The committee makes the following recommendations to the Executive Committee:

I. **Structure of new human resources office:**

A. The Legislative Workplace Interim Study Committee ("Committee") considered establishing the human resources office (the "Office") as a new service agency and also considered establishing it as part of either the Legislative Council Staff or the Office of Legislative Legal Services. The Committee recommends that the new human resources office be established as part of the Office of Legislative Legal Services ("OLLS"). OLLS has experience in some of the functions recommended to be assigned to the new Office, can offer legal advice to the Office, has current confidentiality requirements, and has experience offering assistance to all service agencies. While the Committee considered whether to adopt additional protections to insulate the Office from partisan issues, because the Office was placed under OLLS, the Committee recommends that no further protections are necessary.

B. The Committee considered a broad range of human resources functions that could be assigned to the Office. The Committee believes that the Office should be responsible for the following functions for the legislative department:

a. Employee relations, including consultation regarding personnel issues and performance management, assistance with development of policies (i.e. employee handbooks), response to requests for information related to unemployment claims, and response to requests for information related to formal Equal Employment Opportunity or Colorado Civil Rights Division claims;

b. Overseeing an anonymous complaint reporting tool, as described in subsection I.F., below;

c. Receiving and resolving formal and informal workplace complaints, as described in sections II. through VI. below;

d. Drafting guidelines for appropriate accountability with a list of potential violations and potential consequences;

e. Cultivating workplace respect under a new workplace expectations joint rule and policy, as described in section IX. below;

f. Creating and conducting or overseeing harassment prevention training for members, staff, and third parties, as described in section X. below;

g. Handling complaints concerning the federal Americans with Disabilities Act.

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C. The Committee considered the number of employees necessary to fulfill the responsibilities assigned to the Office and determines that the Office will require at least two full-time employees.

D. The Committee was concerned about the location of offices for employees of the Office. The Committee recommends that the Office have physical locations in both the Capitol and on the sixth floor of 1525 Sherman Street. To maintain privacy and confidentiality, the offices need to have doors opening directly into a public hallway so that persons may enter the office without going through another agency's front office.

E. The Committee recognized that the new Office does not fulfill many of the duties generally served by a human resources office, such as payroll, compensation and classification, and benefits administration, and calling the Office the Office of Human Resources may lead to confusion. Three members thought that new human resources office should be called the Office of Legislative Culture, one thought it should be the Office of Workplace [or Employee] Relations, and one thought that it should be the Office of Employee Relations. For purposes of the exhibits, we have used the Office of Human Resources as the name of the Office.

F. The Committee considered whether there should be an anonymous complaint reporting tool. The Committee was told that an outside anonymous tool could be established at a yearly cost of approximately $12,000 (or possibly less given the potential for a government discount). Five of the six members recommended that such a tool be established. One member believed that anonymous complaints should not be accepted.

G. The Investigations Law Group ("ILG") report recommended that there be an ombudsperson within the Office. The Committee recommends that there not be a formal ombudsperson in the Office, but that the Office make available nonlegal advocates to both victims and respondents. Victims and respondents should also be allowed to choose their own attorneys at their own cost.

II. **Persons who may receive complaints under the policies:**

The Committee considered who should receive complaints under the workplace harassment policy or the workplace expectations policy. The Committee recommends that employees of the Office be the only persons who may accept complaints; except that, if necessary, the director of the Office may designate a person of the opposite gender of the employees of the Office to accept complaints. The director of OLLS, or the director's designee of the opposite gender, would be able to accept complaints related to the conduct of the employees of the Office.

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III. **Informal workplace complaint resolution process:**

A. The ILG report recommended that there be an informal process for resolving workplace complaints. The Committee also heard that there had been informal resolutions of such complaints previously. The Committee recommends that an informal resolution process be established.

B. The informal process should be as flexible as possible and be open to any member, employee, or third party.

C. The informal process is voluntary on the part of both the complainant and the respondent and should be handled within the Office with the goal of completing the process within thirty days after the parties agree to the process.

D. The informal process is to be confidential, except that:

a. While the Office is to maintain records, such records remain confidential and should be maintained by the Office for ten years or after the last party involved is no longer within the legislative workplace, whichever is longer;

b. If the Office finds a pattern of issues with a respondent under the informal process, the Office may disclose to the respondent's supervisor or caucus leadership the issues raised without disclosing the identity of any person involved in the process except for the respondent;

c. The Office shall collect nonidentifying, statistical data regarding informal complaints and shall annually submit a report to the General Assembly on informal complaints received during the previous calendar year.

IV. **All formal workplace harassment complaints:**

A. A formal workplace harassment complaint investigation will only be initiated with the approval of the complainant unless the Office determines that the initiation of such an investigation is necessary for the protection of the workplace. The standards for whether an action is necessary for the protection of the workplace are:

a. Sexual assault;

b. Physical violence;

c. Threats of violence against a complainant or others;

d. A repeated pattern or history of harassing behavior or other criminal behavior, either explicit or implicit; and

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e. Four members agreed with the recommendation that retaliation should be handled as a formal complaint resolution process and one member thought it should be handled on a case-by-case basis.

B. Participation in a formal workplace complaint investigation is:
   a. Mandatory for partisan and nonpartisan staff;
   b. Voluntary for members, but if a member does not participate in an investigation, the Office may report the lack of participation to leadership; and
   c. Encouraged for third parties.

C. Prior to meeting with a respondent, the investigator shall inform the respondent of the general nature of the allegations, but shall not provide the respondent with a copy of any complaint.

D. The Office shall orally inform both the complainant and the respondent of the following and offer the information in writing, but shall not send the information to the party, except through a private email account designated by the individual:
   a. The process, including a timeline;
   b. The party's rights and responsibilities, including the requirement or importance of maintaining confidentiality;
   c. The prohibition on retaliation and the consequences; and
   d. The resources available to the party.

E. The Office shall offer remedial and protective measures to both the complainant and the respondent. The General Assembly shall pay for victim advocate services for complainants and navigator services for respondents. Such services include counseling and accompanying a party to interviews and hearings, but do not include representation or speaking or advocating for the party.

F. An anti-retaliation plan shall be offered to each party and to any witness and shall only disclose to others, such as leadership or the state patrol, the information necessary to implement the anti-retaliation plan. Four members believed that the policy should provide that retaliation includes either party releasing the identity of the other party unless the party's identity has previously been disclosed by others. One member believed this should be determined on a case-by-case basis.

G. Factual finding in an investigation shall be made based on a preponderance of the evidence. A finding of a violation of the policy would require both a finding that the complainant subjectively found the actions to be offensive and an objective finding that a reasonable person in the complainant's position would have found the actions to be offensive.

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V. **Formal workplace harassment complaints against nonpartisan staff:**

A. All formal complaints against nonpartisan staff shall be handled by the Office. The Office may either conduct the investigation in-house or contract with another entity to conduct the investigation.

B. Investigatory report:

a. Three members recommended that the Office provide the complainant and respondent with an executive summary of the investigatory report containing the factual findings of the investigation, and two members recommended that the parties receive a copy of the full, unredacted report.

b. Three members recommended that the Office provide the director of the nonpartisan office with a copy of the investigatory report with the names of the complainant and the witnesses redacted, and two members recommended that the Office provide the director of the nonpartisan office with a full, unredacted copy of the investigatory report.

C. Following the investigation:

a. The Office shall determine whether the facts establish a violation of the policy and recommend to the director an appropriate range of accountability;

b. The director shall impose the appropriate discipline;

c. If the director imposes a level of discipline outside of the range recommended by the Office, the Office may inform the Executive Committee of this fact.

VI. **Formal workplace harassment complaints against partisan staff and members:**

A. Committee to handle complaints:

a. All formal complaints against partisan staff shall be handled by a new committee that shall either direct that the Office conduct an investigation or contract with another entity to conduct an investigation. Four members believed that partisan staff should include aides, interns, and volunteers working for individual members and one believed that they should not be considered partisan staff.

b. All formal complaints against members shall be handled by the new committee and the committee shall contract with an outside entity for the investigation.

B. There was not consensus on the Committee on the makeup of this new committee:

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a. Three members thought that the new committee should be composed of one member from each caucus appointed by the caucus's leadership and three additional, volunteer members appointed unanimously by the leadership of the four caucuses to include a human resources specialist, a victim's advocate, and an employment law attorney. These three members thought that having nonlegislative members on the committee appointed in a bipartisan manner would make the committee less political. They also expressed concern about having an even number of members on the committee because there would be no way to resolve a tie vote which may mean that no accountability could be imposed.
b. Three other members thought that there should be separate committees for each chamber composed of three members from that chamber's caucuses appointed by the caucus's leadership. They recommended that leadership appoint members who were experienced, had the appropriate temperament for the duties of the committee, and were free from political or other concerns. These members opposed having nonlegislative members vote on issues related to members but would be willing to have the committee consult with experts retained by the committee.

C. Investigatory report:
a. Three members recommended that the Office provide the complainant and respondent with an executive summary of the investigatory report containing the factual findings of the investigation, and two members recommended that the parties receive a copy of the full, unredacted report.
b. Three members recommended that the Office provide the new committee with a redacted copy of the investigatory report not disclosing the names of the complainant or witnesses but identifying the witnesses by number, and two members recommended that the new committee receive a copy of the full, unredacted report.
c. Three members recommended that the Office provide the three highest ranking members of the caucus of the partisan staff person with an executive summary of the investigatory report. and two members recommended that leadership from both parties receive a copy of the full, unredacted report.
d. In the case of the filing of a resolution for censure or expulsion, three members recommended that the Office provide members of the chamber with a redacted copy of the investigatory report at which

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point the complainant and respondent would also be provided with a redacted copy of the report, and two members recommended that the members of the chamber receive a copy of the full, unredacted report. Three members also recommended that if a resolution for censure or expulsion is filed, unless a complainant objects, an executive summary of the report be a public document that the Office may disclose upon receipt of a request under the Colorado Open Records Act. If a complainant objects, the Committee will balance the request of the complainant with the need for transparency and openness in the legislative process.

e. For new leadership, three members recommended that in November, prior to the start of the first general session, leadership from each caucus should meet with the Office and be briefed on any complaints filed against partisan staff or members of that caucus, and one member thought that leadership from each caucus should receive redacted copies of any investigatory reports on staff or members of that caucus.

D. Following the investigation:

a. For a complaint against partisan staff:

1. The new committee shall recommend to the staff person's immediate supervisor and caucus leadership whether it believes that the findings establish a violation of the policy and an appropriate range of accountability;
2. The staff person's immediate supervisor, in consultation with caucus leadership, shall determine whether the facts establish a violation and the appropriate accountability; and
3. If any party is not satisfied with the determination regarding a violation of the policy or the accountability, they may bring the issue to the attention of the new committee. Four members recommended that the new committee only review the actions of the immediate supervisor or caucus leadership and not the investigation. One member did not believe that any additional review was necessary.

b. For a complaint against a member:

1. The new committee shall determine whether the facts found in the investigation more likely than not establish a violation of the policy;
2. If the new committee finds that the actions warrant expulsion or censure, the members of the committee who voted in favor

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of such discipline shall jointly introduce a resolution calling for such discipline;

3. If the new committee finds that the actions warrant accountability other than that which would require a resolution, the committee shall inform the responding member of the recommended accountability and indicate that if the member fails to accept the accountability or fails to satisfy any conditions of the accountability, the committee may recommend that a resolution for expulsion or censure be filed.

VII. **Complaints against a lobbyist:**

The Committee recommends that Joint Rule 36 on Lobbying Practices be amended to add that it is a prohibited practice for a person engaging in lobbying to violate the workplace harassment policy or the workplace expectations policy.

VIII. **Confidentiality:**

A. The Office shall include in all policies confidentiality provisions that must include:
    a. The Office shall keep confidential all information received concerning inquiries and complaints under the workplace harassment policy or the workplace expectations policy to the extent permitted by law; except as necessary to conduct an investigation, implement remedial or protective measures, or when it determines disclosure is necessary for the protection of the workplace. The Office may disclose nonidentifying, statistical information on complaints under both policies.
    b. Others:
        1. Partisan and nonpartisan staff shall maintain the confidentiality of all information received concerning inquiries and complaints under the workplace harassment policy or the workplace expectations policy;
        2. Pursuant to a joint rule, members are required to maintain confidentiality of all information received concerning inquiries and complaints under the workplace harassment policy or the workplace expectations policy and may be subject to another complaint under the policy if they are found to have violated the confidentiality provisions of the policy;
        3. All other parties are required to keep the investigation confidential to the extent permitted by law.

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B. The Office shall inform complainants and respondents of the importance of maintaining the confidentiality of all information received concerning inquiries and complaints under the workplace harassment policy or the workplace expectations policy.

IX. **Culture:**

A. The Committee recommends that there be a separate workplace expectations policy that is aspirational rather than prescriptive. The policy should be established pursuant to a joint rule.

B. The Office shall also prepare a document summarizing and specifying the core values of the legislative workplace for approval by the Executive Committee. The Committee recommends that the Office work with interested members, partisan and nonpartisan staff, and third parties in developing the document.

C. The Office shall handle awareness campaigns on the workplace expectations policy, including training on the appropriate workplace culture.

D. The Office shall conduct annual surveys on workplace harassment and culture to see what issues exist in the workplace. The Office shall prepare an annual report to the Executive Committee on its findings from the surveys that should not include any personally identifying information. The report may include recommendations for additional training or other steps to improve the workplace culture.

