

**PROPOSED REGULATION OF THE  
PERSONNEL COMMISSION**

**LCB FILE NO. R016-21I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 07/01/2021**

**NAC 284.0995 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Senate Bill 51 of the 2021 Legislative Session (SB 51) amends Chapter 284 of the Nevada Revised Statutes to create the Sex- and Gender-based Harassment and Discrimination Investigation Unit and places into law various requirements of the Division of Human Resource Management and agency appointing authorities.

SB 51 also changes the term “sexual harassment” to “sex- and gender-based harassment” as used in various places throughout Chapter 284 of the Nevada Revised Statutes. This amendment replaces current language to define “sex- and gender-based harassment,” and expands on the type of behaviors that would be considered sex- and gender-based harassment.

**NAC 284.0995** ~~“Sexual”~~ **“Sex- and gender-based harassment” defined.** (NRS 284.065) ~~“Sexual”~~ **“Sex- and gender-based harassment” means :**

**1. Making submission to** unwelcome sexual advances, requests for sexual favors, ~~or~~ **and** other ~~speech~~ **verbal** or physical conduct of a sexual nature ~~when:~~

~~—1. Submission to such speech or conduct is made~~ either explicitly or implicitly a term or condition of a person’s employment;

**2. ~~Submission~~ Making submission** to or the rejection of such ~~speech or~~ conduct **described in subsection 1** by a person ~~is used as the~~ **a** basis ~~for~~ **of** employment decisions affecting that **or any other** person; or

**3. ~~Such speech or conduct~~ Engaging in unwelcome harassing verbal or physical behavior that occurs because of the sex or gender of an individual or individuals and** has the purpose or effect of unreasonably interfering with ~~a person’s~~ **an individual’s** work performance or creating an intimidating ~~hostile~~ or offensive ~~working~~ **work** environment ~~where:~~

**(a) Harassing behavior is of a sexual nature;**

**(b) Harassing behavior is not sexual in nature, but is related to the sex or gender of the victim or others;**

**(c) Harassing behavior is sex- and gender-neutral in content but occurs because of an individual’s sex or gender; or**

**(d) Any combination of types of behaviors described in paragraphs (a) through (c) of this subsection.**

(Added to NAC by Personnel Comm’n by R147-06, eff. 12-7-2006)

**NAC 284.496 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Senate Bill 51 of the 2021 Legislative Session (SB 51) amends Chapter 284 of the Nevada Revised Statutes to create the Sex- and Gender-based Harassment and Discrimination Investigation Unit and places into law various requirements of the Division of Human Resource Management and agency appointing authorities.

This amendment reduces the timeframe that a newly hired employee to complete a class concerning the prevention of sex- and gender-based harassment from 6 months to 30 days.

The amendment also changes the term “sexual harassment” to “sex- and gender-based harassment” based on the amendment to the definition in NAC 284.0995.

**NAC 284.496 Classes and training concerning prevention of ~~sexual~~ sex- and gender-based harassment. (NRS 284.065, 284.155, 284.343)**

1. Within ~~6 months~~ *30 days* after an employee is initially appointed to state service, the employee shall attend a certified class concerning the prevention of ~~sexual~~ sex- and gender-based harassment.

2. At least once every 2 years after his or her initial appointment to state service, an employee shall attend a certified refresher class or training concerning the prevention of ~~sexual~~ sex- and gender-based harassment.

3. An appointing authority may require an employee to retake any part or all of the classes or training required by subsections 1 and 2, or to participate in any additional classes or training deemed necessary by the appointing authority.

4. The appointing authority shall retain the proof of completion by an employee of a class or training required by this section.

5. The Division of Human Resource Management will certify the classes and training concerning the prevention of ~~sexual~~ sex- and gender-based harassment required by this section.

(Added to NAC by Personnel Comm'n by R096-03, 10-30-2003, eff. 1-1-2004)

**NAC 284.498 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Senate Bill 51 of the 2021 Legislative Session (SB 51) amends Chapter 284 of the Nevada Revised Statutes to create the Sex- and Gender-based Harassment and Discrimination Investigation Unit and places into law various requirements of the Division of Human Resource Management and agency appointing authorities.

