





# STATE OF NEBRASKA

E. Benjamin Nelson, Governor

DEPARTMENT OF ADMINISTRATIVE SERVICES Karen Kilgarrin, Director

November 16, 1998

The State Classified System Personnel Rules and Regulations revised November 1998, and promulgated under provisions of Sections 81-1301 through 81-1393, RRS Nebraska, 1943, are hereby approved November 16, 1998.

Samuel F. Seever Chair  
State Personnel Board

Tom Sams, Vice-Chair  
State Personnel Board

Robert Coupland, Member  
State Personnel Board

Virgie Louis Member  
State Personnel Board

Susan E Prazan, Member  
State Personnel Board



# STATE OF NEBRASKA

E. Benjamin Nelson, Governor

DEPARTMENT OF ADMINISTRATIVE SERVICES Karen Kilgarin, Director

July 20, 1998

The State Classified System Personnel Rules and Regulations dated August 15, 1998 and promulgated under provisions of Sections 81-1301 through 81-1390, RRS Nebraska, 1943, are hereby approved July 20, 1998.

Virgie Louis, Chair  
State Personnel Board

Samuel F. Seever, Vice-Chair  
State Personnel Board

Robert Coupland, Member  
State Personnel Board

Tom Sams, Member  
State Personnel Board

State Personnel Division • Mollie Anderson, Director

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# STATE OF NEBRASKA

DEPARTMENT OF ADMINISTRATIVE SERVICES  
Lawrence S. P.



June 10, 1993

E. Benjamin Nelson  
Governor

The State Classified Personnel System Rules and Regulations dated June 29, 1993 and promulgated under provisions of Sections 81-1301 through 81-1390, RRS Nebraska, 1943, are hereby approved June 10, 1993.

Christine Harris, Chair  
State Personnel Board

Jan Krotter Chvala, Secretary  
State Personnel Board

Allan J. Eurek, Member  
State Personnel Board

Tom Sams, Member  
State Personnel Board

# STATE OF NEBRASKA

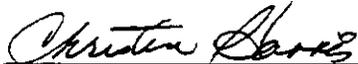


DEPARTMENT OF ADMINISTRATIVE  
Lawrence

September 9, 1993

E. Benjamin Nelson  
Governor

The State Classified Personnel System Rules and Regulations dated September 1.5, 1993 and promulgated under provisions of Sections XI-1301 through 81-1390. RRS Nebraska. 1943. are hereby approved September 9, 1993.

  
Christine Harris, Chair  
State Personnel Board

  
Jan Krotter Chvala, Secretary  
State Personnel Board

  
Allan J. Eureka, Member  
State Personnel Board

  
Virgie LOUIS, Member  
State Personnel Board



# STATE OF NEBRASKA

E. **Benjamin Nelson**, Governor

DEPARTMENT OF ADMINISTRATIVE **SERVICES** **Karen Kilgarin**, Director

Suite 1315, State Capitol, Lincoln Nebraska 68509-4664 . Phone (402) 471-2331 . Internet: kilgarin@das.state.ne.us

July 7, 1998

The Honorable E. Benjamin Nelson  
Governor of the State of Nebraska  
State Capitol, Room 2316  
Lincoln NE 68509

RE: Application for Waiver of Public Hearing Notice

Dear Governor Nelson:

Pursuant to Neb. Rev. Stat. § 84-907 (1994), I am writing to request a waiver of notice of public hearing. This waiver is being sought with respect to the proposed adoption of Title 273-- Classified System Personnel Rules and Regulations, Chapters, 7,12, and 14, and Title 12, Chapter 1- "Contracts for Personal Services."

A "Notice of Public Hearing" was published in the Lincoln Journal Star and the Omaha World Herald on March 22, 1998. Copies of the proposed rules, along with a copy of the Notice of Public Hearing, were tiled with the Secretary of State and the Executive Board of the Legislative Council on March 20, 1998. Public hearings were then held on April 21, April 22, April 27, April 28 and April 30, 1998. The locations for public hearings included North Platte, Scottsbluff, Norfolk, Grand Island, Lincoln, Omaha, Hastings and Beatrice. The "Affidavit of Publication" received from each newspaper is attached for your review.

The Attorney General's Office, while conducting its review of the proposed rules pursuant to Neb. Rev. Stat. § 84-905.01, has advised DAS that the content of the Notice of Public Hearing is deficient in two areas: (1) there is no explanation of the purpose of the proposed rules and regulations; and (2) there is no discussion of fiscal impact.

DAS would like to proceed with the adoption and promulgation of these proposed rules and regulations. Good and sufficient cause for granting this request is evidenced by the following reasons:

1. The Notice of Public Hearing was published in the two newspapers of general circulation at least 30 days in advance of the hearing as required. Although partially defective in content, the notice was timely published.

Governor E. Benjamin Nelson  
July 7, 1998  
Page 2

2. To republish the notice and hold additional hearings across the State of Nebraska would cost the citizens of the state additional money with little or no benefit.

For the reasons set forth herein, the Department of Administrative Services respectfully requests the approval of this Application for Waiver of the Notice of Public Hearing.

Sincerely,

  
**Karen Kilgarin Director**  
Department of Administrative Services

**APPROVAL**

The foregoing Application for Waiver of Notice of Public Hearing is hereby approved this 9<sup>th</sup> day of July, 1998.

  
\_\_\_\_\_  
E. Benjamin Nelson  
Governor

**Attachments**

Place Ad  
Here

PROOF OF PUBLICATION

AFFIDAVIT

State of Nebraska. County of Douglas ss:

Sheritha Smith being duly sworn, deposes and says that he is an employee of The Omaha World-Herald, a legal doily newspaper printed and published in the county of Douglas and State of Nebraska and or general circulation in the Counties of Douglas and Sarpy and State of Nebraska. and that the attached printed note was published in the said newspaper on the.. 9..... day of August.....  
A. D., 1998., and that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge The Omaha World-Herald had an average circulation of 291,065 daily "Sundays in 97 19

**NOTICE OF PUBLIC HEARING**  
Notice is hereby given that the Department of Administrative Services-State Personnel Division will hold public hearings concerning the proposed Rules and Regulations of the Nebraska State Personnel System, Chapter 17 Information Technology Re-Training Program. These hearings will be held on September 9, 1998, at 2:30 a.m. and 7:00 a.m., in State Personnel's Large Conference Room, 301 Commercial Mall South, Lincoln. The purpose of these hearings are to receive public comment on Chapter 17 relating to creating a Nebraska Information Technology Re-Training Program and to provide training to current state employees and Nebraska Health and Human Services System program recipients. The fiscal impact of this re-training program will be the cost of the tuition for six months, plus the employees salary and benefits while attending the re-training program. Draft copies of the Rules and Regulations are available for review in DAS-State Personnel office, 322 State Personnel Division

(Signed) Sheritha Smith Title: Clerk

Subscribed in my presence and sworn to before me this 10 day of August..... 19 98.....

Janice Rutledge  
Notary Public

Printer's Fee  
A f f i d a v i t .  
P a i d b y



Place Ad  
Here

PROOF OF PUBLICATION

MAR25'98 STATE PERSO

AFFIDAVIT

State of Nebraska, County of Douglas, ss:

..... STACY GREEN ..... being duly sworn, deposes and say!  
that he is an employw of The Omaha World-Herald, a legal daily newspaper  
printed and published in the county of Douglas and State of Nebraska, and of  
general circulation in the Counties of Douglas and Sarpy and State of  
Nebraska, and that the attached printed notice was published in the said  
newspaper on the 22 day of March  
..... A. D., 19 98, and that said newspaper is a legal  
newspaper under tic statutes of the State of Nebraska. The above facts are  
within my personal knowledge. The Omaha World-Herald had an average  
circulation of .... 230,902 daily, .. 291,065 Sunday, in 19 97..

NOTICE OF PUBLIC HEARING  
Notice is hereby given that the Department of Administrative Services, State Personnel Division will hold public hearings concerning the proposed Rules and Regulations of the Nebraska State Personnel System: Chapters 7, 12, 14, and 17 (Buy Out Program) and the adoption of proposed Rules and Regulations pertaining to Contracts for Personal Services. The hearings will be held as follows: North Platte, April 21, 9:00 am, Mid-Plains Community College, Campus Center, 601 W. Stateform Rd. Scottsbluff, April 21, 1:30 pm, Norfolk Jr. High Auditorium, 510 Paserwalk, Lincoln, April 27, 8:30 am, Nebraska State Office Buildings, 501 Center, 1:30 pm, Department of Roads Auditorium, 1500 Highway 2, Grand Island, April 28, 9:00 am, City Hall, Community Mfg. Room, 100 E. 1st Street, Hastings, 2:00 pm, Regional Center, Chapel, 420 W. 2nd Street, Omaha, April 29, 9:00 am, Peter Klawit Conference Center, Room 1028, 1913 Farnam St., The Mall, Beatrice, April 30, 9:00 am, State Developmental Center, Chapel, 3000 Lincoln Avenue. Draft copies of the Rules and Regulations are available for review in the DAS State Personnel office, Karen Kilgarrin, Director, Department of Administrative Services, Mollie Anderson, Director, DAS - State Personnel Division

(Signed) Stacy Green Title: Clerk

Subscribed in my presence and sworn to before me this 23  
day of March 19 98

Janice Rutledge  
Notary Public

Printer's Fee \$.....  
Affidavit.....  
Paid by.....

GENERAL NOTARY-STATE OF NEBRASKA  
JANICE RUTLEDGE  
My Comm. Exp. April 29, 2000

# AFFIDAVIT OF PUBLICATION

State of Nebraska, } ss.  
 LANCASTER COUNTY, }

**NOTICE OF PUBLIC HEARING**  
 Notice is hereby given that the State Personnel Division-DAS will hold a public hearing concerning the proposed Rules and Regulations of the Nebraska State Personnel System. The hearing will be held at 5:00 p.m., Tuesday, September 7, 1993 in the State Personnel Large Conference Room, 3rd Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Draft copies of the Rules and Regulations are available for review in State Personnel Division Office.

Joseph P. Foster, Director  
 State Personnel Division-DAS  
 8/27/93-17, August 7

The undersigned, being first duly sworn, deposes and says that she/he is a Clerk of The Lincoln Star, Lincoln Journal, and Sunday Journal-Star, legal newspapers printed, published and having a general circulation in the County of Lancaster and State of Nebraska, and that the attached printed notice was published in said newspapers.....~~on~~.....~~the~~.....~~date~~.....~~of~~.....~~the~~.....~~first~~.....~~insertion~~.....~~having~~.....~~been~~.....~~on~~.....~~the~~.....~~7th~~.....~~day~~.....~~of~~.....~~August~~.....~~19~~.....~~93~~.....~~A.D.~~.....

~~and the undersigned~~  
 and that said newspapers are legal newspapers under the statutes of the State of Nebraska. The above facts are within my personal knowledge and are further verified by my personal inspection of each notice in each of said issues.

.....*Carmille A. Magorian*.....  
 Subscribed in my presence and sworn to before me this.....*13<sup>th</sup>*.....  
 day of .....*August*....., 19.....*93*.....  
 .....*Nancy Magorian*..... Notary Public  
 Printer's Fee, \$ .....*8.57*.....

A GENERAL NOTARY-State of Nebraska  
 NANCY MAGORIAN  
 My Comm. Exp. Feb. 5, 1994

*8070064*

# AFFIDAVIT OF PUBLICATION

State of Nebraska }  
LANCASTER COUNTY, }

SS.

**NOTICE OF PUBLIC HEARING**  
Notice is hereby given that the Department of Administrative Services - State Personnel Division will hold public hearings concerning the proposed Rules and Regulations of the Nebraska State Personnel System, Chapters 7, 12, 14, and 17 (Buy Out Program) and the adoption of proposed Rules and Regulations pertaining to Contracts for Personal Services. The hearings will be held as follows: North Platte, April 21, 9:00 am, Mid-Plains Community College, Campus Theater, 601 W. Statefarm Rd., Scottsbluff, April 21, 1:30 pm, University - Research Center, Auditorium - 4522 Ave. I, Norfolk, April 22, 1:30 pm, Norfolk Jr. High, Auditorium 518 Posewalk, Lincoln, April 27, 8:30 am, Nebraska State Office Building, 301 Centennial Mall South, L.L.A. and 1:30 pm, Department of Roads, Auditorium, 1500 Highway 2, Grand Island, April 28, 9:00 am, City Hall, Community Arts, Room, 100 E. 1st Street, Hastings, 2:00 pm, Respite Center, Chapel, 400 W. 2nd Street, Omaha, April 29, 9:00 am, Peter Kiewit Conference Center, Room 102B, 1713 Fernon on the Mall, Beatrice, April 30, 9:00 am, State Developmental Center, Chapel, 3000 Lincoln Avenue. Draft copies of the Rules and Regulations are available for review in the DAS - State Personnel office.  
Karen Kluwerin, Director  
Department of Administrative Services  
Mollie Anderson, Director  
DAS - State Personnel Division  
#11124-11 March 22

The undersigned, being first duly sworn, deposes and says that she/be is a Clerk of the Lincoln Journal Star, legal newspaper printed, published and having a general circulation in the County of Lancaster and State of Nebraska, and that the attached printed notice was published in said newspaper . . . one . . . ? ~~Successive~~ <sup>XXXXXX</sup> times the first insertion having been on the 2<sup>nd</sup> day of March . . . A.D., 1996 and thereafter on . . . XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX . . . 19 . . . ) and that said newspaper is the legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge and are further verified by my personal inspection of each notice in each of said issues.

*Cheryl K. Petrig*

Subscribed in my presence and sworn to before me this 24<sup>th</sup> day of March, 1996.  
*Ronald Kalkwarf* Notary Public

Printer's Fee, \$ 23.80

GENERAL NOTARY-State of Nebraska  
RONALD KALKWARF  
My Comm. Exp. July 26, 1998

111234

# AFFIDAVIT OF PUBLICATION

State of Nebraska, } ss.  
LANCASTER COUNTY, }

The undersigned, being first duly sworn, deposes and says that she/he is a Clerk of The Lincoln Star, Lincoln Journal, and Sunday Journal-Star, legal newspapers printed, published and having a general circulation in the County of Lancaster and State of Nebraska, and that the attached printed notice was published in said newspapers ~~one successive time~~ 7th May 93 the first insertion having been on the ..... day of ..... A.D., 19....  
~~and thereafter on .....~~

**NOTICE OF PUBLIC HEARING**  
Notice is hereby given that the State Personnel Division-OAS will hold a public hearing concerning the proposed Rules and Regulations of the Nebraska State Personnel System. The hearing will be held at 5:00 p.m., Monday, June 7, 1993 in the State Personnel Large Conference Room, 1st Floor Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Draft copies of the Rules and Regulations are available for review in State Personnel-OAS.  
Joseph P. Foster, Director  
State Personnel Division-OAS  
May 7, 1993  
#8075269-1T May 7

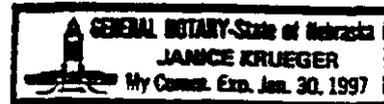
and that said newspapers are legal newspapers under the statutes of the State of Nebraska. The above facts are within my personal knowledge and are further verified by my personal inspection of each notice in each of said issues.

*Julie K. Beeth*

Subscribed in my presence and sworn to before me this ..... 7 .....  
day of *June* ....., 19 *93* .....

*Janice Krueger* ..... Notary Public

Printer's Fee, \$ .....



**Certification**  
**State of Nebraska**  
**State Personnel Division**  
**Nebraska Department of Administrative Services**

I, Mollie Anderson, Director of the State Personnel Division of the Nebraska Department of Administrative Services, certify the attached is a true and correct copy of Chapter 17 of the Classified System Personnel Rules. These Rules were adopted after public hearings held on September 9, 1998.

The purpose of these Rules are to

- 1) Promote economy and efficiency in state government through the recruitment, selection, employment, compensation and advancement of employees, based on their relative knowledge, abilities, and skills, with consideration of experience and longevity, including open consideration of qualified applicants for initial appointments.
- 2) Assure equal opportunity to applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, age, marital status, mental or physical disability, or religious creed, and with proper regard for their privacy and constitutional rights.
- 3) Provide for a uniform system of position evaluation based on analysis to assure compliance with the principle of equitable pay for comparable work.
- 4) Retain maximum authority and responsibility at the agency level for decisions to select **or** to terminate employees and for other facets of personnel management as may be consistent with the rule-making authority of the Director of DAS State Personnel for the development of uniform personnel administrative procedures.
- 5) Establish the necessary procedures to assure reasonably uniform and consistent personnel practices and provide a reliable basis for personnel costs projections and staging patterns.
- 6) Encourage the retention and improved performance of employees in the state's service by establishing procedures, rules, regulations, or guidelines regarding training, staff development, and career advancement.
- 7) Establish uniform systematic processes for performance appraisal and employee discipline.

I further certify that all previous Rules are superseded by the contents of this filing.

Done this 16<sup>th</sup> day of November 1998.



---

Mollie Anderson, Director  
State Personnel Division  
Nebraska Department of Administrative Services

**Certification**  
**State of Nebraska**  
**State Personnel Division**  
**Nebraska Department of Administrative Services**

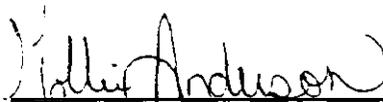
I, Mollie Anderson, Director of the State Personnel Division of the Nebraska Department of Administrative Services, certify the attached are true and correct copies of Chapters 7,12, and 14 of the Classified System Personnel rules. These Rules were adopted after public hearings held on April 21, April 22, April 23, April 27, April 28, April 29, and April 30, 1998.

