



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

MEMO PERD #65/07
December 19, 2007

TO: Designees for Rules Distribution
Department Directors
Division Administrators

FROM: Todd Rich, Director *T.R.R.*
Department of Personnel

SUBJECT: REVISION #1, RULES FOR STATE PERSONNEL
ADMINISTRATION

Attached is Revision # 1 to the *Rules for State Personnel Administration*, which includes replacing Temporary Regulations no longer in effect; changes resulting from 2007 legislation; and correction of typographical errors.

This revision can be added to your rulebooks by replacing the existing page with a similarly numbered page. In addition, the complete text of *The Rules for State Personnel Administration* is available on our website at www.dop.nv.gov. Revision # 1 is also available separately on the website for downloading or printing to update an existing hardcopy.

Corrected pages with corresponding section of the rulebook are listed in the chart below:

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Please ensure everyone on your distribution list receives a copy. If you have any questions regarding this information, please contact Paula Scheufler at (775) 684-0149 or pscheufler@dop.nv.gov.

Thank you for your assistance.

Attachment

TR:sb

cc: Agency Personnel Liaisons
Agency Personnel Representatives

of NAC 284.6017, placement on a reemployment list will 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 Department of Personnel will, in accordance with subsections 3 and 4, certify the names of eligible persons on ranked or unranked lists, or waive the list.

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

4. The Department of Personnel 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. Only an eligible person who has indicated his willingness to accept the location of the vacancy and the other conditions of employment will 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)

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) A person must accept or refuse an offer of reemployment:

(1) If the offer of reemployment 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) If the offer is an oral offer of reemployment, within 3 business days after the oral offer has been made.

2. 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 reasons therefor. If the facts and reasons justify such a method of selection, the Department of Personnel may certify the highest ranking eligible persons who possess the special qualifications.

3. Certification of only eligible persons who are the same sex will not be made unless there is clear evidence that the duties assigned could be performed efficiently only by the sex specified.

4. When using ranked lists other than those for reemployment, the appointing authority shall attempt to communicate, as provided in NAC 284.373, with persons in the first five 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 five ranks with persons who are available for appointment on a given list and the appointing authority requests a full complement of five ranks, the name or names at the top of the next succeeding list must be combined with those on the preceding list to establish five eligible ranks with persons who are

available for appointment. Except as otherwise provided in subsection 6, all competitive appointments from ranked lists must be made from the persons who:

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

5. 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 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. 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 Department of Personnel. The names from other lists will 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)—(Substituted in revision for NAC 284.378)

NRS 284.250 states, “Establishment of list of eligible persons; limitation on term of eligibility.

1. The Commission shall adopt regulations for the establishment of eligible lists for appointment and promotion which must contain the names of successful applicants in the order of their relative excellence in the respective examinations.

2. The term of eligibility of applicants on such lists is 1 year, but the term may be extended by the Director to a maximum of 3 years.”

INFORMATIONAL NOTE: NRS 284.410 “False statement or report; fraud.” may be found preceding NAC 284.738.

NRS 284.420 “Obstruction of right to examination, eligibility, certification or appointment; furnishing special or secret information.” may be found preceding NAC 284.738.

NRS 284.425 “Member of subversive organization ineligible for appointment or employment in public service.” may be found preceding NAC 284.738.

NRS 284.155 states, “Regulations for classified service.

1. The Commission shall adopt a code of regulations for the classified service.

2. The code must include regulations concerning certifications and appointments for:

NRS 284.254 states, “Preference on list for person separated from service because agency terminated. In establishing lists of eligible persons, a preference must be allowed for each person in the classified service who has been separated from the service because the agency by which he was employed was terminated pursuant to NRS 232B.100.”

NRS 284.330 states, “Reinstatement of permanent appointee after separation without prejudice. Any person who has held a position by permanent appointment in the classified service under the law and rules, and who has been separated from the service without prejudice, may be eligible for reinstatement to a position in the same or similar grade or class in the classified service, subject to the rules and regulations established in accordance with the provisions of this chapter.”

NRS 284.380 states in part, “Layoffs; reemployment lists.

4. The name of every regular employee so laid off must be placed on an appropriate reemployment list.”

INFORMATIONAL NOTE: NRS 286.440 “Redeposit of withdrawn contributions upon return to service: Procedure.” may be found preceding NAC 284.611.

NAC 284.386 Reinstatement of former permanent employee. (NRS 284.065, 284.155, 284.305)

1. Except as otherwise provided in subsection 2, an appointing authority may reinstate a former permanent employee within a 2-year period following his termination from state employment if the employee was separated without prejudice. A separation without prejudice must be determined by the appointing authority using the standards contained in NRS 284.240.

2. If an employee is laid off and is entitled to have his name appear on a reemployment list pursuant to NAC 284.630, the appointing authority may reinstate the employee within 2 years after the date on which his right to reemployment expires.

3. The grade of the class to which a person is reinstated may only exceed the current grade of the class he formerly held or a comparable class if that class has been reallocated.

4. Except as otherwise provided in subsection 3, a person may not be reinstated to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the person formerly held.

5. A reinstatement to a similar class requires the approval by the Department of Personnel before the appointing authority may make a commitment to reinstate.

6. It is the responsibility of a person seeking reinstatement to make his interest known by providing a new application to the appointing authority.

7. The person must meet the current minimum qualifications for the class for which the reinstatement is sought.

[Personnel Div., Rule VI § C, eff. 8-11-73; A 10-10-76]—(NAC A by Dep’t of Personnel, 8-26-83; 10-26-84; 10-18-89; 11-12-93; 10-27-97; A by Personnel Comm’n by R183-03, 1-27-2004)

NRS 284.375 states, (Transfers) “Conditions. In accordance with regulations established by the Commission, transfers in the classified service may be made from one position to another position within the same grade when the duties are similar and when such action is specifically approved by the Director.”

