

**STATE OF NEVADA
PERSONNEL COMMISSION**

Held at the Nevada State Library and Archives, 100 N. Stewart Street, Room 110, Carson City; and via video conference in Las Vegas at the Grant Sawyer Building, Room 1400, 555 East Washington Avenue.

**MEETING MINUTES
December 7, 2018**

**COMMISSIONERS PRESENT
IN CARSON CITY:**

Ms. Katherine Fox, Chairperson
Ms. Patricia Hurley, Commissioner
Ms. Priscilla Maloney, Commissioner

**COMMISSIONERS PRESENT
IN LAS VEGAS:**

Mr. Andreas Spurlock, Commissioner
Mr. David Sanchez, Commissioner

STAFF PRESENT IN CARSON CITY:

Mr. Peter Long, Administrator, Division of Human Resource Management
(DHRM)
Ms. Beverly Ghan, Deputy Administrator, DHRM
Mr. Frank Richardson, Deputy Administrator, DHRM
Ms. Carrie Hughes, Personnel Analyst, DHRM
Ms. Kara Sullivan, Supervisory Personnel Analyst, DHRM
Ms. Rachel Baker, Personnel Analyst, DHRM
Ms. Michelle Garton, Supervisory Personnel Analyst, DHRM

STAFF PRESENT IN LAS VEGAS:

Ms. Heather Dapice, Supervisory Personnel Analyst, DHRM

I. CALL TO ORDER, WELCOME, ROLL CALL, ANNOUNCEMENTS

Chairperson Fox: Opened the meeting at approximately 9:00 AM. She welcomed everyone, took roll and noted that Alternative Commissioner Priscilla Maloney would be sitting in for Commissioner Mauger who could not attend today.

II. PUBLIC COMMENT

Chairperson Fox: Advised that no vote or action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken under NRS 241.020. She asked if there were any public comments; there were none.

III. APPROVAL OF MINUTES OF PREVIOUS MEETING DATED SEPTEMBER 7, 2018 – Action Item

MOTION: Moved to approve minutes of the September 7, 2018, meeting.
BY: Chairperson Fox
SECOND: Commissioner Hurley
VOTE: The vote was in favor of the motion with Commissioner Maloney abstaining.

IV. DISCUSSION AND APPROVAL OF ADDITION OR REMOVAL OF CLASSES APPROVED FOR PRE-EMPLOYMENT SCREENING FOR CONTROLLED SUBSTANCES – Action Item

- A. The Nevada Department of Veterans Services requests the addition of classes/positions to the list approved for pre-employment screening for controlled substances:

3.530 Transportation and Safety Attendant III; PCN: All
3.535 Transportation and Safety Attendant II, PCN: All
3.540 Transportation and Safety Attendant I, PCN: All

Carrie Hughes: Introduced herself as a Personnel Analyst with the Division of Human Resource Management. She stated the Nevada Department of Veterans Services is requesting the addition of the requirement of pre-employment screening for controlled substances to the positions listed in Agenda Item IV-A. Veterans Services is requesting these positions be added due to their transporting of Veterans Home residents, inspections of life support and safety systems, and conducting patrols around the State Veterans Home.

Commissioner Sanchez: Asked how far are these veterans transported and what is the average mileage?

Wendy Simons: Introduced herself as the Deputy Director of Health and Wellness for the Nevada Department of Veterans Services. She answered they do multiple transports on a daily basis; the veterans are going out and about or have medical appointments at the VA Hospital in North Las Vegas. Sometimes the drivers and transport attendants must secure the veterans in wheelchair access lifts.

Chairperson Fox: Asked if there were any questions or comments; there were none.

MOTION: Moved to approve Item IV-A, Nevada Department of Veterans Services' list of classes approved for pre-employment screening of controlled substances to include Transportation and Safety Attendant III, II and I.
BY: Commissioner Sanchez
SECOND: Commissioner Spurlock
VOTE: The vote was unanimous in favor of the motion.

