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MEMO PERD #03/03
January 23, 2003

TO: Designees for Personnel Rules Distribution

FROM: Jeanne Greene, Director
Department of Personnel

SUBJECT: Temporary Regulation Changes

Enclosed are the temporary regulations that were adopted by the Personnel Commission on January 10, 2003. These regulations became effective January 17, 2003, the date they were filed with the Secretary of State. The revisions appear in bold and italic type.

Please see that all administrators and personnel representatives, as appropriate, are advised of these changes. You may wish to reproduce these pages and distribute them to all personnel rule recipients. These revisions are also available on our website at www.state.nv.us/personnel/.

Because temporary regulations will automatically expire on November 1, 2003, it is our intent to submit these regulations for permanent adoption after July 1, 2003. When the regulations are adopted as permanent, they will be reproduced in final form in quantity for distribution.

JG:sq

Attachments

cc: Agency Personnel Liaisons
Agency Personnel Representatives

"Reviewing Officer" defined.
"Reviewing officer" means the person who has the responsibility for reviewing a contested performance evaluation. This person is the supervisor of the rater unless the appointing authority has specifically designated another person to serve in this capacity.

NAC 284.073 "Occupational study" defined. (NRS 284.155) "Occupational study" means a classification study of a group of positions ***and/or*** related classes and class series which is initiated by the department of personnel and subsequently approved by the commission.
(Added to NAC by Dep't of Personnel, eff. 10-27-97)

NAC 284.126 Creation of new class, reclassification of position or reallocation of existing class. (NRS 284.155, 284.175)

1. For the purposes of this section:
   (a) "Agency personnel officer" means the director of personnel within the University and Community College System of Nevada or any person holding a position in the classified service with the title of personnel officer.
   (b) "Significant change" means a change in the duties and responsibilities assigned to a position in a class that:
      (1) Is outside of the scope of the class as described by the class specification;
      (2) Is not part of the scope of responsibility of the position; and
      (3) Results in the preponderance of duties and responsibilities being allocated to a different class.
2. If an appointing authority or an employee proposes the creation of a new class, a reclassification of a position to a different class or the reallocation of an existing class based upon a gradual accumulation of duties and responsibilities which results in a significant change and is intended to be permanent, the department of personnel or agency personnel officer must be notified on the appropriate form. If the creation, reclassification or reallocation is approved, the department of personnel will allocate the position to one of the existing classes in the classification plan or to a new, revised or reallocated class as appropriate. The effective date will be the date on which form NPD-19 is received by the department of personnel or agency personnel officer unless information concerning the qualifications of the incumbent or information which substantially affects the decision concerning the creation, reclassification or reallocation is received after this date. In that case, the effective date will be the date on which the appropriate information necessary to make the decision is received. If the form was prepared but delayed due to an administrative or clerical error, the effective date must be determined by the appointing authority and must be based upon the date on which the form should reasonably have been submitted to the department of personnel or agency personnel officer. In no case, however, may a retroactive adjustment because of an administrative or clerical error exceed 6 months after the date of receipt.
3. If an agency makes or anticipates making a significant change in the duties for a position or the agency anticipates a reorganization which will require the reclassification of an existing position, the reallocation of an existing class or the creation of a new class, it shall advise the budget division of the department of administration or, in the case of the University and Community College System of Nevada, the budget division of the applicable institution. The

proposed change may not be required of an employee nor be submitted to the department of personnel until funding for it is approved. If the change is approved by the department of personnel, the effective date will be determined by the budget division.

4. In effecting a reclassification pursuant to subsection 2 or 3, the appointing authority must review and take into consideration the organizational structure and the qualifications of the incumbent before assigning new duties to a position which are intended to be permanent. No position will be reclassified to a higher grade through the individual classification process if the incumbent does not meet the minimum qualifications for the higher level position. If an employee does not meet the minimum qualifications to reclassify his position, he is not eligible for promotion, but may be eligible for a special adjustment to his pay pursuant to NAC 284.206.
5. The establishment of a new class or reallocation of a class ***in an*** occupational study ***which results in a fiscal cost*** becomes effective when the funding is provided by the legislature in the biennial operating budget for this state.
6. From the date that the department of personnel formally announces the beginning of an occupational study until the date that the occupational study ***goes into effect***:
   (a) An existing position in the occupational study that has a significant change may only be reclassified to an existing class.
   (b) An existing class in the occupational study must not be reallocated to a different grade.
   (c) A new position may be allocated to an existing class or a new class as determined by the department of personnel.

