

NEVADA DEPARTMENT OF EDUCATION

PROCEDURES FOR THE PREVENTION OF DISCRIMINATION, HARASSMENT, AND SEXUAL HARASSMENT ALL BENEFICIARIES

The Nevada Department of Education (hereafter the “NDE”) is an equal opportunity employer and does not discriminate in any employment practice on the basis of race, color, sex, age, religion or religious creed, national origin, sexual orientation, ancestry, or disability. This procedure extends to contracted employees and beneficiaries of NDE services. Matters of recruiting and hiring, working conditions, training, promotion, and terms and conditions of employment are covered under State of Nevada Personnel and can be accessed by the NDE website (www.doe.nv.gov)

- Unlawful discrimination, harassment, and sexual harassment will not be tolerated.
- All employees and beneficiaries shall cooperate with the investigation, by NDE supervisors, directors, or Superintendents’ office, of an alleged act of discrimination, harassment, or sexual harassment.
- The NDE will not retaliate against any person who has filed a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing conducted by authorized representatives.

I. HARASSMENT

- A. Harassment of an individual constitutes unlawful discrimination when the victim perceives the work environment to be hostile and the harassing conduct is sufficiently pervasive or severe that a reasonable person would find it hostile or abusive.
- B. Whether conduct constitutes unlawful harassment depends on all of the circumstances of the particular case. Examples of conduct that may, depending on the particular circumstances, constitute unlawful harassment include, but are not limited to:
 1. Slurs, epithets, derogatory or degrading comments, threats, or verbal abuse;
 2. Offensive and unwelcome posters, drawings, pictures, or gestures;

3. Offensive and unwelcome jokes, stories, rumors, or teasing; and
4. Any other physical, verbal, or visual conduct that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.

II. SEXUAL HARASSMENT

- A. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute unlawful sexual harassment when:
 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 2. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
- B. Examples of conduct that may, depending on the circumstances, constitute unlawful sexual harassment include, but are not limited to:
 1. Sexual assault, coerced intercourse, fondling, patting, pinching, or other actual or attempted unwanted physical touching;
 2. Sexual propositions, pressure for sex, or insistent and unwelcome invitations for dates
 3. Slurs, epithets, derogatory or degrading comments, sexual innuendoes or remarks, threats, or verbal abuse of a sexual nature;
 4. Offensive and unwelcome posters, drawings, pictures, or gestures;
 5. Offensive and unwelcome jokes, stories, rumors, sexual horseplay, ogling, or teasing; and
 6. Any other physical, verbal, or visual conduct that is related to the individual's sex and has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.
- C. A harasser may be the victim's supervisor, a contract worker, a beneficiary of NDE, an agent of the employer, a supervisory employee who does not directly supervise the victim, a non-supervisory employee (co-worker), or in some circumstances, even a non-employee.

- D. The victim does not have to be the person at whom the unwelcome conduct is directed. It can also be someone who is offended by such conduct when it is directed toward another person. For example, the harassment or sexual harassment of a female (or male) employee may create an intimidating, hostile, or offensive working environment for another female (or male) co-worker or unreasonably interfere with the co-worker's work performance.

III. INTERNAL REPORTING PROCEDURES

- A. In the event beneficiaries believe they have been or are being victimized as the result of discrimination, harassment or sexual harassment, they may use the complaint procedures contained in this document, or if the alleged act(s) of discrimination, harassment, or sexual harassment is related to a decision(s) made by a supervisor or administrator, the beneficiary may use the grievance appeal procedures contained herein.
- B. Beneficiaries, who allege discrimination because of a disability under the provisions of the Americans with Disabilities Act of 1990, or who allege that they require a reasonable accommodation, must make their situation known to the proper administrator.
- C. Although beneficiaries are encouraged to avail themselves of this procedure, it is understood they may, at any time during the process or at its completion, seek relief in accordance with the provisions of applicable federal or state statutes.

