



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
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MEMORANDUM
HR #52-17

November 2, 2017

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

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

SUBJECT: NOTICE OF PUBLIC HEARING – 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 7, 2017, Personnel Commission meeting. This meeting will be held at 9:00 a.m. at the Nevada Department of Transportation, Rooms 301 and 302, 1263 South Stewart Street, Carson City, Nevada, with videoconferencing to the Nevada Department of Transportation, Training Room B, 123 East Washington Avenue, Las Vegas.

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

PL:mg/cl

Attachments

**NOTICE OF INTENT TO ACT UPON A REGULATION
 Notice of Hearing for the Permanent Adoption, Amendment or Repeal
 of Regulations of the
 Department of Administration
 Division of Human Resource Management**

The Personnel Commission will hold a public hearing at 9:00 a.m. on December 7, 2017, at the Nevada Department of Transportation, Rooms 301 and 302, 1263 South Stewart Street, Carson City, Nevada, with videoconferencing to the Nevada Department of Transportation, Training Room B, 123 East Washington Avenue, Las Vegas. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal 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>
R034-17	Section 1.	NAC 284.358	Types of lists and priority for use.
	Sec. 2.	NAC 284.360	Reemployment lists; certification or waiver of lists.
	Sec. 3.	NAC 284.361	Use of lists and consideration of eligible persons.
	Sec. 4.	NAC 284.364	Lists of persons with disabilities who are eligible for temporary limited appointments.
	Sec. 5.	NAC 284.618	Layoffs: Voluntary demotions.
	Sec. 6.		Effective date.
R035-17	Section 1.	NAC 284.325	Preferences for veterans.
R036-17	Section 1.	NAC 284.374	Active lists: Removal and reactivation of names; refusal to consider certain persons.
	Sec. 2.	NAC 284.321	Convictions: Disclosure; factors for consideration.
	Sec. 3.		Effective date.
R088-17	Section 1.		Amends Chapter 284 to add Sections 2 and 3.
	Sec. 2.	NEW	“Domestic partner” defined.
	Sec. 3.	NEW	“Spouse” defined.
	Sec. 4.	NAC 284.010	Definitions.
	Sec. 5.	NAC 284.114	Affirmative action program and equal employment opportunity.
	Sec. 6.	NAC 284.2508	Compensatory time: Use.
	Sec. 7.		Effective date.

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: Shelley Blotter. Written submissions must be received by the Division of Human Resource Management on or before December 7, 2017. 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, amended or repealed 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, amended or repealed 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, amendment or repeal of any regulation, the agency, if requested to do so by an interested person, either before adoption, amendment or repeal or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, amendment or repeal and incorporate therein its reason for overruling the consideration urged against its adoption, amendment or repeal.

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

**REGULATIONS PROPOSED
FOR PERMANENT ADOPTION, AMENDMENT OR REPEAL**

LCB File No. R034-17

Section 1. NAC 284.358 is hereby amended to read as follows:

Explanation of Proposed Change: Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, clarifies the order when using lists of eligible persons, and makes mandatory the use of list of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327. The reference to the Assembly Bill 192 is also included in the proposed amendment.

NAC 284.358 Types of lists and priority for use. (NRS 284.065, 284.155, 284.250, 284.327)

1. The types of lists of eligible persons and , *unless otherwise provided in this chapter or chapter 284 of NRS*, the *required* priority for their use are as follows:

(a) Reemployment lists.

(b) Lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 , *as amended by section 1 of Assembly Bill No. 192, chapter 189, Statutes of Nevada 2017, at page 1016. [~~at the option of the appointing authority.~~]*

(c) Transfer lists, at the option of the appointing authority.

(d) Divisional promotional lists.

(e) Departmental promotional lists.

(f) Statewide promotional lists.

(g) Lists of persons determined to be eligible from open competitive recruitments.

(h) Lists of eligible persons of comparable classes.

2. The names on each list must be used as prescribed in NAC 284.361.

3. The open and promotional lists referred to in paragraphs (d) to (h), inclusive, of subsection 1 must be:

(a) Based on the type of recruitment prescribed by the Division of Human Resource Management; and

(b) Described in the publicized job announcement.

↪ The establishment of any other type of list from the initial recruitment must be in accordance with NAC 284.367.

