

**State of Nevada
Executive Branch**

**SEX- or GENDER-BASED HARASSMENT AND
DISCRIMINATION POLICY**

Sex- or gender-based harassment and discrimination based on race (including, but not limited to, hair texture and protective hairstyles), color, national origin, religion, sex, age, disability, pregnancy, sexual orientation, genetic information, gender identity or expression, domestic relations¹ or compensation or wages² in any term, condition or privilege of employment violates State and/or federal law.

I. PURPOSE

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

Sex- or gender-based harassment and discrimination are forms of misconduct that undermine the integrity of the employment relationship. No employee should be subjected to unsolicited and unwelcomed sexual overtures or conduct, either verbal, written (including digital media, i.e., email, text or digital photos or graphics) or physical. No employee should be subjected to physically or verbally harassing behavior(s)—sexual, gendered, or neutral—because of that employee’s sex, sexual orientation, gender identity, or expression. No employee should experience discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other terms, conditions, or privileges of employment. Sex- or gender-based harassment and discrimination are personally offensive, debilitate morale, and, therefore, interfere with work effectiveness. An employee who engages in discriminatory behavior, or behavior that constitutes sex- or gender-based harassment, may be subject to disciplinary action up to and including dismissal.

II. COVERAGE

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

¹ NRS 122 and 122A

² NRS 613

III. RESPONSIBILITY

- A. Sex- or gender-based harassment and discrimination, whether committed by a supervisor, coworker, or member of the public, is specifically prohibited as unlawful and against State policy. Appointing authorities shall take immediate and corrective action in response to complaints, regardless of whether the specific acts complained of were sanctioned or specifically forbidden. Appointing authorities shall be proactive in preventing sex- or gender-based harassment. Failing to prevent and/or correct harassment may subject appointing authorities to liability, even if they are unaware of the harassment, and when they become aware, regardless of the manner in which the appointing authority becomes aware of the conduct.
- B. Appointing authorities shall ensure that each employee is provided with a copy of this Policy informing them that sex- or gender-based harassment and discrimination is 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 complete sex- or gender-based harassment and discrimination prevention training within 30 calendar days of the effective date of their appointment. Thereafter, employees are required to complete sex- or gender-based harassment prevention refresher training once every two years.
- D. An appointing authority may not promote a person who has not completed or is not current on the sex- or gender-based harassment training as required in III. C above and as required by NAC 284.496.
- E. Managers and supervisors are also required to attend additional training related to managing and preventing sex-or gender-based harassment and discrimination to ensure they have a complete understanding of this Policy within 30 calendar days of initially becoming a manager or supervisor as required by NAC 284.498.
- F. Appointing authorities shall advise all employees of the employees' responsibility to report incidents of sex- or gender-based harassment and discrimination.
- G. Appointing authorities shall designate employees within each agency to act as coordinators for the reporting of complaints of sex- or gender-based harassment or discrimination and shall notify employees and the Division of Human Resource Management's Sex- or Gender-Based Harassment and Discrimination Investigation Unit of the coordinator's name and contact information.
- H. Supervisors shall have a complete understanding of this Policy. Supervisors

who willfully disregard known incidents of sex- or gender-based harassment or discrimination by subordinates may be subject to discipline. Supervisors are responsible for ensuring their employees have received training as outlined in this Policy. Besides possible discipline, supervisors will be evaluated annually on whether they manage sex- or gender-based harassment complaints and training effectively.

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

IV. STATE EMPLOYEES' RIGHTS AND RESPONSIBILITIES

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

V. LEGAL DEFINITIONS AND GUIDELINES

- A. NAC 284.771 specifies that sex- or gender-based harassment violates the policy of this State and is a form of unlawful discrimination based on sex under State and federal law. An employee shall not engage in sex- or gender-based harassment against another employee, an applicant for employment, or any other person in the workplace.

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

- B. Behavior that is sex- or gender-based harassment includes:
 1. Making submission to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature either explicitly or implicitly a term or condition of a person's employment;

or

2. Making submission to or the rejection of such conduct described in (1) by a person a basis for employment decisions affecting that or any other person; or
 3. Engaging in unwelcome harassing verbal or physical behavior that occurs because of the sex or gender expression of any individual(s) and has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating or offensive work environment where:
 - a. Harassing behavior is of a sexual nature;
 - b. Harassing behavior is not sexual in nature, but is related to sex or gender of the alleged victim or others;
 - c. Harassing behavior is sex- or gender-neutral in content but occurs because of an individual's sex or gender; or
 - d. Any combination of the types of behaviors described in 3. a. – c.
- C. Equal opportunity with regard to the terms, conditions and privileges of employment is mandated under Title VII of the Civil Rights Acts of 1964, the Americans with Disabilities Act of 2009 as amended, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, Genetic Information Nondiscrimination Act of 2008, NRS 631.330, NRS 281.370, and numerous sections of Chapter 284 of the NRS and NAC 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 (including, but not limited to, hair texture or protected hairstyles), color, religion, sex, national origin, disability, age, pregnancy, sexual orientation, genetic information, gender identity or expression, domestic relations, or compensation or wages.
- E. Federal and state law prohibit retaliation against employees who bring sex- or gender-based harassment or discrimination charges or assist with or participate in any investigation of such charges. Any employee making sex- or gender-based harassment or discrimination complaints or assisting in the investigation of such a complaint, or otherwise engaging in protected activity, will not be adversely affected in terms or conditions of employment, nor discriminated against, disciplined, or discharged because of the complaint.

