

Steve Sisolak
Governor



Laura E. Freed
Director

Matthew Tuma
Deputy Director

Frank Richardson
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 # 44-21

November 24, 2021

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

FROM: Frank Richardson, Administrator *Frank Richardson*
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 regulation and solicit comments from interested persons, a workshop will be held at 9:00 a.m. on December 13, 2021, at the Nevada State Library and Archives Building, 100 N. Stewart St., Room 110, Carson City, Nevada with videoconferencing to the Grant Sawyer Building, Room 1400, 555 E. Washington Avenue, Las Vegas, Nevada.

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

FR: SL

Attachments

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REGULATION WORKSHOP

DATE: December 13, 2021
TIME: 9:00 a.m.
PLACE: Nevada State Library and Archives Grant Sawyer Building
Room 110 Room 1400
100 N. Stewart 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.

Meeting materials are available on the Division of Human Resource Management's website at:
[http://hr.nv.gov/Boards/Master Meetings Calendar/](http://hr.nv.gov/Boards/Master_Meetings_Calendar/)

AGENDA

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

NAC #
284.470

Regulation Leadline

Preparation, filing, contents, discussion and distribution of reports; powers and duties of employees; review; adjustment of grievances

284.5243

Break times and place for mother of a child under 1 year of age to express breast milk; Procedures for employee to request break times and place; efforts to address employee's needs; date of receipt of request; response to request by department or agency

284.680

Date of receipt of grievance or complaint.

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 change. Public comment may be limited to 5 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 regulation 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 participate in the meeting. If special arrangements for the meeting are necessary, please notify Breece Flores at (775) 684-0135 or bdflores@admin.nv.gov 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 13, 2021, at the State Library and Archives, Room 110, 100 North Stewart Street, Carson City, Nevada with videoconferencing to the Grant Sawyer Building, Room 1400, 555 East 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>
284.470	Preparation, filing, contents, discussion and distribution of reports; powers and duties of employees; review; adjustment of grievances.
284.5243	Break times and place for mother of a child under 1 year of age to express breast milk: Procedures for employee to request break times and place; efforts to address employee's needs; date of receipt of request; response to request by department or agency.
284.680	Date of receipt of grievance or complaint.

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 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: On October 1, 2021, the U.S. Postal Service (USPS) implemented a new service standard for First Class Mail and Periodicals which will result in delays for some categories of mail. Per an October 7, 2021 memo from the Administrator of Mail Services Division, Department of Administration, “First-Class Mail traveling locally within a three-hour drive between originating and destinating processing facilities will maintain its current delivery standard of two days or less. The Postal Service will increase time-in-transit standards by one or two days for certain mail that is traveling longer distances. Mail traveling the greatest distances will be the most impacted. Previous standards required three-day delivery for any destination within the contiguous U.S. with a drive greater than six hours, regardless of the miles traveled to deliver that mail. Now, however, First-Class Mail three-day volume will be delivered based upon a new three-, four-, or five-day standard depending on the distance between origin and destination.”

This new USPS service standard does not leave adequate time for the Commission to use the procedures mandated by Chapter 233B of the NRS for amending a permanent regulation, therefore the following regulations are proposed as emergency amendments with an additional 3 calendar days to 3-day timeframes, referencing postmarked dates on documents sent or received by the State, since some mailings could take up to 5 days.

NAC 284.470 Preparation, filing, contents, discussion and distribution of reports; powers and duties of employees; review; adjustment of grievances. (NRS 284.065, 284.155, 284.335, 284.340, 284.383, 284.384)

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

2. A report on performance must be prepared on the form prescribed by the Division of Human Resource Management.

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.

4. If a report on performance is filed on or before the times specified in NRS 284.340, the overall rating of performance of the employee will be reflected in the employee’s record of employment and the employee will receive a merit pay increase if he or she is otherwise eligible for the increase pursuant to NAC 284.194.

5. 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 for the purpose of determining the salary of the employee and the employee will receive a merit pay increase if he or she is otherwise eligible for the increase pursuant to NAC 284.194. If an untimely report on performance:

(a) Is filed thereafter, the employee’s record of employment will be updated to reflect the overall rating of performance of the employee as reported, but that rating will not affect any merit pay increase to which the employee is otherwise entitled.

