

STATE OF NEVADA

***AFFIRMATIVE
ACTION PLAN***



***Serving The Citizens of Nevada With A Qualified
Workforce***

***Published by:
THE DEPARTMENT OF PERSONNEL***

2007

www.dop.nv.gov

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I. INTRODUCTION

With the passage and enforcement of equal employment opportunity laws, federal/state regulations, and executive orders, an additional dimension was added to personnel management: affirmative action. Affirmative action is an integral part of a personnel system and is not to be viewed as a separate entity. As a vehicle to achieve equal employment opportunity, the tenets of affirmative action and their relationship to equal employment opportunity and nondiscrimination must be clearly understood. Although there has been a tendency in the past to use these three terms interchangeably, the following distinctions should be noted:

Nondiscrimination is a passive approach to equal employment opportunity whereby an employer states that applicants and employees are treated equally and that it does not discriminate in its employment practices. However, there is no provision to correct employment procedures that may have discriminatory effects by serving as artificial barriers to the employment of qualified individuals.

Equal Employment Opportunity (EEO) is a proactive condition whereby employment procedures and circumstances operate to provide equal treatment of qualified individuals without regard to nonmerit factors such as race, color, national origin, sex, religion, age, disability, and sexual orientation. Exceptions may occur when these factors act as bona fide occupational qualifications, or when there is a clear and justifiable business necessity for the requirement.

Affirmative Action is the results-oriented process by which equal employment opportunity is achieved. Because it is a process, it is subject to change. New legislation, interpretation and reinterpretations of the EEO laws by the courts, shifting requirements, and reallocations of responsibilities make revision of this process necessary. EEO is the law and affirmative action is the means for fulfilling its intent.

Because affirmative action focuses on the representation of protected classes in the work force at levels comparable to their representation in the relevant labor force, statistics on the presence of each group in both domains are required. For this reason, the State's Affirmative Action Program covers only ethnic minorities and women, for whom such data can be readily and legally acquired. The State is equally committed to nondiscrimination and equal opportunity regardless of religion, disability, age and sexual orientation, for example, but does not target such characteristics in the affirmative action program because of the difficulty and inappropriateness associated with acquiring such data. However, although affirmative action is not required relative to disabilities, reasonable accommodation to known disabilities is a key element of nondiscrimination under the Americans with Disabilities Act, and is required. (Reasonable accommodation is addressed in more detail in Appendix A, part I and N, and Section VI part (J.)

To ensure the clarity of meaning and consistency in application of this Affirmative Action Plan, a glossary of commonly used terms as well as the standards promulgated by the Equal Employment Opportunity Commission (EEOC) for ethnic group identification are provided for reference in Appendices B and C, respectively. Major federal and state requirements for Equal Employment Opportunity are listed in Appendix A.

II. POLICY STATEMENT

The ideal work force for a government entity is one which is not only a highly qualified work force, but also highly representative of the culturally diverse community it seeks to serve. It is only through representation and participation that the needs of all citizens can truly be met.

In order to promote inclusion and ensure the optimum effectiveness of State government, it is the policy of the State of Nevada to provide equal opportunity to all employees and to all who seek employment with the Executive Branch of the State. Within the provisions of Nevada's Constitution and State statutes, this policy of equal opportunity applies to, and must be an integral part of, every aspect of personnel practices. State government must continue to maintain a leadership role for other employers, both public and private, in providing equal employment opportunity for all citizens.

Through evaluation and monitoring by department directors, managers, supervisors and equal employment opportunity officers throughout the state, as well as the Department of Personnel, significant increases in the State of Nevada's employee population of ethnic minorities and women have been achieved. With few exceptions, state government's work force is comparable to the diversity reflected in Nevada's relevant labor force.

However, the continued success of a non-discriminatory employment program requires maximum cooperation among agencies. Department directors, managers, supervisors and employees must all share in the responsibility for practicing, both in spirit and letter, the principles of equal employment opportunity. Decisions regarding advertisements for employment, employee recruitment, appointment, assignment, training, compensation, and promotion must consistently be based on merit without regard to race, color, national origin, sex, religion, age, disability, or sexual orientation.

To ensure optimum effectiveness of the State's Equal Employment Opportunity Policy and to maintain a highly qualified work force which reflects the cultural diversity of the State's labor force, positive affirmative action programs must continue. Accordingly, the Department of Personnel's Equal Employment Opportunity Office has amended the State of Nevada Affirmative Action Plan. It provides a positive guide for supervisors and managers in identifying and removing discriminatory barriers to equal employment opportunity while ensuring the effectiveness of the State merit system.

Each agency shall adopt the revised State Affirmative Action Plan as its foundation for implementing future affirmative action programs. While this is an umbrella plan designed to include all agencies, those with more than 100 employees may choose to develop, implement and disseminate individual plans specific to their program needs. These plans should address specific agency needs and concerns and outline remedies that will fully address them. Such plans will assist in achieving the broader objectives of the overall state plan at all levels.

The Department of Personnel is responsible for the overall coordination and dissemination of the State's affirmative action program. The Equal Employment Opportunity Director will continue to evaluate the State's work force demographics and monitor progress made by

executive branch departments in meeting the State's commitment to equal employment opportunity.

The efficiency of State government is contingent upon our success in recruiting and retaining the most qualified employees; promoting equal employment opportunity through affirmative action is a vital component of that success. With the renewed commitment of all State employees, we can diversify and strengthen our work force and continue our progress in achieving affirmative action objectives with sensitivity, concern and pride.

III. PURPOSE

NAC 284.114 requires the Department of Personnel to establish, coordinate, and evaluate an affirmative action program for the State.

It states that, "the Department of Personnel will cooperate and consult with agencies to:

- a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, religion, color, national origin, age, disability or sexual orientation.
- b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for persons to enter the system and progress in it to the extent of their merit."

In keeping with this responsibility, the affirmative action plan has been modified to provide guidelines for State agencies in revising, implementing and improving their employment procedures in the area of equal employment opportunity. This guide to the process of affirmative action should be modified as needed.

The State is committed to the implementation and maintenance of an effective affirmative action program. Consistent with that commitment, the Department of Personnel solicits the active participation of agencies, organizations and individuals. Compliance with federal and State laws regarding affirmative action is a responsibility shared by all State employees and all employment practices are involved. This modified plan is the foundation for implementing affirmative action programs and assuring equal employment opportunity.

IV. RESPONSIBLE PERSONS

Governor

The Governor is responsible to the citizens of Nevada for the overall administration of this plan.

State Personnel Director

The State Personnel Director is appointed to administer personnel programs and policies related to State of Nevada employees and is responsible for coordinating implementation of the State's Affirmative Action Plan.

State Equal Employment Opportunity Director

The State Equal Employment Opportunity (EEO) Director is appointed to be responsible for coordinating and monitoring the progress of the State's Affirmative Action Plan.

Agency Administrator

Department Directors and Division Administrators are responsible for implementing the affirmative action program in his/her respective agency.

Department EEO/AA Officers/Liaisons

Equal Employment Opportunity/Affirmative Action Officers and Liaisons within each department or agency are appointed and supervised by their respective administrators to coordinate and disseminate their agency's affirmative action policy and programs. They communicate with their respective directors, managers, and supervisors, and may consult with, or be consulted by, the State Personnel Department or EEO Director on any developments, criticisms, or discrepancies relative to the State's Affirmative Action Plan.

State Employees

All employees are responsible for cooperating with and assisting in the implementation of this plan and related affirmative action policies and programs.

V. DISSEMINATION

State employees should be familiar with the specifics of the State Affirmative Action Plan. This knowledge is necessary for the continuance of coordinated affirmative action efforts throughout State government.

Copies of this plan will be distributed to all departments. Each department will make copies of the plan available to all its divisions, ensuring all employees are made aware of its existence and have access to the plan.

Copies of this plan will be distributed upon request to groups, community leaders and citizens who have an interest in the affirmative action plan of the State of Nevada.

Individuals may access the plan on the Department of Personnel's website at www.dop.nv.gov

VI. MANAGEMENT'S AREAS OF CONCERN AND PROPOSED ACTION STEPS TO REMEDY THEM

In this section areas which may impede or act as potential barriers to equal employment opportunity are identified and discussed. Included are recommended actions necessary to correct these areas and the responsible agencies/departments.

A. Minimum Qualifications

Premise: Minimum qualifications that are not job-related may act as artificial barriers, screening out potentially qualified individuals.

