



**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
*Division of Human Resource Management*  
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**MEMORANDUM**  
**PERD # 58/11**

TO: Designees for Rules Distribution

FROM: Teresa J. Thienhaus, Administrator  
Division of Human Resource Management 

DATE: November 2, 2011

SUBJECT: Revision #14, Rules for State Personnel Administration

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Attached is Revision #14 to the *Rules for State Personnel Administration* (NRS and NAC Chapter 284). Changes reflect regulations that were approved by the Legislative Commission on October 26, 2011. Updates to the table of contents are also included.

This revision can be added to your rulebook by replacing the existing page with a similarly numbered page. Revisions 1-14 are also available separately on our website at [www.dop.nv.gov](http://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 is available on our website.

Updated pages with corresponding sections of the rulebook are listed in the chart below:

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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) 684-0136 or [mevans@admin.nv.gov](mailto:mevans@admin.nv.gov).

Thank you for your assistance.

Attachment

TJT:dws/tp

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

bcc: DHRM Employees

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(Added to NAC by Personnel Comm'n by R147-06, eff. 12-07-2006)

**NAC 284.088 "Promotion" defined. (NRS 284.065)** "Promotion" means an advancement to a position in a class which has a higher grade than the class previously held. The term does not include the restoration of a promoted employee to his former position pursuant to NAC 284.462.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R183-03, 1-27-2004)

**NAC 284.0915 "Rating of performance" defined. (NRS 284.065)** "Rating of performance" means the overall rating of an employee's performance efficiency, character and conduct which is included in the report on performance of an employee.

(Added to NAC by Dep't of Personnel by R031-98, eff. 4-17-98)

**NAC 284.092 "Reallocation" defined. (NRS 284.065)** "Reallocation" means the assignment of a class to a higher grade or a lower grade.

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

**NAC 284.093 "Reappointment" defined. (NRS 284.065)** "Reappointment" means a noncompetitive appointment of a current employee to a class he formerly held or to a comparable class.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91; A by Personnel Comm'n by R183-03, 1-27-2004)

**NAC 284.094 "Reclassification" defined. (NRS 284.065)** "Reclassification" means a reassignment or change in allocation of a position by:

1. Raising it to a class with a higher grade;
2. Reducing it to a class with a lower grade; or
3. Moving it to another class at the same grade on the basis of significant changes in kind, difficulty or responsibility of the work performed.

[Personnel Div., Rule I § D subsec. 23, eff. 8-11-73; renumbered as subsec. 24, 4-14-76]—  
(NAC A by Dep't of Personnel, 10-26-84)

**NAC 284.095 "Reemployment" defined. (NRS 284.065)** "Reemployment" means a noncompetitive appointment of a current or former employee to a class for which he has reemployment rights, as provided in this chapter, because of military service, layoff, a permanent disability arising from a work-related injury or occupational disease, seasonal separation, reallocation, or reclassification of his position to a lower grade.

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

**NAC 284.0955 "Rehire" defined. (NRS 284.065)** "Rehire" means any appointment to the classified service following a separation from the classified service.

(Added to NAC by Dep't of Personnel, eff. 4-19-88)

**NAC 284.096 "Reinstatement" defined. (NRS 284.065)** "Reinstatement" means a noncompetitive appointment of a former permanent employee to a class he formerly held or to a comparable class.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91)

**NAC 284.097 “Reviewing officer” defined. (NRS 284.065)** “Reviewing officer” means:

1. The supervisor of the person who prepared a report on performance of an employee; or
2. Such other person designated by the appointing authority,  
↳ who reviews the report on performance upon the request of the employee pursuant to paragraph (b) of subsection 7 of NAC 284.470.

(Added to NAC by Personnel Comm’n by R038-03, eff. 10-30-2003; A by R144-05, 12-29-2005; **R056-10, 10-26-2011**)

**NAC 284.099 “Sexual conduct” defined. (NRS 284.065)** “Sexual conduct” means:

1. Ordinary sexual intercourse;
2. Anal intercourse;
3. Fellatio, cunnilingus or other oral-genital contact;
4. Physical contact by a person with the genitals or pubic area of another person for the purpose of arousing or gratifying the sexual desire of either person;
5. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purpose of arousing or gratifying the sexual desire of either person; or
6. Masturbation or the lewd exhibition of genitals.

(Added to NAC by Personnel Comm’n by R147-06, eff. 12-07-2006)

**NAC 284.0995 “Sexual harassment” defined. (NRS 284.065)** “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other speech or physical conduct of a sexual nature when:

1. Submission to such speech or conduct is made either explicitly or implicitly a term or condition of a person’s employment;
2. Submission to or the rejection of such speech or conduct by a person is used as the basis for employment decisions affecting that person; or
3. Such speech or conduct has the purpose or effect of unreasonably interfering with a person’s work performance or creating an intimidating, hostile or offensive working environment.

(Added to NAC by Personnel Comm’n by R147-06, eff. 12-07-2006)

**NAC 284.100 “Standard workweek” defined. (NRS 284.065)** “Standard workweek” means a work schedule of five shifts with the same number of hours each day and a maximum of 40 hours per week throughout the year. The work schedule is Monday through Friday.

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

**NAC 284.102 “Step” defined. (NRS 284.065)** “Step” means the number assigned by the Department of Personnel to identify a specific rate of pay within a grade.

[Personnel Div., Rule I § D subsec. 25, eff. 8-11-73; renumbered as subsec. 27, 4-14-76]—  
(NAC A by Dep’t of Personnel, 10-26-84; R197-99, 1-26-2000; R147-01, 1-22-2002)

**NAC 284.104 “Trainee level” defined. (NRS 284.065)** “Trainee level” means the level of performance within an occupational specialty at which an employee is in the process of acquiring the knowledge, skills and abilities to perform at the journey level.

(Added to NAC by Personnel Comm’n by R024-05, eff. 10-31-2005)

**NAC 284.106 “Transfer” defined. (NRS 284.065)** “Transfer” means:

1. A noncompetitive appointment in which an employee moves from one position to another position in the same class or a related class with the same grade; or
2. A competitive appointment in which an employee moves from one position to a position

in a different class with the same grade.

[Personnel Div., Rule I § D subsec. 26, eff. 8-11-73; renumbered as subsec. 28, 4-14-76]—  
(NAC A by Dep't of Personnel, 10-26-84; 11-16-95)

**NAC 284.108 “Trial period” defined. (NRS 284.065)** “Trial period” means the 6-month or 1-year probationary period served by a permanent employee who has been promoted to a vacant position.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-1-91; 12-26-91)

**NRS 284.140 states, “Unclassified service: Composition.** The unclassified service of the State consists of the following State officers or employees in the Executive Department of the State Government who receive annual salaries for their services:

1. Members of boards and commissions, and heads of departments, agencies and institutions required by law to be appointed.

2. Except as otherwise provided in NRS 223.085, 223.570 and 223.600, all persons required by law to be appointed by the Governor or heads of departments or agencies appointed by the Governor or by boards.

3. All employees other than clerical in the Office of the Attorney General and the State Public Defender required by law to be appointed by the Attorney General or the State Public Defender.

