Steve Sisolak
Governor

Laura E. Freed
Director

Colleen Murphy
Deputy Director

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
DIRECTOR'S OFFICE

515 E. Musser Street, Suite 300 | Carson City, Nevada 89701
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MEMORANDUM

March 16, 2020

TO: All Department Directors

FROM: Laura E. Freed, Director
Department of Administration

SUBJECT: **Administrative Leave for State Employees Affected by COVID-19**

As COVID-19 cases continue to increase across Nevada, the Governor has adopted an emergency regulation, attached, that expands the ability of appointing authorities to grant paid administrative leave under certain circumstances, such as when an employee is under mandatory quarantine.

The Governor's Office encourages appointing authorities to use the following guidance to appropriately authorize supervisor-approved paid administrative leave for employees affected by COVID-19 in the following circumstances:

Employee Status	
Mandatory quarantine	Required by health authority to quarantine at home or elsewhere due to probable exposure but is not symptomatic
Mandatory isolation	Required by health authority to isolate at home, in a health care setting, or elsewhere due to probable infection
Self-imposed quarantine	Employee is not required to quarantine by health authority but elects to do so as a reasonable exercise of caution due to probable exposure

The expectation is that the above circumstances will require a maximum of 14 days of leave. In lieu of leave, appointing authorities may also establish telework agreements with employees in any of these categories who are willing, able, and well enough, and whose duties are compatible with telework.

Additionally, please note that pursuant to NAC 284.589 subsection 4, an appointing authority or the Division of Human Resource Management may also grant administrative leave with pay to an employee for any of the following purposes:

(c) Closure of the employee's office or work site caused by a natural disaster, pandemic 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.

(d) Closure, as a result of a pandemic, of a school or a center or facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result of a pandemic, of a program attended by the employee's dependent child. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

The Governor has encouraged all employers to provide flexibility and special scheduling considerations for employees with school-aged children as our families work through this process.

SECRETARY OF STATE
FILING DATA

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FOR EMERGENCY
REGULATIONS ONLY

Form For Filing
Administrative Regulations

Effective Date: 3-15-2020

Expiration Date: 7-13-2020

Agency

Department of Administration

Classification: Proposed Adopted By Agency Emergency

Brief description of action: The Department of Administration, Division of Human Resource Management is submitting the proposed regulation changes for Nevada Administrative Code Chapter 284 to provide flexibility to appointing authorities within the Executive Branch to permit the use of administrative leave with pay during the COVID-19 pandemic.

Authority citation other than 233B: NRS 284.065, NRS 284.155,

Notice Date: N/A **Date of Adoption by Agency:** _____

Hearing Date: N/A

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March 15, 2020

The Honorable Steve Sisolak, Governor
101 North Carson Street, Suite 1
Carson City, NV 89701

VIA EMAIL AND HAND DELIVERY

Re: Emergency Regulation Regarding Administrative Leave for State Employees Affected by COVID-19

Dear Governor Sisolak:

As the chief officer of the Department of Administration, I have determined that an immediate need exists to provide flexibility in the state's human resources regulations and policies in order to better respond to the public health danger presented by the COVID-19 pandemic.

COVID-19 cases continue to increase across Nevada, including cases that affect our own State workforce. As you may know, certain employees and/or members of their households have been exposed to this virus, and more are likely to be exposed in the coming months. However, the current Nevada Administrative Code (NAC) does not provide sufficient flexibility to respond to the need for our employees to self-isolate or quarantine without closing entire offices. Furthermore, current regulation does not clarify what type of leave would be appropriate if an employee must quarantine but is otherwise not ill.

Therefore, pursuant to NRS 233B.0613, the Department of Administration respectfully requests an emergency addition to NAC 284.589 that expands the ability of appointing authorities to grant paid administrative leave under certain circumstances, such as when an employee is under mandatory quarantine. The Department of Administration has drafted policy guidance for departments, and we stand ready to assist appointing authorities in responding to the varied circumstances that may occur in different agencies and different geographic regions of our state.

As this emergency regulation will provide immediate assistance in protecting the health of our employees and all Nevadans, your endorsement is requested. Thank you for your assistance and consideration.

Sincerely,

Laura E. Freed
Director, Department of Administration

Endorsed:

Steve Sisolak
Governor

EMERGENCY REGULATION OF THE

DEPARTMENT OF ADMINISTRATION

March 15, 2020

EXPLANATION – Matter in ***italics*** is new; matter in brackets
[~~omitted material~~] is material to be omitted.

Filing of an Emergency Administrative Regulation

AUTHORITY: NRS 284.345, 284.065, 284.155.

A REGULATION relating to state employee administrative leave during State of Emergency.

Explanation:

Existing law authorizes an appointing authority to grant administrative leave with pay to an employee due to closure of the employee's office or work site caused by a natural disaster, pandemic or other similar adverse condition when the employee is scheduled and expected to be at work. (NRS 284.345; NAC 284.589(4)(c)). An appointing authority may designate certain employees as essential and notify them that they are required to work. An appointing authority is also authorized to grant administrative leave with pay to an employee due to the closure, as a result of a pandemic, of a school or a center or facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result of a pandemic, of a program attended by the employees dependent child. An appointing authority may designate certain employees as essential and notify them that they are required to report to work. (NRS 284.345; NAC 284.589(4)(d)).

