

**STATE OF NEVADA**  
**Department of Administration**  
**Division of Human Resource Management**  
**REGULATION WORKSHOP**

Carson City at the Legislative Counsel Bureau, 401 S. Carson Street, Room 2135, Carson City, Nevada; and via video conference in Las Vegas at the Grant Sawyer State Building, Room 4412E, 555 East Washington Avenue.

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**MEETING MINUTES Tuesday, July 11, 2017**

**STAFF PRESENT IN CARSON CITY:**

Peter Long, Administrator, DHRM  
Cassie Moir, Deputy Administrator, DHRM  
Shelley Blotter, Deputy Administrator, DHRM  
Michelle Garton, Supervisory Personnel Analyst, DHRM  
Beverly Ghan, Supervisory Personnel Analyst, DHRM  
Carrie Hughes, Personnel Analyst III, DHRM

**STAFF PRESENT IN LAS VEGAS:**

None

**I. CALL TO ORDER**

**Shelley Blotter:** Opened the meeting and explained that the reason for the workshop was to solicit comments from affected parties with regard to the regulations proposed for permanent adoption. Based on the feedback received, the proposed language may be changed or deleted and additional regulations may be affected. If the regulations are submitted to the Personnel Commission for adoption, amendment or repeal, the minutes from the workshop and any other comments received will be provided to the Personnel Commission when the regulation is presented for their consideration.

**II. Review of Proposed Changes to NAC 284**

NEW	Reasonable break times and place to express milk.
NEW	Request for break times and place to express milk.
NEW	“Complaint” defined.
NEW	Submission of complaint to Employee-Management Committee.
284.0735	“Organizational climate study” defined.
284.112	“Working day” defined.
284.589	Administrative leave with pay.
Section 1 of LCB File No. R076-15	Removal of ineligible grievance or complaint from procedure.
284.662	Providing assistance to employee.

284.680	Date of receipt of grievance or complaint.
284.692	Agreement for extension of time to file grievance or complaint, or take required action.
284.6952	Request for resolution conference; appointment of facilitator; effect of request for resolution conference on jurisdiction of Employee-Management Committee.
284.6955	Hearing before the Employee-Management Committee: Procedure.
284.6957	Hearing before the Employee-Management Committee: Continuance.
284.696	Unlawful discrimination.
284.697	When resolution of grievance or complaint becomes binding.
284.358	Types of lists and priority for use.
284.360	Reemployment lists; certification or waiver of lists.
284.361	Use of lists and consideration of eligible persons.
284.364	Lists of persons with disabilities who are eligible for temporary limited appointments.
284.325	Preferences for veterans.
284.321	Convictions: Disclosure; factors for consideration.
NEW	Accommodation for employee affected by domestic violence.
284.539	Annual leave: Written request; approval or denial; authorized use. NAC
284.554	Sick leave: Authorized use.
284.578	Leave of absence without pay.
Section 1 of	Appeal of refusal to examine or certify.
	LCB File No. R100-16

**Shelley Blotter:** Explained the process and invited attendees to provide their comments.

**Carrie Hughes:** Explained that DHRM is proposing new sections and amendments to Nevada Administrative Code Chapter 284 to address the provisions of Assembly Bill 113 of the 2017 Legislative Session, which provide an employee who is a nursing mother, reasonable break times and a place to express breast milk. Assembly Bill 113 was signed into law by the Governor on June 1st and became effective on July 1st, 2017. The new sections and amendments are currently effective as emergency regulations. As emergency regulations are only effective for 120 days, they are now being proposed as permanent regulations. The new section titled, “Reasonable break times and place to express milk,” provides an employee with a child under one year of age with reasonable break times and a place (other than a bathroom), to express milk. It also provides that the employee may take additional break time, if necessary, to express breast milk. The regulation allows an agency to determine whether an employee would need to use leave or flex her schedule, if she determines that her rest periods are not sufficient to express breast milk.

**Shelley Blotter:** Invited comments.

**Kathleen Kirkland:** Commented that 1(a) of the new regulation provides for a number of variables, noting that an agency requirement for an employee to use their leave for break times to express milk would be unfair. She cited an example during her time working in the NSLA building where a breast feeding employee had to travel from the Secretary of State office to the NSLA to express milk, noting that it was unfair that she utilize leave time for the purpose of this

travel. She requested that this section be removed from the regulation, noting the importance of flexibility.

