



# PREVENTING SEXUAL HARASSMENT IN THE WORKPLACE

Employee Guide For  
State of Nevada  
Executive Branch  
Agencies

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## **What is the State of Nevada's Policy?**



The State of Nevada has a long-standing policy expressly prohibiting sexual harassment in the workplace. As an employee, you have the right to work in an environment free from all forms of unlawful discrimination, including sexual harassment. In addition, the State of Nevada also prohibits retaliation against an employee/applicant who has filed a complaint (in good faith) or participates as a witness in the investigatory process surrounding an allegation of sexual harassment.

It should be understood that sexual harassment is against the law and **will not** be tolerated in the workplace. The State of Nevada recognizes the detrimental effects that sexually harassing conduct may impose to employees in the workplace. All employees are expected to refrain from engaging in inappropriate unprofessional conduct of a sexual nature, either explicitly or implied.

## **The Legal Definition of Sexual Harassment**

Sexual harassment is a form of gender discrimination that violates Title VII of the Civil Rights Act of 1964, as amended. The Equal Employment Opportunity Commission (EEOC) is the Federal agency that regulates compliance throughout the United States and enforces the Federal law.

EEOC's guidelines generally define sexual harassment as unwelcome sexual advances; request for sexual favors; and other verbal, physical, and/or visual conduct of a sexual nature when:

- ✓ Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment;
- ✓ Submission to, or rejection of, such conduct is used as a basis for employment decisions affecting employment opportunities; or
- ✓ Such conduct has the purpose or effect of unreasonably interfering with an employee's work or creates an intimidating, hostile, or otherwise offensive work environment.

## **Practical Definition of Sexual Harassment**

In practical terms, there are two types of sexual harassment:

### **1. Quid Pro Quo**

- *Always supervisor to subordinate*

Where employment decisions or expectations (e.g., hiring decision, promotions, performance expectations, etc.) are based on an employee's willingness to grant or deny sexual favors.

- A supervisor demanding sexual favors in exchange for a promotion or raise.
- Disciplining or firing of a subordinate who ends a romantic relationship with his/her supervisor.
- Changing performance expectations after a subordinate refuses repeated requests for a date from his/her supervisor.

### **2. Hostile Work Environment**

- *Co-worker to co-worker*
- *Supervisor to subordinate*
- *Outside vendor/customer to employee*

This refers to sexual comments, physical touching, or the display of objects that "unreasonably interfere" with work performance or creates an "intimidating, hostile, or offensive" work environment.

The following are examples of behaviors that can create a hostile work environment if they are unwanted and uninvited:

- Regular, persistent use of offensive language, jokes, comments, or suggestions of a sexual nature, either explicitly or implied.
- Displaying sexually suggestive calendars, objects, pictures, cartoons, graffiti, etc.
- Intentional inappropriate touching – pats, brushing up against another individual.

Sexual harassment is a form of sex discrimination, where the conduct is directed at an individual based on gender. It can be male to female, female to male, female to female, or male to male.

## **Elements of Sexual Harassment**

### **1. Unwelcome**

- The “unwelcome” behavior is determined on a case-by-case basis.

### **2. Repeated Behavior**

- In most instances of reported sexual harassment, there is a pattern of repeated behavior; however, do not be misled into thinking that a one-time incident cannot be cause for discipline. Depending on the severity of the circumstances, it most certainly can!!

## **Other Issues to Consider**

### **1. Intent vs. Impact**

- Although the intent of an employee’s actions/comments may be taken into consideration, it is the ultimate impact of these actions that count. In other words, even if it was not the intent of the employee to harass or offend anyone in the workplace, if the behavior/conduct has the “effect” of creating an intimidating, hostile, or offensive work environment, it could be actionable.

### **2. Reasonable Person/Woman Standard**

- When considering whether a hostile work environment has been created, we measure it against a “reasonable person/woman” standard.

## **Conduct That Can be Considered Sexually Harassing**

Sexually harassing conduct is misconduct of a sexual nature, which undermines the professional basis of an employment relationship.