- B. The Nevada Department of Veterans Services requests the addition of classes/positions to the list approved for pre-employment screening for controlled substances:

10.364 Licensed Practical Nurse III, PCN: All
10.365 Licensed Practical Nurse I, PCN: All
10.368 Certified Nursing Assistant III, PCN: All
10.370 Nursing Assistant Trainee, PCN: All
10.371 Certified Nursing Assistant I, PCN: All

Carrie Hughes: Stated the Nevada Department of Veterans Services is requesting the addition of the requirement of pre-employment screening of controlled substances to positions listed in Agenda Item IV-B. Veterans Services is requesting these positions be added due to their being responsible for the safety, health and well-being of the residents of the Veterans Home.

Chairperson Fox: Asked if there were any questions or comments; there were none.

MOTION: Moved to approve Item IV-B, Nevada Department of Veterans Services' request for addition of classes/positions to the list approved for pre-employment screening for controlled substances for: Licensed Practical Nurse III and I; Certified Nursing Assistant III; Nursing Assistant Trainee; and Certified Nursing Assistant I.
BY: Commissioner Hurley
SECOND: Commissioner Maloney
VOTE: The vote was unanimous in favor of the motion.

IV-C. The Nevada Department of Veterans Services requests the removal of classes/positions from the list approved for pre-employment screening for controlled substances:

- 10.355 Registered Nurse III, PCN: All
- 11.260 Security Officer Supervisor, PCN: All
- 11.263 Security Officer, PCN: All

Carrie Hughes: Stated the Nevada Department of Veterans Services is requesting the removal of the requirement of pre-employment screening for controlled substances to positions listed in Agenda Item IV-C; Veterans Services no longer has positions in these classes. In particular, the Security Officer positions have been reclassified and placed within the Transportation and Safety Attendant Class Series.

Chairperson Fox: Asked if there were any questions or comments; there were none.

- MOTION:** Moved to approve Item IV-C, Nevada Department of Veterans Services' request for the removal of classes/positions from the list approved for pre-employment screening for controlled substances to include: Registered Nurse III; Security Officer Supervisor; and Security Officer.
- BY:** Commissioner Hurley
- SECOND:** Commissioner Sanchez
- VOTE:** The vote was unanimous in favor of the motion.

Wendy Simons: Thanked the Chair and the Commission for allowing them to continue to serve Nevada's veterans in a safe, great manner with the wonderful staff they have.

Chairperson Fox: Thanked Ms. Simons for acknowledging that. She said Veterans Services has a special place in her heart and she admires the level of commitment of those employees serving veterans.

V. DISCUSSION AND APPROVAL OF PROPOSED REGULATIONS CHANGES TO NEVADA ADMINISTRATIVE CODE, CHAPTER 284 – Action Item

- A.** LCB File No. R163-18
 - Sec. 1.** NEW Restoration of permanent employee who voluntarily transfers and either fails to complete trial period in the new position or voluntarily chooses to revert to his or her prior position.
 - Sec. 2.** NAC 284.058 "Eligible person" defined.
 - Sec. 3.** NAC 284.108 "Trial period" defined.
 - Sec. 4.** NAC 284.444 Application of probationary period.
 - Sec. 5.** NAC 284.448 Time not counted toward completion of probationary period.

Kara Sullivan: Introduced herself as a Supervisory Personnel Analyst with the Division of Human Resource Management Compensation, Classification and Recruitment Unit. Section 1 of LCB File No. R163-18 is a new regulation proposed by DHRM that will require a permanent employee who voluntarily transfers to a same grade position to serve a trial period. The regulation describes the process to be followed if such employee fails to complete the trial period, or if the employee chooses to return to the position formerly held. The regulation does not allow a reverted transfer employee to displace another employee if the prior position has been filled. The process also includes the agency receiving the reverted employee, given the 30-day notice. Current regulations do not require a trial period be served by a transfer employee and there is often hesitation to consider these employees when filling positions. This newly proposed regulation will allow for more consideration from agencies to hire transfer employees and allow employees to revert if the new position is not what they want to pursue. The Division sees this regulation as a benefit to both the employees and hiring authorities.

