

Steve Sisolak  
Governor



Laura E. Freed  
Director

Colleen Murphy  
Deputy Director

Peter Long  
Administrator

**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 | <http://hr.nv.gov> | Fax: (775) 684-0122

**MEMORANDUM**  
**HR#37-20**

May 26, 2020

**TO:** DHRM Listserv Recipients

**FROM:** Peter Long, Administrator *Peter Long*  
Division of Human Resource Management

**SUBJECT:** NOTICE OF PUBLIC HEARING – Amendment of Regulations that Pertain to NAC 284

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The regulation changes included with this memorandum are being proposed for adoption at the upcoming meeting of the Personnel Commission. This meeting will be held via teleconference only. Pursuant to Governor Sisolak's March 22, 2020, Declaration of Emergency Directive 006, the requirement contained in NRS 241.023(1)(b) that there be a physical location is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, all members of the public must participate by using the teleconference number provided in this Notice.

**Friday, June 26, 2020 – 9:00 a.m.**

Meeting materials are available on the Division of Human Resource Management's website at: [http://hr.nv.gov/Boards/Master\\_Meetings\\_Calendar/](http://hr.nv.gov/Boards/Master_Meetings_Calendar/)

**Teleconference Access:**  
**Teleconference Number – 877-848-7030**  
**Participant Code – 4277490#**

Please circulate and post the attached Notice of Hearing along with the text of the proposed regulations.

PL:mg

Attachments

**NOTICE OF INTENT TO ACT UPON A REGULATION**  
**Notice of Hearing for the Permanent Amendment**  
**of Regulation of the**  
**Personnel Commission**

The Personnel Commission will hold a public teleconference hearing to receive comments from all interested persons regarding the amendment of a regulation that pertains to Chapter 284 of the Nevada Administrative Code.

**Friday, June 26, 2020 – 9:00 a.m.**

**\*This meeting will be held via teleconference only. Pursuant to Governor Sisolak’s March 22, 2020, Declaration of Emergency Directive 006, the requirement contained in NRS 241.023(1)(b) that there be a physical location is suspended to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, all members of the public must participate by using the teleconference number provided in this Notice. Meeting materials are available on the Division of Human Resource Management’s website at:**

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**Teleconference Access:**  
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The following information is provided pursuant to the requirements of NRS 233B.0603:

- This regulation does not have a direct economic effect on any business or the public.
- Enforcement of this regulation will not result in an increased cost.
- To our knowledge, this regulation does not overlap or duplicate the regulations of other State or local governmental agencies.
- This regulation does not establish any new fee or increase an existing fee.

<b><u>LCB File:</u></b>	<b><u>Section:</u></b>	<b><u>NAC:</u></b>	<b><u>Leadline or Description</u></b>
<b>R047-20</b>	Section 1.	284.589	Administrative leave with pay.

Persons wishing to comment upon the proposed action of the Personnel Commission may participate in the public teleconference hearing or may address their comments, data, views, or arguments in written form to the Department of Administration, Division of Human Resource Management, 209 East Musser Street, Suite 101, Carson City, Nevada 89701, Attention: Michelle Garton. Written submissions must be received by the Division of Human Resource Management on or before June 26, 2020. If no person who is directly affected by the proposed action makes an oral presentation during the public teleconference hearing, the Personnel Commission may proceed immediately to act upon any written submissions.

Pursuant to Governor Sisolak’s March 22, 2020 Declaration of Emergency Directive 006, the requirements contained in NRS 241.020(4)(a) that public notice agendas be posted at physical locations within the State of Nevada are suspended. This notice and the text of the proposed

regulation is available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption and amendment of any regulation, the agency, if requested to do so by an interested person, either before adoption and amendment, or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and amendment, and incorporate therein its reason for overruling the consideration urged against its adoption and amendment.

This notice of hearing has been posted on the following websites:

Legislative Counsel Bureau website: [www.leg.state.nv.us](http://www.leg.state.nv.us)

Nevada Public Notice website: <http://notice.nv.gov>

Division of Human Resource Management website: [www.hr.nv.gov](http://www.hr.nv.gov)

**EXPLANATIONS OF PROPOSED CHANGE**  
**LCB File No. R047-20**

**Section 1: NAC 284.589 Administrative leave with pay.**

An amendment to NAC 284.589 was approved as an emergency regulation by Governor Sisolak on March 15, 2020, in response to the State of Emergency declared due to the COVID-19 pandemic. The amendment below is based on the Governor's emergency regulation and provides an appointing authority of a State of Nevada agency the discretion to grant administrative leave to an employee during a State of Emergency declared pursuant to NRS 414 when necessary for health and safety purposes.

**PROPOSED REGULATION OF THE  
PERSONNEL COMMISSION**

**LCB File No. R047-20**

May 18, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 284.065, 284.155 and 284.345.

A REGULATION relating to state personnel; authorizing paid administrative leave for state employees when a state of emergency or declaration of disaster is proclaimed for purposes of health and safety; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law allows an agency to adopt an emergency regulation without following the process for adopting a permanent regulation by submitting a statement of the emergency to the Governor. (NRS 233B.0613) If the Governor endorses the statement of emergency, the regulation becomes effective immediately upon filing the regulation with the Office of the Secretary of State. (NRS 233B.070) An emergency regulation is effective for not more than 120 days and may only be submitted through the process for an emergency regulation one time. For the regulation to continue, the agency must adopt a permanent regulation which is substantially similar to the emergency regulation in accordance with the procedures set forth in the Administrative Procedures Act within 120 days, after which the emergency regulation automatically expires. (NRS 233B.0613) On March 15, 2020, the Department of Administration submitted an emergency regulation along with a statement of emergency for the adoption of a regulation which was endorsed by the Governor. This regulation is submitted to replace that emergency regulation.

Existing law authorizes the Personnel Commission to adopt regulations governing attendance and leave with or without pay for state employees. (NRS 284.345) Existing regulations authorize an appointing authority or the Division of Human Resource Management of the Department of Administration to grant administrative leave with pay to an employee in certain emergency situations beyond the control of the employee. Such situations include when the Governor authorizes employees not to report to work or to end a shift early because of an emergency, when there is a closure of a work site caused by a natural disaster, pandemic or other similar adverse condition or when school closures or closure of other child care facilities occur because of a pandemic. (NAC 284.589) In each of those circumstances an employee may be designated as essential and required to report to work. This regulation further allows an appointing authority to provide paid administrative leave to state employees for purposes related to health and safety during any period in which a state of emergency or declaration of disaster has been proclaimed.

**Section 1.** NAC 284.589 is hereby amended to read as follows:

284.589 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; 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 ~~5.7~~ 6, 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, an employee who filed a complaint described in NAC 284.658 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 (f) of subsection ~~6.~~ 7.

(g) His or her appearance to provide testimony at a meeting of the Commission.

5. *To the extent not already covered in subsection 4, during any period in which a state of emergency or declaration of disaster has been proclaimed pursuant to NRS 414.070, an appointing authority may grant administrative leave with pay to an employee for purposes related to health and safety.*

6. 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.~~ 7. 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 predisciplinary review.

(e) Up to 8 hours for preparation for any hearing described in paragraph (f).

(f) 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 at a predisciplinary review as provided in NAC 284.6561.

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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 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*  
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Peter Long, Administrator

March 25, 2020  
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Date