



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: May 14, 2019, 4:00 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

Phone Conference Call-In

Carson City Attendees:	Las Vegas Attendees:	Via Phone Conference:
<ul style="list-style-type: none"> • Aaron Ford, Chair • Deonne Contine • Amanda Cuevas • Vicki Beavers 	<ul style="list-style-type: none"> • Jessica Adair • Asheesh Bhalla • Dawn Christensen • Kara Jenkins • Patricia Lee • Ann McGinley • Erin McMullen 	<ul style="list-style-type: none"> • Jan Morrison • Pamela Ojeda • Melissa Piasecki

1. Call to order and roll call.

Chairman Attorney General Ford called the meeting to order at 4 p.m. and called roll.

2. Public comment.

Chairman Ford invited public comment. There was none.

3. Approval of the minutes of the May 7, 2019 meeting.

Kara Jenkins moved to approve the May 7, 2019 task force meeting minutes; Deonne Contine seconded. None opposed. Motion passed to approve the minutes.

4. Continue to propose updates to the State Executive Branch Sexual Harassment and Discrimination Policy.

Professor Ann McGinley and Deonne Contine reviewed their proposed changes to the Executive Branch Sexual Harassment and Discrimination Policy (“the Policy”).

- III. Responsibility (C), (D) and (E): There was discussion of a recommendation to shorten the current policy requirement for employees to complete mandatory sex-

and gender-based harassment prevention training from three months to 30 days, with incentives or penalties to ensure compliance by both classified, unclassified, elected, promoted, and appointed personnel. Dr. Piasecki suggested language in the Policy be changed to require employees to complete sex- and gender-based harassment prevention refresher training “at least” every two years, or “an interval of no longer than” two years. It was also recommended supervisors and managers be required to complete extra training within 30 days of employment or promotion to ensure a heightened understanding of the Policy and the importance of enforcing compliance within their divisions. There were no objections to making these recommendations in the Task Force report to Governor Sisolak.

- III. (G): McGinley put forth the recommendation the investigative unit be made permanent and uniformly renamed throughout the Policy to *Sex- and Gender-Based Harassment and Discrimination Investigation Unit* since the term “sexual harassment” is under-inclusive. Further discussion noted several more places in the recommendations and on forms where the title of the investigative unit should be updated to *Sex- and Gender-Based Harassment and Discrimination Investigation Unit*.
- VI. (A)1: McGinley stated “employee or other victim” wording is meant to include others, such as job applicants, who are not necessarily employees. McGinley also suggested removing the words “or witnessed” from her recommendation since witnesses, such as bystanders, have a different reporting standard than employees. Also in (A)1 8th line, add “or other alleged victim” after “the employee.”

Discussion continued regarding the subjective term “reasonable time” and the advisability of clarifying or removing that term completely from the recommendations, or making it consistent with federal and state law, which considers 300 days reasonable time. It was agreed to remove “within a reasonable time” language and leave everything else with that particular component.

- VI. (A)2: It was agreed the word “alleged” should be added before the word “victim” in that paragraph and throughout the rest of the document.
- VI. (A)3: McGinley suggested adding the words “within 300 days of the last harassing act” after “report the incident to the NERC or the EEOC” and also add the warning “but failure to report internally to the employer by one of the means described above may lead ultimately to dismissal of any legal claim brought by an individual.” AG Ford noted this is an important distinction because while we’re removing the requirement they report internally within a reasonable time, they will be noticed if they want to pursue this beyond an internal complaint it needs to be done within 300 days. The Task Force agreed to add that language.
- VI. (B): There was discussion about the inclusion of the wording “with the consent of the victim” as related to bystander witnesses. Jenkins suggested removing that caveat as there are elements of government work, liability, and what the law says needs to be taken into consideration. If a bystander is offended by sexual harassment that is not directly happening to them, there is an affirmative duty to report it, especially if you’re a manager. Requiring consent of

the alleged victim before reporting a witnessed incident might hinder or promote sexual harassment in the work place, especially in cases when an alleged victim is too afraid to come forward on their own. AG Ford suggested sex- or gender-based harassment or discrimination creates a hostile work environment for a bystander. The Task Force agreed the language “with the consent of the victim” should be removed from that paragraph.

