



DEPARTMENT OF PERSONNEL
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MEMO PERD #57-07
November 26, 2007

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

FROM: Todd Rich, Director
Department of Personnel

A handwritten signature in black ink, appearing to read "T. Rich".

SUBJECT: REVISED REGULATION CHANGES

The regulation changes included with this memorandum include revisions made by the Legislative Counsel Bureau, Legal Division, and are being proposed for adoption at the December 14, 2007 Personnel Commission meeting. Please note that the changes include language approved by the Legislative Counsel and regulations that have been added and deleted from the previously proposed list.

The Personnel Commission meeting will be held at 9:00 a.m. at the Legislative Building, 401 South Carson Street room 4100, Carson City, Nevada and by videoconference at the Grant Sawyer Building, 555 East Washington Avenue room 4401, Las Vegas, Nevada.

Please circulate or post the enclosed text of proposed regulations, or otherwise notify your employees.

TR:hg/vk

Enclosures

REGULATION CHANGES PROPOSED FOR PERMANENT ADOPTION

Section. 1. NAC 284.370 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by Department of Personnel, repeals subsection 2 of this regulation. When an exam is materially revised, it is based on the need to improve the screening tool used to evaluate a candidate's ability to perform the work of the job. Therefore, it is appropriate for all candidates to take the revised/new exam prior to being placed on the eligibility list.

NAC 284.370 Integration of subsequent lists; material changes. (NRS 284.065, 284.155, 284.205, 284.250)

1. The names of eligible persons on current lists may be integrated onto subsequent lists for the same class if there has been no material change in the qualification requirements. If the list is a ranked list, the names of eligible persons will be integrated according to the final scores of those eligible persons.

~~[2. If a material change occurs, eligible persons from other current lists for the same class may be offered the choice of retaking the examination or integrating their previous score, but only if they also meet any new qualification requirements. The decision to retake the examination cannot be reversed once any phase of the new examination has been taken. The results of the most recent examination will prevail.]~~

[3.] 2. As used in this section, "material change" includes, without limitation, a change in the minimum qualifications for the class or the subject matter, scope or weights of various phases of the examination.

[Personnel Div., Rule V § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000; A by Personnel Comm'n by R183-03, 1-27-2004)

Sec. 2. NAC 284.4375 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, changes this regulation to comply with the revised federal Uniformed Services Employment and Reemployment Rights Act (USERRA). It clarifies that when an employee returns following a military leave of absence and is in a position that allows for automatic progression following the successful completion of any remaining period of probation, the automatic progression takes effect retroactively to the date it would have occurred had it not been for the time spent on a military leave of absence.

NAC 284.4375 Automatic advancement. (NRS 284.065, 284.155, 284.175)

1. For the purposes of this section, "automatic advancement" or "automatically advanced" means the progression of an employee to the authorized grade of the position, but not exceeding the journey level. Automatic advancement occurs without recruitment and may occur without examination. It is based upon the employee's:

- (a) Meeting minimum qualifications;
- (b) Satisfactory performance; and
- (c) Endorsement by his appointing authority.

2. In determining the status of an employee who has been automatically advanced:

(a) The provisions in subsection 2 of NAC 284.170, governing an employee's pay on promotion, apply.

(b) If the employee had attained permanent status in the class from which he was automatically advanced, he retains that status in the new class.

(c) If the employee had not attained permanent status in the class from which he was automatically advanced, he must remain in probationary status in the new class until he has worked in that class for a period equal to the remaining portion of the probationary period that is required for the new class.

3. An employee returning from a military leave of absence pursuant to NRS 284.359 to a position that provides for automatic advancement must successfully complete the probationary period for the position before receiving automatic advancement. Automatic advancement must be granted to the employee as of the date on which permanent status would have been granted if the employee had not taken a military leave of absence.