[Personnel Div., Rule V § A, eff. 8-11-73]—(NAC A by Dep't of Personnel, 4-20-90; 7-6-92; A by Personnel Comm'n by R183-03, 1-27-2004)

Sec. 2. NAC 284.360 is hereby amended to read as follows:

Explanation of Proposed Change: Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, establishes the order of lists to be used if no reemployment list is available. If none is available, the list of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 will be certified next. If that type of list is unavailable, the list of employees who are entitled to transfer to a position pursuant to NRS 284.3775 will be certified. Finally, if no reemployment list or list of persons with disabilities who are eligible for temporary limited appointments are available, a ranked or unranked list will be certified, or the list will be waived.

NAC 284.360 Reemployment lists; certification or waiver of lists. (NRS 284.065, 284.155, 284.250)

1. Upon receipt of the appropriate form from an appointing authority for a list of eligible candidates in a specific class, the Division of Human Resource Management ~~{will}~~ **must** verify the availability of a reemployment list for that class. If a reemployment list is available, the Division of Human Resource Management ~~{will}~~ **must certify and** provide the reemployment list to the appointing authority. Eligible persons who appear on reemployment lists are ranked in order of seniority. Except as otherwise provided in subsection 2 of NAC 284.6017, placement on a reemployment list ~~{will}~~ **must** be determined using the criteria governing the determination of seniority for layoff pursuant to NAC 284.632.

2. If there is no reemployment list available, ***the Division of Human Resource Management must certify and provide to the appointing authority any available lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327, as amended by section 1 of Assembly Bill No. 192, chapter 189, Statutes of Nevada 2017, at page 1016.***

3. ***If there are no available lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327, as amended by section 1 of Assembly Bill No. 192, chapter 189, Statutes of Nevada 2017, at page 1016, the Division of Human Resource Management must certify and provide to the appointing authority any available transfer lists of employees who are entitled to transfer to a position pursuant to NRS 284.3775.***

4. ***If no list described in subsection 1 or 2 is available,*** the Division of Human Resource Management ~~{will,}~~ **must, upon request of the appointing authority and** in accordance with subsections ~~{3 and 4,}~~ **5 and 6,** certify the names of eligible persons on ranked or unranked lists ~~{}~~ **described in paragraphs (d) to (h), inclusive, of subsection 1 of NAC 284.358,** or waive the list.

~~{3,}~~ **5.** The names of eligible persons on ranked lists ~~{will}~~ **must** appear in the order of the total rating which they earned in the examination, including preferences for veterans and residents.

~~{4,}~~ **6.** The Division of Human Resource Management may certify a list of eligible applicants who are not ranked, or may waive the list, for:

- (a) A class that is grade 20 or below;
- (b) A class designated in the classification plan as entry level; or

(c) A class designated in the classification plan as a class for which applicants for promotion are not normally available.

~~[5.—Eligible persons who have requested a transfer and persons with disabilities who are eligible for temporary limited appointments pursuant to NAC 284.364 will be certified on the same list as other eligible persons and may be considered at the option of the appointing authority.~~

~~—6.]~~ 7. Only an eligible person who has indicated the willingness to accept the location of the vacancy and the other conditions of employment ~~[will]~~ *may* be certified.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004; R024-05, 10-31-2005)

Sec. 3. NAC 284.361 is hereby amended to read as follows:

Explanation of Proposed Change: Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, places the conditions that apply to the use of reemployment lists into subsection 1, allowing the new subsection 2 to apply to all offers of employment, not only offers of reemployment. This will establish a timeframe for an offer of employment to a person with a disability who is eligible for temporary limited appointment pursuant to NRS 284.327 to be accepted. It is necessary to expand this portion of the regulation so that the hiring agency can move to the next type of list, if an offer of employment is not answered in the established timeframes.

NAC 284.361 Use of lists and consideration of eligible persons. (NRS 284.065, 284.155, 284.250)

When using lists of persons who are eligible and considering eligible persons who have been certified, the following conditions apply:

1. When a reemployment list is certified, ~~[:~~
~~—(a) Eligible]~~ persons who are available for appointment and who are certified on reemployment lists, other than seasonal reemployment lists, must be hired in the order in which they appear unless the appointing authority, upon submitting written justification, obtains the written concurrence of the Governor to deviate from the order of priority or to hire from another list. The appointing authority must make the written justification available for examination by affected persons or their designated representatives.