X. **Training:**

A. For members:

a. The Committee recommends that training on harassment prevention and the legislative workplace culture be included in new member orientation. For returning members, annual training on harassment prevention should be provided and, if warranted by the annual surveys conducted by the Office, additional training on the workplace culture.

b. Four members believed that attendance at annual training should be recorded and that it should be a public document. One member did not think that attendance should be disclosed.

B. The Committee recommends that training on harassment prevention and the legislative workplace culture prior to the start of the first session be mandatory for all new partisan and nonpartisan staff. Thereafter, partisan and nonpartisan staff are required to attend annual training on harassment prevention, and, if warranted by the annual surveys conducted by the Office, additional mandatory training on the workplace culture shall be provided.

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C. Four members believed that training should be offered to third parties, but would not be made mandatory. One member did not believe that training for third parties was necessary.

XI. **Additional recommended changes to the workplace harassment policy:**

A. Disclosure of intimate relationships within the legislative workplace:

a. Three members recommended that members and all staff are required to disclose to the Office any intimate relationship with a person who supervises the individual or whom the individual supervises and that it is expected that members and all staff will disclose to the Office any intimate relationship with anyone else in the legislative workplace. Such disclosures are part of the personnel file and are not subject to disclosure under CORA or to leadership. During an investigation under the workplace harassment policy, a complainant or respondent may release to the investigator his or her disclosure statement, but may not release the disclosure statement of the other party.

b. One member recommended:

1. For nonpartisan staff, the person shall disclose a relationship to the director of the person's office and the director may disclose the relationship to legislative leadership if the director deems it appropriate;
2. For partisan staff, the person shall disclose a relationship to the leadership of the person's caucus and to additional leadership if the relationship crosses party or chamber; and
3. For members, the person shall disclose a relationship with:
    a. Another member, to leadership of both members' caucus;
    b. A partisan staff member, to leadership of the member and the staff's caucuses;
    c. A nonpartisan staff, to leadership of the member's caucus and to the director of the nonpartisan agency; and
    d. A lobbyist, to the leadership of the member's caucus and the lobbyist shall not lobby the member.

c. One member did not believe that disclosure of such relationships should be required.

B. The ILG report recommended that the false reporting provision of the current workplace harassment policy be deleted. Three members recommended that it be deleted and two members recommended that it stay in the policy.

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XII. **Changes to the Colorado Open Records Law:**

A. Three members recommended that CORA be amended to prevent the disclosure of any documents related to either the workplace harassment policy or the workplace expectations policy, except for nonidentifying statistical information. These members did not believe that the Committee had the authority to recommend that changes be made to CORA that would extend to other state or local public entities.

B. One member recommended that the current exception for records of sexual harassment complaints be expanded to include harassment based upon other protected classes but should be amended to allow a person in interest full access to all records of the complaint. This member would not recommend deleting any of the current exceptions.

C. The ILG report recommended repealing the current exception in CORA that allows a person in interest to make available for public inspection the record if an allegation has been publically reported and the record supports a contention that the allegation is false. Three members recommended repealing this exception and one member recommended not repealing it.

XIII. **Changes to the Open Meetings Law:**

Five members agreed that a meeting of the new committee on complaints under the workplace harassment policy should be in executive session and that votes on whether factual findings support a violation of the policy and on recommendations for accountability must remain confidential.

XIV. **Recommended actions:**

To implement these recommendations, the Committee recommends the following actions be taken:

A. That the current Executive Committee consider adopting the amendments to the workplace harassment policy of the General Assembly, as shown in Exhibit 1, which do not require changes to Joint Rule 38 and can be implemented immediately.

B. That the next Executive Committee consider sponsoring during the 2019 regular session:

   a. The joint resolution attached as Exhibit 2 that repeals and reenacts Joint Rule 38 of the rules of the Senate and House of Representatives to authorize the Office to prepare for consideration by the Executive Committee a new workplace harassment policy and a workplace expectations policy;

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b. The bill attached as Exhibit 3 that:
    1. Adds provisions concerning that the new Office be part of OLLS;
    2. Amends the Open Meetings Law to allow the workplace harassment committee or committees to meet and vote in Executive Session; and
    3. Amends CORA to restrict disclosure of documents under the workplace harassment policy and workplace expectations policy except as provided in those policies or, alternatively, expands the current exception to cover all discriminatory harassment rather than just sexual harassment and authorizes parties in interest to receive full access to all records of the investigation and unredacted reports; and
c. If the Executive Committees recommends a joint workplace harassment committee, the joint resolution should include section __ of Exhibit 2, that creates the joint committee in statute, and, if the Executive Committee wants separate workplace harassment committees for each chamber, the Executive Committee should sponsor the Senate resolution attached as Exhibit 4 and the House resolution attached as Exhibit 5, that create the committees in the rules of each chamber.

C. After the bill and resolution or resolutions have been enacted, the Executive Committee should consider approving the new workplace harassment policy attached as Exhibit 6 and the workplace expectations policy attached as Exhibit 7.

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EXHIBIT 1

Draft Interim Workplace Harassment Policy of the General Assembly

Prepared by the Office of Legislative Legal Services

A. WORKPLACE HARASSMENT POLICY STATEMENT

1. Pursuant to the workplace harassment policy ~~contained~~ SET FORTH in Joint Rule 38, it is the policy of the General Assembly to create and maintain a work environment in which all members of the General Assembly, legislative employees, and third parties are treated with dignity and respect. Members, legislative employees, and third parties have the right to a workplace that is free from harassment, both subtle and overt. Therefore, the General Assembly will strive to eliminate harassing behavior based on disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry which members, legislative employees, and third parties may encounter in the course of their work.

B. APPLICABILITY

1. This Policy is applicable to all legislative employees who are not subject to the state personnel system, each member of the General Assembly, and third parties.

C. DEFINITIONS

1. As used in this Policy:

    a. "Contact person" means:

        I. The director of Legislative Council, or the director's designee of the opposite gender, for legislative employees of that office;

        II. The director of the Office of Legislative Legal Services, or the director's designee of the opposite gender, for legislative employees of that office;

        III. The staff director of the Joint Budget Committee, or the staff director's designee of the opposite gender, for legislative

employees of that office;

IV. The State Auditor, or the State Auditor's designee of the opposite gender, for legislative employees of that office who are not in the state personnel system;

V. The secretary of the Senate, or the secretary's designee of the opposite gender, for legislative employees of the Senate;

VI. The chief clerk of the House of Representatives, or the chief clerk's designee of the opposite gender, for legislative employees of the House of Representatives;

VII. Either the President of the Senate, or the President's designee of the opposite gender, or the Speaker of the House of Representatives, or the Speaker's designee of the opposite gender, for members, third parties, and any other persons with a complaint; or

VIII. In addition to a designee described in subparagraphs I. through VII. of this paragraph a., a person of the same gender designated at the discretion of a legislative service agency director, the State Auditor, the secretary of the Senate, or the chief clerk of the House of Representatives for legislative employees of their respective offices or chamber, or at the discretion of the President of the Senate or the Speaker of the House of Representatives for members, third parties, and any other persons with a complaint.

b. "LEGISLATIVE HUMAN RESOURCES ADMINISTRATOR" OR "ADMINISTRATOR" MEANS THE LEGISLATIVE HUMAN RESOURCES ADMINISTRATOR IN THE OFFICE OF LEGISLATIVE LEGAL SERVICES.

c. "Legislative employee" means an employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, the Senate, or the House of Representatives, including any legislative aide to a member. For purposes of this Policy, "legislative employee" also includes a legislative intern and volunteer staff.

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d. "Third party" means a newsperson, lobbyist, and member of the general public who has business at the state capitol or who is doing business with ONE OR MORE OF THE legislative service agencies, the Senate, or the House of Representatives.

e. "Workplace harassment" means any harassment based on disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry, including verbal or physical behavior or conduct, that denigrates or shows hostility or aversion toward an individual because of that individual's disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry or that has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. While "workplace harassment" includes sexual harassment, sexual harassment raises issues that are to some extent unique in comparison to other types of workplace harassment. Therefore, sexual harassment warrants separate emphasis and is further described in sections D. and E. of this Policy.

D. SEXUAL HARASSMENT

1. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

   a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

   b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

   c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

E. EXAMPLES OF SEXUAL HARASSMENT

1. The following are examples of conduct or communication which may constitute sexual harassment:

a. **VERBAL:**

I. Sexual comments or innuendos about one's clothing, body, or sexual activity;

II. Discussing sexual topics in the workplace, such as sexual practices or preferences or telling sexual jokes or stories;

III. Requesting or demanding sexual favors or suggesting that there is any connection between sexual behavior and any term or condition of employment, whether that connection be positive or negative; OR

IV. Using sexual words or phrases.

b. **NONVERBAL:**

I. Displaying sexually explicit pictures or objects in the work area;

II. Giving personal gifts of a sexual nature;

III. Making sexually suggestive gesture;.

IV. Making unwelcome visits to a member's, legislative employee's, or third party's home or hotel room; OR

V. Displaying cartoons or sending e-mails, text messages, instant messages, or notes any of which contain sexual pictures, words, or phrases.

c. **PHYSICAL:**

I. Kissing of a member, legislative employee, or third party, unless the kissing is a customary demonstration of affection, is clearly

not objected to, and is made in connection with a greeting or parting, such as a "peck" on the cheek.

II. Patting, pinching, or intentionally brushing against a member's, legislative employee's, or third party's body.

III. Sexual contact, intercourse, or assault.

2. The examples in paragraph 1. are illustrative of the communications and conduct that may constitute sexual harassment if unwelcome and depending upon the totality of the circumstances. In that regard, the following should be kept in mind:

a. A single incident may or may not constitute sexual harassment.

b. Whether a particular action is sexual harassment will depend on the facts and determinations will be made on a case-by-case basis.

c. Conduct or communications that might be welcome to one person may be unwelcome to another person. Conduct or communications that might have been welcome between two individuals at one time may become unwelcome at a later time.

d. Other conduct or a communication not expressly described in the examples, but which is substantially similar to the examples, may be violative of this policy.

F. CONSULTATION WITH LEGISLATIVE HUMAN RESOURCES ADMINISTRATOR

1. A MEMBER, LEGISLATIVE EMPLOYEE, OR THIRD PARTY WHO HAS CONCERNS ABOUT POTENTIAL HARASSMENT UNDER THIS POLICY MAY CONSULT WITH THE LEGISLATIVE HUMAN RESOURCES ADMINISTRATOR. THE ADMINISTRATOR MAY OFFER ADVICE CONCERNING WHETHER AND HOW TO FILE A FORMAL COMPLAINT UNDER THE POLICY AND MAY OFFER THE PERSON ACCOMMODATIONS WHETHER OR NOT THE PERSON FILES A FORMAL COMPLAINT. ALL INFORMATION CONCERNING THE CONSULTATION WITH THE ADMINISTRATOR MUST REMAIN CONFIDENTIAL, UNLESS THE ADMINISTRATOR DETERMINES THAT DISCLOSURE IS NECESSARY FOR THE PROTECTION OF THE

COMMUNITY.

~~F~~ G. COMPLAINTS REGARDING WORKPLACE HARASSMENT

1. A member, legislative employee, or third party who believes he or she is the subject of any type of workplace harassment, SEXUAL HARASSMENT, OR RETALIATION in any manner from anyone, should submit a complaint directly to the appropriate contact person DESCRIBED IN SECTION C.1.a. OF THIS POLICY.

2. (a) The complainant may submit the complaint to either gender contact person. The complaint should specifically describe the incident or incidents. The contact person who receives the complaint shall investigate the complaint as promptly and confidentially as practicable by interviewing the complainant, the person accused, and any witnesses or coworkers and by considering the circumstances surrounding the alleged incident or incidents which form the basis of the complaint. THE CONTACT PERSON MAY ALSO CONTRACT WITH A QUALIFIED THIRD PARTY TO CONDUCT THE INVESTIGATION IN ACCORDANCE WITH SUBSECTION G.7.

(b) THE CONTACT PERSON SHALL PROMPTLY NOTIFY THE LEGISLATIVE HUMAN RESOURCES ADMINISTRATOR OF A COMPLAINT. THE ADMINISTRATOR IS AVAILABLE TO PROVIDE CONSULTATION AND RECOMMENDATIONS CONCERNING THE CONDUCT OF THE INVESTIGATION.

~~2.~~3. The contact person may gather the following facts in ~~such~~ an investigation from the complainant, the ~~person accused~~ RESPONDENT, and any witnesses or co-workers:

a. **From the complainant:**

I. A description of the incident or incidents including where and when the incident or incidents took place;

II. Whether a similar incident or incidents has or have happened before;

III. An explanation of how the incident or incidents affected the complainant's work;

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IV. A description of the complainant's reaction to the incident or incidents; AND

V. Whether there were any witnesses to the facts surrounding the incident or incidents or any other evidence of its occurrence.

b. **From the ~~person accused~~ RESPONDENT:**

I. An explanation of the facts surrounding the complainant's allegations and a request for a response;

II. Any reason why the complainant might be fabricating the complaint; AND

III. Whether there were any witnesses to the incident or incidents or any other evidence surrounding the complaint.

c. **From witnesses or co-workers:**

I. What they observed

II. How they reacted to the facts surrounding the incident; AND

III. What the complainant or the ~~person accused of workplace harassment~~ RESPONDENT told them ABOUT THE ALLEGED INCIDENT.