4. Except as otherwise provided by the Board of Regents of the University of Nevada pursuant to NRS 396.251, officers and members of the teaching staff and the staffs of the Agricultural Extension Department and Experiment Station of the Nevada System of Higher Education, or any other state institution of learning, and student employees of these institutions. Custodial, clerical or maintenance employees of these institutions are in the classified service. The Board of Regents of the University of Nevada shall assist the director in carrying out the provisions of this chapter applicable to the Nevada System of Higher Education.

5. All other officers and employees authorized by law to be employed in the unclassified service.”

**NAC 284.110 “Underfill” defined. (NRS 284.065)** “Underfill” means the filling of a position with an employee holding a position in a lower classification, except for those situations where employees are in classifications which are training or intermediate levels preparatory to promotion to the journey level class.

[Personnel Div., Rule I § D subsec. 30, eff. 4-14-76]—(NAC A by Personnel Comm'n by R183-03, 1-27-2004)

**NAC 284.112 “Working day” defined. (NRS 284.065)** “Working day,” for the purpose of a grievance or an appeal, means Monday to Friday, inclusive, excluding holidays.

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

**NAC 284.1125 “Work-related injury or occupational disease” defined. (NRS 284.065)** “Work-related injury or occupational disease” means any injury or illness suffered by an employee that arises out of and in the course of his employment in the classified service and for which an employee has filed a claim pursuant to chapter 616A, 616B, 616C, 616D or 617 of NRS.

(Added to NAC by Personnel Comm'n by R142-05, eff. 12-29-2005)

**NAC 284.113 “Working day” interpreted. (NRS 284.065, 284.115, 284.345)** As used in NRS 284.350 and 284.355, the Director will interpret “working day” to mean a period of work consisting of 8 hours.

(Added to NAC by Dep't of Personnel by R031-98, eff. 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98)

**NAC 284.114 Affirmative action program and equal employment opportunity. (NRS 284.065)**

1. The Department of Personnel is responsible for establishing, coordinating and evaluating an affirmative action program for this State.

2. The Department of Personnel will cooperate and consult with agencies to:

(a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, sexual orientation, *gender identity or expression*, religion, color, national origin, age, genetic information or disability.

(b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for persons to enter the system and progress in it to the extent of their merit.

3. *As used in this section, “gender identity or expression” has the meaning ascribed to it in NRS 281.370, as amended by section 16 of Assembly Bill No. 211, chapter 112, Statutes of Nevada 2011, at page 501.*

[Personnel Div., Rule I § C, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 7-6-92; R098-99, 9-27-99; R055-10, 6-30-10; **R023-11, 10-26-2011**)

**NRS 284.012 states, “Policy concerning employment of persons with disabilities.** Subject to other applicable provisions of this chapter, it is the policy of this state that persons with disabilities must be afforded equal opportunities in employment by the state, by its political subdivisions and in all other employment supported in whole or in part by the state.”

**NRS 233B.070 states in part, “Effective date and dissemination of regulation; duties of Secretary of State.**

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.”

**NRS 284.130 states, “Assistance of state and local officers.** The Director may request officers and employees in the Executive Department of the State Government or local officers or employees to aid in carrying out the provisions of this chapter, and insofar as it may be consistent with their other duties, these officers and employees shall give such aid upon the director’s written request.”

**NAC 284.116 Computation of time. (NRS 284.065)** In computing a period of time mentioned in this chapter, the day of the act or event from which the period begins is not counted and the last day is counted unless the last day is a Saturday, Sunday or state holiday. If the last day is a Saturday, Sunday or state holiday, the period ends on the next day that is not a Saturday, Sunday or state holiday.

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

**NAC 284.120 Adoption by reference of federal law, regulations and manual regarding persons with disabilities. (NRS 284.065)**

1. For the purposes of determining the meaning of “essential functions of a position,” “person with a disability,” “qualified person with a disability” and “reasonable accommodation,” the Department of Personnel hereby adopts by reference and will refer to:

(a) The Americans with Disabilities Act of 1990 (Public Law 101-336).

(b) *The ADA Amendments Act of 2008 (Public Law 110-325).*

(c) The provisions of 29 C.F.R. Part 1630.

(d) The *Technical Assistance Manual* for the Americans with Disabilities Act.

2. A copy of the materials adopted by reference pursuant to this section may be obtained at no charge from the United States Equal Employment Opportunity Commission Publications Information Center, *by mail at* P.O. Box 541, Annapolis Junction, Maryland 20701, by telephone *at* (800) 669-3362 or TDD (800) 800-3302 *or at the Internet address* <http://www.eeoc.gov/publications.html>.

(Added to NAC by Dep't of Personnel, eff. 7-6-92; A 10-27-97; R082-00, 8-2-2000; **R059-09, 10-27-2009**)

**NAC 284.122 Severability. (NRS 284.065)** If any of the provisions of this chapter are held, for any reason, to be invalid, it is intended that the validity of the remaining provisions not be affected thereby.

[Personnel Div., Rule XVIII, eff. 8-11-73]

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(III) An adjustment in pay for an employee who resides in a particular geographical area.

(c) Maintain an appropriate differential, as determined by the appointing authority, between the base rate of pay of a supervisor and the base rate of pay of an employee who is in the direct line of authority of the supervisor. An adjustment may be granted pursuant to this paragraph if, before the adjustment, the base rate of pay of the employee is the same or greater than the base rate of pay of the supervisor.

2. Before granting an adjustment of steps pursuant to this section, the appointing authority must submit a request on a form prescribed by the Department of Personnel to the Department of Personnel which:

(a) Specifies the qualifying conditions and justification for the request; and

(b) Certifies that the appointing authority has, where applicable:

(1) Considered the requirements for the pay required to meet the need described in subparagraph (1) of paragraph (a) of subsection 1;

(2) Considered the qualifications of any other eligible person who is available for work for the purposes of subparagraph (2) of paragraph (a) of subsection 1;

(3) Ensured that the adjustment is feasible on the basis of its fiscal effects;

(4) Ensured that the adjustment will not cause inequity between current employees which would require adjustments in the steps of those employees which are not feasible on the basis of the fiscal effects of such adjustments; and

(5) Prepared and maintained an accurate record of the consideration of the factors listed in this section.

3. If an adjustment of steps pursuant to this section is approved by the Department of Personnel, the effective date of such an adjustment is the date on which a request that complies with subsection 2 is received by the Department of Personnel or the personnel office of the agency at which the employee who is receiving the adjustment is employed. If a request for an adjustment of steps is delayed because an administrative or clerical error prevented the delivery of the request, the effective date 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 must not exceed 6 months from the date on which the Department of Personnel receives the request.

4. An adjustment of steps which is made pursuant to subparagraph (1) of paragraph (a) of subsection 1 may be revoked when:

(a) The recruiting problem which caused the adjustment was due to the geographical location of the position; and

(b) The employee transfers to an area where a recruiting problem does not exist.

↳ The employee must be placed at the step he would have received if he had not received the adjustment.

(Added to NAC by Dep't of Personnel, eff. 8-14-90; A 7-1-94; R197-99, 1-26-2000; R147-01, 1-22-2002; R015-02, 5-2-2002)

#### **NAC 284.206 Special adjustments to pay. (NRS 284.065, 284.155, 284.175)**

1. The Department of Personnel may approve a special adjustment to the pay of an employee pursuant to this section. A request for a special adjustment to pay may be initiated by an employee, the appointing authority or the Department of Personnel. A special adjustment to pay does not constitute a promotion.

