



DEPARTMENT OF PERSONNEL
209 East Musser Street, Room 101
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MEMO PERD #46-10
August 12, 2010

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 PUBLIC HEARING - Amendments to NAC 284

The regulation changes included with this memorandum are being proposed for adoption at the September 17, 2010 Personnel Commission meeting. This meeting will be held at 9:00 a.m. at the Legislative Counsel Bureau, Conference Room 4100, 401 South Carson Street, Carson City with videoconferencing to Las Vegas at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue.

Please circulate or post the enclosed *Notice of Public Hearing* along with the text of the proposed regulations, or otherwise notify your employees.

TJT:dws

Enclosures

NOTICE OF INTENT TO ACT UPON A REGULATION
Notice of Hearing for the Permanent Amendment or Adoption of Regulations of the
Department of Personnel

The Personnel Commission will hold a public hearing at 9:00 a.m., on September 17, 2010, at the Legislative Counsel Bureau, Conference Room 4100, 401 South Carson Street, Carson City and in Las Vegas at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue via videoconferencing. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to Chapter 284 of the Nevada Administrative Code.

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

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

Regulation Lead Line:

Training of supervisory and managerial employees
Administrative leave with pay
Access to confidential records

NAC #

NAC 284.498
NAC 284.589
NAC 284.726

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 Department of Personnel, 209 E. Musser Street, Suite 101, Carson City, Nevada 89701, Attention: Shelley Blotter. Written submissions must be received by the Department of Personnel on or before August 27, 2010. 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 amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the Department of Personnel, 209 E. Musser Street, Room 300, Carson City; 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 of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

CARSON CITY

Blasdel Building, 209 East Musser Street

Nevada State Library and Archives, 100 Stewart St.

Capitol Building, Main Floor

Legislative Building, 401 South Carson Street

Gaming Control Board, 1919 College Parkway

Department of Personnel web site: www.dop.nv.gov

Main branch of Nevada County Public Libraries

LAS VEGAS

Grant Sawyer State Office Building

555 East Washington Avenue

Additionally, this notice has been sent to all State agencies.

LCB File No. R057-10:

NAC 284.498 is hereby amended to read as follows:

Explanation of Proposed Change: This regulation change, proposed by the Department of Personnel, simplifies the training requirements for supervisory and managerial employees and will make it easier for agencies to determine if their employees are in compliance. The change will require supervisors to take refresher training on all topics more frequently, but online course offerings will make meeting the requirements more convenient and less time consuming. More frequent training will help insure that supervisors and managers remain up-to-date on relevant regulations and processes.

NAC 284.498 Training of supervisory and managerial employees. (NRS 284.065, 284.155, 284.343)

1. Except as otherwise provided in this section:

(a) Within 6 months after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend a training class concerning the evaluation of the performance of employees.

(b) Within 12 months after an agency appoints an employee to a supervisory position or managerial position, the employee shall attend at least one training class *which has been approved by the Department of Personnel* in each of the following areas:

- (1) Equal employment opportunity;
- (2) Interviewing and hiring;
- (3) Alcohol and drug testing;
- (4) Progressive disciplinary procedures; and
- (5) Handling grievances.

2. ~~[Within 3 years after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend additional supervisory or managerial training which, when added to the amount of training received pursuant to subsection 1, equals at least 40 hours of training.~~

~~—3. For every 3 year period after the initial 3 year period,] *Every 3 years*, a supervisor or managerial employee shall attend ~~[at least 40 hours of]~~ training ~~[to enhance his supervisory or managerial skills.]~~ *which is approved by the Department of Personnel*. Such training must include ~~[at least two of the]~~, *without limitation*, training classes *in each of the topic areas* described in subsection 1. ~~An employee who receives credit for a training class described in subsection 1 for a 3 year period will not receive credit for taking that same training class in the next two following 3 year periods.]~~~~

[4]3. The appointing authority, at its discretion, may accept, in lieu of the training required by subsection 1, supervisory or managerial training *classes which are approved by the Department of Personnel and* taken by the employee during the [36] 12 months immediately preceding his appointment.

[5]4. In addition to the training otherwise required by this section, *the Department of Personnel or* an appointing authority may require a supervisor or managerial employee to retake any part or all of the training required by this section, or to participate in any additional training or other classes deemed necessary by the *Department of Personnel or* appointing authority.

6. ~~To meet the training requirements of this section, the employee may take training from:~~
~~—(a) The employee's agency;~~
~~—(b) A formal training program;~~
~~—(c) The Department of Personnel; or~~

~~—(d) Any combination of paragraphs (a), (b) and (c).~~

~~—7. An employee will not receive credit for any supervisory or managerial training taken for the purposes of this section unless:~~

~~—(a) For training classes described in subsection 1, the training class is certified by the Department of Personnel; and~~

~~—(b) For all other classes and training, the class or training is certified or otherwise approved by the appointing authority.~~

[8]5. As used in this section:

(a) “Managerial position” means a position which is held by an employee who:

- (1) Formally evaluates supervisors;
- (2) Is involved in the hiring and firing of subordinate staff;
- (3) Determines organizational structure within a component of the organization; and
- (4) Develops, monitors and implements policies to accomplish long-range goals.