~~3.4~~. Nothing in ~~paragraph b. of subsection 2. of this section F.~~ SECTION G.3.b., or any other provision of this Policy, requires any ~~person accused of workplace harassment~~ RESPONDENT to involuntarily provide, either orally or in writing, any facts, information, or evidence in response to an investigation of a complaint or to involuntarily sign a written statement or confession.

5. A CONTACT PERSON MAY PURSUE INTERIM STEPS TO ACCOMMODATE A COMPLAINANT WHILE THE INVESTIGATION IS PENDING. DEPENDING ON THE CASE AND THE COMPLAINANT'S WISHES, THESE STEPS MAY INCLUDE CHANGES TO WORKING SITUATIONS IF SUCH ACCOMMODATIONS ARE REASONABLY AVAILABLE. THE ADMINISTRATOR IS AVAILABLE TO PROVIDE CONSULTATION

AND RECOMMENDATIONS ON ACCOMMODATIONS.

~~4.~~6. Following the investigation and, after any appropriate consultation, the contact person ~~may~~ shall resolve the complaint pursuant to ~~section I.~~ SECTION J. of this Policy. RESOLUTION MAY INCLUDE DISCIPLINARY ACTION, WHEN APPROPRIATE. ~~The contact person shall make records of the complaint maintained by the contact person available to the person accused of workplace harassment. (See section H. of this Policy)~~ The contact person shall inform both the complainant and the ~~person accused~~ RESPONDENT of the outcome of the investigation. ~~Resolution may include disciplinary action when appropriate.~~

~~5.~~7. Under some circumstances, an outside individual or entity, such as the ~~Mountain States~~ Employers Council or other credible group, may be used to investigate the complaint and to make recommendations. In such circumstances, the contact person may provide information related to the complaint to the outside individual or entity conducting the investigation.

~~G.~~H. RETALIATION PROHIBITED

1. ~~No person will be subject to retaliation for having complained of workplace harassment or for having assisted or participated in an investigation of alleged workplace harassment. Any person who believes that he or she may have been the subject of retaliation for having complained of workplace harassment or for having assisted or participated in an investigation related to an allegation of workplace harassment should report that information to the appropriate contact person.~~ RETALIATION IS AN ACT OF PUNISHMENT, REPRISAL, OR REVENGE THAT IS TAKEN AGAINST A PERSON BECAUSE THAT PERSON COMPLAINED OF BEHAVIOR, ASSISTED IN A COMPLAINT UNDER THIS POLICY, OR PARTICIPATED IN AN INVESTIGATION UNDER THIS POLICY. RETALIATION CAN TAKE MANY FORMS IN A LEGISLATIVE WORKPLACE, AS DESCRIBED IN THIS SECTION H., BUT ESSENTIALLY RETALIATION CAN BE ANY ACTION THAT IS TAKEN AGAINST A PERSON THAT WOULD DETER A REASONABLE PERSON FROM COMING FORWARD TO COMPLAIN OF MISBEHAVIOR UNDER THIS POLICY.

2. RETALIATION IS A SERIOUS PROBLEM, AND A FEAR OF RETALIATION PREVENTS ISSUES FROM SURFACING, PREVENTS PEOPLE FROM RAISING PROBLEMS, AND ENABLES A CULTURE OF HARASSMENT TO FESTER. THE GENERAL ASSEMBLY RECOGNIZES THE SERIOUSNESS OF RETALIATION AND IS COMMITTED TO

EXHIBIT 1

RESPONDING TO AND ADDRESSING RETALIATION CONCERNS PROACTIVELY AND REACTIVELY UPON RECEIPT OF A COMPLAINT OF RETALIATION.

3. THE GENERAL ASSEMBLY PROHIBITS RETALIATION AGAINST ANY PERSON FOR HAVING COMPLAINED ABOUT VIOLATIONS OF THIS POLICY, ASSISTING IN A COMPLAINT, OR PARTICIPATING IN AN INVESTIGATION INTO SUCH A COMPLAINT.

4. MEMBERS, LEGISLATIVE EMPLOYEES, AND THIRD PARTIES ARE ENCOURAGED TO REPORT VIOLATIONS OF THIS SECTION H. BY FOLLOWING THE FORMAL COMPLAINT PROCESS DESCRIBED IN SECTION G. OF THIS POLICY.

~~H.~~I. RECORDKEEPING

1. Complaints of workplace harassment, SEXUAL HARASSMENT, AND RETALIATION will be investigated and handled ~~as~~ AND information shared with those having a need to know and in accordance with the law as follows:

   a. When a workplace harassment, SEXUAL HARASSMENT, OR RETALIATION complaint is made, the contact person shall create a separate file under the complainant's name. The contact person shall place all written documentation arising from the complaint in the file including, but not limited to the following: The complaint, if it is in writing; the contact person's or other investigator's investigatory notes, information, and other writings; witness statements; and the disposition, if any, of the complaint. AT THE CONCLUSION OF THE PROCESS, THE CONTACT PERSON SHALL PROVIDE THE COMPLETE FILE TO THE LEGISLATIVE HUMAN RESOURCES ADMINISTRATOR. Except as otherwise specifically stated in this Policy, the ~~contact person~~ ADMINISTRATOR shall keep the records in the ~~workplace harassment~~ file confidential.

   b. Section 24-72-204 (3)(a)(X.5), C.R.S., applies to records maintained of sexual harassment complaints under this Policy. Specifically, it provides that:

      I. Any records of sexual harassment complaints and investigations maintained pursuant to Joint Rule 38 are not subject to public inspection;

II. Disclosure of the records of the complaint and the investigation to a "person in interest", which includes the complainant and the ~~person accused~~ RESPONDENT, is permissible; AND

III. A ~~person accused~~ RESPONDENT IN A sexual harassment COMPLAINT may make records kept pursuant to this Policy available for public inspection in order to support the contention that an allegation of sexual harassment against that person is false.

~~I.~~J. RESOLUTION OF ~~A WORKPLACE HARASSMENT COMPLAINT~~ COMPLAINTS

1. If the contact person determines that this Policy has been violated, appropriate ~~disciplinary~~ REMEDIAL action will follow. As a general rule, remedies will be assessed proportionate to the seriousness of the violation. For legislative employees, this may include an apology, direction to stop the offensive conduct, counseling or training, oral warning, written warning, or termination. If the contact person determines that a member of the General Assembly has violated this Policy, the contact person shall inform leadership of the respective body which shall, in turn, handle the ~~disciplinary~~ REMEDIAL action, if any, according to the rules of the appropriate house of the General Assembly

2. The appropriate contact person will handle the resolution of complaints involving legislative employees. If a member is involved in a complaint situation, the contact person may discuss resolution directly with the member or take the matter to leadership of the respective body, depending on the circumstances; however, only leadership OF THE APPROPRIATE HOUSE may handle any disciplinary action involving a member. If a third party is involved, the contact person shall handle the resolution thereof.

3. THE LEGISLATIVE HUMAN RESOURCES ADMINISTRATOR IS AVAILABLE TO PROVIDE CONSULTATION AND RECOMMENDATIONS TO ALL CONTACT PERSONS AND LEADERSHIP OF THE APPLICABLE HOUSES REGARDING DETERMINATIONS OF POLICY VIOLATION AND APPROPRIATE REMEDIAL ACTIONS.

~~3.~~ 4. If the workplace harassment, SEXUAL HARASSMENT, OR RETALIATION recurs

after a complaint is made, the complainant should immediately bring the matter to the attention of the appropriate contact person.

K. PARTIES' RIGHTS AND RESPONSIBILITIES DURING AN INVESTIGATION

1. FOR INVESTIGATIONS OF COMPLAINTS FILED UNDER SECTION G. OF THIS POLICY, BOTH THE COMPLAINANT AND RESPONDENT HAVE CERTAIN RIGHTS AND RESPONSIBILITIES.

   a. THE COMPLAINANT AND RESPONDENT HAVE THE RESPONSIBILITY TO:

      I. PARTICIPATE FULLY AND IN GOOD FAITH IN THE INVESTIGATION PROCESS;

      II. TELL THE TRUTH IN INVESTIGATIVE INTERVIEWS AND PROCEEDINGS;

      III. REFRAIN FROM INFLUENCING, COERCING, OR OTHERWISE TAMPERING WITH WITNESSES OR EVIDENCE;

      IV. KEEP THE INVESTIGATION PROCESS, PARTIES, AND ISSUES CONFIDENTIAL DURING THE INVESTIGATION; AND

      V. PROVIDE ALL INFORMATION RELEVANT TO THE MATTER WITHIN THEIR POSSESSION AND NOT WITHHOLD RELEVANT INFORMATION.

      VI. MEET DEADLINES AS REQUESTED BY THE CONTACT PERSON OR INVESTIGATOR DURING THE FORMAL RESOLUTION PROCESS. CONTACT PERSONS AND INVESTIGATORS MAY ONLY GRANT EXTENSIONS OF TIME FOR GOOD CAUSE SHOWN, AND THE PARTIES SHALL BE PROVIDED WRITTEN NOTICE OF EXTENSIONS AS APPLICABLE.

   b. THE COMPLAINANT AND RESPONDENT HAVE THE RIGHT TO:

      I. BE TREATED WITH DIGNITY AND RESPECT THROUGHOUT THE PROCESS;

      II. A MEANINGFUL OPPORTUNITY TO PRODUCE ANY EVIDENCE IN

THEIR POSSESSION TO DEFEND THEMSELVES FROM ALLEGATIONS OR COUNTER-ALLEGATIONS BY BEING AFFORDED:

i. A FULL DESCRIPTION OF THE ALLEGATIONS AGAINST THEM;

ii. THE OPPORTUNITY TO PROVIDE A WRITTEN STATEMENT, THE IDENTITY OF RELEVANT WITNESSES, ADDITIONAL EVIDENCE, AND QUESTIONS FOR THE INVESTIGATORS TO ASK THE OTHER PARTY, DURING AND FOR A REASONABLE TIME FOLLOWING THEIR INITIAL WITNESS INTERVIEW (CONTINGENT ON INVESTIGATION DEADLINES); AND

iii. THE OPPORTUNITY FOR A FOLLOW-UP INTERVIEW IF NEW EVIDENCE IS DISCOVERED OR, IF EVIDENCE INCONSISTENT WITH THEIR VERSION OF MATERIAL EVENTS IS DISCOVERED, AND THE OPPORTUNITY TO EXPLAIN OR OTHERWISE RESPOND TO EVIDENCE NOT AVAILABLE AT THE TIME OF THEIR INITIAL WITNESS INTERVIEW. THIS RIGHT IS SUBJECT TO THE INVESTIGATION TIMELINE.

III. BRING AN ADVISOR TO ANY MEETING OR INTERVIEW AND:

i. THE ADVISOR MAY BE AN ATTORNEY OR ANY SUPPORT PERSON;

ii. THE ADVISOR MAY NOT SPEAK ON BEHALF OF THE COMPLAINANT OR RESPONDENT DURING ANY PROCEEDING OF THE FORMAL RESOLUTION PROCESS; AND

iii. IT IS THE COMPLAINANT OR RESPONDENT'S OBLIGATION TO SELECT AN ADVISOR WHOSE SCHEDULE ALLOWS ATTENDANCE WITHIN THE TIMEFRAMES DESIGNATED IN SECTION L. OF THIS POLICY.

L. TIMELINES FOR THE RESOLUTION PROCESS

1. VIOLATIONS OF THIS POLICY AND THE COMPLAINT RESOLUTION PROCESS

EXHIBIT 1

DESCRIBED IN THIS POLICY MAY BE DIFFICULT AND STRESSFUL FOR THE PEOPLE INVOLVED AND DISRUPTIVE FOR THE GENERAL ASSEMBLY'S WORKPLACE AND LEGISLATIVE BUSINESS OPERATIONS. FOR THESE REASONS, IT IS CRITICAL THAT COMPLAINT RESOLUTION BE COMPLETED AS QUICKLY AS POSSIBLE WHILE MAINTAINING A FULL AND FAIR INVESTIGATIVE PROCESS. WITH THAT GUIDING PRINCIPLE IN MIND, THE FOLLOWING TIMELINES HAVE BEEN ESTABLISHED FOR THE PROMPT RESOLUTION OF COMPLAINTS UNDER THIS POLICY.

