

Steve Sisolak
Governor



Deonne E. Contine
Director

Robin Hager
Deputy Director

Peter Long
Administrator

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management

209 E. Musser Street, Suite 101 | Carson City, Nevada 89701
Phone: (775) 684-0150 | <http://hr.nv.gov> | Fax: (775) 684-0122

MEMORANDUM
HR#56-19

November 6, 2019

TO: DHRM Listserv Recipients
Nevada County Libraries
State Library and Archives

FROM: Peter Long, Administrator *Peter Long*
Division of Human Resource Management

SUBJECT: NOTICE OF WORKSHOP – Amendments to NAC 284

The regulation changes included with this memorandum are being proposed for permanent adoption. In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 9:00 a.m. on December 3, 2019, at the Legislative Counsel Bureau, Room 2135, 401 S. Carson Street, Carson City, Nevada with videoconferencing to the Grant Sawyer Building, Room 4412E, 555 E. Washington Avenue, Las Vegas, Nevada.

Please circulate or post the attached *Notice of Workshop to Solicit Comments on Proposed Permanent Regulations* along with the text of the proposed regulations.

PL:mg

Attachments



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REGULATIONS WORKSHOP

DATE: December 3, 2019
TIME: 9:00 a.m.
PLACE: Legislative Counsel Bureau Grant Sawyer Building
Room 2135 Room 4412E
401 S. Carson Street 555 E. Washington Avenue
Carson City, Nevada Las Vegas, Nevada

The sites will be connected by videoconference. The public is invited to attend at either location.

AGENDA

1. Call to Order
2. Review of proposed changes to NAC 284:

<u>NAC #</u>	<u>Regulation Leadline</u>
284.650	Causes for disciplinary or corrective action.
284.726	Access to confidential records.

3. Adjournment

This workshop will be conducted in accordance with the Open Meeting Law (NRS 241.020).

NOTE: Comments by the general public will be taken following a description of the proposed regulation changes. Public comment may be limited to 15 minutes per person at the discretion of the staff member conducting the workshop.

If anyone has questions or wishes to discuss in further detail, the items scheduled for this regulations workshop, please contact Michelle Garton at (775) 684-0136.

Notices have been posted on the Division of Human Resource Management's website at www.hr.nv.gov and at the following locations:

CARSON CITY

Blasdel Building, 209 E. Musser Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson Street

LAS VEGAS

Grant Sawyer State Office Building,
555 E. Washington Avenue

LCB website: www.leg.state.nv.us

Nevada Public Notice website: www.notice.nv.gov

We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Division of Human Resource Management, in writing, at 100 N. Stewart Street, Suite 200, Carson City, Nevada 89701-4204 or call Breece Flores at (775) 684-0135, no later than five working days before the meeting.

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED PERMANENT REGULATIONS**

The Division of Human Resource Management, 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0136, is proposing the permanent adoption and amendment of regulations pertaining to Chapter 284 of Nevada Administrative Code. A workshop has been set for 9:00 a.m. on December 3, 2019, at the Legislative Counsel Bureau, Room 2135, 401 S. Carson Street, Carson City, Nevada with videoconferencing to the Grant Sawyer Building, Room 4412E, 555 E. Washington Avenue, Las Vegas, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following topics that may be addressed in the proposed regulations:

<u>NAC #</u>	<u>Regulation Leadline</u>
284.650	Causes for disciplinary or corrective action.
284.726	Access to confidential records.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Division of Human Resource Management at 100 N. Stewart Street, Suite 200, Carson City, Nevada, telephone number (775) 684-0136, or 555 E. Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-0034. A reasonable fee for copying may be charged. The agency's Small Business Impact Statement is attached.

This Notice of Workshop to Solicit Comments on Proposed Permanent Regulations has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

CARSON CITY

Blasdel Building, 209 E. Musser Street
NV State Library and Archives, 100 N. Stewart Street
Legislative Counsel Bureau (LCB), 401 S. Carson Street

LAS VEGAS

Grant Sawyer Building, 555 E. Washington Avenue

WEBSITES

LCB website: www.leg.state.nv.us
Division of Human Resource Management website: www.hr.nv.gov
Nevada Public Notice website: www.notice.nv.gov

In addition, this Notice of Workshop to Solicit Comments on Proposed Permanent Regulations has been sent to:

ALL STATE AGENCIES
ALL NEVADA COUNTY PUBLIC LIBRARIES

NOTE: We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Division of Human Resource Management, in writing, at 100 N. Stewart Street, Suite 200, Carson City, Nevada, 89701-4204 or call Breece Flores at (775) 684-0135, no later than five working days before the meeting.

Explanation of Proposed Change: This amendment is based on a petition to initiate the amendment of a regulation pursuant to NAC 284.830.

This amendment will preclude from disciplinary action an employee who is a permittee authorized to carry a concealed firearm to carry, in the building in which he or she is employed. NRS 202.3673 does not prohibit a permittee who is employed in a public building from carrying a concealed firearm while he or she is on the premises of the public building. This amendment brings NAC 284.650 into alignment with NRS 202.3673.