Objective: Ensure that minimum qualifications are job-related and necessary for the successful performance of the job or that there is a justifiable business necessity for the requirements.

Action Step: During classification studies and upon the ad hoc creation of new classifications, the Department of Personnel's Technical Services staff will use job analysis data to establish appropriate minimum qualifications. Minimum qualifications will reflect the entry-level knowledge, skills and abilities (KSAs) needed to perform the job successfully, will not be unnecessarily restrictive and will provide for substitution of experience for education when feasible.

Responsibility:

- Technical Services, Department of Personnel
- Equal Employment Opportunity Section, Department of Personnel
- Other agencies as appropriate

Time Frame: Ongoing

B. Examinations

Premise: Testing instruments that are not job-related or good indicators of job success may act as artificial barriers, screening out qualified individuals. This is a hindrance to achieving equal employment opportunity in state service.

Objective: Establish procedures that will ensure testing instruments measure the knowledge, skills and abilities that are job-related and positively correlated with job success.

Action Steps:

1. Identify formal tests and testing procedures which have adverse impact, conduct analyses of those tests and affected job classes, and modify tests accordingly or abandon in favor of more appropriate procedures. Those persons developing tests will conduct adverse impact analyses and take corrective action as indicated.
2. Use job analysis data to develop and validate written examinations. Also use job analysis data to develop other types of exams and to ensure their job-relatedness.
3. Establish a priority list of job classes for validation. Priority will be determined by factors such as the degree of under-representation of protected classes in the identified job groups, number of positions in a class, size of applicant population, rate of turnover, and other indices as appropriate.
4. Ensure that testing procedures are developed in accordance with the Uniform Guidelines on Employee Selection Procedures.

Responsibility:

- Technical Services and Field Services, Department of Personnel
- Equal Employment Opportunity Section, Department of Personnel
- Other agencies as appropriate

Time Frame: Ongoing

C. Recruitment

Premise: Limited recruitment periods and methods, and constraints on the mass dissemination of information concerning employment opportunities may impose barriers or potential barriers to the employment of protected classes.

Objective: Assist agencies, in their recruitment efforts to attract qualified, ethnic minority and female candidates.

Action Steps:

1. Speak before targeted groups to provide information on employment opportunities.
2. Provide information and assistance to individuals, community organizations, and protected class groups regarding state recruitment, Applicant Processing and Placement System procedures and reference materials in regard to examinations.

3. Actively conduct outreach recruitment for women and ethnic minorities to enable them to apply for classifications in which they have been traditionally under-represented and meet the minimum qualification requirements. State agencies are to assist in conducting outreach recruitment for specialized classes used exclusively in their respective agencies/departments.
4. Expand regular recruitment sources to groups comprised of ethnic minorities and women, and to other community-based organizations which can provide recruitment assistance. Meet with these groups and participate in job fairs and workshops targeted at these groups.
5. When the budget permits, expand regular recruitment sources to include advertising job openings targeted to attract and retain ethnic minorities and women.
6. Ensure vacancy announcements have a minimum of a two-week filing period unless exempted by extenuating circumstances.
7. Continuously review job announcements to ensure that the wording does not imply gender inequality unless a legitimate Bona Fide Occupational Qualification (BFOQ), or exclude qualified applicants with disabilities or persons over age 40 from competing.
8. Regularly monitor applicant flow and compare to availability data for the relevant labor markets to determine if adverse impact exists in the recruitment process and, if so, in which job classifications.

Responsibility:

- Field Services, Department of Personnel
- Equal Employment Opportunity Section, Department of Personnel
- Other agencies as appropriate

Time Frame: Ongoing

D. Employee Assessment and Selection

Premise: Management may be unaware of additional methods available to increase the number of protected-class members in various job categories and geographic areas of the state where they are significantly under-represented.

Objective: Assist and provide state agencies with workable guidelines and recommendations to ensure success in increasing the representation of protected-class members considered for hire and promotion. Encourage agencies to aggressively recruit under-represented ethnic minorities and women.

Action Steps:

1. Improve representation of underutilized groups through the use of entry-level job classes.
2. Use open competitive recruitments for positions in job groups where there is under-representation of ethnic minorities or women.
 - a. Managers should consider the maximum number of eligible candidates. As an example, if all eligibles in a particular rank decline an interview or job offer, candidates in the next lower rank become eligible for consideration.
 - b. The Personnel Regulations allow for the use of unranked lists in certain circumstances. There are also times when a list is waived. These situations can give managers added flexibility to consider ethnic minority and female job applicants.
 - c. When using unranked lists or when a list is waived, the appointing authority may request the Department of Personnel to refer additional qualified applicants in order to increase the likelihood of a culturally diverse hiring list.
3. When interviewing, comparatively evaluate each candidate's relevant training, education and experience in relation to written job elements.
4. Objectively evaluate each candidate's responses to interview questions, previous work products, past performance evaluations, and employment references. All interviews should be conducted from a structured interview questionnaire.
5. Assess any special job-related knowledge, skills, and abilities or other job-related characteristics a candidate may possess that may benefit your agency to a greater degree.
6. Consider the diversity a qualified applicant may bring to the agency where his/her gender or ethnicity is under-represented relative to the labor force or to the population being served by the agency.
7. Encourage employees who demonstrate merit to apply for higher-level positions whenever vacancies arise.

Responsibility:

- State Agencies
- Field Services, Department of Personnel
- Equal Employment Opportunity Section, Department of Personnel

Time Frame: Ongoing

E. Career Ladders

Premise: In some class series or specific situations, limited career ladders in State government are a barrier to upward mobility

Objective: Where career ladders do not exist, if feasible and appropriate, create classifications and utilize positions to allow qualified persons to progress from lower to higher-level opportunities, including professional and management positions.

Action Steps:

1. Review class series of jobs to identify barriers to upward mobility and potential inter-class career ladders.
2. Continue to establish, whenever possible, viable career ladders to permit advancement of capable employees to positions of greater responsibility.

Responsibility:

- Technical Services, Department of Personnel
- Field Services, Department of Personnel
- Other agencies as appropriate

Time Frame: Ongoing

F. Education/Training in Affirmative Action/Equal Employment Opportunity (AA/EEO)

Premise: Equal Employment Opportunity requirements are in a continuous process of change. Managers and equal employment opportunity personnel need to keep abreast of changes in order to remain in compliance with EEO laws and regulations.

Objective: Provide managers, supervisors and personnel staff in state agencies with the information and training needed to keep abreast of current EEO mandates.

Action Steps:

1. Provide notification and information to state agencies regarding new or revised EEO laws and regulations.
2. Offer training sessions to assist agencies in the application and implementation of pertinent EEO laws and regulations.
3. Provide guidelines and technical assistance to state agencies in the development/revision of their affirmative action plans.
4. Help agencies to ensure compliance with NAC 284.498, which requires that employees appointed to supervisory positions or managerial positions, shall attend a training class concerning the evaluation of the performance of employees, and within 12 months after appointment the employee shall attend at least one training class in each of the following areas:
 - 1) Equal Employment Opportunity
 - 2) Interviewing and Hiring
 - 3) Alcohol and Drug Testing
 - 4) Progressive Disciplinary procedures
 - 5) Handling of GrievancesFor further instructions and training requirements please review NAC 284.498 (NRS 284.065, 284.155, 284.343)
5. Encourage agencies/departments to include AA/EEO in their annual training plans.
6. Maintain a reference library housed in the Department of Personnel, Equal Employment Opportunity Offices, North and South, where materials related to the laws, regulations and policies may be accessed and reviewed.

Responsibility:

- Administrative Services, Department of Personnel
- Equal Employment Opportunity Section, Department of Personnel, in cooperation with the Nevada Equal Rights Commission
- Field Services, Department of Personnel
- Department Directors/Division Administrators

Time Frame: Ongoing

G. Availability Data:

Premise: Limited demographic data can make it difficult to ascertain the availability of qualified targeted group members and to encourage aggressive affirmative action

recruitment efforts.

Objective: Provide labor force and employee statistical data to state agencies by ethnicity and sex for occupational categories and geographical areas for use in recruitment, the assessment of agency progress, and the development/ revision of agency affirmative action plans.

Action Step: Establish and continually update an availability database to be used for State work force analysis.

