applies, **meets the required minimum qualifications**, successfully passes all phases of an examination, when required, and is placed on an appropriate eligible list; ~~or~~

2. ~~Is~~ **Meets the required minimum qualifications and is** eligible to be placed on a list described in paragraphs (a) to (d), inclusive, of subsection 1 of NAC 284.358 ~~or~~ ; **or**

3. **Is an employee** ~~who meets the requirements of a succession plan approved pursuant to section 2 of this regulation and~~ **who is approved for appointment by the Administrator pursuant to section 2 of this regulation.**

NAC 284.313 Limitation of competition in recruitment; applications.

1. Except as otherwise provided in this subsection ~~and~~ **and section 2 of this regulation**, competition in a recruitment is limited to applicants who meet the minimum qualifications and other criteria or conditions for the class or position as specified in the publicized job announcement. The publicized job announcement may provide for the consideration of applicants who do not currently meet those minimum qualifications but who will do so by the time their names are placed on an eligible list.

2. It is the responsibility of an applicant to apply for any recruitment for which he or she is interested. Future vacancies may be filled from the results of appropriate prior recruitments.

3. Each applicant must submit an application as specified in the publicized job announcement. The application must be received not later than 5 p.m. on the closing date, as determined by the Division of Human Resource Management.

4. The incomplete or improper completion of an application that affects the ability of the Division of Human Resource Management to determine the qualifications of the applicant, including the failure to designate the locations where the applicant will work and other criteria or conditions, is cause for the rejection of the applicant.

5. If a recruitment produces a sufficient number of applicants, the Division of Human Resource Management may, as an additional phase of the process of examination, approve the obtaining of supplemental information from each applicant to assess his or her qualifications if the publicized job announcement includes notice that such supplemental information may be required. Only those applicants who are considered the most qualified, based on this assessment, may continue in the competition.

6. Except as otherwise provided in subsection 8, competition in a promotional recruitment is limited to current state employees who:

(a) Have served at least 6 months of continuous full-time equivalent service in a probationary, special disabled, emergency, provisional or permanent status, or any combination of these, in the classified service.

(b) Are working in the division, department or state service which is specified in the publicized job announcement.

7. An employee who competes in a promotional recruitment may be at a higher grade, the same grade or a lower grade than the grade of the class for which the recruitment is being conducted. Depending on the grade of the employee, an appointment resulting from a promotional recruitment may be a voluntary demotion, a lateral transfer or a promotion.

8. A former incumbent of a seasonal position who was separated from state service with the status of a permanent employee may apply for a promotional recruitment up to 1 year after the day of separation even though he or she is not currently employed. The prior appointment must have been in the division, department or state service which is specified in the publicized job announcement.

9. Applications and accompanying documents are the property of the Division of Human Resource Management.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will allow for maintenance of an appropriate differential, not to exceed two steps, between the base rate of pay of a supervisor and the base rate of pay of an employee of that supervisor.

NAC 284.204 Adjustment of steps within same grade: Conditions for approval; request; effective date; revocation. (NRS 284.065, 284.155, 284.175)

1. Subject to the provisions of subsection 2, the Division of Human Resource Management may approve an adjustment of steps within the same grade to:

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

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

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

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

(1) Among employees of different departments or agencies; or

(2) A result of:

(I) The length of service of employees;

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

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

area.

(c) Maintain an appropriate differential, not to exceed the equivalent of two steps, between the base rate of pay of a supervisor and the base rate of pay of an employee who is in the direct line of authority of the supervisor. An adjustment may be granted pursuant to this paragraph if, before the adjustment, the base rate of pay of the employee is the same or greater than the base rate of pay of the supervisor. An adjustment will not be granted pursuant to this subsection if the supervisor is in a bargaining unit that has exclusive representation.

2. Before the Division of Human Resource Management may approve an adjustment of steps pursuant to subsection 1, the appointing authority must submit a request on a form prescribed by the Division of Human Resource Management to the Division of Human Resource Management which:

(a) Specifies the qualifying conditions and justification for the request; and

(b) Certifies that the appointing authority has, where applicable:

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

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

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

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

3. If an adjustment of steps is approved by the Division of Human Resource Management pursuant to subsection 1, the effective date of such an adjustment is the date on which a request that complies with subsection 2 is received by the Division of Human Resource Management or the personnel office of the department or agency at which the employee who is receiving the adjustment is employed. If a request for an adjustment of steps is delayed because an administrative or clerical error prevented the delivery of the request, the effective date must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment must not exceed 6 months from the date on which the Division of Human Resource Management receives the request.

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

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

(b) The employee moves from one position to another position in either a different area within the department or agency in which the employee is currently employed or a different department or agency than the department or agency in which the employee is currently employed, and a similar recruiting problem does not exist in the new area, department or agency.

5. If an adjustment of steps is revoked pursuant to subsection 4, the employee must be placed at the step he or she would have received if he or she had not received the adjustment.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will extend the layoff exception regarding pre-employment drug screening to seasonal layoffs. Currently, if an employee in a position approved for pre-employment drug screening is laid off and reemployed in another position approved for pre-employment drug screening within 1 year of the layoff, they are not required to submit to preemployment drug screening. This amendment will extend the provision to seasonal layoffs and reemployments.

NAC 284.886 Screening test for controlled substance required of applicant for position affecting public safety; exception. (NRS 284.065, 284.155, 284.407)

1. Except as otherwise provided in this section, an applicant for a position that is designated by the Personnel Commission as affecting public safety must submit to a screening test to detect the general presence of a controlled substance unless he or she is employed by the State in a position that is also designated as affecting public safety at the time he or she applies.

2. A person who has been laid off from a :

(a) ~~[position]~~ *Position* affecting public safety and who is reemployed in a class affecting public safety; *or*

(b) *Seasonal position and who is seasonally reemployed,*

↪ within 1 year after the date he or she was laid off is not required to submit to a screening test pursuant to this section.

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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 Human Resources 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. This regulation only impacts employees moving into the nonclassified, classified, or unclassified service of the Executive Branch.

A concerted effort was made to determine any economic burden. The Department has relied on the expert knowledge of Department staff. The regulation solely addresses pay for government employees so the impact is solely on government employees and agencies and no small business will be affected.

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.

Bachera Washington
Bachera Washington, Administrator

April 22, 2024
Date