2. THE RESOLUTION PROCESS MUST BE COMPLETED WITHIN NINETY DAYS AFTER A CONTACT PERSON IS NOTIFIED OF THE COMPLAINT, AS FOLLOWS:

a. IF THE CONTACT PERSON ELECTS TO CONTRACT WITH A THIRD-PARTY INVESTIGATOR, THAT INVESTIGATOR MUST BE ASSIGNED WITHIN FOURTEEN DAYS AFTER THE CONTACT PERSON IS NOTIFIED OF THE COMPLAINT;

b. THE THIRD-PARTY INVESTIGATOR OR CONTACT PERSON SHALL COMPLETE THE INVESTIGATION, MAKE FACTUAL FINDINGS, AND PREPARE AND DELIVER AN INVESTIGATION REPORT, IF APPLICABLE, WITHIN FORTY-FIVE DAYS AFTER THE THIRD-PARTY INVESTIGATOR IS RETAINED OR WITHIN FORTY-FIVE DAYS AFTER THE CONTACT PERSON IS NOTIFIED OF THE COMPLAINT IF A THIRD-PARTY INVESTIGATOR IS NOT RETAINED

c. THE CONTACT PERSON SHALL DETERMINE WHETHER THE RESPONDENT VIOLATED THE POLICY, DOCUMENT THE DETERMINATION, AND TRANSMIT THE DETERMINATION AND RECOMMENDATIONS TO THE APPROPRIATE DECISION MAKER WITHIN FOURTEEN DAYS AFTER RECEIPT OF INVESTIGATION REPORT FROM THE THIRD-PARTY INVESTIGATOR OR WITHIN FOURTEEN DAYS AFTER COMPLETING THE INVESTIGATION AND REPORT IF A THIRD-PARTY INVESTIGATOR IS NOT RETAINED;

d. IN A MATTER INVOLVING A RESPONDENT WHO IS NOT A MEMBER OF THE GENERAL ASSEMBLY, THE CONTACT PERSON SHALL DETERMINE WHAT REMEDIAL ACTION IS APPROPRIATE, IF ANY, WITHIN FOURTEEN DAYS OF THE DETERMINATION OF A VIOLATION; AND

e. IN A MATTER INVOLVING A RESPONDENT WHO IS A MEMBER OF THE GENERAL ASSEMBLY, LEADERSHIP OF THE APPROPRIATE HOUSE

LEADERSHIP SHALL DETERMINE WHAT REMEDIAL ACTION IS APPROPRIATE, IF ANY, AS SOON AS PRACTICABLE PURSUANT TO THE RULES OF THE APPROPRIATE LEGISLATIVE BODY.

3. THERE MAY BE TIMES WHEN THE TIMELINE OF THE PROCESS MUST BE EXTENDED TO ENSURE A THOROUGH, FAIR, AND IMPARTIAL PROCESS. THE CONTACT PERSON SHALL NOTIFY BOTH PARTIES, IN WRITING, OF ANY REASONS FOR DEVIATING FROM THE TIMELINE SET FORTH IN THIS SECTION L. AND SHALL DOCUMENT THE REASONS IN THE COMPLAINT FILE.

~~J.~~M. FALSE COMPLAINTS

1. Complaints ~~of workplace harassment~~ SUBMITTED PURSUANT TO THIS POLICY that are found to be intentionally or recklessly dishonest or malicious will not be tolerated.

EXHIBIT 2

DRAFT
10.5.18

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT

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LLS NO. Jerry Barry x4342

Committees **Committees**

_____ JOINT RESOLUTION

CONCERNING CHANGES TO THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES TO IMPLEMENT CHANGES IN WORKPLACE POLICIES.

Be It Resolved by the_____ of the Seventy-second General Assembly of the State of Colorado, the_____ concurring herein:

That in the Joint Rules of the Senate and House of Representatives, Joint Rule No. 36, **amend** (d)(4); and **add** (b)(11) as follows:

36. Lobbying Practices

(b) **Lobbying practices.** No person engaging in lobbying shall:

(11) VIOLATE THE WORKPLACE HARASSMENT POLICY OF THE

EXHIBIT 2

GENERAL ASSEMBLY OR THE WORKPLACE EXPECTATIONS POLICY OF THE GENERAL ASSEMBLY ADOPTED PURSUANT TO JOINT RULE NO. 38.

(d) **Violation - complaint.**

(4) (A) EXCEPT AS PROVIDED IN SUBSECTION (d)(4)(B) OF THIS JOINT RULE, all proceedings of the committee shall be public. The accused shall be entitled to be present during the proceedings. The committee members shall submit a report to the Executive Committee.

(B) IF THE COMPLAINT IS BASED ON SUBSECTION (b)(11) OF THIS JOINT RULE, THE COMMITTEE SHALL HOLD ALL MEETINGS AND VOTES IN EXECUTIVE SESSION, AND THE COMMITTEE MEMBERS SHALL NOT RELEASE ANY INFORMATION ABOUT THE MEETINGS OR THE TESTIMONY RECEIVED, BUT, IF IT FINDS THAT THE ACTIONS VIOLATED THIS JOINT RULE, THE COMMITTEE MAY RELEASE A REDACTED REPORT KEEPING THE IDENTITIES OF THE COMPLAINANT AND WITNESSES CONFIDENTIAL.

That in the Joint Rules of the Senate and the House of Representatives, **repeal and reenact** Joint Rule No. 38 as follows:

38. Workplace Harassment and Expectations Policies

(a) **Declaration.** THE GENERAL ASSEMBLY IS COMMITTED TO MAINTAINING A WORKPLACE THAT ENCOURAGES MUTUAL RESPECT AND PROMOTES RESPECTFUL, PROFESSIONAL, AND CONGENIAL RELATIONSHIPS AND THAT IS FREE FROM HARASSMENT FROM OR TOWARD LEGISLATORS, LEGISLATIVE EMPLOYEES, OR THIRD PARTIES. THE CITIZENS OF THE STATE OF COLORADO EXPECT THEIR ELECTED OFFICIALS TO BEHAVE IN A MANNER BEFITTING THE HONOR AND PRIVILEGE THEY HOLD AS REPRESENTATIVES OF THE CITIZENS OF COLORADO. THE GENERAL ASSEMBLY HOLDS THE MEMBERS OF ITS COMMUNITY AND LEGISLATORS, IN PARTICULAR, TO A HIGHER STANDARD OF CONDUCT THAN SIMPLY AVOIDING UNLAWFUL HARASSMENT. WHEN DISRESPECTFUL BEHAVIOR AND HARASSMENT PERSIST, EVEN WHEN NOT UNLAWFUL OR DIRECTED AT AN INDIVIDUAL BECAUSE THAT PERSON IS A MEMBER OF A PROTECTED CLASS, IT DIMINISHES THE DIGNITY AND STATURE OF THE INSTITUTION OF THE GENERAL ASSEMBLY AND CAN LEAD TO UNLAWFUL HARASSMENT.

(b) **Workplace Harassment Policy.**

(1) THE OFFICE OF HUMAN RESOURCES IN THE OFFICE OF LEGISLATIVE LEGAL SERVICES, IN CONSULTATION WITH THE SECRETARY OF THE SENATE, THE CHIEF CLERK OF THE

EXHIBIT 2

HOUSE OF REPRESENTATIVES, THE STATE AUDITOR, AND THE DIRECTORS OF THE NONPARTISAN STAFF AGENCIES OF THE GENERAL ASSEMBLY, SHALL DEVELOP A WORKPLACE HARASSMENT POLICY. THE WORKPLACE HARASSMENT POLICY IS APPLICABLE TO ALL LEGISLATORS; LEGISLATIVE EMPLOYEES, EXCEPT TO SUCH LEGISLATIVE EMPLOYEES WHO ARE SUBJECT TO THE STATE PERSONNEL SYSTEM; AND THIRD PARTIES. THE POLICY, AND ANY AMENDMENT TO THE POLICY, IS SUBJECT TO THE APPROVAL OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL.

(2) THE WORKPLACE HARASSMENT POLICY MUST INCLUDE:

(A) BOTH A FORMAL AND INFORMAL COMPLAINT RESOLUTION PROCESS;

(B) THAT THE INFORMATION OBTAINED DURING THE INFORMAL COMPLAINT PROCESS OR THE FORMAL COMPLAINT PROCESS REMAINS CONFIDENTIAL, EXCEPT TO PERSONS HAVING A DEMONSTRABLE NEED TO KNOW AND EXCEPT FOR NONIDENTIFYING, STATISTICAL INFORMATION;

(C) THAT, EXCEPT AS SPECIFICALLY ALLOWED UNDER THE WORKPLACE HARASSMENT POLICY, LEGISLATORS AND LEGISLATIVE EMPLOYEES SHALL KEEP ALL MATTERS RELATING TO AN ALLEGED VIOLATION OF THE POLICY CONFIDENTIAL AND THIRD PARTIES SHALL KEEP SUCH MATTERS CONFIDENTIAL TO THE EXTENT PERMITTED BY LAW;

(D) THAT BOTH COMPLAINANTS AND RESPONDENTS BE GIVEN EQUAL ACCESS TO INFORMATION AND SERVICES;

(E) THAT A VIOLATION UNDER THE POLICY MUST BE FOUNDED ON A CLAIM OF HARASSMENT BASED ON AN INDIVIDUAL'S DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION, RELIGION, AGE FORTY AND OLDER, NATIONAL ORIGIN, MILITARY STATUS, GENETIC INFORMATION OR ANCESTRY, OR ANY OTHER CLASS PROTECTED BY STATE OR FEDERAL LAW; AND

(F) THAT FACTUAL DETERMINATIONS BE FOUND BY A PREPONDERANCE OF THE EVIDENCE STANDARD AND THAT VIOLATIONS BE BASED ON BOTH A SUBJECTIVE STANDARD THAT THE COMPLAINANT FOUND THE ACTION OR ACTIONS TO BE OFFENSIVE AND AN OBJECTIVE STANDARD THAT A REASONABLE PERSON IN THE COMPLAINANT'S POSITION WOULD HAVE FOUND THE ACTION OR ACTIONS TO BE OFFENSIVE.

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(c) **Workplace Expectations Policy.**

(1) THE OFFICE OF HUMAN RESOURCES IN THE OFFICE OF LEGISLATIVE LEGAL SERVICES, IN CONSULTATION WITH THE SECRETARY OF THE SENATE, THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES, THE STATE AUDITOR, AND THE DIRECTORS OF THE NONPARTISAN STAFF AGENCIES OF THE GENERAL ASSEMBLY, SHALL DEVELOP A WORKPLACE EXPECTATIONS POLICY. THE WORKPLACE EXPECTATIONS POLICY IS APPLICABLE TO ALL LEGISLATORS; LEGISLATIVE EMPLOYEES, EXCEPT SUCH LEGISLATIVE EMPLOYEES WHO ARE SUBJECT TO THE STATE PERSONNEL SYSTEM; AND THIRD PARTIES. THE POLICY, AND ANY AMENDMENT TO THE POLICY, IS SUBJECT TO THE APPROVAL OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL.

(2) THE WORKPLACE EXPECTATIONS POLICY MUST INCLUDE:

(A) AN INFORMAL COMPLAINT RESOLUTION PROCESS;

(B) THAT THE INFORMATION OBTAINED DURING THE INFORMAL COMPLAINT PROCESS REMAINS CONFIDENTIAL, EXCEPT TO PERSONS HAVING A DEMONSTRABLE NEED TO KNOW AND EXCEPT FOR NONIDENTIFYING, STATISTICAL INFORMATION; AND

(C) EXCEPT AS SPECIFICALLY ALLOWED UNDER THE WORKPLACE EXPECTATIONS POLICY, LEGISLATORS AND LEGISLATIVE EMPLOYEES SHALL KEEP ALL MATTERS RELATING TO AN ALLEGED VIOLATION OF THE POLICY CONFIDENTIAL AND THIRD PARTIES SHALL KEEP SUCH MATTERS CONFIDENTIAL TO THE EXTENT PERMITTED BY LAW.

(d) **Personnel Manuals and Review.**

(1) FOLLOWING APPROVAL BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, THE WORKPLACE HARASSMENT POLICY AND THE WORKPLACE EXPECTATIONS POLICY MUST BE INCLUDED IN EACH AGENCY'S OR HOUSE'S PERSONNEL MANUAL OR EQUIVALENT DOCUMENT AND POSTED PROMINENTLY ON THE GENERAL ASSEMBLY'S HOME PAGE ON THE INTERNET.

(2) THE OFFICE OF HUMAN RESOURCES SHALL ANNUALLY REVIEW THE POLICIES AND, AFTER CONSULTATION WITH THE SECRETARY OF THE SENATE, THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES, THE STATE AUDITOR, AND THE DIRECTORS OF THE NONPARTISAN STAFF AGENCIES OF THE GENERAL ASSEMBLY, MAY RECOMMEND CHANGES TO THE POLICIES TO THE EXECUTIVE COMMITTEE.

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(e) **Confidentiality.**

(1) EXCEPT AS PERMITTED UNDER THE WORKPLACE HARASSMENT POLICY OR THE WORKPLACE EXPECTATIONS POLICY, ALL DOCUMENTS RELATED TO ANY INQUIRY OR COMPLAINT UNDER EITHER OF THE POLICIES ARE CONFIDENTIAL AND ARE NOT SUBJECT TO DISCLOSURE UNDER PART 2 OF ARTICLE 72 OF TITLE 24, COLORADO REVISED STATUTES.

(2) MEETINGS OF A WORKPLACE HARASSMENT COMMITTEE AT WHICH A COMPLAINT, INVESTIGATION, OR REMEDIAL ACTION IS DISCUSSED MAY BE CONDUCTED IN EXECUTIVE SESSION AS DESCRIBED IN SECTION 24-6-402 (3)(a)(III), COLORADO REVISED STATUTES.

(f) **Training.**

(1) PRIOR TO THE COMMENCEMENT OF EACH REGULAR SESSION OF THE GENERAL ASSEMBLY, THE OFFICE OF HUMAN RESOURCES SHALL PROVIDE TRAINING ON THE WORKPLACE EXPECTATIONS POLICY AND THE WORKPLACE HARASSMENT POLICY TO NEWLY ELECTED MEMBERS. THE OFFICE SHALL PROVIDE ANNUAL TRAINING ON THE POLICIES TO RETURNING MEMBERS OF THE GENERAL ASSEMBLY.