Section 2 is a proposed amendment to NAC 284.058 from the Legislative Counsel Bureau. The amendment broadens and clarifies the definition of the word "eligible" to include those persons who apply, meet minimum qualifications and pass examinations, when applicable. The amendment also includes that an eligible person are those persons who

become eligible by non-competitive means, not just those on the reemployment, reassignment, persons with a disability and transfer lists. Section 3 is an amendment to NAC 284.108 that requires the trial period be served also by employees who voluntarily transfer based on the new regulation proposed in Section 1 of this LCB file. Section 4 amends NAC 284.444 to add that permanent employees who voluntarily transfer to the same or comparable class to serve a trial period, based on the newly proposed regulations. Section 5 makes conforming changes based on proposed amendments made in other sections.

If the Commission votes to adopt this LCB file, the Division asks that a space be added between the words “probationary” and “period” in Section 4, subsection 11, on page 61 of this file.

Chairperson Fox: Asked if the trial period mirrored the probationary period of six months or one year?

Kara Sullivan: Confirmed that was correct.

Commissioner Sanchez: Asked if the trial period was actually a probationary period; why use the term “trial” instead of “probation?”

Kara Sullivan: Replied “trial” would refer to permanent state employees who have already passed their initial probationary period.

Chairperson Fox: Stated for the record that the Division of Human Resource Management held a workshop on June 15, 2018, regarding these changes in both Carson City and via video conference in Las Vegas.

Commissioner Sanchez: Asked if there were any representatives from AFSCME present at today’s meeting since they were at the workshop?

Chairperson Fox: Determined there were no representatives from AFSCME in Las Vegas or Carson City. She asked if there were any questions or comments; there were none.

MOTION: Moved to approve Item V-A, LCB File No. R163-18, Sections 1-5, specifically dealing with the restoration of permanent employee who voluntarily transfers and either fails to complete trial period in the new position or voluntarily chooses to revert to his or her prior position. It defines eligible person, trial period, application of probationary period, and time not counted toward completion of probationary period. Additionally, the motion includes adding a space between the words “probationary” and “period” on page 61 of the LCB file.

BY: Chairperson Fox

SECOND: Commissioner Sanchez

VOTE: The vote was unanimous in favor of the motion.

V-B. LCB File No. R164-18

Sec. 1. NAC 284.172 Rate of pay: Effect of promotion.

Sec. 2. NAC 284.204 Adjustment of steps within same grade: Conditions for approval; request; effective date; revocation.

Sec. 3. NAC 284.206 Special adjustments to pay.

Sec. 4. NAC 284.360 Certification and provision of certain lists by Division of Human Resource Management; certification of eligible persons on ranked or unranked lists or waiver of lists.

Sec. 5. NAC 284.374 Active lists: Removal and reactivation of names; no requirement or refusal to consider certain persons.

Sec. 6. NAC 284.437 Underfilling of positions.

Rachel Baker: Introduced herself as a Personnel Analyst with the Division of Human Resource Management Compensation, Classification and Recruitment Unit. She stated Section 1 of LCB File No. R164-18 would allow an appointing authority to request an accelerated rate under NAC 284.204 for an employee receiving a promotion. Historically, an accelerated step adjustment has only been allowed for newly hired employees who are eligible through open competitive means. In Section 2, the amendment being proposed to NAC 284.204 will maintain equity and

consistency statewide. The amendment removes subparagraph c of subsection 5 which currently allows a request to be made for an appropriate differential between the base rate of pay of the supervisor and that of his or her highest paid subordinate to be maintained. Section 3 makes conforming changes to NAC 284.206 regarding special adjustments to pay based on the changes made in other amendments in this LCB file.