- There was discussion as to whether the “Discrimination Has No Place In the Workplace” sign as well as the discrimination statutes should specifically use the words “sexual harassment.” AG Ford stated sexual discrimination *is* harassment. It was suggested to use the wording “Discrimination, *including harassment*, based on race, color, religion, sex, gender....”

AG Ford proposed McGinley make updates to the proposed recommendations based on the meeting discussions, or in the alternative, have the committee meet once more to review the updated version of the recommendations. Asheesh Bhalla reminded the Task Force members of open meeting law restrictions on any group discussions outside a noticed public meeting. Bhalla suggested the Task Force approve the changes as discussed in this meeting and then one Task Force member will prepare a final version of the recommendations to be submitted to Governor Sisolak’s office, who may then take action on the Task Force’s recommendations and send them to the Legislature. AG Ford suggested the culmination of this conversation and any further concerns or questions should be addressed through the administrative process, the regulatory process, the legislative process, etc.

There were no objections. Motion to adopt revised policy as amended to date moved by Contine and seconded by Cuevas. None opposed; motion passed.

5. Continue to propose findings and recommendations for the final report to Governor Sisolak.

Adair addressed McGinley’s “recommended changes to statutes, NAC, etc. and language for report to Governor” and McGinley’s recommendation the Governor support Senate Bill 177. Adair noted SB 177 was passed on the floor with only one nay vote and hopefully will go to the assembly before the May 24 deadline.

Adair referred to the “statutory recommendations for state employees” memo. Adair and Contine discussed a recommendation the *Sex- and Gender-Based Harassment and Discrimination Investigation Unit* be statutorily created and maintained at the Department of Administration to show the policy will be enforced and to prevent any future administration from removing the unit.

Adair also mentioned the Attorney General’s Office’s receipt of executive branch agency responses to Executive Order 2019-2 and shared the Gaming Control Board is going to provide some policy language licensees have submitted. Some licensees have given permission to share their policies publicly to give other agencies, vendors, or license holders some resources to consider for their own policies.

Cuevas suggested the report to the Governor include specific training requirements, including the addition of bystander intervention training.

There was discussion the term “sexual harassment” should be changed throughout the NAC and statutes to “sex- and gender-based harassment.” AG Ford stated a simple clean-up bill at the end of session can easily conform language to statutes throughout the state.

For purpose of the record, AG Ford referred to Chief Operating Officer of Nevada Casino Holdings Mac Potter’s May 14, 2019 emailed comments and suggestions, most of which have been addressed in this Task Force meeting either by adopting or rejecting those suggestions:

- Standing of the parties is addressed as to who has the right to bring a claim: alleged victim as well as bystanders.
- Time limits for reporting and filing a complaint was addressed as to the limitations of the wording “reasonable time” and the EEOC and NERC’s specific 300 day time limit.
- Definition of a valid complaint is also addressed and determined by investigation results.
- Due process/presumption of innocence afforded to involved parties as related to the executive branch policy is addressed in the investigation process.
- Possible consequences for bringing a false, misleading or materially inaccurate complaint.
- Rationalizing differences between authorities (EEOC, NERC, etc.)

McMullen moved and Contine seconded a motion to adopt the report as amended by today’s discussion and leave it to Adair to make the additions, deletions, etc. No objections; motion passed.

6. Public comment.

Chairman Ford invited public comment. There was none.

7. Future meeting dates and times. There will be no further meetings scheduled at this time.

8. Erin McMullen moved to adjourn the meeting and Kara Jenkins seconded. The meeting was adjourned at 5:15 pm.

Prepared by V. Beavers 5/23/19