**Shelley Blotter:** Responded that the comment was appreciated and that the Division could work with this.

**Kathleen Kirkland:** Stated her assumption that agencies will develop their own policies. She noted that the regulation refers to dirt and pollution, while omitting any reference to electrical outlets.

**Trinese Causey:** Spoke from Las Vegas, noting the importance of the regulation, particularly in regard to accommodating nursing mothers during break times. The 15 minutes typically allotted for morning and afternoon breaks is not adequate to complete the breast milk expression process from setup to completion. It is of great importance for an employee to be able to modify her break times and schedule, in order to provide adequate time for the process and return to work.

**Shelley Blotter:** Responded that the Division endeavors to be as flexible as possible in terms of the types of leave that can be utilized. Depending upon whether the employee has a flexible work week agreement, she may be able to flex her time, rather than having to take leave time.

**Carrie Hughes:** Explained that the new section titled “Requests for break times and place to express milk,” requires agencies to develop a procedure for requesting reasonable break times and a place to express milk. Developing a procedure does not necessarily require an agency to immediately set up a place for expressing milk, unless the organization currently has an employee who needs space to express milk. Agency procedures should include a point of contact for employees, expedited approval process and could include guidelines regarding whether leave and/or flex time would be appropriate for needed additional break time. It encourages early communication between the agency and employee regarding the employee’s needs by clarifying that this discussion need not wait until an employee returns to work following the birth of her child. It also establishes when an employee’s request for break times and/or a private place to express breast milk is deemed to be received by an agency.

**Shelley Blotter:** Invited comments. There were none.

**Carrie Hughes:** Stated that the new section titled “Complaint, defined” establishes “complaint,” as a defined term in regulation. Regulations to follow during this workshop will address the complaint process.

**Shelley Blotter:** Invited comments. There were none.

**Carrie Hughes:** Explained that the new section titled, “Submission of complaint to Employee-Management Committee,” provides that an employee may file a complaint with the Employee-Management Committee relating to requests for breaks and/or a place other than a bathroom to express milk. Additionally, an employee who alleges retaliation for the use of break times or a place to express milk as well as for taking any action to ensure compliance with these requirements may file a complaint with the Employee-Management Committee. An employee

has 10 working days to file a complaint following 1) receipt of an agency's response, 2) an agency's 8 working days to respond to a request, or 3) the date of alleged retaliation. Male gender pronouns were included in the regulation to clarify that a male employee could file a complaint under these provisions in response to retaliation for having taken action to ensure compliance with these provisions. The section further outlines how and when a complaint shall be submitted to the Committee. Due to the language in the bill and the need for an employee who is nursing to receive a quick response, the time periods in the complaint process have been made as short as possible, allowing for statutory requirements. Additionally, complaints have been given priority over grievances in placement on an Employee-Management Committee's agenda. Based upon input from legal counsel, all employees, including unclassified, are eligible to file a complaint. However, filing of a grievance will continue to be limited to classified employees.

**Shelley Blotter:** Invited comments. There were none.

**Carrie Hughes:** Addressed the amendment to NAC 284.0735, noting that it adds "complaint" to the types of communication that may be considered in an organizational climate study.

**Shelley Blotter:** Invited comments. There were none. She clarified that the regulations to be addressed next are predominately for the purpose of making them consistent with other provisions and do not represent substantial changes.

**Carrie Hughes:** Stated that the amendment to NAC 284.112, applies the definition of "working day" to the complaint process.

**Shelley Blotter:** Invited comments. There were none.

**Carrie Hughes:** Explained that the amendment to NAC 284.589, provides an employee with administrative leave for appearing as a complainant at a hearing of the Employee-Management Committee.

**Shelley Blotter:** Invited comments. There were none.

**Carrie Hughes:** Stated that the amendment to Section 1 of LCB File No. R076-15 provides the Division with the authority to remove a complaint from submission to the Employee-Management Committee, if it deems that the complaint is not eligible for the process.