The purpose of these Rules are to

- 1) Promote economy and efficiency in state government through the recruitment, selection, employment, compensation and advancement of employees, based on their relative knowledge, abilities, and skills, with consideration of experience and longevity, including open consideration of qualified applicants for initial appointments.
- 2) Assure equal opportunity to applicants and employees in all aspects of personnel **administration** without regard to political affiliation, race, color, national origin, sex, age, marital status, mental or physical disability, or religious creed, and with proper regard for their privacy and constitutional rights.
- 3) Provide for a uniform system of position evaluation based on analysis to assure compliance with the principle of equitable pay for comparable work.
- 4) Retain maximum authority and responsibility at the agency level for decisions to select or to terminate employees and for other facets of personnel management as may be consistent with the rule-making authority of the Director of DAS State Personnel for the development of uniform personnel administrative procedures.
- 5) Establish the necessary procedures to assure reasonably uniform and consistent personnel practices and provide a reliable basis for personnel costs projections and staffing patterns.
- 6) Encourage the retention and improved performance of employees in the state's service by establishing procedures, rules, regulations, or guidelines regarding training, staff development, and career advancement.
- 7) Establish uniform systematic processes for performance appraisal and employee discipline.

I further certify that all previous Rules are superseded by the contents of this filing.

Done this 20<sup>th</sup> day of July, 1998.



---

Mollie Anderson, Director

State Personnel Division

Nebraska Department of Administrative Services

**Certification  
State of Nebraska  
State Personnel Division  
Nebraska Department of Administrative Services**

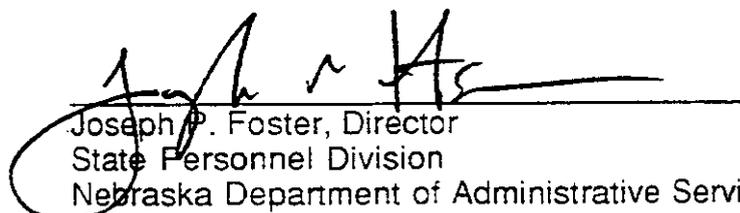
I, Joseph P. Foster, Director of the State Personnel Division of the Nebraska Department of Administrative Services, certify the attached are true and correct copies of Chapters 7, 8, 9, and 16 of the Classified System Personnel Rules as amended. These rules were adopted after public hearing held on September 7, 1993.

The purpose of these Rules are to

- 1) Promote economy and efficiency in state government through the recruitment, selection, employment, compensation, and advancement of employees, based on their relative knowledge, abilities, and skills, with consideration of experience and longevity, including open consideration of qualified applicants for initial appointments.
- 2) Assure equal opportunity to applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, age, marital status, mental or physical disability, or religious creed, and with proper regard for their privacy and constitutional rights.
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- 6) Establish the necessary procedures to assure reasonably uniform and consistent personnel practices and provide a reliable basis for personnel cost projections and staffing patterns.
- 6) Encourage the retention and improved performance of employees in the state's service by establishing procedures, rules, regulations, or guidelines regarding training, staff development, and career advancement.
- 7) Establish uniform systematic processes for performance appraisal and employee discipline.

I further certify that all previous Rules are superseded by the contents of this filing.

Done this 9th day of September, 1993.

  
Joseph P. Foster, Director  
State Personnel Division  
Nebraska Department of Administrative Services

**Certification  
State of Nebraska  
State Personnel Division  
Nebraska Department of Administrative Services**

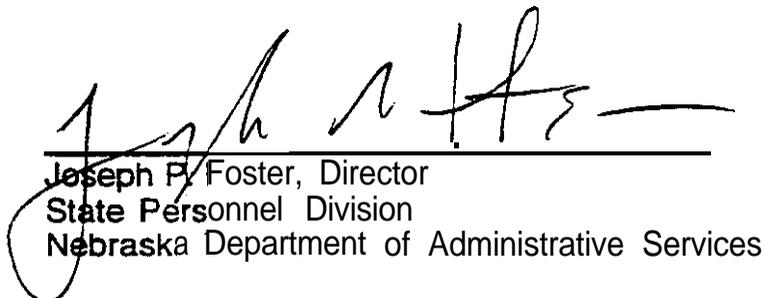
I, Joseph P. Foster, Director of the State Personnel Division of the Nebraska Department of Administrative Services, certify the attached is a true and correct copy of the Classified System Personnel Rules. These Rules were adopted after public hearing held on June 7, 1993.

The purpose of these Rules are to

- 1) Promote economy and efficiency in state government through the recruitment, selection, employment, compensation, and advancement of employees, based on their relative knowledge, abilities, and skills, with consideration of experience and longevity, including open consideration of qualified applicants for initial appointments.
- 2) Assure equal opportunity to applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, age, marital status, mental or physical disability, or religious creed, and with proper regard for their privacy and constitutional rights.
- 3) Provide for a uniform system of position evaluation based on analysis to assure compliance with the principle of equitable pay for comparable work.
- 4) Retain maximum authority and responsibility at the agency level for decisions to select or to terminate employees and for other facets of personnel management as may be consistent with the rule-making authority of the Director of DAS State Personnel for the development of uniform personnel administrative procedures.
- 5) Establish the necessary procedures to assure reasonably uniform and consistent personnel practices and provide a reliable basis for personnel cost projections and staffing patterns.
- 6) Encourage the retention and improved performance of employees in the state's service by establishing procedures, rules, regulations, or guidelines regarding training, staff development, and career advancement.
- 7) Establish uniform systematic processes for performance appraisal and employee discipline.

I further certify that all previous Rules are superseded by the contents of this filing.

Done this 10th day of June, 1993.

  
\_\_\_\_\_  
Joseph P. Foster, Director  
State Personnel Division  
Nebraska Department of Administrative Services



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Title 273 - Nebraska Classified System Personnel Rules

Chapter 1

## Chapter 1 - Coverage

**001 Applicability.** These rules apply equally to all agencies and employees covered by the State Personnel System unless otherwise noted. Agency heads are responsible for the application of these rules within their agency, and shall ensure that all employees comply with the provisions of these rules.

**002 Collective Bargaining Agreements.** Employees subject to certified Collective Bargaining Agreements as prescribed in Section 81-1373 and 1374 are not covered by these rules to the extent that wages, hours and other terms and conditions of employment are provided for by contract.

**003 Agency Rules and Policies: Conflicts.** These rules shall not be construed as limiting in any way the power and authority of any agency head to make rules governing the conduct of departmental employees and the performance of department functions, provided that such departmental rules shall be consistent with and limited by the provisions of these rules and any collective bargaining agreement. Provisions of the State Personnel Rules, or the provisions of a collective bargaining agreement supersede all departmental rules.

**004 Agencies and Employees Covered by Personnel Rules.** The following classified agencies are covered by these Rules. Any agency which is not listed below and/or is created as a classified agency after publication of these Rules shall be covered:

- |  |                             |
|--|-----------------------------|
| Accountability & Disclosure Commission | Historical Society          |
| Administrative Services                | Indian Affairs Commission   |
| Aeronautics                            | Institutions                |
| Aging                                  | Insurance                   |
| Agriculture                            | Investment Council          |
| Arts Council                           | Labor                       |
| Athletic Commission                    | Land Surveyors              |
| Banking                                | Library Commission          |
| Barber Examiners Board                 | Liquor Control              |
| Board of Parole                        | Mexican American Commission |
| Corn Board                             | Military                    |
| Corrections                            | Motor Vehicles              |

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**Title 273 - Nebraska Classified System Personnel Rules**

**Chapter 1**

- |                                |                              |
|--------------------------------|------------------------------|
| Crime Commission               | MV Dealers Licensing Board   |
| Dry Bean Commission            | Natural Resources Commission |
| Economic Development           | Oil and Gas Commission       |
| Electrical Board               | Patrol                       |
| Energy Office                  | Power Review Board           |
| Engineers and Architects Board | Public Accountancy Board     |
| Environmental Quality          | Racing Commission            |
| Equal Opportunity Commission   | Real Estate Commission       |
| Educational Telecommunications | Real Estate Appraisers Board |
| Examiners-Abstractors Board    | Retirement System            |
| Fire Marshal                   | Revenue                      |
| Foster Care Review Board       | Roads                        |
| Game and Parks Commission      | Social Services              |
| Gasohol Committee              | Soybean Board                |
| Grain Sorghum Board            | Status of Women Commission   |
| Health                         | Veterans' Affairs            |
| Hearing Impaired Commission    | Water Resources              |
|                                | Wheat Board                  |

**005** **Positions and Employees not Covered by Personnel Rules.** Positions directed by law to be appointed by the Governor, a board or commission are not covered by these rules.

**005.01** **Discretionary Non-Classified Positions.** At each agency head's option, up to the following number of positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
over 1000	5

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policy-making personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered position shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head. In no case shall a current state employee's career protections or coverage by

Personnel Rules and Regulations be revoked without the prior written agreement of such employee.

**005.01A**     **Creation of Discretionary Non-Classified Positions.** An agency head, when establishing a discretionary non-classified position shall submit to the Director of DAS State Personnel a notification to create a new position or change a current position. This notification shall include a listing of the number of employees in the agency for determination of the appropriate number of eligible discretionary non-classified positions. When non-classified positions are created under the provisions of Section 81-1316(2) of the Statute, they will be established in a single non-classified code and title N007010, Discretionary Non-Classified.

**005.01B**     **Duties and Working Title.** Discretionary non-classified positions shall be assigned duties consistent with the statutory intent that provides for "...critical, confidential or policy-making personnel..." The agency director shall assign a working title to the position which clearly and concisely describes the function of the position. The working title will be used for purposes such as the agency organization chart.

**005.01C**     **Salary and Benefits.** Discretionary non-classified positions are assigned to salary grade 500 as are other non-classified positions. The agency head has total discretion in setting the pay rate (hiring rate, increases, and reductions) of an employee in a discretionary non-classified position. Benefits such as sick leave, vacation leave, military leave, civil leave, life and health insurance, retirement, and others are as prescribed by State Statute.

**005.01D**     **Classified Employee Conversion to Discretionary Non-Classified Status.** A classified position staffed by a classified employee cannot be designated for conversion to discretionary non-classified status without the voluntary and written agreement of the assigned employee. An employee may freely, and of their own accord, accept discretionary non-classified status if the agency has designated such position for conversion. In no case shall a current State employee's career protections or coverage by Personnel Rules and Regulations be revoked without the prior voluntary written agreement of such employee.

**005.01D1**     Individuals transferred or hired to fill discretionary non-classified positions are "at will" employees. "At will", for purposes of the discretionary non-classified positions, is defined as serving at the pleasure of the appointing authority not subject to the Rules and Regulations of the Classified Personnel System.

**005.02 Discretionary Non-Classified Employee Conversion to Classified Status.** An agency head shall not convert a discretionary non-classified position to a classified position while the position is occupied.

**005.02A** An agency head may convert a vacant discretionary non-classified position to a classified position. The conversion is accomplished by preparing and submitting a job description for the position to the Director of DAS State Personnel for classification action in accordance with Nebraska Classified System Personnel Rules.

**005.02B** Because an incumbent in a discretionary non-classified position was not hired under and is not covered by the State Personnel System, such an employee cannot be transferred into a classified position covered by the State Personnel System. Such an employee is entitled to apply for and be considered for any vacant position in any agency of State Government.

**006 Availability.** Each employee has the right to examine these rules. A copy is available for examination in the DAS State Personnel Division; or an employee may examine his/her agency's copy of the rules.

## Chapter 2 - Management Authority

**001** **Agency Authorities**. Agency heads and other management personnel so designated by the agency head shall have the following authorities and responsibilities, consistent with rules and regulations adopted and promulgated by the DAS State Personnel Division:

**001.01** Decisions concerning the mission of the agency;

**001.02** Decisions on how to maintain and improve the efficiency and effectiveness of government operations;

**001.03** Decisions on services to be rendered, operations to be performed, technology to be utilized, or matters to be budgeted;

**001.04** Decisions concerning the overall methods, processes, means, or personnel by which operations are to be conducted;

**001.05** Decisions concerning the processes and acts of hiring, directing, or supervising employees;

**001.06** Determining the performance evaluation rating of individual employees on at least an annual basis;

**001.07** Employee salary administration decisions;

**001.08** Assuring that position titles and job descriptions are accurate;

**001.09** Decisions concerning employee job assignments, employee work schedules, promotions of employees, transfers of employees, and discipline of employees including terminations;

**001.10** Decisions to relieve employees from duties because of lack of work or funds or under conditions when the employer determines continued work would be inefficient or nonproductive including the contracting out for goods and services;

**001.11** Decisions concerning development and maintenance of any personnel records necessary for the operation of the agency;

**001.12** Decisions to confer with any or all of its employees in the process of developing policies; and

**001.13** Decisions to take any other action not otherwise specified in this section.

## Chapter 3 – Definitions

**001** Agency - any legally constituted board, commission, department or other branch of state government in which all positions are under the same appointing authority.

**002** Agency Head - the administrative head of an agency, such as Director, Executive Director, Commissioner, Executive Secretary, etc., reporting directly to the Governor, a commission, or board.

**003** Board - the State Personnel Board as per State Statute 81-1318.

**004** Bumping - process during layoff of allowing employees to replace other employees in lieu of layoff.

**005** Chief Negotiator - The Director of the Employee Relations Division of the Department of Administrative Services (DAS) or his/her designated representative.

**006** Class - one or more positions similar enough as to duties performed, degree of supervision exercised or received, knowledge, skills and abilities needed, and other characteristics so that the same title and salary grade assignment may be applied to each position in the group.

**007** Class Specification - the formal description of the work of a class, which defines the class and lists typical examples of work performed and the knowledge, skills and abilities associated with performing the work.

**008** Classified System - all state agencies and positions covered by the State Classified Personnel System.

**009** Classify - to assign a position to a specific class based upon duties, responsibilities and knowledges, abilities and skills.

**010** Compensatory Time - time off granted by an agency head to an employee in lieu of payment for overtime or holiday hours worked.

**011** Demotion - reassignment of an employee from one class to another class at a lower salary grade as a result of disciplinary action requiring a reduction in salary.

**012** Director of DAS State Personnel - The Director of the State Personnel Division of the Department of Administrative Services (DAS) or his/her designated representative.

**013** **Disciplinary Probation** - a special employment status imposed for disciplinary reasons; the period of time for such probation shall not exceed one year.

**014** **Dismissal** - involuntary separation of an employee, excluding layoffs.

**015** **Employee** - any person, except those excluded by statute, who works in any state agency in the State Classified Personnel System and receives a state pay warrant. For the purposes of these rules, employee refers to classified employees only.

**016** **Exempt** - a class which is not covered by the time and one-half overtime provisions of the Fair Labor Standards Act and state law.

**017** **Hiring Rate** - beginning rate of a salary grade.

**018** **Investigatory Suspension** - is a non-disciplinary suspension while an employee is being investigated to determine whether disciplinary action is warranted.

**019** **Job Description** - summary of the actual duties and responsibilities assigned to any one position.

**020** **Job Preparation Guidelines** - the education, experience and other qualifications recommended in order to determine eligibility for a class.

**021** **Layoff** - involuntary employee separation or reduction of hours because of economic reasons, elimination of funds, reduction in workload or reorganization of the agency.

**022** **Leave of Absence** - unpaid time off from work requested by the employee and granted by the agency head or appointing authority.

**023** **Maximum Rate** - highest rate of a salary grade.

**024** **Merit Increase** - monetary recognition of superior job performance.

**025** **Minimum Permanent Rate** - the lowest pay rate of an employee who has satisfactorily completed their original probationary period.

**026** **NEIS (Nebraska Employee Information System)** - the computerized personnel/payroll system operated by the Department of Administrative Services.

**027** **Non-classified System** - all state agencies and positions not covered by the State Classified Personnel System.

**028** **Non-exempt** - a class which is covered by the time and one-half overtime provisions of the Fair Labor Standards Act and state law.

**029** **Occupational Group** - a broad set of classes recognized as a field of employment; example: engineering, architectural, accounting and maintenance.

**030** **Pay Status** - a condition whereby an employee is receiving pay from the employing agency.

**031** **Permanent Position** - a full-time or part-time position worked on an ongoing basis.

**032** **Position** - a group of specific duties and responsibilities to be performed by one or more employees and which may be part-time, full-time, permanent, temporary, seasonal, filled or vacant.

**033** **Promotion** - reassignment of an employee from one class to another class at a higher salary grade with increased duties and responsibilities.

**034** **Reinstatement** - act of rehiring a former employee who has been laid off from employment or placed in a lower position in good standing as a result of a layoff.

**035** **Relocation** - a reassignment requiring a move of more than 35 miles from the employee's place of residence (in general, rules of the Internal Revenue Service apply).

**036** **Salary Grade** - a range of pay with a Hiring Rate and a Maximum Rate.

**037** **Selection Device** - a valid job related tool used to obtain an indication of the possession of the relative knowledge, skills, abilities and personal characteristics that make a difference in job performance and are needed at entry to a particular job. (Examples: Rating Scale, Interview Questionnaire.)