NAC 284.390 Transfers initiated by employees. (NRS 284.065, 284.155, 284.375)

1. An employee may request a transfer from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority if the positions are in the same class or a comparable class.
2. An employee who wishes a transfer to a position in the same class must:
 - (a) Make his interest known to the hiring agency; or
 - (b) Submit a request for a transfer to the Department of Personnel to have his name placed on a transfer list for a position in the same class.
3. For a transfer to a position in a comparable class:
 - (a) The employee must submit an application to the hiring agency; and
 - (b) The Department of Personnel must approve the request for a transfer.
4. An employee may not transfer through noncompetitive means to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the employee currently occupies.

[Personnel Div., Rule VI § D subsecs. 1-4, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 6-18-86; 7-21-89; 8-1-91; 10-27-97; A by Personnel Comm'n by R183-03, 1-27-2004)

NRS 284.376 states, "Involuntary transfer; hearing; remedies.

1. Within 10 working days after the effective date of his transfer pursuant to the provisions of NRS 284.375, a permanent classified employee who has been transferred without his consent may request in writing a hearing before the hearing officer of the Department to determine whether the transfer was made for the purpose of harassing the employee. The request may be made by mail and shall be deemed timely if it is postmarked within 10 working days after the effective date of the employee's transfer. The hearing must be conducted in accordance with the procedures set forth in NRS 284.390 to 284.405, inclusive.
2. If the hearing officer determines that the transfer was made for the purpose of harassing the employee, the transfer must be set aside and the employee must be returned to his former position. If the transfer caused the employee to be away from his original headquarters, the employee is entitled to be paid expense allowances as provided in NRS 281.160 for the period the transfer was in effect.
3. The decision of the hearing officer is binding on the parties."

NAC 284.394 Transfers initiated by appointing authorities. (NRS 284.065, 284.155, 284.375)

1. Except as otherwise provided in subsection 2, an appointing authority may, after giving 5 working days' notice, transfer for the convenience of this State any employee to another position in:
 - (a) The same class; or
 - (b) A comparable class with the approval of the Department of Personnel.
2. The notice required by subsection 1 need not be given if the transfer does not exceed 10 working days. If a bona fide or justifiable emergency exists, a transfer may be made immediately with the prior approval of the Department of Personnel.
3. A transfer pursuant to this section must not be made to harass or discipline an employee.
4. A permanent employee who is required to transfer to a different geographical location and who declines the transfer has the same rights provided in NAC 284.630 as an employee who is laid off.
5. If an employee requests a hearing to appeal an involuntary transfer pursuant to NRS 284.376, the appointing authority may temporarily assign the employee, on a per diem basis, to

REPORTS ON PERFORMANCE

NRS 284.335 states in part, “Standards; records and ratings for service.

1. The appointing authorities and other supervising officers of the various state departments, agencies and institutions, after consultation with the Director, shall establish standards of work performance for each class of positions. Each appointing authority shall provide each of its employees with a copy of the standards for his position.

The Director shall maintain service records of performance efficiency, character and conduct by a system of service ratings based upon those standards.

3. The Commission shall adopt regulations with respect to service ratings, and prescribe the extent to which service ratings must be considered in determining the advisability of transfers, the promotion of an employee to a higher class, the question of demotion or dismissal of any employee, increases and decreases in salary of an employee within the salary range established under this chapter and in all other decisions relating to the status of employees.”

NAC 284.468 Standards for performance of work. (NRS 284.065, 284.155, 284.335)

1. A standard for the performance of work is a written statement prepared on a form prescribed by the Department of Personnel of the results or behavior, or both, expected of an employee when the job elements of the employee’s position are satisfactorily performed under existing working conditions. Standards are required for all classified positions.

2. The appointing authority is responsible for ensuring that each position has standards and that each employee is evaluated using those standards. The supervisor has responsibility for establishing the initial standards, but the employee must be given the opportunity to provide comments when the standards for his position are revised.

3. The appointing authority has final approval of the standards for a position.

4. Standards must be reviewed annually and amended when appropriate.

5. Each employee must be provided with a copy of the standards for his position.

6. As used in this section, “job elements” means the principal assignments, job tasks, goals, objectives, responsibilities or related factors, or any combination thereof.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 8-28-85; A by Personnel Comm’n by R038-03 & R068-03, 10-30-2003)

NRS 284.337 states, “Reports: Duties of supervisor. An employee whose duties include the supervision of an employee who holds a position in the classified service shall:

1. For filing at the times specified in NRS 284.340, prepare reports on the performance of that employee. In preparing a report, he shall meet with the employee to discuss goals and objectives, to evaluate the employee’s improvement in performance and personal development, and to discuss the report.

2. Provide the employee with a copy of the report.

3. Transmit the report to the appointing authority.”

NRS 284.340 states, “Reports: Duties of appointing authority. Each appointing authority shall:

1. Report to the Director, in writing, the efficiency of his subordinates and employees, and other information, in such manner as the Commission may prescribe by regulation.

2. File reports with the Director on the performance, during the probationary period, of each of his employees who holds a position in the classified service. A report must be filed at the end of the 2nd and 5th months of employment if the probationary period is 6 months, or at the end of the 3rd, 7th and 11th months of employment if the probationary period is 12

months.

3. File a report annually with the Director on the performance of each of his employees who holds a position in the classified service and has attained permanent status. The report must be filed at the end of the 12th month next following the attainment of permanent status, and at the end of every 12th month thereafter. If the report is not filed on or before the required date, the performance of the employee shall be deemed to be standard.

4. If any report he files with the Director on the performance of an employee who holds a position in the classified service includes a rating of substandard, file with the Director an additional report on the performance of the employee at least every 90 days until the performance improves to standard or until any disciplinary action is taken.

5. Provide the employee with a copy of each report filed.”

NAC 284.470 Preparation, filing, contents, discussion and distribution of reports; power and duties of employees; review; adjustment of grievances. (NRS 284.065, 284.155, 284.340, 284.384)

1. A person shall not complete a report on performance unless he has completed the training provided or approved by the Director concerning the preparation of a report on performance.

