

**STATE OF NEVADA  
DIVISION OF HUMAN  
RESOUCE MANAGEMENT  
REGULATION WORKSHOP**

Held at the Nevada State Library and Archives Building, 100 N. Stewart Street, Room 110, Carson City; and via video conference in Las Vegas at the Eureka Building, 7251 Amigo Street, Suite 120.

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**WORKSHOP  
MINUTES  
December 6, 2024**

**STAFF PRESENT:**

Bachera Washington, Administrator, DHRM  
Michelle Garton, Deputy Administrator, DHRM  
Brian O'Callaghan, Deputy Administrator, DHRM  
Keisha Harris, Deputy Administrator, DHRM  
Carrie Hughes, Supervisory Human Resources Analyst, DHRM  
Nicole Peek, Supervisory Human Resources Analyst, DHRM  
Nora Johnson, Human Resources Analyst, DHRM

**OTHERS PRESENT:**

Perry Faigin, B&I  
Suzanne Webb NDOT  
Melany Klemens, DETR  
Kristin Bowling, NDOW  
Melissa Cronan, DPBH  
Brian Miller, AFSCME  
Gennie Hudson, DCNR  
Michelle Sibley, GOED  
Sonja Grass, DHRM  
Jon Terrazas, DHRM  
Sarv Snyder, DMV  
Corrine Cosentino, DHRM  
Bob Ragar, DOA  
Trendi Miller, DOA  
Paula Miles, DETR  
Michael Baltz, DETR  
Eva Perez, DHRM  
Hope Dibartolomeo, NTA  
Richard Leonard, UNLV HR  
Lori Gaston, DWSS  
Kimbery Smith, DHRM  
Robert Horgan, DHRM

## **I. Call to Order**

Michelle Garton called the meeting to order at 9:00 a.m. and explained that the reason for today's workshop is to solicit comments from affected parties with regards to several topics related to regulations in NAC 284 that may lead to amendments proposed for temporary adoption. Ms. Garton indicated that based on the feedback received, these proposed changes may be tweaked a bit and could possibly affect other regulations that could potentially be put forward for pre-adoption review. Ms. Garton informed the attendees that anything coming out of today's workshop is submitted for pre-adoption review, the minutes will be submitted to the HR Commission for going forward for adoption.

## **II. Review of proposed changes to NAC 284:**

### **284.562 Sick leave or catastrophic leave: Death in employee's immediate family.**

**Nora Johnson:** Nora Johnson explained that the Division of Human Resource Management (DHRM) is proposing regulation amendments to NAC 284.562, which provides a timeframe in which the employee may use accumulated sick leave or already approved catastrophic leave.

There were no questions or comments.

### **284.442 Length of probationary or trial period.**

### **284.444 Application of probationary or trial period.**

### **284.446 Time counted toward completion of probationary period.**

### **284.448 Time not counted toward completion of probationary or trial period.**

### **284.450 Adjustment of probationary or trial period.**

**Carrie Hughes:** Carrie Hughes explained that there are quite a few changes being proposed for NAC 284.442, 444, 446, 448, and 450. Ms. Hughes indicated that the amendments are intended to make all probationary and trial periods one year in length, regardless of a position's pay grade; switch calculation of probationary and trial periods from full-time equivalency to one year; require a permanent or probationary employee who is demoted into a class that they do not have permanent status in to complete the remainder of the time of that probationary or trial period if they have already served part of a probationary or trial period in that class; and complete a new trial or probationary period if they have not been in that class previously. Ms. Hughes added that since reversion can be a form of demotion, the specific requirements to be followed when an employee is reverted are being removed, and noted that additionally, this will add sick leave to the types of leave that combined in excess of 240 hours extend a probationary or trial period, which will allow an appointing authority to extend a probationary or trial period up to 90 days based upon documented performance or conduct issues. Ms. Hughes concluded by noting that the Department of Conservation and Natural Resources has proposed adding the leave that an employee uses for a mandatory employee assistance program referral due to alcohol or drug offenses to the types of leave that did not count toward the time counted for the probationary trial period.

**Suzanne Webb:** Suzanne Webb, NDOT, questioned if Subsection 2 of 284.450 should be deleted or reworded to make sense due to the removal of the full-time equivalency.

**Michelle Garton:** Michelle Garton agreed with Ms. Webb saying that she made a good point and she was correct.

**Suzanne Webb:** Suzanne Webb commended Ms. Hughes' simplified explanation of the proposed

language, noting that it would be nice to see the regulation language written in a way that makes sense to everyone.

**Perry Faigin:** Perry Faigin asked for more information on how these changes will affect the reversion process.

**Carrie Hughes:** Carrie Hughes noted that this refers to the removal of Subsection 11 in NAC 284.444, indicating that because of the way that reversion and demotion are defined in the regulation, the determination was made that Subsection 11 was not needed.

**Perry Faigin:** Perry Faigin questioned if this is regarding employees who transfer given that there is a different section that deals with employees who are promoted.