**038** **Series** - two or more classes similar in duties, but differing primarily in level of difficulty, responsibility, knowledges, abilities, and skills needed and supervision exercised or received. The Director of DAS State Personnel shall determine what classes constitute a series.

**039** **Service Date** - date from which an employee's vacation and sick leave entitlement is computed.

**040** **State Personnel System** - all state agencies and positions not excluded by State Statute 81-1316, R.R.S., Nebraska, 1943 or subsequent legal decisions.

**041**    **Suspension** - a forced leave of absence without pay.

**042**    **Temporary Employee** - an employee hired for a limited period of time not to exceed one year.

**043**    **Temporary Position** - a full-time or part-time position that shall not be worked on a continuous basis.

**044**    **Transfer of Employee** - the reassignment of an employee from one position to another position within an agency or to another agency without a break in service.

## Chapter 4 - Employee Selection

**001**    **Equal Employment.** Each agency of state government shall take positive action in all areas of its operation to insure that all citizens are given fair and equal opportunities for employment and advancement. Agency heads shall ensure the prohibition of discriminatory activity in employment and advancement based on race, color, religion, national origin, age, sex, marital status, or physical or mental disability.

**001.01**    Agencies shall take affirmative action to ensure the full implementation of a policy in state government employment which provides equal employment opportunity (please see the State Affirmative Action Rules).

**001.02**    Agencies shall comply with Public Law 101-336, the federal Americans with Disabilities Act of 1990 to ensure that standards, criteria, or methods of selection do not discriminate against individuals with disabilities.

**002**    **Vacant Positions.** Agency heads shall furnish all vacant position announcements to the Director of DAS State Personnel for assistance in recruiting qualified applicants after internal posting is completed. The Director of DAS State Personnel shall initiate a recruiting program at the requesting agency's expense for specified positions. The agency head may reimburse the best qualified job applicants for travel, meals, and lodging expenses incurred in traveling to and from the prospective job site, except that no more than three applicants for any position may be reimbursed. Reimbursement shall be made in accordance with policies established by the Director of the Department of Administrative Services.

**002.01**    A Job Order form must be completed on each external vacant position and returned to the DAS State Personnel Division.

**002.01A**    All vacancy announcements shall be posted with the DAS State Personnel Division by the prescribed time and date to ensure inclusion in the Job Mart publication. Positions shall be advertised for a minimum of six workdays. An exception to this section is available through written agreement with the Director of DAS State Personnel.

**002.02**    Applications must be received in the DAS State Personnel Office or postmarked no later than the announced closing dates to be considered for a vacancy.

**002.03**    Advertisements for positions to be placed in newspapers or other publications require prior approval from the DAS State Personnel Division. An exception to this section is available through written agreement with the Director of DAS State Personnel.

**003**    **Selection.** Agency heads shall ensure that all applicants hired possess the necessary knowledge, abilities and skills and statutory requirements if applicable.

**003.01**    All agencies shall develop a selection device to be uniformly administered prior to making a final hiring decision.

**003.01A**    If the DAS State Personnel Division is not requested to develop a selection device/tool, the hiring agency is responsible for documenting all selection activities, including Affirmative Action statistical data, involved in the hiring process.

**003.02**    Applicants hired to positions as the result of falsifying or omitting relevant information concerning their qualifications or work history may be disciplined (see Chapter 13).

**003.03**    Applicants may grieve, to the State Personnel Board, alleged political affiliation discrimination concerning hiring practices for a position in the State Classified Personnel System.

**004**    **Employment Status Verification.** In accordance with the Immigration Reform and Control Act of 1986, employment of persons hired by the State of Nebraska will be contingent upon their presentation of acceptable documentation verifying their identity and authorization for employment in the United States.

**005**    **Veteran's Preference.** Veterans determined eligible in accordance with Sec. 80-401.01 of the Nebraska Revised Statutes shall be given preference (Veteran's Preference) as specified in Sec. 48-226 of the Statutes. The preference will be granted in the following manner: "When two or more equally qualified candidates are being considered for a vacant position within State Government, the qualifying veteran will be given preference for that position." This preference is only granted upon initial entrance to State Government.

**006**    **Employment Categories.**

**006.01**    **Full-Time.** Full-time employees eligible for overtime (non-exempt employees) are required to work as a minimum, 40 hours per week on an ongoing continuous basis. Full-time employees not eligible for overtime (exempt employees) must be paid on a consistent salary basis, and are not eligible for overtime compensation for extra hours of work. Full-time employees earn all benefits.

**006.02**    **Part-Time.** Part-time employees are required to work fewer hours than full-time employees on an ongoing continuous basis. Work schedules may fluctuate by week, month, or season. Part-time employees earn benefits on a prorated basis equal to the total yearly FTE for their positions.

**006.03 Temporary.** Temporary employment may be full-time or part-time. Temporary employees shall not be hired on a full/part-time continuous basis to exceed one year unless specifically approved by the Director of DAS State Personnel.

**006.03A** Temporary employment shall not count toward service date or original probationary period.

**006.03B** Temporary employees may be separated at any time without 2 weeks notice or grievance rights. The notice of separation must be in writing and shall specify the date of separation.

**006.03C** Temporary employees shall not receive benefits except the following types of paid leave: injury and civil leave and military training or emergency duty leave.

**006.03D** Temporary employees have no grievance rights.

**006.04 Replacement Status.** For the purpose of training, agency heads may hire a qualified applicant to understudy an incumbent vacating a position, or to serve as a replacement for a period not to exceed 60 calendar days, unless approved by the Director of DAS State Personnel and in no case shall the extension exceed a total of one year.

**006.04A** Service in a replacement status shall be included as a part of the original probationary period for the position occupied.

## Chapter 5 - Probationary Periods

**001 Original Probationary Period.** This period is used by the employee for adjustment to state government and by the agency head to observe the employee's ability to satisfactorily perform assigned duties and responsibilities.

**001.01 New Hire.** All new hires shall be required to serve an original probationary period of six months from date of hire and shall be so notified. Employees who transfer from one agency to another may be required by the agency head to serve an original probationary period. An employee shall be removed from original probation status on the day following the end of the original probationary period, unless notified of extension (see 001.03) or separation (see 001.04) by the agency head. The employee shall be notified in writing by the agency head of successful completion of the probationary period.

**001.02 Transfer During Original Probation.** An employee who is transferred (promotion, demotion, lateral move, or move to a lower position) within an agency while serving an original probationary period may have his/her probationary period extended, at the discretion of the agency head (see 001.03).

**001.03 Extension of Original Probation.** An agency head may extend the original probation of an employee for reasons of performance, transfer and promotion for a period not to exceed a total of 1 year from the date of hire or rehire or transfer. The employee shall be notified in writing of the extension.

**001.03A** The notification of extension shall include the specific period of extension. In cases of extension for performance reasons the employee shall be provided specific performance improvement requirements.

**001.03B** Notification of extension must be accomplished before the expiration of the probationary period and shall not be backdated once the original probationary period has ended.

**001.04 Separation During Original Probation.** Employees may be separated at any time during the original probationary period. Two weeks notice of separation does not have to be given to original probationary employees; however, the agency head shall notify the employee in writing of the date the separation is effective. The reason for separation shall be documented in the employee's personnel file, and the employee shall be informed regarding the reasons for separation. Employees who

are separated while on original probation do not have State Classified Personnel System grievance rights.

**002** **Transfer Probationary Periods.** In the case of personnel actions (promotion, lateral move, or move to a lower position) employees may be required by the agency head to serve a probationary period (note -- this is not another original probationary period). This probationary period in no way affects the grievance rights of an employee. The length of the probationary period is at the agency head's discretion, but shall not exceed six months beginning on the date of the transfer. (Note: See Chapter 7, 003.01C for salary policy.)

**002.01** If an employee cannot or does not perform satisfactorily in the class to which he/she was transferred, the agency head may transfer the employee to another position of either the same salary grade or a lower salary grade. If no other position is available for transfer, the agency head may reassign the duties of the employee, reclassify the employee to a classification of a lower salary grade, or separate the employee. An employee who is separated under this section shall have bumping rights as outlined in Chapter 12.

**003** **Disciplinary Probation Status.** See Chapter 13 - Disciplinary Action.

## Chapter 6 – Classification

**001 Classification Plan.** The classification plan is based on a systematic review and analysis of the duties and responsibilities of all positions in the State Classified Personnel System. Classification is based on a variety of factors, including duties performed, the scope and level of responsibilities assigned, the nature and extent of supervision received and/or exercised, and the knowledge, abilities and skills required. All positions having similar duties and responsibilities are grouped into classes and are assigned to a salary grade.

**002 Class Specifications.** Specifications are maintained for each class. Specifications provide a title and description, typical duties and responsibilities, and knowledges, abilities and skills necessary for job performance. The duties outlined in the specification do not limit the assignment of other duties to a position.

**003 Class Titles.** The assigned class title and class code are the official designations for every class for personnel, budget and payroll administration purposes. However, other titles may be used in day to day business, if desired.

**004 Agency Head Authority and Responsibilities.** When significant changes in duties and/or responsibilities are made, or when a new position is created, the agency head shall submit a current job description to the Director of DAS State Personnel for classification review.

**004.01 Understaffing.** For the purpose of training, an agency head may understaff a position with an employee of a lower class within the same series. The duties and salary shall reflect the employee's classification. Ordinarily, an employee should not hold an understaffed position for more than one year. Positions that have been understaffed longer than one year shall be subject to review by the Director of DAS State Personnel.

**005 Requests for Classification Reviews.** Classification reviews may be requested by any of the following:

**005.01** Employees may request a review of their classification at any time, provided that the position has not been reviewed by the DAS State Personnel Division in the previous six months. Requests are made by completing a job description questionnaire, reviewing it with the employee's supervisor and receiving supervisory remarks, and submitting it along with a letter requesting review to the agency head. Such letter shall contain a concise and specific statement as to why the employee believes the current classification assignment is inappropriate and the

specific reasons therefore; and a statement of the classification sought. The agency head shall have up to a maximum of forty-five work days to review such information and if necessary change the assignment of duties and responsibilities of a position and shall forward the employee's request to the Director of DAS State Personnel for review.

**005.02** Agency heads may request a review of the classification of any position in their agency at any time. Requests are made by submitting a current job description questionnaire along with a letter requesting review to the Director of DAS State Personnel.

**005.03** The Director of DAS State Personnel may review any position at any time by requiring an employee to fill out a job description questionnaire. The Director of DAS State Personnel may access any information necessary for a classification review, including, but not limited to organizational charts, job descriptions, staffing reports and a personal visit to the employee at his/her workplace.

**006** **Reclassification.** No position may be classified or reclassified without written authorization of the Director of DAS State Personnel. The decision of the Director of DAS State Personnel shall be implemented within the next full pay cycle after the written authorization, or at a later date if agreed upon by the agency head and the Director of DAS State Personnel, unless a reconsideration of the classification decision is requested (see 007). Any pay change shall be effective only from the date of final determination.

**007** **Classification Decision Reconsideration Process.** Any employee or agency head may request reconsideration, in writing, within 15 workdays from notification of the classification decision to the Director of DAS State Personnel and shall explain in detail the reasons for such a request. The letter shall contain a concise and specific statement as to why the decision was inappropriate and the specific reasons therefore; and a statement of the classification sought. An employee request shall be forwarded through the agency head to the Director of DAS State Personnel. Implementation of the classification action including any pay changes, will be delayed until the reconsideration has been formally concluded. In the case of any pay change such change will be made effective the date of the appeal to the Board.

**007.01** **Classification Appeals to the State Personnel Board.** If the employee or agency does not agree with the decision of the Director of DAS State Personnel, the decision may be appealed to the State Personnel Board. The purpose of the appeal to the State Personnel Board is to ensure that proper application of the State's classification methodology was utilized in the decision making process and the issues raised by the appellant were taken into consideration and that the

information used in the decision making process was accurate and correct. The review of the Board shall be limited to the issues raised by the appellant in the request to the Director of DAS State Personnel for reconsideration of the classification decision. New evidence will not be allowed at this step of the review.

**007.01A** The appeal shall be forwarded to the State Personnel Board, through the State Personnel Office, within 10 workdays after the employee receives the decision of the Director of DAS State Personnel.

**007.01B** The appeal shall be in writing and shall contain the following:

**007.01B1** The full name and mailing address of the party who is affected by the classification decision;

**007.01B2** The date the party was notified of the decision;

**007.01B3** A copy of the written decision of the Director of DAS State Personnel;

**007.01B4** A concise specific statement as to why the party believes the decision was inappropriate and the facts contained in the Director of DAS State Personnel's decision, which were in error or which were omitted from consideration;

**007.01B5** A concise specific statement of the relief being requested by the party, including the classification determination sought, and the specific reasons therefore.

**007.01C** Failure of the party to provide the specific information requested for the review may be cause for the State Personnel Board to dismiss the appeal application. Material not submitted with the appeal application to the Board shall not be considered in the hearing.

**007.01D** Upon receipt of the appeal application, the Board Chairperson shall determine the appropriate disposition of the requesting party's application. If the Board Chairperson determines that a hearing is necessary, the Chairperson will decide if the Board will hear the appeal or may choose to appoint a Hearing Officer to hear such matter and recommend a decision to the Board. If a hearing is determined not necessary the appeal will then be considered submitted at that point and the Board will rule on the merits of the case. The Director of DAS State Personnel, on behalf of the State Personnel Board, shall notify the appropriate parties in writing of the hearing date, time and place.

**007.01E** The DAS State Personnel Division shall provide each member of the State Personnel Board or Hearing Officer with a copy of each document to become a part of the appeal file. The appeal file shall consist of, but not be limited to, copies of the following:

**007.01E1** The original classification/reclassification request under review and all attachments and responses thereto;

**007.01E2** The reconsideration request of the appropriate party and written decision of the Director of DAS State Personnel and all attachments and responses attached thereto;

**007.01E3** The job description and any attachments added by the incumbent, the agency, or the classifier used in the process of classification and reconsideration;

**007.01E4** The written appeal request bringing the classification appeal before the State Personnel Board;

**007.01E5** Other directly relevant and significant documents submitted by the employee, appointing authority or the DAS State Personnel Division (i.e., job descriptions, class specification, classification guidelines, organizational charts, etc.).

**007.01F** Discovery shall be limited to documents outlined above except that depositions may be allowed at the discretion of the State Personnel Board or designated Hearing Officer. Requests for depositions, including those persons to be deposed, shall be made in writing and state the reason for such request to the State Personnel Board or designated Hearing Officer.

**007.01G** Deposition requests must allow for at least a 10 workday notice to the requested party.

**007.01H** The DAS State Personnel Division shall have available for review the appeal file to all participating parties at least 10 workdays prior to the hearing date.

**007.01I** The employee, appointing authority (and/or their respective representatives) and the applicable DAS State Personnel Division classification personnel shall appear at the classification hearing. Direct testimony shall be restricted to the party requesting review. Other parties represented are allowed to respond to questions posed by the Board or Hearing Officer. The hearing shall be informal and witnesses shall not be allowed.

**007.01J** The Board shall show significant deference to the decision of the Director of DAS State Personnel and shall only set it aside if it is shown to be arbitrary, capricious or contrary to rule or law. The DAS State Personnel Division shall notify the parties in writing of the Board's decision. If the Board overturns the Director's decision, it shall be remanded to the Director for further consideration of the issues raised in the appeal request. The second decision from the Director of DAS State Personnel is final and binding.

**007.01K** The employee may withdraw his/her appeal at any time.

# Chapter 7 - Salary Administration

001 General. All employees must be hired at the Hiring Rate of the salary grade for their class, except in the following cases:

001.01 Applicants Who Possess More Than The Entry Requirements. When an applicant has training and/or experience which exceeds the entry level knowledges, abilities and skills of the class, an agency head may hire that applicant at a rate up to the Minimum Permanent Rate, without prior written permission from the Director of DAS State Personnel. Prior written permission from the Director of DAS State Personnel is required before a salary above the Minimum Permanent Rate is offered to an applicant. Requests to the Director of DAS State Personnel to offer a beginning rate above the Minimum Permanent Rate must be written and must include the reasons why the applicant is paid more than the normal beginning salary.

001.02 Rehiring Former Employees. A former employee returning to work in the same class within the State Classified Personnel System may be rehired at the same rate the employee was receiving when he/she left State employment, except that the rate must not be less than the Hiring Rate or higher than the Maximum Rate of the current salary grade. Documentation of the previous rate must be attached to the new Personnel Action Form (a copy of the employee's NEIS separation form will suffice). If the employee was not in the State Classified Personnel System, he/she is considered as a new employee for Hiring Rate purposes.

001.03 Recruitment Difficulties. If recruitment of applicants becomes difficult for compensation-related reasons, the Director of DAS State Personnel may authorize a higher Hiring Rate for an entire class, or for a series of classes, or for a set of classes within a specific geographic area. Under these circumstances, current employees in the affected classes must be paid at least the specified higher Hiring Rate. (Salary adjustments may be requested from the Director of DAS State Personnel for other employees if an inequitable compression of salaries would result from a higher Hiring Rate.)

