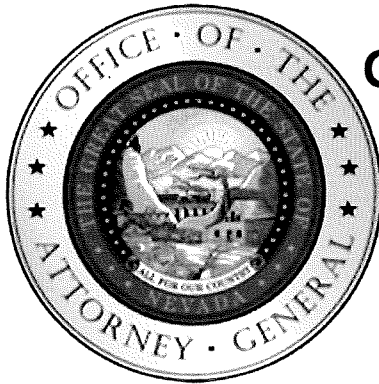


ATTACHMENT 1
4/19/19 DRAFT MEETING MINUTES
FOR APPROVAL



OFFICE OF THE ATTORNEY GENERAL

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MEETING MINUTES

Name of Organization: Governor's Task Force on Sexual Harassment and Discrimination Law and Policy

Date and Time of Meeting: April 19, 2019, 1:00 p.m.

Place of Meeting: Video Conferenced Between:

Attorney General's Office
 Mock Courtroom
 100 N. Carson Street
 Carson City, Nevada

Attorney General's Office
 Grant Sawyer Bldg. Rm. 4500
 555 E. Washington Avenue
 Las Vegas, Nevada

Carson City Attendees:	Las Vegas Attendees:	Via Phone Conference
<ul style="list-style-type: none"> • Jessica Adair • Deonne Contine • Mac Potter • Jan Morrison 	<ul style="list-style-type: none"> • Aaron Ford, Chair • Sophia Long, proxy for Kara Jenkins • Ann McGinley • Erin McMullen 	<ul style="list-style-type: none"> • Amanda Cuevas, Vice Chair • Melissa Piasecki • Pamela Ojeda

1. Call to order and roll call.

Chairman Attorney General Ford called the meeting to order at 1:05 p.m. and called roll.

2. Public comment.

Chairman Ford invited public comment. There was none.

3. Approval of the minutes of the March 1, 2019 meeting.

Erin McMullen moved to approve the March 1, 2019 task force meeting minutes; Sophia Long seconded. None opposed. Motion passed.

4. Review of the sexual harassment and discrimination policies of the State's executive branch agencies.

The Task Force discussed sexual harassment and discrimination policies submitted by the executive branch agencies to the Attorney General's Office (AGO) pursuant to Gov. Sisolak's Executive Order 2019-1. It was noted there are many similarities among the State agencies' sexual harassment and discrimination policies, with some agencies relying exclusively on the general State Executive Branch Sexual Harassment and Discrimination Policy (Executive Branch Policy) and mandatory State training.

Long suggested a requirement that all State agency policy manuals indicate a specific coordinator and a backup coordinator with contact information for reporting purposes, along with information about other ways to report complaints or concerns (contact the Equal Employment Opportunity Commission, talk to supervisor, etc.) Informal reporting is not protected, but may benefit victims who do not want to enter into a police investigation and could act as a built-in mechanism to give an agency the opportunity to rectify bad behavior before it escalates. Contine will check with the State training director to see if there is required reporting by bystanders. Long questioned one of the mechanisms for reporting—a third party 800 hotline phone number is not acceptable and should not be part of an agency's policy. Contine will double check the hotline number provided to State employees to ensure it is State run, and not third party.

Long suggested the Executive Branch Policy be updated to be gender neutral rather than referring to male/female gender roles. Ann McGinley suggested other revisions should be made to training policies to clarify harassment and discrimination are not necessarily sexual in nature—gender harassment, hostile work environment, bullying, hazing, etc. also qualify. AG Ford asked McGinley to review the State policy and suggest updates and reiterated the Task Force goal to make recommendations for policy improvements to Governor Sisolak.

5. Discussion of possible statutory amendments regarding sexual harassment and discrimination prevention for introduction during the 2019 legislative session.

Adair noted the 2019 legislative bills were already in the works when the current AGO administration took office so management did not have the ability to work on any of the current AGO bills from the beginning. Because of Governor Sisolak's Executive Order 2019-1, there may be an appetite for an emergency measure at the legislature, such as legislation to require policy and training are reviewed and updated on a consistent basis. AG Ford stated keeping State online training and information updated might make statutory changes unnecessary.

Adair pointed out many agencies rely on State training to do most of the work to educate their employees, but some agencies struggle with getting employees trained timely. Contine suggested new employees be signed up for sexual harassment and discrimination prevention training at the initial on-board meeting with Personnel rather than having them wait to get an employee identification number and sign themselves up. It was suggested department-specific training might also be a good idea.

[AG Ford departed meeting at 1:32 and Vice-Chair Amanda Cuevas continued the meeting.]

Contine stated agencies currently rely on one State policy. There is nothing in NRS 284 addressing sexual harassment, and there is no mandate to create policy or require regular reviews, not to mention the resources required to add those extra steps. Adair suggested the Task Force meet in early May to address statutory concerns and suggest language before the end of the 2019 legislative session.

