

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
305**

SEXUAL HARASSMENT PREVENTION

Supersedes: (Temporary, 06/07/10); 08/13/10; (Temporary, 06/15/17)
Effective Date: 08/30/17

AUTHORITY:

Title VII Civil Rights Act of 1964, amended; NRS 209.131; 209.251; 613.310; 613.330;
Governor's Policy Against Sexual Harassment/Discrimination; MEMO PERD #21/07

PURPOSE

All employees of the Department are entitled to work in a workplace free of sexual harassment. The purpose of this regulation is to implement a zero tolerance policy regarding sexual harassment.

RESPONSIBILITY

The Deputy Director of Support Services is responsible to ensure administration, compliance and implementation of the Department's sexual harassment prevention policies.

All levels of the administration, management, and supervision are responsible for the enforcement of the State's and Department's zero tolerance policy regarding sexual harassment. Each is responsible for preventing and eliminating acts of sexual harassment in their areas of supervision and/or responsibility.

All levels of the administration, management, and supervision are responsible for taking immediate and corrective action in response to sexual harassment complaints.

Administrators, managers, and supervisors shall cooperate with the discrimination investigative complaint processes. The Human Resources office and Equal Employment Opportunity (EEO) Administrator ensures compliance with EEO investigative processes and other requirements related to sexual harassment complaints.

The Human Resources and Equal Employment Opportunity Administrator manages and provides oversight and coordination of the Department's EEO Program.

The NDOC has a designated EEO Officer for northern Nevada and southern Nevada that are responsible for implementing the mandatory EEO investigative processes and other requirements related to sexual harassment complaints.

305.01 SEXUAL HARASSMENT

1. An employee shall not engage in sexual harassment against another employee, an applicant for employment, or any other person in the workplace.
2. Sexually harassing conduct undermines the integrity of the employment relationship and shall not be tolerated by anyone at the workplace or in any work related environment. Sexual harassment and the creation of a sexually hostile work environment is a violation of Federal and State employment laws. Additionally, incidents of sexual harassment violate Department administrative regulations against sexual harassment and discrimination.
3. Sexual Harassment also violates the Governor's Policy Against Sexual Harassment and Discrimination. Disciplinary action may be taken against persons who commit sexual harassment, including first time offenders. Sexual harassment is defined as:

“Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when (1) the submission to such speech or conduct is made either explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or the rejection of such speech or conduct is used as the basis for employment decisions affecting that person, or (3) such speech or conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creates an intimidating, hostile, or offensive working environment.”

4. The Department regards sexual harassment as a very serious disciplinary infraction. Accordingly, the appointing authority shall, commensurate with the principles of progressive discipline, consider disciplinary action for any infraction. Serious discipline may be imposed, up to and including termination, even for a first offense.
5. The Department provides a mechanism whereby employees and applicants for employment may file complaints alleging sexual harassment, to have their allegations fairly investigated, and for the Department, take appropriate corrective and/or disciplinary action.

305.02 INFORMAL COMPLAINT PROCEDURES

1. Individuals who believe they have been a victim of sexual harassment should make every effort to advise the alleged harasser that the conduct/behavior is unwelcome, undesirable, and/or offensive. Tell them to STOP!
2. The individual may elect not to confront the alleged harasser. In this case, or if the conduct persists after an objection, the individual may report the incident to their immediate supervisor, any other management or supervisory official, or any EEO Officer.
3. Employee may also report sexual harassment to the Attorney General, the Division of Human Resource Management, or a personnel representative of the Department.

4. Alternatively, employees may report incidents of sexual harassment to the State Department of Administration's EEO and Discrimination Investigation Unit's Hotline, at (800)767-7381, from anywhere in the State.
5. When notified of a sexual harassment complaint, managers, administrators, and supervisors shall:
 - A. Immediately enter the allegations into NOTIS and classify access to the allegations at the Inspector General (IG) Supervisory level or above. After review, the IG retains the authority to reclassify the allegation within NOTIS.
 - B. Notify the EEO Officer in their region, submitting all documentation pertaining to the incident.
 - C. Notify their immediate chain of command, if not named in the complaint.
 - D. Determine if the alleged victim and alleged harasser need to be separated immediately, on a temporary or permanent basis, until the Director has made a final decision.
 - E. Temporary reassignments shall be carried out with the assistance of Human Resources Department.
 - F. The alleged victim cannot be involuntarily reassigned or retaliated against.
6. Management officials shall take precautions to ensure that the employee making the allegation is not subject to retaliation or intimidation.
7. EEO Officers shall conduct Intake Interviews as soon as is practical, and complete the Intake Report. The Intake Report will be transmitted to the State Department of Administration EEO and Discrimination Unit; to the Office of the Inspector General; and the Personnel Division of the Attorney General's Office. All interviews shall comply with notice and other requirements as set forth in NRS Chapter 284 and NRS Chapter 289.
 - A. EEO Officers are responsible for NOTIS entries regarding allegations of sexual harassment filed directly with their offices. EEO Officers shall ensure that all allegations entered by them directly into NOTIS have an access level of IG Supervisory level or above. After the IG reviews the allegation(s), the IG may reclassify it within NOTIS.
8. EEO staff and all involved management officials shall maintain confidentiality for the alleged victim and the alleged harasser to the extent possible.
9. Department staff shall allow State Department of Administration Investigators or EEO Officers access to any staff they believe to be relevant to the investigation of a complaint.
10. Completed NDOC Unit Investigation reports shall be provided to the Director and the EEO officials.