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SEP 3 1998  
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SEP -8 1998  
By *[Signature]* SECRETARY OF STATE

**002** **Salary Increases Upon Completion of Original Probation.** Upon completion of the original probationary period, employees paid less than the Minimum Permanent Rate must be given a salary increase to at least the Minimum Permanent Rate. At the agency head's discretion, employees hired at less than the Minimum Permanent Rate may be given up to a 5% end of original probation increase. Applicants should be informed when they are hired at the Hiring Rate, or at any rate less than the Minimum Permanent Rate, that they will receive a salary increase to at least the Minimum Permanent Rate at the end of their probationary period. Employees hired at the Minimum Permanent Rate or above may, at the agency head's discretion, be given up to a 5% end of probation salary increase.

**003** **Salary Grade Changes.**

**003.01** **Upward Changes.** Employees placed in a higher salary grade may receive up to a 7.5% pay increase per salary grade advanced, at the agency head's discretion, except in the following cases:

**003.01A** The employee must be paid at least the Hiring Rate of his/her new salary grade.

**003.01B** The employee cannot be paid above the Maximum Rate of his/her new salary grade as a result of the pay increase.

**003.01C** If the new salary is below the Minimum Permanent Rate, of the new salary grade, the employee may be given a salary increase to the Minimum Permanent Rate at any time in the following 6 months, but must be paid at least the Minimum Permanent Rate at the end of 6 months.

**003.01D** No employee shall be transferred to a position of a lower salary grade (with no salary reduction) and then promoted back to the same salary grade with a salary increase within one year.

**003.02** **Downward or Lateral Changes.** Employees placed in the same or lower salary grade because of a reclassification, involuntary transfer, or salary grade adjustment may have their salary reduced.

**003.02A** Employees requesting voluntary transfer (lateral or down) or as a result of bumping in lieu of layoff may, at the agency head's discretion, have their salary reduced.

**003.02B** Disciplinary demotions require at least a 5% reduction in salary grade, and the employee's salary may be reduced to the Hiring Rate, at the agency head's discretion.

**003.02C** If the new salary is below the Minimum Permanent Rate, the employee may be given a salary increase to the Minimum Permanent Rate at any time in the following 6 months, but must be paid at least the Minimum Permanent Rate at the end of 6 months.

**004** **Salary Adjustments Within Grade.** Agency heads may request salary adjustments (up or down) for their employees from the Director of DAS State Personnel. The reasons and consequences of such requests must be explained in detail and in writing. (Reasons for granting such salary adjustments are for employee salary equity within an agency, unusual labor market conditions, or other circumstances beyond an agency's control.) The decision of the Director of DAS State Personnel is final and is not appealable by the agency.

**005** **Temporary Reassignment to A Higher Salary Grade.** An employee temporarily promoted to a classified position to fill a vacancy, or to fill in for a leave period exceeding 15 calendar days, shall be paid at least the hiring rate of the new salary grade. The salary increase can begin on the first day of reassignment, but shall begin no later than the 16th day following the temporary promotion. At the end of this temporary reassignment, the employee's salary shall be reduced to the amount paid prior to the temporary promotion, except that any merit increases and any general salary increases granted through legislation shall be added back into the employee's base salary. Temporary promotions shall not exceed one year unless authorized by the Director of DAS State Personnel.

**006** **Merit and/or Bonus Pay Increases.** Agencies may develop merit and/or bonus pay programs granting pay increases to employees in recognition of superior job performance. An Agency merit and/or bonus pay program must include written criteria for designating employees to be awarded merit and/or bonus increases. The program must include fair administration safeguards such as consideration of proportionate geographic and hierarchical distribution, and public access to the criteria and awards. (For example, recognition may be based on nominations either from supervisors or employees, including specific examples of the job related behavior which meet merit/bonus award criteria. A committee may be created to review nominations and make recommendations to the Agency Director.)

**NOTE:** DAS State Personnel is available to assist Agencies in the development of criteria to be used for merit and bonus pay programs.

**006.01** Prior to implementation, Agency merit and/or bonus pay programs must be on file with DAS State Personnel. Records concerning monetary awards are public information and will be available for inspection by employees and the public at DAS State Personnel.

**006.02** Merit increases are defined as a percentage added to the employee's salary. The increase is included in the employee's base salary and all future pay transactions are computed from the higher base.

006.03 Agency heads may give merit increases to their employees, subject to the following conditions:

**006.03A** Merit salary increases of up to 7.5% of the employee's base salary are allowed during a fiscal year.

**006.03B** The employee's base salary shall not exceed the Maximum Rate of his/her salary grade as a result of a merit increase.

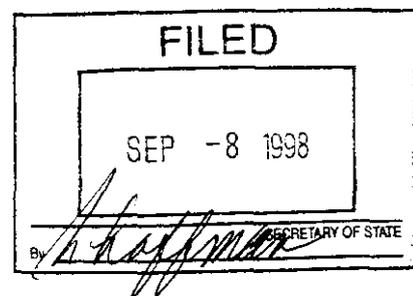
**006.03C** Merit pay increases shall not be automatic and shall only be retroactive to the beginning of the current pay period.

006.04 Agency heads may grant single or multiple bonus pay increases of up to a total of \$500 per individual during a fiscal year subject to the following conditions:

**006.04A** A bonus is not added into the employee's base salary.

**006.04B** Employees at or above the Maximum Rate shall not receive a bonus.

007 Additional Benefits. In order to ensure equitable compensation programs agencies shall obtain concurrence of the Director of DAS State Personnel before granting employees any additional benefits (shift differentials, stipends, officer of the day pay, uniforms, housing, vehicles, etc.).



APPROVED

SEP 08 1998

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SEP 17 93 005975  
Chapter 8

Title 273 - Nebraska Classified System Personnel Rules

## Chapter 8 - Overtime

**001 Work Week.** Agency heads shall determine each employee's work week, which will consist of 7 consecutive calendar days, except for institutional, law enforcement or protection employees (Sections 004 and 005). The work week of each employee shall be documented in the agency's files. Full-time employees eligible for overtime (non-exempt employees) shall account for at least 40 hours of work or leave time per week. All employees shall be informed of their work week.

**002 Work Schedule.** Management sets each employee's work schedule and may require employees to work evenings, weekends, and/or holidays. Overtime will be offered to volunteering employees within the classification and work unit, but where there is more than one volunteer, overtime shall be offered on a rotating basis beginning with the employee with the most agency seniority, although overtime may be assigned to an employee based on immediate availability or special job qualifications, however, the assignment of overtime will not be done in a discriminatory manner. If there are no volunteers, then employees will be required to work overtime on a rotating basis beginning with the employee with the least agency seniority.

**003 Overtime Compensation Eligibility.** The DAS State Personnel Division shall tentatively determine the overtime status of each classification as either exempt or non-exempt. However, since FLSA requirements apply to positions and employees, and not to entire classes, each position within a class is subject to an individual analysis and determination on whether or not the position is exempt. Agencies will make such determinations in accordance with the guidelines found in the DAS State Personnel Division FLSA Handbook.

**003.01 Salary Requirement for Exempt Status.** An employee must be paid on a salary basis to be considered exempt from the overtime portion of the FLSA. An employee will be considered to be paid "on a salary basis" if the employee regularly receives, each pay period, a predetermined amount constituting all or part of his or her compensation. Such amount is not subject to reduction for less than one day unpaid absences. The use of sick, vacation, or compensatory time for less than one day absences is not considered a reduction in salary, but rather use of an employee benefit.

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SEP 16 1993  
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rev. 9/15/93

**003.02 Exempt.** Agency heads, their deputies and assistant chiefs of divisions, bureaus or comparable organizational elements, and other employees determined to be exempt from the Fair Labor Standards Act are not eligible for overtime compensation.

**003.03 Non-Exempt.** These employees shall receive compensation at one and one-half times their hourly rate in the form of either pay or compensatory time off, at the agency head's discretion, for hours worked in excess of 40 hours in any work week (other standards apply for hospital, law enforcement, and fire protection workers - see 004 and 005). Leave time (vacation, sick, etc.) shall not be considered as hours worked. Holidays shall be counted as hours worked.

**003.04 Reconsideration of Exempt/Non-Exempt Status.** Agency heads or employees may request reconsideration of the exempt/non-exempt status of their class. Such request shall be in writing to the Director of DAS State Personnel and must explain the reasons for requesting reconsideration. The Director of DAS State Personnel shall render a decision within 15 workdays and the decision shall be final.

**003.05 Authorization.** Overtime hours in excess of 40 must be authorized in advance by the agency head. Such authorization may be written or oral, but in any event, such approval shall be made a matter of written record by the agency.

**003.05A** In the event of an emergency, or when it is not possible or practical to obtain prior approval for overtime work to be performed, the agency head may approve the overtime in writing subsequent to the time the work was performed.

**004 Institutional Overtime.** Agencies engaged in the operation of a hospital or an institution primarily engaged in the care of the sick, aged, or mentally ill or retarded residents housed at state facilities may establish a period of 8 hours per day/80 hours per 14 consecutive calendar days for the purpose of determining overtime compensation (rather than the 40 hour per week standard).

**005 Law Enforcement and Fire Protection Overtime.** Agencies having police, law enforcement, or correctional security personnel may establish a period of 171 hours in a consecutive 28 day period for the purposes of determining overtime compensation (rather than the 40 hour per week standard).

**005.01** Agencies having fire protection personnel may establish a period of 200 hours in a consecutive 28 day period for the purposes of determining overtime compensation (rather than the 40 hour per week standard).

**006 Non-Exempt Compensatory Time.** Upon proper agency authorization, up to 240 hours of compensatory time (not more than 160 hours of actual overtime hours worked) may be accumulated by an employee. Fire protection, law enforcement employees, and correctional security personnel may accumulate up to 480 hours of compensatory time (not more than 320 hours of actual overtime hours worked). Time accumulated over the above noted amounts must be paid for at time and one-half rates. Payment of overtime shall be paid at the employee's current hourly rate, or at the average regular rate of pay for the final 3 years of employment, whichever is higher. Between December 25 and December 31 of each year, an employee may elect by notifying the Agency in writing, to receive payment for unused compensatory time accumulated during the prior State fiscal year. Compensatory time hours not paid shall be continued in the employee's compensatory time balance.

**007 Travel Time.** Travel time of non-exempt employees required to attend a meeting, conference, seminar, training course, etc., is considered compensable time. Authorized travel time shall be that required by the most efficient common carrier. The provisions of this paragraph shall not affect entitlement to other authorized travel and expense allowance.

**007.01** A non-exempt employee traveling for one day (not overnight) shall be paid for all travel time. This travel time is counted when computing hours worked for overtime purposes.

**007.02** A non-exempt employee traveling by common carrier on overnight business shall be paid for all travel time. However, only hours of travel which are within the employees normal scheduled work hours are counted when computing hours worked for overtime purposes (this includes travel hours on weekends or holidays). The non-exempt employee's time spent traveling shall be paid at their normal straight time rate when the employee's travel meets the following conditions:

- outside of normal scheduled work hours;
- on overnight business;
- by common carrier; and
- employee is not doing actual work while traveling.

Under all other conditions the non-exempt employee's time spent traveling shall be counted as regular work hours when computing hours worked for overtime purposes except when the employee voluntarily chooses to drive their own personal vehicle.

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Title 273 - Nebraska Classified System Personnel Rules

Chapter 8

**008 Flextime Work Schedules.** Agencies may establish flextime work schedules for their employees. Employees eligible for overtime (non-exempt employees) must account for at least 40 hours work or leave time to be considered full-time. Agencies must assure public access from 8:00 A.M. to 5:00 P.M. Monday through Friday (excluding holidays).

**009 Dual Employment** For overtime purposes, the State of Nebraska, not the individual agency, is recognized as the employer. Employees holding jobs in two agencies may be eligible for overtime compensation. To determine overtime obligations agencies shall contact State Personnel before employing an individual who is already employed by another agency of state government.

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SECRETARY OF STATE  
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# Chapter 9 - Provisions for Leave

**001 Authorized Leave.** The following are forms of authorized leave: holiday, vacation, sick, injury, military, civil leave, funeral leave and leave of absence. An absence by an employee not authorized by the employee's supervisor, shall be considered as unauthorized leave.

**002 Record of Leave.** Each agency shall maintain an attendance record for each employee, accounting for time worked and all absences from work.

**003 Holidays.** The following holidays, and others when declared by proclamation of the Governor or the President, are compensated holidays for employees other than temporary and are scheduled on the dates indicated.

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
President's Day	Third Monday in February
Arbor Day	Last Friday in April
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday following Thanksgiving
Christmas Day	December 25

**003.01 Weekend Holidays.** When a holiday falls on the first day of an employee's weekend, it shall be observed on the preceding day. When a holiday falls on the second day of an employee's weekend, it shall be observed on the following day. A weekend is two consecutive days off, whether they be Saturday/Sunday. Tuesday/Wednesday, Friday/Saturday, etc.

**APPROVED**  
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SEP 16 1993  
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**003.02 Work on an Observed or Actual Holiday.** Full-time or part-time employees eligible for time and one-half overtime, other than temporary, who work on a holiday (observed or actual) shall receive time and one-half compensation either in the form of pay or time off within the next twelve month period, for hours actually worked on the holiday, in addition to their holiday leave pay for hours scheduled to work that day. All hours worked on a holiday in excess of an employee's normally scheduled work day shall be compensated at two times the employee's normal hourly rate. In no case shall an employee receive both additional pay and time off for an observed or actual holiday.

**003.03 Eligibility for Holiday Leave.** Unless excused by their supervisor, employees must be in a pay status on the workday immediately preceding and the workday immediately following an observed holiday in order to receive compensation for that day. Employees shall not receive holiday pay or time off if the holiday occurs during a period of non-paid leave; however, if the holiday occurs during a paid leave, the employee is considered to be on holiday leave for the day of the holiday, rather than any other type of leave.

**003.04 Transferring Employees.** Holidays which fall between the dates of transfer from one state agency to another are paid for by the agency from which the employee is transferring.

**003.05 Holiday Leave for Temporary Employees.** Temporary employees are not eligible for holiday leave, and if required to work on a holiday or observed holiday, are paid for the time worked at their normal rate of pay.

**003.06 Holiday Leave.** Full-time employees shall receive holiday leave equal to one-fifth of their normally scheduled work week for each paid holiday.

**003.06A Holiday Leave for Part-time Employees.** Employees working part-time schedules shall receive paid time off for holidays on a pro-rated basis.

**004 Vacation Leave.** All employees, including agency heads, but excluding temporary employees and board and commission members, earn paid vacation leave. Earning of vacation leave begins immediately upon employment and it may be applied for as soon as it is earned, subject to the provisions of the remainder of this section. Full-time employees, other than temporary, earn vacation leave according to the following schedule:

1st year through 5th year.....	96 hours.....	12 days
6th year .....	120 hours.....	15 days
7th year .....	128 hours.....	16 days
8th year .....	136 hours.....	17 days
9th year .....	144 hours.....	18 days
10th year .....	152 hours.....	19 days
11th year .....	160 hours.....	20 days

12th year .....	168 hours.....	21 days
13th year .....	176 hours.....	22 days
14th year .....	184 hours.....	23 days
15th year .....	192 hours.....	24 days
16th year and more.....	200 hours.....	25 days

**004.01 Scheduling Vacation Leave.** Vacation leave should be applied for in advance by the employee and may be used only when approved by the agency head. Vacation leave may not be unreasonably denied or deferred so that the employee is deprived of vacation rights.

**004.02 Balancing of Vacation Leave.** All employee's accumulated vacation time in excess of thirty-five days shall be forfeited as of December 31st of each calendar year. In special and meritorious cases, when it would cause hardship for an employee to take earned vacation leave before December 31, excess carryover leave may be approved by the Agency Head. In these cases, the agency head shall assure hours carried over shall be used within the next six months. In no case shall approved carry over vacation continue from year to year.

**004.03 Vacation Leave Payment.** Employees who leave state government employment for any reason shall be paid for any unused accumulated vacation leave earned, calculated on their base hourly rate.

**005 Sick Leave.** All employees, including agency heads, but excluding board or commission members, and temporary employees, earn sick leave. Earning of sick leave begins immediately upon employment and may be applied for by employees as soon as it is earned, subject to the provisions of this chapter. Full-time employees, other than temporary, earn sick leave according to the following schedule:

1st year through 5th year .....	96 hours .....	12 days
6th year .....	136 hours .....	17 days
7th year.....	144 hours .....	18 days
8th year.....	152 hours .....	19 days
9th year.....	160 hours .....	20 days
10th year.....	168 hours .....	21 days
11th year.....	176 hours .....	22 days
12th year.....	184 hours .....	23 days
13th year.....	192 hours .....	24 days
14th year.....	200 hours .....	25 days
15th year.....	208 hours .....	26 days
16th year.....	216 hours .....	27 days
17th year.....	224 hours .....	28 days
18th year.....	232 hours .....	29 days
19th year and more.....	240 hours .....	30 days
Maximum Accrual.....	1440 hours .....	180 days

**005.01** **Conditions for Using Sick Leave.** The following conditions are the only valid reasons sick leave may be used:

**005.01A** When an employee is unable to perform his/her duties because of sickness, disability, or injury. Pregnancy, post-natal recovery and miscarriage shall be considered temporary disabilities.

**005.01B** When an employee obtains medical, surgical, dental or optical examinations or treatment.

**005.01C** When an employee's presence at work jeopardizes the health of others by exposing them to a contagious disease.

