



DEPARTMENT OF PERSONNEL
209 East Musser Street, Room 101
Carson City, Nevada 89701-4204
(775) 684-0150
<http://dop.nv.gov>

MEMO PERD #39-09

July 2, 2009

TO: Personnel Commission Members
Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives
Designees for Rules Distribution
Employee Representatives
Interested Parties

FROM: Teresa J. Thienhaus, Director
Department of Personnel

A handwritten signature in cursive script, reading "Teresa J. Thienhaus".

SUBJECT: NOTICE OF WORKSHOP - Amendments to NAC 284

The regulation changes included with this memorandum are being proposed for permanent adoption. In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 9:00 A.M. on July 21, 2009 at the Gaming Control Board Conference Room, 1919 College Parkway, Carson City, Nevada and by videoconference at the Gaming Control Board, 2nd floor conference room, 555 E. Washington Avenue, Las Vegas, Nevada. An informational note explaining the nature and purpose of the proposed changes precedes the regulations.

Please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Regulations* along with the text of the proposed regulations, or otherwise notify your employees.

TJT:vk

Enclosures

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS**

The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0135, is proposing the permanent adoption of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 9:00 A.M. on July 21, 2009 at the Gaming Control Board Conference Room, 1919 College Parkway, Carson City, Nevada and by videoconference at the Gaming Control Board, 2nd floor conference room, 555 E. Washington Avenue, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

<u>Regulation Leadline:</u>	<u>NAC #</u>
Unpaid Furlough Leave	New Section
Administrative Leave with pay	284.589

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Department of Personnel offices at 209 E. Musser Street, Room 101, Carson City, Nevada, telephone number (775) 684-0135, or 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

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

CARSON CITY	LAS VEGAS
Blasdel Building, 209 East Musser Street	Grant Sawyer State Office Building
NV State Library and Archives, 100 N. Stewart St.	555 East Washington Avenue

Additionally all State agencies and Nevada County Public Libraries were sent a copy and were requested to post this notice.

NOTE: We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204 or call Mary Kaye Spencer at (775) 684-0135, no later than five working days before the meeting.

Date: 7/2/09

Explanation of Proposed Regulation: Senate Bill 433 of the 2009 Legislative Session requires most State classified employees to take 96 hours of unpaid furlough leave in each of the next two fiscal years and for other than classified employees 12 days of unpaid furlough leave in each of the next two fiscal years. The purpose of this regulation is to ensure the fair and equitable administration of the furlough for classified, unclassified, and non-classified employees. The Personnel Commission has adopted similar language as an emergency regulation, which is due to expire on October 25, 2009. In order for it to become permanent, the emergency regulation must be adopted through the normal process.

Section 1. Chapter 284 of NAC is hereby amended by adding thereto a new section to read as follows:

New Section. Unpaid furlough leave.

1. Except as provided for in Senate Bill 433 of the 2009 Legislative Session, every employee must take unpaid furlough leave. An employee shall not be required to take any more or less unpaid furlough leave than required by statute if he moves from one position to another. A new employee in state service will only be responsible for the proportional number of hours or days of unpaid furlough leave remaining in the fiscal year. The hours or days required of the employee cannot be adjusted due to salary savings for the position.

2. To the extent practicable, a supervisor and employee shall work together to develop a schedule in which unpaid furlough leave is taken. If a schedule cannot be agreed upon, a supervisor may direct an employee to take unpaid furlough leave on a specific day and/or at a specific time, due to business necessity.

3. In no case will more than 8 hours of unpaid furlough leave be allowed in a pay week.

4. A full-time classified employee shall use 8 hours of unpaid furlough leave each month and a part-time classified employee shall use the proportional full-time equivalency of unpaid furlough leave each month, unless:

a. The employee's appointing authority files a plan for the employee to use an alternate schedule of unpaid furlough leave during different periods of the year, due to workload demands, and

b. The plan is approved in advance by the Director and the Director of the Department of Administration or their designated representatives in the executive branch of government, or

c. The plan is approved in advance by the chief fiscal officer of the institution in the case of employees in the Nevada System of Higher Education.

In no case will an employee be required to use more unpaid furlough leave than the maximum set forth for the employee in Senate Bill 433.

5. There is no cash value to unpaid furlough leave. If an employee leaves state service and has taken more than the equivalent of 8 hours of unpaid furlough leave per month, the employee will not be reimbursed the difference.

6. Each appointing authority shall develop a policy to define the minimum increment of unpaid furlough leave to be taken by its classified employees. The policy

may specify different increments of time for its divisions, locations, and/or work groups due to business necessity. The appointing authority shall disseminate the policy to all employees that are subject to the furlough.

7. In no case will overtime, standby pay, added regular time, or call back pay be allowed in the same pay period as unpaid furlough leave, unless approved in advance by the Director and the Director of the Department of Administration or their designated representatives in the executive branch of government or by the chief fiscal officer of the institution in the case of employees in the Nevada System of Higher Education.

8. Unpaid furlough leave will be counted as time worked for the purpose of determining eligibility under the Family and Medical Leave Act (FMLA). Unpaid furlough leave taken during the time an employee is on FMLA qualifying leave will not be counted against an employee's 12-week or 26-week FMLA entitlement.

Explanation of Proposed Regulation: This amendment, proposed by the Department of Personnel, would expand the reasons an employee may be granted administrative leave. This type of leave is to address situations when there is a closure of a State office or work site due to a declared pandemic or when a dependent child cannot attend school, daycare or other program, e.g., day camp or recreation program due to closure due to a declared pandemic. An employee would be required to use their own sick leave if the employee or the employee's dependent child was ill.

Sec. 2. NAC 284.589 is hereby amended to read as follows:

NAC 284.589 Administrative leave with pay. (NRS 284.065, 284.155, 284.345)

1. An appointing authority may grant administrative leave with pay to an employee:
 - (a) To relieve the employee of his 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 position;
 - (c) For up to 30 days to remove the employee from the workplace when he has committed or threatened to commit an act of violence;
 - (d) For up to 2 hours to donate blood; or
 - (e) To relieve the employee of his 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 of the Department of Administration, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.
3. Except as otherwise provided in subsection 4, an appointing authority or the Department of Personnel may grant administrative leave with pay to an employee for any of the following purposes:
 - (a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the State but which do not require him to participate or attend in his official capacity as a state employee.

(b) 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.

(c) ***Closure of a school, day care or program attended by an employee's dependent child due to a pandemic. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.***

(d) His appearance as an aggrieved employee or a witness at a hearing of the Committee.

~~[(d)]~~(e) His appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the Department of Personnel.

~~[(e)]~~(f) His appearance to provide testimony at a meeting of the Commission.

4. An appointing authority or the Department of Personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (c), (d) or (e) of subsection 3 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed for him 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 his appointing authority or adversely impact the provision of services to clients or to the public.

5. 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 the Employee Assistance Program.

(b) His attendance at a health fair which has been authorized by the Board of the Public Employees' Benefits Program.

(c) His participation in an official capacity as a member of a committee or board created by statute on which he serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.

(d) Up to 8 hours for preparation for hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656.

(e) Up to 8 hours for preparation for hearings regarding his involuntary transfer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; A by Personnel Comm'n by R038-03, 10-30-2003; R183-03, 1-27-2004; R145-05, 12-29-2005)