A. After the investigation is complete, the Director will determine the appropriate resolution of the case.

B. The Director may consult with any persons regarding a finding in a case to include, but not limited to the employee, EEO Officer, Inspector General, Attorney General, and/or witness.

C. The Director may require a finding to be reviewed by the EEO Officers and the Inspector General.

D. The Director may determine no action is necessary for a complaint based on the results of an investigation and/or EEO review.

E. The Director may find a basis for disciplinary action and refer the case to the Inspector General for further action.

11. When a management official receives a complaint from a Department employee and the allegations of sexual harassment are against a non-employee, the non-employee alleged to be responsible shall not be allowed in the employee's work area until the Director has made a final decision.

12. Filing an informal complaint with the Department and/or the State Department of Administration's investigative unit does not prohibit employees from exercising their right to file a formal complaint, regarding the same matter. Formal complaints *must* be filed with either the State Nevada Equal Rights Commission (NERC) or the Federal Equal Employment Opportunity Commission (EEOC) regulatory agencies.

13. Informal discrimination complaint case files and records are the property of the Department and confidential, unless otherwise provided by law or regulation.

305.03 EXTERNAL FORMAL COMPLAINT PROCESS

1. Employees electing to file a formal complaint with NERC must file their charges not later than 300 calendar days from the date of the alleged violation and/or the last action by the agency, to ensure a timely complaint.
2. Employees electing to file a formal complaint with the EEOC must file their charges not later than 180 calendar days from the date of the alleged violation and/or the last action by the agency, to ensure a timely complaint.
3. NERC and/or EEOC will determine whether they will accept a charging party's allegations for investigation. If accepted, a formal charge notice will be sent to the EEO, Division Administrator.

4. Department staff who mistakenly receives a charge notice shall contact the EEO Office immediately. The charge notice shall be handled as confidential. Non-EEO officials are prohibited from responding to any formal charge or making copies of a formal charge notice.
5. EEO officers are responsible for making any inquiries required for the preparation of the Department's official agency response to NERC and/or EEOC. All interviews shall comply with notice and other requirements as set forth in NRS Chapter 284 and NRS Chapter 289.
6. NERC and/or EEOC will provide all findings of discrimination and/or the dismissal of a case to the EEO Division Administrator.
 - A. If the decision does not render a finding of sexual harassment or discrimination, a Notice of Dismissal and a "Right to Sue" letter will be provided to the Charging Party and the EEO Office.
7. EEO officers shall refer any orders for conciliation to the Office of the Attorney General.
8. EEO discrimination complaint case files and records are confidential and are the property of the Department and shall be kept confidential unless otherwise provided by law or regulation.

305.04 INVESTIGATIONS

Employees are responsible for cooperating in the investigation of complaints of alleged sexual harassment and cooperating with the efforts of the Department to prevent and eliminate sexual harassment and to maintain a working environment free from such unlawful conduct. Pursuant to NAC 284.650, failure to participate in any investigation of alleged sexual harassment is cause of disciplinary action.

305.05 ILLEGAL RETALIATION

Acts of retaliation against any individual who elects to file a charge of sexual harassment, who assists with the filing of a complaint, who voices their opposition to an alleged discriminatory act, policy, or procedure, and/or who participates in an investigation are prohibited. Federal and State law protects participation in any of the above aspects of the complaint and investigative processes. The Department shall take immediate and appropriate action to stop and eliminate any retaliatory misconduct by employees or non-employees.

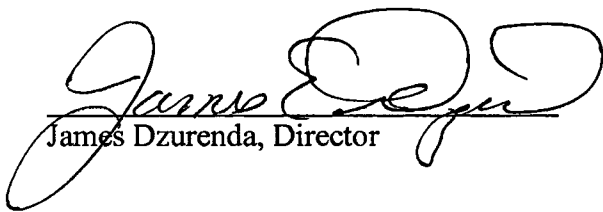
305.06 TRAINING

1. The Human Resources Office and EEO Administrator shall include topics on all forms of illegal discrimination and harassment in the curriculums for Pre-Service Training (custody/non-custody), Supervisory Training, and Refresher Training.

2. The Human Resources Office and EEO Administrator are responsible for EEO, Prevention of Sexual Harassment and Cultural Awareness training. EEO Officers conduct the prevention of sexual harassment training for all Department staff including administrators, managers, supervisors, non-supervisory personnel, and new hires. EEO Officers also conduct refresher and specialty training, on the subject of sexual harassment.

APPLICABILITY

1. This regulation does not require an Operational Procedure.
2. This regulation does not require an audit.


James Dzurenda, Director

8/30/17
Date