**Shelley Blotter:** Invited comments. There were none.

**Carrie Hughes:** Noted that in NAC 284.662, the right to representation and assistance from the Division and an employee's agency's human resources have been extended to employees who file a complaint. Additionally, employees who file a complaint and those who assist or testify regarding a complaint are provided protection against discrimination.

**Shelley Blotter:** Invited comments. There were none.

**Carrie Hughes:** Explained that NAC 284.680 describes when a complaint is deemed to have

been received by the Division. Due to distinct differences between the grievance and complaint procedures, the complaint may not be submitted in NEATS.

**Shelley Blotter:** Commented that a standalone form has been developed and is available on the DHRM website. Agency policy should direct employees to the form, if needed. She invited comments. None were received.

**Carrie Hughes:** Stated that the amendment to NAC 284.692 removes the requirement that a request for an extension of time to file or any step in the grievance process may be made on a form prescribed by the Division, allowing for requests to be submitted via email. The Division is interested in comments on whether the form should be retained for optional use. Additionally, the amendment clarifies that grievance or complaint extensions must be authorized by both the agency and the employee.

**Shelley Blotter:** Noted that the Division is requesting input as it relates to the form, which was developed to document an extension of time request from the employee or management. Many times, this communication takes place via email. The Division is willing to drop the required use of the form in lieu of an email, which could be attached in NEATS in place of the form. The Division seeks input on the desire to change the regulation to allow for this informal communication. And if so, whether the form should remain as an optional tool or be eliminated altogether. Further input is requested on the proposal for the extension of time for complaints. Current options are to put the time extension in abeyance, but not to extend the time.

**Amy Taylor:** Recommended that the form remain as part of the process and that an email can be used in lieu of the form. However, it is notable that emails are often forgotten or overlooked. An established form is a good reminder for supervisors and managers.

**Melody Duley:** Appreciates the flexibility of utilizing email and would not object to the form remaining as an option. She added that she was unclear as to the intent of the continuance and abeyance.

**Shelley Blotter:** Clarified that there will be more information on the continuance and abeyance during the upcoming presentation of additional regulations. She invited additional comments. There were none.

**Carrie Hughes:** Explained that the amendment to NAC 284.6952 clarifies that if either party to a grievance or complaint requests a resolution conference, both parties must participate. It also provides that the Division will attempt to schedule a requested resolution conference related to a complaint prior to the scheduled hearing. However, due to the need for an expedited response, if a resolution conference cannot be set prior to the scheduled hearing, a resolution conference will not be held. Upon the Committee's request, the Division will provide the Employee-Management Committee the reason for the failure to schedule a resolution conference.

**Shelley Blotter:** Invited comments.

**Kathleen Kirkland:** Stressed the importance of the resolution conference, adding that it should

be held before going to the Committee. **Shelley Blotter:** Asked for clarification on whether the resolution conference should take precedence over obtaining the accommodation for nursing mothers. **Kathleen Kirkland:** Confirmed that it should take precedence as an important component to the communication process, specifically in having a neutral party assist with the resolution. **Dave Badger:** Introduced himself as being from the Department of Motor Vehicles. He asked for an example of proposed time frames. **Michelle Garton:** Explained that there is a required 21 working day notification to the parties that they will be scheduled for the EMC. This provides for receipt of the complaint, followed by processing and notification. The Division allows itself seven days for this process. The 21-day notification is in addition to this period for a total period of 28 days. In terms of scheduling the resolution conference, if a resolution conference is unable to be scheduled in that time frame, an explanation would be provided to the Employee-Management Committee.

**Cadence Matijevich:** Introduced herself as being from the Office of the Secretary of State. She asked whether the term “neutral facilitator,” which appears in Subsection 2, is defined elsewhere in regulation. **Shelley Blotter:** Said that DHRM provides the neutral facilitator. In the instance that the case involved a DHRM employee, the facilitator would be someone other than a DHRM employee. If the case involved an employee from the Office of the Secretary of State, the facilitator would be a neutral party provided by DHRM. Referring back to the comments by Dave Badger, the ability to express milk is diminished the longer the period of time that an employee is unable to express milk. The intent was to prevent prolonging the decision making process. She invited further questions. **Kathleen Kirkland:** Said her hope was that it would not need to get to this point. Being an HR representative, she would encourage the holding of a meeting right away. **Shelley Blotter:** Pointed out that if these conversations are taking place and there is a need for a neutral party, such meeting does not need to be called a resolution conference and that DHRM would be happy to provide this assistance at any point. She envisions that potential policies would state that requests would go to the agency’s human resources office for review and that if it cannot be resolved, it goes to the Employee-Management Committee right away.