~~[(b)]~~ 2. A person must accept or refuse an offer of ~~[reemployment:~~
~~—(1)]~~ *employment:*

(a) If the offer of ~~[reemployment]~~ *employment* is sent by mail to the person, within 6 calendar days after the postmarked date appearing on the envelope in which the offer was mailed; or

~~[(2)]~~ (b) If the offer is an oral offer of ~~[reemployment.]~~ *employment*, within 3 business days after the oral offer has been made.

~~[(2)]~~ 3. The appointing authority may request selective certification for a particular position if the normal method of certification does not provide candidates qualified to perform the duties of the position satisfactorily. Where selective certification is necessary, the appointing authority shall

furnish in writing the special requirements peculiar to the position and his or her reasons therefor. If the facts and reasons justify such a method of selection, the Division of Human Resource Management may certify the highest ranking eligible persons who possess the special qualifications.

~~3.4~~ 4. Certification of only eligible persons who are the same sex ~~with~~ *must* not be made unless there is clear evidence that the duties assigned could be performed efficiently only by the sex specified.

~~4.5~~ 5. When using ranked lists other than those for reemployment, the appointing authority shall attempt to communicate, as provided in NAC 284.373, with at least 5 persons in the first 10 ranks to determine their availability and qualifications. The names on each type of list must be considered before names from the next succeeding list. If there are fewer than 10 ranks with persons who are available for appointment on a given list and the appointing authority requests a full complement of 10 ranks, the name or names at the top of the next succeeding list must be combined with those on the preceding list to establish 10 eligible ranks with persons who are available for appointment. Except as otherwise provided in subsection ~~6.7~~ 7, all competitive appointments from ranked lists must be made from the persons who:

- (a) Are in a rank of persons who received the 10 highest scores on the examination; and
- (b) Are available for appointment.

~~5.6~~ 6. If the list is unranked or waived, the appointing authority shall attempt to communicate, as provided in NAC 284.373, with at least five eligible persons he or she deems most qualified based upon a review of their respective qualifications as they relate to the position or class, or with all of the eligible persons if there are five or less. Except as otherwise provided in subsection 1, any eligible person who is certified from an unranked or waived list may be appointed.

~~6.7~~ 7. If persons from fewer than five ranks of eligible persons are willing to accept appointment:

(a) The appointing authority may make an appointment from among those remaining available eligible persons.

(b) Certification and appointment may be made from other appropriate lists, including lists of higher grades as determined by the Division of Human Resource Management. The names from other lists ~~with~~ *must* follow those which have been certified, if any, from the original lists.

(c) A new recruitment may be conducted.

(d) A provisional appointment may be made only if the requirements of NAC 284.406 are met.

[Personnel Div., Rule V § F, eff. 8-11-73; A 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 11-16-95; 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R069-02, 8-14-2002; R183-03, 1-27-2004; R025-13, 10-23-2013)—(Substituted in revision for NAC 284.378)

Sec. 4. NAC 284.364 is hereby amended to read as follows:

Explanation of Proposed Change: Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Division of Human Resource Management, includes language mandating the appointment of a certified person with a disability, and details how appointments

should be made from the list of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 when more than one applicant from the list is qualified.

NAC 284.364 Lists of persons with disabilities who are eligible for temporary limited appointments. (NRS 284.065, 284.155, 284.250, 284.327)

1. Pursuant to NRS 284.327, *as amended by section 1 of Assembly Bill No. 192, chapter 189, Statutes of Nevada 2017, at page 1016*, the Rehabilitation Division of the Department of Employment, Training and Rehabilitation may provide to the Division of Human Resource Management the names of persons with disabilities certified by the Rehabilitation Division who are eligible for temporary limited appointments of 700 hours' duration. Upon receipt from the Rehabilitation Division of the job applications and job recommendations, the Division of Human Resource Management ~~{will}~~ *must* evaluate the information against the job requirements and minimum qualifications of the recommended classes. Through noncompetitive means, the names of qualified persons ~~{will}~~ *must* be placed ~~{in a 700-hour category on the eligible list}~~ *on a list of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327, as amended by section 1 of Assembly Bill No. 192, chapter 189, Statutes of Nevada 2017, at page 1016*, and certified to the requesting agency for consideration. *If the list includes more than one qualified person, the appointing authority must appoint the most qualified person based upon a review of the respective qualifications of each person as the qualifications relate to the position or class and the ability of each person to perform the essential functions of the position.*