(2) PRIOR TO THE COMMENCEMENT OF EACH REGULAR SESSION OF THE GENERAL ASSEMBLY, THE OFFICE SHALL PROVIDE MANDATORY TRAINING ON THE POLICIES TO ALL NEWLY EMPLOYED LEGISLATIVE EMPLOYEES. THE OFFICE SHALL PROVIDE ANNUAL, MANDATORY TRAINING ON THE POLICIES TO EMPLOYEES OF THE GENERAL ASSEMBLY.

(g) **Definitions.** AS USED IN THIS JOINT RULE:

(1) "LEGISLATIVE EMPLOYEE" MEANS AN EMPLOYEE OF THE LEGISLATIVE COUNCIL STAFF, THE OFFICE OF LEGISLATIVE LEGAL SERVICES, THE JOINT BUDGET COMMITTEE STAFF, THE OFFICE OF THE STATE AUDITOR, THE SENATE, OR THE HOUSE OF REPRESENTATIVES, OR ANY LEGISLATIVE AIDE TO A MEMBER, LEGISLATIVE INTERN, OR VOLUNTEER STAFF.

(2) "THIRD PARTIES" MEANS LOBBYISTS, MEMBERS OF THE MEDIA, AND MEMBERS OF THE GENERAL PUBLIC WHO HAVE BUSINESS AT THE STATE CAPITOL OR WHO ARE DOING BUSINESS WITH LEGISLATIVE SERVICE AGENCIES, THE SENATE, OR THE HOUSE OF REPRESENTATIVES.

EXHIBIT 3

DRAFT
10.5.18

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT

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LLS NO.Jerry Barry x4341 _____ **BILL**

Committees **Committees**

A BILL FOR AN ACT

CONCERNING STATUTORY CHANGES REQUIRED BY THE ADOPTION OF WORKPLACE POLICIES OF THE GENERAL ASSEMBLY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov/.)

Section 1 of the bill creates a joint committee on workplace harassment composed of 7 members, 4 members of the general assembly and 3 nonlegislative members. The committee is charged with overseeing

complaints against partisan staff and members of the general assembly under the workplace harassment policy.

Section 2 allows a state public body to meet in executive session to consider a matter related to the workplace expectations or workplace harassment policies of the general assembly. A committee of the general assembly that is considering a workplace harassment complaint may also take formal action while in executive session. The records of the committee are confidential and not subject to public inspection.

Section 3 provides that a disclosure of an intimate relationship filed in accordance with a policy of the general assembly is part of an individual's personnel file, and therefore not subject to public inspection under the Colorado Open Records Act (CORA).

Section 4 provides one option to create an office of human resources within the office of legislative legal services and to make the records of that office exempt from public inspection. The office is charged with handling matters related to employee relations, including the handling of complaints under the workplace expectations and workplace harassment policies. Records of the office related to complaints, investigations, and other inquiries are exempted from the definition of public records and are not subject to public inspection; except that the office of human resources is required to release an annual statistical report of the numbers of complaints received and their resolution. In addition, if a workplace harassment committee recommends the introduction of a resolution to expel or censure a member, the executive summary of the investigation is made public, unless the complainant objects, in which case the committee determines whether to release the summary. **Section 5** makes a conforming amendment in CORA, clarifying that all custodians are required to deny a request to inspect records that are created or provided by the general assembly's office of human resources and that relate to complaints, investigations, or inquiries related to workplace harassment or conduct under the general assembly's policies.

Section 6 provides a second option to create the office of human resources within the office of legislative legal services. The office is charged with handling matters related to employee relations, including the handling of complaints under the workplace expectations and workplace harassment policies. The office is required to release an annual statistical report of the number of complaints received and their resolution. **Section 7** amends CORA to make the records of all workplace harassment complaints, investigations, and reports exempt from public inspection. A person in interest is entitled to receive a record of a workplace harassment report, complaint, or investigation at the conclusion of the investigation. A person in interest is prohibited from making such a record available for

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public inspection, unless the allegations of the complaint have been publicly reported and the record supports a contention that the allegations are false.

Be it enacted by the General Assembly of the State of Colorado:

<{***Note: Section 1 of this bill should be included if the Executive Committee determines that a joint committee should handle complaints against a member or partisan staff member.***}>

SECTION 1. In Colorado Revised Statutes, **add** part 18 to article 3 of title 2 as follows:

PART 18

JOINT COMMITTEE ON

WORKPLACE HARASSMENT

2-3-1801. Joint committee on workplace harassment - duties - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COMMITTEE" MEANS THE JOINT COMMITTEE ON WORKPLACE HARASSMENT ESTABLISHED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION.

(b) "JOINT RULES" MEANS THE JOINT RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.

(c) "PARTISAN STAFF" MEANS PERSONS APPOINTED BY AND SERVING AT THE PLEASURE OF A MEMBER OF THE GENERAL ASSEMBLY AND INCLUDES AIDES, INTERNS, AND VOLUNTEERS.

(d) "WORKPLACE HARASSMENT POLICY" MEANS THE WORKPLACE HARASSMENT POLICY ADOPTED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL PURSUANT TO JOINT RULE 38 OF THE JOINT RULES

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OF THE SENATE AND HOUSE OF REPRESENTATIVES.

(2) (a) THERE IS ESTABLISHED A JOINT COMMITTEE OF THE SENATE AND HOUSE OF REPRESENTATIVES, KNOWN AS THE JOINT COMMITTEE ON WORKPLACE HARASSMENT, TO OVERSEE COMPLAINTS AGAINST MEMBERS OR PARTISAN STAFF UNDER THE WORKPLACE HARASSMENT POLICY. THE COMMITTEE CONSISTS OF THE FOLLOWING SEVEN MEMBERS:

(I) (A) FOUR MEMBERS OF THE GENERAL ASSEMBLY, ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, ONE APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, ONE APPOINTED BY THE MAJORITY LEADER OF THE SENATE, AND ONE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

(B) LEGISLATIVE MEMBERS OF THE COMMITTEE SHOULD HAVE THE APPROPRIATE EXPERIENCE AND DEMEANOR TO HANDLE POTENTIALLY PARTISAN ISSUES IN AN OBJECTIVE MANNER;

(II) ONE MEMBER WHO IS A HUMAN RELATIONS PROFESSIONAL WHO HAS EXPERIENCE IN WORKPLACE HARASSMENT COMPLAINTS, ONE WHO IS A VICTIM'S ADVOCATE, AND ONE WHO IS AN ATTORNEY LICENSED IN COLORADO WHO HAS EXPERIENCE IN EMPLOYMENT LAW; AND

(III) THE THREE NONLEGISLATIVE MEMBERS SHALL BE APPOINTED JOINTLY BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, THE MAJORITY LEADER OF THE SENATE, AND THE MINORITY LEADER OF THE SENATE.

(b) THE COMMITTEE SHALL ELECT A CHAIR AND A VICE-CHAIR, ONE FROM EACH OF THE TWO MAJOR POLITICAL PARTIES. THE CHAIR SO ELECTED SERVES AS CHAIR FOR THE FIRST REGULAR SESSION OF THE GENERAL ASSEMBLY AT WHICH THE COMMITTEE IS TO SERVE AND AS

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VICE-CHAIR FOR THE SECOND REGULAR SESSION. THE VICE-CHAIR SO ELECTED SERVES AS CHAIR FOR THE SECOND REGULAR SESSION OF SAID GENERAL ASSEMBLY.

(c) THE COMMITTEE SHALL MEET AS NECESSARY AT THE CALL OF THE CHAIR.

(d) MEMBERS OF THE COMMITTEE SERVE WITHOUT COMPENSATION; EXCEPT THAT EACH MEMBER IS ENTITLED TO BE REIMBURSED FOR NECESSARY EXPENSES IN CONNECTION WITH THE PERFORMANCE OF HIS OR HER DUTIES, AND LEGISLATIVE MEMBERS RECEIVE THEIR PER DIEM FOR ATTENDANCE AT MEETINGS.

(3) IF THE CHAIR RECEIVES A COMPLAINT AGAINST A MEMBER OF THE GENERAL ASSEMBLY OR A PARTISAN STAFF MEMBER UNDER THE WORKPLACE HARASSMENT POLICY, THE CHAIR SHALL CONVENE A MEETING OF THE COMMITTEE TO CONSIDER THE COMPLAINT AND SHALL PROCEED IN ACCORDANCE WITH THE WORKPLACE HARASSMENT POLICY. PURSUANT TO THE WORKPLACE HARASSMENT POLICY AND SECTION 24-6-402 (3)(a)(III), MEETINGS OF THE COMMITTEE AND FORMAL ACTION OF THE COMMITTEE MAY OCCUR IN EXECUTIVE SESSION. ADDITIONALLY, PURSUANT TO SECTION 24-72-204 (3)(a)(X.5). ALL DOCUMENTS RELATED TO ANY COMPLAINT ARE CONFIDENTIAL AND ARE NOT SUBJECT TO DISCLOSURE.

SECTION 2. In Colorado Revised Statutes, 24-6-402, **amend** (3)(a)(III) as follows:

24-6-402. Meetings - open to public - definitions. (3) (a) The members of a state public body subject to this part 4, upon the announcement by the state public body to the public of the topic for discussion in the executive session, including specific citation to the

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provision of this subsection (3) authorizing the body to meet in an executive session and identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized, and the affirmative vote of two-thirds of the entire membership of the body after such announcement, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the matters enumerated in ~~paragraph (b) of this subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION or the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action, except the review, approval, and amendment of the minutes of an executive session recorded pursuant to ~~subparagraph (I) of paragraph (d.5) of subsection (2)~~ SUBSECTION (2)(d.5)(I) of this section, shall occur at any executive session that is not open to the public:

(III) (A) Matters required to be kept confidential by federal law or rules, state statutes, or in accordance with the requirements of any joint rule of the senate and ~~the~~ house of representatives pertaining to lobbying practices OR WORKPLACE HARASSMENT OR WORKPLACE EXPECTATIONS POLICIES.

(B) NOTWITHSTANDING THE PROVISIONS OF THE INTRODUCTORY PORTION TO SUBSECTION (3)(a) OF THIS SECTION, A COMMITTEE OF THE GENERAL ASSEMBLY CONSIDERING A COMPLAINT UNDER A WORKPLACE HARASSMENT POLICY OF THE GENERAL ASSEMBLY MAY TAKE FORMAL ACTION WHILE IN EXECUTIVE SESSION.

<{***Note: Section 3 of this bill should be included if the Executive Committee adopts the recommendations of the committee related to***

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disclosures of intimate relationships.}>

SECTION 3. In Colorado Revised Statutes, 24-72-202, **amend** (4.5) as follows:

24-72-202. Definitions. As used in this part 2, unless the context otherwise requires:

(4.5) "Personnel files" means and includes home addresses, telephone numbers, financial information, A DISCLOSURE OF AN INTIMATE RELATIONSHIP FILED IN ACCORDANCE WITH THE POLICIES OF THE GENERAL ASSEMBLY, ~~and~~ other information maintained because of the employer-employee relationship, and other documents specifically exempt from disclosure under this part 2 or any other provision of law. "Personnel files" does not include applications of past or current employees, employment agreements, any amount paid or benefit provided incident to termination of employment, performance ratings, final sabbatical reports required under section 23-5-123, ~~C.R.S.~~, or any compensation, including expense allowances and benefits, paid to employees by the state, its agencies, institutions, or political subdivisions.

<{***Note: Sections 4 and 5 of this bill should be included if the Executive Committee determines that the provisions related to the confidentiality of records apply only to the general assembly, and the exception for persons in interest should be removed for records of the general assembly.***}>

SECTION 4. In Colorado Revised Statutes, **add** 2-3-511 as follows:

2-3-511. Office of human resources - creation - duties - records - definitions. (1) THE OFFICE OF HUMAN RESOURCES IS CREATED IN THE

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OFFICE OF LEGISLATIVE LEGAL SERVICES. THE HEAD OF THE OFFICE IS THE DIRECTOR OF THE OFFICE OF HUMAN RESOURCES. THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL APPOINT THE DIRECTOR OF THE OFFICE OF HUMAN RESOURCES AND MAY APPOINT SUCH ADDITIONAL STAFF AS MAY BE NECESSARY FOR THE EFFICIENT OPERATION OF THE OFFICE, IN ACCORDANCE WITH SECTION 2-3-503 (1).

(2) THE OFFICE OF HUMAN RESOURCES SHALL PROVIDE SERVICES TO THE GENERAL ASSEMBLY, ITS EMPLOYEES, AND THE LEGISLATIVE STAFF AGENCIES RELATED TO EMPLOYEE RELATIONS; TRAINING; COMPLIANCE; WORKPLACE CULTURE, INCLUDING THE INVESTIGATION OF COMPLAINTS UNDER THE WORKPLACE EXPECTATIONS POLICY; AND WORKPLACE HARASSMENT, INCLUDING THE INVESTIGATION OF COMPLAINTS UNDER THE WORKPLACE HARASSMENT POLICY.