**Nicole Peek:** Nicole Peek confirmed that 462 is the promotion and 460 is the lateral transfer.

**Perry Faigin:** Perry Faigin noted his belief that the promotional side should be addressed as well as the transfer side.

**Nicole Peek:** Nicole Peek questioned if Mr. Faigin believes the proposed amendment to 284.444(4) takes care of both the promotion and the transfer.

**Perry Faigin:** Perry Faigin indicated his belief that it does not. Mr. Faigin believed that 284.444(1) mentions a probationary employee that transfers and there's a section that deals with promotions, so this does not affect that. He suggested looking at 460 and 462, which deal with the promotional side of the probationary piece. As such, Mr. Faigin questioned the possibility of eliminating the reversion process.

**Bachera Washington:** Bachera Washington questioned Mr. Faigin and asked even though number 4 mentions a permanent or probationary employee. She also asked for language suggestions, should Mr. Faigin have any.

**Gennie Hudson:** Gennie Hudson, Department of Conservation and Natural Resources, added that she too would like to see changes in 460 and 462 to put more discretion on allowing the director of the department or the agency to have flexibility in how that process goes. Ms. Hudson noted her belief that NAC 284.444(4)(b) would be problematic when looking at an employee who is demoted following promotion should the new trial period not be passed. If the restoration was voluntary where would the employee go if they did not pass the new trial period.

**Perry Faigin:** Perry Faigin noted that the wording could potentially include a consideration for either promoted employees or those that have transferred when they are reverted, with an indication of whether they are permanent or probationary, and that they serve a new 12-month probationary period regardless. Mr. Faigin explained that this then gives the division or department an opportunity to now potentially manage that person if necessary.

**Nicole Peek:** Nicole Peek asked for confirmation that Mr. Faigin was looking to add another subsection back in that is specific to reversions.

**Perry Faigin:** Perry Faigin mentioned that since reversions were probably not going to go away, if the employee were to revert back put them in a position with a probationary period attached to it.

**Bachera Washington:** Bachera Washington noted that this would be difficult to get through the

unions, particularly in the case of a long-time, permanent employee.

**Perry Faigin:** Perry Faigin noted his concern that leaving this section as is would reward reversions.

**Nicole Peek:** Nicole Peek pointed out that there are instances where employees voluntarily revert themselves.

**Perry Faigin:** Perry Faigin referred back to Ms. Hudson's point that it should then be at the discretion of the director to determine if the reverted employee should then be on a probationary status or waive it. Mr. Faigin noted that the majority of the reversions he sees are for people who are not in good status.

**Michael Baltz:** Michael Baltz, DETR, indicated the need for clarity in 284.444(4)(b), questioning what happens if an employee takes a voluntary demotion to go to another agency but then does not make the trial period, and questioned to where this employee would be reverted. Mr. Baltz noted that although this is not a common occurrence, it is a possible one that should be addressed.

**Bachera Washington:** Bachera Washington asked Nicole Peek if there is a NAC that determines if an employee is eligible to revert back after a voluntary demotion.

**Nicole Peek:** Nicole Peek indicated that she would need to research this to be certain, but believes that there is.

**Bachera Washington:** Bachera Washington concurred with Mr. Baltz, noting her belief that if an employee takes a voluntary demotion/downgrade, they should not be able to revert back.

**Michael Baltz:** Michael Baltz asked if there is a release from trial period, will it be an equivalent to a release of probation because of a voluntary demotion.

**Bachera Washington:** Bachera Washington noted that she is not aware of what counties and cities have or refer to reversion rights, especially voluntary demotions, and this would need to be researched further.

**Unidentified speaker:** An unidentified speaker suggested something defining the difference between involuntary and voluntary.

**Michael Baltz:** Michael Baltz questioned if with an involuntary demotion, including things like lack of funding for the position to continue, would this qualify as a layoff if the trial period was not completed.

**Unidentified Speaker:** An unidentified speaker confirmed that if the position is eliminated, this would be a layoff.

**Bachera Washington:** Bachera Washington discussed permanent employees, noting that they do have certain rights to continue employment and as such, the trial period should be viewed as a trial period and not a probation. Ms. Washington noted the issue of what would happen with this employee in a situation like those discussed and questioned if they should be placed into another position.

**Carrie Hughes:** Carrie Hughes next discussed changes to the periods that would not count towards

completion of a probationary trial period: adding sick to the group that in excess of 240 hours extends a probationary period; the idea of allowing an appointing authority to extend a probationary or trial period; the suggestion from Conservation and Natural Resources about adding the leave during a mandatory employee assistance program referral would not count towards completion of a probationary trial period.

A speaker from DETR asked if 90 days are added onto probation and the employee will not be going to B status and staying at A status, if this will be affected.

**Carrie Hughes:** Carrie Hughes confirmed that the employee would not move to a permanent status.

**Gennie Hudson:** Gennie Hudson asked for confirmation that this is extending a probation or trial period for any of the above reasons, and commended the addition of the 90 days, noting that additional time would be helpful. Ms. Hudson questioned if this is a cumulative 90 days during the time period or if it could happen more than once.

