

Steve Sisolak  
Governor



Laura E. Freed  
Director

Matthew Tuma  
Deputy Director

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Administrator

**STATE OF NEVADA**  
**DEPARTMENT OF ADMINISTRATION**  
*Division of Human Resource Management*  
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**REGULATIONS WORKSHOP**

**DATE:** June 30, 2021

**TIME:** 9:00 a.m.

**PLACE:** Nevada State Library and Archives      Grant Sawyer Building  
Room 110      Room 1400  
100 N. Stewart St.      555 E. Washington Avenue  
Carson City, Nevada      Las Vegas, Nevada

**Workshop Minutes**

**Staff present in Carson City:**

Frank Richardson, Administrator, Department of Administration  
Michelle Garton, Deputy Administrator, Division of Human Resource Management, (DHRM)  
Beverly Ghan, Deputy Administrator, DHRM  
Carrie Hughes, Personnel Analyst, Consultation & Accountability DHRM

**Others present in Carson City:**

Kris Overton, DHHS-DCFS  
Denise Woo-Seymour-Supervisory Personnel Analyst, DHRM  
Mandee Bowsmith, Interim Deputy Administrator, DHRM-Labor Relations Unit (LRU)  
Nora Johnson, Personnel Analyst, DHRM  
Kara Sullivan, Supervisory Personnel Analyst, DHRM  
Heather Graham, DPS  
Rachael Harris, DMV

**Others present in Las Vegas:**

Heather Dapice, Supervisory Personnel Analyst, DHRM  
Kailey Musso (Taylor), DOW

## 1. Call to Order

Deputy Administrator Michelle Garton called the workshop to order at approximately 9:00 a.m.

Ms. Garton reminded all attendees to sign in, including members of the Division of Human Resource Management (DHRM) staff.

Ms. Garton stated the workshop was being held to solicit comments from interested persons regarding a proposed permanent regulation change to NAC 284.5811, Family and Medical Leave (FMLA) as well as the group of regulations that stemmed from Senate Bill 51 (SB51) of the 81<sup>st</sup> Legislative Session.

Ms. Garton stated these regulations were approved on an emergency basis at the Personnel Commission meeting held June 25, 2021 and had been sent to the Governor's office for signature and once signed, the regulations would be sent to the Secretary of State's office for record.

Ms. Garton stated what DHRM intended to do with those regulations today was to get input and make any points or changes based on the feedback and would be able to submit the regulations to the Legislative Counsel Bureau for pre-adoption review on a permanent basis for approval at the September 24, 2021 Personnel Commission meeting.

Ms. Garton stated, based on the feedback received today, proposed language may be changed or deleted, and a group of regulations may be affected. If the regulation is submitted to the Personnel Commission for adoption, the minutes from this workshop and any other written comments received will be provided to the Commission when the regulation is presented for their consideration. Participants may submit written comments via email at [mgarton@admin.nv.gov](mailto:mgarton@admin.nv.gov).

## 2. Review of proposed changes to NAC 284

### **284.5811 Family and medical leave: Maximum amount in 12-month period; eligibility; use.**

Carrie Hughes, Personnel Analyst with DHRM, explained the intent of this amendment is to default the State's Family and Medical Leave Act's eligibility criteria to the criteria outlined in the U.S. Department of Labor's FMLA regulations.

The State's regulation currently bases a portion of the FMLA eligibility calculation, "employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave", on the defined term "paid status" which includes most leave with pay including annual and sick leave. However, the FMLA federal regulations base the hours requirement on the Fair Labor Standards Act's principles for determining compensable hours of work. So, the State's current method of calculating FMLA eligibility may, in certain circumstances, allow an employee to qualify for FMLA leave prior to qualifying based on the federal regulations. If this leads to an employee being provided FMLA leave early and then not granted FMLA-protected leave during the period the employee actually qualifies under the federal FMLA regulations, this could lead to review by the FMLA regulatory body, the U.S. Department of Labor.

Additionally, the new human resource and finance system currently being implemented will calculate FMLA eligibility based on the federal regulations.

