

**Nevada Department of Wildlife
Civil Rights Formal Complaint Procedure**

WHAT IS TITLE IX

Title IX is a U.S. federal civil rights law, passed in 1972, that prohibits sex-based discrimination in any education program or activity that receives federal funding.

WHAT IS SECTION 504

Section 504 of the Rehabilitation Act is a U.S. federal civil rights law, passed in 1973, that prohibits discrimination based on disability.

DEFINITIONS

***The Department** – Nevada Department of Wildlife*

***Complainant** – Person(s) who feels they were discriminated against or harassed, and a violation of their civil rights has occurred.*

***Witness** – Person(s) who sees a person or people being discriminated against, harassed or otherwise a violation of their civil rights.*

***Respondent** – Person(s) who is being accused of violating civil rights and/or harming the complainant.*

***Formal Complaint** – A document submitted by the complainant that is signed by the complainant. This complaint will be investigated by the Civil Rights coordinator and possibly escalated.*

***Informal Complaint** – A document submitted by a witness or a complainant that is not signed. This complaint will be taken into consideration, but no investigation by the Civil Rights coordinator is required.*

GENERAL COMPLAINT PROCESS

Submitting a Formal Complaint

A complaint may be submitted by any individual, including a person who witnesses a potential Title IX violation or a violation of Section 504 of the Rehabilitation Act. However, a formal complaint must be initiated by the individual whose rights are alleged to have been violated under Title IX.

To contact the Nevada Department of Wildlife Civil Rights Coordinator for information or to report behaviors of concern, including but not limited to discrimination on the basis of race, color, national origin, age, sex, or disability please contact:

NDOW Directors Office: ndowdirectorsoffice@ndow.org

Director's Office

Nevada Department of Wildlife
6980 Sierra Center Parkway, Suite 120
Reno, NV 89511

Initiating contact does not constitute submitting a formal complaint under Title IX.

When submitting a complaint, please include as many details as possible. Required fields must be completed to submit a complaint. Please note that submitting a complaint anonymously may greatly limit the Department's ability to address the concern.

Upon receipt of the complaint, the Civil Rights Coordinator will review the information submitted and take proper steps to investigate, stop, prevent, and/or remedy prohibited conduct in accordance with state and federal law.

The Nevada Department of Wildlife respects the sensitivity of the information that may be included in a complaint and will make all reasonable efforts to protect the privacy of those involved, in accordance with applicable state and federal law, while balancing the need to gather information to address the incident and take steps to eliminate prohibited conduct in order to protect Nevada Department of Wildlife program participants.

The formal complaint form will be emailed directly to those wanting to submit a formal complaint after contacting the Civil Rights Coordinator. Additionally, if a witness wants to submit an informal complaint, the appropriate form will be sent to them.

Receiving a Formal Complaint

Once a formal complaint is filed, with supporting evidence attached, the Civil Rights Coordinator will initiate the review process to determine if any civil rights violations have occurred. At this stage of the process communication with the complainant shall be conducted by the Civil Rights Coordinator. The Civil Rights Coordinator shall, as appropriate, keep the Division Administrators, Human Resources, and the Director's informed of the filing of any formal complaints and the general nature of the complaints.

The Civil Rights Coordinator will provide recommendations to remedy concerns, including any reasonable accommodations or program modifications the Department may implement, and will determine whether the complaint should be escalated to a formal investigation. If the complaint is not escalated, the complainant shall be notified in writing of any proposed modifications to programs or services and, if applicable, of the dismissal of the complaint.

Formal Complaint: Dismissal

If the conduct alleged in the formal complaint is found to not have violated civil rights, not have occur during a Department education program or activity, or not have occur against a person in the United States, then the Department will dismiss the formal complaint.

The Department may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:

- A complainant notifies the Civil Rights Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein.
- Specific circumstances prevent the Department from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Written notice of the dismissal and reason(s) therefore will be provided simultaneously to the parties.

Formal Complaint: Investigation

When investigating a formal complaint, the Department will ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the Department and not on the parties.

