



Nevada Equal Rights Commission

Fosters and protects the rights of all people of the State reasonably to seek, obtain and hold employment and housing, and seek and be granted services in places of public accommodation, without discrimination, distinction or restriction, as prohibited by state and federal discrimination laws.



Nevada Equal Rights Commission

Disability Discrimination



- ❑ Oversees Nevada's equal rights/equal opportunity program in employment, public accommodations, and housing
- ❑ Investigates and resolves complaints of discrimination
- ❑ Provides information and education to businesses and community groups
- ❑ Partners with the EEOC on most employment cases.

Federal Employment Discrimination Laws



- Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Age Discrimination in Employment Act of 1967 (ADEA)
- Americans with Disabilities Act of 1990 (ADA) and Amendments Act of 2008 (ADAAA)
- Genetic Information Nondiscrimination Act of 2008 (GINA)

State Employment Discrimination Laws



- **NRS 613** (Employment)
- **NRS 233** (Public Policy)

What is Employment Discrimination?

❑ Adverse Actions

A concrete action taken against an employee, motivated, at least in part, by one or more of the protected categories. Includes discipline, demotion, discharge, failure to hire, failure to promote, a change in job duties, etc.

❑ Harassment

When a hostile work environment is created, affecting an employee's ability to work, due to name-calling, slurs, derogatory comments, intimidation, ridiculing and demeaning behaviors, etc., that is motivated, at least in part, by one or more protected categories.

Protected Categories

- Race
- Color
- Hair Texture
- National Origin
- Religion
- **Sex**
 - Pregnancy
 - **Sexual Harassment**
- Disability
- Age
- Genetic Information
- Sexual Orientation
- Gender Identity or Expression
- Retaliation
- Criminal Background (public employers)



Retaliation



State and federal employment discrimination laws prohibit retaliation against an individual because he or she has:

- 1) opposed an unlawful employment practice;
- 2) participated in a discrimination case, either as a complainant or as a witness in an investigation, proceeding, or hearing;
- 3) has a reasonable & “good faith” belief that the employer’s conduct was illegal – even if it turns out that the employee was mistaken.

ADA: “Disability” Defined



Prohibits discrimination against “a qualified individual with a disability.”

A person with a disability is a person who has:

- a physical or mental impairment that *substantially* limits one or more major life activities; or
- a record of such an impairment; or
- is regarded as having such an impairment

ADA: “Disability” Defined



Major Life Activities Include:

Sleeping, eating, breathing, hearing, seeing, speaking, walking, sitting, standing, bending, stooping, lifting, caring for one's self, learning, concentrating, communicating, interacting/relating with others, performing manual tasks, sexual activity, and working.

ADA Amendments Act



- Removed consideration of “mitigating measures”
- Changed definition of “substantially limited”
- Put an obligation on employers for interactive dialogue
- Expands major life activities to include reading and major bodily functions
- Conditions that are episodic, or in remission are covered

ADA Amendments Act

What's excluded?

- Conditions that are Transitory (6 months or less) and Minor
- Conditions corrected by eyeglasses or contact lenses



ADA: “Qualified Individual” Defined



A qualified individual under ADA, must also:

- Satisfy the requisite skill, experience and education requirements of the employment position.
- Satisfactorily perform the essential functions of the job, *with or without a reasonable accommodation.*

ADA: Alcoholism and Drug Abuse

- Alcoholism is a disability under ADA.
- *Current* users of illegal drugs are not protected under ADA.
- Employer may still discipline.
- Alcoholics and rehabilitated drug users *may* be accommodated.
- ADA does not require an employer to provide an opportunity for rehabilitation.
- The use of medical marijuana is not protected under ADA.



ADA: What's NOT covered?



- Sexual behavior disorders (voyeurism, pedophilia, exhibitionism)
- Compulsive gambling, kleptomania, pyromania
- Psychoactive substance use disorders from current illegal use of drugs
- An individual whose condition poses a “direct threat” to the health or safety of others, that cannot be eliminated or reduced by a reasonable accommodation

Disability Accommodation



Employers must make “reasonable accommodations” to enable a qualified person with a disability to:

- 1) participate in the job application process;
- 2) perform the essential functions of a job; or
- 3) enjoy equal benefits and privileges of employment;
- 4) *unless* to do so would impose an “undue hardship” on the employer.

Disability Accommodation



- What is “reasonable,” and does not impose an “undue hardship” to the employer, is determined by the needs of the employee, the needs of the employer, and the resources available.
- “Undue hardship” means significant difficulty or expense resulting from the accommodation; if it would be unduly costly, extensive, disruptive, or would fundamentally alter the nature or operation of the business.

Disability Accommodation



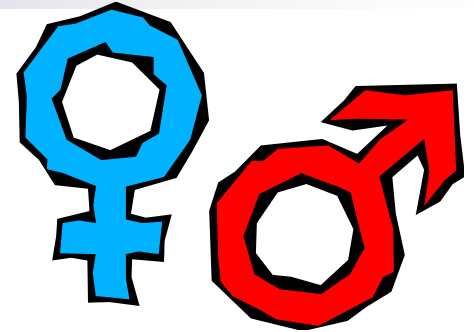
- Reasonable accommodations are any change or adjustment to a job or work environment
- Reasonable Accommodations may include job transfer, schedule change, elimination or alteration of marginal job functions, changes to the physical work environment, or providing specialized tools

Disability Accommodation



- Employers may choose among effective accommodation options.
- Employers do not have to provide personal use items.
- Employers do not have to accommodate individuals who are *not* otherwise qualified for the job.
- Employers do not have to remove essential functions, create new jobs, or lower production or quality standards.