Responsibility: Equal Employment Opportunity Section, Department of Personnel

Time Frame: Ongoing

H. Monitor/Evaluate the State's Affirmative Action Program

Premise: The effective implementation of the State's Equal Employment Opportunity Policy is contingent upon the affirmative action programs of all state agencies. Without an evaluation system, it will not be possible to ascertain progress made in the state's efforts to achieve equal employment opportunity.

Objective: Develop and maintain a monitoring/evaluation system that will identify classified and unclassified job groups where ethnic minorities and women are under-represented, and identify potential causes for the under-representation.

Action Steps:

1. Provide data to state departments on the state's overall staffing profile as well as on each department's profile as it compares to availability data from census as it is made available. Assist agencies in determining specific strategies to be initiated.
2. Provide data to state agencies/departments showing progress towards reaching parity.
3. Notify agencies/departments of potential and/or identified causes of under-representation of ethnic minorities and women, and provide recommendations so that corrective action may be taken.

Responsibility: Equal Employment Opportunity Section, Department of Personnel

Time Frame: Quarterly

4. Contact the Equal Employment Opportunity Director for technical assistance, outreach recruitment or any other affirmative action assistance if needed when there is under-representation of ethnic minorities and women.

Responsibility: State agencies/departments

Time Frame: Ongoing

I. Agency Affirmative Action Plans

Premise: Many agencies lack affirmative action plans delineating steps to be taken towards the achievement of equal employment opportunity.

Objective: Encourage the development and implementation of departmental affirmative action plans which include agency-specific goals. (See guidelines in Appendix F.)

Action Steps: Develop departmental affirmative action plans to address the specific needs of individual departments/agencies, as needed.

Responsibility: State Agencies

Time Frame: Development of departmental plans recommended to occur within four months of receipt of State Affirmative Action Plan, with review/revision as needed.

J. Barriers/Reasonable Accommodation in Employment of People with Disabilities

Premise: Attitudes, as well as architectural barriers, can impede the equitable employment of qualified people with disabilities. Lack of understanding of the concept of reasonable accommodation may also impede employment opportunities for individuals with disabilities.

Objective: Ensure that physical facilities, leased or state-owned, are accessible to people with disabilities. Ensure that managers and supervisors are aware of their responsibilities to provide reasonable accommodation to people with disabilities in the employment process. Reemphasize the use of the state's 700-Hour Policy in the employment of people with disabilities.

Action Steps:

1. Ensure that all managers and supervisors receive proper training through classes on the Americans with Disabilities Act.
2. Actively participate in the 700-Hour program.

Responsibility:

- Technical Services, Department of Personnel
- Employee Development Unit, Department of Personnel
- Field Services
- State Agencies

3. Provide information to the applicant population regarding special services offered by the State Personnel Department, such as special testing arrangements, to allow for the accommodation of applicants with disabilities.

Responsibility: Field Services Division, Department of Personnel

4. Review and identify architectural barriers in all State facilities.

Responsibility:

- Public Works Board, Buildings and Grounds Division

5. Build awareness of reasonable accommodations for people with disabilities through management/supervisory training.

Responsibility:

- Agency/department training personnel
- Employee Development Unit, Department of Personnel
- Department of Employment, Training and Rehabilitation

6. Provide technical assistance to State agencies in the employment of people with disabilities.

Responsibility:

- Technical Services, Department of Personnel
- Equal Employment Opportunity Section, Department of Personnel, in cooperation with the Governor's Committee on Employment of People with Disabilities

Time Frames: Ongoing

K. Internal Complaint Process

The State of Nevada has in place an internal process to address Sexual Harassment and Discrimination complaints. The policy, complaint forms, and the procedures are discussed in the appendices. An investigative unit is housed within the Department of Personnel.

VII. OBJECTIVES

A key objective of the Equal Employment Opportunity and Affirmative Action Program is to address the under-representation of women and ethnic minorities in Executive Branch agencies where it occurs relative to their representation in the qualified labor force within relevant geographical areas. Based on a comparative analysis between the state's work force and the labor force, two primary objectives have been established.

1. Increase the number of ethnic minorities and women in the state work force in job categories where they are under-represented; and
2. Increase the number of ethnic minorities and women in the state work force in geographic regions where they are under-represented, particularly in northern and rural Nevada.

To meet these objectives, records will be kept on an on-going basis to identify areas where significant under-representation exists. Such under-representation will trigger special recruitment and training efforts to facilitate our progress towards a well-qualified, culturally diverse work force. Additionally, a quarterly report summarizing each cabinet agency's progress in reaching parity will be sent to respective Department Directors and Equal Employment Opportunity representatives. A summary report will be provided to the Governor upon request.

VIII. WORK FORCE COMPOSITION AND ANALYSIS

The State government work force, as referenced in this plan, includes all full-time classified and unclassified employees in permanent positions in the Executive branch, excluding those employed in the Nevada System of Higher Education.

Work Force Analysis

The work force analysis is a very important indicator of progress towards the achievement of affirmative action objectives, and a tool by which to identify areas in need of improvement. The primary method used is a comparative analysis between the State's work force and the qualified and available labor force. In a complete study of an employer's labor force utilization, the relevant labor market (RLM) analysis is an important part. The general function of RLM analysis is to define the hiring availabilities of protected-class members with requisite skills in a geographic area in which the employer can reasonably recruit. The most commonly used source of such information is the Census data file known as the EEO Special File. The first year for which the Bureau of the Census independently compiled detailed protected-class availability data by occupational categories was 1980; The EEO Special File is comprised of 511 occupations known as Standard Occupational Classifications (SOC), each with corresponding census code/title. Data is tabulated separately for each state, county, and place (over 50,000 population) in the U.S. The census-code/title assignment process matches each job title in an employer's work force with applicable occupational categories from the census file.

The development of the State's availability data and utilization analysis is described in the following section.

Methodology

1. **Determination of Job Groups.** Job titles currently used in the State Personnel System have been identified and grouped together according to similarity of content, responsibilities, wage rate, qualifications and other distinguishing characteristics.
2. **Tabulation of Occupation Data.** Occupation data for Nevada has been tabulated according to 511 Standard Occupational Classifications for the experienced civilian labor force aged 16 years and over. The tabulations includes persons employed or unemployed in that occupation in 2000 or unemployed, but with civilian work experience in that occupation during the time period 1995-2000.
3. **EEO-4 Job Category Assignment.** The EEO Special File summarizes the data for the 511 detailed census occupations into eight EEO-4 categories. Each State of Nevada job class and unclassified job title has been assigned an EEO-4 code. For classified

positions, this designation can be found in the State of Nevada Classification and Compensation Plan. Reference for unclassified positions can be found in the Unclassified Compensation Schedule. See Appendix N for descriptions of the EEO-4 categories.

4. **Availability Data.** Availability data for ethnic minorities and women has been compiled according to EEO-4 category and Relevant Labor Market (RLM) area. Selection of the appropriate RLM area for work force analysis is important since it is used to establish the availability levels of protected class members having requisite skills in a geographic area in which the employer can reasonably recruit. Availability levels can vary widely, even within single states.

For purposes of the State Affirmative Action Plan, the RLM area is generally considered to be statewide, but may be confined to smaller geographic areas or extend to include larger, out-of-state areas depending upon the type of job. Availability data for the statewide RLM as well as for major geographic areas of the state has been provided in the utilization analysis in Appendix O.

Rationale for Using This Availability Data: The U.S. Census Bureau's EEO Special File availability data is used in the work force analysis because it is superior to other sources of similar data in scope and detail. Since it provides the availability levels of protected classes by occupational category and geographical areas, it is possible to pinpoint specific areas of under-representation or concentration in the State work force.

5. **Utilization Analysis.** The representation levels of ethnic minorities and women in the State work force have been determined and are detailed in Appendix I according to job category and geographic area. Comparisons between utilization and availability have been made and disparities indicated.

"Under-representation" occurs when job categories of an employer's workforce reflect significantly smaller percentages of protected class members than are available in the qualified labor force. "Parity" occurs when these percentages are equal. Thus, State agencies are encouraged to utilize the data obtained from this analysis in the development/revision of their own affirmative action plans.

IX. APPENDICES

APPENDIX A: MAJOR FEDERAL AND STATE REQUIREMENTS FOR EQUAL EMPLOYMENT OPPORTUNITY

Equal employment opportunity is mandated by State and federal statutes, executive orders and court decisions.

Discussed below are the major requirements which may affect the personnel practices of Nevada State Government.