2. An employee may receive a special adjustment to pay equivalent to 5 percent of the employee's base rate of pay during any period in which:

(a) The employee works out of his class on a continuing basis and performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase, the employee must be assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification and carry out the duties and responsibilities for at least 16 consecutive workdays before the increase becomes effective. The adjustment to pay pursuant to this paragraph is effective retroactively, commencing on the date on which the employee

assumed the additional duties and responsibilities. The adjustment to pay must not continue for more than 6 months in any 12-month period unless:

(1) The employee is underfilling a position pursuant to NAC 284.437 and recruitment has failed to produce a sufficient number of applicants on the appropriate list.

(2) The duties and responsibilities that the employee has been carrying out have been assumed from one or more positions that have not been authorized to be filled because of a hiring freeze or fiscal emergency. A hiring freeze or fiscal emergency must be certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency that does not receive money from the State General Fund or the Nevada System of Higher Education, certified by the administrator of that agency or the System.

(3) The appointing authority submits a written request to the Director of the Department of Personnel accompanied by documentation justifying an extension of the 6-month period and certifies that money is available to pay for the continuation of the special adjustment to pay. The Director may authorize the continuation of the special adjustment to pay after receiving the request and documentation and determining that the extension of the 6-month period is a business necessity and in the best interest of the State.

(b) The employee is required to use bilingual skills or sign language for the deaf at least 10 percent of his work time.

(c) The employee is supervising other employees of the same or a higher grade if the supervision:

(1) Is not part of the supervision or management responsibilities for a program that is provided for in the class specification; and

(2) Includes, without limitation, selection, work assignment, training, work review, **reports on** performance and discipline of employees.

(d) The employee is required regularly to perform custodial work and clean up human bodily waste in a medical, clinical or inpatient facility.

(e) Except as otherwise provided in this paragraph, the employee is conducting a formal training program for employees. The training program must:

(1) Be conducted weekly;

(2) Consist of training on the job and in the classroom or training only in the classroom;

(3) Include a test to determine the employees' progress in the program; and

(4) Result in the award of a certificate of completion or advancement in a class series to the journey level.

↪ If an adjustment to pay is granted pursuant to this paragraph, the adjustment begins when the employee starts conducting the training program and ends when the training program is completed. An adjustment will not be granted if the duty to conduct training is clearly set forth in the class specification. Informal orientation given to new employees will not be considered for this special adjustment.

(f) The employee, if employed as a law enforcement officer, is assigned to motorcycle duty.

(g) The employee, if employed by the Department of Corrections, is responsible for the supervision of a group of inmates assigned to a work area of an institution and who is responsible for implementing security procedures, including, without limitation:

(1) Securing the work area from inmates who are not authorized to enter the work area;

(2) Accounting for all inmates who have been assigned to the work area; and

(3) Accounting for all materials, tools and equipment in the work area.

↪ The adjustment to pay pursuant to this paragraph will be granted only if such duties are not provided for in the class specification.

(h) The employee is authorized by the Legislature to receive such an adjustment to his pay.

3. An employee may receive a special adjustment to pay if he occupies a position in which the duties have been recognized through the classification process as being at a higher level, but who does not meet the minimum qualifications for the class. The special adjustment to the employee's pay must be equivalent to 2.5 percent of the employee's base rate of pay if the employee performs duties classified one grade higher than his current position, or 5 percent of the employee's base rate of pay if the employee performs duties classified two or more grades

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; **R007-11, 10-26-2011**)

#### 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, or equivalent compensatory time off, at the rate of 5 percent of his normal rate of pay for every hour he is on standby status.

4. Cash payment is the preferred method of compensation pursuant to this section, but compensatory time off, not to exceed the maximum allowed pursuant to subsection 3 of NAC 284.250, must be granted in lieu of each payment if the employee requests compensatory time and the agency approves the request.

5. 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)

**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 or compensatory time 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, overtime pay or compensatory time 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. A nonexempt employee who elects to receive compensatory time for the hours he works on a holiday must not exceed the limits on the accrual of compensatory time set forth in NAC 284.250.

[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) – (~~R022-11, 10-26-2011~~)

**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) Has a right of reemployment if his last *report on* performance was standard or better. The right of reemployment is based on the same formula as that used for other employees except that it extends only to the cost center or division from which his employment was terminated. This right must not operate to the detriment of a permanent full-time employee.

5. As used in this section, “cost center” means an organizational unit or group of organizational units within the Employment Security Division of the Department of Employment, Training and Rehabilitation.

(Added to NAC by Dep’t of Personnel, eff. 8-28-85; A 8-1-91; A by Personnel Comm’n by R183-03, 1-27-2004; **R007-11, 10-26-2011**)

**NAC 284.437 Underfilling of positions. (NRS 284.065, 284.155, 284.305)**

1. Except as provided in subsection 4, before a position may be underfilled it must be approved in writing by the Department of Personnel. The Department of Personnel will only approve a position to be underfilled if there are less than five eligible ranks on the appropriate list who are available for appointment.

2. Except as otherwise provided in subsection 4, if a position is approved to be underfilled, the Department of Personnel will begin a recruitment for the class of the position unless a recruitment within 12 months before the approval failed to produce sufficient applicants on the appropriate list.

3. Except as otherwise provided in subsection 4, the position may not continue to be underfilled for more than 30 working days after five or more ranks of eligible persons on the appropriate list who are available for appointment are certified to the appointing authority.

4. Subsections 1, 2 and 3 do not apply to the underfilling of a position:

(a) If the position is authorized at or below the journey level and an employee fills that position in a class which is a training or intermediate level preparatory to promotion;

(b) If an employee’s position is reclassified pursuant to NAC 284.138; or

(c) If an appointing authority has requested and received approval from the Department of Personnel to underfill a position because money is not available and that fact has been certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency which is not funded from the General Fund or the Nevada System of Higher Education, by the administrator of that agency or System.

5. An employee or former employee may not be selected through noncompetitive means to underfill a position allocated at grade 30 or higher if that position is allocated at a higher grade than the position the employee currently holds or, in the case of a former employee, the current grade of the position the person formerly held.

(Added to NAC by Dep’t of Personnel, eff. 8-28-85; A by Personnel Comm’n by R183-03, 1-27-2004)

**NRS 284.307 states, “Automatic advancement of person in training or preparatory position. An employee who holds a position classified as a training or preparatory position may advance automatically to a position having a higher classification after he meets the minimum qualifications for the higher classification and receives the recommendation of the appointing authority for that advancement.”**

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

1. For the purposes of this section, “automatic advancement” or “automatically advanced” means the progression of an employee to the authorized grade of the position,

but not exceeding the journey level. Automatic advancement occurs without recruitment and may occur without examination. It is based upon the employee's:

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

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

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

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

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

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

[Personnel Div., Rule I § C subsec. 23, eff. 4-14-76; + Rule III part § G, eff. 8-11-73; A 4-14-76]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 11-16-95; R147-01, 1-22-2002)—(Substituted in revision for NAC 284.190); A by Personnel Comm'n by R141-07, 1-30-2008)

**NAC 284.439 Reports of appointments. (NRS 284.065, 284.121, 284.155)** Reports of appointments made pursuant to NRS 284.121 must include the type of position, the type of appointment, and the employee's status of appointment as follows:

1. The type of classified position must be:

- (a) Permanent;
- (b) Special project;
- (c) Temporary;
- (d) Seasonal; or
- (e) Intermittent.

