

Nevada Department of Employment, Training and Rehabilitation
Employment Security Division
Workforce Programs

Workforce Innovation and Opportunity Act (WIOA)
State Compliance Policy (SCP)

Policy Number: 4.5

Originating Office: Department of Employment, Training and Rehabilitation (DETR); Workforce Programs

Subject: Sexual Harassment Grievance/Complaint Procedures

Revised: November 2020 Workforce Innovation Opportunity Act (WIOA)

Purpose: To establish procedures for resolution of sexual harassment grievances and complaints occurring in WIOA related activities.

State Imposed Requirements: This directive contains state-imposed requirements. These requirements are printed in ***bold, italicized*** type.

Authorities/References: Section 703 of Title VII of the Civil Rights Act of 1964, 20 CFR Subpart F, 29 CFR §38.10, 29 CFR §1604.11 (f), NRS 613.330, NRS 613.405, NAC 284.771, Nevada SCPs

ACTION REQUIRED: Upon issuance bring this guidance to the attention of all WIOA service providers, Local Board members and any other concerned parties. Any local boards' policies, procedures, and or contracts affected by this guidance are required to be updated accordingly.

Background: General grievance and complaint procedures for WIOA activities are described at 20 CFR 683 Subpart F (Grievance Procedures, Complaints and State Appeals Processes), and discrimination at 29 CFR 37. Additionally, the State of Nevada addresses discrimination complaint procedures and sexual harassment respectively at NRS 613.330 and NAC 284.771.

- 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, including sexual harassment. No employee, either male or female, should be subject to unsolicited and unwelcome verbal or physical conduct of a sexual nature.

- Sexual harassment does not refer to comments or compliments that constitute socially accepted behavior. Rather, sexual harassment refers to conduct that is unwelcome, that is personally offensive, that debilitates morale and that, therefore, interferes with work effectiveness.
- All people related to the workplace (applicant, participant, subgrantee, funding applicant, subcontractor, employee, applicant for employment) are covered by this policy.

Policy and Procedure:

Definitions: Sexual Harassment and Discrimination Policy (Department of Administration, Human Resource Management – State of Nevada Employee Handbook):

Sexual harassment is a form of discrimination that is unlawful under State and federal statutes. The State of Nevada regards it as a very serious offense that, under certain conditions, can lead to termination even on the first occurrence. “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, or any other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual.
3. Such conduct has the purpose or effect of unreasonably interfering with the individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Employees have the right to raise the issue of sexual harassment or discrimination without reprisal. If an individual believes they have been a victim of sexual harassment or discrimination, they are encouraged to advise the individual believed to have engaged in sexual harassment or discrimination, that the conduct is unwelcome, undesirable, or offensive. If the individual elects not to confront the alleged harasser or if the conduct persists after objection, the individual should inform their immediate supervisor, or next level of authority, and/or Human Resources. Harassment is an organizational problem and the State wants to know about it so that prompt and appropriate action can be taken to ensure that no further incidents occur with the present victim or other employees in the future. If the individual experiences or witnesses sexual harassment or discrimination, they should report it by doing one of the following:

- Report the incident(s) to your agency coordinator.
- File an online complaint at: <http://neats.state.nv.us>.
- Complete form Sexual Harassment or Discrimination Complaint form (NPD-30) located on the Division of Human Resource Management website.
- Call the Division of Human Resource Management’s Harassment/ Discrimination Hotline at (800) 767-7381

Employees are also entitled to file a complaint with the Equal Employment Opportunity Commission (<https://www.eeoc.gov>), the Nevada Equal Rights Commission

(https://detr.nv.gov/Page/Equal_Rights_Commission) or consult with an attorney or labor representative. The State of Nevada Executive Branch Sexual Harassment and Discrimination Policy prohibits retaliation against employees who bring sexual harassment or discrimination charges or assist in investigating charges. Any employee bringing a sexual harassment or discrimination complaint or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment, nor discriminated against or discharged because of the complaint. Failure to participate in any investigation of alleged discrimination, including an investigation concerning sexual harassment, may lead to disciplinary action. (NRS 233.160, 613.330, 613.405, NAC 284.650, 284.771)

Grantee Responsibilities:

Sexual harassment, whether committed by a supervisor, co-worker, or member of the public, is unlawful and violates state policy. State grantees are responsible for taking immediate and appropriate corrective action against complaints of sexual harassment regardless of the manner in which the employer becomes aware of the conduct. In addition, state grantees shall:

- A. Designate and make public the name of the Equal Opportunity (EO) officer and an alternate EO officer of the opposite sex [29 CFR Part 38.2823)].
- B. Inform all employees that they may contact the Nevada Equal Rights Commission (NRS 613.405). Any person injured by an unlawful employment practice within the scope of NRS 613.310 to NRS 613.435, inclusive, may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.
- C. If desired, the complainant may file a complaint directly with the Civil Rights Center (CRC) (within 180 days of an incident), the Nevada Equal Rights Commission, the Equal Employment Opportunity Commission (within 300 days of an incident), or outside legal counsel.

Civil Rights Center
Department of Labor
200 Constitution Ave., N.W., Room N4123
Washington, D.C. 20210
TTY 1(877) 889-5627

or

Nevada Equal Rights Commission
1325 Corporate Blvd., Room 115
Reno, Nevada 89502
Telephone Number: (775) 823-6690
NV Relay 771 or (800) 326-6868

or

Nevada Equal Rights Commission
1820 East Sahara Avenue, Suite 314
Las Vegas, Nevada 89104 Telephone Number: (702) 486- 7161
NV Relay: 771 or 1 (800) 3266868

or

Equal Employment Opportunity Commission
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012 Telephone Number: 213-894-1000
TTY: 1 (800) 669-6820
ASL Video Phone: 1(844) 234-5122

Grantee Employees:

Grantee employees are responsible for:

- A. Ensuring that they do not sexually harass any other employee, applicant for employment, or other individual in the workplace including participants, applicants, etc.;
- B. Cooperating in the investigation of complaints of alleged sexual harassment; and
- C. Otherwise cooperating with the efforts of the state or grantee to prevent and eliminate sexual harassment and to maintain a working environment free from such unlawful discrimination.

Informal Complaint Procedure:

- A. Grantee employees or participants who feel they may have been a victim of sexual harassment should adhere to the following procedure:
 - a. Immediately inform the person believed to be engaging in sexual harassment that the conduct was unwelcome, undesirable, or offensive.
 - b. If, for whatever reason, the complainant is unwilling to follow the above (A) initial attempt to settle the dispute or if the conduct believed to be sexual harassment persists after an objection, the complainant should, in a timely manner, notify his or her immediate supervisor or counselor of the sexual harassment.
 - c. If the immediate supervisor or counselor is the cause of the sexual harassment, or the complainant prefers to report to someone of the same sex, the employee should notify the EO officer or the alternate EO officer.

- d. If the EO officer is the cause of the sexual harassment, the complainant should contact the alternate EO officer, the Nevada Equal Rights Commission, or the State EO officer for guidance.

The informal reconciliation shall be attempted within ten (10) days of the complaint. If this is not possible, the complainant shall file a formal complaint and follow the procedures set forth in WIOA State Compliance Policy, Section 4.4.