2. A report on performance must be prepared on the form prescribed by the Department of Personnel.

3. A report on performance must be filed at the times prescribed by NRS 284.340, but may be filed more frequently at the discretion of the supervisor of the employee. If a report on performance is not filed on or before the times specified in NRS 284.340, the performance of the employee shall be deemed to be standard.

4. If any information that would have affected the rating of performance of an employee during a period of evaluation becomes available after the date on which the report on performance of the employee is filed for that period, the information may be included in the report on performance for the current period of evaluation and taken into consideration in determining the rating of performance for the current period of evaluation.

5. When a report on performance is given which reports the overall rating of performance of an employee as substandard:

(a) The report must contain a written notice that such reports affect both merit pay increases and the employee's eligibility for longevity pay; and

(b) An additional report on the performance of the employee must, in accordance with subsection 4 of NRS 284.340, be filed at least once every 90 days after the initial report that includes the substandard rating until the performance of the employee improves to standard or disciplinary action is taken against the employee.

6. Except as otherwise provided in subsection 7, the preparation of each report on performance must include a discussion between the employee and his immediate supervisor. Within 10 working days after the discussion takes place:

(a) The employee must complete and sign the appropriate section on the report on performance and return the report to his supervisor for forwarding to the reviewing officer or appointing authority.

(b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify the specific points of disagreement, if such specificity is provided, and return the response to his supervisor. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request.

7. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 6 because of an extended absence, the immediate supervisor of the employee shall cause the report to be mailed to the employee. Within 10 working days after the date on which the employee receives the report:

(a) The employee must complete and sign the appropriate section on the report on performance and mail the report to his supervisor for forwarding to the appointing authority or reviewing officer.

(b) If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing, identify any specific point of disagreement, if the report provides such specificity, and mail his response to his supervisor. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request for review from the employee. For the purposes of this paragraph, a report on performance or request for review is deemed to have been received on the third day after the date on which the report or request is postmarked.

8. A copy of each report on performance must be provided to the employee and filed with the Department of Personnel. If any written comments are added to a report on performance after a copy of the report has been provided to the employee pursuant to this subsection:

(a) A copy of the revised report which includes the written comments must be provided to the employee; and

(b) The employee may respond, in writing, to the additional comments in the revised report not later than 10 working days after he receives a copy of the revised report and submit the response to the Department of Personnel for inclusion in his file of employment.

9. An employee and his appointing authority may agree in writing to extend one or more of the periods prescribed in subsection 6 or 7.

10. If a reviewing officer fails to respond to a request for review from an employee within the time required by this section, the employee may institute the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.

[Personnel Div., Rule IX § A, eff. 8-11-73; A 12-28-75]—(NAC A by Dep't of Personnel, 10-26-84; 9-17-87; 10-18-89; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R197-99, 1-26-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002; R096-03, 10-30-2003; R144-05, 12-29-2005)

NAC 284.474 Employee entitled to copy of report. (NRS 284.065, 284.155, 284.340)

Each employee must be given a copy of the report prepared by the supervisor measuring his performance and development on the job. The report will not become official until signed by the rater. If requested, a copy must be provided to the employee at the time of the discussion between the supervisor and the employee. After the processing has been completed, a copy with all appropriate signatures will be provided the employee.

[Personnel Div., Rule IX § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.478 Appeal of decision of reviewing officer. (NRS 284.065, 284.155, 284.384)

A permanent employee may appeal a decision of a reviewing officer pursuant to NAC 284.470 through the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.

[Personnel Div., Rule IX § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-18-89; R197-99, 1-26-2000)

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TRAINING AND EDUCATION

NRS 284.343 states, “Stipends for training and educational leave for employees: Regulations; exceptions; restrictions; grants.

1. Except as otherwise provided in this subsection, after consultation with appointing authorities, and in cooperation with the State Board of Examiners, the Commission shall adopt regulations for all training of employees in the state service. Professional employees of the teaching staff, Agricultural Extension Service and Nevada Agricultural Experiment Station staffs of the Nevada System of Higher Education, or any other state institution of learning and student employees of such an institution are exempt from the provisions of this section.

2. The regulations adopted pursuant to subsection 1 must set forth the conditions under which educational leave stipends may be paid to any officer or employee of the State. Except as otherwise provided in NRS 612.230 and with the exception of intermittent course work not leading to the awarding of a degree, no person may be granted educational leave stipends until he has entered into a contract with his employing agency whereby he agrees to pursue only those courses required for a degree related to his employment with the state and to return to the employ of his employing agency on the basis of 1 year for each 9 months of educational leave taken or to refund the total amount of the stipends regardless of the balance at the time of separation.

3. This section does not prevent the granting of sabbatical leaves by the Board of Regents of the University of Nevada.

4. Where practicable, all training for state employees must be presented through established educational institutions within the State.

5. The Department shall coordinate all training activities related to remedial programs and programs for career development designed to correct educational and training deficiencies of state employees and create employment opportunities for the disadvantaged. In connection with these activities, the Department, with the approval of the Governor, is designated to enter into contractual arrangements with the Federal Government and others that provide grants or other money for educational and training activities.”

NAC 284.482 Types of training. (NRS 284.065, 284.155, 284.343) Each employee is responsible for improving his own professional competence. The employing agency shall, within budgetary constraints, complement the employee’s own efforts by providing the following kinds of training:

1. Training which is beneficial to the agency’s operation or is required by the State, the appointing authority, or the Federal Government.

2. Training which is needed to enable the employee to meet the standards of performance for his position.

3. Training which is needed to update the employee’s skills, knowledge, and techniques of his current position.

[Personnel Div., Rule X § B, eff. 1-18-82]—(NAC A by Dep’t of Personnel, 10-26-84)

NAC 284.484 Release time or leave to attend training. (NRS 284.065, 284.155, 284.343, 284.345)

1. When training is required by the appointing authority, the authority must grant release time to attend the training. Release time is considered time worked. The agency is responsible for any overtime earned as a result of such training.

2. When training is requested by the employee, the appointing authority may:

(a) Grant the employee release time, but not overtime;

(b) Require the employee to take approved leave for the work time spent to attend the training; or

(c) Deny the request. Approval must not be unreasonably withheld and reasons for denial must be provided the employee in writing.