**Carrie Hughes:** Stated that NAC 284.6955 outlines the required documentation and procedures of an Employee-Management Committee hearing. In this amendment, the complaint process adopts the existing provisions used for grievances.

**Shelley Blotter:** Invited comments. There were none.

**Carrie Hughes:** Explained that the amendment to NAC 284.6957 allows for a complaint to be held in abeyance, if good cause is shown. However, due to the need for an expedited response, the language does not currently allow for a continuance for a complaint. The Division is interested in whether there is a need for continuances to be allowed for complaints. **Shelley Blotter:** Stated that the Division did not build in a provision to extend out the conversations, however it can be put in abeyance. For example, if the employee is still out and has not yet returned from leave, the conversation may need to be postponed. She clarified that that the Division encourages the conversations to take place even while the employee is still on leave. This is why the regulation advises the agency to go ahead and contact the employee on leave. **Michelle Garton:** Suggested clarification of the terms “continuance” and “abeyance.”

Abeyance refers to an instance where a grievance is submitted to step four while another type of investigation is also occurring and one or more individuals is unavailable. The chair of the Committee may allow the grievance to go into abeyance, which puts the grievance on hold. A continuance is different, in that it would only be requested after the grievance has been scheduled for a meeting. Continuances relate more to scheduling issues, rather than requests to place the matter on hold.

**Shelley Blotter:** Invited further comments or recommendations as to whether complaints should be allowed to be continued or simply placed in abeyance as needed. **Cadence Matijevich:** Pointed out that that as it relates to new mothers, unforeseen circumstances may arise. A process for either the employee or employer for flexibility and that four working days is reasonable.

**Carrie Hughes:** Stated that the amendment to NAC 284.696 is a technical adjustment as the word “complaint,” is replaced with "charge," as “complaint” will now become a defined term.

**Shelley Blotter:** Requested that Ms. Hughes present the next amendment.

**Carrie Hughes:** Explained that NAC 284.697 outlines when a resolution to a complaint becomes binding by adopting the existing provisions currently used for grievances.

**Shelley Blotter:** Invited comments on the last two sections regarding this topic.

**Amy Taylor:** Concurred with the changes.

**Shelley Blotter:** Invited overall comments on the amendments covered thus far. There were no comments.

**Michelle Garton:** Introduced herself as the Supervisory Personnel Analyst with DHRM’s Consultation and Accountability Unit. The regulations being presented are the result of three bills passed during the 2017 Legislative Session. Currently an appointing authority is encouraged to make temporary limited appointments of certified persons with disabilities to positions for a period not to exceed 700 hours, which is commonly referred to as the 700 hour program. Assembly Bill 192 requires, rather than authorizes, appointing authorities for positions in State service to make such temporary limited appointments. The Division is presenting amendments to four regulations as a result of this bill. The bill has an effective date of January 1, 2018. NAC 284.358 provides the different types of eligible lists and the order in which they are required to be used when filling a position. This proposed amendment incorporates the 700 list into the regulation, placing it second after reemployment lists. The Division is also considering clarifying in the regulation that it is required that eligible lists are used in the order they appear, as the Division continues to receive questions around this. The amendment to subparagraph C of subsection 1 is not related to the bill, however, this change is proposed, because Legislature transfer lists are the only transfer lists currently used.

**Shelley Blotter:** Invited comments. **Dave Badger:** Asked for clarification, as it appears that the reemployment lists and the 700 hour lists are mandatory, requiring agencies to hire off of these lists. His question refers to his understanding that there is no requirement to hire off of the

Legislature transfer list. **Shelley Blotter:** Confirmed the accuracy of his understanding. **Paula Miles:** Introduced herself as representative of DETR. She asked for clarification that agencies are not only required to interview people from the 700 hour list, but must also hire them. **Cassie Moir:** Stated this is correct. **Shelley Blotter:** Stressed the importance of having the essential functions of the job clearly documented. Anyone coming off the 700 hour list must be able to perform the essential functions.