(b) “Supervisory position” means a position which is held by an employee who:

- (1) Formally evaluates staff;
- (2) Is involved in the hiring and firing of subordinate staff; and
- (3) Establishes policies which affect the performance or behavior of subordinate staff.

[Personnel Div., Rule X part § F, eff. 1-18-82]—(NAC A by Dep’t of Personnel, 10-26-84; 5-27-86; 10-18-89; 3-23-94; R197-99, 1-26-2000; A by Personnel Comm’n by R182-03, 1-27-2004)

LCB File No. R058-10

NAC 284.589 is hereby amended to read as follows:

Explanation of Proposed Change: This regulation change, proposed by the Department of Conservation and Natural Resources and recommended by the Department of Personnel, requires employees who are placed on administrative leave in conjunction with an investigation or a screening test to be available by phone and to be available to return promptly to the work site or other location upon request. Administrative leave serves to remove the employee temporarily from the worksite because it is in the best interest of the employer and is not intended to be free time for the employee. This change will help ensure that the employee is available to answer any questions, attend meetings, or report back to work.

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. *If an employee is granted administrative leave with pay pursuant to subsection 1 or 2, the employee must be available:*
 - (a) *By telephone to the supervisor of the employee; and*
 - (b) *To report to a work site or another location, as directed by the supervisor of the employee,*
↳ *during regular business hours.*
4. Except as otherwise provided in subsection ~~{4,}~~5, 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, as a result of a pandemic, of a school or a center or facility that provides day care services which is attended by an employee's dependent child or the temporary cancellation, as a result of a pandemic, of a program attended by an employee's dependent child. 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.

(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.

(f) His appearance to provide testimony at a meeting of the Commission.

~~4~~5. An appointing authority or the Department of Personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (d), (e) or (f) of subsection ~~3~~4 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~~6. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:

(a) The initial appointment and one follow-up appointment if the employee receives counseling through an employee assistance program.

(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 all hearings regarding a suspension, demotion or dismissal of the employee as provided in section 2 of LCB File No. R063-09.

(e) Up to 8 hours for preparation for all hearings regarding an involuntary transfer of the employee.

(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; R141-07, 1-30-2008; R061, 10-27-2009; R081-09, 10-27-2009; R063-09, 11-25-09)

LCB File No. R059-10

NAC 284.726 is hereby amended to read as follows:

Explanation of Proposed Change: This proposed change eliminates a statement that says that the refusal of the Director to provide certain entities with confidential records can be appealed. There is no established process for this appeal.

NAC 284.726 Access to confidential records. (NRS 284.065, 284.155, 284.335, 284.407)

1. Except as otherwise provided in this subsection, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority's decision to hire that person is limited to the appointing authority or his designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of subparagraph 2 of paragraph (a) of subsection 1 of NAC 284.204, information relating to the education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.

2. Except as otherwise provided in subsections 3 and 4, access to an employee's file of employment containing any of the items listed in paragraphs (g) to (j), inclusive, of subsection 1 of NAC 284.718 is limited to:

- (a) The employee.
- (b) The employee's representative when a signed authorization from the employee is presented or is in his employment file.
- (c) The appointing authority or a designated representative of the agency by which the employee is employed.
- (d) The Director or his designated representative.
- (e) An appointing authority, or his designated representative, who is considering the employee for employment in his agency.
- (f) Persons who are authorized pursuant to any state or federal law or an order of a court.
- (g) The State Board of Examiners if the Board is considering a claim against the State of Nevada filed pursuant to chapter 41 of NRS which involves the employee.
- (h) Persons who are involved in processing records for the transaction of business within and between state agencies.
- (i) Persons who are involved in processing records for the transaction of business that is authorized by the employee.

3. Information concerning the health, medical condition or disability of an employee or a member of his immediate family must be kept separate from the employee's file in a locked cabinet. Except as otherwise provided in subsection 7, access to such information is limited to the employee, his current supervisor, and the appointing authority or his designated representative.

4. Except as otherwise provided in subsection 7, access to information concerning the employee's usage or balance of annual leave and sick is limited to the employee, the employee's immediate supervisor and the employee's appointing authority or his designated representative of the appointing authority.

5. Except as otherwise provided by specific statute, records maintained by an employee assistance program offered by the State of Nevada must not be released without written permission signed by the employee to whom the records pertain.

6. Upon request, the Department of Personnel will provide the personal mailing address of any employee on file with the Department to the State Controller's Office and the Internal Revenue Service.

7. The Director or the appointing authority, or his designated representative, shall authorize the release of any confidential records under his control which are requested by the Employee-Management Committee, a hearings officer, the Commission, the Committee on Catastrophic Leave created pursuant to NRS 284.3627, the Nevada Equal Rights Commission or a court. ~~[If the Director or his designated representative determines that the release of any confidential record is not necessary for those purposes, the decision may be appealed.]~~

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R024-05, 10-31-2005; R141-07, 1-30-2008; R065-09, 10-27-2009)