**005.01D** When the illness, disability, or injury of an immediate family member demands the employee's presence. The immediate family shall be considered as: spouse, children, and parents. At the agency head's discretion, the definition of immediate family may be broadened. Employees may use vacation time for care of family members when their presence is helpful, but not essential, if approved by the agency head.

**005.02** **Request for Sick Leave.** Sick leave shall be requested in advance when possible. In the case of illness, injury, emergency or any other absence not approved in advance, the employee shall inform the supervisor of the circumstances as soon as possible. An employee may be required to submit substantiating evidence when the reason for the leave request was a medical or dental appointment or when the agency head suspects sick leave abuse. Substantiating evidence may also be required if the sick leave absence exceeds 3 workdays but is less than 10 workdays. Substantiating evidence will be required if the sick leave absence is 10 workdays or longer.

**005.02A** Sick leave shall be denied when the agency head has facts showing that the employee is abusing sick leave.

**005.02B** Sick leave shall not be used as vacation leave.

**005.03** **Balancing of Sick Leave.** The sick leave account of each employee shall be balanced to a maximum of 1440 hours on December 31 of each year. Sick leave may be accumulated in excess of 1440 hours during a year, but the excess shall be forfeited when balanced.

**005.04** **Forfeiting of Sick Leave Upon Separation; Sick Leave Payments Upon Retirement or Death.** All sick leave shall be forfeited upon separation from employment, except that an employee age 55 or above, or of a younger age if the employee meets all criteria necessary to retire under the primary retirement plan covering his/her State employment, or at death, shall be paid one-quarter of his/her employee's accumulated sick leave.

**005.05 Sick Leave Reinstatement.** An employee who has left state service for other than disciplinary reasons and returns within 1 year shall have reinstated to the sick leave account all earned sick leave not used at time of departure. Any employee who has retired or voluntarily separated in lieu of retirement shall not have any sick leave reinstated and shall not be credited with past service for sick leave purposes.

**005.05A** Employees eligible for retirement who are laid off shall have the option to defer the payment of one-quarter of their sick leave account for up to twelve months. Should the laid off employee return to state employment within twelve months, the employee's sick leave balance and service date shall be reinstated (minus time in a non-pay status). Should the laid off employee not obtain further state employment at the end of the twelve month period the agency from which they left shall pay them one-quarter of their sick leave account.

## **006 Vacation and Sick Leave Adjustments**

**006.01 Service Date Adjustments.** The service date is the date of hire for a new employee. The service date for rehired employees shall be adjusted by the number of calendar days absent if re-employed within 1 year. Suspensions without pay, unauthorized leaves of longer than 1 day, and leaves of absence which exceed 14 calendar days (except military leave) also require adjustment of service date. Employees who left state service for other than disciplinary reasons and return within 1 year shall be given credit for previous state service by having their service date reinstated minus the amount of time absent.

**006.02 Advancement of Vacation and Sick Leave.** Agency heads may advance vacation and sick leave to employees in an amount not to exceed a total of 80 hours (pro-rated for part-time employees). Employees shall reimburse the state for all used unearned vacation and sick leave upon separation or transfer.

**006.03 Leave for Employees Working for More Than One Agency.** Employees working for more than one agency earn vacation and sick leave from each agency.

**006.04 Transferring Vacation and Sick Leave Balance to Another Agency.** Employees who transfer from one agency to another in the State Classified Personnel System shall have their accrued vacation and sick leave transferred to the new agency and shall not start with a negative balance. Upon mutual agreement between the two agencies involved and the employee, a portion of accumulated vacation leave may be transferred to the new agency, with the former agency paying the employee for the untransferred portion. Employees who transfer from a non-classified agency to the State Classified Personnel System shall have transferred to the new agency the amount of vacation and sick leave they would have earned had they been in the State Classified Personnel System, minus the vacation and sick leave used, and shall not start with a negative balance.

**006.05** **Vacation and Sick Leave Accumulation for Employees.** Employees must be in a pay status in order to earn vacation and sick leave. Part-time employees earn vacation and sick leave in proportion to the time they work in each pay period.

**006.06** **Temporary Employees.** Temporary employees do not earn vacation or sick leave.

**007** **Funeral Leave.** Up to 5 days funeral leave may be granted to employees for death in the immediate family. For purposes of this section, immediate family shall mean spouse, father, mother, grandfather, grandmother, sister, brother, child, grandchild, spouse of any of these, or someone who bears a similar relationship to the spouse of the employee. Step-persons bearing these relationships are included. At the agency head's discretion, the definition of immediate family may be expanded to include other individuals with a similar personal relationship to the employee as that of an immediate family member.

**008** **Injury Leave and Workers' Compensation.**

**008.01** **Eligibility.** All employees (including temporary) who are disabled as a result of a job-related injury or disease may be granted injury leave not to exceed five of the employee's normal working shifts for any particular injury. A working shift is counted even if an employee is absent for any portion of their assigned shift. Disabled shall mean unable to perform the tasks usually encountered in one's employment due either to an injury/disease or to treatment for an injury/disease.

**008.01A** Any job-related injury or disease shall be reported to the proper agency authority as soon as possible and the agency shall have the responsibility to supply all the necessary information to the Office of Risk Management.

**008.01B** No employee shall receive a salary (workers' compensation plus regular pay) in excess of his or her normal wage.

**008.02** **Use of Sick and/or Vacation Leave to Supplement Workers' Compensation Payments.** Employees being paid workers' compensation for job-related injuries or disease may use sick and/or vacation leave to supplement the payment up to, but not to exceed, their regular rate of pay.

**008.02A** Employees on workers' compensation shall earn sick and vacation leave at the same rate being earned prior to the injury or disease except as provided in 008.02C. Example: An employee earning 8 hours sick leave prior to injury shall earn 8 hours sick leave subsequent to injury.

**008.02B** Holidays occurring during this period will be paid at a rate proportionate to the amount of sick and/or vacation leave being used.

**008.02C** After all sick and vacation leave has been exhausted, employees shall not be entitled to any leave or pay benefits except as authorized under worker's compensation and shall be carried in a leave without pay status while on workers' compensation. This type of leave of absence may exceed one calendar year. Provisions in Sections 011.01 and 011.02 of this chapter apply to this type of leave. No service date adjustment is necessary for this unpaid leave.

**008.02D** For a period of one year after the date of disability and upon termination of workers' compensation, and after the physician has released him/her to return to work, the employee shall be reinstated to his/her former classification with no salary reduction. If his/her former position is not available, the agency shall place the employee in a similar position, and at the agency head's discretion, may have their salary reduced.

**008.02E** For a period of one year after the date of disability and after the physician has released him/her to return to work, if disabled and unable to return to the former classification the employee shall be reinstated to a vacant position, if available, for which he/she is qualified and physically suited, and at the agency head's discretion, may have their salary reduced.

**008.02F** After one year from date of disability, if the employee has not or is not able to return to work the employing agency is relieved from any re-employment obligation and the employee may be terminated.

**008.03** **Employee Health Insurance.** An employee's health insurance will continue with the appropriate employer contribution during an absence under workers' compensation after all accrued leave and compensatory time have been depleted, provided the employee makes his/her required contribution.

**009** **Military Leave.**

**009.01** **Annual Training.** State employees (including temporary) who are members of the Nebraska National Guard or any other reserve component who perform their military obligation by participating for 15 workdays or less in annual training and instruction prescribed by Section 55-160 R.R.S., Nebraska 1943 or by federal regulation, when such training is performed pursuant to orders or authorization of competent authority, shall be entitled to receive their full state pay in addition to their military pay without using any accumulated leave time. Such orders shall be from the Adjutant General's office of the Nebraska National Guard or from a reserve component which has specific authority to issue military orders.

**009.01A** The above mentioned 15 leave days are permitted only for annual training exercises or active duty assignments and shall not be used for weekend drills.

**009.02** **Emergency Duty.** Employees who are members of the Nebraska National Guard or any other reserve component and are ordered to duty under emergency

conditions shall receive state compensation equal to the amount necessary to bring them to the level of their regular state pay, beginning with their military pay as the base amount. Pay vouchers shall be retained at the agency level in the employee's personnel file.

**009.02A** Sick and vacation earnings and holiday pay are continued during the authorized absence.

**009.03** **Enlistment or Extended Duty.** Employees, other than temporary, who leave their positions to undergo military training or extended duty with the armed forces of the United States or undertake military duty in the active service of the state shall be entitled to a leave of absence for a period of such training and/or service, not to exceed 4 years, and shall be without loss of pay during the first 15 workdays of the leave of absence. This shall not be in addition to the 15 days pay mentioned in Section 009.01 of this chapter.

**009.03A** Upon return from training and/or service within 4 years, employees shall be entitled to be reinstated in their former position or a similar position at a salary level they would have been entitled to had they not been on leave of absence, if application is made within 30 days after release from the service as required by law. The employee's service date shall not be adjusted due to this type of leave of absence.

**009.04** **Copies of Orders.** Proper documentation, including copies of orders for all military leave absences, shall be retained at the agency level in the employee's personnel file.

**010** **Civil Leave.** All employees (including temporary) shall be eligible for paid civil leave under the following conditions:

**010.01** **Jury Duty.** If an employee is called to serve as a juror, he/she shall be entitled to paid civil leave in addition to jury duty pay. Employees will return to work when not actually serving as a juror on a daily basis.

**010.02** **Election Board Duty.** If an employee is appointed as a clerk or judge on an election or counting board, he/she shall be entitled to paid civil leave in addition to pay for this service.

**010.03** **Voting Time.** All employees shall be given up to 2 hours for the purpose of voting provided the employee does not have sufficient time before or after regular duty hours to vote. The two hours authorized for voting does not apply to those employees who by reasons of their employment must vote by use of an absentee ballot.

**010.04 Court Appearances.**

**010.04A** Time spent by employees appearing in court as a function of their job shall be considered as hours worked. All witness fees and reimbursements received as a result of these court appearances shall be returned to the State.

**010.04B** Employees attending court as a plaintiff, defendant, or witness on non-work related matters, may use vacation leave or earned compensatory time. In the event the employee is subpoenaed for non-work related matters and does not have vacation leave or compensatory time the agency head shall grant leave of absence. Any witness fees paid to the employee for these court appearances shall be kept by the employee.

**010.05 Disaster Relief Leave.** Employees who provide proof of their disaster relief volunteer certification with the American Red Cross may, with appropriate supervisory authorization, be granted paid civil leave not to exceed fifteen working days in each calendar year to participate in specialized disaster relief services in Nebraska for the American Red Cross, upon the request of the American Red Cross.

**011 Leave of Absence.** Agency heads may grant employees (including temporary) an unpaid leave of absence, not to exceed one year (except for military service and some worker's compensation cases), when such absences will not interfere with the best interests of the state. Under unusual circumstances this time may be extended by the agency head. Written requests for leaves of absence will be considered for such things as temporary disabilities (i.e. leave for maternity), educational purposes, newly adopted children or other uses. Leave of absence in increments of less than one day shall not be granted to exempt employees in lieu of sick or vacation leave. The agency head's decision is final and non-grievable. The leave of absence, when granted, shall be in writing and detail the employment conditions that will be in effect at the end of the absence.

**011.01** During the leave of absence, the temporarily vacated position may be filled by either employing a temporary employee or assigning another qualified employee to assume the duties of the position.

**011.02** Sick and vacation leave will not accrue during a leave of absence.

**011.03** Sick and vacation leave earned but unused prior to leave of absence will be carried forward upon the employee's return.

**011.04** The employee's service date shall be adjusted for the total of non-pay absences in excess of fourteen consecutive calendar days, except when an employee is still eligible for worker's compensation payments.

**012 Emergency Situations.** In case of emergencies which affect employees' working hours or conditions, the Director of DAS State Personnel shall issue clarifying personnel policies concerning work hours and appropriate leave.

**013**     Leave for Part-time Employees. All types of leave are granted in proportional amounts for part-time employees.

**014**     Governor Appointed Committees. When the Governor appoints an employee to serve on a committee, board or other body, time spent at meetings of the committee, board or other body crossing the employee's normal work hours shall be considered hours worked.

**015**     Family Leave.

**015.01**    Eligibility. An employee must have at least twelve total months of service and at least 1250 hours of service in the previous twelve month period to be eligible for Family Leave.

**015.02**    Conditions for Using Family Leave. An employee may use Family Leave for the following reasons:

**015.02A**     Because of the birth of a child of the employee.

**015.02B**     Because of the adoption or placement of a foster care child with the employee.

**015.02C**     In order to care for the serious health condition of the employee's spouse, child, or parent.

**015.02D**     Because of the serious health condition of the employee.

**NOTE:**    Spouse does not include unmarried domestic partners. Child may include step-children, foster children, or certain other children having more than a short-term residence in the employee's home such as legal wards of the employee. Care for mother-in-law or father-in-law is not included. However, parent may include individuals other than natural or adoptive parents who served in a long-term parental role for the employee.

**NOTE:**    Serious health conditions are defined as illness, injury, impairment, or physical or mental conditions that involve; (1) in-patient care, (2) absence from work, school or other regular daily activities for more than three calendar days and continuing treatment by a health care provider, or (3) continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, or prenatal care. Examples of serious health conditions include: heart attack, heart by-pass or valve operations, most cancers, back conditions requiring extensive therapy or surgery, strokes, severe respiratory conditions, spinal conditions, appendicitis, pneumonia, emphysema, severe arthritis, severe nervous disorders, need for prenatal care, severe morning sickness, childbirth, and recovery from childbirth. This does not include voluntary or cosmetic treatments.

**015.03**     **Certification of Serious Health Conditions.** An employee requesting to use Family Leave due to a serious health condition must provide certification from a health care provider which must include:

- (1) the date on which the serious health condition commenced;
- (2) the probable duration of the condition;
- (3) any appropriate medical facts;
- (4) a statement containing specific information why the employee is needed to care for the child, spouse, or parent, **or**; a statement containing specific information why the employee is unable to perform the functions of the job;
- (5) if the leave is to be intermittent, a statement containing specific information concerning planned medical treatments, the expected dates and duration of treatment.

**015.03A**     **Medical Second Opinions.** The Agency may require a second opinion (the Agency's choice of health care provider) and must pay for the cost of the second opinion. If the second opinion differs from the first, a third opinion may be sought (from a mutually agreed upon health care provider, again, at the Agency's expense). The results of the third opinion are final.

**015.04**     **Notice of Intent to Use Family Leave.** An employee must provide a minimum of 30 days notice to the Agency before he or she may use Family Leave. Where 30 days notice is not foreseeable, notice must be given as early as possible.

**015.05**     **Unpaid Family Leave.** Family Leave is unpaid time off from work, except when the employee uses Vacation or Leave as specified in 015.06.

**015.06**     **Paid Leave as Part of Family Leave.** Prior to going on unpaid leave time, an employee is required to deplete accrued compensatory time. An employee is required to use Sick Leave during a Family Leave absence when the reason for the leave is a serious health condition of the employee or an immediate family member (as defined in 015.02C and certified by the health care provider). Vacation leave may be retained or used at the employee's discretion. Vacation leave shall not be counted toward the twelve week Family Leave allotment.

**015.07**     **Family Leave Duration.** Total paid and unpaid leave time taken for Family Leave is limited to twelve weeks within a twelve month period, starting with the date the employee first uses Family Leave. Sick Leave absences due to a serious health condition (as defined in Section 015.02D) will be counted toward the employee's twelve weeks per year Family Leave allotment. (**Note:** Employees may use Sick Leave beyond the twelve week Family Leave limitation for appropriate sick leave reasons as defined in Chapter 9, Rule 005.01, with proper certification from a health care provider.)

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the time they complete their Sick Leave Request Form that such leave is being deducted from their 12 week allotment.

**015.08 Family Leave Not Cumulative.** Family Leave cannot be carried forward beyond the twelve month period and banked for future use.

**015.09 Incremental Use of Family Leave.** Family Leave may be taken in increments with proper medical certification (federal law allows employees not eligible for overtime (exempt employees) to make incremental use of unpaid Family Leave without affecting their "salaried" status).

**015.10 Health Insurance while on Family Leave.** Employer health insurance contributions shall continue during an employee's unpaid Family Leave absence, provided the employee makes his/her required contribution. Employer contributions shall be based as if the employee had continued to work his/her normal schedule.

**015.11 Family Leave and Worker's Compensation.** If an employee requests Family Leave due to a injury or illness qualifying for Workers Compensation, the agency should contact DAS Risk Management for coordination of Workers Compensation and Family Leave benefits.

**015.12 Service Date Adjustments.** The employee's Service Date shall be adjusted when an unpaid absence due to Family Leave exceeds 14 consecutive calendar days.

**015.13 Family Leave Denials.** DAS State Personnel shall be notified by the Agency of any requests for Family Leave which are denied.

**APPROVED**  
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Assistant Attorney General

PROVEE  
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## Chapter 10 - Performance Evaluations

**001** **General.** Performance reports shall be completed on forms developed and/or approved by State Personnel.

**002** **Frequency of Reports.** Performance reports shall be prepared for all employees. Reports shall be prepared as indicated below:

**002.01** Upon completion of the original probationary period.

**002.02** At least on an annual basis with date to be determined by the agency.

**002.03** On occasions when the supervisor desires to record performance worthy of recognition, either favorable or unfavorable. Reasons for submission of this type of special report shall be explained in the report.

