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MEMO PERD #33-11
July 5, 2011

TO: Designees for Rules Distribution

FROM: Teresa J. Thienhaus, Director 
Department of Personnel

SUBJECT: Revision #13, Rules for State Personnel Administration

Attached is Revision #13 to the *Rules for State Personnel Administration* (NRS and NAC Chapter 284). Changes include temporary regulations that were approved by the Personnel Commission on June 2, 2011 and are now in effect. Also included are the emergency regulations, effective July 1, 2011, regarding unpaid furloughs and compensation for working holidays. Updates to the table of contents have also been made.

This revision can be added to your rulebook by replacing the existing page with a similarly numbered page. Revisions 1–13 are also available separately on our website at www.dop.nv.gov for downloading and printing to update an existing hardcopy. In addition, the complete text of the *Rules for State Personnel Administration* with all revisions and Department of Personnel forms are available on our website.

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

Thank you for your assistance.

Attachment

TJT:dws

cc: Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives

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higher than his current position. A special adjustment to an employee's pay made pursuant to this subsection may continue in effect from the date on which the position questionnaire is received:

- (a) Until the employee meets the minimum qualifications and is promoted;
- (b) For 1 year after the effective date of the special adjustment to pay; or
- (c) Until the date the higher level duties are removed,

↳ whichever occurs first.

4. Except as otherwise provided in paragraph (a) of subsection 2, any special adjustment to pay made pursuant to subsection 2 must be revoked when the conditions justifying it cease to exist.

5. Except as otherwise provided in this section, the effective date of a special adjustment to pay is the date on which the written request is received by the Department of Personnel or the personnel office of the agency at which the employee who is receiving the special adjustment to pay is employed. If the request for the special adjustment to pay is delayed because an administrative or clerical error prevented its delivery, the effective date of the special adjustment to pay must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment to pay must not exceed 6 months from the date on which the Department of Personnel receives the written request.

[Personnel Div., Rule III § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 1-26-87; 9-17-87; 12-17-87; 7-14-88; 1-22-90; 8-14-90; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R197-99, 1-26-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R090-02, 8-14-2002; R038-03, 10-30-2003)

REVISER'S NOTE.

The regulation of the Personnel Commission filed with the Secretary of State on August 14, 2002 (LCB File No. R090-02), which amended this section, contains the following provision not included in NAC:

"Sec. 2 Notwithstanding the amendatory provisions of section 1 of this regulation [NAC 284.206], an employee who is employed by the Division of Mental Health and Developmental Services of the Department of Health and Human Services or by the Division of Child and Family Services of the Department of Health and Human Services to work in a psychiatric hospital, a forensic unit for mentally disordered offenders or a residential facility *for persons with intellectual disabilities* will continue to receive his base rate of pay plus an amount equal to the adjustment to pay until future adjustments to pay, not including pay increases based on merit, offset the initial adjustment to pay that was in effect as of June 30, 2002, if:

1. The employee's work duties include direct contact and interaction with clients for at least half of his scheduled work shift; and

2. The employee received an adjustment to pay for performing certain work in an assaultive environment as determined by the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or the Division of Child and Family Services of the Department of Health and Human Services, for at least half of his working time during the 3 months immediately before June 30, 2002."

NAC 284.208 Compensation for dangerous duty. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 3, only the following groups, under the conditions described, are entitled to receive pay for dangerous duty:

(a) Employees engaged in scuba or skin diving.

(b) Employees who perform duties at a height of more than 16 feet above the floor in a building or 16 feet above ground level outside of a building if the work is performed on portable equipment or outside of a railed or protected area.

(c) All employees, except pilots, for time spent in single engine aircraft or helicopters when required to do so by the employer.

(d) Employees required to handle or use explosives.

(e) Employees performing maintenance or abatement on materials containing lead paint or asbestos, or both, in any area in which personal protective equipment must be worn in compliance with 29 C.F.R. Part 1910, Subpart I.

2. Except as otherwise provided in this subsection and subsection 3, an employee who performs any dangerous duty must receive additional pay equal to 10 percent of his normal rate of pay for each hour in which he performs any dangerous duty. An exempt classified employee

who performs any dangerous duty for any portion of a workday must receive the additional pay for all his regularly scheduled hours of employment on that workday.

3. An employee described in subsection 1 is not entitled to receive pay for dangerous duty if the duties that he performs are an inherent and regular part of the duties assigned to the class of which the employee is a member. These duties need not appear in the class specification of the employee. Compensation for the performance of those duties may be made only if the duties performed by the employee would not be required of the class as a whole.

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 9-17-87; 3-23-94; R082-00, 8-2-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004)

NAC 284.210 Differential rate of pay for qualifying shift. (NRS 284.065, 284.155, 284.175)

1. As used in this section:

(a) "Differential rate of pay" means an adjustment in pay equivalent to an additional 5 percent of an employee's normal rate of pay.

(b) "Qualifying shift" means a period of work of 8 hours or more, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m. The term includes, without limitation, a period of work of 8 hours that is reduced to 7 hours because of a change of time to daylight saving time.

2. An employee is eligible for the differential rate of pay if he works in a unit which provides services requiring multiple shifts within a 24-hour period and he is:

(a) A nonexempt employee in the classified service who works:

(1) A qualifying shift; or

(2) Any shift of at least 8 hours that is other than a qualifying shift plus 4 or more hours between 6 p.m. and 7 a.m. In such cases, an employee must receive the differential rate of pay for only the hours worked between 6 p.m. and 7 a.m.

(b) An exempt classified employee assigned to a qualifying shift. In such cases, an employee must receive the differential rate of pay for all his regularly scheduled hours of employment on that workday.

3. If an employee is assigned to a qualifying shift when he is on paid leave or a holiday occurs, he must receive the differential rate of pay for that shift.

4. Except as otherwise provided in subsection 3, if a nonexempt employee in the classified service is assigned to a qualifying shift and the employee is not in paid status for the entire period of that shift, the employee must receive the differential rate of pay for the portion of the shift in which he is in paid status.

5. A nonexempt employee in the classified service who works overtime pursuant to NRS 284.180 in conjunction with a qualifying shift must be paid overtime at the differential rate of pay.

[Personnel Div., Rule III § I, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, eff. 12-17-87; 7-21-89; 3-23-94; 10-27-97; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002; R022-05, 10-31-2005)

NAC 284.214 Compensation for being called back to work; compensation for person required to appear as witness. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, an employee must be paid 2 hours of call back pay at the rate of time and one-half of his normal rate of pay if his employer calls him back to work during his scheduled time off without having notified him before the completion of his last normal working day. For each additional hour that such an employee works after the 2 hours for which he is paid call back pay, the employee must be paid overtime at the rate of time and one-half of his normal rate of pay if he is eligible pursuant to NRS 284.180.

2. Subsection 1 does not apply to any:

(a) Employee who is called into work while on standby status.

(b) Exempt classified employee or exempt unclassified employee.

(c) Employee who works part-time or intermittently unless he has worked 8 hours in 1 calendar day.

(d) Employee who performs duties pursuant to an understanding with the agency whereby the employee is given discretion as to performance of the duties and the duties are initiated by the action of the employee. In such a case, the employee receives compensation at the appropriate rate only for the actual time spent in the performance of those duties.

(e) Employee who is not required to leave the premises where he is residing or located at the time of notification in order to respond to a call.

(f) Employee who is called back to work if:

(1) The work begins 1 hour or less before or after his scheduled work shift;

(2) The time for beginning the work is set at the employee's request; or

(3) The work begins during the same 2-hour period previously paid for call back pay.

3. An employee who is required to appear as a witness in court or at an administrative hearing:

(a) During his regularly scheduled time off; and

(b) Concerning a matter which relates directly to his job,

↪ must be paid 2 hours of call back pay at the rate of time and one-half of his normal rate of pay. For each additional hour after the 2 hours for which he is paid call back pay, the employee must be paid overtime at the rate of time and one-half of his normal rate of pay if he is eligible pursuant to NRS 284.180. If he receives a witness fee as well as this compensation, he shall remit the witness fee to the agency by which he is employed.

[Personnel Div., Rule III § J, eff. 8-11-73]—(NAC A by Dep't of Personnel, 12-13-83; 10-26-84; 9-17-87; 11-12-93; 3-23-94; 10-27-97; R147-01, 1-22-2002)

NRS 480.320 states, "Payment of cadets. The Nevada highway patrol shall not authorize any payment to a cadet for holding himself ready for duty if the cadet is attending an authorized training academy for which room and board is provided at no cost to the cadet."

NAC 284.218 Compensation for standby status. (NRS 284.065, 284.155, 284.175)

1. A nonexempt employee in the classified service of the State is on standby status when he is:

(a) Directed to remain available for notification to work during specified hours;

(b) Prepared to work if the need arises;

(c) Able to report to work within a reasonable time;

(d) Directed by his supervisor to carry a paging device, provide a telephone number where he may be notified or provide any other acceptable means for notification; and

(e) Allowed to use the time during which he is waiting for notification to work for his personal pursuits.

2. When a nonexempt employee in the classified service of the State who is on standby status begins the performance of his regular duties after receiving notice to work, he ceases to be on standby status and qualifies for straight time or overtime pay, whichever is applicable, for the actual time worked. Upon completion of the work, he returns to standby status for the remainder of the time he has been directed to be available to work.