This amendment adds training related to sex- and gender-based harassment to the required training of supervisors and managers. This training must be completed within 30 days of the employee being appointed to a supervisory or managerial position.

The amendment also changes the term “sexual harassment” to “sex- and gender-based harassment” based on the amendment to the definition in NAC 284.0995.

**NAC 284.498 Training of supervisory and managerial employees. (NRS 284.065, 284.155, 284.343)**

1. Except as otherwise provided in this section:

(a) *Within 30 days after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend a training class concerning sex- and gender-based harassment.*

(b) Within 6 months after an agency initially appoints an employee to a supervisory position or managerial position, the employee shall attend a training class concerning work performance standards and the evaluation of the performance of employees.

~~(b)~~ (c) Within 12 months after an agency appoints an employee to a supervisory position or managerial position, the employee shall attend at least one training class which has been approved by the Division of Human Resource Management in each of the following areas:

(1) The following:

(I) Equal employment opportunity; and

(II) Unlawful discrimination and ~~sexual~~ *sex- and gender-based* harassment;

- (2) Interviewing and hiring;
- (3) Alcohol and drug testing;
- (4) Progressive disciplinary procedures;
- (5) Handling grievances; and
- (6) The following:

- (I) Title I of the American with Disabilities Act of 1990, 42 U.S.C. §§ 12111-12117;
- (II) The ADA Amendments Act of 2008, Public Law 110-325;
- (III) The development of essential functions of positions that are described to each candidate and considered by the appointing authority pursuant to NAC 284.441; and
- (IV) The Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

2. Every 3 years, a supervisor or managerial employee shall complete training which is approved by the Division of Human Resource Management in each of the topic areas described in subsection 1.

3. The appointing authority, at its discretion, may accept, in lieu of the training required by subsection 1, supervisory or managerial training classes in each of the topic areas described in subsection 1 which are approved by the Division of Human Resource Management and taken by the employee during the 3 years immediately preceding the employee's appointment.

4. In addition to the training otherwise required by this section, the Division of Human Resource Management or an appointing authority may require a supervisor or managerial employee to retake any part or all of the training required by this section, or to participate in any additional training or other classes deemed necessary by the Division of Human Resource Management or appointing authority.

5. As used in this section:

- (a) "Managerial position" means a position which is held by an employee who:
  - (1) Formally evaluates supervisors;
  - (2) Is involved in the hiring and firing of subordinate staff;
  - (3) Determines organizational structure within a component of the organization; and
  - (4) Develops, monitors and implements policies to accomplish long-range goals.
- (b) "Supervisory position" means a position which is held by an employee who:
  - (1) Formally evaluates staff;
  - (2) Is involved in the hiring and firing of subordinate staff; and
  - (3) Establishes policies which affect the performance or behavior of subordinate staff.

[Personnel Div., Rule X part § F, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; 5-27-86; 10-18-89; 3-23-94; R197-99, 1-26-2000; A by Personnel Comm'n by R182-03, 1-27-2004; R057-10, 10-15-2010; R139-12, 10-4-2013; R018-19, 6-8-2020)

**NAC 284.650 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Senate Bill 51 of the 2021 Legislative Session (SB 51) amends Chapter 284 of the Nevada Revised Statutes to create the Sex- and Gender-based Harassment and Discrimination Investigation Unit and places into law various requirements of the Division of Human Resource Management and agency appointing authorities.

This amendment changes the term "sexual harassment" to "sex- and gender-based harassment" based on the amendment to the definition in NAC 284.0995.