**Carrie Hughes:** Carrie Hughes explained that this was a one 90-day period and not multiple 90-day periods or multiple times that add up to 90 days.

**Michael Baltz:** Michael Baltz noted that this is well written and that the 90-day designation is exactly what is needed.

**Gennie Hudson:** Gennie Hudson reiterated that there should be clarity regarding this being a one-time extension of up to 90 days. Ms. Hudson further questioned how many times can the 90-day extension be extended and/or enacted.

**Bachera Washington:** Bachera Washington explained that this is intended for employees that are at the 10 or 11 month mark and not quite where they should be but likely will be, and as such, are provided an additional 90 days in their probationary period. Ms. Washington further noted this additional 90 days as a necessity in the case of the possibility of an employee suffering something medical that takes them out of the office for a significant period of time and as such, supervisors are not able to truly evaluate the employee. Ms. Washington indicated that this 90-day extension is not designed for employees who consistently improve and then slip.

**Gennie Hudson:** Gennie Hudson indicated the need to change or add language regarding medical situations.

**Carrie Hughes:** Carrie Hughes concurred that this could be considered, but indicated that in Subsection 3 there is already the preexisting if there is leave without pay or catastrophic leave in excess of 240 hours where the sick leave will be added in, as well.

**Gennie Hudson:** Gennie Hudson thus proposed removing the 240 cap for those particular circumstances.

**Perry Faigin:** Perry Faigin echoed Ms. Hudson's thoughts regarding the need to add a timeframe in Subsection 7, noting the need for this to be one-time use, given that a year and three months should suffice for determination of an employee's performance.

**Suzanne Webb:** Suzanne Webb, asked for clarification that the sick leave included being proposed to be included in Subsection 3 of 449, which includes FMLA and currently coded sick leave.

**Carrie Hughes:** Carrie Hughes confirmed that this could include FMLA sick.

**Suzanne Webb:** Suzanne Webb noted that this could then extend out the probation or trial period, and questioned if there is any intent to touch merit salary increases. Ms. Webb noted that the regulation is pretty clear as to what it includes, but did leave her with the question of how this would impact someone on approved FMLA in terms of their probationary period and also their salary increase.

**Nicole Peek:** Nicole Peek indicated that this would be one of those regulations that would change based on this change.

**284.173 Rate of pay: Effect of demotion.**

**284.290 Retained rates of pay.**

**Michelle Garton:** Michelle Garton explained that originally these changes were intended to go to the HR Commission on the 13th for emergency adoption, but that has since changed and that this statement can be disregarded.

**Carrie Hughes:** Carrie Hughes indicated that these amendments will clarify that an employee's rate will be frozen for a maximum of two years, beginning immediately upon a demotion or reclassification downward. Ms. Hughes added that if an employee's frozen base rate of pay does not fall within the grade of the class to which they were demoted by the end of the two-year period, their base rate of pay will be adjusted to the closest rate of pay within the grade of the class to which they were demoted. Ms. Hughes indicated that an employee whose position is reclassified will have their base rate of pay frozen until it falls within the range the grade to which their position was reclassified or for a maximum of two years, which ever occurs first, and that if the employee's frozen rate of pay does not fall within the range of the grade of the position's current class within that period, the base rate of pay will be adjusted to the closest rate of pay within the position's current grade.

**Richard Leonard:** Richard Leonard, UNLV HR, questioned how this affects those in retained rates currently.

**Bachera Washington:** Bachera Washington indicated her belief that it would not affect those currently in retained rates as the way that 173 was interpreted was that it gave the employee four years beyond the retained rate, and as such, this decreases it to two years.

**Perry Faigin:** Perry Faigin asked for confirmation that this is still something that the employee may request but does not have to take.

**Bachera Washington:** Bachera Washington pointed out that the NAC states that the basically retained rate may happen if the appointed authority approves it. Ms. Washington confirmed that nothing has changed in this regulation other than the rate will be frozen immediately beginning upon the date of the demotion or until it falls within the grade of the class.

**Nicole Peek:** Nicole Peek confirmed that even with the changes the retain rate would be an option for the employee. This just clarifies when it happens.

**284.126 Creation of new class, reclassification of position or reallocation of existing class.**

**Carrie Hughes:** Carrie Hughes indicated the proposal of an amendment to NAC 284.126 to replace the outdated reference to form NPD 19 with language that will allow for future changes to the form.

**Suzanne Webb:** Suzanne Webb suggested using different or more futuristic language to describe process or procedure as they will not necessarily be identified as forms in the future.

There were no additional questions or comments.

**Michelle Garton:** Michelle Garton indicated that the members of the group would welcome any potential language ideas and noted that anything moving forward after today, would be submitted to the LCB for review and would appear on an upcoming HRC meeting, potentially in March or June.

### **III. Adjournment**

Michelle Garton adjourned the December 6, 2024 workshop.