Kara Sullivan: Stated Section 4 proposes amendments to NAC 284.360 which lists the order of which eligible lists may be issued. The amendment adds that when a list is unranked or waived, the Administrator can determine that the list be compiled from a class deemed appropriate by him. Section 5 proposes amendments to NAC 284.374 to include that an appointing authority does not have to consider an eligible person that has been subject to suspension, demotion or termination after a final decision is made by a Hearing Officer or any reviewing court for 12 months. Section 6 proposes amendments to NAC 284.437 which would allow an appointing authority, at their discretion, to underfill a position at or below the journey level. The amendment also allows the position to be underfilled above the journey level upon receiving written approval by the Administrator or his designee.

Commissioner Sanchez: Asked about Section 6, the underfilling of positions. Under what specific circumstances would the hiring authority use this particular provision?

Kara Sullivan: Replied if a hiring authority had an employee who has been training under a person but they don't yet meet the minimum qualifications, but have been in a preparatory position to takeover. It would allow them to underfill the position until the time the employee met the minimum qualifications.

Commissioner Spurlock: Asked on the bottom of page 53 it reads that at the June 15, 2018, Regulation Workshop a concern was raised by a representative of AFSCME regarding the requirement of a permanent employee to serve a trial period if he or she chooses to transfer; other comments received were generally in support of the regulations. Can anybody who was at the workshop relay to us what the concern was?

Peter Long: Replied AFSCME is opposed to this regulation at this time and would like to know the reasoning behind the proposal. We do not see it as a deterrent for an employee; we see it as a benefit because they can move to another position that they may not be able to now because the appointing authority could be hesitant or reluctant to accept someone as a transfer without a trial period. In building the regulation we have provided the opportunity for the employee to revert back to their previous agency either in the position from which they promoted or to another position. We don't see a downside for the employee.

Commissioner Spurlock: Thanked Mr. Long and said he thought what he was saying is actually done by most other public agencies in Nevada; it's very typical. And it is actually a pretty typical concern for employee representative groups.

Chairperson Fox: Asked if there were any questions or comments; there were none.

Commissioner Sanchez: Moved to approve Item V-D, LCB File No. 175-18.

Chairperson Fox: Indicated the Commission was considering Item V-B and would allow the motion to not receive a second.

MOTION: Moved to approve Item V-B as written.
BY: Commissioner Spurlock
SECOND: Commissioner Hurley
VOTE: The vote was unanimous in favor of the motion.

V-C. LCB File No. R166-18
Sec. 1. NAC 284.468 Standards for performance of work.
Sec. 2. NAC 284.576 Catastrophic leave: Use and administration; appeal of denial.

Michelle Garton: Introduced herself as a Supervisory Personnel Analyst for the Division of Human Resource Management Consultation and Accountability Unit. Section 1 of LCB File No. R166-18 revises the definition of job

elements, specifically for each classified employee, with the terms outlined in subparagraphs a-h of subsection 6 of the regulation. The intent of this amendment is to standardize the term “job elements” for all employees in an effort to reduce the administrative burden associated with the completion of employee evaluations. Each job element will be rated for every employee. For example, each employee will be rated on his or her quality of work, quantity of work, work habits, etc. Because we view the State as one employer, using these standardized terms would be a better reflection of each employee’s performance. This will especially be useful when an agency is considering hiring an employee from another agency.

Included in Section 2 is a housekeeping change to make the language clearer, as well as the elimination of subparagraph b of subsection 7, which requires an appointing authority to report the period and nature of the disability of employees using catastrophic leave. This information has been deemed as unnecessary for the Division, however, Central Payroll will continue to track catastrophic leave hours donated and used by employees.

Chairperson Fox: Asked if there were any questions or comments, and there were none.

MOTION: Moved to approve Item V-C, LCB File No. R166-18, Section 1, Standards for performance of work, and Section 2, Catastrophic leave: Use and administration; appeal of denial.
BY: Chairperson Fox
SECOND: Commissioner Hurley
VOTE: The vote was unanimous in favor of the motion.