Gender Identity or Expression Defined



- Became law in Nevada effective October 1, 2011
- NRS 613.310 (4):
 - “Gender identity or expression” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.

Jurisdiction for Employment Charges



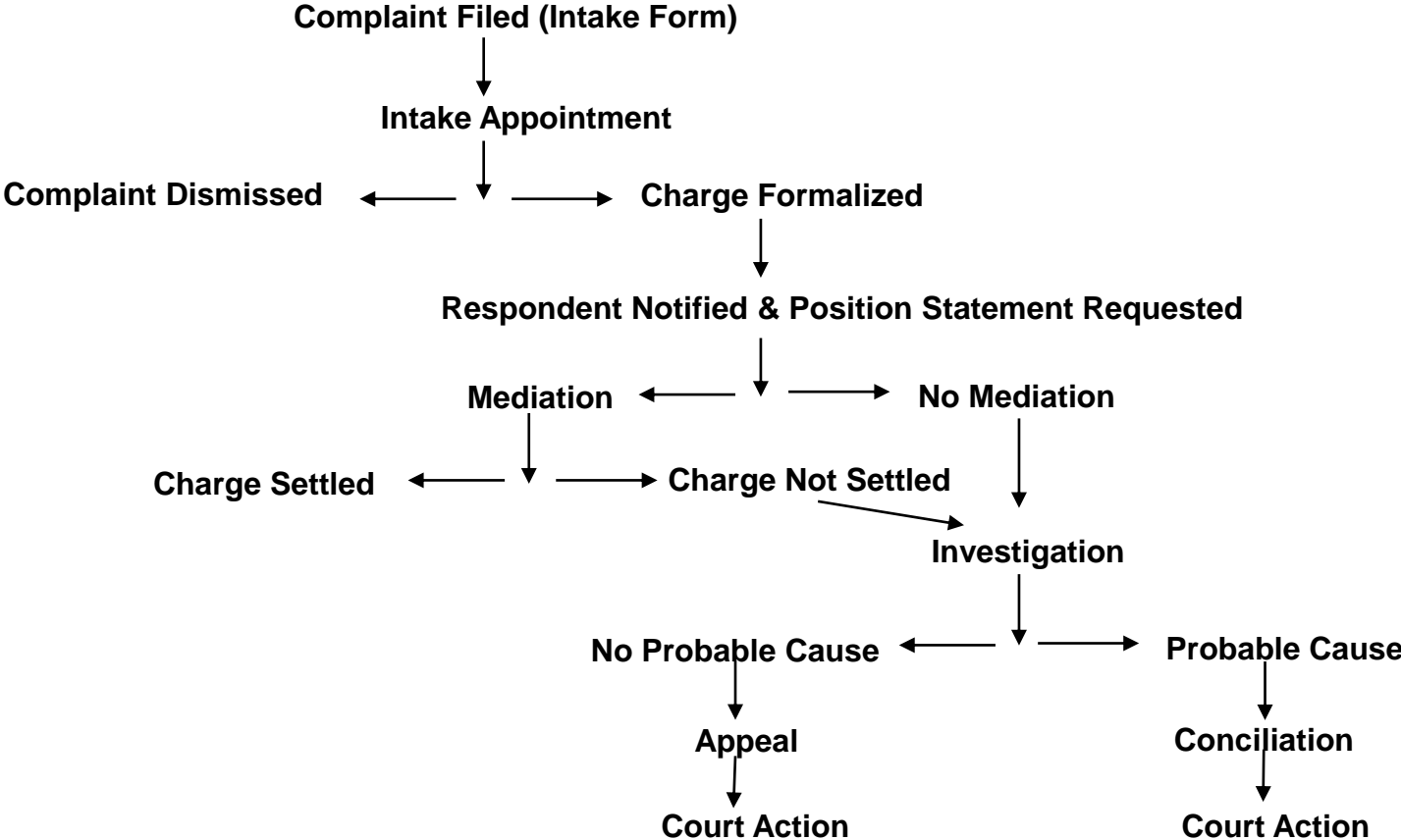
- Employers with 15 or more employees
- Employment/Temp. Agencies
- Labor Organizations (Unions)

Jurisdiction for Employment Charges



- Last date of harm within 300 days of filing
- Business located/licensed in Nevada
- Employer/Employee Relationship exists
 - Control over workplace, hours, provides pay, provides tools, designates when/how to do the work

NERC Complaint Processing



Contacting NERC

WWW.DETR.NV.GOV

OR Engine search “Nevada Equal Rights Commission”

Las Vegas

1820 E. Sahara Avenue, Ste. 314

Las Vegas, NV 89104

Phone (702) 486-7161

Fax (702) 486-7054

Reno

1325 Corporate Blvd., Room 115

Reno, NV 89502

Phone (775) 823-6690

Fax (775) 688-1292

Nevada Relay 711 or 1-800-326-6868