2. The type of appointment to a classified position must be:

- (a) Demotion;
- (b) Reemployment;
- (c) Transfer;
- (d) Reappointment;
- (e) Promotion;
- (f) Reinstatement; or
- (g) New hire.

3. The status of appointment in a classified position must be:

- (a) Probationary for a nonpermanent employee;
- (b) Permanent;
- (c) Trial period for a permanent employee;
- (d) Provisional;
- (e) Emergency;
- (f) Temporary; or
- (g) Special disabled.

4. In the unclassified service, the type of position, type of appointment and status of appointment are each "unclassified."

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 8-1-91; 7-6-92; A by Personnel Comm'n by R183-03, 1-27-2004)—(Substituted in revision for NAC 284.383)

## REPORTS ON PERFORMANCE

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

1. The appointing authorities and other supervising officers of the various state departments, agencies and institutions, after consultation with the Director, shall establish standards of work performance for each class of positions. Each appointing authority shall provide each of its employees with a copy of the standards for his position.
2. The Director shall maintain service records of performance efficiency, character and conduct by a system of service ratings based upon those standards.
3. The Commission shall adopt regulations with respect to service ratings, and prescribe the extent to which service ratings must be considered in determining the advisability of transfers, the promotion of an employee to a higher class, the question of demotion or dismissal of any employee, increases and decreases in salary of an employee within the salary range established under this chapter and in all other decisions relating to the status of employees.”

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

1. A standard for the performance of work is a written statement prepared on a form prescribed by the Department of Personnel of the results or behavior, or both, expected of an employee when the job elements of the employee’s position are satisfactorily performed under existing working conditions. Standards are required for all classified positions.
2. The appointing authority is responsible for ensuring that each position has standards and that each employee is evaluated using those standards. The supervisor has responsibility for establishing the initial standards, but the employee must be given the opportunity to provide comments when the standards for his position are revised.
3. The appointing authority has final approval of the standards for a position.
4. Standards must be reviewed annually and amended when appropriate.
5. Each employee must be provided with a copy of the standards for his position.
6. As used in this section, “job elements” means the principal assignments, job tasks, goals, objectives, responsibilities or related factors, or any combination thereof.

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

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

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

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

1. Report to the Director, in writing, the efficiency of his subordinates and employees, and other information, in such manner as the Commission may prescribe by regulation.
2. File reports with the Director on the performance, during the probationary period, of each of his employees who holds a position in the classified service. A report must be filed at the end of the 2nd and 5th months of employment if the probationary period is 6 months, or at the end of the 3rd, 7th and 11th months of employment if the probationary period is 12 months.
3. File a report annually with the Director on the performance of each of his employees who holds a position in the classified service and has attained permanent status. The report must be filed at the end of the 12th month next following the attainment of permanent status,

and at the end of every 12th month thereafter. If the report is not filed on or before the required date, the performance of the employee shall be deemed to be standard.

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

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

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

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

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

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

4. *If the performance of an employee falls below standard, his or her supervisor shall inform the employee promptly and specifically of the deficiencies in the performance of the employee regardless of whether a report on performance of the employee is completed or filed.*

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

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

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

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

7. Except as otherwise provided in subsection 8, the preparation of each report on performance must include a discussion between the employee and his immediate supervisor. Within 10 working days after the discussion takes place:

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

(b) If the employee *contests* the report on performance and requests a review, he must respond to the report in writing, identify the specific points of *contention*, if such specificity is provided, and return the response to his supervisor. *Except as otherwise provided in this paragraph, the reviewing officer shall respond in writing on a form prescribed by the Department of Personnel within 10 working days after the supervisor receives the request for review. If the reviewing officer is not the appointing authority, the reviewing officer must submit to the appointing authority a recommendation to uphold or modify the report on performance. The appointing authority shall review the recommendation of the reviewing officer regarding the contested report on performance and render a final decision to the employee within 10 working days after receiving the recommendation.*

8. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 7 because of an extended absence, the immediate supervisor of the employee shall

cause the report to be mailed to the employee. Within 10 working days after the date on which the employee receives the report:

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

(b) If the employee *contests* the report on performance and requests a review, he must respond to the report in writing, identify any specific point of *contention*, if the report provides such specificity, and mail his response to his supervisor. ***Except as otherwise provided in this paragraph, the reviewing officer shall respond in writing on a form prescribed by the Department of Personnel within 10 working days after the supervisor receives the request for review. If the reviewing officer is not the appointing authority, the reviewing officer must submit to the appointing authority a recommendation to uphold or modify the report on performance. The appointing authority shall review the recommendation of the reviewing officer regarding the report on performance and render a final decision to the employee within 10 working days after receiving the recommendation.*** For the purposes of this paragraph, a report on performance or request for review is deemed to have been received on the third day after the date on which the report or request is postmarked.

**9.** A copy of each report on performance and, if applicable, any written response to such a report ***requested by an employee pursuant to subsection 7 or 8*** must be provided to the employee and filed with the Department of Personnel.

**10.** If any written comments are added to a report on performance after a copy of the report has been provided to the employee pursuant to subsection **9**:

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

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

**11.** An employee and his appointing authority may agree in writing to extend one or more of the periods prescribed in subsection **7 or 8**.

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

[Personnel Div., Rule IX § A, eff. 8-11-73; A 12-28-75]—(NAC A by Dep't of Personnel, 10-26-84; 9-17-87; 10-18-89; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R197-99, 1-26-2000; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002; R096-03, 10-30-2003; R144-05, 12-29-2005; R174-08, 9-29-2008; T006-11, 3-25-2011; **R056-10, 10-26-11; R007-11, 10-26-11**)

**NAC 284.474 Employee entitled to copy of report. (NRS 284.065, 284.155, 284.340)** Each employee must be given a copy of the report prepared by the supervisor measuring his performance and development on the job. The report will not become official until signed by the rater. If requested, a copy must be provided to the employee at the time of the discussion between the supervisor and the employee. After the processing has been completed, a copy with all appropriate signatures will be provided the employee.