3. A nonexempt employee in the classified service of the State is entitled to receive additional pay at the rate of 5 percent of his normal rate of pay for every hour he is on standby status.

4. Any class designated by statute as a 24-hour class does not automatically qualify for this additional pay.

[Personnel Div., Rule III § K, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-22-87; 3-23-94; R147-01, 1-22-2002; **R012-11, 6-27-2011**)

NAC 284.220 Change of time to or from daylight savings time. (NRS 284.065, 284.155, 284.175)

1. An employee, other than an exempt classified employee or exempt unclassified employee, who loses an hour of work during his scheduled shift because of a change of time to daylight savings time may, with the approval of the appointing authority, elect to take an hour of annual leave, compensatory time or leave without pay or must be scheduled to work an additional hour.

2. An employee, other than an exempt classified employee or exempt unclassified employee, who is required to work an additional hour during his scheduled shift because of a change of time to standard daylight time is entitled to receive overtime pay or compensatory time as approved by the agency.

(Added to NAC by Dep't of Personnel, eff. 4-19-88; A 3-23-94; R147-01, 1-22-2002)

NAC 284.228 Shift trading: Agreement; responsibilities. (NRS 284.065, 284.155, 284.175, 284.345)

1. An employee may enter into a written agreement to trade shifts with another employee who is employed by the same state agency if each employee who enters into the agreement:

(a) Does so solely at his option as described in 29 C.F.R. § 553.31;

(b) Performs work in the same class; and

(c) Obtains approval to enter into the agreement from the appointing authority of the state agency that employs him.

2. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he agreed to work, he is responsible for entering into a written agreement to trade shifts with another employee who satisfies the requirements of subsection 1 to ensure that the shift is worked. Except as otherwise provided in subsection 5, if the employee is unable to enter into an agreement with an employee who satisfies the requirements of subsection 1 to work the shift that he agreed to work, the state agency that employs the employee who was originally scheduled to work that shift before any agreements to trade shifts were entered into pursuant to this subsection or subsection 1 shall:

(a) Reduce that employee's accrued annual leave or accrued compensatory time by the number of hours in the shift; or

(b) If that employee does not have annual leave or compensatory time available, place the employee on leave without pay for the number of hours in the shift,

↳ unless that employee works the shift he was originally scheduled to work.

3. Except as otherwise provided in subsection 5, if an employee works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2, the state agency that employs the employees shall pay each employee as if he had worked his regularly scheduled hours of employment on that workday.

4. The state agency that employs an employee who works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2 may exclude the hours worked by the employee pursuant to the agreement from the calculation of the hours for which the employee is entitled to receive:

(a) Credit for overtime work pursuant to NRS 284.180; and

(b) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.

5. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he agreed to work because on the date that the shift occurs he no longer satisfies the requirements of subsection 1 and the other employee who is a party to the agreement has already worked the shift which he agreed to work pursuant to that agreement or another employee has worked that shift as provided in an agreement entered into pursuant to subsection 2, the state agency shall:

(a) Reduce the pay, accrued annual leave or accrued compensatory time of the employee who no longer satisfies the requirements of subsection 1 by the number of hours in the shift that was worked for him; and

(b) If the hours worked by the other employee pursuant to the original agreement or as provided in an agreement entered into pursuant to subsection 2 were excluded from the calculation described in subsection 3, include those hours in the calculation of the hours for which that employee is entitled to receive:

(1) Credit for overtime work pursuant to NRS 284.180; and

(2) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.

6. The appointing authority shall maintain accurate records of each agreement entered into by its employees pursuant to subsection 1 or 2.

(Added to NAC by Dep't of Personnel by R015-02, eff. 5-2-2002; A by Personnel Comm'n by R038-03, 10-30-2003)

NRS 284.180 states in part, "overtime.

2. Credit for overtime work directed or approved by the head of an agency or his representative must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

3. Except as otherwise provided in subsections 4, 6, 7 and 9, overtime is considered time worked in excess of:

(a) Eight hours in 1 calendar day;

(b) Eight hours in any 16-hour period; or

(c) A 40-hour week.

4. Firemen who choose and are approved for a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year, regardless of the actual number of hours worked or on paid leave during any biweekly pay period. A fireman so assigned is entitled to receive 1/26 of his annual salary for each biweekly pay period. In addition, overtime must be considered time worked in excess of:

(a) Twenty-four hours in one scheduled shift; or

(b) Fifty-three hours average per week during one work period for those hours worked or on paid leave.

The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firemen. In addition to the regular amount paid such a fireman for the deemed average of 56 hours per week, he is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.

5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

6. For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.

7. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour work schedule within a biweekly pay period and who choose and are approved for such a work schedule will be considered eligible for overtime only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.

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.

9. This section does not supersede or conflict with existing contracts of employment for employees hired to work 24 hours a day in a home setting. Any future classification in which an employee will be required to work 24 hours a day in a home setting must be approved in advance by the Commission.

10. All overtime must be approved in advance by the appointing authority or his designee. No officer or employee, other than a director of a department or the chairman of a board, Commission or similar body, may authorize overtime for himself. The chairman of a board, Commission or similar body must approve in advance all overtime worked by members

of the board, Commission or similar body.

11. The Budget Division of the Department of Administration shall review all overtime worked by employees of the Executive Department to ensure that overtime is held to a minimum. The Budget Division shall report quarterly to the State Board of Examiners the amount of overtime worked in the quarter within the various agencies of the State.”

NRS 284.148 states, “Unclassified and classified service: Persons exempt pursuant to Fair Labor Standards Act of 1938; determination of exempt positions by Department.

1. An elected officer or an employee in the unclassified service who is on the personal staff of an elected officer, an appointed head of a department or division who serves at the pleasure or discretion of an elected officer or an executive, administrative or professional employee within the meaning of the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq.:

- (a) Must be paid on a salary basis, within a maximum amount established by law;
- (b) Is not entitled to compensation for overtime; and
- (c) Is not subject to disciplinary suspensions for less than 1 week.

2. An employee in the classified service who is an executive, administrative or professional employee within the meaning of the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and who is either a head of a department, division or bureau, or a doctoral level professional:

- (a) Must be paid on a salary basis;
- (b) Is not entitled to compensation for overtime; and
- (c) Is not subject to disciplinary suspensions for less than 1 week.

3. Unless otherwise specified by statute, the Department shall determine which positions in the classified and unclassified service are subject to the provisions of this section.”

NRS 281.100 (overtime) states, “Hours of service of employees of State and political subdivisions; exceptions; penalty.

1. Except as otherwise provided in this section and NRS 284.180, the services and employment of all persons who are employed by the State of Nevada, or by any county, city, town, township or other political subdivision thereof, are limited to not more than 8 hours in any 1 calendar day and not more than 40 hours in any 1 week.

2. The period of daily employment mentioned in this section commences from the time the employee takes charge of any equipment of the employer or acts as an assistant or helper to a person who is in charge of any equipment of the employer, or enters upon or into any conveyance of or operated by or for the employer at any camp or living quarters provided by the employer for the transportation of employees to the place of work.

3. This section does not apply to:

(a) Officials of the State of Nevada or of any county, city, town, township or other political subdivision thereof, or employees of the State whose employment is governed by NRS 284.148.

(b) Employees of the State of Nevada or of any county, city, town, township or other political subdivision thereof who:

- (1) Are engaged as employees of a fire Department, or to nurses in training or working in hospitals, or to police, deputy sheriffs or jailers;
- (2) Chose and are approved for a variable workday or variable 80-hour work schedules within a biweekly pay period;
- (3) Work more than 8 hours but not more than 10 hours in any 1 workday or 40 hours in any 1 workweek;
- (4) Are executive, administrative, professional or supervisory employees; or
- (5) Are covered by a collective bargaining agreement which establishes hours of service.

(c) Employees of the Legislative Counsel Bureau.

(d) Work done directly by any public utility company pursuant to an order of the Public Utilities Commission of Nevada or other public authority.

4. Any employee whose hours are limited by subsection 1 may be permitted, or in case of

emergency where life or property is in imminent danger may be required, at the discretion of the officer responsible for his employment, but subject to any agreement made pursuant to NRS 284.181, to work more than the number of hours limited. If so permitted or required, he is entitled to receive, at the discretion of the responsible officer:

- (a) Compensatory vacation time; or
- (b) Overtime pay.

5. Any officer or agent of the State of Nevada, or of any county, city, town, township, or other political subdivision thereof, whose duty it is to employ, direct or control the services of an employee covered by this section, who violates any of the provisions of this section as to the hours of employment of labor as provided in this section, is guilty of a misdemeanor.”

NAC 284.242 Overtime: Authorization. (NRS 284.065, 284.155, 284.175)

1. If a nonexempt employee is required to work overtime, the overtime must be authorized pursuant to subsection 10 of NRS 284.180 and communicated to the employee at least 4 hours in advance by the responsible supervisor before being worked, unless an unpredictable emergency prevents prior approval and communication.

2. If a nonexempt employee requests to work overtime, the overtime must be authorized in advance pursuant to subsection 10 of NRS 284.180.