- A. **Civil Rights Act of 1866:** This statute, Section 1981, Title 42, U.S.C., was enacted to enforce the Thirteenth Amendment to the United States Constitution, the amendment prohibiting slavery. Under this provision, action can be taken against employment discrimination based on race. Back pay awarded under Section 1981 is not limited to the two years specified for back pay recovered under Title VII of the Civil Rights Act of 1964.
- B. **Civil Rights Act of 1871:** This statute, Section 1983, 1985 and 1986, Title 42, U.S.C., was enacted to enforce the Fourteenth Amendment to the United States Constitution ("No state shall make laws which abridge the privileges of citizens of the United States . . ."). It prohibits any state or local government official from depriving any person "of life, liberty, or property without due process of law," or denying "to any person within its jurisdiction the equal protection of the laws."
- C. **Equal Pay Act of 1963:** Prohibits sex-based discrimination in rates of pay for employees in the same organization who are performing equal work in terms of skill, responsibility, and working conditions. The Equal Pay Act is limited to sex-based differentials in wages and affects all employers covered by the Fair Labor Standards Act of 1938 (FLSA) in both private and public sectors.
- D. **Title VI of the Civil Rights Act of 1964:** This Act prohibits discrimination based on race, color or national origin in any program or activity which receives federal financial assistance. The purpose of the Act is to assure non-discrimination in provision of services to beneficiaries of federal aid. Title VI regulations require recipients to collect and submit specified race and ethnic data and to take remedial affirmative action to overcome effects of prior discrimination.
- E. **Title VII of the Civil Rights Act of 1964, as Amended:** Prohibits discrimination based on race, color, religion, sex or national origin in any term, condition or privilege of employment. While Title VII does not explicitly require affirmative action, when there is a finding of discrimination through compliance investigation or through self-audit, the Federal courts have permitted, outlined, or decreed (affirmative) remedies and requirements.

- F. **Executive Order 11246, As Amended:** This 1965 Presidential Order prohibits discrimination in all employment practices by Federal contractors, subcontractors and federally assisted construction contractors on the basis of race, color, religion, sex or national origin. Employers receiving more than \$10,000 in federal contracts are required to take affirmative action to ensure that applicants and employees are treated without discrimination, following the legal standards of Title VII. Those with contracts greater than \$50,000 must develop a written affirmative action plan for each of their establishments within 120 days of the beginning of the contract.
- G. **Age Discrimination in Employment Act of 1967, As Amended:** This Act prohibits discrimination against persons 40 and over because of age in all aspects of employment.
- H. **Civil Rights Act of 1968:** Title VI of this Act prohibits any act of force, threat of force, injury, intimidation or threat of interfering with persons applying for or enjoying employment because of their race, color, religion or national origin.
- I. **The Rehabilitation Act of 1973, As Amended - Title V, Sections 503 and 504:** This Act prohibits discrimination against people with disabilities in all programs receiving Federal financial assistance. Section 503 requires Federal contractors and subcontractors to take affirmative action in employment of people with disabilities when the contract is for more than \$2,500. Section 504 prohibits discrimination against people with disabilities in employment or services provided in any federally funded program. The regulation addresses employment and reasonable accommodation, although not specifically requiring affirmative action plans per se.
- J. **Vietnam Era Veteran's Readjustment Act of 1974:** Similar to the Rehabilitation Act, this Act requires federal contractors and subcontractors to take affirmative action toward employing Vietnam veterans who served between August 5, 1964 and May 7, 1975.
- K. **Uniform Guidelines on Employee Selection Procedures of 1978:** Federal administrative guidelines issued by the EEOC, the Department of Labor, the Department of Justice and the U.S. Civil Service Commission for developing and administering employee selection systems which do not violate Title VII of the Civil Rights Act of 1964.
- L. **Pregnancy Discrimination Act of 1979:** This Act requires that pregnant women be treated as any other employees, based on their ability or inability to work, and prohibits mandatory leave during pregnancy. Further, pregnant women must be entitled to receive their jobs back after a leave if this benefit is offered to other employees.
- M. **Civil Rights Restoration Act of 1987:** This statute was enacted to restore federal civil rights protection against discrimination on grounds of race, sex, age or physical disability. The law reversed a Supreme Court decision that only the part of an institution receiving federal financial assistance is subject to federal bias laws. The Civil Rights Restoration Act expanded the definition of the terms "program or activity" to include all the operations of an institution, and clearly states that all parts of an institution must

abide by these laws if any part of it receives federal assistance.

- N. **Americans with Disabilities Act of 1990:** Title I of the above Act prohibits discrimination in the workplace against "a qualified individual with a disability" because of the disability. A disability is defined as a physical or mental impairment which limits one or more major life activities, a record of having such impairment, or being regarded as having such an impairment.
- O. **Civil Rights Act of 1991:** This Act adds compensatory and punitive damages up to a total of \$300,000 to the available remedies when employers are found to have engaged in intentional unlawful discrimination as prohibited by the Civil Rights Act of 1964, the Americans with Disabilities Act, or the Vocational Rehabilitation Act of 1973. (Prior to this Act, available remedies were limited to court orders to cease the unlawful practice(s), and to institute affirmative action as appropriate, which could include back pay, reinstatement or hiring.) The Civil Rights Act of 1991 also prohibits employers from adjusting the scores of employment-related tests, or using different cut-off scores, or otherwise altering test results, on the basis of race, color, religion, sex, or national origin.
- P. **Family and Medical Leave Act of 1993:** This Act requires employers with more than 50 employees to provide 12 weeks of unpaid leave for employees after the birth or adoption of a child; to care for a seriously ill child, spouse, or parent; or in the case of the employee's own serious illness. The employer must also continue to pay the employee's health care coverage during the 12-week leave.
- Q. **Merit System Standards:** The Standards require that measures to ensure compliance with Title VII of the Civil Rights Act as amended, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act of 1967, and other relevant statutes be established and enforced by State governments. While the Standards specifically apply to grant-in-aid agencies, Nevada State government has committed all State agencies to compliance through its central personnel agency, the Department of Personnel, in order to meet the requirements of State law which requires a merit personnel system for all classified employees.
- R. **NRS 613.310:** The Nevada Fair Employment Practices Act, codified as Chapter 613, Sections 613.310 through 613.430 of the Nevada Revised Statutes, prohibits discrimination on the basis of race, color, religion, sex, age over 40, physical, aural, or visual disability, or national origin. The Act applies to all employers within the State, having 15 or more employees, including the State of Nevada, its political subdivisions, labor organizations and employment agencies. The Act is administered by the Nevada Equal Rights Commission.
- S. **NRS 284.010 General Provision:** The statute states in part that the State Personnel System is "...to provide all citizens a fair and equal employment opportunity for public service..."
- T. **NRS 281.370:** "Actions concerning personnel are to be based on merit and fitness; dis-

crimination prohibited.

1. All personnel actions taken by state, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof must be based solely on merit and fitness.
2. State, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof shall not refuse to hire a person, discharge or bar any person from employment or discriminate against any person in compensation or in other terms or conditions of employment because of his race, creed, color, national origin, sex, sexual orientation, age, political affiliation or disability, except when based upon a bona fide occupational qualification.
3. As used in this section,
 - a. "Disability" means, with respect to a person:
 - i. A physical or mental impairment that substantially limits one or more of the major life activities of the person;
 - ii. A record of such an impairment; or
 - iii. Being regarded as having such an impairment
 - b. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality."

U. NAC 284.114: Affirmative action program and equal employment opportunity. (NRS 284.065)

1. The Department of Personnel is responsible for establishing, coordinating and evaluation an affirmative action program for this state.
2. The Department of Personnel will cooperate and consult with agencies:
 - a) Identify barriers in the personnel management system which may adversely affect the ability of applicants and employees to reach their full employment potential without regard to race, sex, sexual orientation, religion, color, national origin, age or disability.
 - b) Coordinate programs to remove barriers to equal employment opportunity while ensuring the effectiveness of the merit system and the opportunity for person to enter the system and progress in it to the extent of their merit.

V. NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation:
 - a) Report the alleged discrimination to the Attorney General, the employee's appointing authority, an equal employment opportunity office, or a personnel representative for corrective action;

- b) Use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive: or
 - c) File a complaint with the Nevada Equal Rights Commission pursuant to NRS 613.405
2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.
- (Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95)

W. **NAC 284.771:** Codifies sexual harassment as a violation of State policy as well as a form of unlawful discrimination based on sex under State and federal law, and prohibits sexual harassment by employees against coworkers, applicants or others in the workplace. Allows for the imposition of harsh disciplinary sanctions for persons who commit sexual harassment, including first-time offenders, and defines sexual harassment as "unwelcome sexual advances, requests for sexual favors, or other speech or physical conduct of a sexual nature when:

- a. Submission to such speech or conduct is made either explicitly or implicitly a term or condition of a person's employment;
- b. Submission to or the rejection of such speech or conduct by a person is used as the basis for employment decisions affecting that person; or
- c. Such speech or conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment."

In addition to this regulation, a formal policy against sexual harassment and discrimination was adopted in November 2003. It applies to all State employees, officers, appointees such as board members, and volunteers in the Executive Branch. The full text of the policy, which specifies responsibilities of supervisors and managers, State employees' rights and responsibilities, legal definitions and guidelines, and complaint management and documentation procedures, is provided in Appendix E of this plan.

APPENDIX B: GLOSSARY OF EEO TERMS

Adverse Impact	Occurs when individuals protected under Title VII of the 1964 Civil Rights Act, as amended, are rejected for employment at a disproportionate rate relative to their presence in the work force. "Adverse impact" is defined in the <u>Uniform Guidelines</u> as "a substantially different rate of selection in hiring, promotion, or other employment decision which works to the disadvantage of members of a race, sex, or ethnic group." Operationally, "a selection rate for any race, sex, or ethnic group which is less than four-fifths...of the rate for the group with the highest rate will generally be of adverse impact."
Affected Class	The protected race, sex or ethnic group(s) which can be shown to suffer the effects of past or present discrimination.
Affirmative Action	Affirmative action is a comprehensive result-oriented effort by an employer to achieve equal employment opportunity. Such effort may include the elimination of non-job related barriers to employment, undertaking recruitment efforts to encourage underutilized group members to apply for employment and the implementation of employment hiring goals for members of underutilized groups.
Affirmative Action Program	A program voluntarily entered into by an employer, ordered by the court, or undertaken to meet government contract specifications. While the specific elements may vary, the program generally includes recruitment techniques designed to reach minorities and women, elimination of discriminatory selection and promotion procedures, timetables and objective hiring goals.
Architectural Barrier	Any physical structural impediment incorporated into a facility which cannot be independently surmounted by people with disabilities.
Bona Fide Occupational Qualification (BFOQ)	A job qualification based on religion, sex, national origin, etc., that an employer asserts is a necessary qualification for the job. Permitted "where religion, sex or national origin is reasonably necessary to the normal operation of that particular business or enterprise" but defined narrowly by EEOC to include only such things as hiring an actress for a female role.
Business Necessity	Any criterion which is <u>valid and necessary</u> in the operation of an employing agency.

Career Ladder	Any series of related job positions which increase in responsibility and status, and which can be "climbed" from bottom to top based on experience alone.
Chilling Effect	Occurs when women and minorities fail to apply for a job with an organization either because of discriminatory practices on the part of the organization or because of the reputation of the organization for discrimination.
Civilian Labor Force	Persons classified as employed or unemployed in accordance with specific criteria established by the Bureau of Census.
Community Outreach	Activities which are designed for the active recruitment of underutilized group members for affirmative action purposes.
Compliance	Adherence to laws, court decisions, regulations, executive orders and other legal mandates governing affirmative action and equal employment opportunity.
Constructive Discharge	Occurs when an employee is given a choice of either resigning or being fired, or resigns as a result of intolerable discriminatory treatment.
Department Affirmative Action Plans	Agency-specific plans which complement the State Plan for achieving proportional employment. These may include long and short-term goals, timetables, and specific program development.
Disability	Any physical or mental impairment, actual or presumed by others, which significantly impedes a major life activity. Disabled applicants must be afforded equal opportunity for employment under the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Act, and the Americans with Disabilities Act.
Discrimination	The act of denying equal employment access or opportunity to a specific individual or group protected under the provisions of the Civil Rights Act of 1964 and its 1972 amendments, the Age Discrimination Act of 1967, the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Act, the Americans with Disabilities Act or other similar laws.

Disparate Impact	The result of any racially neutral policy, practice or procedure which disproportionately excludes a protected class from employment opportunities.
Disparate Treatment	Occurs when individuals in similar situations are treated differently because of race, sex, color, religion, national origin, age, sexual orientation, or disability status.
EEOC	Equal Employment Opportunity Commission. The EEOC is a federal agency established by Congress to administer equal employment opportunity and anti-discrimination laws to assure equal treatment for all in employment and conditions of employment.
EEO-4	Title VII of the 1964 Civil Rights Act requires employers of over 50 persons to submit a biannual utilization analysis to the Equal Employment Opportunity Commission. The form used by public employers for this report is the "EEO-4" form, which groups jobs by content into eight categories (refer to EEO-4 Codes, Categories and Definitions in Appendix G).
EEO-4 Codes	Any of the first eight letters of the alphabet used to label an EEO-4 category.
Equal Employment Opportunity (EEO)	The condition whereby all employment processes and circumstances operate to afford an equitable opportunity for employment to all individuals, irrespective of nonmerit factors such as race, color, sex, religion, national origin, sexual orientation, age, or disability.
Ethnic Minority Group	A group of persons who have historically borne the brunt of discriminatory practices, and have been barred from participating in program activities, benefits or services because of their common race, color, or national origin.
External Labor Market	The geographic area from which an employer may reasonably be expected to recruit new workers with the requisite skills.
Harassment	Any racial or sexual statement, remark, action or unwanted attention which unfairly affects or addresses an individual or group in a protected class.
Job Categories	See Appendix G for EEO-4 codes.
Job-Relatedness	The requirement that an employment or promotion qualification be "significantly related to successful job performance" or otherwise be based on "business necessity."

KSA's	Knowledge, skills and abilities required for a position.
Labor Force	All persons classified in the civilian labor force plus members of the Armed Forces.
Nevada Equal Rights Commission (NERC)	A State agency authorized by the Legislature to enforce Nevada's anti-discrimination laws. Also acts as a referral agency for EEOC.
Occupational Code/ Category	Census-code assignment for one of 511 occupations known as Standard Occupational Categories (SOC).
Office of Federal Contract Compliance Programs (OFCCP)	An agency within the U.S. Department of Labor responsible for ensuring federal contract regulations are followed, especially those established to combat illegal discrimination.
Parity	The point at which a protected class is represented in an employer's work force at a rate comparable to the class's availability for employment in the surrounding recruitment area.
Protected Class	Any legally recognized group that is specifically protected from discrimination by state or federal statute.
Quota	Any fixed number or percentage of protected class persons who are afforded preferential treatment in employment transactions without regard to such persons' qualifications. Quotas can only be imposed through court decrees and Acts of Congress.
Reasonable Accommodation	Any modification to a job or the work environment made by an employer which enables an applicant or employee to participate in the selection process, perform the essential functions of a job, or enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities, and does not impose an undue hardship to the employer. Under the ADA, failure to provide reasonable accommodation for a known disability is a form of discrimination.
Retaliation	An illegal act of "getting even" or "paying back" an individual for having brought a complaint, grievance, or legal action.
Under-Representation	Occurs when the percentage of protected class members employed in a defined job area is less than their relative representation in the labor force.
Upward Mobility	A system for training, educating or otherwise preparing employees for more responsible, higher paying positions.

Validation

A technical process for establishing that an employment test or hiring criteria is related to the job(s) for which it is being used.

Work Force

For the purposes of this plan, the work force includes the classified and unclassified employees in all Executive branch agencies (excluding the Nevada System of Higher Education.)

APPENDIX C: ETHNICITY IDENTIFICATION

The EEOC requires that each employee in State service be identified with a single racial or ethnic category for reporting purposes. This identification is made either by visual observation or from any post-employment records, providing individual privacy is ensured.

The concept of race as used by the EEOC does not denote clear-cut scientific definitions of anthropological origins. The guidelines of this plan are such that an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. In any case, no person should be counted in more than one race/ethnic category.

The responsibility of collecting this data is with the employing agency. In accordance with EEOC guidelines, only the following group categories are to be used:

- **American Indian or Alaskan Native (Referred to as Native American in this plan):** All persons having origins in any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.
- **Black (Not of Hispanic origin):** All persons having origins in any of the Black racial groups of Africa.
- **Asian/Pacific Islander:** All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.
- **Hispanic:** All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
- **White (Not of Hispanic origin):** All persons having origins in any of the original peoples of Europe, North Africa or the Middle East.

