

Steve Sisolak
Governor



Laura E. Freed
Director

Matthew Tuma
Deputy Director

Frank Richardson
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# 07-21

May 13, 2021

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

FROM: Frank Richardson, Interim Administrator *Frank Richardson*
Division of Human Resource Management

SUBJECT: NOTICE OF WORKSHOP – Amendments to NAC 284

The regulation change included with this memorandum is being proposed for permanent adoption. In order to review the proposed change in the regulation and solicit comments from interested persons, a workshop will be held at 9:00 a.m. on June 7, 2021, at the Nevada State Library and Archives Building, 100 N. Stewart St., Room 110, Carson City, Nevada with videoconferencing to the Grant Sawyer Building, Room 1400, 555 E. Washington Avenue, Las Vegas, Nevada.

Please circulate or post the attached *Notice of Workshop to Solicit Comments on Proposed Permanent Regulation* along with the text of the proposed regulation.

FR:nj

Attachments

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REGULATION WORKSHOP

DATE: June 7, 2021
TIME: 9:00 a.m.
PLACE: Nevada State Library and Archives Grant Sawyer Building
Room 110 Room 1400
100 N. Stewart Street 555 E. Washington Avenue
Carson City, Nevada Las Vegas, Nevada

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

Meeting materials are available on the Division of Human
Resource Management's
website at:
http://hr.nv.gov/Boards/Master_Meetings_Calendar/

AGENDA

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

NAC #
284.5811

Regulation Leadline
Family and medical leave: Maximum amount in 12-month period;
eligibility

3. Adjournment

This workshop will be conducted in accordance with the Open Meeting Law (NRS 241.020).

NOTE: Comments by the general public will be taken following a description of the proposed regulation change. Public comment may be limited to 5 minutes per person at the discretion of the staff member conducting the workshop.

If anyone has questions or wishes to discuss in further detail, the items scheduled for this regulation workshop, please contact Michelle Garton at (775) 684-0136.

Notices have been posted on the Division of Human Resource Management's website at www.hr.nv.gov and at the following locations:

CARSON CITY

Blasdel Building, 209 E. Musser Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson Street

LAS VEGAS

Grant Sawyer State Office Building,
555 E. Washington Avenue

LCB website: www.leg.state.nv.us

Nevada Public Notice website: www.notice.nv.gov

We are pleased to make reasonable accommodations for individuals with disabilities who wish to participate in the meeting. If special arrangements for the meeting are necessary, please notify Breece Flores at (775) 684-0135 or bdflores@admin.nv.gov no later than five working days before the meeting.

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED PERMANENT REGULATION**

The Division of Human Resource Management, 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0136, is proposing the permanent adoption and amendment of a regulation pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 9:00 a.m. on June 7, 2021 at the Nevada State Library and Archives Building, 100 N. Stewart St., Room 110, Carson City, Nevada with videoconferencing to the Grant Sawyer Building, Room 1400, 555 E. Washington Avenue, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following topics that may be addressed in the proposed regulation:

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

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

NAC #

284.5811

Regulation Leadline

Family and medical leave: Maximum amount in 12-month period; eligibility.

A copy of all materials relating to the proposal may be obtained by contacting the Division of Human Resource Management at (775) 684-0136 or mgarton@admin.nv.gov. A reasonable fee for copying may be charged. The agency's Small Business Impact Statement is attached.

This Notice of Workshop to Solicit Comments on Proposed Permanent Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

CARSON CITY

Blasdel Building, 209 E. Musser Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson Street

LAS VEGAS

Grant Sawyer Building, 555 E. Washington Avenue

WEBSITES

LCB website: www.leg.state.nv.us

Division of Human Resource Management website: www.hr.nv.gov

Nevada Public Notice website: www.notice.nv.gov

In addition, this Notice of Workshop to Solicit Comments on Proposed Permanent Regulation has been sent to:

ALL STATE AGENCIES

ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: We are pleased to make reasonable accommodations for individuals with disabilities who wish to participate in the meeting. If special arrangements for the meeting are necessary, please notify Breece Flores at (775) 684-0135 or bdflores@admin.nv.gov no later than five working days before the meeting.