VI. PROCEDURE

- A. Employee and/or bystander:

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

2. If the employee or bystander elects not to report the complaint as described in VI.A.1 above, the employee or bystander(s) may report incidents of sex- or gender-based harassment or discrimination as follows:
 - (a) to the coordinator within their agency designated to receive such complaints (e.g., the person identified on the "SEXUAL, SEX- OR GENDER-BASSED HARASSMENT HAS NO PLACE IN THE WORKPLACE" flyer posted in your agency or the EEO Officer if your agency has one); or
 - (b) by filing a complaint in NEATS on the Home Page, under "Employee" tab, "File a Sex- or Gender-Based Harassment or Discrimination Complaint"; or
 - (c) by completing an HR-30 Sex- or Gender-Based Harassment or Discrimination Complaint Form located on the Division of Human Resource Management's website; or
 - (d) by calling the Division of Human Resource Management's Harassment/Discrimination Hotline at (800) 767-7381.

All forms of complaints must be filed no later than 300 days after the date of the alleged act.

3. Employees are always entitled to consult an attorney or labor representative or to report the incident to the Nevada Equal Rights Commission (NERC) or the Equal Employment Opportunity Commission (EEOC), but failure to report internally to the appointing authority by one of the means described above may lead ultimately to

dismissal of any legal claim brought by an individual. Exception: an employee or bystander whose harasser is a public officer as defined in NRS 281.005, may go directly to the Nevada Equal Rights Commission or the Equal Employment Opportunity Commission to lodge a complaint instead of lodging the complaint with the employer.

4. If the employee or bystander elects to submit a complaint to the coordinator designated within their agency to receive such complaints under VI.A.2 above, the employee should give the completed complaint form and any supporting documentation to the coordinator.

B. Appointing Authorities

1. After receiving notification of a complaint, the appointing authority shall promptly notify the agency's assigned personnel, Deputy Attorney General, or staff counsel assigned to represent the agency pursuant to State Administrative Manual § 1702 (legal counsel) and the Division of Human Resource Management's Sex- or Gender-Based Harassment and Discrimination Investigation Unit. The agency coordinator will complete the complaint form from the employee filing the complaint. The coordinator will forward a copy of the completed intake report to the agency's legal counsel and the Division of Human Resource Management's Sex- or Gender-Based Harassment and Discrimination Investigation Unit, along with any supporting documentation. The agency coordinator may also submit the complaint via NEATS.
2. Appointing authorities shall cooperate fully with the investigation.
3. The assigned investigator will begin the investigation as soon as possible.
4. Investigations will be conducted as discreetly and with as little disruption to the workplace as possible. All information gathered in an investigation will be kept confidential to the maximum extent possible, and supervisors, next level authorities, coordinators and/or investigators shall explain to the complainant, the accused, and each witness the confidential nature of the investigative process.
5. The investigator will prepare a written report of findings, which will be submitted to the appointing authority, the agency's legal counsel, and the agency's chief personnel officer. If the accused is a gubernatorial appointee, such as a Director of a department, the written report of findings will be submitted to the Governor's Office. The ultimate decision for remedial action is the responsibility of the appointing authority; however, the investigative staff may suggest mediation services and/or other non-disciplinary remedies, if appropriate.

6. At the conclusion of the Division of Human Resource Management's Sex- or Gender-Based Harassment and Discrimination Investigation Unit's investigation, the Division of Human Resource Management will notify the complainant in writing that the investigation was completed and forwarded to their agency for review. The appointing authority shall review the report and determine the appropriate resolution of the complaint. If warranted, the agency, after consultation with their legal counsel, may take disciplinary action up to and including dismissal.
7. The appointing authority shall: (a) Notify the Sex- or Gender-Based Harassment and Discrimination Investigation Unit in writing of its determination regarding the resolution of the complaint within 30 days after the date on which the resolution occurs; and (b) Retain a copy of the written report prepared and written notification of the resolution of the complaint and maintain the confidentiality of such documents.
8. Except as otherwise provided below, a complaint filed pursuant to this policy and any information relating to the complaint, including, without limitation, information that is: (a) Obtained by the investigator in the investigation of a complaint; (b) Contained in a written report of a complaint retained; or (c) Contained in a written resolution of a complaint retained, is confidential and must not be disclosed unless so ordered by the Administrator of the Division of Human Resource Management or his or her designee or a court of competent jurisdiction.. If the Administrator or his or her designee decides to disclose any information that may be used to identify a person who filed a complaint pursuant to this policy, a person who is the subject of such a complaint or a person who claims to have witnessed an employee being harassed or discriminated against based on his or her sex or gender, the Administrator or his or her designee shall notify the person regarding the decision at least 10 days before ordering the disclosure. A person who receives such notice may, within 10 days after receiving the notice, file a written appeal of the decision with the Personnel Commission (Commission). If such an appeal is filed, the Commission shall, in a closed hearing, consider the decision of the Administrator for which the appeal is taken. If the Commission determines that the information must not be disclosed, the Commission shall keep the information confidential. A person or governmental entity identified in a complaint filed pursuant to this policy may disclose the identity of any other person or entity identified in the complaint if such disclosure is necessary to file a claim.
9. An appointing authority shall take any action necessary to protect a complainant whose identity is disclosed pursuant to VI. B. 8. from retaliation for filing the complaint.

C. Complaint Submitted Through the Hotline

1. When an employee transmits a complaint of sex- or gender-based harassment or discrimination through the State hotline, the Division of Human Resource Management's Sex- or Gender-Based Harassment and Discrimination Unit will complete the initial intake report and/or submit the complaint in NEATS.
2. The agency coordinator will be notified of the complaint via NEATS.
3. The investigation will then proceed as described for complaints submitted to appointing authorities (*see* Item VI.C.).