This regulation authorizes the appointing authority additional discretion to grant administrative leave with pay to an employee during a State of Emergency when necessary for health and safety purposes. (NRS Chapter 414).

NAC 284.589 is hereby amended by adding thereto a new subsection 7 as follows:

NAC 284.589 Administrative leave with pay. (NRS 284.065, 284.155, 284.345, 284.383, 284.385, 284.390)

1. An appointing authority may grant administrative leave with pay to an employee:

(a) To relieve the employee of his or her duties during the active investigation of a suspected criminal violation or the investigation of alleged wrongdoing;

(b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his or her position;

(c) For up to 30 days to remove the employee from the workplace when he or she has committed or threatened to commit an act of violence;

(d) For up to 2 hours to donate blood;

(e) To relieve the employee of his or her duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065; or

(f) To attend a general employee benefits orientation or an educational session relating to employee benefits, including, without limitation, retirement and deferred compensation.

2. The appointing authority, upon approval of the Risk Management Division, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.

3. If an employee is granted administrative leave with pay pursuant to subsection 1 or 2, the employee must be available:

(a) By telephone to the supervisor of the employee; and

(b) To report to a work site or another location, as directed by the supervisor of the employee, Ê during regular business hours.

4. Except as otherwise provided in subsection 5, an appointing authority or the Division of Human Resource Management may grant administrative leave with pay to an employee for any of the following purposes:

(a) His or her participation in, or attendance at, activities which are directly or indirectly related to the employee's job or employment with the State but which do not require him or her to participate or attend in an official capacity as a state employee.

(b) His or her safety during an emergency when employees have been authorized by the Governor not to report to work or to leave work before the end of their shifts during the emergency, including, without limitation, emergencies relating to enemy attacks or other hostile actions, natural causes or other catastrophes, except for employees who are designated as essential and notified that they are required to report to work or remain at work.

(c) Closure of the employee's office or work site caused by a natural disaster, pandemic 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.

(d) Closure, as a result of a pandemic, of a school or a center or facility that provides day care services which is attended by the employee's dependent child or the temporary cancellation, as a result of a pandemic, of a program attended by the employee's dependent child. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

(e) His or her appearance as an aggrieved employee, an employee who filed a complaint described in NAC 284.658 or a witness at a hearing of the Committee.

(f) His or her appearance as a witness at a hearing regarding a matter described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 6.

(g) His or her appearance to provide testimony at a meeting of the Commission.

5. An appointing authority or the Division of Human Resource Management shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (e), (f) or (g) of subsection 4 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed 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 the appointing authority or adversely impact the provision of services to clients or to the public.

6. 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 an employee assistance program, including, without limitation, consultations provided in person or telephonically.

(b) His or her attendance at a health fair or related event coordinated by the Public Employees' Benefits Program.

(c) His or her participation in an official capacity as a member of a committee or board created by statute on which he or she 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 any predisciplinary review.

(e) Up to 8 hours for preparation for any hearing described in paragraph (f).

(f) The appearance of the employee as a party at a hearing regarding:

(1) An alleged reprisal or retaliatory action against the employee for disclosing an improper governmental action as provided in NRS 281.641;

(2) An involuntary transfer of the employee as provided in NRS 284.376; or

(3) A suspension, demotion or dismissal of the employee as provided in NRS 284.390 and at a predisciplinary review as provided in NAC 284.6561.

7. During a State of Emergency declared pursuant to NRS Chapter 414, an appointing

authority may, in its discretion, grant administrative leave with pay to an employee if necessary for health and safety purposes.

INFORMATIONAL STATEMENT OF ADOPTED REGULATIONS
AS REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R
March 14, 2020

The following statement is submitted for adopted amendments to Chapters 293 of the Nevada Administrative Code (NAC):

1. A clear and concise explanation of the need for the adopted regulation

Pursuant to the Governor's Declaration of Emergency dated March 12, 2020, the state is in an emergency status due to the COVID-19 pandemic. As such, state employees may become sick and need to self-isolate or need to quarantine with infected or exposed household members. Currently, the NAC only provides for administrative leave with pay as a result of state office closure or school/day care closure. However, in this pandemic situation, some offices may not close, but social distancing is still needed to contain the spread of the virus. Therefore, an emergency regulation is needed to permit appointing authorities the flexibility to provide administrative leave with pay or sick leave as the circumstances change, without closing entire state offices.

2. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

Business:

a. Both adverse and beneficial effects; and

Adverse: The Department does not foresee any adverse economic impact on businesses.

Beneficial: The Department does not foresee any economic benefit to businesses.

b. Both immediate and long-term effects.

Same as above.

Public:

a. Both adverse and beneficial effects; and

Adverse: The Department does not foresee any adverse economic impact on the public.

Beneficial: The Department does not foresee any economic benefit to the public.

b. Both immediate and long-term effects.

Same as above.

3. The estimated cost to the agency for enforcement of the proposed regulation.

There is no additional cost to the Department of Administration for the enforcement of the proposed regulation.

4. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state agency regulations which are duplicated or overlapped by the proposed regulations.

5. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The federal Office of Personnel Management guidelines are no more stringent than the regulation proposed.

6. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The various proposed regulation changes do not provide new or increase any existing fees.