↳ In making the determination to approve or deny training pursuant to this subsection, the appointing authority must consider the appropriateness of the training in accordance with NAC 284.485.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R082-00, 8-2-2000)

NAC 284.485 Criteria for approving or denying training or education requested. (NRS 284.065, 284.155, 284.343) In determining whether to approve or deny training or education requested by an employee, an appointing authority shall consider whether the training or education:

1. Is required by or related to the job of the employee;
2. Is relevant to the prospective duties of the employee; or
3. Is a benefit to both the agency and the employee participating by:
 - (a) Preparing the agency and employee for technological and legal developments;
 - (b) Increasing the work capabilities of the agency and employee;
 - (c) Increasing the number of qualified employees in areas for which the agency has difficulty in recruiting or retaining employees; or
 - (d) Increasing the professional competence of the employees of the agency.

(Added to NAC by Dep't of Personnel by R082-00, eff. 8-2-2000)

NAC 284.486 Money for training to be used to produce greatest benefit in relation to cost of training. (NRS 284.065, 284.155, 284.343) Money for training must be used to produce the greatest benefit in relation to the cost of the training. This requirement applies to money which is administered by the Department of Personnel and to money which is administered by other agencies.

[Personnel Div., Rule X § C, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000)

NAC 284.490 Reimbursement or prepayment for training or education. (NRS 284.065, 284.155, 284.343)

1. If an employee receives approval to take training or education that he requested to take, including, without limitation, a course or workshop:

(a) The employing agency may reimburse the employee for the expense of the training or education only after his successful completion of the training; or

(b) The employing agency may elect to prepay the cost of the training or education.

2. An employing agency may enter into an agreement with an employee requiring the employee to repay any money paid to him or on his behalf for the cost of training or education if:

(a) The employee fails to complete the training successfully; or

(b) Within 1 year after the successful completion of training or education that is not required by his job, the employee terminates his employment with the agency.

↳ Any repayment from wages owed by the employee must not be taken from any payment for overtime owed to the employee and must not reduce the pay of the employee below the minimum wage required by federal law.

3. For the purposes of this section, "successful completion of training and education" means:

(a) Receiving a grade of C or better;

(b) Receiving a passing grade if the students are designated only as passing or failing the course;

(c) Receiving a certificate of completion; or

(d) Receiving other evidence of completion as predetermined by the appointing authority.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000)

INFORMATIONAL NOTE: See also 29 C.F.R. §825.114 for explanation of “serious health condition” entitling an employee to FMLA leave.

NAC 284.5239 “Serious health condition” defined. (NRS 284.065, 284.155, 284.345)

1. “Serious health condition” means an illness, an injury, or a physical or mental condition which involves:

(a) Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or

(b) Continuing treatment by or under the supervision of a provider of health care for one or more periods of:

(1) Incapacity of more than 3 consecutive calendar days, and any subsequent treatment or period of incapacity related to the same condition that also involves continuing treatment.

(2) Incapacity because of pregnancy or for prenatal care.

(3) Incapacity because of a chronic serious health condition, or treatment for such incapacity. A chronic serious health condition is one that continues over an extended period of time, requires periodic visits for treatment by or under the direct supervision of a health care provider, and which may cause episodic periods of incapacity.

(4) Incapacity which is permanent or long-term because of a condition for which treatment may not be effective, but for which the person is under the continuing supervision of a health care provider.

(5) Absence to receive multiple treatments by or under the direction of a health care provider for restorative surgery after an accident or other injury.

(6) Absence to receive multiple treatments by or under the direction of a health care provider for a condition that would likely result in a period of incapacity of more than 3 consecutive calendar days in the absence of medical intervention or treatment.

2. The term “serious health condition” does not include:

(a) Cosmetic treatments which do not require inpatient care and which do not result in medical complications; or

(b) Minor conditions such as the common cold, flu or an earache which do not result in medical complications.

3. As used in this section, “incapacity” means the inability to work, attend school or perform other regular daily activities because of a serious health condition, including any treatment or recovery period.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95)

INFORMATIONAL NOTE: NRS 281.100 “Hours of service of employees of state and political subdivision; exceptions; penalty.” may be found preceding NAC 284.242.

NRS 281.110 states, “State offices to maintain 40-hour workweeks and remain open during certain hours; exception; variable schedules for workweek.

1. Unless required for the efficient transaction of business and the convenience of the persons with whom business is transacted, the offices of all state officers, departments, boards, commissions and agencies must:

(a) Maintain not less than a 40-hour workweek.

(b) Be open for the transaction of business at least from 8 a.m. until 12 p.m. and from 1 p.m. until 5 p.m. every day of the year, with the exception of Saturdays, Sundays and legal holidays.

2. Variable workweek scheduling may be required in those agencies where coverage is needed on Saturdays, Sundays and legal holidays or on other days or during other hours, as

necessary.

3. The offices of all state officers, departments, boards, commissions and agencies that are open on the days and during the hours set forth in paragraph (b) of subsection 1 must remain open during the noon hour of each regular working day if any such office has more than one person on its staff.”

NRS 284.180 (innovative workweeks) states in part,

“8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.”

NAC 284.524 Reporting for work; workweeks and workdays; periods for meals and rest. (NRS 284.065, 284.155, 284.345)

1. An employee shall report for a work shift on time and ready to perform the duties and tasks assigned to his position.

2. Except as otherwise provided in this subsection, the workweek for state employees is 40 hours. A workweek of a different number of hours may be established to meet the needs of state agencies in compliance with the provisions of NRS 281.100, 281.110 and 284.180. The workday for a full-time state employee who works a standard or nonstandard work schedule consists of two work periods separated by a 1/2- to 1-hour meal period. Insofar as practicable, the meal period must occur in the middle of the work shift. A rest period of 15 minutes must be granted for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

3. Except as otherwise provided in subsections 4 and 5, an appointing authority shall provide a meal period and rest period to an employee who has an innovative work schedule during each workday as follows:

(a) A 1/2- to 1-hour meal period must be provided during each period of work that exceeds 6 hours. Insofar as practicable, the meal period must occur in the middle of the work shift.