[Personnel Div., Rule II § D subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-21-89; 8-14-90; 12-26-91; 11-16-95; 10-27-97; R098-99, 9-27-99; R147-01, 1-22-2002)

NAC 284.206 Special adjustments to pay. (NRS 284.155, 284.175)

1. ***A request for a special adjustment to pay made pursuant to this section may be initiated by an employee, the appointing authority or the department of personnel. The department of personnel may approve a special adjustment to pay to recognize one of the conditions listed in this section. A special adjustment to pay authorized by this section does not constitute a promotion.***
2. ***An employee may receive*** a special adjustment to pay equivalent to 5 percent of the employee's base rate of pay ***for one of the following conditions until that condition ceases to exist:***
   (a) An employee who works out of his class on a continuing basis and who performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase, the employee must:
      (1) Be assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification; and
      (2) Carry out the duties and responsibilities for at least 16 consecutive workdays before the increase becomes effective.

   The adjustment to pay pursuant to paragraph ***(a)*** is effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities. The adjustment to pay must not continue for more than 6 months in any 12-month period unless the person is underfilling a position pursuant to NAC 284.437 and a recruitment has failed to produce a sufficient number of applicants on the appropriate list, ***or the duties and responsibilities have been assumed from a position or positions that have not been authorized to be filled due to a hiring freeze or fiscal emergency. A hiring freeze or fiscal emergency must be certified by the chief of the budget division of the***

department of administration or, in the case of an agency that is not funded from the state general fund or the university and community college system of Nevada, certified by the administrator of that agency or system.

(b) An employee required to use bilingual skills or sign language for the deaf at least 10 percent of his work time.

(c) An employee supervising other employees of the same or a higher grade if the supervision;

(1) Is not part of the supervision or management responsibilities for a program that is provided for in the class specification; and

(2) Includes, without limitation, selection, work assignment, training, work review, performance evaluation and discipline of employees.

(d) An employee who is required regularly to perform custodial work and clean up human bodily waste in a medical, clinical or inpatient facility.

(e) Except as otherwise provided in this paragraph, an employee who conducts a formal training program for employees. The training program must:

(1) Be conducted weekly;

(2) Consist of training on the job and in the classroom or training only in the classroom;

(3) Include a test to determine the employees' progress in the program; and

(4) Result in the award of a certificate of completion or advancement in a class series to the journey level.

If an adjustment to pay is granted pursuant to this paragraph, the adjustment begins when the employee starts conducting the training program and ends when the training program is completed. An adjustment will not be granted if the duty to conduct training is clearly set forth in the class specification. Informal orientation given to new employees will not be considered for this special adjustment.

(f) A law enforcement officer who is assigned to motorcycle duty.

(g) An employee of the department of corrections who is responsible for the supervision of a group of inmates assigned to a work area of an institution and who is responsible for implementing security procedures, including, without limitation:

(1) Securing the work area from inmates who are not authorized to enter the work area;

(2) Accounting for all inmates who have been assigned to the work area; and

(3) Accounting for all materials, tools and equipment in the work area.

The adjustment to pay pursuant to this paragraph will be granted only if such duties are not provided for in the class specification.

(h) An employee who is authorized by the legislature to receive such an adjustment to his pay.

3. ***An employee may receive a*** special adjustment to ***pay when he*** occupies a position in which the duties have been recognized through the classification process as being at a higher level, but who does not meet the minimum qualifications for the class. The special adjustment to the employee's pay must be equivalent to 2.5 percent of the employee's base rate of pay if the employee performs duties classified one grade higher than his current position, or 5 percent of the employee's base rate of pay if the employee performs duties classified two or more grades higher than his current position. A special adjustment to an employee's pay made pursuant to this subsection may continue in effect from the date on which the position questionnaire is received:

(a) Until the employee meets the minimum qualifications and is promoted;

(b) For 1 year after the effective date of the special adjustment to pay; or

(c) Until the date the higher level duties are removed,
whichever occurs first.

