

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
304**

EQUAL EMPLOYMENT OPPORTUNITY

Supersedes: AR 304 (Temporary, 09/07/11); 06/17/12
Effective Date: 05/15/18

AUTHORITY: Title VII of the Civil Rights Act of 1964, amended; The Pregnancy Discrimination Act of 1978; The Equal Pay Act of 1963 (EPA); The Age Discrimination in Employment Act of 1967 (ADEA); Title I of the Americans with Disabilities Act of 1990 (ADA); Section 102 and 103 of the Civil Rights Act of 1991; American's with Disabilities Act Amendments Act of 2008; The Genetic Information Nondiscrimination Act of 2008 (GINA); NRS 613.310; 613.330; 284.384; Nevada Administrative Code 284.658-9; 284.114

PURPOSE

To ensure fairness in hiring, promotion and other workplace practices, and to provide a means of redress for employees, former employees and applicants who feel they are victims of discrimination, through EEO Counseling, Alternative Dispute Resolution (ADR), Mediation, and the EEO complaint process.

RESPONSIBILITY

The Director has final authority for approval of all revisions and written interpretations of the provisions of this procedure.

The Deputy Director of Support Services shall ensure that this regulation is fully implemented and that equal employment opportunities are afforded to all employees on the basis of merit without regard to race, gender, sexual orientation, gender identity or expression, religion, color, national origin, age, pregnancy, political affiliation, domestic partnership, or disability. The Deputy Director of Support Services is responsible to ensure the development of a Department EEO Plan.

The Equal Employment Opportunity (EEO) Office is responsible for the implementation of the Department's EEO Plan and the processing of discrimination complaints or charges. The EEO Office is also responsible for administering the interactive process under the Americans with Disabilities Act of 1990 and 2008, as amended, and for evaluating disability and pregnancy related requests for reasonable accommodation.

The Human Resources Office is responsible to ensure reasonable accommodation is made for those who are injured on the job in coordination with the Appointment Authority.

304.01 PERSONNEL POLICY MANUAL

A personnel policy manual that addresses the Department's equal employment opportunity policy is available for employee reference.

304.02 INFORMAL EEO COMPLAINT PROCESS

- A. An employee alleging unlawful employment discrimination based on any pertinent state or federal law or regulation may:**
 - 1. Report the alleged discrimination to:**
 - a. The Department of Administration, Human Resources Management Division's Sexual Harassment and Discrimination Investigative Unit (SHDIU);**
 - b. The Attorney General's Office;**
 - c. The employee's Appointing Authority or the Deputy Director of Support Services;**
 - d. An EEO Officer;**
 - e. A personnel representative of the Department; or**
 - f. The employee's Supervisor. (Employees are encouraged to attempt informal resolution of discrimination complaints within their chain of command.)**
 - 2. Enter their report or complaint of discrimination into NOTIS.**
 - 3. Except as otherwise provided in NRS 284.384 use the procedure for the adjustment of grievance contained in NAC 284.658 to NAC 284.697, inclusive.**
- B. Any person who receives a report or complaint of discrimination must enter or ensure the report or complaint is entered into NOTIS, classify access to the report or complaint at the Inspector General (IG) Supervisory level or above, and refer the report or complaint for investigation. After review, the IG retains the authority to reclassify the report or complaint at a lower level within NOTIS.**
- C. Reports or complaints of discrimination are confidential and will be disclosed only to the extent necessary to carry out an investigation and only to those individuals with any need to know.**
- D. Upon receipt of a report or complaint of discrimination, EEO Officers will schedule and conduct Intake Interviews and will prepare and submit Intake Interview Reports to the SHDIU, including any provided documents.**
- E. After the SHDIU has completed its investigation, the investigator will provide a report of findings to the Director, the EEO Office, and the Attorney General's Office.**
- F. The assigned EEO Officer will review the report and prepare an adjudication of the SHDIU's findings for the Director.**

- G. Upon receipt and review of the adjudication, the Director may:
1. Seek consultation regarding any finding;
 2. Request additional review by the EEO Office;
 3. Determine that the matter may be closed; or
 4. Determine that disciplinary or other action is warranted, and refer the matter to the Inspector General for further action.
- H. The EEO Officer will advise the employee and the accused party, in writing, of the Director's determination.
- I. Discrimination complaint files and records are confidential and the property of the Department of Corrections' EEO Office.
- J. Federal and state law and/or policy prohibit retaliation against employees who bring sexual harassment or discrimination charges or who assist in investigating such charges. Any employee bringing a complaint or assisting in an investigation of a complaint will not be adversely affected in terms and conditions of employment nor discriminated against or discharged because of the complaint.

304.03 FORMAL EEO CHARGE PROCESS (EXTERNAL)

1. Reporting discrimination or filing an informal complaint as outlined above does not prevent an employee from exercising his or her right to file a formal Charge of Discrimination regarding the same matter with either the Nevada Equal Rights Commission (NERC) or the Equal Employment Opportunity Commission (EEOC).
2. A formal charge must be filed with NERC or EEOC no later than 300 calendar days from the date of the alleged violation and/or the last alleged action by the Department.
3. If NERC and/or EEOC accepts the charge, a formal charge notice will be sent to the Department's EEO Office. If a charge notice is mistakenly received by a non-EEO Official, the EEO Office shall be contacted immediately. The charge notice shall be handled as confidential. Non-EEO Officials are prohibited from responding to any formal charges or making copies of a formal charge notice.
4. EEO Officers are responsible for investigating all formal charges and for preparing and submitting the agency's official position statement to NERC or the EEOC. The EEO Officer may consult with the Attorney General's Office regarding any Charge or position statement.
5. If the NERC or EEOC elects to investigate the charge, it will issue a determination or a dismissal, which will be provided to the EEO Office.

- A. If the EEOC does NOT make a determination of reasonable cause to believe discrimination occurred, a Dismissal and Notice of Rights will be issued to the Charging Party and the EEO Office.
 - B. If the EEOC makes a determination of reasonable cause to believe discrimination occurred, it will contact the Department to begin the conciliation process. The EEO Office shall refer any orders for conciliation to the Office of the Attorney General.
 - C. The Charging Party must receive a Notice of Rights or a "Right to Sue Letter" before he or she may file a civil action in court.
6. Formal charge case files and records are confidential and the property of the Department of Corrections' EEO Office.

REFERENCES: ACA 4th Edition 4-4053 – 4-4057; 4-4048

APPLICABILITY

- 1. This regulation requires an annual review of the EEO Plan.
- 2. This regulation requires an audit.


James Dzurenda, Director

5-15-18

Date