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

**NAC 284.478 Appeal of a contested report on performance. (NRS 284.065, 284.155, 284.384)** ***Upon the completion of the review process conducted pursuant to NAC 284.470, a permanent employee may appeal a contested report on performance through the procedure for the adjustment of a grievance pursuant to NAC 284.658 to 284.6957, inclusive.***

[Personnel Div., Rule IX § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-18-89; R197-99, 1-26-2000; T006-11, 3-25-2011; **R007-11, 10-26-2011**)

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- (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. The total number of hours of furlough leave required to be taken in a fiscal year by an employee who is initially appointed to state service after the commencement of the fiscal year is:***

***(a) For a full-time employee, the equivalent of 4 hours of furlough leave for each full month remaining in the fiscal year.***

***(b) For a part-time employee, the equivalent of the portion of 4 hours of furlough leave for each full month remaining in the fiscal year that is proportional to the average number of hours worked by the part-time employee.***

***↳ If such an employee is appointed on a day other than the first day of a month, the month in which the employee is appointed is not included in the calculation set forth in this subsection.***

***2. An appointing authority may 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 if the appointing authority determines that the minimum increment is necessary based on business necessity. 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.***

***3. 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.***

4. *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.*

5. *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 delay in filling the position that the employee holds.*

6. *An appointing authority shall not require or allow an employee to take more than 12 hours of furlough leave in a workweek.*

7. *Unless approved in advance by the Director of the Department of Personnel 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, an appointing authority shall not require or allow an employee to work additional time during the same workweek in which the employee takes furlough leave if the additional time would be:*

(a) *Overtime for which the employee would be entitled to be compensated; or*

(b) *Added regular time for work as a part-time employee.*

8. *An employee who leaves state service will not be reimbursed for any furlough leave taken.*

9. *Any furlough leave taken by an employee 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 which an employee is entitled to take under the Family and Medical Leave Act.*

10. *As used in this section, "furlough leave" means the unpaid leave required to be taken pursuant to the provisions of Senate Bill No. 505, chapter 374, Statutes of Nevada 2011, at page 2207.*

*(Added to NAC by Personnel Comm'n by R021-11, eff. 10-31-2011)*

***INFORMATIONAL NOTE: The furlough regulation becomes effective October 31, 2011, and expires 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 vacation time or to work certain hours prohibited; notice to employer; dissuasion from service as juror.**

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

(a) An employer; or

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

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

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

- (a) Wages and benefits lost as a result of the violation;
- (b) An order of reinstatement without loss of position, seniority or benefits;
- (c) Damages equal to the amount of the lost wages and benefits;
- (d) Reasonable attorney's fees fixed by the court; and
- (e) Punitive or exemplary damages in an amount not to exceed \$50,000.

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

- (a) Require the person to use sick leave or vacation time; or
- (b) Require the person to work:

(1) Within 8 hours before the time at which he is to appear for jury duty; or

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

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

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

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

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

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

(a) An employer; or

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

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

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

(a) On a jury; or

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

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

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

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

4. ***In accordance with NRS 6.190, an*** agency shall attempt to adjust the working hours of employees who work night shifts and are called as witnesses or for jury duty during the day. If an agency feels this is impractical, in the case of jury duty, it shall petition the court to excuse the juror.

[Personnel Div., Rule VII § E subsec. 5, eff. 8-11-73]—(NAC A by Dep't of Personnel, 12-13-83, 10-26-84; 5-27-86; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005; **R023-07, 4-17-2008**)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Volunteer ambulance drivers or attendants,

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

2. As used in this section, “volunteer ambulance driver or attendant” means a person who is a driver of or attendant on an ambulance owned or operated by:

(a) A nonprofit organization that provides volunteer ambulance service in any county, city or town in this state; or

(b) A political subdivision of this state.”

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

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

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

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

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

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

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

1. An appointing authority may grant administrative leave with pay to an employee:

(a) To relieve the employee of his duties during the active investigation of a suspected criminal violation or the investigation of alleged wrongdoing;

(b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his position;

(c) For up to 30 days to remove the employee from the *workplace* when he has committed or threatened to commit an act of violence;

(d) For up to 2 hours to donate blood; or

(e) To relieve the employee of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.

2. The appointing authority, upon approval of the Risk Management Division of the Department of Administration, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.

3. ***If an employee is granted administrative leave with pay pursuant to subsection 1 or 2, the employee must be available:***

(a) ***By telephone to the supervisor of the employee; and***

(b) ***To report to a work site or another location, as directed by the supervisor of the employee,***

***↳ during regular business hours.***

4. Except as otherwise provided in subsection 5, an appointing authority or the Department of Personnel may grant administrative leave with pay to an employee for any of the following purposes:

(a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the State but which do not require him to participate or attend in his official capacity as a state employee.

(b) Closure of the employee's office or work site caused by a natural disaster, ***pandemic*** or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

(c) ***Closure, as a result of a pandemic, of a school or a center of facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result of a pandemic, or a program attended by the employee's dependent child. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.***

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

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

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

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

(a) The employee requests the administrative leave for a period of time that is reasonably needed for him to testify at the hearing or meeting;

(b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and

(c) The absence of the employee will not cause an undue hardship to the operations of his appointing authority or adversely impact the provision of services to clients or to the public.

6. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:

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

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

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

(d) Up to 8 hours for preparation for ***all*** hearings regarding ***a*** suspension, demotion or dismissal ***of the employee*** as provided in ***section 2 of LCB File No. R063-09.***

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

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; A by Personnel Comm'n by R038-03, 10-30-2003; R183-03, 1-27-2004; R145-05, 12-29-2005; R141-07, 1-30-2008; **R061, 10-27-2009; R081-09, 10-27-2009; R063-09, 11-25-2009; 058-10, 10-15-2010**)

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

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

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

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

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

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

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

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

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

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

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

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

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

1. An unauthorized and unreported absence must be considered an absence without leave and a deduction of pay must be made for the absence.
2. An *unauthorized or* unreported absence may be considered an absence without leave, and a deduction of pay may be made for the absence.
3. An employee who has an unauthorized or unreported absence may be subject to disciplinary action pursuant to **NAC 284.646 or** NAC 284.650.
4. A deduction from the pay of an exempt classified employee or exempt unclassified employee must be made in increments of a full workday.

[Personnel Div., Rule VII § G, eff. 8-11-73]—(NAC A by Dep’t of Personnel, 10-26-84; 1-26-87; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm’n by R145-05, 12-29-2005; **R062-09, 10-27-2009**)

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

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

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

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

**use of any product outside premises of employer which does not adversely affect job performance or safety of other employees.**

1. It is an unlawful employment practice for an employer to:

(a) Fail or refuse to hire a prospective employee; or

(b) Discharge or otherwise discriminate against any employee concerning his compensation, terms, conditions or privileges of employment,

**because he engages in the lawful use in this state of any product outside the premises of the employer during his nonworking hours, if that use does not adversely affect his ability to perform his job or the safety of other employees.”**

**NAC 284.638 Warnings and written reprimands. (NRS 284.065, 284.155, 284.383)**

1. If an employee's conduct comes under one of the causes for action listed in NAC 284.650, the supervisor shall inform the employee promptly and specifically of the *conduct*.

2. If appropriate and justified, following a discussion of the matter, a reasonable period of time for improvement or correction may be allowed before initiating disciplinary action.

3. In situations where an oral warning does not cause a correction of the condition or where a more severe initial action is warranted, a written reprimand prepared on a form prescribed by the Department of Personnel must be sent to the employee and a copy placed in the employee's personnel folder which is filed with the Department of Personnel.

[Personnel Div., Rule XII § A, eff. 8-11-73; + Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 11-16-95; *R056-10, 10-26-2011*)

**NRS 284.385 Dismissals, demotions and suspensions.**

1. An appointing authority may:

(a) Dismiss or demote any permanent classified employee when he considers that the good of the public service will be served thereby.

(b) Except as otherwise provided in NRS 284.148, suspend without pay, for disciplinary purposes, a permanent employee for a period not to exceed 30 days.