**Michelle Garton:** Addressed NAC 284.360, noting that it explains how DHRM will handle requests for lists of eligible persons. First it will be determined if a reemployment list exists. If there is not one available, then a 700 hour list of persons will be certified. If there is not a 700 list available, a Legislature transfer list will be certified. If none of these lists exist, a ranked or unranked list will be provided. Subsection 5 of the regulation is proposed for removal, as lists of persons who have requested a transfer do not exist and 700 hour candidates would be certified on a separate list.

**Shelley Blotter:** Invited comments. **Cadence Matijevich:** Opined that she had perhaps misunderstood Mr. Badger's question regarding the Legislature transfer list. She asked whether NRS 284.3775 requires that those lists be prioritized ahead of the divisional and departmental promotional. **Beverly Ghan:** Explained that the normal process has always been to issue the reemployment list first followed by the 700 hour list and thirdly, the Legislature transfer list, as it is an optional list to the agencies. If needed, this would be followed by the typical process of issuing a regular list for recruitment. **Cadence Matijevich:** Referred to the change in the prior section, where it used to be that the transfer list was at the option of the appointing authority. And given that that language has been stricken, there is an order preference. She questioned whether this is legislatively mandated or simply how the amendment is being proposed. **Peter Long:** Stated that this would have to be verified. The old system would allow all the different types on one list. In NVAPPS, it is one list at a time. The intent would be that if A and B are not available, the intent would be to send out the transfer list, to let the agency know it is available. Agencies would not have to use it. At that point, the Division would begin recruitment or would send the agency a list based on its desire for divisional, departmental, statewide or open competitive.

**Cadence Matijevich:** Said that the way she reads the new proposed language in NAC 284.360 is that there is a definite linear path. Her feedback to the Division is that unless it is legislatively mandated that agencies should not have to use the Legislature transfer list, she has concern about not providing the opportunity to employees within the agency. **Peter Long:** Stated that the Division would check into this. **Beverly Ghan:** Clarified that even though the Division is issuing the Legislature transfer list, the agency can put it on hold. The application can be held and the applicant interviewed along with everyone else. In other words, the agency retains the option as to when it takes the action with the application. It can be moved on or held until the rest of the interviews take place. **Cadence Matijevich:** Appreciates the clarification, however stressed the need for clarity when the regulations are developed that the list does not have to be cleared before the agency receives a list of its internal promotional candidates. **Beverly Ghan:** Stated that it has to be cleared online for the Division to move on, but not physically done. **Cadence Matijevich:** Reiterated that it should be clear procedurally to the agencies that their internal candidates will have the same opportunity as the Legislature transfer list.



**Michelle Garton:** Explained that the next regulation related to Assembly Bill 192 is NAC 284.361, which outlines how to use lists of eligible persons. A new subsection 2 has been created to add the time frames required for a person to accept or refuse an offer of employment. This will apply to all types of offers and is not limited to offers of reemployment.

**Shelley Blotter:** Invited comments, noting that this has a larger effect than merely the 700 hour program. She sought assurance that agencies are comfortable with the change. **Mary Gordon:** Introduced herself as a representative from DMV. She asked for clarification on where the ADA reassignment fits in. **Beverly Ghan:** Explained that reassignment is not an actual list and is just a detail processed through the system. There will not be a list issued, as this is dealt with one-on-one with the agencies. **Shelley Blotter:** Inquired as to whether reemployment comes before reassignment and reassignment comes before the 700 hour list, to which **Beverly Ghan** concurred.

**Michelle Garton:** Addressed NAC 284.364, which describes the process related to 700 lists. The amendment to the regulation addresses a situation in which there is more than one qualified person on a 700 hour list. If this should occur, the appointing authority must appoint the individual most qualified for the position who can perform the essential functions of the position.

**Shelley Blotter:** Invited comments. **Peter Long:** Recommended that agencies have clear essential functions for the position, so that when a 700 hour applicant comes in, they have a clear understanding of the job and its physical requirements. **Shelley Blotter:** Noted that the Division reestablished what was previously called a Physical Characteristics Inventory. It has been revised and renamed as the Position Characteristics Inventory, which includes both physical and cognitive position requirements. She encouraged agencies to review this on the website under the forms section and that agencies ensure positions include this information. This is particularly important as the Division rolls out an upcoming phase in NEATS, as it will be possible to insert this information into the electronic system, which will help agencies complete online requirements for essential functions.