APPENDIX D: POLICY AGAINST SEXUAL HARASSMENT & DISCRIMINATION



OFFICE OF THE GOVERNOR

POLICY AGAINST SEXUAL HARASSMENT & DISCRIMINATION

Sexual harassment and discrimination based on race, color, national origin, religion, sex, age, disability, or sexual orientation in any term, condition or privilege of employment are violations of State and 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 unwelcome sexual overtures or conduct, either verbal or physical. Nor should any employee 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. Such behavior will result in 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.

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. Department directors 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 department director becomes aware of the conduct.

- B. Department directors shall provide each employee 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 a class on sexual harassment prevention training within 6 months of their appointment. Employees are required to attend refresher training once every two years regarding the State's sexual harassment policy.
- D. Managers and supervisors are also required to attend training related to equal employment opportunity.
- E. Department directors shall advise all employees of their responsibility to report incidents of sexual harassment and discrimination.
- F. Department directors shall designate employees within each agency to act as a coordinator for the reporting of complaints of incidents of sexual harassment and discrimination and will notify employees of the coordinator.
- G. Supervisors shall have a complete understanding of this policy. Supervisors who willfully disregard incidents of sexual harassment or discrimination by subordinates will be disciplined. Supervisors are responsible for ensuring their employees have received training as outlined in this Policy.
- H. It is the responsibility of department directors 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 with whom they have contact in the performance of their duties.
- C. Employees are responsible for cooperating in the investigation of complaints of alleged sexual harassment or discrimination and cooperating with the efforts of their agency, division, board or commission to prevent and eliminate sexual harassment and discrimination and to maintain a working environment free from such unlawful conduct.

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. The appointing authority, in determining the appropriate level of discipline, and the hearing officer, in reviewing the propriety of the level of discipline selected by the appointing authority, must consider the principles of progressive discipline as set forth in NRS 284.383.

- B. As used in NAC 284.771 and section 703 of Title VII of the Civil Rights Act of 1964, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other speech or physical conduct of a sexual nature when:
- a) Submission to such speech or conduct is made either explicitly or implicitly a term or condition of a person's employment;
 - b) Submission to or the rejection of such speech or conduct by a person is used as the basis for employment decisions affecting that person; or
 - c) Such speech or conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.
- C. Equal opportunity with regard to the terms, conditions and privileges of employment is mandated under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, 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 or sexual orientation.
- 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 and conditions of employment, nor discriminated against, disciplined or discharged because of the complaint.

VI. PROCEDURE

A. EMPLOYEE

1. Employees who believe they have been a victim of sexual harassment or discrimination shall first 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 as set forth below. Employees will be asked to complete a complaint form.
2. Employees shall report incidents of sexual harassment or discrimination to the coordinator within their agency designated to receive such complaints or call the Department of Personnel's Harassment/Discrimination Hotline at (800) 767-7381. Employees are always entitled to consult an attorney, labor representative or to report the incident to the Nevada Equal Rights 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. DEPARTMENT DIRECTORS

1. After notification of the employee's complaint, department directors shall promptly notify the agency's Deputy Attorney General and the Department of Personnel's Sexual Harassment/Discrimination 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 Deputy Attorney General and the Sexual Harassment/Discrimination Unit, along with any supporting documentation.
2. After receipt of the intake report and original complaint form, an investigator in the Sexual Harassment/Discrimination Unit will schedule an initial interview with the agency's coordinator and appropriate management personnel to gather information relevant to the complaint as well as any essential organizational background.
3. The investigator will begin the investigation as soon as witnesses are available.
4. Investigations will be conducted discreetly, with as little disruption to the

workplace as possible. All information gathered in an investigation will be confidential, and the confidential nature of the investigative process will be conveyed to the complainant, the accused, and each witness.

5. The investigator will prepare a written report of findings, which will be submitted to the department director and the agency's Deputy Attorney General. It is important to note that the ultimate decision for remedial action is the responsibility of the appointing authority; however, the investigation staff may suggest mediation services, if appropriate.
6. If findings substantiate sexual harassment or discrimination, the investigator will also provide a copy of the report to the Tort Claims Administrator in the Attorney General's office.
7. After the investigation has been completed, the department director will determine the appropriate resolution of the case. If warranted, the agency, after consultation with their Deputy Attorney General or staff counsel assigned to represent the agency pursuant to State Administrative Manual § 1702, shall 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.
8. The agency shall notify both the complainant and the accused in writing as to whether the investigation disclosed sexual harassment or discrimination. If the investigation disclosed sexual harassment or discrimination, the agency shall take appropriate corrective action and advise the complainant that appropriate corrective action has been taken. Further misconduct by the accused should be immediately reported to the agency coordinator and the Sexual Harassment/Discrimination Unit. 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 hotline, the Sexual Harassment/Discrimination Unit will complete the initial intake report.
2. The employee will be asked to submit the completed complaint form to the investigation staff.
3. The investigator will forward a copy of the complaint form to the appropriate agency coordinator and the agency's Deputy Attorney General.

4. The investigation will then proceed as described for complaints submitted to Department directors (see Item VI-B).

State of Nevada



Sexual Harassment or Discrimination Complaint

Sexual harassment and discrimination based on race, color, national origin, pregnancy, religion, sex, age, disability, or sexual orientation in any term, condition or privilege of employment are violations of State and federal law.

Date of Complaint:

Please answer as completely as possible the following questions. Use a many additional sheets as necessary.

Submit completed form to your agency's coordinator or the Department of Personnel's Sexual Harassment/Discrimination Unit at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or fax to (775) 684-0124.

Employee Name:	Title:
Immediate Supervisor:	Department:
Division:	Section/Unit:
Work Location:	Work Phone:
	Home Phone:

10. PLEASE NOTE:

If you make a complaint of sexual harassment or discrimination, it will be investigated. Please check which type of harassment or discrimination you are alleging.

- | | | |
|--|---|---|
| Sexual Harassment <input type="checkbox"/> | Sex Discrimination <input type="checkbox"/> | Racial Discrimination <input type="checkbox"/> |
| Age Discrimination <input type="checkbox"/> | Religious Discrimination <input type="checkbox"/> | National Origin Discrimination <input type="checkbox"/> |
| Disability Discrimination <input type="checkbox"/> | Hostile Work Environment <input type="checkbox"/> | Retaliation <input type="checkbox"/> |
| Color Discrimination <input type="checkbox"/> | Sexual Orientation <input type="checkbox"/> | Pregnancy Discrimination <input type="checkbox"/> |

Please initial _____

11. Describe the alleged sexual harassment or discrimination incident(s). Please specify location(s), date(s) and time(s) of each occurrence.

Sexual Harassment or Discrimination Complaint

12. Who or what do you believe was responsible for the alleged sexual harassment or discrimination incident(s)?

13. Were there any witnesses to the alleged sexual harassment or discrimination incident(s)?

YES NO

If yes, please provide the name(s), address(es), and phone number(s).

14. Provide the name, address and phone number of those who may have important information regarding the alleged incident(s).

15. If appropriate, did you inform the alleged offender(s) their behavior was unacceptable?

YES NO

If yes, please describe.

Sexual Harassment or Discrimination Complaint

16. Have you reported this incident to anyone else?

YES NO

If yes, please provide the name(s), address(es), and phone number(s).

17. What is the remedy you are seeking?

NOTE: Please attach to this form any supporting documentation related to your complaint.

I, _____ certify the above statements
(print name)

to be true and factual to the best of my knowledge.

SIGNATURE

DATED

Note: Complaints of sexual harassment and discrimination may also be filed with:

Nevada Equal Rights Commission
2450 Wrondele Way, Suite C
Reno, Nevada 89502
(775) 688-1288

Nevada Equal Rights Commission
1515 E. Tropicana Ave, Suite 590
Las Vegas, NV 89119
(702) 486-7161

Equal Employment Opportunity Commission
255 East Temple Street, 4th Floor
Los Angeles, California 90012
(800) 669-4000

STATE OF NEVADA



Intake Report of Harassment or Discrimination
 (To be completed by agency coordinator or harassment/discrimination unit investigator.)