Such conduct may include, but is not limited to:

### **Physical Conduct**

- ✓ Unwanted touching, grabbing, patting, pinching, hugging, kissing
- ✓ Constantly brushing up against another’s body
- ✓ Touching an employee’s clothing, hair, or body
- ✓ Shoulder rubs, massages
- ✓ Cornering
- ✓ Physical/sexual assault



## **Verbal Conduct**

- ✓ Demands for sexual favors
- ✓ Questions or comments about an employee's sexual life, fantasies, behavior
- ✓ Offensive jokes or language
- ✓ Turning work discussions into conversations filled with sexual innuendos
- ✓ Unwanted pressure for dates
- ✓ Referring to an adult as sweetie, babe, honey, etc.
- ✓ Sexual comments about a person's clothing, anatomy, or looks
- ✓ Telling lies or spreading rumors about a person's personal sex life
- ✓ Repeated cat calls, whistling
- ✓ Referring to a female or male in terms of body parts
- ✓ Use of sexually explicit language in the workplace



## **Other Miscellaneous Conduct**

- ✓ Offensive gestures or motions
- ✓ Leering at a person's body
- ✓ Leaning over someone or cornering
- ✓ Circulating materials, texting or letters of a sexual nature; sexting
- ✓ Displaying calendars, cartoons, or pictures of a sexual or suggestive nature in the workplace.

## **Stopping Unwanted Conduct**

If you are receiving unwanted attention of a sexual nature, do not hesitate to tell that person that the behavior is unwelcome and offensive. If, however, you are uncomfortable confronting the individual directly, tell your supervisor, the State of Nevada's Equal Employment Opportunity Office (EEO), or someone else in management about the situation. The longer you put it off, the more difficult it will

become. Here are some suggested steps to take:

1. **Be Direct** – The individual(s) in question may not be aware that his/her actions are offensive. Let the individual(s) know, in a respectful manner, that you don't find the conduct humorous and that you expect it to stop.
2. **Be Firm** – Make sure that your message is clear. Let the individual know that, although you would prefer to resolve the issue informally, you are prepared to take it to the next level if she/he does not curb her/his behavior.
3. **Document the Situation** – Document the incident with date, time, and names of any witnesses, as well as your response and conversation with the harasser. You may even wish to let the employee know, in writing, that his/her behavior is unwelcome and explain the action you will take if it continues. Keep all documentation in a safe place.
4. **Don't be intimidated** – Regardless of rank, if you are the victim of sexual harassment, you are entitled to your rights. Remember, this type of workplace conduct is in violation of the State of Nevada's policies and perpetrators are subject to discipline.
5. **Report It** – If you are unable to successfully address the situation with the harasser directly, advise your supervisor, management, your HR Liaison and/or the EEO Office immediately. Remember, you have a right to file a complaint in NEATS to report your concerns. You can visit the EEO office in the Grant Sawyer Building, Suite 1500 in Las Vegas or the NSLA (State Library and Archives) Building, Suite 200 in Carson City. If you prefer, you may contact us by phone at (702) 486-0988 or the Discrimination Complaint Hotline at (800-767-7381).
6. **Monitor Your Own Behavior** – All too often we tend to only see how another's behavior affects us. Reflect on your own communication style and keep it in check as well.



### **Dignity and Respect Guidelines/Rules to Follow**

These issues are really about respect and maintaining a professional and courteous work environment. It is imperative that employees understand that this is a professional business environment.

The following are some guidelines to follow in order to ensure that you do not find yourself crossing that line while at work:

1. Be aware of how you communicate with co-workers, customers, and staff.
2. **Think before you speak!** If you have to look around to see who is within earshot or within the vicinity before saying or doing something in the workplace, do not say it AND do not do it.
3. Avoid using terms you know are offensive. For example, refrain from referring to women as objects or body parts.
4. Understand that disrespectful behavior has consequences. Employees found to have violated the State's sexual harassment policy **will be held accountable** for their harassing behavior.
5. Acknowledge your error. If you realize, after you say or do something in the workplace, that it was inappropriate, be adult enough to acknowledge your error and apologize. Doing the right thing may be all it takes to prevent a positive work relationship from turning sour.
6. Just because racy, sexually explicit jokes may be on television, social media or radio, it does not make it okay to repeat these comments in the workplace.
7. If you are a supervisor or manager and witness inappropriate workplace conduct that could violate policy, **stop it, address it, document it, and report it.**
8. Treat your colleagues as you would your parent, sibling, children, or yourself would like to be treated in the workplace.