NAC 284.650 Causes for disciplinary or corrective action. (NRS 284.065, 284.155, 284.383, 284.385) 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.
2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.
3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.
4. Discourteous treatment of the public or fellow employees while on duty.
5. Incompetence or inefficiency.
6. Insubordination or willful disobedience.
7. Inexcusable neglect of duty.
8. Fraud in securing appointment.
9. Prohibited political activity.
10. Dishonesty.
11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.
12. Drug or alcohol abuse as described in NRS 284.4062 and NAC 284.884.
13. Conviction of any criminal act involving moral turpitude.
14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription or any other illegally used substances while on duty.
15. Unauthorized absence from duty or abuse of leave privileges.
16. Violation of any rule of the Commission.
17. Falsification of any records.
18. Misrepresentation of official capacity or authority.
19. Violation of any safety rule adopted or enforced by the employee's appointing authority.
20. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his or her appointing authority. *This subsection does not apply when an employee who is authorized to carry a concealed firearm does so in the public building in which he or she is employed.*
21. Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.
22. Failure to participate in any investigation of alleged discrimination, including, without limitation, an investigation concerning sexual harassment.

23. Failure to participate in an administrative investigation authorized by the employee's appointing authority.

24. Failure to report the suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license when required pursuant to NAC 284.652.

[Personnel Div., Rule XII § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 12-26-91; 7-1-94; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; R147-06, 12-7-2006; R118-17, 10-25-2018)

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will ensure that the Division of Human Resource Management can conduct thorough sexual harassment and discrimination investigations by requiring an appointing authority of an agency to produce requested documents. There is currently no such requirement which can make it challenging for the Division to receive all requested records when conducting these types of investigations. This amendment is intended to resolve this challenge.

NAC 284.726 Access to confidential records. (NRS 284.065, 284.155, 284.335, 284.4066, 284.4068, 284.407)

1. Except as otherwise provided in this subsection and subsections 2 and 10, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority's decision to hire that person is limited to the appointing authority or his or her designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of subparagraph (2) of paragraph (a) of subsection 1 of NAC 284.204, information relating to the education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.

2. Except as otherwise provided in subsection 10 and NRS 284.4068, access to information concerning the results of an applicant's screening test which indicate the presence of a controlled substance is limited to an appointing authority or his or her designated representative and the Administrator or his or her designated representative.

3. Except as otherwise provided in subsection 10, access to an employee's record of employment containing any of the items listed in paragraphs (g) to (j), inclusive, of subsection 1 of NAC 284.718 is limited to:

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

4. The portion of an employee's record of employment that concerns the health, medical condition or disability of the employee or a member of his or her immediate family must be kept

in a locked cabinet, separate from any other portion of the employee's record of employment.

5. Except as otherwise provided in subsection 10, access to any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct is limited to:

(a) The employee.

(b) The Administrator or a designated representative of the Administrator.

(c) The appointing authority or a designated representative of the agency with which the employee is employed.

(d) Persons who are authorized pursuant to any state or federal law or an order of a court.

(e) The Governor or a designated representative of the Governor.

6. Except as otherwise provided in subsection 10, access to any notes, records, recordings, findings or other information obtained from an internal study conducted by an agency that directly relate to an employee's performance or conduct is limited to:

(a) The employee.

(b) The appointing authority or a designated representative of the agency by which the employee is employed.

(c) Persons who are authorized pursuant to any state or federal law or an order of a court.

(d) The Governor or a designated representative of the Governor.

7. Except as otherwise provided in subsection 10, access to any notes, records, recordings, findings or other information obtained from an internal administrative investigation conducted pursuant to NRS 284.387 is limited to:

(a) The employee who is the subject of the internal administrative investigation.

(b) The appointing authority or a designated representative of the agency by which the employee who is the subject of the internal administrative investigation is employed.

(c) Persons who are authorized pursuant to any state or federal law or an order of a court.

(d) The Governor or a designated representative of the Governor.

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

9. Upon request, the Division of Human Resource Management will provide the home address of any employee maintained by the Division of Human Resource Management in the employee's record of employment to the Division of Welfare and Supportive Services of the Department of Health and Human Services, the Department of Employment, Training and Rehabilitation and the Internal Revenue Service.

10. The Administrator or the appointing authority, or a designated representative, shall authorize the release of any confidential records under his or her control which are requested by the Employee-Management Committee, a hearings officer, the Commission, the Committee on Catastrophic Leave created pursuant to NRS 284.3627, the Nevada Equal Rights Commission, the United States Equal Employment Opportunity Commission or a court.

11. An appointing authority shall authorize the release of any records under his or her control which are requested by the Division of Human Resource Management for the purpose of conducting a sexual harassment or discrimination investigation.

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

2005; R141-07, 1-30-2008; R065-09, 10-27-2009, R059-10, 10-15-2010; R137-12 & R045-13,
10-23-2013; R044-15; 12-21-2015; R175-18, 1-30-2019)

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October 29, 2019

Regulation Small Business Impact Statement

Section 15 of Article 15 of the Nevada Constitution requires the Legislature to provide for a State merit system governing the employment of employees in the Executive Branch of State government and in 1969 the Legislature provided for such in NRS 284. Additionally, NRS 284.013 provides limitations to which employees of the Executive Branch are covered by NRS 284. NRS 284.065 authorizes the Personnel Commission to adopt regulations to carry out the provisions of this chapter.

Due to the limitations of the Nevada State Constitution and NRS 284, the Division of Human Resource Management staff has determined that the adoption of this proposed regulation does not affect small businesses, impose a significant economic burden on small businesses, nor will it restrict the formation, operation or expansion of small business. These regulations only impact employees moving into the nonclassified, classified, or unclassified service of the Executive Branch.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small business and that the information contained in this statement was prepared properly and is accurate.

Peter Long

Peter Long, Administrator

October 29, 2019

Date