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management (DHRM), will default the State's Family and Medical Leave Act (FMLA) eligibility criteria to the criteria outlined in the U.S. Department of Labor's FMLA regulations. "Paid status" is defined in NAC 284.0742 as including leave with pay (not including catastrophic leave) and leave without pay pursuant to NAC 284.580. However, the FMLA federal regulations base the hours requirement on the "hours of service" during the 12-month period immediately preceding the employee's leave. The current method of FMLA eligibility calculation may, in certain circumstances, allow an employee to qualify for leave, based on this regulation, prior to qualifying based on the federal regulations. If an employee is provided FMLA leave early and then not granted FMLA-protected leave during the period the employee qualifies under the federal FMLA regulations, it could leave the State open to review by the FMLA regulatory body, the U.S. Department of Labor.

NAC 284.5811 Family and medical leave: Maximum amount in 12-month period; eligibility; use. (NRS 284.065, 284.155, 284.345, 284.350, 284.355, 284.3626, 608.0198)

1. Except as otherwise provided in subsection 2, an employee who is entitled to take leave pursuant to the Family and Medical Leave Act is limited to a total of 12 weeks of such leave during a rolling 12-month period. The rolling 12-month period is measured backward from the date an employee uses any leave pursuant to the Family and Medical Leave Act.

2. An employee who is entitled to take leave pursuant to the Family and Medical Leave Act to care for a covered service member is limited to a total of 26 weeks of such leave during a single 12-month period.

~~[3. To calculate eligibility for leave pursuant to the Family and Medical Leave Act, each hour that an employee is in paid status in the 12-month period immediately preceding the leave must be considered as time worked.]~~

~~[4.]~~ 3. Except as otherwise provided in subsections 5 and 6, an employee who meets the requirements for eligibility for and who is taking leave pursuant to the Family and Medical Leave Act must exhaust all the accrued sick leave, accrued annual leave, accrued compensatory time and catastrophic leave that the employee is eligible to use based on the nature of the absence before using leave without pay. Any accrued sick leave, accrued annual leave, accrued compensatory time, catastrophic leave and holiday pay to which the employee is entitled pursuant to NAC 284.255 runs concurrently with the leave granted pursuant to the Family and Medical Leave Act if the employee is otherwise eligible for that sick leave, annual leave, compensatory time, catastrophic leave or holiday pay.

~~[5.]~~ 4. If an employee is absent from work as the result of a work-related injury or illness and meets the requirements for eligibility for leave due to a serious health condition pursuant to the Family and Medical Leave Act:

(a) Any amount of time that the employee is absent from work during that period will be designated as leave pursuant to the Family and Medical Leave Act; and

(b) The employee may elect to use paid leave or leave without pay for the portion of time that he or she is not being compensated for the work-related injury or illness.

~~[6.]~~ 5. If an employee is absent from work as the result of a non-work-related injury or illness, the employee is receiving compensation for the injury or illness from a disability benefit plan and the employee meets the requirements for eligibility for leave due to a serious health condition pursuant to the Family and Medical Leave Act:

(a) Any amount of time that the employee is absent from work during that period will be designated as leave pursuant to the Family and Medical Leave Act; and

(b) The employee may use paid leave for the time that the employee is being compensated for the non-work-related injury or illness if the employee has entered into an agreement with the

appointing authority to use the paid leave. If the employee and the appointing authority have not entered into such an agreement, the employee may not elect to use and the appointing authority may not require the employee to use paid leave for that time.

~~[7-]~~ 6. If 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, is absent from work and meets the requirements for eligibility pursuant to the Family and Medical Leave Act, any amount of time that the employee is absent from work during that period will be designated as leave pursuant to the Family and Medical Leave Act.

~~[8-]~~ 7. An appointing authority may require an employee to provide medical or other appropriate documentation to support his or her need for leave pursuant to the Family and Medical Leave Act.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R096-03, 10-30-2003; R145-05, 12-29-2005; R060-09, 11-25-2009; R021-13, 10-23-2013; R037-17, 10-31-2017, eff. 1-1-2018)

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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.

Frank Richardson
Frank Richardson, Interim Administrator

5/11/2021
Date