**003** **Administration.**

**003.01** After completion of the evaluation, it is recommended that the report be reviewed by the evaluator's supervisor(s) prior to discussion with the employee.

**003.02** Performance evaluations shall then be discussed with the employee, who shall have the right to add his/her comments. The signing of the performance evaluation by the employee does not signify the employee's agreement with the content, but only that he/she has seen the performance evaluation, that it has been discussed with the employee, and that the employee has been given an opportunity to comment. The evaluator should sign and date the performance evaluation. If the employee refuses to sign, the supervisor and witness shall document the employee's refusal on the employee's performance evaluation form. The employee may attach written comments regarding the evaluation if he/she desires. These comments shall be submitted within 30 calendar days of the date of the report.

**003.03** Each employee shall receive a copy of his/her performance evaluation and a copy of each performance evaluation shall be included in the employee's personnel file.

**003.04** For any period in which a performance evaluation has not been made within 60 calendar days after its due date, service shall be considered at least satisfactory.

**004** **Evaluators.** Employees shall be evaluated by their immediate supervisor.

**004.01** If an employee receives approximately equal supervision from two supervisors, both supervisors shall cooperate in preparing the evaluation. If the supervisor is unable to complete a performance evaluation within the specified time period, the evaluation shall be completed as soon as possible and reasons for late submission explained on the evaluation.

**004.02** Only in the event of death, separation or long-term incapacitation of the immediate supervisor, shall the next higher supervisor prepare the performance evaluation.

## Chapter 11 - Personnel Records

**001** **Accessibility of Records.** Subject to state law, the records of the DAS State Personnel Division are public and open to public inspection during regular office hours at such times and following such procedures as may be prescribed by the Director of DAS State Personnel. All personnel data maintained by the DAS State Personnel Division and agency personnel offices in computer data bases, microfilm files and personnel folders shall be secured in strict conformance with state law governing the confidentiality of information. Information concerning an employee's or former employee's name, position, gross salary, date of hire, date of separation and agency where employed shall be considered public information. Non-public information may be released to the employee, the employee's supervisory chain of command, agency administrative personnel and to other state agencies performing a civil or criminal law enforcement investigation authorized by law. The Director of the requesting agency shall identify in writing what is sought and the purpose for the request. In addition, non-public information shall be released to any requesting party provided the employee has signed a release authorization, or a legal warrant is served requesting such information.

**002** **Maintenance of Records.** Each agency covered by the State Classified Personnel System shall maintain certain personnel records. These records may be retained at the agency level or at any organizational level determined appropriate by the agency head. Agency heads may prescribe the maintenance of additional records. The required records are:

**002.01** Individual vacation and sick leave records. NEIS leave records are adequate for purposes of meeting this rule.

**002.02** Copies of employee's performance report(s) shall be maintained according to the employing agency's policy.

**002.03** Copies of all personnel transaction forms pertaining to individual employees.

**002.04** Copies of documents initiated by the employee that affect pay (W-4's, authorized deductions, etc.).

**002.05** Former employee's personnel files may be destroyed five years after the employee's separation date (in accordance with Records Management records retention and disposal schedule). A brief file or information card shall be retained by the agency containing employees' dates of employment and rates of pay.

**003 Rights of Review.** Employees shall have the right to review their personnel file maintained at the employing agency during regular office hours. Review may be done in the presence of a supervisor or the personnel office staff.

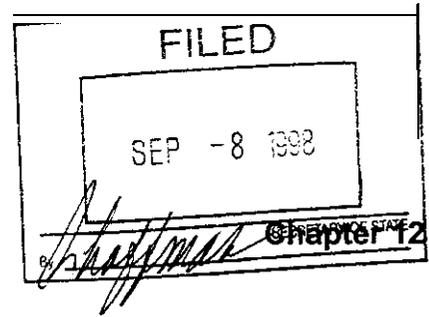
**004 Negative Documentation.** Documentation (including performance reports) which reflects unfavorably on an employee or former employee shall not be placed in their personnel file without their knowledge.

**004.01** Employees or former employees have the right to file a written rebuttal within 30 calendar days from date of notice to any item placed in their personnel file with the exception of grievances settled in accordance with Chapter 14, Section 007. This written rebuttal shall be placed in their personnel file.

**004.02** No negative documentation shall be placed in an employee's file after the dismissal, resignation or retirement of the employee unless the former employee is notified. Exceptions are reports, letters or documents originated and signed by the employee.

**004.03** Records of disciplinary action may be maintained in the employee's personnel file for a period determined by the agency head. At the request of the employee, records of disciplinary action shall be removed from the employee's personnel file after two years after the discipline was imposed.

**005 Director's Authorization.** The Director of DAS State Personnel shall have the authority to obtain from any classified agency any documents relating to personnel administration which the Director deems necessary for the proper administration of the State Classified Personnel System.



Title 27 - Nebraska Classified System Personnel Rules

## Chapter 12 - Resignation and Layoffs

**001** Resignations . To resign in good standing, an employee must give written notice to the agency head at least 10 workdays before separation unless the agency head agrees to a shorter period.

**001.01** An employee may be considered to have abandoned the job if he/she has been absent from work for longer than one workday without being on approved leave, and such abandonment shall be considered as a resignation not in good standing.

**002** The agency head decides when a layoff is necessary, and which classes and positions will be affected. Employees hired or voluntarily accepting promotion in the G (management) class code on or after July 1, 1998, shall not have bumping rights.

**002.01** The Director of DAS State Personnel shall review an agency's layoff plan prior to the initiation of any layoff. Layoff plans should provide detail on what basis bumping rights are to be exercised. Details concerning which classes will be affected first are not necessary.

**002.02** Employees to be laid off shall be given as much notice as possible, but at least a 15 workday written notice prior to layoff. This period may be shortened by the agency head when emergency funding situations exist. Written documentation concerning the shortened notice shall be attached to the layoff plan.

**002.03** Agency heads shall decide on what basis bumping rights can be exercised. The basis for bumping shall be one or any combination of the following: quality of service, length of service, or any job-related factor. For the purpose of bumping, length of service shall mean total time within the agency and part time service shall be considered on a prorated basis, excluding employment in a temporary status. A numerical rating system using factors established by the agency shall be used as bumping criteria to assure consistency in application (for example, each year of experience with an agency might be worth 5 points, and a better than satisfactory performance report might be worth 10 points).

**002.04** Agencies shall give employees occupying positions designated for layoff a minimum of 3 workdays to respond to bumping options. Employees occupying positions designated for layoff may, except in situations where unique job related factors are involved, bump employees with lesser retention privileges, as determined by the agency layoff plan, out of:

**002.04A** Positions of the same class;

**002.04B** Positions within the same class series of a lower salary grade.

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SEP 8 1998  
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**002.04C** Classes the employee previously occupied of an equal or lower salary grade and held within the previous 48 months.

**002.05** The agency head shall establish bumping privileges by facility, geographical areas, division, or by total agency. Such bumping limitations must be specifically defined and pre-set in the agency layoff plan.

**002.06** Bumping to a higher salary grade is not allowed.

**002.07** Bumping rights shall not take place between agencies.

**003** **Layoff of Employees Eligible for Retirement.** See Provisions for Leave (Chapter 9, 005.05A) reference deferral of sick leave payoff options upon retirement.

**004** **Salaries of Employees Exercising Bumping Rights.** See Salary Administration (Chapter 7, 003.02A) reference salaries for employees moving downward or laterally.

**005** **Reinstatement.** Employees or former employees are eligible for reinstatement to their previous class for 12 months after layoff or bumping. Employees desiring to be reinstated shall, following notification of the availability of a position, notify the agency head in writing of the acceptance or refusal of the position within 5 workdays. Agency heads may return reinstated employees at or up to their former salary if re-employed within 1 year. Reinstated employees may receive, at the agency head's discretion, any legislative increases granted during the period of absence. Employees reinstated after being laid off shall not be required to serve an original probationary period.

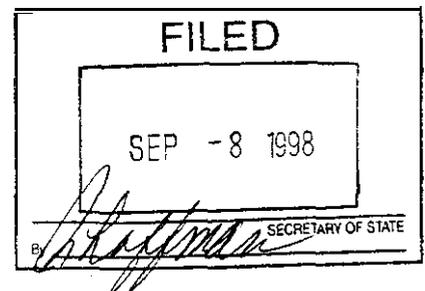
**005.01** It is the responsibility of the employee or former employee to inform the agency of any change in address. Failure to receive notification of a position's availability because of an address change shall not cause the 5 workdays reply period to be lengthened.

005.02 Former employees who were laid off, or employees who transferred to another position in lieu of layoff, shall be reinstated in the reverse order from which they were laid off or transferred.

005.03 The service date for reinstated employees shall be adjusted by the number of days in a non-paid status.

005.04 Qualified employees shall be given the opportunity to be reinstated to an available position in a lower class within the same series. Employees declining reinstatement to a position in a lower class within the same series shall be given the opportunity to be reinstated to a position of their previous class, if positions become available within the twelve month period.

005.05 Employees or former employees refusing a position of their previous class at their previous work site, or not acting to notify the agency head of acceptance or refusal, forfeit any reinstatement rights.



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## Chapter 13 - Disciplinary Action

**001** **Reasons for Imposing Disciplinary Action.** Appropriate disciplinary action may be taken for any of the following offenses:

**001.01** Violation of, or failure to comply with, State constitution or statute; an executive order; published rules, regulations, policies or procedures of the employing agency or the State of Nebraska Classified Personnel System.

**001.02** Failure or refusal to comply with a lawful order or to accept a proper assignment from an authorized supervisor.

**001.03** Inefficiency, incompetence or negligence in the performance of duties.

**001.04** Unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcoholic beverage in the workplace or reporting for duty under the influence of alcohol and/or unlawful drugs.

**001.05** Negligent or improper use of state property, equipment or funds, or conversion of same to one's own use.

**001.06** Use of undue influence to gain, or attempt to gain, promotion, leave, or favorable assignment for individual benefit or advantage.

**001.07** Falsification, fraud or intentional omission of required information on the employment application/resume.

**001.08** Unauthorized, improper use or abuse of any type of leave, meal or rest periods.

**001.09** Repeated tardiness or unauthorized leave, including unauthorized departure from work area.

**001.10** Failure to maintain satisfactory working relationships with the public or other employees.

**001.11** Failure to obtain and maintain a current license or certification required by law or agency standards as a condition of employment.

**001.12** Conviction of a felony.

**001.13** Repeated failure to make reasonable provision for payment of personal debts which results in more than one garnishment except in cases of court ordered child support payments.

**001.14** Insubordinate acts or language which seriously hamper the agency's ability to control, manage or function.

**001.15** Acts or conduct (on or off the job) which adversely affects the employee's performance and/or the employing agency's performance or function.

**001.16** Work place harassment based, in whole or in part, on race, color, sex, religion, age, disability or national origin, which manifests itself in the form of comments, jokes, printed material and/or unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature.

**001.17** Possession of materials and/or the utterance of comments in the workplace that are derogatory towards a group or individual based upon race, gender, color, religion, disability, age or national origin.

**002 Procedure for Imposing Disciplinary Action.**

**002.01** Agency heads are responsible for and shall establish a procedure for the administration of discipline which ensures the following minimum due process provisions for employees being disciplined:

**002.01A** Prior to imposing discipline, employees shall be entitled to written notice of the proposed charges against them which shall identify the rule or policy violated and include an explanation of an agency's evidence against them. (Oral notice may be sufficient when written notice is not expedient.) The explanation should include a description of the incident involved and/or dates of occurrence to the extent the explanation would not impair the function or operation of the agency or expose the agency to legal liability.

**002.01B** Prior to imposing discipline the employee shall additionally be entitled to an opportunity to present mitigating evidence or present reasons why disciplinary action should not be taken. If the opportunity or explanation is in the form of a meeting, the agency head shall afford the employee adequate notice as to time, place, and purpose of such meeting. Twenty-four hour notice is considered adequate.

**002.02** If a disciplinary action is imposed, the employee shall be:

**002.02A** Advised in writing of the nature of the offense;

**002.02B** Advised of the disciplinary action being administered; and,

**002.02C** If appropriate, notified of the time allowed for improvement and the consequences (including dismissal) of future violations or failure to improve;

**002.02D** The employee should acknowledge receipt by signing the document. The employee's signature does not constitute agreement with the content of the document. If the employee refuses to sign, the supervisor and witness shall sign a notation of the employee's refusal on the document. A copy of the document shall then be placed in the employee's personnel file.

**002.03** When an incident calls for the application of discipline, the discipline shall be imposed only once for that incident. Further action may be imposed for any subsequent incidents.

**003** **Disciplinary Actions.** The following types and levels of disciplinary actions are prescribed in a progressive manner, however, the nature and severity of the violation will dictate the level of discipline imposed. More severe levels of disciplinary action may be imposed when a lesser action is deemed inadequate or has not achieved the desired results. One or a combination of any of the following disciplinary actions may be imposed. If one or more of the prescribed disciplinary actions are imposed, it shall be in writing and on a single document and imposed at the same time.

**003.01** The type and extent of disciplinary action shall be governed by the nature, severity and effect of the offense; the type and frequency of previous offenses; the period of time elapsed since a prior offensive act; and consideration of extenuating circumstances.

**003.02** **Written Warning.** This action consists of a discussion with the employee during which the supervisor explains in detail the reasons for the warning and advises the employee of the action required to correct the unsatisfactory performance. Documentation of such discussion shall be placed in the employee's personnel file.

**003.03** **Disciplinary Probation Status.** A disciplinary probation may be imposed for a period of up to 6 months, but may be extended to a total of one year by the agency head. This is a designated time period during which the employee must improve. Improvement standards and time frames shall be set by the supervisor, and put in writing and a copy given to the employee. An extension of disciplinary probation shall be considered as a separate disciplinary action.

**003.03A** Employees on disciplinary probation shall not be promoted or granted merit increases.

**003.03B** Employees granted leave while serving disciplinary probation may have their probation extended by the number of days absent on leave.

**003.03C** An employee may be removed from disciplinary probation at any time.

**003.04** **Suspension.** Employees may be suspended without pay for disciplinary reasons. The period of suspension shall not exceed four weeks. Suspensions for employees not eligible for overtime (exempt employees) must be in one week or multiple week increments. The document informing the employee of suspension shall be dated and include the reason for the suspension and the period of the suspension.

**003.04A** The employee's service date shall be adjusted by the number of calendar days absent during a suspension.

**003.04B** Employees on suspension shall not be granted vacation, sick or holiday leave nor unused compensatory time off during the suspension period.

**003.05** **Demotion.** An agency head may demote an employee to a class of a lower salary grade as a disciplinary action. The employee's duties shall be changed to reflect the new classification. Upon demoting an employee for disciplinary reasons, an agency head shall reduce the employee's salary a minimum of 5% and the salary may not be above the Maximum Rate of the new salary grade. However, demoted employees' salaries may be reduced no lower than the Hiring Rate of the new salary grade. (Note: If the employee's reduced salary is at the Hiring Rate, the employee's salary must be increased to the Minimum Permanent Rate within six months.)

**003.06** **Reduction in Salary Within Salary Grade.** Employees not eligible for overtime (exempt employees) may not have their salary reduced for disciplinary reasons. Employees eligible for overtime (non-exempt employees) may have their salary reduced within their salary grade for disciplinary reasons. Agency heads may restore employees to their previous salary when circumstances justify. Employees' salaries may be reduced to no lower than the Hiring Rate of the salary grade. (Note: If the employee's reduced salary is at the Hiring Rate, the employee's salary must be increased to the Minimum Permanent Rate within six months.)

**003.07** **Dismissal.** A written document as described in 002.02 shall be given to employees 2 calendar weeks prior to the dismissal date, except in cases as described below:

**003.07A** Employees may be granted 2 calendar weeks pay in lieu of notice at the discretion of the agency head. Employees granted 2 calendar weeks pay in lieu of notice shall not be eligible to accrue sick or vacation leave for the period for which payment in lieu of notice is made.

**003.07B** An employee dismissed for gross misconduct such as conviction of a felony or an employee who commits an offense which threatens the safety or health of another person; or an offense of sufficient magnitude that the consequence causes disruption of work, shall not be entitled to 2 calendar weeks notice of dismissal or 2 calendar weeks pay in lieu of notice.

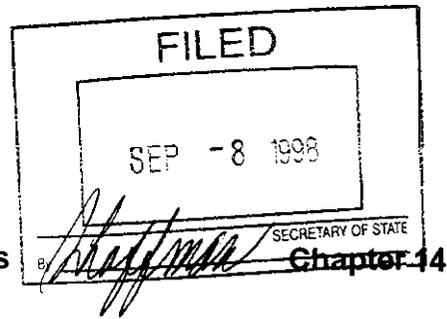
**003.07C** Employees may be dismissed during disciplinary probation if they do not take positive action to correct the conditions which resulted in the disciplinary probation. The serving of disciplinary probation is not a prior requirement for dismissal.