[Personnel Div., Rule III § L subsecs. 4-6, eff. 8-11-73; renumbered as subsecs. 3-5, 10-10-76]—(NAC A by Dep’t of Personnel, 10-26-84; 3-23-94; R147-01, 1-22-2002)

NAC 284.245 Overtime: Consideration of paid-leave status in calculation. (NRS 284.065, 284.155, 284.175) Paid-leave status is considered as time worked in calculating overtime.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84)

NAC 284.248 Overtime: Employee who works in two positions; exceptions. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, a nonexempt employee who works in two positions in one department or different departments must work or be in paid status in excess of 8 hours per day or 40 hours per week in combined work time in both positions to receive compensation for overtime. An appointing authority shall consider an employee’s employment with another department when considering his agency’s liability for compensation for overtime.

2. The hours worked voluntarily by an employee on an occasional or sporadic basis in a different capacity from his regular employment must not be combined with the hours worked by the employee in his regular employment for the purposes of determining the appointing authority’s liability for compensation for overtime. As used in this subsection, “occasional or sporadic basis” means infrequently, irregularly or occurring in scattered instances.

3. An employee who qualifies for overtime compensation pursuant to subsection 1 must be paid:

- (a) At the highest rate of pay of the two positions; or
- (b) If the employee and the appointing authority have agreed in writing before the performance of the work requiring overtime, at the rate of pay of the position for which the work is performed.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 5-27-86; 3-23-94; 11-16-95; R147-01, 1-22-2002)

NAC 284.250 Overtime: Compensation. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, the method of compensating an employee for overtime is cash payment which is computed at the rate of time and one-half of the employee’s normal rate of pay as required pursuant to NRS 284.180.

2. The employee and the appointing authority may enter into an agreement which complies with the provisions of 29 C.F.R. § 553.23 for compensating a nonexempt employee for overtime with compensatory time in lieu of cash payment.

3. Compensatory time may not be accrued in excess of 120 hours unless an agreement entered into pursuant to subsection 2 provides for the accrual of additional hours of compensatory time, not to exceed 240 hours. Overtime liability incurred in excess of these limits must be paid in cash. The appointing authority may pay in cash for compensatory time accrued below these limits.

[Personnel Div., Rule III § L subsecs. 9-11, eff. 8-11-73; renumbered as subsecs. 8-10, 10-10-76]—(NAC A by Dep't of Personnel, 10-26-84; 9-30-88; 11-12-93; 3-23-94; R031-98, 4-17-98; R147-01, 1-22-2002)

NAC 284.2508 Compensatory time: Use. (NRS 284.065, 284.155, 284.175, 284.345)

1. At the direction of the appointing authority, compensatory time must be used within a reasonable time after it is accrued.

2. Unless it would cause an undue hardship to the agency, a request for the use of compensatory time may not be unreasonably denied if the request is made at least 2 weeks in advance of the first date on which the employee wishes to use his compensatory time.

3. Unless it would cause an employee to forfeit an amount of annual leave pursuant to subsection 2 of NRS 284.350, an employee must, to the extent possible, exhaust his compensatory time before he uses his available annual leave.

(Added to NAC by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.252 Compensatory time: Request for payment for certain portions. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, an employee who has accrued more than 60 hours of compensatory time may request, in writing, payment in cash for the amount of compensatory time that exceeds 60 hours.

2. Except as otherwise provided in this subsection, an employee who is subject to an agreement which provides for the accrual of up to 240 hours of compensatory time may request, in writing, payment in cash for any compensatory time accrued in excess of 120 hours. An exception to this subsection may be made for payment of all compensatory time accrued in excess of 60 hours to:

(a) A firefighter who submits a request for payment on or before April 1, if payment is made during the month of April.

(b) A district brand inspector who submits a request for payment on or before September 1, if payment is made during the month of September.

(c) A 24-hour duty officer of the Division of Emergency Management of the Department of Public Safety who has accumulated more than 60 hours of compensatory time during any 12 consecutive months.

3. A request for payment in cash for compensatory time pursuant to this section may not be unreasonably denied. Such a request may be denied if:

(a) The Chief of the Budget Division of the Department of Administration certifies that there is insufficient money available in the State General Fund; or

(b) In the case of an agency that is not supported from the State General Fund, the administrator of the agency certifies that the agency has insufficient money available.

(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 9-30-88; 3-23-94; R147-01, 1-22-2002)

NAC 284.253 Compensatory time: Rate of pay. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, an employee who terminates his employment must be paid for compensatory time at a rate that is an average of the normal rate of pay received by the employee during the last 3 years of the employee's employment, or the final normal rate of pay received by the employee, whichever is higher.

2. Any other employee must be paid for compensatory time at his normal rate of pay.
(Added to NAC by Dep't of Personnel, eff. 5-27-86; A 11-16-95; R147-01, 1-22-2002)

NAC 284.2535 Compensatory time: Firefighters. (NRS 284.065, 284.155, 284.175, 284.180)

1. A firefighter who works a 24-hour shift and who elects to receive compensatory time off for the overtime he works is entitled to accrue 2.1 hours of compensatory time for each hour of overtime that he works.
2. If a firefighter receives a cash payment for his accrued compensatory time, the payment must be calculated at his normal rate of pay.
3. When a firefighter is appointed to a job classification with a work schedule of 40 hours per week, the compensatory time of the firefighter must be converted to the amount of compensatory time that would have been accrued if the firefighter worked 40 hours per week.
4. When an employee with a work schedule of 40 hours per week is appointed to a job as a firefighter with an average work schedule of 56 hours per week, the compensatory time of the employee must be converted to the amount of compensatory time that would have been accrued if the person worked 56 hours per week.

(Added to NAC by Dep't of Personnel, 9-13-91, eff. 10-1-91; A 12-26-91; 3-27-92; R147-01, 1-22-2002)

NAC 284.254 Compensatory time: Payment upon transfer. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, if a nonexempt employee who has accrued compensatory time transfers from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority, the accrued compensatory time must be paid by the agency he is leaving, unless the receiving agency agrees in writing to assume the liability for the compensatory time and the employee concurs.
2. The accrued compensatory time of an employee transferring to an exempt position must be paid by the agency the employee is leaving.
3. As used in this section, "exempt position" means a position in the classified or unclassified service that is subject to the provisions of NRS 284.148.

[Personnel Div., Rule III § L subsec. 12, eff. 8-11-73; renumbered as subsec. 11, 10-10-76]—
(NAC A by Dep't of Personnel, 10-26-84; 10-27-97; R147-01, 1-22-2002)

NRS 236.015 in part states, "Legal holidays; closing of State, county and city offices, courts, public schools and Nevada System of Higher Education.

1. The following days are declared to be legal holidays for State, county and city governmental offices:

January 1 (New Year's Day)

Martin Luther King, Jr.'s birthday is on January 15 but is to be observed on the third Monday in January

Washington's birthday is on February 22 but is to be observed on the third Monday in February

Last Monday in May (Memorial Day)

July 4 (Independence Day)

First Monday in September (Labor Day)

Nevada Day is October 31 but is to be observed on the last Friday in October

November 11 (Veterans' Day)

Fourth Thursday in November (Thanksgiving Day)

Friday following the fourth Thursday in November (Family Day)

December 25 (Christmas Day)

Any day that may be appointed by the President of the United States for public fast, thanksgiving or as a legal holiday except for any Presidential appointment of the fourth Monday

in October as Veterans' Day.

2. Except as otherwise provided by NRS 293.560 and 293C.527, all State, county and city offices, courts, public schools and the Nevada System of Higher Education must close on the legal holidays enumerated in subsection 1 unless in the case of appointed holidays all or a part thereof are specifically exempted.

3. If January 1, July 4, November 11 or December 25 falls upon a:

(a) Sunday, the Monday following must be observed as a legal holiday.

(b) Saturday, the Friday preceding must be observed as a legal holiday."

NAC 284.255 Holidays: Holiday pay. (NRS 284.065, 284.155, 284.175, 284.180, 284.345)

1. For the purpose of this section, "holiday pay" means payment for a holiday at a nonexempt employee's normal rate of pay plus the differential rate of pay for the shift, when applicable, or compensatory time at a straight-time rate.

2. Except as otherwise provided in paragraph (c) of subsection 3 and subsections 5 and 7, a full-time nonexempt employee whose base hours are 40 hours per week or 80 hours biweekly is entitled to receive 8 hours of holiday pay for any holiday that he is in paid status during any portion of his shift immediately preceding the holiday.

3. Except as otherwise provided in subsections 5 and 7:

(a) A full-time nonexempt employee whose base hours exceed 40 hours per week or 80 hours biweekly and who is in paid status during any portion of his shift immediately preceding a holiday is entitled to receive holiday pay equal to the pay he receives for his average workday. For the purposes of this paragraph:

(1) The average workday of a nonexempt employee is determined by dividing the total base hours of work per year by 2,088 and multiplying the quotient by 8.

(2) A firefighter assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.

(b) A part-time nonexempt employee is entitled to receive holiday pay when he is in paid status during any portion of his shift immediately preceding the holiday if a holiday occurs on a normally scheduled workday of the employee. Except as otherwise provided in this paragraph, if such an employee is not required to work his normally scheduled workday on the holiday, the amount of holiday pay must equal the amount that he would have been paid if there had not been a holiday, but may not exceed the equivalent of his pay for 8 hours of work.

(c) A:

(1) Full-time nonexempt employee with an innovative workweek agreement may earn additional holiday pay on an hour-for-hour basis for any hours he works in excess of the holiday pay provided in paragraph (a) and in subsection 2, not to exceed the number of hours in his established workday as set forth in his innovative workweek agreement.

(2) Part-time nonexempt employee may earn holiday pay on an hour-for-hour basis for any hours he works on a holiday, not to exceed the number of hours in his established workday.