2. A dismissal, involuntary demotion or suspension does not become effective until the employee is notified in writing of the dismissal, involuntary demotion or suspension and the reasons therefor. The notice may be delivered personally to the employee or mailed to him at his last known address by registered or certified mail, return receipt requested. If the notice is mailed, the effective date of the dismissal, involuntary demotion or suspension shall be deemed to be the date of delivery or if the letter is returned to the sender, 3 days after mailing.

3. No employee in the classified service may be dismissed for religious or racial reasons.

**INFORMATIONAL NOTE: SAM 1702.0 provides: “Prior to the imposition of any suspension, demotion or termination of an employee, an appointing authority must first consult with the Attorney General regarding the proposed discipline.”**

**NAC 284.642 Suspensions and demotions. (NRS 284.065, 284.155, 284.383, 284.385)**

1. If other forms of disciplinary or corrective action have proved ineffective, or if the seriousness of the offense or condition warrants, an employee may be:

(a) Suspended without pay for a period not to exceed 30 calendar days for any cause set forth in this chapter; or

(b) Demoted for any cause set forth in this chapter.

2. An exempt classified employee may only be suspended without pay in increments of one or more full workweeks.

3. The rights and procedures set forth in NAC 284.656 *and sections 2 and 3 of LCB File No. R063-09* apply to any disciplinary action taken pursuant to this section.

[Personnel Div., Rule XII § B, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; R147-01, 1-22-2002; A by Personnel Comm'n by R147-06, 12-7-2006; **R063-09, 11-25-09**)

**NAC 284.646 Dismissals. (NRS 284.065, 284.155, 284.383, 284.385)**

1. An appointing authority may dismiss an employee for any cause set forth in NAC 284.650 if:

(a) The agency with which the employee is employed has adopted any rules or policies which authorize the dismissal of an employee for such a cause; or

(b) The seriousness of the offense or condition warrants such dismissal.

2. An appointing authority may immediately dismiss an employee for the following causes, unless the conduct is authorized pursuant to a rule or policy adopted by the agency with which the employee is employed:

(a) Intentionally viewing or distributing pornographic material at the premises of the workplace, including, without limitation, intentionally viewing or distributing pornographic material on any computer owned by the State, unless such viewing or distributing is a requirement of the employee's position.

(b) Unauthorized release or use of confidential information.

(c) Participation in sexual conduct on the premises of the workplace, including, without limitation, participation in sexual conduct in a vehicle that is owned by the State.

(d) Absence without approved leave for 3 consecutive days during which the employee is scheduled to work.

(e) The suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license if the possession of the professional or occupational license, certificate or permit or driver's license is a requirement of the position at the time of appointment as stated in the standards of work performance, essential functions or class specifications for the position, or in other documentation provided to the employee at the time of appointment, or required thereafter pursuant to federal or state law.

(f) Threatening another person with a deadly weapon during any time in which the employee is:

(1) On the premises of the workplace; or

(2) Conducting state business or otherwise performing any duties of employment.

(g) Stealing or misappropriating any property that is owned by the State or located on state property.

(3) The rights and procedures set forth in NAC 284.656 *and sections 2 and 3 of LCB File No. R063-09* apply to any dismissal made pursuant to this section.

(4) As used in this section:

(a) "Material" has the meaning ascribed to it in NRS 201.2581.

(b) "Nudity" has the meaning ascribed to it in NRS 201.261.

(c) "Pornographic material" means material that, all or in part, contains any description or representation of nudity, sexual conduct, sexual excitement or sado-masochistic abuse which predominantly appeals to the prurient, shameful or morbid interest of adults and is without serious literary, artistic, political or scientific value.

(d) "Sado-masochistic abuse" has the meaning ascribed to it in NRS 201.262.

(e) "Sexual excitement" has the meaning ascribed to it in NRS 201.264.

[Personnel Div., Rule XII § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; R147-06, 12-7-2006; **R063-09, 11-25-09**)

**NAC 284.650 Causes for disciplinary action. (NRS 284.065, 284.155, 284.383)**  
Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violates a provision of NAC 284.653 or 284.738 to 284.771, inclusive.

(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, **10-26-2011**)

**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 circumstances**

*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."

## ADJUSTMENT OF GRIEVANCES

### **NRS 284.384 states, "Adjustment of certain grievances: Regulations; appeal to Employee-Management Committee; representation of employee"**

1. The Commission shall adopt regulations which provide for the adjustment of grievances for which a hearing is not provided by NRS 284.165, 284.245, 284.3629, 284.376 or 284.390. Any grievance for which a hearing is not provided by NRS 284.165, 284.245, 284.3629, 284.376 or 284.390 is subject to adjustment pursuant to this section.

2. The regulations must provide procedures for:

(a) Consideration and adjustment of the grievance within the agency in which it arose.

(b) Submission to the Employee-Management Committee for a final decision if the employee is still dissatisfied with the resolution of the dispute.

3. The regulations must include provisions for:

(a) Submitting each proposed resolution of a dispute which has a fiscal effect to the Budget Division of the Department of Administration for a determination by that Division whether the resolution is feasible on the basis of its fiscal effects; and

(b) Making the resolution binding.

4. Any grievance which is subject to adjustment pursuant to this section may be appealed to the Employee-Management Committee for a final decision.

5. The employee may represent himself at any hearing regarding a grievance which is subject to adjustment pursuant to this section or be represented by an attorney or other person of the employee's own choosing.

6. As used in this section, "grievance" means an act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement."

### **NRS 241.033 states in part, "Meeting to consider character, misconduct, competence or health of person..."**

1. A public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:

(a) Given written notice to that person of the time and place of the meeting; and

(b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be:

(1) Delivered personally to that person at least 5 working days before the meeting; or

(2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.

(b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

(1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and

(2) A statement of the provisions of subsection 4, if applicable."

**NAC 284.658 “Grievance” defined. (NRS 284.065, 284.155, 284.384)**

1. As used in NAC 284.341 and 284.658 to 284.697, inclusive, a “grievance” means an act, omission or occurrence which a permanent employee feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement ***or a contested report on performance***. The act, omission or occurrence must be established with factual information, including, but not limited to, the date, time and place of the act, omission or occurrence and the names of other persons involved.

2. For the purposes of NAC 284.341 and 284.658 to 284.697, inclusive, the term “grievance” does not include any grievance for which a hearing is provided by NRS 284.165, 284.376 or 284.390.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep’t of Personnel, 8-28-85; 10-18-89; 8-1-91; 3-27-92; R082-00, 8-2-2000; A by Personnel Comm’n by R023-05, 10-31-2005; ***R007-11, 10-26-2011***)

**NAC 284.662 Providing assistance to employee. (NRS 284.065, 284.155, 284.384)**

1. An employee filing for a review of a grievance may be assisted or represented by any person of his choosing, if the person agrees to act in this capacity, at any step of the procedure except the initial informal discussion with his immediate supervisor.

2. If the assistant is a state employee, he may only assist on his own time.

3. An employee may not be discriminated against in recruitment, examination, appointment, training, promotion, retention, classification or any other personnel action for informally seeking or formally filing a request to have his grievance reviewed, testifying on behalf of another employee, helping another employee prepare a grievance report or acting as a representative of any employee requesting a review of a grievance.