**Michelle Garton:** Stated that all regulations associated with Assembly Bill 192 have been presented. The next discussion involves Assembly Bill 309. Currently, a veteran with a disability receives ten points added to the passing grade on a ranked competitive examination and a veteran who has a disability receives an additional five points. Currently veteran's preference points that can be added to the passing grade on a competitive examination for a promotion may only be used once. Assembly Bill 309 requires that ten preference points must be added to the passing grade of all veterans as well as widows and widowers of persons killed in the line of duty while on active duty in the U.S. armed forces. This bill also removes the restriction of use of veteran's preference points. In addition, any qualified applicant on a list who is a veteran with a service-connected disability will be granted an interview. If there are veterans on the list without a service-connected disability, at least 22 percent of those qualified applicants will be interviewed. If there is not a sufficient number to reach 22 percent, each veteran who is a qualified applicant will be interviewed for the position. The bill becomes effective on October 1st of 2017. NAC 284.325 explains the use of preference points for veterans. The proposed amendment removes the restriction on the use of veteran's preference point in regulation.

**Shelley Blotter:** Invited comments. **Kathleen Kirkland:** Asked how the veterans would be identified. **Peter Long:** Explained that the Division is working with NVAPPS, so that when a list is generated, veterans will be identified with a V or DV next to their names. The Division worked closely with Assemblywoman Cohen and the bill sponsors, Interagency Council on Veterans Affairs (through the Governor's Office). Input received indicated that use of DV or disabled veteran did not represent derogatory language.

**Michelle Garton:** Addressed Assembly Bill 384. Currently an applicant must indicate on his or her application if he or she has a record of a criminal conviction as an adult. The administrator may refuse to examine or certify the applicant. The bill prohibits the administrator from considering the criminal history of an applicant during the examination phase. The bill provides that the criminal history of an applicant may only be considered after the earliest of: The final in-person interview; the applicant has been certified by the administrator; a conditional offer of employment has been made. The bill becomes effective January 1st, 2018. It is proposed that NAC 284.321 be repealed, due to the change in when an appointing authority can consider the criminal history of an applicant. **Shelley Blotter:** Added that the intent of the bill is to delay consideration of an applicant's potential convictions or criminal background until the agency determines whether or not they would want to select the person for the job. The way it is actually written provides that when the list is certified, the agency could request this information. Peace Officers have a different standard, in that agencies can request the information at an earlier step in the process. **Peter Long:** Suggested that other agencies, such as DMV and Welfare, who have certain restrictions placed on them for voter registration may request the information after the lists are certified. DHRM will no longer be requesting or taking this information.

**Shelley Blotter:** Invited comments. **Dave Badger:** Stated that all DMV applicants are fingerprinted. The bill discusses that if there are applicable federal or State statutes, the agency may proceed as normal. The DMV has Motor Voter (State law), CDL and Real ID (federal law) requirements. The DMV is required to obtain fingerprint information. DMV will be proceeding by including the information in its announcements for those who require Motor Voter and CDL. Real ID criteria will be listed on all announcements. The bill states that agencies may let the applicants know in advance what the requirements for the position are. He asked when "ban the box" will become effective. **Peter Long:** Stated that the Division is working on this right now. The bill goes into effect January 1st, so the changes will be made no later than that date. He added that most of the DMV's specifications are specific to the requirements mentioned by Mr. Badger and he did not anticipate a problem with the DMV continuing in this manner.

**Melody Duley:** Noted that she has heard from employees who are happy that the box will be removed. However, this brings to mind the fact that NDOT is not currently performing criminal history checks on current employees, unless they are moving from a non-criminal history checked position into a criminal history checked position. The reason the policy was written this way is that if the agency was to criminally history check a current employee and an unfavorable result came back, the agency would not have a mechanism for terminating them. Thankfully, they have not yet been in this position. One item of note is that the agency could go back to the initial application to determine whether the employee had disclosed the conviction. If they had not, then the agency would have a method to terminate an employee for false information on the

application. With these fields gone, it may be more difficult for a termination to stand up, if it reached this point in the process. It might be worth considering making a clear termination reason such as an unfavorable result. An agency LCB audit recommended that the agency criminal history check current employees. They are hesitant to do so, as they are uncertain whether potential terminations would hold up.