4. If a holiday occurs on the regularly scheduled workday of a nonexempt employee and his normal schedule of work is more than 8 hours, he must be in paid status or be placed on leave without pay for any difference between his holiday pay and his normal work schedule. An appointing authority may adjust the work schedule of such an employee for the week during which the holiday occurs in lieu of placing the employee on paid leave or leave without pay.

5. A nonexempt employee who is scheduled to work on a holiday shall report any absence from duty and the reason therefore to his supervisor or designated representative as prescribed in writing by the agency. An employee who does not work on that holiday and who fails to report his absence to his supervisor or a designated representative pursuant to this subsection is not eligible to receive holiday pay.

6. A nonexempt employee whose employment begins on a holiday is eligible to receive holiday pay pursuant to subsections 2 and 3 if he is in paid status during his scheduled shift.

7. A nonexempt employee whose employment is terminated:

(a) The day immediately preceding a holiday is not entitled to receive holiday pay for that holiday.

(b) Except as otherwise provided in paragraph (c) of subsection 3, on a holiday on which he is working must be paid holiday pay for the actual hours he works on the holiday. If a nonexempt employee gives notice that he is terminating his employment on a holiday and he is not scheduled to work on the holiday, the last day on which he works or is in paid status is his date of termination.

8. The agency that lists a nonexempt employee as an “employee of record” on a holiday is responsible for the payment of holiday pay for that holiday to that employee. For the purposes of this subsection, an “employee of record” is a person employed by the state agency that is required to claim the person as an employee of the agency.

9. The salary of an exempt classified or exempt unclassified employee is not affected by a holiday.

[Personnel Div., Rule VII § B subsec. 2, eff. 8-11-73; A 7-3-76]—(NAC A by Dep’t of Personnel, 10-26-84; 8-28-85; 1-26-87; 9-17-87; 4-19-88; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; R098-99, 9-27-99; R058-01, 9-6-2001; R147-01, 1-22-2002; A by Personnel Comm’n by R096-03, 10-30-2003; R145-05, 12-29-2005)

NAC 284.256 Holidays: Compensation for working. (NRS 284.065, 284.155, 284.175)

1. As used in this section, “holiday premium pay” means pay at an employee’s normal rate of pay for hours designated as worked on a holiday, except those hours that are considered overtime pursuant to NRS 284.180.

2. A nonexempt employee who works on a holiday is entitled to receive holiday premium pay *or* overtime pay for the hours he works on the holiday, in addition to any holiday pay that he is entitled to be paid pursuant to NAC 284.255.

[Personnel Div., Rule VII § B part subsec. 3, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 7-21-89; 9-13-91; 3-23-94; R058-01, 9-6-2001; R147-01, 1-22-2002)—(Substituted in revision for NAC 284.530) – (*R012-11, 6-27-2011; 7-1-2011*)

NAC 284.257 Holidays: Designation of time for holiday pay; adjustment of work schedule if holiday occurs on employee’s day off. (NRS 284.065, 284.155, 284.175)

1. For compensation for holiday pay pursuant to NAC 284.255 and payment for actual hours worked on a holiday pursuant to NAC 284.256, the appointing authority shall designate whether such compensation will be based on the:

- (a) Calendar day; or
- (b) Entire shift of the employee.

2. If a work shift designated pursuant to paragraph (b) of subsection 1 occurs on 2 consecutive calendar days:

(a) The employee may receive compensation related to the holiday for his entire shift only if 50 percent or more of his shift occurs on the holiday;

(b) The appointing authority shall ensure that the compensable hours related to the holiday are so designated on the time sheet of the employee; and

(c) The appointing authority of an employee who has two or more scheduled shifts on a holiday shall designate only one shift on the holiday for which the employee may receive compensation related to the holiday.

3. If a holiday occurs on the day off of a full-time nonexempt employee, the appointing authority may adjust the work schedule of the employee for the week during which the holiday occurs. If a holiday occurs on the day off of an exempt classified employee or exempt unclassified employee, the appointing authority may adjust the work schedule of the employee for the week during which the holiday occurs or for a subsequent week.

(Added to NAC by Dep’t of Personnel by R147-01, eff. 1-22-2002)—(Substituted in revision for NAC 284.532)

NAC 284.258 Compensation for time spent traveling. (NRS 284.065, 284.155, 284.175)

1. An employee who is otherwise entitled to pay for overtime may earn overtime for traveling if:

- (a) His actual work time and his travel time exceed his normal workday of at least 8 hours; or
- (b) The travel occurs on his regularly scheduled day off.

2. Such an employee begins traveling when he leaves his workstation, or home if so authorized, and continues until he reaches his geographical location for his work assignment.

3. In determining the amount of travel time granted, the overtime claimed for additional reimbursement must be justified against the “normal” travel time as determined by the previous travel experience of the agency. If the additional travel time was caused by the employee’s choice of transportation, overtime compensation will not be paid for the portion of the travel time that exceeds the “normal” travel time. Unless the appointing authority determines that the additional travel time is justified, and employee who has travel layovers or delays in his transportation is limited to 4 hours of overtime, if applicable, plus per diem expenses. An employee may not be compensated for the time spent traveling during the normal time he spends commuting to and from work.

4. An employee who must travel and stay over to continue work on his next regularly scheduled workday is not considered to be working on his regularly scheduled day off and is not eligible for overtime pay. Such an employee is allowed to claim the standard per diem expenses.

5. Any travel by an employee on a holiday will be compensated pursuant to the provisions of NAC 284.255, 284.256 and 284.257.

[Personnel Div., Rule III § L subsec. 16, eff. 8-11-73; renumbered as subsec. 15, 10-10-76]—(NAC A by Dep’t of Personnel, 10-26-84; 7-1-94; R147-01, 1-22-2002)

NRS 284.177 states, “Plan to encourage continuity of service.

1. A Plan to Encourage Continuity of Service, administered by the Department is hereby established for employees with 8 years or more of continuous state service. Except as otherwise provided in NRS 284.179, an employee rated standard or better with 8 years or more of continuous service is entitled to receive a semiannual payment of \$75 plus:

- (a) An annual increase of \$25 in the semiannual payment for each year of the employee’s ninth through fourteenth years of continuous service;
- (b) An annual increase of \$50 in the semiannual payment for each year of the employee’s fifteenth through twenty-fourth years of continuous service; and
- (c) An annual increase of \$75 in the semiannual payment for each additional year of continuous service after 24 years, up to a maximum of 30 years of continuous state service.

2. An interruption in continuous state service terminates the employee’s eligibility for additional pay pursuant to subsection 1.

3. Except as otherwise provided in this subsection, no year served before the interruption may be counted in determining the employee’s subsequent eligibility. This provision does not apply to an employee who was employed before July 1, 1981, unless he leaves state service after that date.

4. As used in this section, “continuous service” means uninterrupted service as defined by the Commission.”

NRS 284.179 states, Professional employees of Nevada System of Higher Education not entitled to payments pursuant to... The professional employees of the Nevada System of Higher Education are not entitled to receive the payments provided in NRS 284.177.”

NAC 284.262 Longevity pay: Eligibility. (NRS 284.065, 284.155, 284.175) Classified and unclassified employees are eligible for longevity pay pursuant to NRS 284.177.

[Personnel Div., Rule III § M subsec. 1, eff. 8-11-73; A 9-6-74; 2-5-82]—(NAC A by Dep’t of Personnel by R147-01, eff. 1-22-2002)

NAC 284.270 Longevity pay: Required rating of performance. (NRS 284.065, 284.155, 284.175, 284.335)

1. For an employee to be eligible for longevity pay pursuant to NRS 284.177, he must receive a rating of performance of standard or better on his most recent report on performance.

2. An employee's performance will be deemed to be standard on the date on which the report on performance was due if:

(a) The employee's performance was not rated during the previous 12 months; or

(b) A subsequent report on performance was not filed after the employee received a substandard rating of performance pursuant to the provisions of subsection 4 of NRS 284.340.

[Personnel Div., Rule III § M subsec. 3, eff. 8-11-73; A 9-6-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 10-18-89; 11-16-95; R147-01, 1-22-2002)

NAC 284.274 Longevity pay: Dates of payment and eligibility; responsible agency. (NRS 284.065, 284.155, 284.175)

1. After 8 years of continuous service, an employee is eligible for longevity pay in semiannual payments on December 31 and June 30.

2. Except as otherwise provided in NAC 284.282, such employees who are eligible and have not been separated from state service as of these dates will receive longevity pay.

3. An agency is responsible for the payment of longevity pay due an employee if that employee is employed by the agency on the date on which the employee becomes eligible for the semiannual payment.