6. Discussion regarding the Task Force's next steps and topics for future meetings.

- The Task Force will discuss ways to conduct a status check on executive branch entities to make sure they are complying with State policy. Contine will work to redo State policy so statutory changes will be unnecessary.

- The Task Force will discuss how to make harassment and discrimination training relevant.
- Adair will take ideas for the legislature and work with an AGO team internally to bring to next meeting.

7. Public comment.

Vice-Chair Cuevas invited public comment. There was none.

8. Next meeting: Will be scheduled for early May.

9. The meeting was adjourned at 2 p.m.

Prepared by V. Beavers 4/30/19

ATTACHMENT 2

STATE OF NEVADA EXECUTIVE BRANCH SEXUAL HARASSMENT AND DISCRIMINATION POLICY

State of Nevada Executive Branch

SEXUAL HARASSMENT AND DISCRIMINATION POLICY

Sexual harassment and discrimination based on race, color, national origin, religion, sex, age, disability, pregnancy, sexual orientation, genetic information, gender identity or expression, domestic relations¹ or compensation or wages² in any term, condition or privilege of employment are violations of State and/or federal law.

I. PURPOSE

The purpose of this Policy statement regarding sexual harassment and discrimination is to clearly express the position of the State of Nevada that all employees have the right to work in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive or disruptive.

Sexual harassment and discrimination are forms of misconduct that undermine the integrity of the employment relationship. No employee, either male or female, should be subjected to unsolicited and unwelcomed sexual overtures or conduct, either verbal, written (including digital media, i.e., email, text or digital photos or graphics) or physical. No employee should experience discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Sexual harassment and discrimination are personally offensive, debilitate morale, and, therefore, interfere with work effectiveness. An employee who engages in discriminatory behavior, or behavior that constitutes sexual harassment, may be subject to disciplinary action up to and including dismissal.

II. COVERAGE

This Policy is intended to be applicable to all State employees, officers, appointees such as board members, and volunteers in the executive branch of government. All elected officers are encouraged to adopt this Policy within their agencies.

¹ AB 229 (2017); AB 227 (2017).

² NRS 613.330.

III. RESPONSIBILITY

- A. Sexual harassment and discrimination, whether committed by a supervisor, coworker, or member of the public is specifically prohibited as unlawful and against State policy. Appointing authorities are responsible for taking immediate and corrective action in response to complaints, regardless of whether the specific acts complained of were sanctioned or specifically forbidden and regardless of the manner in which the appointing authority becomes aware of the conduct.
- B. Appointing authorities must ensure that each employee is provided with a copy of this Policy informing them that sexual harassment and discrimination are prohibited conduct and will not be tolerated or condoned. All employees will acknowledge receipt and understanding of the Policy through a signed statement.
- C. All new employees, officers, appointees, board members and volunteers in the executive branch shall attend sexual harassment prevention training within six months of their appointment. Thereafter, employees are required to complete sexual harassment prevention refresher training once every two years.
- D. Managers and supervisors are also required to attend additional training related to equal employment opportunity within 12 months of supervisory appointment and every three years thereafter.
- E. Appointing authorities shall advise all employees of their responsibility to report incidents of sexual harassment and discrimination.
- F. Appointing authorities shall designate employees within each agency to act as coordinators for the reporting of complaints of sexual harassment or discrimination and will notify employees and the Sexual Harassment/Discrimination Investigation Unit of the coordinator's name and contact information.
- G. Supervisors shall have a complete understanding of this Policy. Supervisors who willfully disregard incidents of sexual harassment or discrimination by subordinates may be subject to discipline. Supervisors are responsible for ensuring their employees have received training as outlined in this Policy.

- H. It is the responsibility of appointing authorities to make sure their agencies are in full compliance with this Policy and associated legal guidelines.

IV. STATE EMPLOYEES' RIGHTS AND RESPONSIBILITIES

- A. Employees are entitled to work in a workplace free of sexual harassment and discrimination.
- B. Employees are responsible for ensuring they do not sexually harass or discriminate against any other employee, client, applicant for employment, or other individual(s).
- C. Employees are responsible for cooperating in the investigation of any complaint of alleged sexual harassment or discrimination. Employees are additionally responsible for cooperating with the efforts of their agency, division, board or commission to prevent and eliminate sexual harassment and discrimination and for maintaining a working environment free from such unlawful conduct. Pursuant to NAC 284.650, failure to participate in any investigation of alleged discrimination, including without limitation, an investigation of sexual harassment is cause for disciplinary action.

V. LEGAL DEFINITIONS AND GUIDELINES

- A. NAC 284.771 specifies that 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.

Sexual harassment is a very serious disciplinary infraction. An appointing authority may impose harsh disciplinary sanctions on persons who commit sexual harassment, even on first-time offenders.