**003.08** **Investigatory Suspension.** Employees may be suspended for investigatory reasons. Such suspension may be with or without pay at the discretion of the Agency Head, based on the nature of the alleged offense. Suspensions for employees not eligible for overtime (exempt employees) must be in one week or multiple week increments. Investigatory suspension is not a disciplinary action. An employee who is under investigation either by an agency or civil authorities for, or charged with, criminal activity or who is alleged to have committed an offense which threatens the safety or health of another person, or an offense of sufficient magnitude that the consequence causes disruption of work, may be suspended pending outcome of the investigation or trial. If no immediate danger would result, an agency head, before suspending an employee under this section, should attempt to verify evidence with the employee and may afford the employee an opportunity to refute this information or present mitigating evidence. If a meeting takes place, the agency head shall notify the employee prior to such meeting and shall inform the employee of the purpose of the meeting. Employees shall be notified of the general nature of the investigation.

**003.08A** An employee who is found not guilty through a court proceeding or agency investigation, or has no judicial action taken, may or may not be reinstated (to his/her position) by the agency head based on relevant facts acquired in the investigation. If reinstated to the former position, it shall be with full back pay and service credit for the period of suspension. If evidence in an investigation shows that disciplinary action should be taken, the agency head shall initiate disciplinary procedures.

**003.08B** Investigatory suspensions may be grieved by employees.

**004** **Documentation Retention.** See Personnel Records (Chapter 11, 003) reference Employee's Right to Review.



## Chapter 14 - Employee Grievance Procedure

**001 Eligibility.** All employees occupying a permanent position have grievance rights. Applicants (except as provided for in Chapter 4, 003.03), temporary employees and employees on original probation, and discretionary non-classified employees have no grievance rights within the State Classified Personnel System grievance procedure.

**002 Grievance of Application of Personnel Rules or Conditions of Employment.** Eligible employees in the State Classified Personnel System who are aggrieved as a result of management actions resulting in an injury, injustice, or wrong involving a misinterpretation or misapplication of rules promulgated by the DAS State Personnel Division, agency rules and regulations or applicable labor contracts, if so agreed to by the appropriate parties, may formally grieve such actions. Agency heads shall ensure that every possible effort is made to resolve grievances at the agency level. Employees may ultimately appeal grievances not resolved within the agency to the State Personnel Board by filing a grievance and completing the steps of the procedure described in this chapter:

**003 Non-Grievable Issues.** The State Personnel Board has final authority to determine whether or not an issue is grievable, and may elect to hear any issue at its discretion. Issues determined to be non-grievable are subject to summary dismissal.

003.01 The following issues, when done in compliance with established law, rule or policy, are examples of non-grievable matters (the list below is not to be considered all inclusive):

- performance evaluations;
- agency appointments including promotions to positions;
- involuntary transfers not requiring the employee to relocate, with no salary reduction;
- leave of absence decisions;
- payment of moving expenditures;
- merit increase allocations;
- position classification, with no salary reduction.

003.02 Matters which involve harassment or discrimination based on race, color, religion, national origin, age, sex, marital status, or physical or mental disability may be pursued with the Agency's Affirmative Action Officer or the State Affirmative Action Office. Employees not on original probation may pursue these matters through this grievance procedure. All employees may also contact the Nebraska Equal Opportunity Commission (NEOC) or the Federal Equal Employment Opportunity Commission (EEOC), or other appropriate agency.

APPROVED

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E. BENJAMIN NELSON  
GOVERNOR

**003.03** Non-grievable complaints resulting from management actions may be dealt with through a complaint procedure, established at the agency level, which ensures final access to the agency head or designated representative.

**004** **Effect of Grievance on Management Action and Employee Status.** Filing of a grievance does not delay the effective date of any management action. Filing of a grievance shall not jeopardize the grievant's position, opportunities for advancement, or salary increases. No employee may be coerced by the agency head or by other employees into not proceeding with a grievance or not appearing as a witness at a hearing.

**005** **Discovery Procedures.** At any time after a formal, written grievance has been properly filed with an agency, the employee and/or the agency may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending appeal by utilization of one or more of the following methods: requests for depositions; requests for interrogatories; requests for production of documents or things; requests for permission to enter agency premises for purpose of inspection; requests for admissions. Unless the Board rules otherwise, the frequency of the use of these methods is not limited. All discovery requests are subject to the following provisions:

**005.01** Requests for discovery shall be addressed to the party from which the discovery is sought, with a copy addressed to the Board through the Chief Negotiator. Such requests shall be sufficiently in advance of the scheduled hearing to allow for the accommodation of the time lines established below.

**005.02** Discovery requests must be provided within 10 workdays of receipt of request, unless objections are entered. Objections to such requests may be made only to the Chief Negotiator within 5 workdays of receipt of the request. The Chief Negotiator shall affirm or deny such objections within 10 work-days of receipt of the objections and shall establish time limits for response when objections are denied.

**005.03** Within 5 workdays of receipt of the discovery requested, the requesting party shall notify the answering party of any failure on the part of the answering party to properly respond to the request.

**005.04** Except where objections to discovery requests are sustained, the failure to respond to any discovery requests may result in the answering party being denied the right to introduce the requested evidence or such other remedy as is deemed appropriate by the Chief Negotiator.

**006 Record of Previous Discipline.** In agencies which currently compile disciplinary action information, the agency shall, upon receiving a written request from the grievant or his/her representative, provide to the grievant, at least two work days prior to the Step 1 and Step 2 meeting, an abstract of the Agency disciplinary records concerning the same or similar offenses and the type of punishment administered. The grievant or his/her representative must request said abstract at least eight work days prior to the third step hearing and the abstract shall only consist of Agency disciplinary records concerning the same or similar offenses and the type of punishment administered for two years prior to the offense in question. The grievant and/or his/her representative shall only be given one abstract during each grievance process. Agencies which do not currently compile such information shall initiate compilation of such information.

**007 Obtaining Forms.** Grievance and appeal forms may be obtained from agency personnel offices or from the DAS Employee Relations Division.

**008 Settlement.** At any time during the grievance procedure, the parties may reach a settlement and thereby terminate the process. The settlement must be in writing and is binding on both parties. The settlement must be signed by both parties, and shall include a statement that neither party will pursue the matter further as long as settlement agreements are followed. At this point, the grievance will be considered to be resolved. If either party fails to abide by the settlement, the violation may be grieved, beginning at the agency head level.

**009 Grievance Procedure Steps and Time Allowances.** If the grievance involves an involuntary separation, the grievant may skip Step 1 and go directly to Step 2--agency head level. If the agency, in the first two steps of a grievance, fails to respond to the grievant within the specified time period, the grievance shall be considered denied, and the grievant may forward his/her grievance to the next step. If the grievant fails to advance a grievance to any step, the grievance shall be considered discontinued by the grievant and the matter is considered closed. Time allowances at steps one and two may be extended by mutual agreement of the parties. The progressive steps and time allowances for the official grievance procedures are as follows (workdays exclude Saturdays, Sundays, and state holidays):

**009.01 Step 1. Decision-Maker's Reply.** Within 15 workdays of the occurrence of the grieved action (or from the day the employee could reasonably have known about the action) the employee shall present an original formal written grievance (utilizing the official grievance form) to his/her immediate supervisor.

**009.01A** If the immediate supervisor is the person who made the decision causing the grievance, that supervisor may discuss it with the grievant and prepare a written reply on the grievance form within 10 workdays of receiving the grievance. If the immediate supervisor did not make the grieved decision, he/she shall note the fact on the form,

sign it, and forward it to the person who made the decision within 2 workdays, skipping any levels of intermediate supervision.

**009.01B** The decision-maker shall discuss the grievance with the grievant, then reply in writing on the grievance form (or an attachment) within 5 workdays of delivery of the grievance. The decision-maker shall be responsible for consulting with all necessary levels of supervision in the preparation of his/her written response to the grievant.

**009.02** **Step 2. Appeal to Agency Head.** If dissatisfied with the decision-maker's reply, the grievant has 10 workdays to appeal the decision to the agency head or designee. As the agency head deems it appropriate, he/she may do one of the following:

**009.02A** Issue a decision in writing within 15 workdays.

**009.02B** Appoint a grievance committee or designee to hear the grievance and recommend a decision. It is recommended that the committee be composed of representatives from management and the employee's peers, not having direct involvement with the grievance. Within 15 workdays of the receipt of Step 2 of the grievance, the agency head shall accept or modify the committee's recommendation and issue a written decision.

**009.03** **Step 3. Appeal to Personnel Board.** If the grievant wants to appeal the decision of the agency head to the Personnel Board, the original appeal must be filed utilizing the official appeal form within 5 workdays of receipt of the agency head's decision. (Forms may be obtained from the DAS Employee Relations Division, and completed forms should be returned to the DAS Employee Relations Division.) The written appeal must set forth alleged facts in sufficient detail for the Board to decide if a misinterpretation or misapplication of State Classified Personnel System or agency regulations, a labor agreement, or State Statutes has possibly occurred and whether an evidentiary hearing is necessary. Appeals not meeting this criteria may not be granted an evidentiary hearing and may be subject to dismissal without prejudice. If a grievance is dismissed without prejudice, and the grievant wishes to amend the appeal, the amendment must be filed within 10 workdays of receiving notice of dismissal. Amended appeals not filed with the Board within the 10 workday limit may be subject to summary dismissal.

**009.03A** The Board may elect to conduct the hearing, or may designate a Hearing Officer to conduct the hearing and recommend a decision to the Board. If the chairperson of the Board assigns a grievance appeal to a Hearing Officer, the appellant may disapprove such assignment and request that another person be assigned as his or her Hearing Officer. The second assignment shall be final.

**009.03B** The Chief Negotiator shall, on behalf of the Board, notify the appropriate parties that an appeal has been filed. A copy of the appeal shall be provided to the agency head. The appeal process is not to be abused through frivolous use.

**009.03C** When a grievance appeal is properly submitted, the Board or its Chairperson with authority delegated by the Board, shall determine if an appeal hearing will be held. All parties shall be notified of the time and place of any appeal hearing. The Board's final decision requires a majority vote of those hearing the appeal. If a tie vote is cast, the agency head's decision shall prevail.

**009.03D** The Personnel Board or designated representative shall hold a hearing at the earliest date possible, or inform all parties that the issue is not grievable. A decision by the Board that the issue is not grievable is final.

**009.03E** The Personnel Board or Designated Representative may order a prehearing conference with the grievant and the Agency and/or their representatives prior to the grievance hearing to clarify the issues to be heard, the number of witnesses, the evidence to be presented, and other procedural details determined by the Personnel Board or Designated Representative; or, the Personnel Board or Designated Representative may issue a prehearing Order requiring the parties to mutually resolve such matters prior to the hearing. Failure by either party to appear at a prehearing conference, or respond timely to a prehearing Order may bind that party to the issues, witnesses, evidence, etc., submitted by the opposing party, or to those established by the Prehearing/Hearing Officer, which shall control the presentation of issues, witnesses, exhibits, etc., during the hearing. The Personnel Board or Designated Representative shall designate which party shall go first in the presentation of evidence.

**009.03F** The Personnel Board or designated representative shall conduct the grievance hearing, and rules of evidence shall not apply unless requested by either party. Such request shall be made in writing at least 3 workdays prior to the holding of the hearing. The requesting party shall arrange for a court reporter and shall be responsible for all costs entailed in producing a written record. If rules of evidence are not requested, the hearing shall be recorded on tape. Either party may present witnesses and/or written data; however, each party is responsible for contacting witnesses and arranging for their appearance.

**009.03G** If either party to a grievance hearing before the Personnel Board or designated representative wishes to use any state employee as a witness in the presentation of their case, they shall request the Personnel Board, through the Director of DAS State Personnel, to compel the attendance of the witness. Request forms for "Compelled to Attend Order" are available in the DAS Employee Relations Division and must be submitted at least 8 calendar days prior to the hearing. Notice of less than eight calendar days shall not guarantee employee attendance. The requesting party or their representative is responsible to serve the Compelled to Attend Orders on the employee(s) sought to be compelled. The Compelled to Attend Orders are to be served on the employee at least four workdays before the scheduled hearing. The Personnel Board or designated representative may limit the number of witnesses either party may call to testify, considering relevancy of proposed testimony and whether or not it would be repetitious.

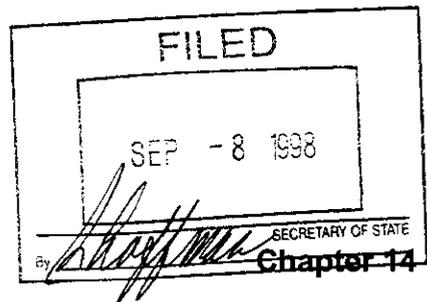
**009.03H** Employees who are compelled to attend an appeal hearing shall be granted time off from their assigned duties to appear and all hours in attendance shall be considered work time. Reasonable expenses for these "compelled" witnesses shall be paid (subject to state guidelines) by the agency involved in the grievance.

**009.03I** Either party to the grievance, the Personnel Board or designated representative, may request that witnesses be subpoenaed. The cost of serving any subpoenas shall be paid by the requesting party. Applications for issuance of subpoenas shall be submitted to the Chief Negotiator. Applications must be in writing and submitted at least 8 calendar days prior to the hearing.

**009.03J** The Personnel Board or designated representative may request opening and/or closing statements from both parties in the grievance hearing. The parties may be requested to submit summary briefs at a mutually agreed upon date subsequent to the hearing.

**009.03K** Agency heads and grievants may present their cases either personally or through their authorized representative. Each party is responsible for any attorney costs incurred in presenting its case. Agencies bear the Burden of Proof in grievance appeal hearings, and shall normally proceed first in the presentation of evidence in the hearing.

**009.03L** The grievance hearing before the State Personnel Board or designated representative shall normally be open to the public, unless the grievant or the agency requests a closed hearing, in which case the Personnel Board or designated representative shall determine whether or not the hearing shall be closed, and that decision shall be final. If the hearing is closed, certain



**Title 273 – Nebraska Classified System Personnel Rules**

persons may be admitted if the Personnel Board or designated representative determines their presence is appropriate.

**009.03M** In the event that one party fails to appear at the grievance hearing scheduled by the Board or its designated representative, both parties to the grievance shall be advised of a new date for a hearing on a default judgment against the party who failed to appear. At that hearing, default judgment shall be entered unless the party who failed to appear shows good cause for having failed to appear.

**009.03N** As its final action in a grievance appeal to the State Personnel Board, the Board shall come into open session, take a public vote, and make available copies of the Board's written decision which shall contain findings of fact and conclusions of law.

**009.03O** The authority of the State Personnel Board is to assure that the decision of the agency head was made in good faith and for cause, and to ensure that the agency was in reasonable compliance with State Classified Personnel System and/or agency rules and regulations, labor agreements, or relevant State Statutes.

**009.03P** The Chairperson of the Board, another member appointed by the Chairperson, or a designated representative shall conduct the hearing.

**009.03Q** A record of all procedures shall be kept in the office of the Chief Negotiator in the form of stenographic notes or recordings.

**009.03R** The drafting of a dissenting opinion shall be the responsibility of the dissenting Board member. The written dissenting opinion shall be sent to the DAS Employee Relations Division within 15 workdays of the date the Board announces a decision.

**010 Actions of the Board after the Appeal Hearing.** A copy of the Board's decision shall be forwarded to the grievant and the agency head. The original copy shall be filed in the DAS Employee Relations Division. Personnel Board decisions are public information and are available for review in the DAS Employee Relations Division, unless the hearing was closed.

**010.01** The decision of the Board shall be binding on all parties involved. Appeal of the Board's decision shall be as provided in Nebraska Statutes, Section 84-917, R.R.S., 1943.

**APPROVED**  
DON STENBERG  
ATTORNEY GENERAL

SEP 8 1998  
BY *Nick A. Cowler*  
Assistant Attorney General

**APPROVED**

SEP 08 1998

*E. Benjamin Nelson*  
E. BENJAMIN NELSON  
GOVERNOR

## Chapter 15 – Miscellaneous

**001**    **Interpretations.** Any person may make a written request to the Director of DAS State Personnel for an interpretation of any provision of these rules or written statement of policy. Any person may petition the Director of DAS State Personnel requesting the promulgation, amendment or repeal of any State Classified System Personnel rule. The petition process includes:

**001.01**    Petition in letter form sent to the Director of DAS State Personnel, including suggested wording and reasons for requested change. Such petitions shall be dated and shall include the signature and address of the petitioner.

**001.02**    Consideration by the Director of DAS State Personnel and written reply within 20 workdays, giving notice of initiation of any resulting rule-changing procedure or denying the petition.

**001.03**    Petitions which duplicate or are similar to any already answered will not be accepted until 6 months have passed since the previous answer.

**001.04**    Decisions of the Director of DAS State Personnel regarding petitions are binding unless a declaratory judgment is requested in District Court.

**002**    **Employee Tuition Assistance Program.** Employees, other than temporary, may, with the approval of the agency head, receive reimbursement for up to 100% of tuition costs for the completion of a job or agency-related course of instruction through an accredited university, college, technical school or community college. Prior to the class starting date, employees must complete a "Request for Tuition Assistance" form, in the number of copies prescribed by the agency head, for final approval (including reimbursement rate) or disapproval. Disapproval by the agency head is final and is not a grievable issue. All copies of the "Request for Tuition Assistance" forms shall be retained at the agency level.

**002.01**    Employees enrolling in a course may do so either by correspondence or attendance at classes during working or non-working hours. Employees granted permission by the agency head to attend classes during working hours shall arrange their work schedule so that they continue to work their normal number of hours per week. The agency head may approve the use of earned compensatory time, vacation time or leave without pay to attend classes during working hours.