(b) A rest period of 15 minutes must be provided for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

4. The requirement to relieve an employee for a 1/2- to 1-hour meal period does not apply to an employee who receives a paid meal period.

5. The requirement for a rest period does not apply to an employee who works:

(a) Directly with the inmates at a correctional institution.

(b) For the Division of Mental Health and Developmental Services of the Department of Health and Human Services and who:

(1) Maintains or monitors the equipment in a heat plant which operates 24 hours a day; and

(2) Works a straight 8-hour work shift.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 4-20-90; 8-1-91; 11-12-93; R031-98, 4-17-98; R098-99, 9-27-99; A by Personnel Comm'n by R068-03, 10-30-2003; R145-05, 12-29-2005)

NAC 284.525 Reduction of hours by mutual agreement. (NRS 284.065, 284.155, 284.345) Except with respect to a leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580, an appointing authority and an employee may reduce the employee's working hours to less than full-time by mutual agreement.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R096-03, 10-30-2003)

2. 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.

3. Except as otherwise provided in subsection 4, an employee who meets the requirements for eligibility for and who is taking leave pursuant to the Family and Medical Leave Act must exhaust his accrued sick leave, accrued annual leave and catastrophic leave before he may use leave without pay. Any accrued sick leave, accrued annual leave, 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, catastrophic leave or holiday pay.

4. If an employee is absent from work as the result of a work-related injury or illness and he 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 is not being compensated for the work-related injury or illness.

5. An appointing authority may require an employee to provide medical documentation to support his need for leave pursuant to the Family and Medical Leave Act due to a serious health condition of the employee or of a spouse, parent or child of the employee.

(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)

NAC 284.5813 Family and medical leave: Records. (NRS 284.065, 284.155, 284.345)

Each appointing authority shall maintain accurate records of family and medical leave used by its employees, including any form approved for requesting family and medical leave.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; 3-1-96; R082-00, 8-2-2000)

NRS 6.190 Terminating or threatening to terminate employment because of jury duty prohibited; civil action for unlawful termination; requiring employee to use sick leave or vacation time or to work certain hours prohibited; notice to employer; dissuasion from service as juror.

1. Any person, corporation, partnership, association or other entity who is:

(a) An employer; or

(b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment,

is of a person who is a juror or who has received a summons to appear for jury duty, and who deprives the juror or person summoned of his employment, as a consequence of his service as a juror or prospective juror, or who asserts to the juror or person summoned that his service as a juror or prospective juror will result in termination of his employment, is guilty of a gross misdemeanor.

2. A person discharged from employment in violation of subsection 1 may commence a civil action against his employer and obtain:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits;

(c) Damages equal to the amount of the lost wages and benefits;

(d) Reasonable attorney's fees fixed by the court; and

(e) Punitive or exemplary damages in an amount not to exceed \$50,000.

3. If a person is summoned to appear for jury duty, the employer and any employee, agent or officer of the employer shall not, as a consequence of the person's service as a juror or prospective juror:

(a) Require the person to use sick leave or vacation time; or

(b) Require the person to work:

- (1) Within 8 hours before the time at which he is to appear for jury duty; or
- (2) If his service has lasted for 4 hours or more on the day of his appearance for jury duty, including his time going to and returning from the place where the court is held, between 5 p.m. on the day of his appearance for jury duty and 3 a.m. the following day.

È Any person who violates the provisions of this subsection is guilty of a misdemeanor.

4. Each summons to appear for jury duty must be accompanied by a notice to the employer of the person summoned. The notice must inform the employer that the person has been summoned for jury duty and must include a copy of the provisions of subsections 1, 2 and 3. The person summoned, if he is employed, shall give the notice to his employer at least 3 days before he is to appear for jury duty.

5. Except as otherwise provided in this section, any person who in any manner dissuades or attempts to dissuade a person who has received a summons to appear for jury duty from serving as a juror is guilty of a misdemeanor.

NRS 50.070 states in part, “Termination or threat of termination of employment because of service as witness prohibited; penalty; remedies.

1. Any person, corporation, partnership, association or other entity who is:

(a) An employer; or

(b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment, of a person who is a witness or who has received a summons to appear as a witness in a judicial or administrative proceeding, who deprives the witness or person summoned of his employment, as a consequence of his service as a witness or prospective witness, or who asserts to the witness or person summoned that his service as a witness or prospective witness will result in termination of his employment, is guilty of a misdemeanor.”

NAC 284.582 Civil leave with pay to serve on jury or as witness. (NRS 284.065, 284.155, 284.175, 284.345)

1. Except as otherwise provided in subsection 2, civil leave with pay must be granted to any employee who is required, during his normal hours of work, to serve:

(a) On a jury; or

(b) As a witness in a court or at an administrative hearing if he is not a party to the action and the action is not related to his job.

↪ The period of the leave must not be deducted from the balance of his annual leave. An employee who is granted the leave must receive his regular pay while on the leave, and he may retain any fee paid to him for his service as a juror or witness.

2. If an employee, in his official capacity as a state employee and as part of his required duties, serves as a witness during his regular working hours, he shall accept any witness fee offered to him and relinquish it to the agency by which he is employed.

3. If an employee is paid travel expenses and subsistence allowances by the court or public agency for which he performs service as a witness, he may retain that payment only if the State has not provided him payment for the same purpose. If the State has provided him such a payment, he shall relinquish it to the agency by which he is employed.

4. An agency shall attempt to adjust the working hours of employees who work night shifts and are called as witnesses or for jury duty during the day. If an agency feels this is impractical, in the case of jury duty, it shall petition the court to excuse the juror.

[Personnel Div., Rule VII § E subsec. 5, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 12-13-83, 10-26-84; 5-27-86; R147-01, 1-22-2002; A by Personnel Comm’n by R145-05, 12-29-2005)

NRS 293.463 states, “Employees may absent themselves from employment to vote: Procedure; penalty.