[Personnel Div., Rule I § C subsec. 23, eff. 4-14-76; + Rule III part § G, eff. 8-11-73; A 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 11-16-95; R147-01, 1-22-2002)—(Substituted in revision for NAC 284.190)

Sec. 3. NAC 284.444 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, changes this regulation to comply with the revised federal Uniformed Services Employment and Reemployment Rights Act (USERRA). This change clarifies that when an employee completes the remaining portion of his probationary period upon his return from a military leave of absence, his permanent status is awarded retroactively to the date he would have received it had he not been on a military leave of absence.

NAC 284.444 Application of probationary period. (NRS 284.065, 284.155, 284.290)

1. A probationary employee who transfers:

- (a) Within the same class must serve the remaining portion of the probationary period.
- (b) From one class to another class must serve a new probationary period.

2. An employee who transfers from the unclassified or nonclassified service to the classified service must serve a new probationary period. Except for those unclassified employees who transfer pursuant to subsection 2 of NAC 284.398, the status of a permanent employee may not be attained until the satisfactory completion of the probationary period.

3. An employee who is reinstated must serve a new probationary period unless it is waived in writing by the appointing authority. If an appointing authority waives the probationary period, the status of the appointment of the employee is permanent.

4. A probationary employee who is reappointed must serve a new probationary period.

5. A permanent employee who is reappointed to a class:

- (a) At a higher grade level must serve a trial period unless it is waived by the appointing authority.
- (b) At the same grade level or a lower grade level is not required to serve a probationary period.

6. An employee who is laid off, but who is reemployed within 1 year, must serve a new probationary period if he is reemployed in a different class or in a different department than that from which he was laid off and he is subject to the provisions of subsection 8 of NAC 284.630.

7. A person with a permanent disability arising from a work-related injury or occupational disease who is reemployed in a different class or option than his regular position must serve a new probationary period as required by NAC 284.6018.

8. A person who is [~~entitled to reemployment because of his military service~~] *on military leave of absence pursuant to NRS 284.359* is entitled to return to the status of appointment held at the time [~~of his separation from the state service for military purposes.~~] *he commenced the military leave of absence.* If the employee did not complete the probationary period, he will only be required to complete the remaining portion thereof. *Upon his successful completion of the probationary period, permanent status must be granted to the employee as of the date on which permanent status would have been granted if the employee had not been on military leave of absence.*

9. Promotion to a vacant position requires a new probationary period. Promotions which result from reclassification are governed by NAC 284.134 and 284.138.

10. Except as otherwise provided in subsection 11:

(a) No probationary period will be required if a permanent employee is demoted.

(b) A new probationary period will be required if a probationary employee is demoted.

11. An employee who is restored to his former position pursuant to NAC 284.462 following a promotional appointment must serve the portion of his probationary period which was remaining at the time of his promotion.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 7-21-89; 8-1-91; 12-26-91; 3-1-96; A by Personnel Comm'n by R142-05 & R143-05, 12-29-2005)

Sec. 4. NAC 284.448 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, changes this regulation to comply with the revised federal Uniformed Services Employment and Reemployment Rights Act (USERRA). This change clarifies that while time on military leave is not counted as time served towards completion of a probationary period, it must be granted retroactively once the time served is completed in accordance with subsection 8 of NAC 284.444.

NAC 284.448 Time not counted toward completion of probationary period. (NRS 284.065, 284.155, 284.290) The following types of leave or temporary status do not count toward the completion of any probationary period:

1. Authorized military leave for active service[-], *as set forth in subsection 8 of NAC 284.444.*

2. Authorized military leave for training beyond the 15 paid working days in any 1 calendar year[-], *as set forth in subsection 8 of NAC 284.444*

3. Except as otherwise provided in NAC 284.580, any leave without pay and catastrophic leave, combined, in excess of 240 hours or, in the case of an exempt classified employee, 30 working days, in a year if the regular work schedule of the employee is 80 hours or less biweekly. If the regular work schedule of an employee is more than 80 hours biweekly, the employee must be allotted additional leave without pay and catastrophic leave in proportion to the number of hours his regular work schedule exceeds 80 hours biweekly. As used in this subsection, "year" means a period equal to 12 months of full-time equivalent service measured backward from the employee's pay progression date.