(3) RECORDS CREATED AND MAINTAINED BY THE OFFICE OF HUMAN RESOURCES THAT ARE RELATED TO A WORKPLACE HARASSMENT COMPLAINT OR INVESTIGATION, A COMPLAINT UNDER THE WORKPLACE EXPECTATIONS POLICY, OR AN INQUIRY OR REQUEST CONCERNING WORKPLACE HARASSMENT OR CONDUCT, WHETHER OR NOT THE INQUIRY OR REQUEST LEADS TO A FORMAL OR INFORMAL COMPLAINT OR RESOLUTION PROCESS, ARE NOT PUBLIC RECORDS AS DEFINED IN SECTION 24-72-202 (6) AND SHALL NOT BE MADE AVAILABLE FOR PUBLIC INSPECTION; EXCEPT THAT, NOTWITHSTANDING THE PROVISIONS OF SECTION 24-72-204 (3)(a)(X):

(a) THE DIRECTOR OF THE OFFICE OF HUMAN RESOURCES SHALL PUBLISH AND MAKE AVAILABLE TO THE PUBLIC AN ANNUAL STATISTICAL REPORT SHOWING THE TOTAL NUMBER OF COMPLAINTS RECEIVED UNDER

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THE WORKPLACE HARASSMENT POLICY AND THE WORKPLACE EXPECTATIONS POLICY AND THEIR RESOLUTION. THE DIRECTOR SHALL ENSURE THAT THE REPORT DOES NOT CONTAIN INFORMATION THAT WOULD DISCLOSE THE IDENTITY OF A COMPLAINANT, RESPONDENT, OR WITNESS.

(b) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(II) OF THIS SECTION, IF, AFTER AN INVESTIGATION IN ACCORDANCE WITH THE WORKPLACE HARASSMENT POLICY, A WORKPLACE HARASSMENT COMMITTEE RECOMMENDS THE INTRODUCTION OF A RESOLUTION TO EXPEL OR CENSURE THE RESPONDENT, THE DIRECTOR OF THE OFFICE OF HUMAN RESOURCES SHALL MAKE AVAILABLE TO THE PUBLIC THE EXECUTIVE SUMMARY OF THE REPORT OF THE INVESTIGATION. THE DIRECTOR SHALL ENSURE THAT THE EXECUTIVE SUMMARY DOES NOT CONTAIN INFORMATION THAT WOULD DISCLOSE THE IDENTITY OF THE COMPLAINANT OR ANY WITNESS.

(II) IF THE COMPLAINANT OBJECTS TO THE RELEASE OF THE EXECUTIVE SUMMARY IN ACCORDANCE WITH SUBSECTION (3)(b)(I) OF THIS SECTION, THE COMPLAINANT SHALL NOTIFY THE DIRECTOR OF THE OFFICE OF HUMAN RESOURCES AND THE CHAIR OF THE WORKPLACE HARASSMENT COMMITTEE. THE COMMITTEE SHALL MEET IN EXECUTIVE SESSION AND SHALL DETERMINE WHETHER TO RELEASE THE EXECUTIVE SUMMARY OR ANY PORTION THEREOF, TAKING INTO CONSIDERATION THE COMPLAINANT'S WISHES FOR CONFIDENTIALITY, THE SEVERITY OF THE CONDUCT ALLEGED, ANY PATTERNS OF HARASSING BEHAVIOR BY THE LEGISLATOR, AND THE PUBLIC'S INTEREST IN BEING INFORMED OF THE CONDUCT OF ELECTED OFFICIALS.

(c) RECORDS OF THE EXPENDITURE OF PUBLIC MONEY ON

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COMPLAINTS, INVESTIGATIONS, OR OTHER FUNCTIONS OF THE OFFICE OF HUMAN RESOURCES ARE PUBLIC RECORDS SUBJECT TO INSPECTION IN ACCORDANCE WITH PART 2 OF ARTICLE 72 OF TITLE 24, EXCEPT TO THE EXTENT THAT THEY CONTAIN INFORMATION THAT WOULD DISCLOSE THE DETAILS OF, OR THE IDENTITY OF AN INDIVIDUAL INVOLVED IN, A COMPLAINT, INVESTIGATION, OR INQUIRY OR REQUEST CONCERNING WORKPLACE HARASSMENT OR CONDUCT.

(4) AS USED IN THIS SECTION:

(a) "WORKPLACE EXPECTATIONS POLICY" MEANS THE WORKPLACE EXPECTATIONS POLICY ADOPTED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL PURSUANT TO THE JOINT RULES.

(b) "WORKPLACE HARASSMENT POLICY" MEANS THE WORKPLACE HARASSMENT POLICY ADOPTED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL PURSUANT TO THE JOINT RULES.

SECTION 5. In Colorado Revised Statutes, 24-72-204, **add** (3)(a)(X.5) as follows:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions - repeal. (3) (a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest pursuant to this subsection (3):

(X.5) RECORDS CREATED, MAINTAINED, OR PROVIDED TO A CUSTODIAN BY THE OFFICE OF HUMAN RESOURCES CREATED IN SECTION 2-3-511 THAT ARE RELATED TO A WORKPLACE HARASSMENT COMPLAINT

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OR INVESTIGATION, A COMPLAINT UNDER THE WORKPLACE EXPECTATIONS POLICY, OR AN INQUIRY OR REQUEST CONCERNING WORKPLACE HARASSMENT OR CONDUCT, WHETHER OR NOT THE RECORDS ARE PART OF A FORMAL OR INFORMAL COMPLAINT OR RESOLUTION PROCESS.

<{***Note: Sections 6 and 7 of this bill should be included if the Executive Committee determines that the provisions related to the confidentiality of records apply to all custodians of records, and the exception related to persons in interest should remain in place for all custodians.***}>

SECTION 6. In Colorado Revised Statutes, **add** 2-3-511 as follows:

2-3-511. Office of human resources - creation - duties. (1) THE OFFICE OF HUMAN RESOURCES IS CREATED IN THE OFFICE OF LEGISLATIVE LEGAL SERVICES. THE HEAD OF THE OFFICE IS THE DIRECTOR OF THE OFFICE OF HUMAN RESOURCES. THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL APPOINT THE DIRECTOR OF THE OFFICE OF HUMAN RESOURCES AND MAY APPOINT SUCH ADDITIONAL STAFF AS MAY BE NECESSARY FOR THE EFFICIENT OPERATION OF THE OFFICE, IN ACCORDANCE WITH SECTION 2-3-503 (1).

(2) THE OFFICE OF HUMAN RESOURCES SHALL PROVIDE SERVICES TO THE GENERAL ASSEMBLY, ITS EMPLOYEES, AND THE LEGISLATIVE STAFF AGENCIES RELATED TO EMPLOYEE RELATIONS; TRAINING; COMPLIANCE; WORKPLACE CULTURE, INCLUDING THE INVESTIGATION OF COMPLAINTS UNDER THE WORKPLACE EXPECTATIONS POLICY ADOPTED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL ACCORDING TO THE JOINT RULES; AND WORKPLACE HARASSMENT, INCLUDING THE INVESTIGATION OF COMPLAINTS UNDER THE WORKPLACE HARASSMENT

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POLICY ADOPTED BY THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL PURSUANT TO THE JOINT RULES.

(3) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-72-204 (3)(a)(X), THE DIRECTOR OF THE OFFICE OF HUMAN RESOURCES SHALL PUBLISH AND MAKE AVAILABLE TO THE PUBLIC AN ANNUAL STATISTICAL REPORT SHOWING THE TOTAL NUMBER OF COMPLAINTS RECEIVED UNDER THE WORKPLACE HARASSMENT POLICY AND THE WORKPLACE EXPECTATIONS POLICY AND THEIR RESOLUTION. THE DIRECTOR SHALL ENSURE THAT THE REPORT DOES NOT CONTAIN INFORMATION THAT WOULD DISCLOSE THE IDENTITY OF A COMPLAINANT, RESPONDENT, OR WITNESS.

SECTION 7. In Colorado Revised Statutes, 24-72-204, **amend** (3)(a)(X)(A), (3)(a)(X)(B), and (3)(a)(X)(C) as follows:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions - repeal. (3) (a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest pursuant to this subsection (3):

(X) (A) Any records of ~~sexual~~ WORKPLACE harassment REPORTS, complaints, and investigations, whether or not such records are maintained as part of a personnel file, AND WHETHER OR NOT SUCH REPORTS OR COMPLAINTS BECOME PART OF A FORMAL OR INFORMAL INVESTIGATION OR RESOLUTION PROCESS; except that, an administrative agency investigating the complaint may, upon a showing of necessity to the custodian of records, gain access to information necessary to the

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investigation of such a complaint. This ~~sub-subparagraph (A) shall~~ SUBSECTION (3)(a)(X)(A) DOES not apply to records of ~~sexual~~ WORKPLACE harassment complaints and investigations that are included in court files and records of court proceedings. ~~Disclosure of all or a part of any records of sexual harassment complaints and investigations to the person in interest is permissible to the extent that the disclosure can be made without permitting the identification, as a result of the disclosure, of any individual involved~~. This ~~sub-subparagraph (A) shall~~ SUBSECTION (3)(a)(X)(A) DOES not preclude disclosure of all or part of the results of an investigation of the general employment policies and procedures of an agency, office, department, or division, to the extent that the disclosure can be made without permitting the identification, as a result of the disclosure, of any individual involved.

(B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3)(a)(X)(A) OF THIS SECTION, A RECORD OF A WORKPLACE HARASSMENT COMPLAINT OR INVESTIGATION SHALL BE PROVIDED TO A PERSON IN INTEREST AT THE CONCLUSION OF THE INVESTIGATION AT THE REQUEST OF THE PERSON IN INTEREST. A person in interest under this ~~subparagraph (X)~~ SUBSECTION (3)(a)(X) includes the person making a complaint and the person whose conduct is the subject of such a complaint.

(C) ~~A person in interest may make a record maintained pursuant to this subparagraph (X) available for public inspection when such record supports the contention that a~~ A PERSON IN INTEREST SHALL NOT MAKE A RECORD OF A WORKPLACE HARASSMENT COMPLAINT OR INVESTIGATION AVAILABLE FOR PUBLIC INSPECTION; EXCEPT THAT, IF THE ALLEGATIONS IN THE COMPLAINT HAVE BEEN publicly reported, written, printed, or

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spoken ~~allegation of sexual harassment~~ against such person, ~~is~~ THE PERSON IN INTEREST MAY MAKE A RECORD AVAILABLE IF THE RECORD SUPPORTS THE CONTENTION THAT THE ALLEGATIONS IN THE COMPLAINT ARE false.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

<{***Note: In order for the new policies to have the protections of this bill, the bill and joint resolution authorizing the new policies should have the same effective date.***}>

EXHIBIT 4

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT

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SENATE SPONSORSHIP

Senate Committees

SENATE RESOLUTION

CONCERNING CHANGES TO RULES OF THE SENATE TO IMPLEMENT WORKPLACE POLICIES OF THE GENERAL ASSEMBLY.

Be It Resolved by the Senate of the Seventy-second General Assembly of the State of Colorado:

<{***Note: The addition of Rule 21 (g) is necessary only if there are separate committees for each House.***}>

That in the Rules of the House of Representatives, Rule No. 21, **amend** (b); and **add** (g) as follows:

21. Committees

(b) The following committees shall be appointed at the beginning of each regular session of the General Assembly convening after a general election and at such other times as may be necessary, and the members of the committees shall serve at the pleasure of the appropriate appointing authority:

(1) Senate Services.

(2) Joint Budget Committee.

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(3) WORKPLACE HARASSMENT COMMITTEE.

The majority leader of the Senate shall appoint the majority members to these committees, with the majority leader appointing to the Joint Budget Committee the majority party members elected by the Senate majority party caucus to serve on this committee. The minority leader shall appoint the minority members to these committees, with the minority leader appointing to the Joint Budget Committee the minority party member elected by the Senate minority party caucus to serve on this committee.

(g) (1) THE SENATE WORKPLACE HARASSMENT COMMITTEE SHALL HANDLE COMPLAINTS UNDER THE WORKPLACE HARASSMENT POLICY OF THE GENERAL ASSEMBLY AGAINST A MEMBER OF THE SENATE OR A PARTISAN STAFF PERSON OF THE SENATE. THE SENATE WORKPLACE HARASSMENT COMMITTEE CONSISTS OF SIX MEMBERS, THREE APPOINTED BY THE MAJORITY LEADER AND THREE APPOINTED BY THE MINORITY LEADER. MEMBERS OF THE SENATE WORKPLACE HARASSMENT COMMITTEE SHOULD HAVE THE APPROPRIATE EXPERIENCE AND DEMEANOR TO HANDLE POTENTIALLY PARTISAN ISSUES IN AN OBJECTIVE MANNER.

(2) THE SENATE WORKPLACE HARASSMENT COMMITTEE SHALL ELECT A CHAIR AND A VICE-CHAIR, ONE FROM EACH OF THE TWO MAJOR POLITICAL PARTIES. THE CHAIR SO ELECTED SERVES AS CHAIR FOR THE FIRST REGULAR SESSION OF THE GENERAL ASSEMBLY AT WHICH THE WORKPLACE HARASSMENT COMMITTEE IS TO SERVE AND AS VICE-CHAIR FOR THE SECOND REGULAR SESSION. THE VICE-CHAIR SO ELECTED SERVES AS CHAIR FOR THE SECOND REGULAR SESSION OF SAID GENERAL ASSEMBLY.