1. Any registered voter may absent himself from his place of employment at a time to be designated by the employer for a sufficient time to vote, if it is impracticable for him to vote before or after his hours of employment. A sufficient time to vote shall be determined as follows:

(a) If the distance between the place of such voter’s employment and the polling place where such person votes is 2 miles or less, 1 hour.

(b) If the distance is more than 2 miles but not more than 10 miles, 2 hours.

(c) If the distance is more than 10 miles, 3 hours.

2. Such voter may not, because of such absence, be discharged, disciplined or penalized, nor shall any deduction be made from his usual salary or wages by reason of such absence.

3. Application for leave of absence to vote shall be made to the employer or person authorized to grant such leave prior to the day of the election.

4. Any employer or person authorized to grant the leave of absence provided for in subsection 1, who denies any registered voter any right granted under this section, or who otherwise violates the provisions of this section, is guilty of a misdemeanor.”

NAC 284.586 Civil leave with pay to vote. (NRS 284.065, 284.155, 284.345, 293.463)
Civil leave with pay must be granted to allow an employee time off to vote subject to the conditions established in NRS 293.463. If an employee determines he will need time off to vote, he must submit a request for civil leave with pay to the person authorized to grant such leave before the day of the election.

[Personnel Div., Rule VII § E subsec. 7, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; A by Personnel Comm’n by R145-05, 12-29-2005)

NRS 281.147 states, “Leave of absence for duty as American National Red Cross disaster technician. Any public officer or employee of the State or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is classified by the American National Red Cross as a disaster technician must be relieved from his duties, upon the request of the American National Red Cross and the approval of his employer, to assist the American National Red Cross during an emergency or disaster described in NRS 414.020 which occurs in this state or California, Oregon, Idaho, Utah or Arizona, without loss of his regular compensation for a period of not more than 15 working days in any calendar year. No such absence may be a part of the annual vacation of the public officer or employee which is provided for by law.”

NRS 284.357 states, “Deduction from salary for service during working hours as volunteer firefighter, volunteer medical technician, volunteer reserve member of police department or sheriff’s office or volunteer ambulance driver or attendant prohibited.

1. All employees, whether in the classified or in the unclassified service of the State of Nevada, must be paid their salaries as fixed by law without diminution on account of any time spent away from state employment while acting as:

(a) Volunteer firefighter of any regular organized and recognized fire department in the protection of life or property;

(b) Volunteer emergency medical technicians certified pursuant to chapter 450B of NRS;

(c) Volunteer reserve members of a police department or a sheriff’s office; or

(d) Volunteer ambulance drivers or attendants,

↪ during working hours or fractions thereof which should otherwise have been devoted to state employment.

2. As used in this section, “volunteer ambulance driver or attendant” means a person who is a

driver of or attendant on an ambulance owned or operated by:

- (a) A nonprofit organization that provides volunteer ambulance service in any county, city or town in this state; or
- (b) A political subdivision of this state.”

NAC 284.587 Civil leave with pay for certain volunteers or when absence is necessary to meet disaster or emergency. (NRS 284.065, 284.155, 284.345) Civil leave with pay must be granted to an employee who meets the requirements of NRS 284.357, and may also be granted by the appointing authority to an employee whose absence from the job is necessary to meet a disaster or emergency.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A by R146-01, 1-18-2002)

NRS 284.345 states in part, “Regulations for attendance and leaves of absence;

- 1. the Commission shall adopt regulations for attendance and leave with or without pay or reduced pay in the various classes of positions in the public service.”

NAC 284.588 Civil leave with reduced pay when performing certain service in time of war or emergency. (NRS 284.065, 284.155, 284.175, 284.345) An employee in the public service who performs active military service in the Armed Forces of the United States or any other category of persons designated by the President of the United States or the Governor of this State, including, without limitation, the Commissioned Corps of the Public Health Service, in time of war or emergency, is entitled to civil leave with reduced pay pursuant to this section for the period of such service. The pay that such an employee is entitled to receive pursuant to this section is the difference between the pay he would have otherwise received as a state employee and his pay for active military service. If his pay for active military service is greater than the pay he would have otherwise received as a state employee, the employee will not receive any additional pay pursuant to this section while he is in active military service.

(Added to NAC by Dep’t of Personnel by R146-01, 1-18-2002, eff. 2-4-2002)

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

(d) 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) 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)

NRS 281.1275 states in part, "Reduction in salary of certain public officers and employees for part-day absence from work prohibited; accounting for part-day absence; exception.

1. Except as permitted by the federal Family and Medical Leave Act of 1993, the salary of a public officer or employee of the state or any agency thereof, or of a political subdivision or any agency thereof, who is not entitled pursuant to federal or state law, local ordinance, or policy or contract of employment to earn overtime at the rate of time and one-half, must not be reduced for an absence from work for part of a day."

NAC 284.5895 Accounting for absences of exempt classified and unclassified employees. (NRS 284.065, 284.155, 284.345)

1. An absence of an exempt classified employee or exempt unclassified employee for a full workday shall be deemed to be an absence for a period equal to his regularly scheduled hours of employment on that workday.

2. Except when an absence for part of a workday is authorized for family and medical leave, an exempt classified employee or exempt unclassified employee must only account for an absence of one or more full workdays by the use of leave appropriate to the absence and is not required to account for any absence for part of a workday.

3. An exempt classified employee or exempt unclassified employee must not account for an absence for a full workday by the use of a combination of accrued sick leave and accrued annual leave unless:

(a) He is on family and medical leave; or

(b) He has been approved for catastrophic leave and the catastrophic leave is used as a supplement for the remaining sick and annual leave.

4. If an exempt classified employee or exempt unclassified employee does not have accrued leave appropriate to the absence in an amount sufficient to account for an authorized absence, the employee must be placed on leave of absence without pay for that workday unless he is approved to use catastrophic leave.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 281.145 states. "Leave of absence for military duty. Any public officer or employee of the state or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is an active member of the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Air Force Reserve, or the Nevada National Guard must be relieved from his duties, upon his request, to serve under orders without loss of his regular compensation for a period of not more than 15 working days in any 1 calendar year. No such absence may be a part of the employee's annual vacation provided for by law."