4. Except as otherwise provided in this section, the effective date of a special adjustment to pay is the date on which the written request is received by the department of personnel or the personnel office of the agency at which the employee who is receiving the special adjustment to pay is employed. If the request for the special adjustment to pay is delayed because an administrative or clerical error prevented its delivery, the effective date of the special adjustment to pay must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment to pay must not exceed 6 months from the date on which the department of personnel receives the written request.

[Personnel Div., Rule III § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 1-26-87; 9-17-87; 12-17-87; 7-14-88; 1-22-90; 8-14-90; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R197-99, 1-26-2000; R147-01, 1-22-2002; R090-02, 8-14-2002)

NAC 284.228 Shift trading: Agreement; responsibilities. (NRS 284.155, 284.175, 284.345)

1. An employee may enter into a written agreement to trade shifts with another employee who is employed by the same state agency if each employee who enters into the agreement:
   (a) Does so solely at his option as described in 29 C.F.R. § 553.31;
   (b) Performs work in the same class; and
   (c) Obtains approval to enter into the agreement from the appointing authority of the state agency that employs him.
2. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he agreed to work, he is responsible for entering into a written agreement to trade shifts with another employee who satisfies the requirements of subsection 1 to ensure that the shift is worked. Except as otherwise provided in subsection 5, if the employee is unable to enter into an agreement with an employee who satisfies the requirements of subsection 1 to work the shift that he agreed to work, the state agency that employs the employee who was originally scheduled to work that shift before any agreements to trade shifts were entered into pursuant to this subsection or subsection 1 shall:
   (a) Reduce that employee's accrued annual leave or accrued compensatory time by the number of hours in the shift; or
   (b) If that employee does not have annual leave or compensatory time available, place the employee on leave without pay for the number of hours in the shift,

   unless that employee works the shift he was originally scheduled to work.
3. Except as otherwise provided in subsection 5, if an employee works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2, the state agency that employs the employees shall pay each employee as if he had worked his regularly scheduled hours of employment on that workday.
4. The state agency that employs an employee who works a shift for another employee as provided in an agreement entered into pursuant to subsection 1 or 2 may exclude the hours worked by the employee pursuant to the agreement from the calculation of the hours for which the employee is entitled to receive:
   (a) Credit for overtime work pursuant to NRS 284.180; and

(b) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.

5. If an employee who enters into an agreement pursuant to subsection 1 is unable to work the shift that he agreed to work because on the date that the shift occurs he no longer satisfies the requirements of subsection 1 and the other employee who is a party to the agreement has already worked the shift which he agreed to work pursuant to that agreement or another employee has worked that shift as provided in an agreement entered into pursuant to subsection 2, the state agency shall:
   (a) Reduce the ***employee's accrued annual leave, accrued compensatory time, or the*** pay of the employee who no longer satisfies the requirements of subsection 1 by the number of hours in the shift that was worked for him; and
   (b) If the hours worked by the other employee pursuant to the original agreement or as provided in an agreement entered into pursuant to subsection 2 were excluded from the calculation described in subsection 3, include those hours in the calculation of the hours for which that employee is entitled to receive:
      (1) Credit for overtime work pursuant to NRS 284.180; and
      (2) Any other additional pay or benefits required to be paid by this chapter or chapter 284 of NRS.
6. The appointing authority shall maintain accurate records of each agreement entered into by its employees pursuant to subsection 1 or 2.

(Added to NAC by Dep't of Personnel by R015-02, eff. 5-2-2002)

NAC 284.284 Longevity pay: Return to state service. (NRS 284.155, 284.175, 284.177)

1. An employee who was eligible for longevity pay and who separated from state service before July 1, 1981, and returns to state service retains his eligibility for longevity pay.
2. For the purposes of this section, the employee will receive the same semiannual rate of payment that he received at the time of his separation from service. However, the employee may not receive any semiannual increases until he has again served the same number of years without a break in service that he had served at the time of his separation from service plus 1 year.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R147-01, 1-22-2002)

NAC 284.468 Standards for performance of work.