Date of Report:

Time of Report:

SECTION I – COMPLAINANT INFORMATION:

1. Employee Name		2. Title	
3. Immediate Supervisor			
4. Department	5. Division	6. Section/Unit	
7. Work Location	8. Work Phone	9. Home Phone	

SECTION II – COMPLAINANT INTERVIEW: (Attach original documentation of statements, materials or evidence)

Make complainant aware that complaints of harassment or discrimination will be investigated. Check which type of Harassment or Discrimination complaint is alleging.

- | | | |
|--|---|---|
| Sexual Harassment <input type="checkbox"/> | Sex Discrimination <input type="checkbox"/> | Racial Discrimination <input type="checkbox"/> |
| Age Discrimination <input type="checkbox"/> | Religious Discrimination <input type="checkbox"/> | National Origin Discrimination <input type="checkbox"/> |
| Disability Discrimination <input type="checkbox"/> | Hostile Work Environment <input type="checkbox"/> | Retaliation <input type="checkbox"/> |
| Color Discrimination <input type="checkbox"/> | Sexual Orientation <input type="checkbox"/> | Pregnancy Discrimination <input type="checkbox"/> |

1. Describe the harassment/discrimination incident(s).

2. Who or what was responsible for the harassment/discrimination incident(s)?

3. Where did the harassment/discrimination incident(s) take place?

Intake Report of Harassment or Discrimination

4. List the date(s) and time(s) that the harassment/discrimination incident(s) occurred.

5. Have you reported this incident to anyone else?

6. Identify any witnesses to the harassment/discrimination incident(s). Please provide name(s), address(es), and phone number(s).

7. What remedy are you seeking?

8. Interviewer comments.

SECTION III - ALLEGED OFFENDER INFORMATION:

1. Employee Name

2. Title

3. Immediate Supervisor

4. Department

5. Division

6. Section/Unit

7. Work Location

8. Work Phone

9. Home Phone

10. Comments

11. Name of person completing this form (please print):

12. Phone Number

ORIGINAL TO INVESTIGATOR

COPY TO AGENCY DIRECTOR OR AGENCY PERSONNEL LIAISON



STATE OF NEVADA

HARASSMENT / DISCRIMINATION OUTCOME SURVEY

Please complete the following survey once you have reached conclusions, decisions or actions regarding the investigation.

Part 1

1.	Name of individuals who filed the complaint:
2.	Type of complaint:
3.	Was the investigative report used to take specific action? <input type="checkbox"/> yes <input type="checkbox"/> no Comments: _____ _____ _____ _____
4.	Was anyone involved in the harassment/discrimination placed on administrative leave with pay? <input type="checkbox"/> yes <input type="checkbox"/> no If yes, identify who and the length of the administrative leave with pay. _____ _____
5.	Please identify any disciplinary or corrective action that was taken? <input type="checkbox"/> nothing <input type="checkbox"/> referred to mediation <input type="checkbox"/> continue to monitor situation <input type="checkbox"/> training _____ <input type="checkbox"/> oral reprimand <input type="checkbox"/> written reprimand <input type="checkbox"/> suspension, number of days? _____ <input type="checkbox"/> demotion to _____ <input type="checkbox"/> dismissal <input type="checkbox"/> other _____

6.	If the investigation could not confirm the allegations, did the agency take remedial action to improve the work environment? <input type="checkbox"/> yes <input type="checkbox"/> no If yes, what action was taken? <input type="checkbox"/> referred to mediation <input type="checkbox"/> continue to monitor situation <input type="checkbox"/> additional training <input type="checkbox"/> other: _____ _____ _____																
7.	Did the complaint go to? <input type="checkbox"/> NERC <input type="checkbox"/> EEOC <input type="checkbox"/> Court <input type="checkbox"/> EMC <input type="checkbox"/> Other _____ <input type="checkbox"/> Did not go anywhere else																
8.	Please rate the quality of the investigation. <i>(circle one)</i> 1 = unacceptable 3 = excellent <table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Timeliness</td> <td style="text-align: center;">1</td> <td style="text-align: center;">2</td> <td style="text-align: center;">3</td> </tr> <tr> <td>Thoroughness</td> <td style="text-align: center;">1</td> <td style="text-align: center;">2</td> <td style="text-align: center;">3</td> </tr> <tr> <td>Written report</td> <td style="text-align: center;">1</td> <td style="text-align: center;">2</td> <td style="text-align: center;">3</td> </tr> <tr> <td>Communication w/agency</td> <td style="text-align: center;">1</td> <td style="text-align: center;">2</td> <td style="text-align: center;">3</td> </tr> </table> How could this process be improved? _____ _____	Timeliness	1	2	3	Thoroughness	1	2	3	Written report	1	2	3	Communication w/agency	1	2	3
Timeliness	1	2	3														
Thoroughness	1	2	3														
Written report	1	2	3														
Communication w/agency	1	2	3														
9.	Name of person completing this survey: _____ Agency: _____ Phone Number: _____ _____																

Part 2

If a monetary settlement was made, pursuant to this complaint, at a later date, please complete the following and return to :

Department of Personnel
Attn: Honey Garibaldi
209 E. Musser St, Room 300
Carson City, NV 89701

Settlement was authorized by: Board of Examiners
 Court

Type of Complaint: _____

Settlement amount: _____



STATE OF NEVADA EMPLOYEE MEDIATION POLICY

Mediation is an informal, confidential and voluntary process in which a neutral third party(s) assist disputing parties reach a resolution.

1. PURPOSE

The primary purpose of the Mediation Program is to provide a responsive, informal, confidential, effective means of resolving conflicts as an alternative to formal proceedings. The mediation process allows the parties to explore options and solutions to resolve issues at the lowest possible level. Mediation seeks to achieve a “Win-Win” resolution by empowering parties to formulate a mutually agreeable resolution while maintaining management and employee rights. The mediator and either party involved in the mediation may end the mediation session at any time if it is felt that a positive effort is not being made to resolve this issue. In addition the mediator may bring the mediation to a close if there is a threat of harm, abuse of the process or violence.

This program will allow employees the opportunity to discuss the issues raised and clear up misunderstandings, determine the underlying interest or concerns, find areas of agreement and ultimately, place a resolution to those issues into a written agreement.

2. COVERAGE

The Mediation Program is available to all State employees and supervisors, and they are encouraged to utilize this process under appropriate circumstances.

3. STATE EMPLOYEES RIGHTS & RESPONSIBILITIES

The following are the guidelines of the State of Nevada’s Mediation Program

- The use of mediation is strictly voluntary.
- Mediation does not alter the authority of managers and supervisors or an agencies open door policy to receive complaints.
- Mediation is designed to supplement, not limit or replace established grievance or complaint procedures.
- Mediation is available to all State of Nevada employees (i.e., permanent, probationary, temporary).
- Employees are free to choose the mediation process or decline without any form of retaliation from management or staff.
- Employees are responsible for ensuring that they do not harass or discriminate against other employee(s) due to a request to mediate a perceived conflict between parties.
- Employees are entitled to end the mediation session at anytime by giving notice to the mediator, free from any form of retaliation or unlawful conduct.

4. PROCEDURE

A. Employee or requesting party shall make a request to Management, the Agency Coordinator; and or the Mediation Program Administrator of their needs or intent to enter into the process, but with the understanding that all involved parties must voluntarily agree to mediate.

B. The Mediation Program Administrator will make contact with party(s) to be involved with the mediation to seek their approval to participate in the mediation process.

C. The Mediation Program Administrator will assign a mediator(s) from the roster. The mediator will then inform the parties of the scheduled time, date and location of the mediation session.

D. The Mediator will inform the Program Administrator when all parties have agreed to participate.

E. All parties shall meet on the scheduled date.

F. The Mediator will review the mediation guidelines with the parties and ensure the Consent to Mediate form is signed and dated before the commencement of the process.

NOTE The order of the process may be modified at anytime by agreement of the parties or as determined by the Mediator.

G. If an agreement is reached, the parties will create a written agreement, with the assistance of the mediator. Each party will sign and date the agreement and be given a copy with the understanding that this is not a legal document but a statement of mutual obligations. This agreement should not be contrary to laws, rules, regulations, and policies of the State of Nevada and may not exceed the individual's authority that is present at the mediation session.

5. MEDIATOR AND ADMINISTRATIVE GUIDELINES

A. Mediators must complete training and be approved by the Mediation Program Administrator and the Director of Personnel prior to participating in the mediation program.

B. A roster of mediators will be maintained by the EEO Director who serves as the Mediation Program Administrator.

C. The Mediation Program Administrator shall determine the appropriateness of mediation and the mediator(s) to be utilized. When appropriate, the Mediation Program Administrator may request mediators from external sources.