4. Time which is served in a temporary position pursuant to NAC 284.414.

5. Any hours worked which exceed 40 in a week.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 5-27-86; 3-27-92; 9-16-92; 11-16-95; 3-1-96; R147-01, 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004)

Sec 5. NAC 284.554 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, clarifies that an employee is entitled to use sick leave if he is receiving counseling from an employee assistance program other than the Employee Assistance Program offered by the State of Nevada.

NAC 284.554 Sick Leave: Authorized use. (NRS 284.065, 284.155, 284.345, 284.355)

An employee is entitled to use sick leave if:

1. He is unable to perform the duties of his position because he is sick, injured or physically incapacitated due to a medical condition;
2. The employee is physically incapacitated due to pregnancy or childbirth and is therefore unable to perform the duties of the employee's position;
3. He is quarantined;
4. He is receiving required medical, psychological, optometric or dental service or examination;
5. He is receiving counseling through ~~[the Employee Assistance Program]~~ ***an employee assistance program*** for a condition which would otherwise qualify pursuant to the provisions of this section; or
6. There is an illness, death or other authorized medical need in his immediate family and he complies with the requirements of NAC 284.558 or 284.562.

(Added to NAC by Dep't of Personnel, eff. 12-17-87; A 7-14-88; 7-21-89; 8-1-91; 9-16-92; 11-23-93; 3-23-94; 7-1-94; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

Sec. 6. NAC 284.576 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, removes the language that places an employee on approved leave without pay in an event that the employee is approved to receive catastrophic leave donations, but there are not enough donations to pay the employee for the absence.

NAC 284.576 Catastrophic leave: Use and administration; appeal of denial. (NRS 284.065, 284.155, 284.3621, 284.3626)

1. An account for catastrophic leave may be established for an employee when he or a member of his immediate family experiences a catastrophe and the employee has used all of his accrued leave.
2. An employee who is affected by a catastrophe and has used or is about to use all of his leave may request, on the appropriate form, the transfer of leave to an account for catastrophic leave for his personal use after the balance of all of his leave has been used. Such a request must be accompanied by a statement from a physician on a form provided by the Committee on Catastrophic Leave created pursuant to NRS 284.3627 which substantiates the necessity of the leave.
3. When a member of the immediate family of an employee is affected by a catastrophe, the appointing authority of the employee may require substantiating evidence that the member of the immediate family requires the employee's attendance before approving the transfer of leave to an account for catastrophic leave for use by the employee. Such evidence may include a statement by an attending physician regarding the status of the catastrophe.
4. The appointing authority shall approve or deny a request for catastrophic leave, taking into consideration the nature of the catastrophe and the expected duration of the leave. The decision of the

appointing authority may be appealed to the Committee on Catastrophic Leave pursuant to NRS 284.3629.

~~5. [An employee whose request for catastrophic leave for a specified period of time has been approved and who has not had any or enough donations transferred to his account for catastrophic leave established pursuant to subsection 1 shall be deemed to be on approved leave without pay for the same period of time that was approved for the catastrophic leave. If a subsequent donation of hours to the employee's account for catastrophic leave is received before the last day of the approved period of catastrophic leave, the donation must be applied retroactively to cover the beginning of the period of leave that was taken without pay.~~

6.] An employee who wishes to donate hours to an account for catastrophic leave for use by another employee who has been approved to receive the donated hours shall notify his appointing authority on the appropriate form of his intent to donate the leave. The appointing authority of the employee donating the leave shall submit a copy of the form to the appointing authority of the employee receiving the leave. The appointing authority of the recipient shall use the notice to effect a transfer of leave from the account of the donor to the account of the recipient when the recipient needs to use those hours. If more than one notice of intent to donate leave is received by the recipient's appointing authority on behalf of the recipient, the notices must be maintained in chronological order and used, one at a time as needed, according to the date in which they were received.