[Personnel Div., Rule III § M subsec. 4, eff. 8-11-73; A 9-6-74; 4-14-76; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 12-17-87; 7-14-88; 7-21-89; 3-1-96; A by Personnel Comm'n by R065-98, 7-24-98, eff. 1-1-99; A by Dep't of Personnel by R147-01, eff. 1-22-2002)

NAC 284.278 Longevity pay: Formulas for calculation. (NRS 284.065, 284.155, 284.175)

1. Except as otherwise provided in subsection 2, longevity pay for nonexempt employees must be calculated based on the following formula:

$$\frac{\text{The number of hours worked during the 6-month qualifying period}}{\text{Total full-time equivalent hours for the pay class designation during the 6-month qualifying period}} \times \text{longevity increment} = \text{longevity payment for the 6-month period}$$

2. Longevity pay for exempt classified employees and exempt unclassified employees must be calculated based on the following formula:

$$\frac{\text{The number of 8-hour days worked during the 6-month qualifying period}}{\text{Total full-time equivalent 8-hour days for the pay class designation during the 6-month qualifying period}} \times \text{longevity increment} = \text{longevity payment for the 6-month period}$$

3. As used in this section, "hours worked" includes only the base hours for the pay class designation.

[Personnel Div., Rule III § M subsec. 6, eff. 9-6-74; A and renumbered as subsec. 5, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 9-13-91; 3-23-94; R031-98, 4-17-98; R058-01, 9-6-2001; R147-01, 1-22-2002)

NAC 284.282 Longevity pay: Particular circumstances. (NRS 284.065, 284.155, 284.175, 284.345, 284.355, 284.3626)

1. Except as otherwise provided in NAC 284.580 for a leave of absence without pay during a fiscal emergency, an employee who is on leave without pay or catastrophic leave, or any combination of both, for the entire 6-month period of qualification is not entitled to longevity pay for that period.

2. The payment for longevity pay for a full-time employee will not be prorated pursuant to NAC 284.278 if:

(a) He is an exempt classified employee or exempt unclassified employee and he uses an amount of leave without pay or catastrophic leave, or any combination of both, that equals 30 days or less in a calendar year; or

(b) He is a nonexempt employee, the base hours established for his pay class designation are 40 hours per week or 80 hours biweekly and he uses 240 hours or less of leave without pay or catastrophic leave, or any combination of both, in a calendar year.

3. If the base hours established for a pay class designation exceed 40 hours per week or 80 hours biweekly, an employee in that pay class designation must be allotted leave without pay and catastrophic leave in proportion to his base hours and full-time equivalency. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limits set forth in subsections 2 and 4.

4. A part-time employee must be allotted leave without pay and catastrophic leave in proportion to his base hours and the full-time equivalency for his pay class designation. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limit set for a full-time employee in his pay class designation pursuant to subsection 2.

5. An employee who retires pursuant to the provisions of chapter 286 of NRS or who dies during the 6-month qualifying period is eligible for longevity pay according to the applicable formula in NAC 284.278.

6. An employee who is laid off and is rehired within 1 year after the date of layoff is eligible for the longevity pay he would have earned if he had not been laid off. The longevity pay must be calculated as if the employee had been on leave without pay pursuant to subsection 2.

7. A person with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is eligible for the longevity pay he would have earned if he had not been separated from state service. The longevity pay of such an employee must be calculated as if the employee had been on leave without pay pursuant to subsection 2.

8. An employee is eligible to earn service credit for the calculation of longevity pay when he is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS and he uses accrued sick leave, accrued annual leave or accrued compensatory time to meet the difference between his normal pay and the benefits he receives. Such an employee ceases to earn service credit for the calculation of longevity pay when he is placed on a leave of absence without pay or catastrophic leave.

9. Service in a seasonal position must be credited toward the calculation of longevity pay if the employee is employed on December 31 and June 30 and if the requirements for eligibility for longevity pay have been met. If an employee in a seasonal position is not on the payroll on those two dates and he is reemployed within 12 months, the employee is entitled to receive prorated longevity pay for his service during the previous longevity period.

10. If a person is on leave of absence without pay for military service pursuant to NRS 284.359 or is reemployed within 90 days after the military service, the time during which he was not in paid status because of his military service will be counted as service credit for the

calculation of longevity pay. The person is eligible for longevity pay for the time he is in paid status in accordance with the provisions of subsection 2.

11. If a nonclassified employee or an employee covered by NRS 284.022 is appointed without a break in service to the classified or unclassified service, the previous time served is counted for the purpose of calculating longevity pay, but the employee is not eligible for any retroactive longevity pay.

[Personnel Div., Rule III § M subsec. 7, eff. 9-6-74; A and renumbered as subsec. 6, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 12-17-87; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; 3-1-96; 10-27-97; R031-98, 4-17-98; R147-01, 1-22-2002; A by Personnel Comm'n by R142-05, 12-29-2005)

NAC 284.284 Longevity pay: Return to state service. (NRS 284.065, 284.155, 284.175)

1. An employee who was eligible for longevity pay and who separated from state service before July 1, 1981, and returns to state service retains his eligibility for longevity pay.

2. For the purposes of this section, the employee will receive the same semiannual rate of payment that he received at the time of his separation from service. However, the employee may not receive any semiannual increases until he has again served the same number of years without a break in service that he had served at the time of his separation from service plus 1 year.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R147-01, 1-22-2002; A by Personnel Comm'n by R038-03, 10-30-2003)

NAC 284.290 Retained rates of pay. (NRS 284.065, 284.155, 284.175)

1. An employee who is reclassified downward is entitled to a retained rate of pay if:

(a) The employee has been in the same class for the equivalent of 6 months or more of full-time employment immediately preceding the downward reclassification; and

(b) The reclassification is the result of a reorganization or other legitimate reason over which the employee has no control.

2. If an employee is entitled to a retained rate of pay pursuant to this section, the employee's base rate of pay remains unaffected for 2 years after the effective date of the downward reclassification. At the end of the 2-year period, the employee's base rate of pay will be frozen until it falls within the range of the grade to which he was reclassified or for a maximum of 2 years, making the employee ineligible for any merit pay increases, cost of living adjustments or adjustments for a class of employees that have been approved by the Legislature. If the employee's frozen base rate of pay does not fall within the range of the grade to which he was reclassified within the 2-year period, his base rate of pay will be adjusted to the highest step within the lower grade to which he was reclassified.

3. If the employee voluntarily accepts another position within the time period prescribed in subsection 2, he may no longer retain his base rate of pay.

4. The employee is entitled to reemployment rights to his former class and option in his department for 1 year after the date of notification of the reclassification as provided in NAC 284.140.

5. This section does not apply to an employee who is occupying a position which is temporarily reclassified to a higher class and is later restored to the former class pursuant to NAC 284.132.

[Personnel Div., Rule III § O, eff. 8-11-73; renumbered as § P, 9-6-74; A 10-6-78]—(NAC A by Dep't of Personnel, 10-26-84; 9-17-87; 7-1-94; 3-1-96; R098-99, 9-27-99; R147-01, 1-22-2002)

INFORMATIONAL NOTE: SAM 2724.0 states in part, "Payroll Overpayment

All agencies should notify Personnel/Payroll immediately upon discovery of any overpayment, especially when there has been a termination of employment..."

NAC 284.292 Notification of uncollected overpayment. (NRS 284.065, 284.155, 284.175) If the Department of Personnel determines that an employee in the classified or unclassified service has been paid in a manner which is contrary to the applicable laws and regulations and the agency has been unsuccessful in collecting the overpayment, the Department of Personnel will notify the State Controller after it has reviewed the circumstances with the agency concerned.

[Personnel Div., Rule XVI § A subsec. 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-14-88; R147-01, 1-22-2002)—(Substituted in revision for NAC 284.706)

NRS 289.800 states, "Reimbursement for cost to repair or replace uniform, accessories or safety equipment damaged or destroyed in performance of duties. In addition to the compensation required by NRS 281.121, a state agency that employs a person:

1. Upon whom some or all of the powers of a peace officer are conferred pursuant to subsection 1 of NRS 289.180, subsection 1 of NRS 289.220, paragraph (f) of subsection 1 of NRS 289.270 or subsection 4 of NRS 289.270; and

2. Who is required to purchase and wear his own uniform or other clothing, accessories or safety equipment while performing his duties for the State as a peace officer,

may, after first obtaining the written approval of the Director of the Department of Administration, reimburse that person for the cost to repair or replace his required uniform or other clothing, accessories or safety equipment if it is damaged or destroyed, by means other than ordinary wear and tear, while he is performing his duties for the state as a peace officer."

NAC 284.294 Reimbursement for furnishing own tools. (NRS 284.065, 284.155, 284.175)

1. An employee who is required to furnish his own tools may elect to be reimbursed for the use, loss, theft and breakage of the tools at the rate of \$35 per month if the monetary value of the tools is more than \$300 and less than \$1,000, or at the rate of \$50 per month if the monetary value exceeds \$1,000. This monthly allowance must not be considered part of the employee's base rate of pay.

2. The payment of reimbursement pursuant to subsection 1 absolves the agency of any responsibility for the employee's tools if the loss per occurrence is \$1,000 or less. If the loss is more than \$1,000 and is covered under the terms and conditions of the policy of property insurance or program of self-insurance maintained by the State, the loss must be paid by the insurer or the State, as appropriate.

3. If the employee does not elect to be paid a monthly reimbursement for furnishing his own tools pursuant to subsection 1 and a loss occurs which is covered by the policy of property insurance or program of self-insurance maintained by the State, the first \$1,000 of the loss must be paid to the employee by the agency and the balance by the insurer or the State, as appropriate.