**Peter Long:** Commented that it would be difficult to put something in regulation that could address all the various possibilities. His understanding is this would address falsification of an application for nondisclosure versus a particular criminal conviction, which may be relevant for one job and not for another. He surmised that this would be determined by NDOT and its DAGs and not the Division as to what type of conviction or offense is relevant to the job. **Melody Duley:** Reiterated that the agency has not yet found itself in this situation. However, if they did receive unfavorable results, the mere presence of a conviction would not necessarily remove the employee from eligibility. However, a conviction that conflicted with their job duties would. The concern arises from the potential need to criminal check current employees in a position for which a conviction would be an issue. In such a case, the agency does not have a mechanism for termination. **Shelley Blotter:** Stated that the Division would take a further look at this issue.

**Cadence Matijevich:** Stated that her understanding of the bill does not prohibit the agency from requesting the information regarding criminal background at all. It merely defines the point at which the request can be made during the process. **Shelley Blotter:** Confirmed that this is the Division's understanding as well. The bill delays this step in the process, so that applicants are not prohibited from proceeding past the application phase. **Cadence Matijevich:** Added that the bill may address Ms. Duley's concern, in that even with the initial disclosure, other specifications must be considered, including timing and nature of any criminal conviction. **Peter Long:** Noted that there was significant work done on the bill with significant input during various hearings. Assemblyman Thompson made several amendments to make it palatable to those who would have to incorporate and use its provisions. However Assembly persons and bill drafters may not always fully understand HR processes, resulting in provisions that are difficult to implement. Mr. Long believes Assemblyman Thompson's intent was that agencies not consider criminal backgrounds, until the point at which conditional offers are prepared. However, this is not what the bill states. The bill says that an agency can ask for the information after a list has been certified.

**Shelley Blotter:** Invited further comments. There were none.

**Carrie Hughes:** Stated that the DHRM is proposing a new section and amendments to Nevada Administrative Code Chapter 284 to address the provisions of Senate Bill 361 of the 2017 Legislative Session. This provides new employment benefits and requirements relating to domestic abuse. Senate Bill 361 was signed into law by the Governor on June 8th and becomes effective on January 1st, 2018. The new section titled "Accommodation for employee affected by domestic violence" will require agencies to provide accommodations, such as relocations of work space or duty location, modification of a work schedule or a new work phone number to an employee who is a victim of an act of domestic violence or whose family or household member is a victim of domestic violence, unless an accommodation would pose an undue hardship. The definition of domestic violence in NRS 33.018 was adopted by reference in the Senate Bill. It is

the Division's intent to include the text of the statute in the *Rules for State Personnel Administration* publication for reference. The definition of family or household member from Senate Bill 361 has been incorporated into this new section as well as the following three amendments. The chart explaining first degree of consanguinity or affinity is available on the State's Commission on Ethics' website. Only adult persons not otherwise listed in the definition of family or household member have to be residing with the employee at the time of the act of domestic violence for an employee to be entitled to an accommodation, unless it is an undue hardship, or leave. Additionally, the new section clarifies that the accommodation of relocation is not a transfer as defined in regulation. The Division is interested in the agencies' belief as to whether it is necessary to clarify that accommodations only need to be provided if an employee indicates an actual need for an accommodation.

**Shelley Blotter:** Invited comments. **Amy Taylor:** Introduced herself as a representative from DHRM. She recommended that it state an employee would request an accommodation. This follows other guidelines, regulations and policies and would make the process less confusing. She stressed the importance of avoiding assumptions. **Cadence Matijevich:** Agreed.