D. The Department director shall disseminate to each employee a copy of the mediation program that is available to them, with the complete understanding that mediation is not required but offered as an alternative resolution to formal proceedings.

E. Each Department Director shall be provided a current list of mediators within their agency.

F. The Mediation Program Administrator, selects the mediators, coordinates sessions, and maintains copies of all mediation related documents and records and evaluates the effectiveness of the program.

G. The mediator shall be responsible for the mediation process by conducting the session in an orderly and professional manner designed to resolve conflict.

6. TRAINING AND EVALUATION PROCEDURES

A. Mediators shall complete an approved training program as designated by the Personnel Director and the Mediation Program Administrator and placed on a list of qualified and available mediators.

B. Mediators will be required to complete eight (8) hours of continuing education credits annually.

C. The Mediation Program Administrator will ensure that evaluation forms are complete and submitted by mediators and participating parties.

D. The Mediation Program Administrator will review mediation cases for general discussion at the quarterly mediation team meetings with confidentiality at the forefront.

E. The mediation team may make recommendations to the Department Directors as deemed appropriate with the approval of the Mediation Program Administrator and Personnel Director.

7. FORMS

A. All forms are available on the State of Nevada, Department of Personnel website at dop.nv.gov.

Mediator's Referral Intake Information Form

Referred By: _____ LV No: _____

CC No: _____

Name: _____ Date _____ Time _____

Name _____ Agency _____

Phone _____ City _____

Name: _____ Date _____ Time _____

Name _____ Agency _____

Phone _____ City _____

Name: _____ Date _____ Time _____

Name _____ Agency _____

Phone _____ City _____

Name: _____ Date _____ Time _____

Name _____ Agency _____

Phone _____ City _____

Who else needs to be part of this process?

Name _____ Phone _____

Name _____ Phone _____

Name _____ Phone _____

Mediator	Date	Time	Location

Date _____ Mediator(s) _____

Status: Will mediate Party(s) declined

Date Survey Mailed: _____

From Program Office: North

South

ATTACH ADDITIONAL COPIES IF NEEDED.

MEDIATION CONSENT FORM

We, the undersigned, voluntarily agree to enter into mediation provided by the State of Nevada Department of Personnel Mediation Program, are satisfied that the provisions provided in the agreement are fair and reasonable.

We are aware that:

- The decision to mediate is completely voluntary and understood to be so by all involved parties
- The mediator will not make decisions or provide legal advice
- The process is confidential unless there is evidence of a threat of bodily harm to self or another person
- Either of the parties or the mediator shall be entitled in their absolute discretion to terminate a Mediation Session at any time without giving any reason therefore
- The mediation process is strictly confidential and is not legally binding
- All documents, statements, information, and other material produced or given for or during the Mediation whether in writing or orally, shall be held in confidence by the parties and shall be used solely for the purposes of the Mediation. At the termination of the Mediation all such material will be destroyed.
- Copies of the agreement will be kept by the individuals who signed the agreement and the Program Administrator north/or south in a secured confidential file. Copies of this agreement will NOT be kept in employee department files or in personnel records, unless so requested in writing by those signing the agreement

Employee printed name

Employee signature

Employee printed name

Employee signature

Employee printed name

Employee signature

DATE: _____

ATTACH ADDITIONAL COPIES IF NEEDED

Conflict Resolution Agreement

We agree to honor this resolution by accepting the decision written above. We will do our best to live up to the resolution.

If for any reason the Resolution Agreement is not followed or breaks down, the employee(s) may return to mediation or proceed with other available internal/external options options.

Signed: _____ Date: _____

ATTACH ADDITIONAL COPIES IF NEEDED

THREE-MONTH MEDIATION STATUS SURVEY

As a follow-up to the mediation process you participated in on _____, please check the appropriate statements below and return this survey to the EEO Office by Interdepartmental Mail, marked Confidential to: Tammy Smith, Carson City DOP
Gladys Clark, Las Vegas DOP

The process did the following for me.

- Fully worked out
- Partially worked out
- Did not work out at all

If the agreement has broken down, would you mediate again?

Yes No

I feel that the relationship with the other party (s) has improved as a result of mediation.

Yes No

I am now able to communicate more effectively with the other party.

Yes No

NAME (Optional) _____

PHONE (Optional) _____

DATE _____

APPENDIX M: GUIDELINES FOR ESTABLISHING OBJECTIVES FOR AGENCY AFFIRMATIVE ACTION PLANS

The objectives for each agency should be attainable relative to the agency's analysis of its deficiencies and its entire affirmative action program. Thus, each agency should consider the results which could reasonably be expected from putting forth every good faith effort to make its overall affirmative action program work. In establishing objectives, each agency should consider the following suggestions:

1. Involve department directors and division administrators, supervisors, personnel specialists, equal employment opportunity representative and employees in this process.
2. Develop objectives that are significant, measurable and attainable.
3. Establish objectives specifically for planned results, with timetables for completion.
4. Do not set expectations that are rigid and inflexible, or quotas which must be met. Establish targets, reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work.
5. When establishing objectives and commitments, consider the anticipated expansion of and turnover in the agency's work force.
6. Design objectives, timetables, and affirmative action commitments to correct any identified deficiencies.
7. Where deficiencies exist and where numbers or percentages are relevant in developing corrective action, establish and set forth specific guidelines to actively recruit and hire qualified ethnic minorities and women.
8. Part of a written affirmative action program should include supporting data and analyses.

APPENDIX N: EEO-4 CODES, CATEGORIES AND DEFINITIONS

Each job class in State service is assigned to one of the following EEO-4 categories based on duties and responsibilities. The "EEO-4 code" is the alpha character to the left of the category name shown below. The definitions are as prescribed by EEOC. "Job categories" as used in this Plan are the same as the EEO-4 categories.

- A. Officials and Administrators:** Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments.
- B. Professionals:** Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge.
- C. Technical:** Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training.
- D. Protective Service Workers:** Occupations in which workers are entrusted with public safety, security and protection from destructive forces.
- E. Paraprofessional:** Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience than normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a "New Careers" concept.
- F. Administrative Support Occupations including Clerical:** Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paper work required in an office.
- G. Skilled Craft:** Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs.
- H. Service/Maintenance:** Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities, or grounds of public property.

APPENDIX O: WORK FORCE UTILIZATION ANALYSIS

A customized utilization analysis of the State of Nevada workforce by department and a summary of all agencies have been performed in the format that is required for by the Federal Government for the EEO-I Report. For our internal purpose the analysis includes five major geographic regions. However it should be noted that effective January 2007 requirements for race identification will change and it will be necessary to require all state employees to self identify in order to be in compliance with Federal guidelines, the report will be submitted in September 2007.

Currently each state agency receives a quarterly report with detailed breakdown of their employees by race, sex and EEO-4 Job Category. The EEO Office assists the agencies when there are questions and concerns with regard to the information on the report.

Upon completion of the new Federal identification requirements in 2007 the new data will be incorporated into the new format. New reports will be disseminated to all state agencies along with instructions explaining the analysis and how to read and understand the report.

The five major geographic regions:

1. Department
2. Statewide
3. Carson City, Washoe and Douglas Counties
4. Clark County
5. Other Counties (aggregated)

For each major region, separate comparisons of the State work force relative to the qualified labor force have been made and are reported by gender and ethnicity for each of the eight EEO-4 job categories. The "disparity" reported for each EEO-4 job category in the utilization analysis tables reflects the percentage by which members of a gender or ethnic group are under or over represented in the State work force vis-à-vis 1990 labor force statistics. All reporting entities across the United States have been anticipating receiving guidelines on how the 2000 census data would affect the EEO-I Reports. The 1990 data will officially become obsolete January 2007. A negative (-) number indicates that members of a group are under-represented, or underutilized in a given EEO-4 job category and geographic region.

How To Use This Data

To analyze a particular recruitment situation:

- Step 1** Identify the major geographic region to be analyzed based on the location of the job vacancy/vacancies, then select the appropriate utilization analysis

table.

- Step 2** Locate the appropriate EEO-4 job category on the utilization analysis table.
- Step 3** Find the "disparity" data located below the "% of labor force" and "% of state work force" rows, and note any group underutilizations, indicated by negative numbers.
- Step 4** Explore potential causes of identified underutilization and initiate remedial affirmative action efforts (see Section VII of Affirmative Action Plan for strategies).