(3) IF THE CHAIR RECEIVES A COMPLAINT AGAINST A MEMBER OF THE SENATE OR A PARTISAN STAFF PERSON OF THE SENATE UNDER THE WORKPLACE HARASSMENT POLICY, THE CHAIR SHALL CONVENE A MEETING OF THE SENATE WORKPLACE HARASSMENT COMMITTEE TO CONSIDER THE COMPLAINT AND SHALL PROCEED IN ACCORDANCE WITH THE WORKPLACE HARASSMENT POLICY. PURSUANT TO THE WORKPLACE HARASSMENT POLICY AND SECTION 24-6-402 (3)(a)(III), COLORADO REVISED STATUTES, MEETINGS OF THE SENATE WORKPLACE HARASSMENT COMMITTEE AND FORMAL ACTION OF THE COMMITTEE MAY OCCUR IN EXECUTIVE SESSION. ADDITIONALLY, PURSUANT TO SECTION 24-72-402 (3)(a)(X.5), COLORADO REVISED STATUTES, ALL DOCUMENTS RELATED TO ANY WORKPLACE HARASSMENT COMPLAINT ARE CONFIDENTIAL AND ARE NOT SUBJECT TO DISCLOSURE.

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(4) AS USED IN THIS SUBSECTION (g), PARTISAN STAFF PERSON MEANS A PERSON WHO IS SUPERVISED BY A MEMBER OF THE SENATE AND INCLUDES CAUCUS STAFF PERSONS AND AIDES, INTERNS, AND VOLUNTEERS SUPERVISED BY A MEMBER OF THE SENATE.

EXHIBIT 5

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

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HOUSE SPONSORSHIP

House Committees

HOUSE RESOLUTION

CONCERNING CHANGES TO RULES OF THE HOUSE OF REPRESENTATIVES TO IMPLEMENT WORKPLACE POLICIES OF THE GENERAL ASSEMBLY.

Be It Resolved by the House of Representatives of the Seventy-second General Assembly of the State of Colorado:

<{***Note: The addition of Rule 25 (f.5) is necessary only if there are separate committees for each House.***}>

That in the Rules of the House of Representatives, Rule No. 25, **amend** (d) and (g); and **add** (b)(3) and (f.5) as follows:

25. Committees

(b) Other permanent committees of the House shall be:

(3) WORKPLACE HARASSMENT.

(d) EXCEPT FOR THE HOUSE WORKPLACE HARASSMENT COMMITTEE, from the members appointed to each committee specified in (a) and (b) above, the Speaker shall designate the chairman and the

vice-chairman of each committee.

(f.5) (1) THE HOUSE WORKPLACE HARASSMENT COMMITTEE SHALL HANDLE COMPLAINTS UNDER THE WORKPLACE HARASSMENT POLICY OF THE GENERAL ASSEMBLY AGAINST A MEMBER OF THE HOUSE OF REPRESENTATIVES OR A PARTISAN STAFF PERSON OF THE HOUSE OF REPRESENTATIVES. THE HOUSE WORKPLACE HARASSMENT COMMITTEE CONSISTS OF SIX MEMBERS, THREE APPOINTED BY THE SPEAKER AND THREE APPOINTED BY THE MINORITY LEADER. MEMBERS OF THE HOUSE WORKPLACE HARASSMENT COMMITTEE SHOULD HAVE THE APPROPRIATE EXPERIENCE AND DEMEANOR TO HANDLE POTENTIALLY PARTISAN ISSUES IN AN OBJECTIVE MANNER.

(2) THE HOUSE WORKPLACE HARASSMENT COMMITTEE SHALL ELECT A CHAIR AND A VICE-CHAIR, ONE FROM EACH OF THE TWO MAJOR POLITICAL PARTIES. THE CHAIR SO ELECTED SERVES AS CHAIR FOR THE FIRST REGULAR SESSION OF THE GENERAL ASSEMBLY AT WHICH THE HOUSE WORKPLACE HARASSMENT COMMITTEE IS TO SERVE AND AS VICE-CHAIR FOR THE SECOND REGULAR SESSION. THE VICE-CHAIR SO ELECTED SERVES AS CHAIR FOR THE SECOND REGULAR SESSION OF SAID GENERAL ASSEMBLY.

(3) IF THE CHAIR RECEIVES A COMPLAINT AGAINST A MEMBER OF THE HOUSE OF REPRESENTATIVES OR A PARTISAN STAFF PERSON OF THE HOUSE OF REPRESENTATIVES UNDER THE WORKPLACE HARASSMENT POLICY, THE CHAIR SHALL CONVENE A MEETING OF THE HOUSE WORKPLACE HARASSMENT COMMITTEE TO CONSIDER THE COMPLAINT AND SHALL PROCEED IN ACCORDANCE WITH THE WORKPLACE HARASSMENT POLICY. PURSUANT TO THE WORKPLACE HARASSMENT POLICY AND SECTION 24-6-402 (3)(a)(III), COLORADO REVISED STATUTES, MEETINGS OF THE HOUSE WORKPLACE HARASSMENT COMMITTEE AND FORMAL ACTION OF THE COMMITTEE MAY OCCUR IN EXECUTIVE SESSION. ADDITIONALLY, PURSUANT TO SECTION 24-72-204 (3)(a)(X.5), COLORADO REVISED STATUTES, ALL DOCUMENTS RELATED TO ANY COMPLAINT ARE CONFIDENTIAL AND ARE NOT SUBJECT TO DISCLOSURE.

(4) AS USED IN THIS SUBSECTION (f.5), "PARTISAN STAFF PERSON OF THE HOUSE OF REPRESENTATIVES" MEANS A PERSON WHO IS SUPERVISED BY A MEMBER OF THE HOUSE OF REPRESENTATIVES AND INCLUDES CAUCUS STAFF PERSONS AND AIDES, INTERNS, AND VOLUNTEERS SUPERVISED BY A MEMBER OF THE HOUSE OF

EXHIBIT 5

REPRESENTATIVES.

(g) EXCEPT FOR THE HOUSE WORKPLACE HARASSMENT COMMITTEE, all committees shall consist of not fewer than nine nor more than nineteen members, as determined by the Speaker.

EXHIBIT 6

Workplace Harassment Policy of the General Assembly

Prepared by the Office of Human Resources

A) APPLICABILITY

This Policy is applicable to each member of the General Assembly, all legislative employees who are not subject to the state personnel system, and third parties.

B) DEFINITIONS

As used in this Policy:

1. **Complainant** means a person who files a complaint, whether formal or informal, under this Policy.

2. **Harassment** is verbal or physical conduct that demeans, stereotypes, or shows hostility or aversion toward a person or group because of the individual's protected class. A "protected class" includes a person's race, color, religion, national origin, sex (including pregnancy, childbirth, and related medical conditions), ancestry, sexual orientation, age, disability status, marital status, genetic information, gender identity or expression, active military personnel status, citizenship status, transgender status, or any other class, attribute, or affiliation that is protected by state or federal law, or a person's association with others in a protected class. Harassment is conduct directed towards a member of a protected class where the conduct:

   a) Has the purpose or effect of creating an intimidating, hostile, humiliating, or offensive working environment;

   b) Has the purpose or effect of unreasonably interfering with a person's work performance; or

   c) Otherwise adversely affects a person's employment opportunities.

   Harassment can be a single serious incident or a series of incidents over time and is not determined by looking at the intention of the person who engaged in the behavior. Discriminatory harassment is determined by asking: (1) Did the recipient of the behavior him or herself find it unwelcome, offensive, hostile, insulting, intimidating, demeaning, humiliating, hurtful, or degrading (or any other synonym for these concepts); and (2) Would a reasonable person in the recipient's position find the behavior similarly offensive?

While harassment includes sexual harassment, sexual harassment raises issues that are to some extent unique in comparison to other types of workplace harassment. As such, sexual harassment is defined separately in section B.11. of this Policy;

No policy can provide an exhaustive list of behaviors that can rise to the level of harassment. Some examples of harassment might include, but are not limited to, the following conduct if it is severe or pervasive under all of the circumstances:

- Epithets, slurs, insults, innuendo, or negative stereotyping comments related to the protected classes;
- Mocking someone's accent, speech, attire, or mobility;
- Acts or jokes that are hostile or demeaning with regard to the protected classes;
- Threatening, intimidating, or hostile acts that relate to the protected classes;
- Racially offensive words or phrases;
- Written or graphic material that insults, stereotypes, or shows aversion or hostility to an individual or group because of protected class and that is placed on walls, bulletin boards, email, voicemail, or elsewhere on the premises of the legislative workplace;
- Displays of symbols, slogans, or items that are associated with hate or intolerance towards any select group, such as swastikas or nooses;
- Pranks or hazing directed at someone because of their protected class; and
- Physical aggression or gestures based on someone's protected class.

3. **Legislative employee** means an employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, the Senate, or the House of Representatives, including any legislative aide to a member. For purposes of this Policy, "legislative employee" also includes a legislative intern and volunteer staff.

4. **Legislative workplace** means the capitol complex and premises, the legislative services building, and the state services building, or any other surrounding buildings or office spaces utilized by the General Assembly.

5. **Member** means a legislative member of the General Assembly.

6. **Nonpartisan Staff** means an employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, or an employee of the Senate or the House of Representatives who does not work for any specific member and who does not represent any political affiliation. For purposes of this Policy, “nonpartisan staff” may also include volunteer staff when the other criteria under this definition is met.

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7. **Partisan Staff** means an employee of the Senate or House of Representatives who works for a specific member or who represents a political affiliation within the General Assembly. For purposes of this Policy, "partisan staff" also includes a legislative intern and may include volunteer staff when the other criteria under this definition is met.

8. **Protection of the Workplace** means the Office determines that the initiation of an investigation or sharing of information is necessary for the protection of the individuals in the legislative workplace. Such instances may occur when complaints include allegations of:

    - Sexual assault;
    - Physical violence;
    - Threats of violence against a complainant or others;
    - Retaliation;
    - A repeated pattern or history of inappropriate or harassing behavior; or
    - Other criminal behavior, either explicit or implicit.

9. **Respondent** means a person who is accused of wrongdoing under this Policy.

10. **Retaliation** is an act of punishment, reprisal, or revenge that is taken against a person because they complained of behavior under this Policy or because they assisted or participated in an investigation of a complaint under the Policy. Retaliation can take many forms in a legislative workplace, but essentially retaliation can be any action that is taken against a person that would deter a reasonable person from coming forward to complain of misbehavior under this Policy.

    Retaliation in a legislative work environment can take many forms and can be work-related or not work-related. Some examples can include but are not limited to:

    <u>Work-related retaliation:</u>

    - Disparaging a person to a caucus or other legislative body;
    - Changing the person's role, responsibilities, supervisory, or legislative authority;
    - Newfound scrutiny of work performance by a supervisor;
    - Demotion, suspension, termination, or denial of a promotion;
    - Warnings, reprimands, or poor performance evaluations;
    - Exclusion from beneficial networking or other opportunities;
    - Requiring reverification of work status;
    - Encouraging coworker shunning;
    - Exclusion from work-related activities;
    - Workplace surveillance or workplace or legislative sabotage; or
    - Assignment of disproportionate workload.

Non-work-related retaliation:

- Disparaging the person to others or in the media;
- Disparaging the person to potential new employers;
- Threatening legal action;
- Threatening immigration action; or
- Abusive verbal or physical behavior.

11. **Sexual harassment** is a form of harassment. The General Assembly prohibits sexual harassment and will take prompt and appropriate action in response to complaints or knowledge of violations of this Policy.

a) Sexual harassment can be "quid pro quo" or "this for that" harassment. This includes direct or implied requests by a member or individual in a position of real or perceived authority for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or support of legislation or other legislative processes.

b) Sexual harassment can also be "hostile work environment" harassment. This includes sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment;
- It is used as a basis for employment decisions;
- Submission to or rejection of such conduct by a person is used as the basis for decisions or actions related to the support or opposition of legislation or other legislative processes; or
- Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment.

c) Examples of sexual harassment include, but are not limited to, the following conduct, if unwelcome by the recipient and sufficiently severe or pervasive under all of the circumstances:

Inappropriate commentary:

- Sexual "kidding," epithets, jokes, written or oral references to sexual conduct;
- Gossip regarding a person's sex life;
- Commenting on a person's body or sexual activity, deficiencies, or prowess;
- Sexually suggestive comments about a person's clothing;
- Vocal activity like catcalls or whistles;

- Leering or staring at a person or part of their body;
- Obscene letters, notes, emails, text messages, photographs, cartoons, articles, or other written or pictorial materials of a sexual nature; or
- Sexting or sexual messages or images posted on social media, for example, texts, instant messages, Facebook posts, Tweets, Snapchats, Instagrams, or blog entries.

<u>Direct sexual propositions:</u>

- Persistent requests for dates, drinks, or other personal contact after being informed that the interest is unwelcome;
- Inappropriate sexually themed communication in person, online, or via mobile devices;
- Indecent exposure; or
- Unwelcome sexual advances or invitations, including but not limited to, requests for sexual activity or intimate meetings at one's home, in the legislative workplace, or a hotel room.

<u>Sexual coercion and retaliation:</u>

- Quid pro quo harassment, including explicit or implicit requests for sexual activity or silence about harassment in exchange for reward, position, or career advancement; support of legislative initiatives; introductions; referrals; meetings or "facetime"; invitations to exclusive events; support for candidacies; position stability and continuation; or any other such condition or potential benefit;
- Sexual coercion under threat of punishment, including demotion, firing, negative reviews, opposition to legislative initiatives, blacklisting, or otherwise interfering with someone's access to fellow lawmakers or opportunities; or
- Retaliating against a member of the legislative workplace for refusing a sexual advance or reporting an incident of possible sexual harassment per this Policy or the person's other legal avenues for reporting.