4. Agencies must approve and maintain a listing of those tools which are required.

5. As used in this section, "tools" does not include weapons or other protective equipment.

[Personnel Div., Rule III § P, eff. 8-11-73; renumbered as § Q 9-6-74]—(NAC A by Dep't of Personnel, 8-26-83; 7-14-88; 10-27-97; R147-01, 1-22-2002)

- (b) Using his accrued compensatory time;
 - (c) Using his accrued annual leave if he:
 - (1) Is on family and medical leave for a serious health condition that prevents him from performing one or more of the essential functions of his position; or
 - (2) Elected to use his accrued sick leave pursuant to NRS 281.390 and has exhausted all of his accrued sick leave; or
 - (d) Using catastrophic leave if he has exhausted all of his accrued annual leave, sick leave and compensatory time and his request for catastrophic leave has been approved pursuant to NAC 284.576; or
2. Elect to be placed on leave of absence without pay in accordance with subsection 5 of NRS 281.390.
- (Added to NAC by Dep't of Personnel by R031-98, eff. 4-17-98; A by R082-00, 8-2-2000)

NAC 284.5777 Temporary total disability: Workers' compensation travel leave to receive medical treatment (NRS 284.065, 284.155, 284.175, 284.345)

1. An appointing authority shall grant leave to an employee in the classified or unclassified service of the State to receive medical treatment for a work-related injury or occupational disease if the employee:
- (a) Qualified for benefits for a temporary total disability pursuant to NRS 616C.475; and
 - (b) After returning to work, is required to travel more than 50 miles one way from his place of employment to receive such medical treatment.
2. An appointing authority shall pay an employee who is granted leave pursuant to subsection 1:
- (a) If he is a nonexempt employee, his regular hourly rate of pay for each hour that he is absent from his place of employment for such leave.
 - (b) If he is an exempt classified employee or an exempt unclassified employee and he is absent from his place of employment for a full day for such leave, his regular rate of pay for each such day.
3. Leave granted pursuant to this section must be taken as workers' compensation travel leave and must not be deducted from any sick leave, annual leave, compensatory leave or any other personal leave that may be available to the employee.
- (Added to NAC by Personnel Comm'n by R221-05, eff. 2-23-2006)

NAC 284.578 Leave of absence without pay. (NRS 284.065, 284.155, 284.345)

1. Except as otherwise provided in NRS 284.360, an appointing authority may grant a leave of absence without pay to an employee for not more than 1 year for any satisfactory reason.
2. The Commission may grant leaves of absence without pay in excess of 1 year for purposes deemed beneficial to the public service.
3. An appointing authority may require an employee on leave of absence without pay to submit every 2 weeks a statement of his intent to return to work.
4. If the reason for granting the leave no longer exists, the appointing authority may revoke the leave after notifying the employee in writing and allowing, so far as is practicable, not less than 5 working days after the date of notification for the employee to return to work.
5. An employee shall request leave without pay at least 30 days in advance of when the need for the leave is foreseeable, if practicable.
6. An employee may not use leave without pay in lieu of sick leave or annual leave without approval of the appointing authority.
7. An employee who is using leave pursuant to the Family and Medical Leave Act may not use leave without pay until *the employee* has exhausted *all the* accrued sick leave, *accrued* annual leave, *accrued compensatory time* and catastrophic leave *that the employee is eligible to use based on the nature of the absence*, as required by NAC 284.5811.

[Personnel Div., Rule VII § E subsecs. 1-4, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; 10-27-97; A by Personnel Comm'n by R145-05, 12-29-2005; **R060-09, 11-25-2009**)

NAC 284.580 Leave of absence without pay during fiscal emergency of State or agency. (NRS 284.065, 284.155, 284.175, 284.345, 284.360)

1. Upon the request of an appointing authority, the Department of Administration may authorize the appointing authority to place a nonexempt employee on a leave of absence without pay for a fiscal emergency of the State or an agency during any period for which the Governor has declared that the State or an agency will experience a shortfall in revenue or for any other reason is in a state of fiscal emergency.

2. All employees in the same classification must be treated equitably with respect to being placed on a leave of absence without pay pursuant to this section unless an employee volunteers to be placed on such a leave of absence.

3. The appointing authority shall reduce the pay of an employee who is placed on a leave of absence without pay pursuant to subsection 1 by an amount equal to the pay that the employee would otherwise receive for the hours for which the leave is approved.

4. The hours for which payment is withheld pursuant to subsection 3:

(a) Must be treated as hours in paid status for the purposes of NAC 284.182, 284.255, 284.282, 284.448, 284.538, 284.5385, 284.544 and 284.614.

(b) Must not be considered as time worked in calculating overtime.

5. Regardless of whether an employee volunteers to be placed on a leave of absence pursuant to subsection 1, after notifying the employee in writing and allowing a reasonable period for the employee to return to work, an appointing authority:

(a) Shall revoke the placement of any employee on a leave of absence without pay pursuant to subsection 1 upon a declaration by the Governor that the fiscal emergency no longer exists.

(b) May revoke the placement of any employee on any leave of absence without pay pursuant to subsection 1 for any other bona fide reason.

(Added to NAC by Dep't of Personnel, eff. 9-16-92; A 11-12-93; 3-23-94; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003)

NEW: Unpaid furlough leave

1. Except as otherwise provided in subsection 2 and Senate Bill No. *505 of the 2011*

Legislative Session:

(a) A full-time classified employee shall take:

(1) ***By September 30th, a minimum of 12 hours of furlough leave in the fiscal year;***

(2) ***By December 31st, a minimum of 24 hours of furlough leave in the fiscal year;***

(3) ***By March 31st, a minimum of 36 hours of furlough leave in the fiscal year; and***

(4) ***By June 30th, a total of 48 hours of furlough leave in the fiscal year.***

(b) ***A part-time employee shall take, at a minimum, the number of hours of furlough leave per quarter during the fiscal year that is equivalent proportionally to the requirement for a full-time employee. The employee shall not take proportionally more furlough leave than would be required of a full-time employee in the fiscal year.***

2. The requirements set forth in subsection 1, do not apply if:

(a) An employee's appointing authority files a plan with the Director and the Director of the Department of Administration or their designated representatives or, in the case of employees of the Nevada System of Higher Education, with the chief financial officer of the applicable institution for the employee to take furlough leave pursuant to an alternate schedule because of workload demands; and

(b) The plan is approved in advance by the Director and the Director of the Department of Administration or their designated representatives or by the chief financial officer of the institution, as applicable.

3. Each appointing authority shall establish a policy that defines the minimum increment of furlough leave required to be taken at any one time by ***an*** employee of the appointing authority. The policy may provide different increments for employees in different divisions, locations or work groups based on business necessity. The appointing authority shall disseminate the policy to each employee under its authority who is required to take furlough leave.

4. To the extent practicable, an employee who is required to take furlough leave and his or her supervisor shall jointly determine in advance a schedule pursuant to which the employee will take furlough leave. If, because of business necessity, such a schedule cannot be mutually agreed upon, a supervisor may direct an employee to take furlough leave on a specific day or at a specific time, or both.

5. Movement of an employee from one position to another position must not alter the amount of furlough leave required to be taken by the employee.

6. The amount of furlough leave that an employee is required to take must not be offset by any savings realized as a result of a vacancy delay in filling the position.

7. An employee who is initially appointed to state service after July 1, 2011, may only be required to take the number of hours or days of furlough leave that is required to be taken during the remainder of the fiscal year after his appointment. If such an employee is appointed on a day other than the first of a month, the employee *shall* be required to **take the proportional amount of furlough required for the remainder of the quarter to begin in the succeeding month after employment.**

8. An employee may not:

(a) Take more than 8 hours of furlough leave in a workweek.

(b) Receive overtime pay, compensatory time, pay for standby status, added regular time for work as a part-time employee or callback pay in the same pay period in which the employee takes furlough leave, unless approved in advance by the Director and the Director of the Department of Administration or their designated representatives or, in the case of employees of the Nevada System of Higher Education, by the chief financial officer of the applicable institution.

(c) Be required to take more furlough leave than the amount of furlough leave required by the provisions of Senate Bill No. **505 of the 2011 Legislative Session.**

9. If an employee who leaves state service has taken more than the equivalent of **12** hours of furlough leave per **quarter** at the time of his separation from state service, the employee will not be reimbursed for the additional furlough leave taken.

10. Any furlough leave that an employee takes must be considered time worked for the purpose of calculating the employee's eligibility to take leave under the federal Family and Medical Leave Act. Any furlough leave that is taken during the time in which an employee takes leave that qualifies under the Family and Medical Leave Act will not be counted against the amount of leave for which an employee is entitled to take under the Family and Medical Leave Act.

11. As used in this section, "furlough leave" means the unpaid leave required to be taken pursuant to the provisions of Senate Bill No. **505 of the 2011 Legislative Session.**

(Added to NAC by Personnel Comm'n by R080-09, eff. 10-27-09; **R187-09, 6-30-10; 7-1-2011**)

INFORMATIONAL NOTE: This regulation and LCB File No. R080-09, which was adopted by the Personnel Commission and was filed with the Secretary of State expire by limitation on June 30, 2013.

NAC 284.581 Adoption by reference of federal law and regulations. (NRS 284.065, 284.155, 284.345)

1. For the purposes of NAC 284.523 to 284.598, inclusive, the Department of Personnel hereby adopts by reference:

(a) The Family and Medical Leave Act of 1993 (Public Law 103-3), as amended.

(b) The Fair Labor Standards Act of 1938, as amended, and 29 C.F.R. Part 541.

2. A copy of the Family and Medical Leave Act, the Fair Labor Standards Act or 29 C.F.R. Part 541 may be obtained at no charge from the United States Government, Wage and Hour Division, P.O. Box 3136, Reno, Nevada 89505-3136, telephone (775) 784.5200, or from the United States Government, Wage and Hour Division, 1050 Flamingo Road, Suite 321, Las Vegas, Nevada 89119, telephone (702) 699-5581.