The investigation will consist of the Civil Rights Coordinator being in contact with the complainant, respondent, and all witnesses. Collecting evidence from all involved parties, and evaluating this evidence is all a part of the investigation. The Civil Rights Coordinator with Human Resource will conduct the investigation. The Department will also:

- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- Avoid restricting the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- Provide the parties with the same opportunities to have others present during any complaint proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or complaint proceeding. However, the advisor will not be permitted to advocate for you or to answer any questions on your behalf, their role is to advise and assist you.
- Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
- Prior to completion of the investigative report, send an electronic format or hard copy, to each party and the party's advisor, if any, all evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, and afford the parties ten (10) days so that each party can inspect, review, and meaningfully respond to the evidence through submission of a written response, which the investigator will consider prior to completion of the investigative report. The investigator may complete the report if no submission is received after ten (10) days. The Department will make all such evidence available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
- Create an investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to a hearing (if a hearing is required) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. Each party's written response, if any, shall be submitted to the investigator at least three (3) days prior to the live hearing.

Formal Complaint: Live Hearing

If the investigation results in a live hearing, a hearing board made up of four people will convene to hear from the respondent, complainant, and witnesses. The hearing board will be made up of one representative from the Director's Office, two Division Administrators and/or a Law Enforcement representative, and one representative from Human Resources. The hearing board will not include the Civil Rights Coordinator or any investigator(s). The hearing board is given the investigative report, notice letter, and any other supporting documents.

At the live hearing, the hearing board must permit each party's advisor during cross-examination to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. The advisor will have no other role in the hearing but may advise and assist the party they are advising. If a party does not have an advisor present at the live hearing, the Department will provide, without fee or charge to that party, an advisor of the Department's choice, who shall not be an attorney, to conduct cross-examination on behalf of that party.

The live hearing may be conducted with all parties physically present in the same geographic location or, at the Department's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either party, the Department will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the hearing officer(s)/decision maker(s) and parties to simultaneously see and hear the party or the witness answering questions.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing board must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. For the purposes of this section, "relevant" means a question or evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the question or evidence.

If a party or witness does not submit to cross-examination at the live hearing, the hearing board will not rely on any statement of that party or witness in reaching a determination regarding responsibility. The hearing board will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

The hearing board will issue a written determination regarding responsibility under the preponderance of the evidence standard within 14 calendar days of the live hearing. The written determination will be issued to the parties simultaneously.

An audio or audiovisual recording, or transcript, will be made of any live hearing and it will be made available to the parties for inspection and review.

The written determination becomes final either on the date that the Department provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Written Determination is Appealed

Appeals are not intended to be a full rehearing of the complaint process. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanctions are presumed to have been decided reasonably and appropriately. Appeals are limited to a review of relevant appeal materials based upon the grounds stated below. A party wishing to seek an appeal must submit their written appeal with the Civil Rights Coordinator within five (5) calendar days of the written

determination. The deadline by which an appeal must be filed will be communicated in the written determination. Failure to file an appeal by the deadline means the determination of the hearing board is final.

The review on appeal is limited to the record, except in appeals based on newly discovered evidence that could affect the outcome of the matter and that was not reasonably available at the time the determination regarding responsibility or dismissal was made. In such appeals, newly discovered evidence may be considered on appeal notwithstanding its absence from the record.

Within five (5) calendar days, any party may appeal from a determination regarding responsibility, and from the Department's dismissal of a formal complaint or any allegations therein, on the following bases:

- Procedural irregularity that affected the outcome of the matter.
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
- The Civil Rights Coordinator, investigator(s), or hearing board member(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Within three (3) calendar days of receiving a timely filed, written appeal, grounded on one of the three bases stated above, the Department will notify the other party in writing that an appeal has been filed. This notice will inform the other party of their right to respond to the appeal. The other party will receive access to a copy of the appealing party's written appeal to prepare a response. The other party will have five (5) calendar days to submit a written response to the appeal. The response is limited to addressing the appeal within the bases stated above.

The Appellate Officer (a representative from the Nevada Department of Wildlife Human Resources or the Nevada Division of Human Resources, who was not involved in the first hearing) will review all relevant documents related to the matter, including but not limited to, the record from the hearing, the written appeal, and appeal response. A written decision describing the result of the appeal and the rationale for the result, will be issued to the parties, simultaneously, within five (5) calendar days of receiving a timely filed written response to the appeal, or, if a timely filed written response is not received, within five (5) calendar days of the due date of such response.

The decision of the Appellate Officer is final.