4. To assist in resolving an employee’s grievance, the resources and consultation available from the Department of Personnel and the personnel offices of the agency must be made available to all parties.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep’t of Personnel, 10-26-84; A by Personnel Comm’n by R096-03, 10-30-2003)

**NAC 284.678 Submission, form and contents of grievance; informal discussions. (NRS 284.065, 284.155, 284.384)**

1. Except as otherwise provided in subsections 3 and 4 and NAC 284.692, an employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.

2. If the employee submits a letter, it must include:

- (a) His name;
- (b) His most recent date of hire;
- (c) His position;
- (d) His department, division and section;
- (e) His mailing address;
- (f) His business telephone number;
- (g) A statement that he is filing a formal grievance;
- (h) The date, time and place of the event or the date the employee learns of the event leading to the grievance;
- (i) A concise statement of his grievance;
- (j) A detailed description of his grievance, including the names of other persons involved in the event, if any;
- (k) A proposed solution of his grievance;

- (l) His signature; and
- (m) The date he signed the statement.

3. Except as otherwise provided in NAC 284.692, if a grievance relates to a **contested report on performance**, an employee must file a grievance that identifies the specific points of **contention**, if such specificity is provided, not later than 10 working days after the date the employee receives **a decision regarding the review conducted by the appointing authority pursuant to NAC 284.470**. Except as otherwise provided in NAC 284.692, if the grievance relates to the failure of a reviewing officer **or appointing authority** to respond to a request for a review within the time required by NAC 284.470, an employee must file a grievance not later than 10 working days after the date on which the time for such a response expired.

4. A grievance filed pursuant to subsection 3 must be filed with:

- (a) The person who is at the next appropriate level of the grievance process; or
- (b) If the person who is at the next appropriate level of the grievance process is the reviewing officer or other person who prepared or reviewed the **report on performance**, the person who is at the next appropriate level of the grievance process **above such reviewing officer or other person who prepared or reviewed the report on performance**.

5. **A grievance regarding a report on performance must be filed with the highest administrator in the department pursuant to NAC 284.690 before being submitted to the Committee pursuant to NAC 284.695.**

[Personnel Div., Rule XV § A part subsec. 1, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; 3-23-94; R197-99, 1-26-2000; A by Personnel Comm'n by R023-05, 10-31-2005; R191-09, 4-20-2010; T006-11, 3-25-2011; **R007-11, 10-26-2011**)

**NAC 284.680 Date of receipt of grievance. (NRS 284.065, 284.155, 284.384)** For the purposes of NAC 284.682, 284.686 and 284.690, a grievance is deemed to have been received at each step in the grievance procedure:

1. On the date on which the employee or his chosen representative personally delivers the grievance, transmits it by facsimile machine **or submits it via the Internet using the Employee Incident Tracking System within the Nevada Employee Action and Timekeeping System developed by the Department of Personnel, which is available at <https://nvapps.state.nv.us/NEATS/admin/Home.aep>**; or

2. If the employee mails the grievance, 3 days after:

- (a) The date on which the grievance was postmarked; or
- (b) The date on the return receipt if sent by certified mail.

(Added to NAC by Personnel Comm'n by R065-98, 7-24-98; **A by Personnel Comm'n by R044-2008, 8-26-2008**)

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

1. If the **employee and the employee's appointing authority agree that the** correction of the matter under appeal is beyond the control of a level of supervision contemplated in this procedure or if the **Director or his or her designee, in consultation with the employee's appointing authority**, determines that the submission of the grievance to the supervisor would be a useless act, the aggrieved employee may appeal directly to the next appropriate level.

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

(a) He receives notification of the action; or

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

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

[Personnel Div., Rule XV § A part subsec. 1, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005; **R064-09, 10-27-2009**)

**NAC 284.686 Submission of grievance to head of division or department. (NRS 284.065, 284.155, 284.384)**

1. Except as otherwise provided in NAC 284.692, if, within 10 working days after the employee's grievance is deemed to have been received by his immediate supervisor, the employee has not received satisfactory relief, he may forward the grievance to the head of the major division of the department in which he works. In those cases where a department is not subdivided into divisions, he may forward his request directly to the highest administrator in the department.

2. Additional managers or supervisors may become involved or a review committee may make a recommendation to the administrator of the agency.

[Personnel Div., Rule XV § A subsecs. 2 & 3, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005)

**NRS 284.068 states, "Employee-Management Committee... Creation; appointment and terms of members.**

1. The Employee-Management Committee, consisting of six members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Committee:

(a) Three persons to represent management within the Executive Department of State Government, and three persons to serve as alternates for them.

(b) Three persons to represent employees within the Executive Department of State Government, and three persons to serve as alternates for them.

3. The representatives of employees and their alternates must be selected from a list, supplied by state employees or one or more state employees' groups, or any combination of these, containing twice as many names as there are vacancies to be filled.

4. The members of the Committee and the alternates shall serve for 2 years."

**NRS 284.071 states, "Employee-Management Committee... Chairman; rules; meetings; secretarial services.**

1. The Chairman of the Employee-Management Committee must be chosen by a majority vote of the members.

2. The Committee shall adopt such rules as it deems necessary for its own management.

3. The Committee shall meet at least once every 3 months and at such other times as the Chairman may designate.

4. The Department shall provide secretarial services for the Committee."

**NRS 284.073 states, "Employee-Management Committee: Duties. The Employee-Management Committee shall:**

1. Serve in an advisory capacity to the Governor, the Commission and the department with respect to all matters of personnel administration and relations between management and employees.

2. Receive, consider and make recommendations on matters relating to personnel administration, policy and procedures.

3. Provide a forum for the hearing of employees' suggestions, complaints or disciplinary problems.

4. Provide a means of communication for disseminating information to employees regarding the personnel program.

5. Hold hearings, when requested, and make final decisions for the adjustment of grievances as provided by the regulations of the Commission."

**NAC 284.690 Filing of grievance with administrator of department; action by administrator. (NRS 284.065, 284.155, 284.384)**

1. Except as otherwise provided in NAC 284.692:

(a) If the employee has not received satisfactory relief within 10 working days after his grievance is deemed to have been received by the head of the division, he may file his grievance with the highest administrator of the department; and

(b) Within 10 working days after the employee's grievance is deemed to have been received by the highest administrator of the department, the administrator or the designee of the administrator shall:

(1) Gather information regarding the grievance;

(2) Render a decision resolving the grievance, including, without limitation, denying the grievance; and

(3) Notify the employee of the resolution.

2. In rendering a decision concerning a *report on* performance, an administrator shall address the findings of fact to the specific points of *contention* referred to in the grievance of the employee.

3. Within the established time limitations, including any extensions to those time limitations obtained pursuant to NAC 284.692, the highest administrator may appoint a person or committee composed of managers and employees to assist in the finding of facts and recommending a course of action.

[Personnel Div., Rule XV § A subsec. 4, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 10-18-89; A by Personnel Comm'n by R065-98, 7-24-98; R023-05, 10-31-2005; R118-10, 5-5-2011; *R007-11, 10-26-2011*)

**NAC 284.692 Agreement for extension of time to file grievance or take required action. (NRS 284.065, 284.155, 284.384)**

1. Except as otherwise provided in subsection 3, the time limit for filing a grievance and for taking any other action required by either party at any step in the grievance procedure may be extended by the mutual agreement of the employee who may file the grievance and the appointing authority or his designated representative.