NRS 284.359 states, "Military leave of absence; reinstatement. A permanent or probationary employee who performs active military service under the provisions of any national military service or training act, or who voluntarily serves in the Armed Forces of the United States in time of war, or in such types of service as the Commission by regulation may prescribe, is, upon application, entitled to leave of absence without pay for the period of such service plus a period not to exceed 90 days. If within that period he applies for reinstatement, he must be reinstated to his former class of position, or to a class of position having like seniority, status and pay, or, if those positions have been abolished, to the nearest approximation thereof consistent with the circumstances."

NAC 284.594 Unauthorized and unreported absences. (NRS 284.065, 284.155, 284.175, 284.345)

1. An unauthorized and unreported absence must be considered an absence without leave and a deduction of pay must be made for the absence.

2. An unreported absence may be considered an absence without leave, and a deduction of pay may be made for the absence.

3. An employee who has an unauthorized or unreported absence may be subject to disciplinary action pursuant to NAC 284.650.

4. A deduction from the pay of an exempt classified employee or exempt unclassified employee must be made in increments of a full workday.

[Personnel Div., Rule VII § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 1-26-87; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.598 Breaks in continuous service. (NRS 284.065, 284.155) The following are not breaks in continuous service:

1. Military leave for active service if the person returns from leave within 90 calendar days after an honorable discharge from military service.
2. A layoff if the employee is reemployed within 1 year after the date he was laid off.
3. A seasonal layoff if the employee is reemployed within 1 year after the end of the previous seasonal appointment.
4. A separation as a result of a permanent disability arising from a work-related injury or occupational disease, if the employee is reemployed within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

[Personnel Div., Rule VII § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 8-26-83; 4-19-88; 3-1-96; A by Personnel Comm'n by R022-05, 10-31-2005; R142-05 & R145-05, 12-29-2005)

INFORMATIONAL NOTE: Certain personnel actions, such as transfers, authorized leave without pay and those separations listed above in NAC 284.598, do not constitute a break in continuous service but may result in adjustments to pay, benefits computation of seniority, and/or probationary periods as provided in this chapter.

4. For the purposes of this section, notice is given:
- (a) In the case of a detention hearing, when the parent or guardian:
 - (1) Gives the employer or an agent of the employer oral notice in advance of the hearing;
- and
- (2) Provides the employer with a certificate of attendance immediately upon return to employment.
- (b) In the case of any hearing after the initial detention hearing, when the parent or guardian gives the employer or an agent of the employer, in advance of the hearing, the employer's copy of the written notice of the hearing."

NRS 286.430 (retirement) states in part, "Withdrawal of contributions.

1. Except as otherwise provided in subsection 8 and NRS 286.300, a member may withdraw the employee contributions credited to his individual account if:
- (a) He has terminated service for which contribution is required; or
 - (b) He is employed in a position for which contribution is prohibited...
8. A member who transfers to a position for which contribution is prohibited must remain in that position for at least 90 days before he is eligible to receive a refund pursuant to this section."

NRS 286.440 states in part, "Redeposit of withdrawn contributions upon return to service: Procedure.

1. Whenever a member, who has previously withdrawn the amount credited to him as provided in NRS 286.430, returns to the service of a public employer participating in the system and remains a contributing member for 6 months, he may:
- (a) Make repayment in a lump sum plus interest from the date he withdrew his contributions to the date of repayment; or
 - (b) With the approval of the executive officer, enter into an agreement containing a schedule of payments to repay the withdrawn contributions plus interest from the date of withdrawal to the date of repayment. Payments shall not be less than \$10 per month.
- For the purposes of this subsection, interest shall be computed at the assumed investment income rate used in the actuarial valuation of the system next preceding the date of repayment under paragraph (a) or agreement under paragraph (b)."

NRS 284.379 states, "Separation or disability retirement of person with disability. In the employment of a person with a disability in the state service, continued efforts must be made to retain the person by making reasonable accommodations that enable him to perform the essential functions of the position and to enjoy the benefits and privileges of his position. An appointing authority shall consider separation or disability retirement if an employee can no longer perform the essential functions of the position with or without reasonable accommodations."

NRS 281.390 states, "Sick leave of public employees: Election of benefits; amount limited when eligible for benefits for industrial or occupational disease.

5. The public employee may decline to use any or part of the sick leave benefit normally payable to him while receiving benefits pursuant to chapters 616A to 616D, inclusive, or 617 of NRS. During that time, the employee must be considered on leave of absence without pay."

NAC 284.611 Separation for physical, mental or emotional disorder. (NRS 284.065, 284.155, 284.355)

1. Before separating an employee because of a physical, mental or emotional disorder which results in the inability of the employee to perform the essential functions of his job, the appointing authority must:

(a) Verify with the employee's physician or by an independent medical evaluation paid for by the appointing authority that the condition does not, or is not expected to, respond to treatment or that an extended absence from work will be required;

(b) Determine whether reasonable accommodation can be made to enable the employee to perform the essential functions of his job;

(c) Make a request to the Administrator of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to obtain the services provided by that Division, or if the employee is receiving workers' compensation, request the services of the rehabilitation provider, to evaluate the employee's condition and to provide any rehabilitative services possible; and

(d) Ensure that all reasonable efforts have been made to retain the employee.

2. A separation pursuant to this section is only justified when:

(a) The information obtained through the procedures specified in subsection 1 supports the decision to separate;

(b) The employee is not on sick leave or other approved leave; and

(c) A referral has been made to the Public Employees' Retirement System and the employee has been determined to be ineligible for, or has refused, disability retirement.

3. A permanent employee separated pursuant to this section is entitled to the same rights and privileges afforded permanent employees who are dismissed for disciplinary reasons. The procedures contained in NAC 284.656 must be followed, and he may appeal his separation to the hearing officer.

