

Steve Sisolak
Governor



Laura E. Freed
Director

Matthew Tuma
Deputy Director

Mandee Bowsmith
Interim 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#49-22

November 8, 2022

TO: DHRM Listserv Recipients
Nevada County Libraries
State Library and Archives

FROM: Mandee Bowsmith, Interim Administrator *Mandee Bowsmith*
Division of Human Resource Management

SUBJECT: NOTICE OF INTENT TO ACT UPON A REGULATION – Adoption,
Amendment or Repeal of Regulations that Pertain to NAC 284

The regulation changes included with this memorandum are being proposed for adoption, amendment or repeal at the December 9, 2022, meeting of the Personnel Commission. This meeting will be held at 9:00 a.m. at the Nevada State Library and Archives Building, Room 110, 100 N. Stewart Street, Carson City, Nevada with videoconferencing to the Grant Sawyer Building, Room 1400, 555 E. Washington Avenue, Las Vegas, Nevada.

Please circulate and post the attached *Notice of Intent to Act Upon A Regulation* along with the text of the proposed regulations.

MB:ka

Attachments

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

The Personnel Commission will hold a public hearing at 9:00 a.m. on December 9, 2022, at the Nevada State Library and Archives Building, Room 110, 100 N. Stewart Street, Carson City, Nevada with videoconferencing to the Grant Sawyer Building, Room 1400, 555 E. Washington Avenue, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to Chapter 284 of the Nevada Administrative Code.

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

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

<u>LCB File:</u>	<u>Section:</u>	<u>NAC:</u>	<u>Leadline or Description</u>
R138-22	Sec. 1	284.589	Administrative leave with pay.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public 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: Kristen Anderson. Written submissions must be received by the Division of Human Resource Management on or before December 9, 2022. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted and amended will be on file at the Nevada State Library, Archives and Public Records, 100 North Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additionally, copies of this notice and the regulations to be adopted and amended will be available at the Division of Human Resource Management, 100 North Stewart Street, Suite 200, Carson City, Nevada, and 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada; and in all counties in which an office of the

agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also 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 regulations 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 at the following locations:

Carson City

Blasdel Building, 209 East Musser Street
Nevada State Library & Archives Building, 100 North Stewart
Street Legislative Counsel Bureau, 401 South Carson Street

Las Vegas

Grant Sawyer Building, 555 East Washington Avenue

Websites

Legislative Counsel Bureau website:

www.leg.state.nv.us

Nevada Public Notice website:

<http://notice.nv.gov>

Division of Human Resource Management website:

www.hr.nv.gov

EXPLANATIONS OF PROPOSED CHANGES

LCB File No. R138-22

Section 1: NAC 284.589 Administrative leave with pay.

This amendment, proposed by the Division of Human Resource Management (DHRM), will require an appointing authority to grant administrative leave to newly hired veterans for use to attend medical appointments until the employee has earned enough sick leave to use for such appointments.

The State of Nevada values veterans and recognizes the talent and variation of skills and experience acquired while in the service. Veterans are encouraged to apply for employment within state service and it is recognized that in most instances newly separated service members are still undergoing medical evaluation by the Department of Veterans Affairs (VA) to determine if the individual has a service-connected disability. These evaluations through the VA are time-sensitive and newly separated service members may have to wait months to be scheduled for an evaluation. Any delays in attending those evaluations could be detrimental to their physical or mental wellbeing and cause financial hardship as those individuals will not receive compensation from the VA until their claim has been processed and approved. Additionally, veterans who have established service-connected disabilities through the VA may have physical and mental health needs that are addressed on a reoccurring basis, and it could be injurious for that individual to delay medical appointments until such a time they were able to accrue sufficient sick leave as a new state employee.

**REVISED PROPOSED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R138-22

August 15, 2022

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

AUTHORITY: § 1, NRS 284.065 and 284.345.

A REGULATION relating to state personnel; requiring an appointing authority or the Division of Human Resource Management of the Department of Administration to grant administrative leave with pay to an employee who is a veteran for purposes of attending certain appointments related to determining whether the veteran has a service-connected disability or receiving health care services related to such a disability; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Personnel Commission of the Division of Human Resource Management of the Department of Administration to adopt regulations necessary to carry out provisions of law relating to the state personnel system, including regulations for attendance and leave with or without pay for state employees. (NRS 284.345) Existing regulations require an appointing authority to grant administrative leave with pay to an employee who receives counseling through an employee assistance program for purposes of attending certain appointments relating to participation in the program. (NAC 284.589) This regulation requires an appointing authority or the Division to grant up to 96 hours of administrative leave with pay to an employee who is a veteran during the first 12 months of his or her employment for: (1) attending an appointment with a provider of health care for purposes of determining whether the veteran has a service-connected disability; or (2) receiving health care services relating to a service-connected disability. This regulation provides that such leave is in addition to any leave to which the employee is entitled for purposes of attending certain appointments relating to participation in an employee assistance program.

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; or

(d) 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.

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 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) Up to 2 hours for participating in Veterans Day at the Legislature established pursuant to NRS 236.047, if the employee is a veteran.

(f) Up to 2 hours for donating blood.

(g) For attending a general employee benefits orientation or an educational session relating to employee benefits, including, without limitation, retirement and deferred compensation.

(h) 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.

(i) 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 7.

(j) 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 (h), (i) or (j) 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.

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, including,

without limitation, any time spent reviewing materials submitted in connection with any agenda item or otherwise preparing for the meeting. 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.

8. In addition to any leave to which an employee is entitled pursuant to paragraph (a) of subsection 7, an appointing authority or the Division of Human Resource Management shall grant up to 96 hours of administrative leave with pay to an employee who is a veteran during the first 12 months of his or her employment for:

(a) Attending an appointment with a provider of health care for purposes of determining whether he or she has a service-connected disability; or

(b) Receiving health care services relating to a service-connected disability.

9. As used in this section:

(a) "Health care services" means services for the diagnosis, prevention, treatment, care or relief of a health condition, illness, injury or disease, including, without limitation, mental health services.

(b) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

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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. This regulation only impacts 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.

Mandee Bowsmith

Mandee Bowsmith, Interim Administrator

November 11, 2022

Date