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

INFORMATIONAL NOTE: *Based on the federal Family and Medical Leave Act (29. C.F.R. § 825.110 (b)(3)), catastrophic leave should be counted when determining the employee's 12 months of employment for FMLA eligibility. However, catastrophic leave is not counted in the calculation when determining if the employee has "worked" 1,250 hours in the previous 12 months. The hours an employee was in "paid status" (NAC 284.0742) are used to determine the hours "worked".*

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

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

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

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

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

5. 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.

6. An appointing authority may require an employee to provide medical *or other appropriate documentation* to support his need for leave pursuant to the Family and Medical Leave Act.

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

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

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 7-21-89; 8-1-91; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 11-12-93; 11-16-95; 11-16-95; **R063-09, 11-25-2009**)

NEW Hearing Procedures. (NRS 284.065, 284.155, 284.383, 284.385, 284.390) Except as otherwise provided in section 3 of LCB File No. R063-09, if an appointing authority proposes that a permanent employee be dismissed, suspended or demoted, the following procedure for a hearing before the proposed action must be followed:

1. A hearing must be scheduled on the employee's behalf unless waived in writing by the employee pursuant to subsection 2. The hearing must be scheduled to take place not earlier than 7 working days after the written notice of the proposed action is delivered or deemed received pursuant to subsection 2 of NAC 284.656. The hearing must not be scheduled on a day which is not a regular working day for the employee. If the appointing authority or his or her designated representative and the employee agree, the date of the hearing may be changed.

2. The employee may waive the right to a hearing before the proposed action in writing. If the employee makes such a waiver, the employee may not be dismissed, suspended or demoted before the proposed effective date. The waiver does not waive the employee's right to an appeal after the action is taken.

3. The appointing authority or his or her designated representative shall conduct the hearing. The designated representative must be a person with the authority to recommend a final decision to the appointing authority. The appointing authority shall render the final decision.

4. At any time after receiving the notice and before the hearing, the employee may examine all materials that are to be used by the person conducting the hearing. The employee is entitled to administrative leave with pay as provided in NAC 284.589 to prepare for the hearings regarding his or her suspension, demotion or dismissal.

5. This process is an informal proceeding between the two parties, the appointing authority or his or her designated representative and the employee, who meet together to discuss the proposed action. Witnesses are not allowed to attend, but each party may be accompanied by a person of his choice.

6. The employee may respond both orally and in writing to the appointing authority or his or her designated representative at the hearing.

7. The employee must be:

(a) Given a copy of the finding or recommendation, if any, resulting from the hearing; and

(b) Informed, in writing, of the appointing authority's decision regarding the proposed action on or before the effective date of the action.

8. An employee who has been dismissed, demoted or suspended may request a hearing before the hearing officer of the Department of Personnel pursuant to NRS 284.390 within 10 working days after the effective date of his or her dismissal, demotion or suspension. Such a request must be **addressed to the Director and** submitted on the form provided by the Department of Personnel.

(Added to NAC by Dep't of Personnel, eff. 10-27-09; **R011-11, 6-10-2011**)

NEW Exceptions to notice and hearing time frames. (NRS 284.065, 284.155, 284.383, 284.385, 284.390)

1. The procedures specified in NAC 284.656 and section 2 of LCB File No. R063-09 need not be followed before dismissing or suspending a permanent employee if the circumstance

give the appointing authority a reasonable cause to believe that the retention of an employee on active duty poses a threat to life, limb or property or may be seriously detrimental to the interests of the State.

2. If the circumstances set forth in subsection 1 are present, the appointing authority may temporarily assign the employee to duties in which those circumstances do not exist or, if the temporary assignment is not feasible:

(a) Immediately place the employee on administrative leave with pay until the procedures set forth in specified in NAC 284.656 and section 2 of LCB File No. R063-09 have been followed; or

(b) Immediately suspend or dismiss the employee. In this case the appointing authority, his designated representative, or the employee's supervisor shall attempt to inform the employee before the action is taken of the charges against him and provide the employee with an opportunity to rebut the charges. The procedures set forth in specified in NAC 284.656 and section 2 of LCB File No. R063-09 of this regulation must be followed as soon as practicable after the immediate suspension or dismissal.

(Added to NAC by Dep't of Personnel, eff. 10-27-09)

NRS 284.390 states, "Hearing to determine reasonableness of dismissal, demotion or suspension; judicial review.

1. Within 10 working days after the effective date of his dismissal, demotion or suspension pursuant to NRS 284.385, an employee who has been dismissed, demoted or suspended may request in writing a hearing before the hearing officer of the Department to determine the reasonableness of the action. 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 dismissal, demotion or suspension.

2. The hearing officer shall grant the employee a hearing within 20 working days after receipt of the employee's written request unless the time limitation is waived, in writing, by the employee or there is a conflict with the hearing calendar of the hearing officer, in which case the hearing must be scheduled for the earliest possible date after the expiration of the 20 days.

3. The employee may represent himself at the hearing or be represented by an attorney or other person of the employee's own choosing.

4. Technical rules of evidence do not apply at the hearing.

5. After the hearing and consideration of the evidence, the hearing officer shall render his decision in writing, setting forth the reasons therefor.

6. If the hearing officer determines that the dismissal, demotion or suspension was without just cause as provided in NRS 284.385, the action must be set aside and the employee must be reinstated, with full pay for the period of dismissal, demotion or suspension.

7. The decision of the hearing officer is binding on the parties.

8. Any petition for judicial review of the decision of the hearing officer must be filed in accordance with the provisions of chapter 233B of NRS."

NAC 284.778 Request for hearing and other communications. (NRS 284.065, 284.155, 284.376, 284.390)

1. A request for an appeal must be addressed to the Director *and submitted on the form provided by the Department of Personnel.*
2. A copy of any written communication directed to a hearing officer must be sent to the Hearing Clerk of the Department of Personnel.
3. A party shall not communicate with a hearing officer regarding the merits of a case:
 - (a) Except in the presence of all parties to the hearing; or
 - (b) Unless all parties to the hearing are notified of the communication in advance.
4. Unless otherwise agreed upon in writing by all parties, an offer or demand of settlement made by a party must not be disclosed to or proposed by a hearing officer before the issuance of a final decision by the hearing officer.

[Personnel Div., Hearings Procedures § (A) subsec. (1), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; R192-09, 7-1-2010; *R011-11, 6-10-2011*)

NAC 284.782 Time and place; notice; provision of reasonable accommodation to party with disability. (NRS 284.065, 284.155, 284.376, 284.390)

1. The hearing officer shall convene the hearing at the time and place specified for the purpose of hearing the appeal.
2. Written notice of the time and place of the hearing must be given to the parties at least 10 days in advance. The notice must contain the information required for a party to request reasonable accommodation.
3. The hearing officer shall provide reasonable accommodation to a party with a disability who requests such accommodation within the time sufficient to make the accommodation.

[Personnel Div., Hearings Procedures § (B) subsec. (1), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; 7-6-92)

NAC 284.786 Continuances. (NRS 284.065, 284.155, 284.376, 284.390)

1. Hearings may be continued beyond the period originally scheduled or recessed until a future date which is agreeable to the hearing officer and the parties if good cause is shown.
2. *A party may request a continuance not later than 5 business days before the date of the scheduled hearing by filing a written motion or stipulation with the hearing officer. Notice of the motion or stipulation and a copy of the motion or stipulation must be sent to each party to the hearing and to the Department of Personnel.*
3. *A party may contest a request for a continuance submitted by another party by filing a written motion with the hearing officer not later than 2 business days after receiving the notice of the request for a continuance. Notice of the motion and a copy of the motion must be sent to each party to the hearing and to the Department of Personnel.*
4. *A hearing officer shall not grant a continuance requested on the day of a scheduled hearing, unless:*
 - (a) *The hearing officer, any party, the legal counsel for a party or a primary witness cannot attend the hearing because of an emergency;*
 - (b) *The hearing exceeds the time allotted for the day; or*
 - (c) *The hearing officer recesses the hearing until a future date.*
5. *If a hearing officer recesses a hearing until a future date pursuant to a request for a continuance which is filed on the day of the scheduled hearing, the hearing must be held not later than 20 business days after the date of the request for a continuance, unless there is a conflict with the schedule of the hearing officer.*

[Personnel Div., Hearings Procedures § (A) subsec. (9), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; *R192-09, 7-1-2010*)

NAC 284.788 Conduct of hearings on appeal. (NRS 284.065, 284.155, 284.376, 284.390)

1. Except as otherwise provided in subsection 2, all hearings on appeals must be open to the public.

2. On the motion of either party, the hearing officer shall exclude from the hearing room witnesses in the matter not at the time under examination except the parties to the proceeding. No hearing may be closed to the public except on motion of either party for good cause shown.

3. A document or piece of physical evidence sought to be introduced during the hearing must first be identified for the record and the hearing officer may request the production of such records and the appearance of such persons as he requires.

(Added to NAC by Dep't of Personnel, eff. 10-26-84)

NAC 284.794 Evidence. (NRS 284.065, 284.155, 284.376, 284.390)

1. The hearing officer shall determine the evidence upon the charges and specifications as set forth by the appointing authority in the appropriate documents, and shall not consider any additional evidence beyond the scope of the charges.