2. A current probationary or permanent state employee who occupies a permanent full-time position is not eligible for the provisions of this section unless his or her disability jeopardizes his or her continued employment in his or her present position and placement on the list does not merely circumvent the provisions of this chapter governing promotion or transfer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 12-26-91; 7-6-92; R098-99, 9-27-99; A by Personnel Comm'n by R183-03, 1-27-2004)

Sec. 5. NAC 284.618 is hereby amended to read as follows:

Explanation of Proposed Change: Assembly Bill 192 of the 2017 Legislative Session amends NRS 284.387 to require appointing authorities to make appointments from the lists of persons with disabilities who are eligible for temporary limited appointments pursuant to NRS 284.327 to vacant positions, unless the individual receives benefits from the agency of the Executive Department of the State Government in which the position exists, or if there is an actual or potential conflict of interest.

This amendment, proposed by the Legislative Counsel Bureau, makes a conforming change. The amendment changes the reference to subsection 2 of NAC 284.361 to subsection 3 of NAC 284.361, because that regulation is proposed for amendment in Section 3 of this LCB File, and the subsection number has changed as a result.

NAC 284.618 Layoffs: Voluntary demotions. (NRS 284.065, 284.155, 284.175, 284.380)

1. In lieu of being laid off, a permanent employee may choose to be voluntarily demoted to a vacant position or displace an employee within the department and geographical location where employed to one of the next lower classes:

- (a) Within his or her current class series and option; or

(b) Within the class series and option from which he or she was appointed to his or her current position during current continuous service if he or she cannot be demoted pursuant to paragraph (a).

↳ For the purposes of this subsection, divisions of the Department of Health and Human Services and the Nevada System of Higher Education shall be deemed to be departments.

2. No employee in a higher class may displace an employee in a lower class who has more seniority. If an employee chooses to displace another, he or she must displace the member of the next lower class who has the least seniority. If that member has more seniority, the displacing employee must descend further in the class series.

3. The employees displaced reestablish the layoff class.

4. An employee may choose to displace another only if he or she meets the minimum qualifications for the class, option and position. For the purposes of this subsection, qualifications for a position may be different from those of the class and option only when selective certification is required pursuant to subsection ~~2~~ 3 of NAC 284.361.

5. Full-time, part-time and seasonal employees must be treated separately and can only displace like employees.

6. Displacement is always a movement to a class at a lower grade.

7. A current employee who elects to displace another employee has priority over former employees already on reemployment lists.

8. The pay of the employee who is taking a voluntary demotion cannot exceed the highest step for the class to which the employee is being demoted. If the current pay falls within the lower rate range, no reduction in pay may occur unless money is not available as certified by the Chief of the Budget Division or, in the case of an agency which is not supported from the State General Fund, as certified by the administrator of that agency.

[Personnel Div., Rule XIII § B subsec. 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-21-89; 8-1-91; R146-01, 1-18-2002; A by Personnel Comm'n by R096-03, 10-30-2003; R143-05, 12-29-2005)

Sec. 6.

Explanation of Proposed Change: This section provides that the regulations included in LCB File No. R034-17 become effective on January 1, 2018, or upon filing with the Secretary of State, whichever occurs later.

This regulation becomes effective on January 1, 2018, or upon filing with the Secretary of State, whichever occurs later.

LCB File No. R035-17

Section 1. NAC 284.325 is hereby amended to read as follows:

Explanation of Proposed Change: Existing law requires points to be added to the passing grade on a competitive examination of veterans or a widow or widower of a veteran. Assembly Bill 309 of the 2017 Legislative Session amends subsection 2 of NRS 284.260 by removing the restriction on applying veterans' preference points to more than one promotional examination.

This amendment, proposed by the Division of Human Resource Management, amends NAC

284.325 to change the point in time when an applicant must declare his or her intention to use veterans' preference points, and prove his or her eligibility. This amendment also removes the restriction of use of veterans' preference points in regulation.