**NAC 284.650 Causes for disciplinary or corrective action. (NRS 284.065, 284.155, 284.383, 284.385)** Appropriate disciplinary or corrective action may be taken for any of the following causes:

1. Activity which is incompatible with an employee's conditions of employment established by law or which violates a provision of NAC 284.653 or 284.738 to 284.771, inclusive.
2. Disgraceful personal conduct which impairs the performance of a job or causes discredit to the agency.
3. The employee of any institution administering a security program, in the considered judgment of the appointing authority, violates or endangers the security of the institution.
4. Discourteous treatment of the public or fellow employees while on duty.
5. Incompetence or inefficiency.
6. Insubordination or willful disobedience.
7. Inexcusable neglect of duty.
8. Fraud in securing appointment.
9. Prohibited political activity.
10. Dishonesty.
11. Abuse, damage to or waste of public equipment, property or supplies because of inexcusable negligence or willful acts.
12. Drug or alcohol abuse as described in NRS 284.4062 and NAC 284.884.
13. Conviction of any criminal act involving moral turpitude.
14. Being under the influence of intoxicants, a controlled substance without a medical doctor's prescription or any other illegally used substances while on duty.
15. Unauthorized absence from duty or abuse of leave privileges.
16. Violation of any rule of the Commission.
17. Falsification of any records.
18. Misrepresentation of official capacity or authority.
19. Violation of any safety rule adopted or enforced by the employee's appointing authority.
20. Carrying, while on the premises of the workplace, any firearm which is not required for the performance of the employee's current job duties or authorized by his or her appointing authority.
21. Any act of violence which arises out of or in the course of the performance of the employee's duties, including, without limitation, stalking, conduct that is threatening or intimidating, assault or battery.
22. Failure to participate in any investigation of alleged discrimination, including, without limitation, an investigation concerning ~~sexual~~ **sex- or gender-based** harassment.
23. Failure to participate in an administrative investigation authorized by the employee's appointing authority.
24. Failure to report the suspension, revocation or cancellation of a professional or occupational license, certificate or permit or driver's license when required pursuant to NAC 284.652.

[Personnel Div., Rule XII § D, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 7-22-87; 12-26-91; 7-1-94; 11-16-95; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; R147-06, 12-7-2006; R118-17, 10-25-2018)

**NAC 284.696 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Senate Bill 51 of the 2021 Legislative Session (SB 51) amends Chapter 284 of the Nevada Revised Statutes to create the Sex- and Gender-based Harassment and Discrimination Investigation Unit and places into law various requirements of the Division of Human Resource Management and agency appointing authorities.

This amendment changes the term “sexual harassment” to “sex- and gender-based harassment” based on the amendment to the definition in NAC 284.0995.

**NAC 284.696 Unlawful discrimination. (NRS 284.065, 284.155, 284.384)**

1. An employee alleging unlawful discrimination based on any pertinent state or federal law or regulation may:

(a) Report the alleged discrimination to:

- (1) The division of the Division of Human Resource Management that investigates ~~sexual~~ *sex- and gender-based* harassment and discrimination;
- (2) The Attorney General;
- (3) The employee’s appointing authority;
- (4) An equal employment opportunity officer;
- (5) A personnel representative of the department in which the employee is employed; or
- (6) The office charged with enforcing affirmative action within the appropriate university, state college or community college which is part of the Nevada System of Higher Education;

(b) Except as otherwise provided in NRS 284.384, use the procedure for the adjustment of a grievance contained in NAC 284.658 to 284.6957, inclusive; or

(c) File a complaint, other than a complaint described in NAC 284.658, with:

- (1) The Nevada Equal Rights Commission pursuant to NRS 613.405; or
- (2) The United States Equal Employment Opportunity Commission.

2. The appointing authority of an employee who has alleged unlawful discrimination shall promptly notify the deputy attorney general or staff counsel assigned to represent the agency of the allegation and the actions which are being undertaken by the agency to address the allegation.

(Added to NAC by Dep’t of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95; A by Personnel Comm’n by R023-05, 10-31-2005; R026-11, 12-30-2011, eff. 1-1-2012; R033-17, 10-31-2017)

**NAC 284.718 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Senate Bill 51 of the 2021 Legislative Session (SB 51) amends Chapter 284 of the Nevada Revised Statutes to create the Sex- and Gender-based Harassment and Discrimination Investigation Unit and places into law various requirements of the Division of Human Resource Management and agency appointing authorities.

This amendment changes the term “sexual harassment” to “sex- and gender-based harassment” based on the amendment to the definition in NAC 284.0995.