2. An agreement to an extension of time entered into pursuant to subsection 1 must be:

(a) Made in writing on a form prescribed by the Department of Personnel; and

(b) Signed by:

(1) The employee; and

(2) The appointing authority or his designated representative.

3. The provisions of this section do not apply to a grievance that has been submitted to the Committee.

(Added to NAC by Personnel Comm'n by R023-05, eff. 10-31-2005)

**NAC 284.695 Submission of grievance to Employee-Management Committee. (NRS 284.065, 284.155, 284.384)**

If an employee is not satisfied with the decision rendered by the highest administrator in the department pursuant to NAC 284.690, he may request consideration of the grievance by the Committee pursuant to its rules. The employee must submit his request to the Committee within 10 working days following his receipt of the decision from the administrator. The request must include all appropriate documentation, a citation of the statutes and regulations pertinent to the grievance, if any, the specific points of disagreement *or contention* and supporting evidence. The Committee will, within 45 working days after the receipt of the employee's request:

1. Answer the request without a hearing if the case is based upon the Committee's previous decisions or does not fall within its jurisdiction; or

2. Hold a hearing to determine the proper disposition of the request. If a hearing is held, the Committee will:

(a) Except as otherwise provided in paragraph (b), provide at least 21 working days' written notice to all parties concerned.

(b) Provide notice to the employee by:

(1) Sending a written notification by certified mail, return receipt requested, at least 21 working days before the hearing; or

(2) Personally delivering a written notification to the employee at least 5 working days before the hearing, if the Chairman approves of such notice.

(c) Render a decision within 45 days after the closure of the hearing.

[Personnel Div., Rule XV § A part subsec. 6, eff. 8-11-73; A 6-9-74; 7-3-76; 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 10-18-89; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 3-27-92; 11-12-93; 3-23-94; 11-16-95; R118-10, 5-5-2011; **R007-11, 10-26-2011**)

**NAC 284.6955 Hearing before Employee-Management Committee: Procedure. (NRS 284.065, 284.155, 284.384)** If a hearing is held to determine the proper disposition of a grievance pursuant to NAC 284.695, the following procedure must be followed:

1. Each party shall submit to the Chairman of the Committee or his designated representative 10 copies of the set of documents and materials to be presented at the hearing or any rescheduled hearing. These copies must be submitted not less than 12 working days before the scheduled date of the hearing. The Chairman or his designated representative shall forward one copy of the set of the documents and materials of each party to the other party.

2. If the employee fails to comply with subsection 1, the Chairman or his designated representative may reschedule the hearing to the next time designated for such hearings, but in no case earlier than 20 working days after the originally scheduled date of the hearing. If the employer fails to comply with subsection 1, the Chairman or his designated representative may reschedule the hearing at his discretion. If the employee fails to comply with the provisions of subsection 1 for a rescheduled hearing, his grievance must be dismissed with prejudice unless he can show in writing to the Committee's satisfaction that the reason for noncompliance was beyond his control.

3. Each document or material offered in evidence must be marked as follows:

(a) Documents or materials presented by the employee must be marked at the bottom of the page as "Exhibit \_\_\_\_" indicated by consecutive arabic numerals, beginning with the number "1."

(b) Documents or materials presented by the employer must be marked at the bottom of the page as "Exhibit \_\_\_\_" indicated by consecutive letters of the English alphabet, beginning with the letter "A." If the employer offers more than 26 exhibits, the 27th exhibit must be marked as "Exhibit AA," the 28th exhibit as "Exhibit BB," and so forth.

4. All evidence offered at the hearing must be relevant and bear upon the grievance.

5. Each person who testifies at the hearing shall state his name, address, and occupation for the record before testifying.

6. It is the responsibility of each party to arrange for the appearance of all necessary witnesses. The Committee may request additional witnesses or information as it deems necessary.

7. The grievance must be heard in the following order:

(a) Opening statement for the employee.

(b) Opening statement for the employer.

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

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

(e) Closing statement for the employee.

(f) Closing statement for the employer.

8. Upon proper recognition by the Chairman or his designated representative, any member of the Committee may ask a question of a party or witness at any time during the hearing.

(Added to NAC by Personnel Comm'n, eff. 8-1-91; A by Dep't of Personnel, 11-16-95)

**NAC 284.6957 Hearing before Employee-Management Committee: Continuance. (NRS 284.065, 284.155, 284.384)**

1. A party may request a continuance of a hearing to determine the proper disposition of a grievance pursuant to NAC 284.695 by submitting a request for a continuance to the Chairman of the Committee or his designated representative at least 12 working days before the scheduled

hearing, unless the party received personal notice of the hearing less than 21 working days before the hearing pursuant to subsection 2 of NAC 284.695, in which case he may request a continuance as long as the request is made at least 4 working days before the scheduled hearing.

2. The Committee may grant a request for a continuance if good cause is shown.

(Added to NAC by Dep't of Personnel, eff. 3-27-92; A 11-16-95)

**NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)**

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:

(a) Report the alleged discrimination to:

(1) The division of the Department of Personnel that investigates sexual harassment and discrimination;

(2) The Attorney General;

(3) The employee's appointing authority;

(4) An equal employment opportunity officer;

(5) A personnel representative of the department in which the employee is employed; or

(6) The office charged with enforcing affirmative action within the appropriate university, state college or community college which is part of the Nevada System of Higher Education;

(b) Use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive; or

(c) File a complaint with:

(1) The Nevada Equal Rights Commission pursuant to NRS 613.405; or

(2) The United States Equal Employment Opportunity Commission.

2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95; R023-05, 10-31-2005)

**NAC 284.697 When resolution of grievance becomes binding. (NRS 284.065, 284.155, 284.384)**

1. Except as otherwise provided in subsection 2, the resolution of a grievance is binding when:

(a) There is an agreement between the person filing the grievance and the appointing authority or the designated representative of the employing agency; or

(b) The Committee renders a final decision.

2. The appointing authority or the designated representative of the employing agency shall submit each proposed resolution of a grievance which has a fiscal effect to the Budget Division of the Department of Administration for a determination of whether the resolution is feasible on the basis of its fiscal effects. The resolution is binding only if it is so found.

(Added to NAC by Dep't of Personnel, eff. 8-28-85; A by Personnel Comm'n by R030-02, 5-2-2002)

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**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, **10-26-2011**)

**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:

(a) *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; and*

(b) *Any supplementary standards and procedures established by the Commission.*

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 by 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, 10-26-2011*)

**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;

(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. *Except as otherwise provided in subsection 3, before requiring an employee to submit to a screening test, the supervisor of the employee must complete a form provided by the Department of Personnel.*

3. *The provisions of subsection 2 do not apply if an appointing authority requests an employee to submit to a screening test pursuant to paragraph (b) of subsection 2 of NRS 284.4065. As used in subsection 2 of NRS 284.4065, "substantial damage to property" includes, but is not limited to:*

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

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

(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, *10-26-2011*)

**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.