NAC 284.325 Preferences for veterans. (NRS 284.065, 284.155, 284.205, 284.250) An applicant must declare his or her intention to request veterans' preference points pursuant to NRS 284.260 ~~[before the examination.]~~, *as amended by section 5 of Assembly Bill No. 309, chapter 510, Statutes of Nevada 2017, at page 3430, at the time of application.* Proof of eligibility for preference as a veteran must be submitted ~~[no later than the last day on which the applicant takes the last phase of the ranking portion of the examination. If the examination is a promotional examination, the placement of the employee's name on the promotional list exhausts the veterans' preference points for that employee for all future promotional examinations.]~~ *at the time of application.*

[Personnel Div., Rule IV § L, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.342)

LCB File No. R036-17

Section 1. NAC 284.374 is hereby amended to read as follows:

Explanation of Proposed Change: Assembly Bill 384 of the 2017 Legislative Session amends NRS 284 to add a new section providing that the criminal history of an applicant or other qualified person under consideration for employment in the classified or unclassified service may not be considered until the final in-person interview, a conditional offer of employment, or the applicant has been certified by the Administrator, whichever occurs first.

This amendment, proposed by the Legislative Counsel Bureau, references Assembly Bill 384 as amending NRS 284.240, and removes the failure to disclose convictions, because NAC 284.321 is proposed for repeal in Section 2 of this LCB File.

NAC 284.374 Active lists: Removal and reactivation of names; refusal to consider certain persons. (NRS 284.065, 284.155, 284.250, 284.295)

1. The names of eligible persons will be removed from the active lists for any of the following causes:

(a) Appointment after certification to fill a full-time permanent position in the class for which the examination was given.

(b) Expiration of the term of eligibility.

(c) Separation of a person who is eligible for promotion from the state service.

(d) Failure by an eligible person to respond within the required time to an inquiry of availability.

(e) A statement by the eligible person that he or she is not willing to accept any type of appointment from the eligible list.

(f) Any of the causes listed in NRS 284.240, *as amended by section 4 of Assembly Bill No. 384, chapter 340, Statutes of Nevada 2017, at page 2098*, pursuant to which the Administrator may refuse to examine or certify an eligible person ~~[, failure to disclose convictions as required by NAC 284.321]~~ or, if the employee has been laid off, reemployment pursuant to subsection 7 of NAC 284.630.

2. An appointing authority need not consider an eligible person more than one time from a recruitment. Consideration of an applicant for other than full-time permanent positions must not be counted for the purposes of this subsection.

3. An appointing authority need not consider an otherwise eligible person who cannot perform the essential functions of the position with or without reasonable accommodation.

4. An appointing authority may refuse to consider an eligible person who has been subject to a suspension, demotion or termination as a result of an upheld or uncontested disciplinary action in the preceding 12 months. The 12-month period begins on the effective date of the uncontested action or, if it is contested, on the date the hearing officer issues a final decision upholding a suspension, demotion or termination. If an employee is removed from consideration pursuant to this subsection, the appointing authority must notify the employee of that fact in writing before interviewing the next candidate or making its selection. The employee has 3 working days after being notified that he or she has been removed from consideration pursuant to this subsection to notify the appointing authority of any discrepancy in the information in his or her personnel file which led to the removal of the employee from consideration. The appointing authority may not make its selection:

(a) If the employee does not notify the appointing authority of a discrepancy, until after the end of the period pursuant to which the employee may notify the appointing authority of a discrepancy; or

(b) If the employee notifies the appointing authority of a discrepancy, until after the appointing authority determines whether the removal of the employee from consideration pursuant to this subsection was appropriate.

5. An appointing authority shall refuse to consider an eligible person whose appointment to a position will violate NRS 281.210, NAC 284.375 or a policy approved by the Commission pursuant to NAC 284.375.

6. An eligible person whose name has been removed from an active list may request that his or her name be reactivated by stating his or her reasons for the request. If the Division of Human Resource Management determines that the reasons are justified, and the person's term of eligibility has not otherwise expired, his or her name may be reactivated.

[Personnel Div., Rule V § E, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 12-26-91; 7-1-94; 8-16-96, eff. 10-1-96; A by Personnel Comm'n by R069-02, 8-14-2002; R182-03, 1-27-2004; R143-05 & R144-05, 12-29-2005; R023-13, 10-23-2013)

Sec. 2. NAC 284.321 is hereby repealed:

Explanation of Proposed Change: Assembly Bill 384 of the 2017 Legislative Session amends NRS 284 to add a new section providing that the criminal history of an applicant or other qualified person under consideration for employment in the classified or unclassified service may not be considered until the final in-person interview, a conditional offer of employment, or the applicant has been certified by the Administrator, whichever occurs first.