[7.] 6. A donor and his appointing authority must be notified on the appropriate form when the donated leave specifically designated for use by another employee has been used or if the amount of leave donated is in excess of the amount approved for use by the recipient. Excess leave must be restored to the account of the donor within 30 working days after the last day on which the recipient was eligible to receive catastrophic leave.

[8.] 7. The appointing authority shall provide the following information on a calendar year basis or as requested by the Director:

(a) Each employee under its authority, identified by a number assigned in accordance with subsection [9] 8, donating or using catastrophic leave, his grade and rate of pay and the number of hours and dollar value of the leave donated, excluding any excess leave restored to the account of a donor, pursuant to subsection [7] 6, or used by the employee;

(b) The period and nature of the disability for each employee using catastrophic leave; and

(c) A comparison of the average dollar value of the accounts for catastrophic leave based on the average rate of pay of the donors and the average dollar value of the leave taken by the recipients.

[9.] 8. The appointing authority shall assign numbers to employees for the purposes of subsection [8] 7 in a sequential order and in such a manner that ensures the confidentiality of the identity of those employees.

[10.] 9. Hours donated to an account for catastrophic leave must be donated in increments of 8 hours.

[11.] 10. As used in this section, "immediate family" has the meaning ascribed to it in NAC 284.562.

(Added to NAC by Dep't of Personnel, eff. 10-18-89; A 8-14-90; 3-23-94; R146-01, 1-18-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

Sec. 7 NAC 284.589 is hereby amended to read as follows:

Explanation of Proposed Change: The proposed amendment in paragraph (c) of subsection 3 is requested by the Nevada State Law Enforcement Officers Association. This amendment allows an appointing authority to grant not more than 4 hours of paid administrative leave for an aggrieved employee to prepare documents for his presentation before the Employee-Management Committee.

The proposed amendment in paragraph (a) of subsection 5 is requested by the Department of Personnel. This amendment clarifies that an appointing authority may grant paid administrative leave to an employee in order to use the services of an employee assistance program other than the Employee Assistance Program offered by the State of Nevada.

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 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) ***For up to 4 hours to prepare documents and materials to be presented at a hearing of the Committee on his grievance pursuant to the procedure set forth in NAC 284.6955.***

(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 ~~[(e), (d) or (e)]~~ (d), (e), or (f) 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.~~] *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 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)

Sec. 8 NAC 284.653 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, clarifies that an employee may seek assistance from an employee assistance program but is not restricted to the Employee Assistance Program offered by the State of Nevada.

NAC 284.653 Driving under the influence; unlawful acts involving controlled substance. (NRS 284.065, 284.155, 284.383, 284.385, 284.407)

1. An employee is subject to any disciplinary action set forth in subsection 2, as determined by the appointing authority, if the employee is convicted of any of the following offenses:

(a) If the offense occurred while the employee was driving a state vehicle, or a privately owned vehicle on state business:

(1) Driving under the influence in violation of NRS 484.379; or

(2) Any offense resulting from an incident in which the employee was:

(I) Originally charged with driving under the influence; or

(II) Charged with any other offense for which driving under the influence is an element of the offense.

(b) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance on the premises of the workplace or on state business.

2. An appointing authority may impose the following disciplinary actions if an employee is convicted of an offense set forth in subsection 1:

(a) For the first offense:

(1) Dismissal;

(2) Demotion, if permitted by the organizational structure of the agency for which he is employed;

(3) Suspension for 30 calendar days; or

(4) Suspension for 30 calendar days and demotion.

(b) For the second offense within 5 years, dismissal.

3. An employee who is suspended or demoted pursuant to subsection 2 must:

(a) Agree to be evaluated through [~~the Employee Assistance Program~~] *an employee assistance program*; and

(b) Complete any program of treatment recommended by the evaluation.