V-D. LCB File No. R175-18

- Sec. 1. Amends Chapter 284 to add Sections 2 and 3.
- Sec. 2. NEW “Gender identity or expression” defined.
- Sec. 3. NEW “Sexual orientation” defined.
- Sec. 4. NAC 284.010 Definitions.
- Sec. 5. NAC 284.114 Affirmative action program and equal employment opportunity.
- Sec. 6. NAC 284.374 Active lists: Removal and reactivation of names; no requirement or refusal to consider certain persons.
- Sec. 7. NAC 284.470 Preparation, filing, contents, discussion and distribution of reports; powers and duties of employees; review; adjustment of grievances.
- Sec. 8. NAC 284.602 Resignations.
- Sec. 9. NAC 284.718 Confidential records.
- Sec. 10. NAC 284.726 Access to confidential records.

Michelle Garton: Stated Section 1 incorporates the definitions of Sections 2 and 3 of this LCB file into Chapter 284 of the Nevada Administrative Code. Sections 2 and 3 move the definition of gender identity or expression from specifically applying only to NAC 284.114 to a regulation that will apply to the entire Chapter 284 of the Nevada Administrative Code. The term “sexual orientation” is a new term that will also apply to the entire chapter. These amendments are necessary because the terms will now be used in NAC 284.718 pursuant to other sections of this LCB file. This will also allow these terms to be used in any appropriate future amendments to other regulations contained in Chapter 284 of the Nevada Administrative Code.

The amendment in Section 4 makes a conforming change that will incorporate the two new terms into the general provisions of Chapter 284 of the Nevada Administrative Code. The amendment in Section 5 of this regulation removes subsection 3 because gender identity or expression will now be moved to the general provisions and defined there and applied to the entire NAC 284.

In Sections 6, 7, and 8, several conforming changes are being proposed to NAC 284.374, 284.470 and 284.602. These are based on the more substantive changes in Sections 9 and 10 of this LCB file. The intent is to create a consistent term to be used to refer to information, outlined in NAC 284.718, that is maintained by an agency or the Division of Human Resource Management for each employee. The conforming changes in Sections 6, 7 and 8 will create consistency by using the term “record of employment” to refer to this information.

The amendment to NAC 284.718 is intended to describe the different types of confidential information that is held by an agency or the Division of Human Resource Management and maintained in an employee's record of employment. Several types of information have been added to the confidential information maintained for each employee such as employee grievance information, a nursing mother request or complaint, health information and information related to an administrative investigation.

Section 10, NAC 284.726, Access to confidential records, describes access to an employee's confidential record of employment. The intent is to broaden the access of such information to any appointing authority of an agency, rather than just the appointing authority for the agency for which the employee currently works. This is important because the State of Nevada is considered to be one employer under State and federal employment laws and broadening this access will assist agencies when they are considering hiring an employee from another agency. It's important that each agency will be responsible for limiting this access to appropriate individuals using security protocols built into the human resource systems.

Commissioner Sanchez: Asked about Section 9, Confidential records. Subsection d says, "Any recording or document which is used in the process of interviewing an applicant ..." How many agencies, divisions, or departments in the State are using recordings for interviews, what is the purpose if they do, how are they securing these recordings, and how long are they retained?

Michelle Garton: Replied that at this time, no agency is recording interviews. If it was decided that that would be a practice an agency would want to consider, it would be confidential and kept with the rest of the interview file, with the application.

Commissioner Sanchez: Suggested if agencies do that perhaps they would set a protocol for security and records retention of these documents.

Chairperson Fox: Strongly agreed that if there are recorded interviews that they meet the NRS standard for the amount of retention time and that they are kept in a secure location for the required length of time and then destroyed appropriately.

Commissioner Spurlock: What was the nature of the concern raised by ASFCME at the June workshop?

Michelle Garton: Recalled it was concerning employee grievance information. AFSCME was concerned that an agency might be able to see someone's grievance at another agency.