2. An employer's or employee's past performance by way of an act or a failure to act may be shown by competent evidence.

3. Reports, evaluations, and other written evidence may be considered only upon a showing that the parties were made aware of the contents of this material.

4. All testimony and exhibits offered at the hearing must be relevant and bear upon the matter in contention. Any testimony or exhibits which are considered by the hearing officer as not meeting this criterion may properly be excluded.

5. The hearing officer shall also consider the objection of either side to the introduction of evidence. Competence and relevance must be the primary test in ruling on objections.

[Personnel Div., Hearings Procedures § (A) subsecs. (3) & (4), eff. 11-28-65; A 6-9-74; + Rule XVI part § C, eff. 9-6-74]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.798 Decision must be based on evidence presented. (NRS 284.065, 284.155, 284.376, 284.390) The hearing officer shall make no assumptions of innocence or guilt but shall be guided in his decision by the weight of the evidence as it appears to him at the hearing.

[Personnel Div., Hearings Procedures § (A) subsec. (5), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.802 Form of testimony. (NRS 284.065, 284.155, 284.376, 284.390)

1. At the beginning of his testimony, each witness who has not previously testified in the hearing must be required to state his name, address and business, employment or position.

2. Testimony may be presented in the form of a statement or questions and answers.

3. The hearing officer may have the testimony recorded and transcribed.

[Personnel Div., Hearings Procedures § (A) subsecs. (6) & (8), eff. 11-28-65; A 6-9-74]—(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000)

NAC 284.806 Evidence must be authenticated. (NRS 284.065, 284.155, 284.376, 284.390) Any letter, paper or object offered in evidence must be properly authenticated and, if received, must be marked by the reporter with a distinguishing number or letter, such as "Employee's Exhibit 1" or "Employer's Exhibit A." The representative for the opposing party is entitled to examine the exhibit when it is offered.

[Personnel Div., Hearings Procedures § (A) subsec. (7), eff. 11-28-65]—(NAC A by Dep't of Personnel, 10-26-84)

NAC 284.814 Appearance and procedure at hearing. (NRS 284.065, 284.155, 284.376, 284.390)

1. A party may appear in person and may be represented by an attorney or another person of his choice, if the party chooses not to represent himself.

2. All testimony must be under oath administered by the hearing officer.

3. The matter must be heard in the following manner:

(a) Opening statement for the employer.

(b) Opening statement for the employee, unless reserved.

(c) Presentation of the employer's case, followed by cross-examination.

USE OF ALCOHOL OR DRUGS

NRS 284.406 states, “Policy concerning use of alcohol or drugs by state employees. It is the policy of this state to ensure that its employees do not:

1. Report for work in an impaired condition resulting from the use of alcohol or drugs;
2. Consume alcohol while on duty; or
3. Unlawfully possess or consume any drugs while on duty, at a work site or on state property.”

INFORMATIONAL NOTE: Also see NRS 284.4061 through NRS 284.4068.

NAC 284.880 Definitions. (NRS 284.065, 284.155, 284.407) As used in NAC 284.880 to 284.894, inclusive, *and section 1 of LCB File No R066-09*, unless the context otherwise requires:

1. “Employee” has the meaning ascribed to it in subsection 1 of NRS 284.4061.
2. “Screening test” has the meaning ascribed to it in subsection 2 of NRS 284.4061.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; *R066-09, 10-27-2009*)

NAC 284.882 Administration of screening tests. (NRS 284.065, 284.155, 284.407) A screening test to detect the general presence of:

1. A controlled substance must comply with the standards established by the United States Department of Health and Human Services which are hereby adopted by reference. A copy of the standards is available, without charge, from the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Division of Workplace Programs, 1 Choke Cherry Road, Rockville, Maryland, 20857. *The Commission may adopt supplementary standards and procedures.*

2. Alcohol by testing a person’s breath must be conducted using a breath-testing device certified in accordance with the “Conforming Products List of Evidential Breath Alcohol Measurement Devices” published in the Federal Register for the National Highway Traffic Safety Administration of the United States Department of Transportation.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; A 10-27-97; R082-00, 8-2-2000; R066-09, 10-27-2009; *R009-11, 6-10-2011*)

NAC 284.884 Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath. (NRS 284.065, 284.155, 284.407)

1. An employee must not have a concentration of alcohol in his blood or breath greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty. Disciplinary action may be taken by the appointing authority in accordance with the provisions of NAC 284.638 to 284.656, inclusive, if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty.

2. A positive result on a screening test of a person’s breath must be confirmed by a second screening test. The second screening test must be conducted immediately after receipt of the positive result of the first screening test.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; A by R058-01, 9-6-2001)

NAC 284.886 Screening test for controlled substance required of applicant for position affecting public safety; exception. (NRS 284.065, 284.155, 284.407)

1. Except as otherwise provided in this section, an applicant for a position that is designated by the Personnel Commission as affecting public safety must submit to a screening test to detect the general presence of a controlled substance unless he is employed by the State in a position that is also designated as affecting public safety at the time he applies.

2. A person who has been laid off from a position affecting public safety and who is reemployed in a class affecting public safety within 1 year after the date he was laid off is not required to submit to a screening test pursuant to this section.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 3-23-94)

NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required form. (NRS 284.065, 284.155, 284.407)

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his duties safely and efficiently include, but are not limited to:

(a) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;

(b) The odor of alcohol or a controlled substance on the breath of the employee;

(c) Observation of the employee consuming alcohol; or

(d) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source; or

(e) The occurrence of any accident while the employee is on the premises of the workplace for which the employee receives medical treatment.

2. Pursuant to subsection 2 of NRS 284.4065, *an appointing authority may request an employee to submit to a screening test if during the performance of his duties, the employee drives a motor vehicle in such a manner as to cause bodily injury to himself or another person or substantial damage to property.*

(a) "Substantial damage to property" includes, but is not limited to:

(1) The operation of a motor vehicle in such a manner as to cause more than \$500 worth of property damage; or

(2) The operation of a motor vehicle in such a manner as to cause two property accidents within a 1-year period.

3. Before requiring an employee to submit to a screening test, a supervisor must complete a forms provided by the Department of Personnel.

(a) *This subsection does not apply when testing is performed pursuant to subsection 2.*

(Added to NAC by Dep't of Personnel, eff. 12-26-91; R066-09, 10-27-2009; R193-2009, 4-20-2010; *R010-11, 6-10-2011*)

NAC 284.890 Transportation of employee to and from location of screening test. (NRS 284.065, 284.155, 284.407) If an employee is required to submit to a screening test, the appointing authority shall provide transportation for the employee to the location of the test. After the employee submits to the screening test, the appointing authority shall provide transportation for the employee to his home.

(Added to NAC by Dep't of Personnel, eff. 12-26-91)

NAC 284.892 Duties of employee who is referred to employee assistance program. (NRS 284.065, 284.155, 284.407)

1. If an employee is referred to an employee assistance program as a result of a positive result on a screening test or pursuant to NAC 284.653, he shall provide to the appointing authority:

(a) Evidence of his consultation with a counselor employed by an employee assistance program; and

(b) Any recommendation of the counselor with respect to his rehabilitation,
→ within 5 working days after the date of the initial consultation.

2. The employee shall provide to the appointing authority on a monthly basis all recommendations of the counselor with respect to his rehabilitation.

3. The employee shall provide to the appointing authority evidence of his completion of any rehabilitation program recommended by the counselor within 5 working days after his completion of the program.

4. An employee who fails to provide evidence of his consultation with a counselor or successful completion of a rehabilitation program is subject to disciplinary action.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 11-12-93)

NEW. Return to work of employees who have tested positive for alcohol and/or a controlled substance while on duty.

1. The appointing authority of an employee who tests positive for the presence of alcohol or a controlled substance while on duty and who, as a result, is subject to disciplinary action pursuant to NAC 284.646 or 284.650 but is not terminated shall require the employee to:

(a) Provide to the appointing authority documentation from a counselor who is licensed or certified pursuant to chapter 614C or NRS or another health care provider who has training or experience in substance abuse counseling, which verifies that the employee is able to return to duty and perform the essential functions of his or her job;

(b) Submit to a screening test.

2. The employee is responsible for the cost of any:

(a) Counseling services the employee receives to verify that the employee is able to return to duty and perform the essential functions of his or her job and any documentation of those services; and

(b) Screening test,

↪required pursuant to subsection 1.

3. An employee who fails or refuses to submit to a screening test required pursuant to subsection 1 is subject to disciplinary action, including, without limitation, termination, at the discretion of the employee's appointing authority.

(Added to NAC by Dep't of Personnel, eff. 10-27-2009; R195-09, 4-20-2010)

NAC 284.894 Treatment of applicant who tests positive; treatment of employee who tests positive twice within 5-year period. (NRS 284.065, 284.155, 284.407)

1. An applicant who tests positive for the use of a controlled substance must not be considered by an appointing authority for employment in any position which requires such testing **and must be removed from all lists of eligible persons established from a recruitment that requires such testing** until:

(a) One year has passed from the time of the positive test; or

(b) The applicant provides evidence that he has successfully completed a rehabilitation program for substance abuse.

2. An employee who tests positive for the use of a controlled substance or alcohol for the second time within a 5-year period is subject to disciplinary action by the appointing authority and may be terminated at the discretion of the appointing authority.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 7-1-94; R194-09, 4-20-2010)

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