Ms. Hughes stated as these are the proposed changes to these regulations, DHRM would welcome any questions or comments the audience may have, there were no comments.

**284.0995 “Sex- and gender-based harassment” defined.**

Ms. Garton explained these were regulations that stemmed from SB51, were presented at the Personnel Commission meeting but ordered differently here for grouping purposes.

Ms. Garton began with NAC 284.0995 and stated NAC 284.0995 was part of SB51 and as such, these regulation amendments are based on a task force report from the Governor’s Task Force on Sexual Harassment and Discrimination Law and Policy issued in June of 2019.

Ms. Garton stated the report made numerous Nevada Revised Statute (NRS) statute changes and regulation changes and that SB51 was close to the recommendations made.

Ms. Garton stated the main points of the discussion were the Sexual Harassment and Discrimination Investigations Unit (SHDIU) has been around for a long time but did not have any statutory authority prior to SB51.

Ms. Garton stated SB51 changed the name of SHDIU and changed the terminology within the regulation to ‘Sex-and Gender-based Harassment and Discrimination Investigations Unit’.

Ms. Garton stated another significant change was once the Sex-and Gender-based Harassment and Discrimination Investigations Unit submitted a report to an appointing authority, the appointing authority would be required to notify DHRM within 30 days of submission, what action, if any was taken based on that report.

Ms. Garton stated the third significant change was, if the Administrator feels it’s necessary to release confidential information related to such an investigation, there are notification requirements and an appeals period timeframe for anyone affected to appeal.

Ms. Garton stated beginning with NAC 284.0995 in the ‘general provisions’ and ‘definitions sections of NAC 284 there are many changes regarding the SHDIU name.

Ms. Garton stated there were wording changes such as redefining unwelcome conduct etc. and that the amendments outlined in section 3a. through 3d. redefined harassing behavior, especially in relation to the sex or gender of others.

Ms. Garton stated she welcomed any comments relating to NAC 284.0995, there were none.

**284.496 Classes and training concerning prevention of sex- and gender-based harassment.**

**284.498 Training of supervisory and managerial employees.**

Ms. Garton explained the amendments to NAC 284.496 show the terminology changes again and shortens the timeframe that employees are required to take required training classes from 6 months to 30 days.

Ms. Garton explained the amendments to 284.498 that 30 days after an agency appoints an employee

to a supervisory or management position, that employee has 30 days to take the required supervisory training, also changed from 6 months. The amendments change the terminology also.

Ms. Garton stated she welcomed any comments relating to these changes, there were none.

**284.650 Causes for disciplinary or corrective action.**

**284.696 Unlawful discrimination.**

**284.718 Confidential records.**

Ms. Garton stated the main change for NAC 284.650 was to be consistent with the terminology change.

Ms. Garton stated for NAC 284.696 there was one change regarding section 1a (1) to be consistent with the rest.

Ms. Garton stated for NAC 284.718 the change was the terminology change.

Ms. Garton stated she welcomed any comments relating to these changes, there were none.

**284.726 Access to confidential records.**

**NEW Appeal of determination to release confidential records.**

Ms. Garton stated the main change in NAC 284.726 was in section 6 and it included an exception that was provided in SB51, that stated in part, 'information related to such investigations is confidential however, the appointing authority does have the ability to release certain confidential information related to those investigations if he/she deems it appropriate'.

Ms. Garton stated the 'NEW' regulation related to NAC 284.726 as it gave process to appeal the release of confidential records.

Ms. Garton stated she welcomed any comments relating to these changes, there were none.

**284.771 Sex-and gender-based harassment.**

Ms. Garton stated the amendments to NAC 284.771 changed the terminology and added the sanctions shall be proportionate to the violation.

Ms. Garton stated these changes were based on the Governor's Task Force recommendations and will allow for various levels of sanctions on a case by case basis.

Since no comments were received, Ms. Garton closed the workshop.

## **1. Adjournment**

Ms. Garton thanked them for participating and adjourned the workshop at approximately 9:12 a.m.