Chairperson Fox: Added that the confidential information that appointing authorities consider with transfers from one agency to another is held to a higher standard in terms of confidential information and their obligation to keep it confidential. She added for the record that a workshop was held June 15, 2018, and representatives of various employee associations were present during that workshop and if concerns were raised, according to the minutes from that meeting, they were addressed during that meeting.

Chairperson Fox: Asked if there were any questions or comments, and there were none.

MOTION: Moved to approve Item V-D, LCB File No. R175-18: Section 1; Section 2, NEW, "Gender identity or expression" defined; Section 3, NEW, "Sexual orientation" defined; Section 4, Definitions; Section 5, Affirmative action program and equal employment opportunity; Section 6, Active lists; Section 7, Preparation, filing, contents, discussion and distribution of reports; Section 8, Resignations; Section 9, Confidential records; and Section 10, Access to confidential records.

BY: Chairperson Fox

SECOND: Commissioner Sanchez

VOTE: The vote was unanimous in favor of the motion.

Chairperson Fox: Stated the next item before the Commission requiring no action was the Report of Uncontested Classification Plan Changes, not requiring Personnel Commission approval per NRS 284.160.

VI. REPORT OF UNCONTESTED CLASSIFICATION PLAN CHANGES NOT REQUIRING PERSONNEL COMMISSION APPROVAL PER NRS 284.160

- Posting: #1-19
7.211 Executive Branch Auditor Series
- Posting: #2-19
12.342 School/Community Nutrition Program Coordinator Series
- Posting: #3-19
12.466 Substance Abuse Counselor Series
- Posting: #4-19
7.422 Review Appraiser Series
- Posting: #5-19
12.127 ESD Program Specialist Series
- Posting: #6-19
7.209 Director, Office of Project Management
7.208 Organizational Change Manager, OPM
- Posting: #7-19
5.223 School/Community Nutrition Supervisor Series
- Posting: #8-19
1.955 Park Aid Series
- Posting: #9-19
10.316 Correctional Nurse Series
- Posting: #10-19
12.395 Casework Management Specialist II

VII. DISCUSSION AND ANNOUNCEMENT OF DATES FOR UPCOMING MEETINGS. NEXT MEETING SCHEDULED FOR MARCH 8, 2019.

Chairperson Fox: Indicated the next meeting is on Friday, March 8, 2019. After deliberation it was decided that the following meeting would be scheduled for Friday, June 21, 2019.

Peter Long: Stated typically after the end of Session, there may have to be an emergency regulation meeting based on bills that passed where regulations have to go into effect immediately, July 1st. DHRM will do their best to schedule, if required, that emergency meeting on June 21st as well.

Commissioner Spurlock: Thought it was mentioned for the day before the June 21st meeting to have the extra meeting if needed. Should we be blocking out both Thursday and Friday, or just Friday?

Peter Long: Replied that in Commissioner briefings they were looking at either the third or fourth Friday. If the fourth Friday, the 28th, were picked, that would have given us an extremely short amount of time to get the emergency regulations approved by the Secretary of State. I think the third Friday, June 21st, would be fine for both the emergency meeting, if necessary, and the regular meeting.

Chairperson Fox: Said they might anticipate a little bit longer meeting that Friday the 21st if there are emergency regulations.

VIII. COMMISSION COMMENTS

Chairperson Fox: Asked if possible in March could there be an indication from the Division about upcoming bills that may impact employees in State service or the role and function of the Division.

Peter Long: Answered we can certainly provide all information we have at that time.

IX. PUBLIC COMMENT

Chairperson Fox: Advised that no vote or action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken under NRS 241.020. She asked if there were any public comments. There were no public comments. She thanked Alternate Commissioner Maloney for stepping in for Commissioner Mauger and wished everyone in the audience and the Commissioners and staff a safe and healthy, happy holiday season.

X. ADJOURNMENT

Chairperson Fox: Adjourned the meeting.