This amendment, proposed by the Division of Human Resource Management, repeals NAC 284.321, as the regulation is related to the consideration of criminal history when an employment application is being reviewed, rather than the time periods now listed in Assembly Bill 384 of the 2017 Legislative Session.

~~[NAC 284.321—Convictions: Disclosure; factors for consideration. (NRS 284.065, 284.155, 284.295)~~

~~—1.—Any applicant who has a record of a criminal conviction as an adult shall so indicate on his or her application. The application must be accompanied by a complete explanation of the conviction. The failure of the applicant to authorize the release of the information which relates to the conviction of a crime is cause for rejection of the applicant.~~

~~—2.—Any applicant who has a record of conviction for any moving traffic violations within the previous 5 years shall so indicate on his or her application, including the dates and nature of the violations and the fines imposed.~~

~~—3.—The Division of Human Resource Management or its designated representative, in determining whether to accept or refuse the application for a class, position or state service, will consider the type of position, the relevant statutory provisions, the intervening amount of time since the offense, the applicant’s age at the time of the offense and, if applicable, the applicant’s conduct during incarceration and any parole or probation, the reports from parole or probation officers concerning the applicant’s record of employment while on parole or probation and related factors.~~

~~—4.—All relevant public records must be made available to the appointing authority upon its request.]~~

[Personnel Div., Rule IV § E, eff. 8-11-73; A 6-9-74] — (NAC A by Dep’t of Personnel, 10-26-84; 5-27-86) — (Substituted in revision for NAC 284.314)

Sec. 3.

Explanation of Proposed Change: This section provides that the regulations included in LCB File No. R036-17 become effective on January 1, 2018, or upon filing with the Secretary of State, whichever occurs later.

This regulation becomes effective on January 1, 2018, or upon filing with the Secretary of State, whichever occurs later.

LCB File No. R088-17

Section 1. Chapter 284 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2.

Explanation of Proposed Change: This amendment defines “domestic partner” for the purposes of Chapter 284 of the Nevada Administrative Code, to have the meaning ascribed to it in NRS 122A.030. The Division of Human Resource Management initially proposed that this definition be included in NAC 284.114 (Section 5 below), however the Legislative Counsel Bureau proposed that the definition be added to Chapter 284 as a new stand-alone regulation.

NEW “Domestic partner” defined. “Domestic partner” has the meaning ascribed to it in NRS 122A.030, as amended by section 1 of chapter 72, Statutes of Nevada 2017, at page 288.

Sec. 3.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, amends NAC 284 by adding a new section to define “Spouse” to include an individual who is a domestic partner, pursuant to the relevant statutes. This term is used throughout NAC 284, particularly as it relates to filling vacancies and attendance and leave regulations.

NEW “Spouse” defined. “Spouse” includes a domestic partner as set forth in NRS 122A.200, as amended by section 4 of chapter 72, Statutes of Nevada 2017, at page 289.

Sec. 4. NAC 284.010 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment incorporates the two new definition regulations proposed in LCB File No. R088-17 (e.g., “Domestic partner” defined and “spouse” defined) into the General Provisions pertaining to Chapter 284 of the Nevada Administrative Code.

NAC 284.010 Definitions. (NRS 284.065) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 284.021 to 284.1125, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

(Supplied in codification; A by Dep’t of Personnel, 10-26-84; 4-19-88; 8-1-91; 7-6-92; 3-23-94; 10-27-97; R031-98, 4-17-98; R043-99, 9-27-99; R197-99, 1-26-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm’n by R038-03, 10-30-2003; R142-05, 12-29-2005; R147-06, 12-7-2006; R137-12, 10-23-2013)

Sec. 5. NAC 284.114 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, amends NAC 284.114 to include that a whether or not an applicant or employee is a “domestic partner” may not be used as a basis for discrimination in the personnel management system of the State of Nevada. This amendment is based on NRS 122A.200, which states that a public agency in the State of Nevada shall not discriminate against a person on the basis that the person is a domestic partner.

NAC 284.114 Affirmative action program and equal employment opportunity. (NRS 284.065)

1. The Division of Human Resource Management is responsible for establishing, coordinating and evaluating an affirmative action program for this State.

