

Statutory recommendations for state employees:

Nevada Revised Statutes (NRS) [Chapter 284](#) governs the state personnel system. While the Department of Human Resources Management (DHRM) has developed a state policy against sexual harassment and discrimination, it is not statutorily required to create or maintain such a policy. There is no mention of sexual harassment in Chapter 284. [NRS 284.150](#) briefly states that “A person must not be discriminated against on account of the person’s religious opinions or affiliations, race, sex, sexual orientation, gender identity or expression, age or disability” in regards to classified employees. NRS Chapters 233 and 613, which relate to the Nevada Equal Rights Commission, discuss the state’s policy regarding unlawful discrimination, but do not mention harassment.

The Nevada Administration Code (NAC) does explicitly define sexual harassment ([NAC 284.0995](#)). It also outlines training requirements and grants authority for certifying such training by DHRM ([NAC 284.496](#)). While the NAC goes on to further state that “Sexual harassment violates *the* policy of this State and is a form of unlawful discrimination based on sex,” it does not superficially refer to any written policy, nor does it require a state policy to be created, circulated, or adhered to by state employees ([NAC 284.771](#)).

There is statutory precedent for enumerating a state personnel policy in Chapter 284 of the Nevada Revised Statutes, even if such a state policy is also outlined in the Nevada Administrative Code. [NRS 284.406](#) states that “It is the policy of this state to ensure that its employees do not: 1. Report for work in an impaired condition resulting from the use of alcohol or drugs; 2. Consume alcohol while on duty; or 3. Unlawfully possess or consume any drugs while on duty, at a work site or on state property.” The following sections govern discipline, screening tests, and training. [NRS 284.407](#) grants regulatory authority to the Personnel Commission to further carry out the purpose of this policy.

The Personnel Commission is a five member commission whose members are appointed by the governor ([NRS 284.030](#)). The Personnel Commission has statutory authority to:

- (a) Advise the Administrator concerning the organization and administration of the Division.
- (b) Report to the Governor on all matters which the Commission may deem pertinent to the Division and concerning any specific matters previously requested by the Governor.
- (c) Advise and make recommendations to the Governor or the Legislature relative to the personnel policy of the State.
- (d) Adopt regulations to carry out the provisions of this chapter.

- (e) Foster the interest of institutions of learning and of civic, professional and employee organizations in the improvement of personnel standards in the state service.
- (f) Review decisions of the Administrator in contested cases involving the classification or allocation of particular positions.
- (g) Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter. ([NRS 284.065](#))

At the last meeting of the Governor's Task Force on Sexual Harassment and Discrimination Law and Policy, members indicated several goals: explicitly recognize a state policy against sexual harassment; grant authority to require state employees to adhere to a policy and related requirements; retain flexibility to update the policy, training requirements, and reporting procedures as case law and social norms evolve; and, allow individual agencies to address agency-specific concerns regarding the nature of their specific work. Any statutory recommendations would need to balance these goals.

There are several options for the Task Force to consider. For example, the Task Force could recommend that the current state policy be adopted into the statute in its entirety. This would provide a clear statement of both policy and law regarding sexual harassment. But, it would also require future legislation to change the policy for any reason.

Alternatively, the Task Force could recommend adopting a statute similar to the policy against consuming alcohol or drugs in the workplace with a broad policy statement, specific statutory provisions regarding some topics, and granting the Personnel Commission regulatory authority for further requirements. An example of the broad policy could be the language used in [NAC 284.771](#): "Sexual harassment violates the policy of this State and is a form of unlawful discrimination based on sex under state and federal law. An employee shall not engage in sexual harassment against another employee, an applicant for employment, or any other person in the workplace." The Task Force could identify which provisions would be included in statute versus what topics were left to the Personnel Commission.

The Task Force could also adopt a broad policy statement against sexual harassment and give the Personnel Commission the regulatory authority to implement that policy. While the Personnel Commission is generally understood to have wide regulatory authority, this statute would give the Commission explicit authority. The Task Force could go farther and require the Commission to review and update the state policy, state training materials and requirements, reporting procedures, or some combination at a specified interval of time, such as yearly.