- B. As used in Section 703 of Title VII of the Civil Rights Act of 1964, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment; or

2. Submission to or the rejection of such conduct by a person is used as the basis for employment decisions affecting that person; or
 3. Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive work environment. 29 C.F.R. § 1604.11.
- C. Equal opportunity with regard to the terms, conditions and privileges of employment is mandated under Title VII of the Civil Rights Acts of 1964, the Americans with Disabilities Act of 2008, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, Genetic Information Nondiscrimination Act of 2008, NRS 631.330, NRS 281.370, and numerous sections of Chapter 284 of the NRS which address the State's Personnel System.
- D. The State of Nevada is an equal opportunity employer and does not discriminate against job applicants or employees based on race, color, religion, sex, national origin, disability, age, pregnancy, sexual orientation, genetic information, gender identity or expression, domestic relations, or compensation or wages.
- E. Federal law prohibits retaliation against employees who bring sexual harassment or discrimination charges or assist in investigating such charges. Any employee making sexual harassment or discrimination complaints or assisting in the investigation of such a complaint will not be adversely affected in terms or conditions of employment, nor discriminated against, disciplined or discharged because of the complaint.

VI. PROCEDURE

A. Employee

1. Employees who believe they have been subjected to or witnessed sexual harassment or discrimination are encouraged to advise the person believed to have engaged in sexual harassment or discrimination that the conduct is unwelcome, undesirable or offensive. If the employee elects not to confront the alleged harasser or if the conduct persists after an objection, the employee shall report the incident to their supervisor or next level authority, or the employee may elect to report the incident as set forth below. Employees will be asked to complete a complaint form.

2. Employees may report incidents of sexual harassment or discrimination (a) to the coordinator within their agency designated to receive such complaints, or (b) by filing a complaint in NEATS on the Home Page, under Personal Tasks, "File a Sexual Harassment or Discrimination Complaint," or (c) by completing an NPD-30 Sexual Harassment or Discrimination Complaint Form located on the Division of Human Resource Management website, or (d) by calling the Division of Human Resource Management's Harassment/Discrimination Hotline at (800) 767-7381. Employees are always entitled to consult an attorney or labor representative or to report the incident to the Nevada Equal Rights Commission or the Equal Employment Opportunity Commission.
3. Employees should give the completed complaint form and any supporting documentation to the coordinator designated within their agency to receive such complaints or to the assigned investigator(s).

B. Appointing Authorities

1. After receiving notification of an employee's complaint, the appointing authority shall promptly notify the agency's assigned personnel, Deputy Attorney General or staff counsel assigned to represent the agency pursuant to State Administrative Manual § 1702 (legal counsel) and the Division of Human Resource Management's Sexual Harassment/Discrimination Investigation Unit. The agency coordinator will complete the complaint intake report and obtain a completed copy of the complaint form from the employee filing the complaint. The coordinator will forward a copy of the completed intake report to the agency's legal counsel and the Sexual Harassment/Discrimination Investigation Unit, along with any supporting documentation. The agency coordinator may also submit the complaint via NEATS.
2. The investigator will begin the investigation as soon as witnesses are available.
3. Investigations will be conducted as discreetly and with as little disruption to the workplace as possible. All information gathered in an investigation will be kept confidential, and

the confidential nature of the investigative process will be conveyed to the complainant, the accused and each witness.

4. The investigator will prepare a written report of findings, which will be submitted to the appointing authority, the agency's legal counsel, and the agency's chief personnel officer. The ultimate decision for remedial action is the responsibility of the appointing authority; however, the investigative staff may suggest mediation services, if appropriate.
5. After the investigation has been completed, the appointing authority will review the findings and recommendations and determine the appropriate resolution of the case. If warranted, the agency, after consultation with their legal counsel, may take disciplinary action up to and including termination. The agency shall retain a written record of the findings of the investigation and the resolution of the complaint as confidential records.
6. At the conclusion of the Division of Human Resource Management's Sexual Harassment/Discrimination Investigation Unit's investigation, the Division of Human Resource Management will notify the complainant in writing that the investigation was completed and forwarded to their agency for review. The agency, in consultation with their assigned legal counsel, shall notify both the complainant and the accused in writing at the conclusion of their administrative review. A copy of the Notification letter that is sent to the complainant and/or accused must be sent to the Sexual Harassment/Discrimination Investigation Unit for its files. Additionally, the agency shall take whatever corrective action it deems appropriate following consultation with its legal counsel. Corrective action that involves discipline of the accused is confidential pursuant to NAC 284.718 and must not be disclosed except as authorized pursuant to NAC 284.726.

C. Complaint Submitted Through the Hotline

1. When an employee transmits a complaint of sexual harassment or discrimination through the State hotline, the Sexual Harassment/Discrimination Investigation Unit will complete the initial intake report and/or submit the complaint in NEATS.

2. The agency coordinator will be notified of the complaint via NEATS.
3. The investigation will then proceed as described for complaints submitted to appointing authorities (*see* Item VI-B).