

State of Nevada Executive Branch

SEX- AND GENDER-BASED HARASSMENT AND DISCRIMINATION POLICY

Commented [AM1]: I could not figure out how to remove the footer with the old date on it. We need to do that.

Sex- and gender-based 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 sex- and gender-based 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.

Sex- and gender-based harassment and discrimination are forms of misconduct that undermine the integrity of the employment relationship. No employee 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 be subjected to physically or verbally harassing behavior—sexual, gendered, or neutral—because of that employee’s sex, sexual orientation, gender identity, or expression. No employee should experience discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other terms, conditions, or privileges of employment. Sex- and gender-based 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 sex- or gender-based 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. Sex- and gender-based 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 shall take immediate and corrective action in response to complaints, regardless of whether the specific acts complained of were sanctioned or specifically forbidden. Appointing authorities shall be proactive to prevent sex- or gender-based harassment. Failing to prevent and/or correct harassment may subject appointing authorities to discipline, even if they do not know of the harassment, and when they do know, regardless of the manner in which the appointing authority becomes aware of the conduct.
- B. Appointing authorities shall ensure that each employee is provided with a copy of this Policy informing them that sex- and gender-based 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 sex- and gender-based harassment and discrimination prevention training within ~~30 days~~ ~~three months~~ of their appointment. Thereafter, employees are required to complete sex- and gender-based harassment prevention refresher training once every two years.
- D. An appointing authority may not promote a person who has not completed or is not current on the sexual harassment training as provided in Section C and required by NAC _____.**
- E. Managers and supervisors are also required to attend additional training related to managing and preventing sex- and gender-based harassment and discrimination to ensure they have a complete understanding of this Policy within 30 days of initially becoming a manager or supervisor.**
- F. Appointing authorities shall advise all employees of the employees' responsibility to report incidents of sex- and gender-based harassment and discrimination.

Commented [AM2]: Deonne is working on changing this. As of now, it is 3 months. NAC will also have to be changed.

Commented [AM3]: Dionne, I think you are going to check to see if this time frame is doable.

Commented [DC4R3]: The time frame is in regulation (NAC 284). We will work to change the regulation. I have would like 30 days and I have asked staff to try to figure out how we can get the training scheduled at the employee onboarding.

Commented [AM5]: We should also add this to NAC.

- G. Appointing authorities shall designate employees within each agency to act as coordinators for the reporting of complaints of sex- and gender-based harassment or discrimination and shall notify employees and the Sexual Harassment/Discrimination Investigation Unit of the coordinator's name and contact information.
- H. Supervisors shall have a complete understanding of this Policy. Supervisors who willfully disregard incidents of sex- or gender-based 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. Besides possible discipline, supervisors will be evaluated annually on whether they handle sex- or gender-based harassment complaints and training effectively.
- I. 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 sex- and gender-based harassment and discrimination.
- B. Employees are responsible for ensuring they do not engage in sex- or gender-based harassment or discrimination 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 sex- or gender-based harassment or discrimination. Employees are additionally responsible for cooperating with the efforts of their agency, division, board or commission to prevent and eliminate sex- and gender-based 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 sex- and gender-based harassment is cause for disciplinary action.

V. LEGAL DEFINITIONS AND GUIDELINES

- A. NAC 284.771 specifies that sex- and gender-based harassment violates the policy of this State and is a form of unlawful discrimination based on sex under State and federal law. An

Commented [AM6]: I have recommended changes in NAC so that the language is the same.

employee shall not engage in sex- or gender-based harassment against another employee, an applicant for employment, or any other person in the workplace.

Sex- or gender-based harassment is a very serious disciplinary infraction. An appointing authority may impose harsh disciplinary sanctions on persons who commit sex- or gender-based harassment, even on first-time offenders, but those sanctions shall be proportionate to the violation.

- B. Behavior that is illegal sex- or gender-based harassment includes:
1. Making submission to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature either explicitly or implicitly a term or condition of a person's employment; or
 2. Making submission to or the rejection of such conduct described in (1) by a person a basis of employment decisions affecting that or any other person; or
 3. Engaging in unwelcome harassing verbal or physical behavior that occurs because of sex of individual(s) and has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating or offensive work environment where:
 - a. Harassing behavior is of a sexual nature;
 - b. Harassing behavior is not sexual in nature, but is related to sex or gender of the victim or others;
 - c. Harassing behavior is sex- and gender-neutral in content but occurs because of an individual's sex or gender; or
 - d. Any combination of types of behaviors described in 3.a through c.
- 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 Amendments 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 and state law prohibit retaliation against employees who bring sex- or gender-based harassment or discrimination charges or assist in investigating such charges. Any employee making sex- or gender-based harassment or discrimination complaints or assisting in the investigation of such a complaint, or otherwise engaging in protected activity, 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 or other **victim**

1. Employees or other victims who believe they have been subjected to or witnessed sex- or gender-based harassment or discrimination are encouraged to advise the person believed to have engaged in harassment or discrimination that the conduct is unwelcome, undesirable or offensive. If the employee or other victim elects not to confront the alleged harasser or if the conduct persists after an objection, the employee shall within a reasonable time either report the incident to their supervisor or next level authority, or the employee may elect to report the incident as set forth below. If the employee or other victim decides to follow through on a formal complaint after talking to their supervisor or next level authority, the supervisor or next level authority shall ensure that the employee or other victim complete a complaint form and the supervisor or next level authority shall send the complaint to Division of Human Resource Management's Harassment/Discrimination Unit.