2. The Division of Human Resource Management will cooperate and consult with agencies to:

(a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, sexual orientation, gender identity or expression, religion, color, national origin, age, genetic information ~~for disability.~~, *disability or whether or not the person is a domestic partner.*

(b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for persons to enter the system and progress in it to the extent of their merit.

3. As used in this section, “gender identity or expression” has the meaning ascribed to it in NRS 281.370.

[Personnel Div., Rule I § C, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 7-6-92; R098-99, 9-27-99; A by Personnel Comm’n by R055-10, 6-30-2010; R023-11, 10-26-2011)

Sec. 6. NAC 284.2508 is hereby amended to read as follows:

Explanation of Proposed Change: Senate Bill 361 of the 2017 Legislative Session amends NRS 613 to require an employer to provide accommodations to an employee who is a victim of domestic violence or whose family or household member is a victim of domestic violence. These accommodations could include the movement of the employee’s desk or office, a modified work schedule, a new telephone number, or anything else that would not create an undue hardship for the employer. This bill also amends NRS 613 to make it unlawful for an employer to discharge, discipline, discriminate against in any manner or deny promotion, or threaten such action, any employee who has requested accommodations as listed above, requested leave pursuant to section 1 of the bill, attended court proceedings, or has an act of violence committed against them at the employee’s workplace.

This amendment, proposed by the Division of Human Resource Management, allows the approval of accrued compensatory leave, if available, to an employee who has been employed for at least 90 calendar days, and who is a victim of domestic violence. The regulation also allows the approval of accrued compensatory leave, if available, to an employee who has been employed for at least 90 calendar days when his or her spouse, domestic partner, minor child, certain other family members, or a member of his or her household is a victim of domestic violence. The maximum allowable amount of a combination of all leave types (annual, sick, leave without pay and compensatory leave) is 160 hours in a 12-month period, which begins at the time the domestic violence occurs.

NAC 284.2508 Compensatory time: Use. (NRS 284.065, 284.155, 284.175, 284.345)

1. At the direction of the appointing authority, compensatory time must be used within a reasonable time after it is accrued.

2. Unless it would cause an undue hardship to the agency, a request for the use of compensatory time may not be unreasonably denied if the request is made at least 2 weeks in advance of the first date on which the employee wishes to use his or her compensatory time.

3. Unless it would cause an employee to forfeit an amount of annual leave pursuant to subsection 2 of NRS 284.350, an employee must, to the extent possible, exhaust his or her compensatory time before using his or her available annual leave.

4. An appointing authority shall approve a request for compensatory time of an employee who is a victim of an act which constitutes domestic violence or whose family or household member is a victim of an act which constitutes domestic violence, and the employee is not the alleged perpetrator if:

(a) The employee has been employed in public service for at least 90 days;

(b) The employee has accrued the amount of compensatory time necessary to cover the time requested; and

(c) The combination of all leave taken by the employee for this purpose does not exceed 160 hours in the 12-month period immediately following the date on which the act which constitutes domestic violence occurred.

(Added to NAC by Dep’t of Personnel by R147-01, eff. 1-22-2002)

Sec. 7.

Explanation of Proposed Change: This section provides that Sections 1 through 5 of LCB File No. R088-17 become effective upon filing with the Secretary of State.

This section also provides that Section 6 of this LCB File is contingent upon the adoption of LCB File No. R037-17 by the Personnel Commission, which has occurred, and the approval of the Legislative Commission. The Legislative Commission approved LCB File No. R037-17, and subsequently filed it with the Secretary of State on October 31, 2017. As such, this LCB File will become effective on the date it is filed with the Secretary of State, or on January 1, 2018, whichever occurs later.

1. This section and sections 1 to 5, inclusive, of this regulation become effective upon filing with the Secretary of State.
2. Section 6 of this regulation becomes effective only if LCB File No. R037-17 is adopted by the Personnel Commission and filed by the Legislative Counsel with the Secretary of State. Section 6 of this regulation becomes effective on:
 - (a) January 1, 2018;
 - (b) The date on which this regulation is filed by the Legislative Counsel with the Secretary of State; or
 - (c) The date on which LCB File No. R037-17 is filed by the Legislative Counsel with the Secretary of State,
↳ whichever occurs later.



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
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November 2, 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 2, 2017

Date