**002.02**    Employees successfully completing the approved course or courses shall be reimbursed for whatever rate is indicated on the form. The rate approved may be up to 100%

of the tuition cost. Tuition cost shall be the cost per credit hour and shall not include fees or the cost of books.

**002.03** Employees eligible for other educational reimbursements through other governmental programs shall use these programs first. If the cost of an approved course is more than the amount available from other sources, the state may reimburse the employee for up to 100% of the difference.

**002.04** Employees who receive tuition assistance may be asked to reimburse the state if they leave their employment within one year of the course completion date.

**003** **Moving Expenses.** Employees who are relocated to another geographical location for the benefit of the employing agency shall be reimbursed for moving expenses. Employees relocating to another geographical area at their own request, for their personal benefit, need not be reimbursed for expenses incurred. Reimbursement for the amount and type of expenses shall be in accordance with policies and procedures established by the Department of Administrative Services.

**003.01** A relocation is defined as a change of job site which results in the new job location being at least 35 miles farther from the employee's current home than the current job location. If circumstances warrant, agency heads may waive the 35 mile requirement.

**003.02** Whether or not a relocation is for the benefit of the employing agency shall be determined on an individual basis by the agency head. The decision of the agency head is a non-grievable issue. Promotions may be considered as a benefit to the employing agency.

**003.03** Payment of moving expenses shall be made only with the prior written approval of the agency head.

**003.04** The state may reimburse a newly appointed employee, excluding temporary, for moving expenses or a portion of these expenses, at the agency head's discretion, provided the employee agrees, in writing, to remain in the employment of the state for a period of one year.

**003.04A** If an employee, whose moving expenses (all or a part) have been paid, resigns within 1 year of the move, the agency head may require the employee to reimburse the agency for a portion of the moving expenses, based on the length of time the employee worked after the move.

**003.05** Payment of moving expenses shall be recorded into the employee's permanent personnel record and the fact that such payment was made shall be signed by the agency head and the employee.

**004** **Rest Periods.** Agency heads may grant employees rest periods not to exceed a total of 30 minutes during each workday. Rest periods may not be cumulative. Rest periods shall not be taken before one hour after the employee arrives at work, nor one hour before the employee leaves work. Rest periods are considered work time.

**005** **Other Employment.** An employee, with the prior notification of the agency head, may engage in additional employment or acquire private interest in business, provided such employment or interest does not interfere with the interest of the state, the agency, or the State Statutes.

**006** **Conflict of Interest.** An employee shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his/her duties in the public interest.

**006.01** An employee is prohibited from using or attempting to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.

**006.02** Employees shall not give the impression that any person can improperly influence them in the performance of their official duties, or that they are improperly affected by the kinship, rank, position or influence of any party or person.

**006.03** Employees shall not accept gifts of value or loans from persons doing business with the State which are intended to or which appear to influence the official relationship between the donor and recipient.

**006.04** Employees failing to resolve a conflict of interest, as prescribed in the procedures outlined by the Accountability and Disclosure Commission, shall be subject to disciplinary action.

**007** **Nepotism.** The agency responsible for administration, investigation and advice on potential nepotism conflicts of interest is the Nebraska Accountability and Disclosure Commission, P.O. Box 95086, 11th Floor, Nebraska State Capitol Building 68509.

**008** **Political Activities.**

**008.01** An employee may engage in any political activities except the following:

**008.01A** An employee shall not participate in political activities while performing official state duties.

**008.01B** An employee shall not use their state job to distribute or receive political favors.

**008.01C** If an employee's position is partially or entirely funded with federal money, the employee is covered by the federal Hatch Act and is barred from being a candidate for a partisan office (offices with candidates identified as being from specific political parties).

**008.02** For employees covered by these rules and also covered by the Hatch Act, the federal agency responsible for administering the Hatch Act should be consulted for specific restrictions on these employees. The agency responsible for administering and investigating violations of the Hatch Act is the Office of Special Counsel of the U.S. Merit Systems Protection Board, 1120 Vermont Ave., N.W., Washington, D.C. 20419.

**008.03** If an employee wishes to take part in political activities during normally scheduled work hours, the employee must arrange for leave (vacation, leave without pay, etc.) to cover the period of absence.

**008.04** If an employee is elected to office, and such office presents a conflict of interest with the employee's job, or interferes with the employee's scheduled work hours, the employing agency has authority to change the terms and conditions of employment, up to and including termination of employment.

**009** **Retiree Health Insurance.** In addition to the provisions outlined in State Statute 44-1620 through 44-1629, employees who are eligible for retirement and do retire, shall be afforded the opportunity to continue health insurance coverage in the group plan until the age of 65. The employee shall be responsible for the entire cost of the premium for the plan chosen, which includes the normal employee contribution and the normal state contribution.

**010** **Employee Assistance Program.** The State offers confidential counseling and referral services through a state-wide employee assistance program (EAP). All employees, other than temporary, (and their family members) can receive assistance in dealing with issues such as chemical dependency, emotional difficulties, legal and financial problems, marital complications, etc. Initial visits with the EAP are covered at no cost to the employee. Fees for services beyond and outside of the EAP contract are the responsibility of the employee.

**FILED**

SECRETARY OF STATE

JUN 25 93 00 50 68

**Title 273 - Nebraska Classified System Personnel Rules Chapter 15**

**011 Americans with Disabilities Act.** Public Law CFR 101-336, the federal Americans with Disabilities Act of 1990, prohibits discrimination against people with disabilities **in every** aspect of employment. Discrimination in employment actions include recruitment, selection, hiring, terminations, job related reasonable accommodations and any other terms, conditions, and/or privileges of employment.

**012 Severability.** If any section or portion of these Rules or the applicability thereof to any person or circumstance is held to be invalid by a court, the remainder of these Rules shall not be affected thereby.

**APPROVED**

JUN 17 1993



**APPROVED**  
DON STEINBERG  
ATTORNEY GENERAL

JUN 11 1993

  
Assistant Attorney General

FILED  
SECRETARY OF STATE  
SEP 17 93 005 978

## Chapter 16 - Employee Recognition Programs

**001 Recognition Programs.** With the approval of the DAS State Personnel Director, agencies may implement Employee Recognition programs, which may include awards such as certificates, plaques, pins, and/or monetary recognition, within the limits specified below:

**001.01** Years of Service recognition programs, which may include awards other than monetary recognition.

**001.02** Educational or Certification recognition programs for employees who successfully improve job expertise by taking educational coursework or otherwise gain job related certifications. One time monetary rewards of up to \$500 are allowed in any one fiscal year in this category. Employees must be provided prior knowledge of such programs through a published and/or posted Agency policy.

**001.03** Achievement recognition programs, with awards such as "Employee (or Manager) of the Month (or Year)"; "Peer Award"; or "Group Award". Monetary awards up to \$100 for monthly awards, \$250 for quarterly awards, \$250 for annual award nominees or runners-up, and \$500 for annual awards are allowed for achievement recognition purposes.

NOTE: Achievement recognition awards are not considered bonuses as defined in Chapter 7. Rule 006.

**001.04** Suggestion recognition programs; awards shall be the greater of twenty-five dollars or ten percent of the amount of savings, limited to five thousand dollars unless a larger award is recommended by the resolution of the Legislature.

**002 Public Information.** Recognition programs and monetary awards are public information, and Agencies are encouraged to make recognition announcements via formal recognition ceremonies, staff meetings, newsletters, etc.

**APPROVED**  
DON STENBERG  
ATTORNEY GENERAL

SEP 15 1993  
BY Dale A. Comer  
Assistant Attorney General

APPROVED  
SEP 16 1993

*[Signature]* W

# Chapter 17 - Information Technology Retraining Program

These rules are **adopted** pursuant to the provisions of section 81-1393, Reissue Revised Statutes of Nebraska, 1998.

**001 Scope and Applicability.** These rules define the administration of the Nebraska Information Technology Retraining Program. The purpose of the program is to identify and reeducate qualified state employees in the area of information technology. State employees who are accepted into the training program must agree to at least three years of continued state employment. The Department of Administrative Services State Personnel Division shall be responsible for administration of this program.

**002 Definitions.**

002.01 DAS is the Nebraska Department of Administrative Services.

002.02 DAS Information Management Services is the Nebraska Department of ~~Administrative~~ Services Information Management Services Division.

002.03 DAS State Personnel is the Nebraska Department of Administrative Services State Personnel Division.

002.04 Participants are state employees.

**003 Training Content.** The content of the training will be approved by the **Administrator** of DAS Information Management Services and the Director of DAS State Personnel, based on their forecasts of the needs of the state. The length of the training program will depend on the training objectives.

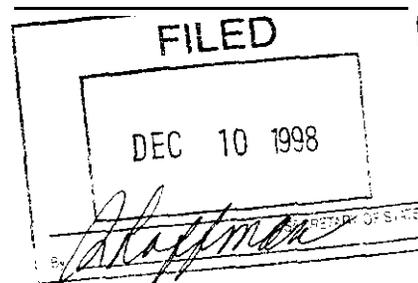
**004 Selection.** The program is open to all permanent employees in all state agencies. **Participants** will be selected for the training program based on a test of aptitude for the training area. The test will emphasize aptitude for (rather than prior knowledge of) the subject matter. The Director of DAS State Personnel will select the test instrument based on the subject matter that is being covered.

**APPROVED**  
DON STENBERG  
ATTORNEY GENERAL

NOV 25 1998  
BY *Salid Lower*  
Assistant Attorney General

**APPROVED**  
DEC 10 1998

*E Benjamin Nelson*  
E. BENJAMIN NELSON  
GOVERNOR



**004.01 Testing.** Testing will be offered to any permanent state employee who desires to take the test. Agencies will grant reasonable work time and travel expenses to and from the testing site to any permanent state employee who wishes to take the test.

**004.02 Selection Non-Grievable.** Selection for the training program and agency approval to participate in the training program are not grievable.

**005 Participant Responsibilities.** State employees who are selected for the training program will be required to sign a retraining agreement (hereinafter, the “Agreement”) prepared by the Director of DAS State Personnel before their participation will be confirmed.

**005.01 36 Months of Service.** State Employees must agree to remain employed as a state employee for 36 months after completion of the training and accept a job assignment in the area of the training. State employees who voluntarily leave state employment prior to completion of the 36 months of service must pay the state one-thirty-sixth of the cost of course instruction and required course materials for each month or part of a month that remains in their 36 months of service.

**005.02 Attendance.** Participants must attend the training. Trainee attendance will be required. Vacation leave during training will not be approved if it interferes with attendance at classes. Participants who fail to attend the training activities or who fail to make reasonable progress in the training may be **dropped from the program** after consultation with their sponsoring **agency**.

**005.03 Expenses Covered.** The training program will cover only the cost of **tuition**, training fees and the costs of required class materials. State employees’ work sites will be changed from their current work location to the location of the training. State employees will not be reimbursed for moving expenses, relocation expenses, travel expenses, accommodations, meals or any other expenses incurred while they are participating in training.

**006 Agency Responsibilities.** Participants must have the approval of their agency to participate in the training program.

**006.01 Current Position.** Agencies will maintain participants in their current positions at their current salary grade and compensation levels during the training. Participants are expected to give full-time attention to their training program, so agencies must arrange to have their current job responsibilities covered during the training period.

**006.02 Position after Training.** The agency shall plan for the employee to **transfer** to a job in the area of study at the conclusion of the training. At the time of the transfer to a new position in the area of study, classification and salary grade will be adjusted to be consistent with the new responsibilities. Participants will not be

given preference over other internal applicants when filling vacancies. While agencies should make every effort to move participants into job assignments that make use of their training, participants are not guaranteed a position in the area of training.

006.03 **Costs.** The Director of DAS State Personnel will determine the training fees, based on the cost of providing the training. Training fees will cover the costs of the training and a reasonable allowance for the costs of administering the program. Agencies must pay the training fees within 30 days of the beginning of the training program. Since most training fees are paid in advance or very early in the training program, there will be no refunds of the training fee if the participant withdraws or is removed from the program.

006.04 **Transfer to Another Agency.** Agencies hiring a state employee from another agency, when the employee has completed the training within the last 36 months, must reimburse the agency that paid for the training. The amount of reimbursement shall be one thirty-sixth of the cost of course instruction and required course materials for each month or part of a month that remains in their 36 months of service.

006.05 **Disputes.** Disputes on payment will be resolved by the Director of the **Nebraska** Department of Administrative Services.

007 **Agreement for Retraining.** Each state employee selected to participate in the retraining program must sign the Agreement prepared by the Director of DAS State Personnel which is attached hereto and made part by reference.

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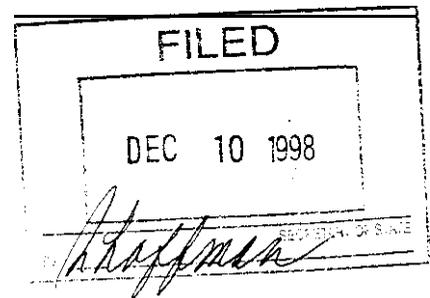
**APPROVED**  
DON STENBERG  
ATTORNEY GENERAL

NOV 25 1998  
BY *Sal G. Corner*  
Assistant Attorney General

**APPROVED**

DEC 10 1998

*E. Benjamin Nelson*  
- 67 -  
E. BENJAMIN NELSON  
GOVERNOR



## Retraining Agreement

COMES NOW \_\_\_\_\_ (hereinafter referred to as “Employing Agency”) and \_\_\_\_\_ (hereinafter referred to as “Employee”) and enter into an Agreement for participation in the Information Technology Retraining Program.

WHEREAS, the Employee has been identified as an eligible participant in the Information Technology Retraining Program (herein after referred to as “Retraining”); and

WHEREAS, the Employing Agency consents to the Employee’s participation in Retraining as prescribed in Neb Rev. Stat. Sec 81 – 1393 Laws 1998 rrs 1998 and all applicable State Rules and Regulations; and

WHEREAS, the Employee acknowledges that he/she is requesting to participate in Retraining and is willing to fully participate so as to enhance their value as an employee in the area of training.

NOW, WHEREFORE, in consideration of the mutual promises herein, the parties agree as follows:

1. Retraining Description: That the Employing Agency consents to the Employee’s participation in Retraining; the course description, training dates and locations are set forth below:

Retraining Description: \_\_\_\_\_  
 Location: \_\_\_\_\_  
 Dates of participation: \_\_\_\_\_

2. Costs: That the Employing Agency shall pay for Retraining instruction and required course materials. All other costs associated with attending Retraining (i.e. travel, lodging, transportation, mileage, meals, etc.) shall not be reimbursed and are the personal responsibility of the employee.
3. Work Site: That if Retraining is in a location other than the Employee’s current work site, the Employee shall be temporarily reassigned to the Retraining location during the term of the Retraining. This relocation is voluntary and at the Employee’s request and the Employee shall not be reimbursed for moving expenses.

- 4. Pay Status: That the employee shall remain employed by the Employing Agency at their current pay grade and pay rate during the pendency of training and thereafter unless the Employee is hired or reassigned to a different position.
- 5. Position Status: That the Employing Agency shall, during the course of the Employee's participation in Retraining, hold the Employee's position open. This does not restrict the employing agency from temporarily filling or reassigning duties during the Employee's Retraining.
- 6. Participation: That the employee shall fully participate in Retraining at the level required for successful completion. If, at any time during the course of instruction it is determined by the individual or entity charged with providing the training that the Employee's level of participation is inadequate or that the Employee is not successfully completing the course of instruction the Employee may be removed from Retraining and returned to their previous assignment.
- 7. Assignment of Duties: That upon completion of retraining, the Employing Agency shall make reasonable attempts to reassign the Employee to duties related to Retraining.
- 8. Acceptance of Duties: That upon completion of Retraining, the Employee shall accept and use their best efforts to complete work assignments that reasonably relate to Retraining.
- 9. Repayment: That if the Employee voluntarily leaves the employment of the State during Retraining, the Employee shall pay the Employing Agency the costs incurred by the Employing Agency for course instruction and required course materials. If the Employee voluntarily leaves the employment of the state after completion of Retraining, the Employee shall pay the Employing Agency the costs incurred by the Employing Agency for course instruction and required course materials based on 1/36<sup>th</sup> of the costs of course instruction and required course materials for each month or part of a month that remains in their 36 months of state employment since completing Retraining. The costs of the Employee's participation in Retraining are as follows:

Course Instruction: \$ \_\_\_\_\_  
Required Course Materials: \$ \_\_\_\_\_  
Total: \$ \_\_\_\_\_

- 10. Re-Hire: That the Employee has been advised that should they apply for a position in state government outside of the Employing Agency, that the

remaining costs based upon 1/36<sup>th</sup> of the cost of course instruction and required course materials for each month or part of a month that remains in their 36 months of service from the date of leaving or completion of retraining will be required to be paid to the Employing Agency by any subsequent hiring agency. The Employee specifically consents that those costs may be considered by the hiring agency and be a significant factor in any selection process.

- 11. Applicable Laws: That applicable State Laws, the State Classified System Personnel Rules and Regulations and NAPE/AFSCME contract provisions in effect at the date of this agreement are controlling and will be applied in all instances not specifically covered by this Agreement.

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Employing Agency

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
NAPE/AFSCME

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
DAS State Personnel Director

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