2. If the employee or other victim elects not to report the complaint as describes in section 1, the employee may report incidents of sex- or gender-based harassment or discrimination as follows:

(a) to the coordinator within their agency designated to receive such complaints (e.g. the person identified on the

Commented [AM7]: The procedure language has changed to make it easier to understand. We have also added "other victim."

“DISCRIMINATION HAS NO PLACE IN THE WORKPLACE” flyer posted in your agency or the EEO Officer if your agency has one or ~~the~~; or

Commented [AM8]: Are we missing something here, Deonne?

(b) by filing a complaint in NEATS on the Home Page, under Personal Tasks, “File a Sex- or Gender-Based Harassment or Discrimination Complaint”; or

(c) by completing an NPD-30 Sex- or Gender-Based 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.

Commented [AM9]: Dionne, will you please check to see if it is possible to set up an anonymous hotline? That’s what most experts suggest.

Commented [DC10R9]: I am checking with our internal IT staff how we might make this line anonymous

Commented [DC11]: I tried to set this out to be more clear about the various avenues for initiating a complaint

3. 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, 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. Exception: an employee or other victim whose harasser is their supervisor, next level authority, an officer or director, or the Administrator of the Division of Human Resource Management may go directly to the Nevada Equal Rights Commission or the Equal Employment Opportunity Commission to lodge a complaint instead of lodging the complaint with the employer.

4. If the employee or other victim elects to complain to the coordinator designated within their agency to receive such complaints under VI.A.2.(a) above, the employee should give the completed complaint form and any supporting documentation to the coordinator or to the assigned investigator(s).

Commented [AM12]: For the committee: should witnesses (bystanders) be given an opportunity to report? I have put that in here. Let me know what you think.

Commented [DC13R12]: I am not sure about this. I am not really opposed but don’t feel like I have enough information on how this plays out and/or what effect this would have on the victim – the victim would be my concern and how they felt about bystander.

Commented [AM14R12]: I added below that the bystander “may report” “with the consent of the victim.” Let’s discuss at the meeting.

Formatted: Indent: Left: 1.25", First line: 0"

Commented [AM15]: Let’s discuss this section at the meeting.

Formatted: Indent: Left: 1", First line: 0"

B. Bystanders

Any bystander or witness to sex- or gender- based harassment is encouraged to advise the person believed to have engaged in harassment or discrimination that the conduct is unwelcome, undesirable or offensive. If the bystander decides not to confront the harasser, the bystander, with the consent of the victim, may

report the harassment using any of the methods open to employees or other victims of harassment.

CB. 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. Appointing authorities shall cooperate fully with the investigation.

2-3. The investigator will begin the investigation as soon as witnesses are available.

3-4. 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 to the maximum extent possible, and supervisors, next level authorities, coordinators and/or investigators shall explain the confidential nature of the investigative process and information to the complainant, the accused and each witness.

4-5. 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.

5-6. After the investigation has been completed, the appointing authority will review the findings and recommendations

Formatted: Font color: Auto

Formatted: Left, Indent: Left: 0.5", Space After: 10 pt, Line spacing: Multiple 1.15 li, No bullets or numbering, No widow/orphan control, Hyphenate

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.

6-7. 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-~~C~~B).

Formatted: Indent: Left: 1.5", No bullets or numbering



**STATE OF NEVADA
EXECUTIVE BRANCH
SEXUAL HARASSMENT & DISCRIMINATION
POLICY**

**SEXUAL HARASSMENT AND DISCRIMINATION
POLICY ACKNOWLEDGEMENT**

EMPLOYEE NAME: _____

EMPLOYEE ID #: _____

DEPT/DIV/AGENCY/ORG #: _____

I have read and understand the *Sexual Harassment and Discrimination Policy* dated 4/18/18.

EMPLOYEE SIGNATURE: _____

DATE: _____

SUPERVISOR SIGNATURE: _____

DATE: _____



DISCRIMINATION HAS NO PLACE IN THE WORKPLACE

The State of Nevada prohibits discrimination based on race, color, religion, sex, national origin, pregnancy, age, disability, sexual orientation, genetic information, gender identity or expression, domestic relations and compensation or wages in any terms, conditions or privilege of employment.

If you believe you have been subjected to or witnessed discrimination, contact your agency coordinator:

Name

Phone #

OR

File an on-line complaint at: <https://neats.state.nv.us>.
Sign-in, link can be found on your NEATS "Home Page."

OR

**Call the Hotline
1-800-767-7381**

The State of Nevada is committed to promptly investigating all complaints of discrimination.