1. A standard for the performance of work is a written statement of the ***results and/or behavior expected of an employee when his job elements are*** satisfactorily performed under existing working conditions. Standards are required for all classified positions.
2. The appointing authority is responsible for ensuring that each position has standards and that each employee is evaluated using those standards. The supervisor has responsibility for establishing the ***initial*** standards, but the employee must be ***given an opportunity to provide comments when the standards are revised.***
3. ***The appointing authority has final approval of the work performance standards.***
4. Standards must be reviewed annually and amended when appropriate.
5. Each employee must be provided with a copy of the standards for his position.
6. ***As used in this section, "job elements" means principal assignments, goals, responsibilities and/or related factors.***

NAC 284.470 Preparation and discussion of reports; request for review. (NRS 284.155, 284.175, 284.335, 284.338, 284.340)

1. A person shall not complete a report on performance unless he has completed the training provided or approved by the director concerning the preparation of a report on performance.
2. A report on performance must be prepared on the form prescribed by the department of personnel.
3. ***A report on performance must be filed at the times specified by NRS 284.340, but may be filed more frequently at the supervisor's discretion.***
4. When a report on performance is given which reports the overall rating of performance of an employee as substandard, it must contain a written notice that such reports affect both merit pay increases and the employee's eligibility for longevity pay. ***An overall rating of performance that is substandard requires an additional report of performance of the employee at least every 90 days until the performance improves to standard or until disciplinary action is taken.***
5. Except as otherwise provided in subsection ***6***, the preparation of each report on performance must include a discussion between the employee and his immediate supervisor. Within 10 working days after the discussion takes place, ***the employee*** must complete and sign the appropriate section on the report on performance and return the report to his supervisor for forwarding to the ***reviewing officer or*** appointing authority. If the employee disagrees with the report on performance and requests a review, he must, respond to the report in writing and identify the specific points of disagreement, if such specificity is provided. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request.
6. If an employee is unavailable for a discussion of the report on performance pursuant to subsection ***5*** 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, ***the employee must complete and sign the appropriate section on the report and mail the report to his supervisor for forwarding to the reviewing officer or appointing authority.*** If the employee disagrees with the report on performance and requests a review, he must respond to the report in writing and identify any specific point of disagreement, if the report provides such specificity. The reviewing officer shall respond to the employee in writing within 10 working days after the supervisor receives the request for review from the employee. For the purposes of this subsection, a report on performance or request for review is deemed to have been received on the third day after the date on which the report or request is postmarked.
7. A copy of each report on performance must be filed with the department of personnel.
8. An employee and his appointing authority may agree in writing to extend one or more of the periods prescribed in subsection 5 ***or 6***.
9. 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 284.695, 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; R069-02, 8-14-2002)

NAC 284.589 Administrative leave with pay. (NRS 284.155, 284.345)

1. An appointing authority may grant administrative leave with pay to an employee:
   (a) To relieve him of his duties during the active investigation of a suspected criminal violation or the investigation of an alleged wrongdoing;
   (b) ***When the appointing authority initiates the leave in order to obtain the results of an examination concerning the employee's ability to perform the essential functions of his position, not to exceed 30 days;***
   (c) To remove him from the work environment when he has committed an act of violence or threatened to commit an act of violence, not to exceed 30 days;
   (d) For up to 2 hours to donate blood; or
   (e) To relieve him of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.
2. Except as otherwise provided in subsection 3, an appointing authority or the department of personnel may grant administrative leave with pay to an employee for any of the following purposes:
   (a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the state but which do not require him to participate or attend in his official capacity as a state employee.
   (b) Closure of the employee's office or worksite caused by a natural disaster or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.
   (c) His appearance as an aggrieved employee or a witness at a hearing of the committee.
   (d) His appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the department of personnel.
   (e) His appearance to provide testimony at a meeting of the commission.
3. An appointing authority or the department of personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (c), (d) or (e) of subsection 2 if:
   (a) The employee requests the administrative leave for a period of time that is reasonably needed for him to testify at the hearing or meeting;
   (b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and
   (c) The absence of the employee will not cause an undue hardship to the operations of his appointing authority or adversely impact the provision of services to clients or to the public.
4. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:
   (a) The initial appointment and one follow-up appointment if the employee receives counseling through the employee assistance program.
   (b) His attendance at a health fair which has been authorized by the board of the public employees' benefits program.
   (c) His participation in an official capacity as a member of a committee or board created by statute on which he serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.

(d) Up to 8 hours for preparation for hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001)

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