IV. WRITTEN COMPLAINT

- A. Beneficiaries who have complaints regarding alleged discrimination, harassment, or sexual harassment shall file written complaints with the director, Deputy Superintendent or the NDE Superintendents' office.
- B. The written complaint should be made within a reasonable period of time following the occurrence of the alleged unlawful conduct. It shall be detailed and shall include the following:
 - 1. A description of the events in question and the date(s) of the occurrence(s).
 - 2. The name(s) of the individual(s) involved, including persons responsible and witnesses.
 - 3. The specific alleged unlawful acts, which were perpetrated against the complainant.
 - 4. The desired action for resolution.

5. The complainant shall sign and date the written complaint.

V. INTERNAL INVESTIGATIVE PROCEDURES

- A. In the event a beneficiary has lodged a complaint regarding alleged discrimination, harassment or sexual harassment, the complaint shall be handled in the following prompt and equitable manner:
1. Within ten (10) working days after receiving a written complaint, the NDE director, Deputy Superintendent or the NDE Superintendent's office will begin the investigation with a resolution within thirty (30) working days.
 2. The director, Deputy Superintendent or the NDE Superintendents' office shall investigate the allegations made by the complainant. The individual responsible for the investigation shall, at a minimum, accomplish the following:
 - a. Review all statements, evidence, and documents currently available in order to become acquainted with the facts of the complaint and to help plan the investigation.
 - b. Determine the scope of the inquiry.
 - c. Open and organize an investigative file.
 - d. Determine potential witnesses and evidence to gather, if any.
 - e. Determine additional or clarifying information needed, if any.
 - f. Conduct interviews as necessary.
 - g. Gather supporting documentation and evidence as necessary.
 - h. Analyze the evidence.
 3. Following the investigation, the individual responsible for the investigation shall make a determination as to whether the complaint is, in whole or in part, justified or unjustified.
 4. If the investigation was conducted by an NDE director, they shall submit a written report of his or her findings to the Deputy Superintendent, with a remedy for resolution.
 5. If the investigation was conducted by the Deputy Superintendent, they shall submit a written report of his or her findings to the Superintendents' office with a remedy for resolution.

- B. Beneficiaries who allege discrimination or harassment will not be penalized as a result of their allegations in future consideration for recruitment, hiring, contract agreements, licensing, transfer, promotion, and other terms and conditions of employment and no potential employer will be informed that an employee or beneficiary has filed previous discrimination complaints.
- C. In determining whether the conduct at issue in the alleged complaint constitutes discrimination or harassment, the investigating individual will look at the record as a whole and at the totality of the evidence collected. A determination and remedy, if appropriate, will be based on the facts, on a case-by-case basis.
- D. All information gathered by the investigating parties in the course of their investigation of an alleged unlawful discriminatory practice will remain confidential except to the extent necessary to conduct an investigation, resolve the complaint, serve other significant needs, or comply with law.

VI. APPEAL LEVEL

- A. If the alleged act(s) of discrimination, harassment, or sexual harassment is related to a decision(s) made by a director, the beneficiary may use the appeal procedure stated below.
- B. All beneficiaries have the right to appeal a decision made by a director. Procedures for appeal are as follows:
- C. A beneficiary may appeal any decision made by a director by submitting the appeal in writing to the appropriate Deputy Superintendent. If the investigation involves the alleged conduct of a Deputy Superintendent, the Superintendents' office investigates the matter and renders a decision.

VII. EXTERNAL COMPLAINT PROCEDURES

- A. A beneficiary who believes he or she has suffered discrimination, harassment, or sexual harassment may seek relief through external agency or court proceedings.
- B. Individuals who wish to file an external complaint should consult the relevant local, state, or federal agency for information concerning filing periods and requirements and/or seek legal assistance as necessary.

- C. The director, Deputy Superintendent or Superintendents' office may determine that it is unnecessary to investigate an internal complaint if any county, state or federal administrative office, which has jurisdiction to adjudicate complaints of discriminatory practices, has previously made a decision upon the complainant's complaint based upon the same facts and legal theory.
- D. The title IX coordinator will work with individuals on a statewide basis who have concerns regarding allegations of discrimination, harassment or sexual harassment issues to provide information and support including; where to locate forms, how to contact responsible individuals/officers at various levels, updating the NDE Title IX website, conducting preventative training/professional development and offering resources and materials.

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Deputy Superintendent, Administrative & Fiscal Services
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