**Carrie Hughes:** Explained that Senate Bill 361 provides that an employee who has 90 days of employment with an employer will be entitled to not more than 160 hours of leave in one 12 month period, if an employee is a victim of an act of domestic violence or his or her family or household member is a victim of domestic violence. It is the Division's intent to include the text of the bill in the *Rules for State Personnel Administration* for reference. Senate Bill 361 outlines what leave events related to an act of domestic violence an employee will be able to take leave for. The bill lists diagnosis, care or treatment of a related health condition, to obtain counseling or assistance related to the act of domestic violence, to participate in any related court proceeding and to establish a safety plan. The amendment to NAC 284.539 will allow an employee to take annual leave up to a combined maximum, potentially including sick leave and leave without pay of 160 hours in a 12-month period. The statutory requirement that an employee would have to have six months of employment with the State to be able to use annual leave would apply, as other leave types are available if an employee is not eligible for annual leave. The Division is interested in whether agencies believe there is a need for specific payroll codes for these types of leaves related to domestic violence.

**Shelley Blotter:** Noted that at this point, existing payroll codes can be used. Her concern is whether or not agencies will be able to look back to see if the person has met the 160 hours. **Melody Duley:** Supports a payroll code or some mechanism to provide an indication that the hours are to be considered part of the 160. **Shelley Blotter:** Added that they could also be part of FMLA and she anticipates that codes specific to this would be needed as well. **Cadence Matijevich:** Asked whether there is a designation for when the 12-month period starts and stops. **Carrie Hughes:** Stated that this is addressed in the bill. The bill states the period is from the act of domestic violence. **Cadence Matijevich:** Suggested the possibility of revising the language to tie it back to the date of the incident for the sake of clarity. **Kathleen Kirkland:** Asked for clarification in a scenario where an employee goes on FMLA and whether they are allowed an additional 160 hours. **Carrie Hughes:** Explained that Senate Bill 361 addressed FMLA. It states that if the time is used for a reason for which leave may also be taken for FMLA, it must be deducted from the amount of leave the employee is entitled to take pursuant to this section and

from the amount of leave the employee is entitled to take pursuant to the Family Medical Leave Act. **Shelley Blotter:** Summarized the bill does not add an additional benefit. She requested further comments. There were none.

**Carrie Hughes:** Stated that NAC 284.554 will allow an employee to take sick leave up to a combined maximum, potentially including annual leave and leave without pay of 160 hours in a 12-month period, if an employee is a victim of an act of domestic violence or his or her family or household member is a victim of domestic violence. Due to the 120 hour maximum for family sick leave in NAC 284.558, new leave codes specific to this domestic violence provision could clarify that the 120 hour maximum for family sick does not apply when an employee is taking leave pursuant to this provision. The Division is interest in receiving agency comments.

**Shelley Blotter:** Invited comments. There were none.

**Carrie Hughes:** Explained that NAC 284.578 will allow an employee to take leave without pay up to a combined maximum, potentially including annual and sick leave of 160 hours in a 12-month period, if an employee is a victim of an act of domestic violence or his or her family or household member is a victim of domestic violence. Additionally, the amendment to NAC 284.578 includes technical adjustments to clarify that the phrases “leave of absence without pay” and “leave without pay” are referencing the same type of leave.

**Shelley Blotter:** Invited comments. There were none.

**Michelle Garton:** Addressed the amendment to Section 1 of LCB File No. R100-16. This is a relatively new regulation, which has not yet been codified by the Legislative Council Bureau, so the Division is still using the LCB file number. This amendment is not based on the Legislative Session, however the changes are necessary at this time to reflect the process that is actually currently being followed. After the regulation was adopted, it was realized that the Division could make the language clearer to reflect how the process is actually working. If an individual wishes to appeal the refusal to examine or certify, he or she must first request a review by the recruitment supervisor with DHRM. If the person is not satisfied with the decision of the supervisor, he or she may request a statement from the Administrator. If the individual is still not satisfied, they may appeal the Administrator’s decision to the Personnel Commission. A 30 calendar day time frame is applied to each step in this process.

**Shelley Blotter:** Invited comments. There were none.

**Shelley Blotter:** Reminded those in attendance that the Division does receive comments outside of this arena and those will be taken into consideration as well. The regulations that the Division chooses to take forward will go to the Legislative Council Bureau’s Legal Division for preadoption review. They may add additional regulation changes, based on their review, which would then be presented to the Personnel Commission. She closed by expressing thanks for the comments received and attendance at the meeting.

### **III. ADJOURNMENT**

**Shelley Blotter:** Adjourned the meeting.