(b) Is not filed thereafter, the employee’s record of employment will not include an overall rating of performance of the employee for that period of evaluation.

6. 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.

7. 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.

8. 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 merit pay increases; 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.

9. Except as otherwise provided in subsection 10, the preparation of each report on performance must include a discussion between the employee and his or her 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 the supervisor for forwarding to the reviewing officer or appointing authority.

(b) If the employee contests the report on performance and requests a review, he or she must respond to the report in writing, identify the specific points of contention, if such specificity is provided, and return the response to the supervisor. Except as otherwise provided in this paragraph, the reviewing officer shall respond in writing on a form prescribed by the Division of Human Resource Management 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.

10. If an employee is unavailable for a discussion of the report on performance pursuant to subsection 9 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 the supervisor for forwarding to the appointing authority or reviewing officer.

(b) If the employee contests the report on performance and requests a review, he or she must respond to the report in writing, identify any specific point of contention, if the report provides such specificity, and mail the response to the supervisor. Except as otherwise provided in this paragraph, the reviewing officer shall respond in writing on a form prescribed by the Division of Human Resource Management 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~~ *sixth* day after the date on which the report or request is postmarked.

11. A copy of each report on performance and, if applicable, any written response to such a report requested by an employee pursuant to subsection 9 or 10 must be provided to the employee and filed with the Division of Human Resource Management.

12. 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 11:

(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 receiving a copy of the revised report and submit the response to the Division of Human Resource Management for inclusion in his or her record of employment.

13. An employee and his or her appointing authority or the designee of the appointing authority may agree in writing to extend one or more of the periods prescribed in subsection 9 or 10.

14. 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; R056-10, 10-26-2011; R007-11, 10-26-2011; R041-15 & R043-15, 12-21-2015; R175-18, 1-30-2019)

NAC 284.5243 Break times and place for mother of a child under 1 year of age to express breast milk: Procedures for employee to request break times and place; efforts to address employee's needs; date of receipt of request; response to request by department or agency. (NRS 281.755, 284.065, 284.384)

1. Except as otherwise provided by NRS 281.755, each department or agency of the Executive Department of State Government shall:

(a) Develop a procedure for an employee who is the mother of a child under 1 year of age to request reasonable break times and a place for the employee to express breast milk as needed; and

(b) Make every effort to address the needs of such an employee including attempting to contact and consult with an employee who is on leave at the time the request is received, including, without limitation, leave granted pursuant to the Family and Medical Leave Act.

2. A request made pursuant to this section is deemed to be received by a department or agency:

(a) On the date on which the employee or her chosen representative personally delivers the request, transmits it by facsimile machine or submits it by electronic mail.

(b) If the employee mails the request, ~~3~~ 6 days after:

(1) The date on which the request was postmarked; or

(2) The date on the return receipt if sent by certified mail.

3. The department or agency shall respond to a request made pursuant to this section within 5 working days after the request is deemed to have been received by the department or agency.

(Added to NAC by Personnel Comm'n by R033-17, eff. 10-31-2017)

NAC 284.680 Date of receipt of grievance or complaint. (NRS 281.755, 284.065, 284.155, 284.384)

1. 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 on the date on which the employee or his or her 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 Division of Human Resource Management, which is available at <https://nvapps.state.nv.us/NEATS/admin/Home.aep>.

2. For the purposes of NAC 284.6951, a complaint is deemed to have been received by the Committee on the date on which the employee or the chosen representative of the employee personally delivers the complaint, transmits it by facsimile machine or submits it by electronic mail.

3. If the employee mails the grievance or complaint, the grievance or complaint is deemed to have been received ~~31~~ 6 days after:

(a) The date on which the grievance or complaint 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, eff. 7-24-98; A by R044-08, 8-26-2008; R033-17, 10-31-2017)

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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. This regulation only impacts 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.

Frank Richardson
Frank Richardson, Administrator

11/24/2021
Date