4. If an employee fails to complete the program of treatment, the appointing authority must dismiss the employee.

5. Pursuant to NRS 193.105, an employee who is convicted of violating any state or federal law prohibiting the sale of a controlled substance must be dismissed.

6. An employee must report a conviction of any offense described in this section to his appointing authority within 5 working days after it occurs. If he fails to make that report, he must be dismissed.

(Added to NAC by Dep't of Personnel, eff. 7-22-87; A 4-20-90; 3-27-92; A by Personnel Comm'n by 147-06, 12-7-2006)

Sec. 9 NAC 284.682 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Nevada State Law Enforcement Officers Association, requires that if an employee who filed a grievance and his appointing authority resolve the grievance prior to a hearing before the Employee-Management Committee (EMC), the appointing authority will provide to the EMC a copy of a formal agreement which sets forth the terms and conditions of the resolution of the grievance. This provision applies to each step in the grievance process.

NAC 284.682 Submission of grievance to next appropriate level. (NRS 284.065, 284.155, 284.384)

1. If the correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the Department of Personnel determines that the submission of the grievance to the supervisor would be a useless act, the [~~aggrieved~~] employee *who filed the grievance* may appeal directly to the next appropriate level.

2. Except as otherwise provided in NAC 284.692, an employee has 10 working days to refer his grievance to the next level after:

(a) He receives notification of the action; or

(b) The passage of 10 working days after his grievance is deemed to have been received,

→ whichever occurs first, at each step in the procedure.

3. *If an employee who filed a grievance and his appointing authority resolve the grievance before the Committee hears the grievance, the parties shall enter into a written agreement which sets forth the terms and conditions of the resolution of the grievance and shall sign the agreement. The appointing authority shall provide a copy of the signed agreement to the Committee.*

[Personnel Div., Rule XV § A part subsec. 1, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005)

Sec. 10. NAC 284.718 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, clarifies the confidentiality of records maintained by an employee assistance program offered by the State of Nevada.

NAC 284.718 Confidential records. (NRS 284.065, 284.155, 284.407)

1. The following types of information, which are maintained by the Department of

Personnel or the personnel office of an agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished to the Department of Personnel on the condition that the source remain confidential;

(b) Any document which is used by the Department of Personnel or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(d) Any document which is used by the Department of Personnel or an agency in the process of interviewing an applicant, including, without limitation, a document containing interview questions, evaluation tools used for rating applicants and any notes concerning an applicant that were taken by a person as part of the process of rating an applicant;

(e) Materials used in examinations, including suggested answers for oral examinations;

(f) Records and files maintained by [~~the Employee Assistance Program;~~] ***an employee assistance program offered by the State of Nevada;***

(g) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;

(h) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;

(i) Any information contained on a person's application or relating to his status as an eligible person; and

(j) Information in the file or record of employment of a current or former employee which relates to his:

(1) Performance;

(2) Conduct, including any disciplinary actions taken against him;

(3) Race, ethnic identity or affiliation, sex, disability or date of birth;

(4) Home telephone number; or

(5) Social security number.

2. If the employee has requested that his personal mailing address be listed as confidential, his file must be so designated and list his business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

(a) The employee dies; or

(b) The employee signs a release.

4. Any records in the possession of the Committee on Catastrophic Leave created pursuant to NRS 284.3627 that reveal the health, medical condition or disability of a current or former employee or a member of his immediate family are confidential.

5. Any notes, records, recordings or findings of an investigation conducted by the Department of Personnel relating to sexual harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority are confidential.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93; R058-01, 9-6-2001; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004; R024-05, 10-31-2005)

Sec. 11. NAC 284.726 is hereby amended as follows:

Explanation of Proposed Change: This amendment, proposed by the Department of Personnel, clarifies that an employee's records from any assistance program offered by the State of Nevada must not be released without the employee's written permission.

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 subsection 3, 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 6, 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 by specific statute, records maintained by ~~the Employee Assistance Program~~ ***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.

5. 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.

6. 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 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)