4. A permanent employee who is separated because of a physical, mental or emotional disorder is eligible for reinstatement pursuant to NAC 284.386 if he recovers from the disorder within 2 years after his termination.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91; 12-26-91; 7-6-92; R197-99, 1-26-2000; A by Personnel Comm'n by R182-03, 1-27-2004; R143-05, 12-29-2005)

NRS 284.380 states, "Layoffs; reemployment lists.

1. In accordance with regulations, an appointing authority may lay off an employee in the classified service whenever he deems it necessary by reason of shortage of work or money or of the abolition of a position or of other material changes in duties or organization.

2. Among other factors, an appointing authority shall consider, in the manner provided by regulation, the status, seniority and service rating of employees in determining the order of layoffs.

3. Within a reasonable time before the effective date of a proposed layoff, the appointing authority shall give written notice thereof to the Director. The Director shall make such orders relating thereto as he considers necessary to secure compliance with the regulations.

4. The name of every regular employee so laid off must be placed on an appropriate reemployment list."

NRS 286.3007 states in part, "Purchase by state agency of credit for service: Conditions.

3. If a state agency is required to reduce the number of its employees, it shall purchase credit for service pursuant to NRS 286.300 for any member who:

(a) Is eligible to purchase credit;

(b) Is eligible to retire or will be made eligible by the purchase of the credit;

(c) Agrees to retire upon completion of the purchase; and

(d) Has been employed by the agency for 5 or more years.

4. If a state agency is required to purchase credit pursuant to subsection 3, it shall pay 5 percent of the cost of purchasing the credit and an additional 5 percent of the cost for each year that the person has been employed by the agency in excess of the minimum requirement of 5 years."

PROHIBITIONS AND OFFENSES

NRS 202.2491 states in part, “Smoking tobacco: Unlawful in certain public places; posting signs; designation of areas for smoking.

3. The person in control of a public building:

(a) Shall post in the area signs prohibiting smoking in any place not designated for that purpose as provided in paragraph (b).

(b) Shall, except as otherwise provided in this subsection, designate a separate area which may be used for smoking.

↳ A school district which prohibits the use of tobacco by pupils need not designate an area which may be used by the pupils to smoke.”

NRS 331.220 states, “Surreptitious electronic surveillance prohibited; exceptions.

1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on the grounds of any facility owned or leased by the State of Nevada without the knowledge of the person being observed.

2. Subsection 1 does not apply to any electronic surveillance:

(a) Authorized by a court order issued to a public officer, based upon a showing of probable cause to believe that criminal activity is occurring on the property under surveillance;

(b) By a law enforcement agency pursuant to a criminal investigation; or

(c) Which is necessary as part of a system of security used to protect and ensure the safety of persons on the grounds of the facility.”

NRS 281.501 states in part, “Additional standards: Voting by public officers; effect of abstention from voting on quorum; disclosures required of public officers and employees.

4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

(a) Regarding which he has accepted a gift or loan;

(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or

In which he has a pecuniary interest, without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 in a timely manner.”

NRS 281.505 states in part, “Contracts in which public officer or employee has interest prohibited; exceptions.

1. Except as otherwise provided in this section and NRS 281.555 and 332.800, a public officer or employee shall not bid on or enter into a contract between a governmental agency and any private business in which he has a significant pecuniary interest...

4. A public officer or employee, other than an officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting

process is controlled by rules of open competitive bidding, the sources of supply are limited, he has not taken part in developing the contract plans or specifications and he will not be personally involved in opening, considering or accepting offers. If a public officer who is authorized to bid on or enter into a contract with a governmental agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281.501, shall disclose his interest in the contract and shall not vote on or advocate the approval of the contract.”

NRS 281.553 states, “Public officer or employee prohibited from accepting or receiving honorarium; “honorarium” defined; penalty.

1. A public officer or public employee shall not accept or receive an honorarium.
2. An honorarium paid on behalf of a public officer or public employee to a charitable organization from which the officer or employee does not derive any financial benefit is deemed not to be accepted or received by the officer or employee for the purposes of this section.
3. This section does not prohibit:
 - (a) The receipt of payment for work performed outside the normal course of a person’s public office or employment if the performance of that work is consistent with the applicable policies of his public employer regarding supplemental employment.
 - (b) The receipt of an honorarium by the spouse of a public officer or public employee if it is related to the spouse’s profession or occupation.
4. As used in this section, “honorarium” means the payment of money or anything of value for an appearance or speech by the public officer or public employee in his capacity as a public officer or public employee. The term does not include the payment of:
 - (a) The actual and necessary costs incurred by the public officer or public employee, his spouse or his aid for transportation and for lodging and meals while the public officer or public employee is away from his residence.
 - (b) Compensation which would otherwise have been earned by the public officer or public employee in the normal course of his public office or employment.
 - (c) A fee for a speech related to the officer’s or employee’s profession or occupation outside of his public office or employment if:
 - (1) Other members of the profession or occupation are ordinarily compensated for such a speech; and
 - (2) The fee paid to the public officer or public employee is approximately the same as the fee that would be paid to a member of the private sector whose qualifications are similar to those of the officer or employee for a comparable speech.
 - (d) A fee for a speech delivered to an organization of Legislatures, Legislators or other elected officers.
5. A public officer or public employee who violates the provisions of this section is guilty of a gross misdemeanor and, upon conviction, forfeits the amount of the honorarium.”

NRS 281.621 states, “Declaration of public policy. It is hereby declared to be the public policy of this state that a state officer or employee and a local governmental officer or employee are encouraged to disclose, to the extent not expressly prohibited by law, improper governmental action, and it is the intent of the Legislature to protect the rights of a state officer or employee and a local governmental officer or employee who makes such a disclosure.”

INFORMATIONAL NOTE: Also see NRS 281.611 through 281.671 (Disclosure of improper governmental action).

NRS 199.280 states, “Resisting public officer. A person who, in any case or under any circumstances not otherwise specially provided for, willfully resists, delays or obstructs a public officer in discharging or attempting to discharge any legal duty of his office shall be punished:

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