

**STATE OF NEVADA
DIVISION OF HUMAN
RESOURCE
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.

**WORKSHOP
MINUTES
April 16, 2024**

STAFF PRESENT:

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

OTHERS PRESENT:

Michelle Briggs, UNR
Gennie Hudson, DCNR
Tina Russon, CSN
Perry Faigin, Deputy Director, DBI
Nora Serrano, DMV
Rachel Harris, DMV
Janelle Clark, NDOT
Gigi Gentry, NDOT
Kim Eberly, NDOT
Suzanne Webb, NDOT
Tonya Sieben, DWSS
Kristin Bowling, NDOW
Michelle Sibley, GOED
Kristen Anderson, OPM
Kris Overton, DCFS
Amanda Cartwright, DCFS
Amanda Sabiniano, NSHE
Naomi Dominguez, NSHE
Jade Bonds, DHRM
Ana Ornellas, DHRM
Logan Kuhlman, DHCFF
Jenilee Simpson, DHCFF
Sarv Snyder, DMV
Nadia Tung, DHRM
Debbie Bowman, SOS
Karissa Neff, CNS
Lori Gaston, DWSS
Mildred Farkas, ADSD
Eva Perez, DETR

I. CALL TO ORDER.

Michelle Garton: Michelle Garton, Deputy Administrator with the Division of Human Resource Management, called the Regulation Workshop to order on April 16, 2024.

II. REVIEW OF PROPOSED CHANGES TO NAC 284:

<u>NAC#</u>	<u>Regulation Leadline</u>
NEW	"Sexual assault" defined.
284.2508	Compensatory time: Use.
284.539	Annual leave: Written request; approval or denial; authorized use.
284.554	Sick leave: Authorized use.
284.578	Leave of absence without pay: Conditions for approval; restrictions on use; revocation.
284.5811	Family and medical leave: Maximum amount in 12-month period; eligibility; use.
284.599	Requirements.
NEW	Paid family leave: Definitions.
284.5325	"Immediate family" defined.
284.562	Sick leave or catastrophic leave: Death in employee's immediate family.
284.611	Separation for physical, mental, or emotional disorder.
284.096	"Reinstatement" defined.
284.126	Creation of new class, reclassification of position or reallocation of existing class.
284.172	Rate of pay: Effect of promotion.
284.179	Rate of pay: Minimum step for continuous employees hired before 1975.
284.182	Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date.
284.254	Compensatory time: Payment upon transfer.
284.437	Underfilling of positions.
284.444	Application of probationary or trial period.
284.576	Catastrophic leave: Use and administration; appeal of denial.
284.582	Civil leave with pay to serve on jury or as a witness.

284.589 **Administrative leave with pay.**

NEW **Discretionary administrative leave with pay.**

Michelle Garton: Michelle Garton stated the purpose of this workshop was to solicit comments from interested parties with regards to several topics related to regulations in Chapter 284 of the Nevada Administrative Code. Ms. Garton noted these possible amendments could lead to submission to the Human Resources Commission for adoption after pre-adoption review by the Legislative Council Bureau. Ms. Garton indicated that, based on the feedback, language may be drafted or deleted, and a number of other regulations may be affected, as many of them work together. Ms. Garton stated if any regulations related to the topics described are submitted to the HRC for adoption, amendment, or appeal, the minutes from this workshop and any comment, written comment, or comment card comment will be provided to them when they are presented with the amendment.

Carrie Hughes: Carrie Hughes, Supervisory Human Resource Analyst with Consultation, Accountability, and Regulations, DHRM, proposed a new regulation and amendments to NAC 284.2508, 539, 554, 578, 5811, and 599 to address the provisions of Assembly Bill 163 of the 2023 legislative session. Ms. Hughes indicated AB163 expanded existing provisions for leave and reasonable accommodations due to domestic violence to include sexual assault. Ms. Hughes noted the new regulation will adopt the definition of sexual assault as outlined in NRS 200.366, and the amendments will add sexual assault as a basis for leave and reasonable accommodation. Ms. Hughes then proposed a new regulation and amendments to NAC .5235, .562, and .611 to address the provisions of Assembly Bill 376 of the 2023 legislative session. Ms. Hughes indicated the new regulation defines three phrases or terms used in the bill, that being the new definition of immediate family relating to paid family leave, or PFL, is consolidated with two other definitions of immediate family with the intent to prevent misapplication of the wrong definition. Ms. Hughes also stated that paid family leave is being added to NAC 284.611 to clarify the need for an employee to exhaust their PFL before the separation process for physical, mental, or emotional disorder can conclude. Ms. Hughes lastly noted that a request had been received to add step relationships beyond what is currently provided for in the regulations, specifically extending coverage out to step grandparents.

Nicole Peek: Nicole Peek, Supervisory Personnel Analyst, DHRM, proposed an amendment to NAC 284.096 that would account for reinstatements of former employees, both competitively and non-competitively. Ms. Peek noted the regulation would now be that reinstatement means an appointment of a former employee to a class he or she formerly held or to a comparable class.

Heather Dapice: Heather Dapice, Supervisory Personnel Analyst, DHRM, spoke to an amendment to NAC 284.126, 1B to clarify language to indicate significant change, two, to indicate current position, and three, change of contracts to majority of duties. Ms. Dapice then proposed changing 284.172 to indicate that the person, to maintain their existing step, are going to be stepped based on their promotion and the other red lines would result in that change. Ms. Dapice indicated that a majority is over 50% majority of the duties being done.

Perry Faigin: Perry Faigin, Deputy Director of Business and Industry, recommended to remove the majority of preponderance and just have it say results in duties and responsibilities being allocated to a different class. Mr. Faigin stated that changes to classifications should become the responsibility of the departments and the Division to make determinations within the classification that they want to make the changes to.