**NAC 284.718 Confidential records. (NRS 284.065, 284.155, 284.355, 284.407)**

1. The following types of information, which are maintained by the Division of Human

Resource Management or the agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished on the condition that the source remain confidential;

(b) Any document which is used in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(d) Any recording or document which is used in the process of interviewing an applicant, including, without limitation, a document containing interview questions, evaluation tools used for rating applicants and any notes concerning an applicant that were taken by a person as part of the process of rating an applicant;

(e) Materials used in examinations, including suggested answers for oral examinations;

(f) Records and files maintained by an employee assistance program offered by the State of Nevada;

(g) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;

(h) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;

(i) Any information contained on a person's application or relating to his or her status as an eligible person; and

(j) Information in the record of employment of a current or former employee which relates to:

(1) The employee's performance;

(2) The employee's conduct, including any disciplinary actions taken against the employee;

(3) The employee's usage or balance of his or her annual leave and sick leave;

(4) The employee's race, ethnic identity or affiliation, sex, sexual orientation, gender identity or expression, genetic information, disability or date of birth;

(5) The employee's personal telephone number;

(6) The employee's social security number;

(7) Any grievance filed by the employee pursuant to NAC 284.678, any response to the grievance and any other documents related to the grievance, unless a hearing is held to determine the disposition of the grievance pursuant to NAC 284.6955;

(8) Any complaint filed by the employee pursuant to NRS 281.755, any response to the complaint and any other document related to the complaint, unless a hearing is held to determine the disposition of the complaint pursuant to NAC 284.6955;

(9) Any request made pursuant to NAC 284.5243 and any response to the request;

(10) The health, medical condition or disability of the employee or a member of his or her immediate family; or

(11) Any claim for workers' compensation made by the employee and any documentation relating to the claim.

2. If the employee has requested that his or her home address be listed as confidential, the employee's record of employment must be so designated and list his or her mailing address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

(a) The employee dies; or

(b) The employee signs a release.

4. Any records in the possession of the Committee on Catastrophic Leave created pursuant to NRS 284.3627 that reveal the health, medical condition or disability of a current or former employee or a member of his or her immediate family are confidential.

5. Any notes, records, recordings or findings of an investigation relating to ~~sexual~~ *sex- or*

*gender-based* harassment or discrimination, or both, and any findings of such an investigation are confidential.

6. Any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct are confidential.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93; R058-01, 9-6-2001; A by Personnel Comm'n by R068-03, 10-30-2003; R182-03, 1-27-2004; R024-05, 10-31-2005; R141-07, 1-30-2008; R065-09, 10-27-2009; R055-10, 6-30-2010; R137-12 & R045-13, 10-23-2013; R175-18, 1-30-2019)

**NAC 284.771 is hereby amended to read as follows:**

**Explanation of Proposed Change:** Senate Bill 51 of the 2021 Legislative Session (SB 51) amends Chapter 284 of the Nevada Revised Statutes to create the Sex- and Gender-based Harassment and Discrimination Investigation Unit and places into law various requirements of the Division of Human Resource Management and agency appointing authorities.

This amendment prescribes that any disciplinary sanctions imposed by an appointing authority shall be proportionate to a violation related to sex- or gender-based harassment.

The amendment also changes the term "sexual harassment" to "sex- and gender-based harassment" based on the amendment to the definition in NAC 284.0995.

**NAC 284.771 ~~{Sexual}~~ *Sex- and gender-based* harassment. (NRS 284.065, 284.155)**

1. ~~{Sexual}~~ *Sex- and gender-based* harassment violates the policy of this State and is a form of unlawful discrimination based on sex *or gender* under state and federal law. An employee shall not engage in ~~{sexual}~~ *sex- or gender-based* harassment against another employee, an applicant for employment, or any other person in the workplace.

2. ~~{Sexual}~~ *Sex- or gender-based* harassment is a very serious disciplinary infraction. An appointing authority may impose harsh disciplinary sanctions on, or dismiss, persons who commit ~~{sexual}~~ *sex- or gender-based* harassment including, without limitation, first-time offenders, *and sanctions shall be proportionate to the violation.*

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 9-16-92; 11-16-95; A by Personnel Comm'n by R147-06, 12-7-2006)