Bachera Washington: Bachera Washington, Administrator, DHRM, noted that that significant changes had been made, not only to the NPD-19 form, but to that process to where DHRM will be the auditors of those positions, and will now be going to a model where if a position is not classified in the right job, NPD-19 is being completed, the duties that the employee's going to be doing based upon this new classification you'd like to place them in is indicated, reviewing if these duties fit in this position, and if not, work to assure finding the right position to assist in getting the type of duties and work that is needed from that position.

Keisha Harris: Keisha Harris, Interim Deputy Administrator with the Compensation Classification, DHRM stated 284.179 is a repeal of the regulation and there are no individuals who are employed in the state of New Nevada to which this regulation would apply since they would need to have been with the state for about 28 years. Ms. Harris moved on to 284.182, an amendment proposed by DHRM allowing an employee who is promoted to retain their pay progression date regardless of the number of grades in which the promotion results. Ms. Harris noted the focus is on

amending regulations and creating policies that will assist with the recruitment and retention of our State of Nevada. A discussion was held as to the step in pay and timing of evaluations, but it was noted that the step in pay was due to time with the state, not performance evaluations. Ms. Harris lastly addressed a change, if an agency has an employee that is leaving that agency, it would be on the agency being left to make sure to pay out that leave so when they get to the new agency, leave pay is not from that new pay.

Nicole Peek: Nicole Peek presented on 284.437 and 284.444, the first one being underfilling of positions and a change in this regulation to make the underfilling of positions less restrictive and more flexible. Ms. Peek noted the intent is to allow agencies to underfill positions above the journey level without the approval of DHRM, allowing positions to be underfilled by non-competitive needs and positions may be underfilled by class outside of the position's budgeting, classification. Ms. Peek stated the regulation would not read the appointing authority may underfill any position by non-competitive means and underfill need not be in a position in the same class as the budgeted position. Discussion was also had on how long a person may serve in that underfilled role, to which Ms. Peek noted the standard to be no more than three years, although this change could potentially allow for more than that.

Tina Russon: Tina Russon, College of Southern Nevada, questioned what would encourage the position to be reopened or for open recruitment from an equity and diversity lens as opposed to regular appointments of favoritism occurring.

Bachera Washington: Bachera Washington agreed with the need for a timeframe, and that being where the auditing part of the classifications come into play. Ms. Washington explained that if there is an underfill that someone has been hoping for a year and does not meet that minimum requirement, it may be necessary for the agency to reclassify that position down to whatever that underfilled position is or make a decision in regard to what they're going to do with the position. Ms. Washington also noted that the use of non-competitive removes bias and favoritism. Ms. Washington also recognized Carrie Hughes concern about preventing the perception of unfair hiring practices by departmental announcements or lists for recruitment and noted that this is being discussed.

Perry Faigin: Perry Faigin, Deputy Director, DBI, brought to light the lack of bringing in lower level, apprenticeship type candidates from out of state, and wanted to ensure that the new regulations will take that into consideration, utilizing things like skill bridges. Ms. Washington agreed with this and said there is a compression of job classes with the revision of class studies, one thing being moving away from requiring bachelor's degree and years' experience in lieu of knowledge, skills, and ability type of class spec.

Nicole Peek: Nicole Peek next addressed a change to NAC 284.444 allowing a probationary period to be waived in writing by the appointing authority when an unclassified or non-classified employee transfers to classified service. Ms. Peek noted that as it stands now, when an unclassified or non-classified employee transfers to classified service, that employee is required to start a new probation with an A status, so this change would read an employee who transfers from the unclassified or non-classified service to this classified service must serve a new probationary period unless it is waived in writing by the appointed authority.

Carrie Hughes: Carrie Hughes proposed an amendment to NAC 284.576. Ms. Hughes noted the majority of the intended language will provide the flexibility to work with the upcoming human resource information system implementation while still allowing agencies and employees to still utilize the provisions of the regulation. Ms. Hughes stated that the intent is not to remove the current forms and processes at this point, but to be prepared to transition to what we end up with the new system. Ms. Hughes added it requires that a catastrophic legal request must be approved if it meets the definition absent extenuation. Ms. Hughes next addressed amendment to NAC 284.582 and noted that in researching any inquiry from the Division of Welfare and Supportive Services, advice by local counsel was that the definition of jury used in this regulation would include a grand jury. Ms. Hughes next proposed multiple changes to NAC 284.589. Ms. Hughes indicated the first change would be to separate the regulation into two separate regulations, one addressing discretionary uses and the other with non-discretionary uses of administrative leave with the belief that this will provide clarity and ease of use. Ms. Hughes noted the regulation currently provides, in regard to the use of administrative leave for the employee assistance program, specifically counseling, for up to two appointments and additional follow-up in an undefined period of time. Ms. Hughes indicated the proposed amendment would change it from two appointments to the number of three counseling appointments available under the state's current program in a fiscal year, being flexible depending upon what the program offers in the future, currently, again, being four appointments per issue. Ms. Hughes stated the third proposed change will codify current practices, making DHRM aware of what is happening in the agencies and allow agencies or the Division of Human Resource Management to grant administrative leave for attendance at a resolution conference or mediation and will also allow an agency to place

an employee on administrative leave during the period between the time that they're rejected from a trial period and they are restored in employee's previous position.

Rachel Harris: Rachel Harris, Human Resources Department, DMV, suggested allotting a specific time limit on the counseling sessions to 4 hours.

XI. ADJOURNMENT.

Michelle Garton: This meeting is adjourned.