<u>Sexual contact:</u>

- Unwanted physical touching or assault or blocking or impeding movements;
- Unconsented physical contact of a sexual nature, including but not limited to, touching, groping, or kissing;
- Sexual contact without proper consent due to intoxication; or
- Rape.

d) Sexual harassment may involve individuals of the same or different genders, or those who do not identify as gender binary;

e) Sexual harassment can be a single serious incident or a series of incidents over time;

f) Sexual harassment is assessed using the same standard described above in the harassment definition.

12. **Third party** means a lobbyist, member of the media, or member of the general public who is interacting with the General Assembly or with legislative service agencies, the Senate, or the House of Representatives.

13. **Workplace Expectations** means the expected behaviors and responsibilities of individuals in the legislative work environment based on the General Assembly's commitment to dignity and respect. These expectations are defined in a separate policy document.

C) WORKPLACE HARASSMENT PROHIBITED

The General Assembly prohibits harassment by members of the General Assembly, legislative employees, or third parties and will take prompt and appropriate action in response to complaints or knowledge of harassment.

D) SEXUAL HARASSMENT PROHIBITED

Sexual harassment is a form of workplace harassment. The General Assembly prohibits sexual harassment by members of the General Assembly, legislative employees, or third parties and will take prompt and appropriate action in response to complaints or knowledge of sexual harassment.

E) RETALIATION PROHIBITED

The General Assembly prohibits retaliation against any person for having complained about alleged violations of this Policy or the Workplace Expectations, assisting in such a complaint, or participating in an investigation into such a complaint.

Retaliation is a serious problem, and a fear of retaliation prevents issues from surfacing, keeps people from raising problems, and enables a culture of harassment to fester. The General Assembly recognizes the seriousness of retaliation and is committed to responding to and addressing retaliation concerns proactively and reactively upon receipt of a complaint of retaliation. As such, any complaint of retaliation will be addressed under the formal resolution process, described in section H. of this Policy.

F) REPORTING PROCESS

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1. Any member, legislative employee, or third party who wishes to report a violation of this Policy or who believes he or she is the subject of any type of workplace harassment, sexual harassment, or retaliation in any manner from anyone, should submit a complaint directly to the Office of Human Resources (Office) or its opposite gender designee, if applicable.

   If the complaint concerns a staff member from the Office, a complainant should submit a complaint to the director of the Office of Legislative Legal Services or his or her opposite gender designee.

   Complainants may also submit complaints through the General Assembly's anonymous reporting hotline (link or phone number or something here). Please note that while the General Assembly is committed to responding appropriately to all complaints under this Policy, reporting a complaint anonymously may limit the degree to which it can be effectively and thoroughly investigated, based on the information provided.

2. Upon receipt or notification of a complaint of workplace harassment, sexual harassment, or retaliation, the Office shall proceed as follows:

   The Office shall assess the complaint and work with the complainant to determine the most appropriate course of action, including whether to proceed with a formal or informal resolution process as described in sections G. and H. of this Policy. A formal harassment complaint investigation will only be initiated with the approval of the complainant unless the Office determines that the initiation of such an investigation is necessary for the protection of the workplace. Such instances may occur when complaints include allegations of:

   - Sexual assault;
   - Physical violence;
   - Threats of violence against a complainant or others;
   - Retaliation;
   - A repeated pattern or history of inappropriate or harassing behavior; or
   - Other criminal behavior, either explicit or implicit.

G) INFORMAL RESOLUTION PROCESS

1. The informal resolution process is, as the name suggests, flexible and intentionally open to individualized responses and resources. This shall be a confidential process, and the parties' names, the process itself, and any resolution shall not be subject to disclosure except as necessary to implement any steps agreed to in the resolution or as provided in section I or G. 4 of this Policy. The informal resolution process is intended to stop and redirect inappropriate behavior and prevent it from reoccurring.

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2. The Office shall take such steps as necessary to understand the complaint and find facts to determine if the behavior occurred. These steps need not follow the formal investigation protocols set forth below in section H. of this Policy and are not subject to the same requirements. After the informal fact finding has concluded, the Office will determine a range of resources to offer to the parties to resolve the issues.

3. The Office has internal and external resources that it can provide as part of the informal resolution process, including:

    - Facilitated mediation;
    - Meetings between the Office and respondents on behalf of complainants;
    - Individual or joint coaching;
    - Training and educational opportunities;
    - Team rebuilding and crisis management;
    - Referrals to counseling, advocacy, and wellness support; and
    - Other remedial actions.

4. The Office shall create a record of all complaints handled under the informal resolution process and the outcome and shall maintain such records in secure and confidential files ten years or after the last party involved is no longer within the legislative workplace, whichever is longer. All such records and work product of this process must be confidential; except that:

    a. If the Office finds a pattern of issues with a respondent under the informal process, the Office may disclose to the respondent's supervisor or caucus leadership the issues raised without disclosing the identity of any person involved in the process except for the respondent; and

    b. The Office shall collect nonidentifying, statistical data regarding informal complaints and shall annually submit a report to the General Assembly on informal complaints received during the previous calendar year.

5. Participation in the informal resolution process shall be voluntary. If the parties agree to the informal resolution process, they shall be expected to participate fully and in good faith. In all cases of nonparticipation, the Office shall document the allegations and responses in the complaint file, and this information may be considered as grounds for more serious treatment of future complaints about the same respondent, should they arise.

6. The Office shall strive to complete the informal resolution process within thirty (30) days of the Office's receipt of the complaint. It should be noted that remedial action such as ongoing coaching, training, or other efforts may be decided upon within the thirty (30) day timeline but may be ongoing after that time frame has elapsed.

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H) FORMAL RESOLUTION PROCESS

1. The formal resolution process is a more traditional investigative response to complaints alleging facts that could constitute workplace or sexual harassment or retaliation. This shall be a confidential process, and the parties' names, witness names, the process itself and any resolution shall not be subject to disclosure except as necessary to conduct an investigation, implement remedial or protective measures, for the necessary protection of the workplace, or as otherwise provided in section I or H.3 of this Policy. The formal resolution process is intended to stop serious misbehavior and prevent it from reoccurring.

2. The Office has internal and external resources that it can provide as part of the formal resolution process, including:

    - Internal staff trained in thorough and impartial investigations;
    - Trauma-informed interviewers and data assessors;
    - Referrals to qualified third-party investigators to use when circumstances require outside expertise;
    - Remedial and protective measures;
    - Access to external advocates and support persons for complainants and respondents;
    - A standing legislative committee (Committee), to use when allegations present facts that could constitute workplace or sexual harassment or retaliation by a member or partisan staff; and
    - All of the resources available in the informal resolution process, which can be employed as necessary in the formal resolution process.

3. The Office will make a record of all complaints handled under the formal resolution process and the outcome and shall maintain such records in secure and confidential files ten years or after the last party involved is no longer within the legislative workplace, whichever is longer. All such records and work product of this process will be confidential except as described in section G.4. of this Policy and as necessary to investigate and to enact protective and remedial measures.

4. Participation in the formal resolution process is:

    - Mandatory for partisan and nonpartisan staff;
    - Voluntary for members (if a member does not participate in an investigation, the Office may report the lack of participation to leadership); and
    - Encouraged for third parties.

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5. As part of every formal resolution process, the Office shall make certain notifications to the parties, make referrals to resources available for parties, and ensure that an anti-retaliation plan is created.

    a) The Office shall provide the following notifications to both the complainant and respondent in the formal resolution process. These notifications shall be provided verbally and offered in written format (note that notifications via email will only be sent to a private email account designated by the individual):

        - An explanation of the investigatory procedures, including the contemplated timeline of the process;
        - An advisement on the requirement and importance of confidentiality, as well as the applicable limits on confidentiality;
        - A reminder of the prohibition against retaliation and reporting options concerning retaliation; and
        - A listing of resources available to support the parties through the formal resolution process, which may include mental health services, counseling, anti-retaliation support, and wellness services or referral to other support services.

    Such notification shall ordinarily occur, in the case of the complainant, when the Office receives the complaint; and in the case of the respondent, at the time of his or her first investigation interview.

    b) The Office shall meet with the complainant upon receiving the complaint and with the respondent at the time of his or her first interview, to discuss and create a proactive anti-retaliation plan with both parties. The Office has flexibility in designing such a plan. The process for creating this plan, and some of its contents, may include:

        - Discussion with complainant regarding his or her feelings or fears about retaliation, and identifying individualized areas of concern for monitoring and proactive involvement;
        - Discussion with complainant about anti-retaliation protections generally, including information on how to report retaliation and support available for dealing with personal feelings and fear about retaliation while carrying out employment or legislative business;
        - Discussion with any witnesses, at the time they are interviewed, about anti-retaliation protections generally, including information on how to report retaliation and support available for dealing with personal feelings and fear about retaliation while carrying out employment or legislative business;
        - Discussion with respondent about the obligation not to retaliate, ways to avoid engaging in retaliation, support available for dealing with personal feelings

about the allegations while carrying out managerial or legislative business and the possibility for increased severity of potential penalties for misconduct if retaliation occurs, and any concerns or fears about retaliation that the respondent may have;

- Review of projects, pending legislation, or work projects on which complainant and respondent are working together to identify possible areas of concern to monitor for possible retaliation;
- Exploring options for physically separating the parties during the investigation, including (where available) leaves of absence, reassignment, and office moves;
- Devising a schedule for periodic check in by the Office with the parties to determine whether compliance with anti-retaliation is happening; and
- Devising other communication or monitoring plans to enable the Office to be aware of complainant's work performance, proposed legislation, or projects with an eye toward identifying and interrupting possible retaliation occurring.

The anti-retaliation plan will be made part of the permanent confidential investigation file.

6. In investigations in the formal resolution process, both complainant and respondent have certain rights and responsibilities.

   a) Complainant and respondent have the responsibility to:

   - Participate fully and in good faith in the investigation process;
   - Tell the truth in investigative interviews and proceedings;
   - Refrain from influencing, coercing, or otherwise tampering with witnesses or evidence;
   - Keep the investigation process, parties, and issues confidential during the investigation; and
   - Provide all information relevant to the matter within their possession and not withhold relevant information.

   b) Complainant and respondent have the right to:

   - Be treated with dignity and respect throughout the process;
   - A meaningful opportunity to produce any evidence in their possession to defend themselves from allegations or counter-allegations by being afforded:
     - A full description of the allegations against them, which ordinarily shall be provided verbally during their initial witness interview;
     - The opportunity to provide a written statement, other evidence, the identity of relevant witnesses, and additional evidence or questions for

investigators to ask the other party, during and for a reasonable time after their initial interview (contingent on investigation deadlines); and

- The opportunity for a follow-up interview if new evidence is discovered or, if evidence inconsistent with their version of material events is discovered, the opportunity to explain or otherwise respond to evidence not available in their initial interview. This right is subject to the investigation timeline.

- Access to trauma-informed interviewers and investigators, if the circumstances require it; and
- Referrals to counseling, mental health and wellness resources and to any other resources available from the Office.

7. There are different investigative paths in the formal resolution process, dependent on who the respondent is:

a) Complaints against nonpartisan staff: The Office shall conduct a confidential impartial investigation or may hire a professional third-party investigator to do so, at the Office's discretion.

b) Complaints against members and partisan staff: The Office shall refer the matter to the Committee. The Committee will hire a professional third-party investigator and will oversee the investigative process.

c) Complaints against employees of the Office shall go to the director of the Office of Legislative Legal Services. The director shall conduct a confidential impartial investigation or may hire a professional third-party investigator to do so, at the director's discretion.

8. The investigator shall conduct a thorough and impartial investigation of the allegations:

a) The Office or the Committee shall set the scope of the investigation under their supervision. The "scope" refers to the specific questions that the investigation will seek to answer. The scope shall be documented in writing. If the scope of the investigation changes during the investigation, the investigator shall discuss the change with the Office or Committee at the time, and if the change is approved, it shall be noted in writing in the file.

b) The investigation shall conform to professional practice standards in the workplace investigations industry, including at a minimum:

(i) Witness interviews should generally be in person unless witnesses are unavailable. This is particularly important with complainant and respondent interviews.

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(ii) Interviews should generally occur in an environment and with a method that maximizes the chances of getting reliable information and should be documented in a reliable and consistent fashion, either through note taking, recording, or witness statements;

(iii) Documentary evidence and electronically stored information should be gathered in a way that preserves its integrity;

(iv) Investigators shall be provided with full access to witnesses, evidence, and data within the control of the General Assembly that the investigator deems necessary for a thorough investigation of the matter; and

(v) The investigator shall document his or her methodology and the material evidence on both sides of each issue, so that there is a reliable record of the evidence the investigator relied upon in reaching his or her findings.

9. The Office or the Committee, whomever is managing the investigation, shall check in with both complainant and respondent during the investigation once interviews commence to provide timeline updates as to whether the investigation is on track to be completed within the timelines set forth below. It should be noted that things change during an investigation, and an update that the investigation is "on track" does not guarantee that it will remain on track.

10. After all evidence has been gathered, the investigator shall analyze the evidence using the preponderance of the evidence standard and shall reach findings of fact that are consistent with the scope of the investigation:

a) Findings of fact shall be based on evidence that a reasonable mind might accept as more or less likely than not to have occurred; and

b) The investigator's findings of facts shall be final and shall not be reinvestigated unless new relevant factual information becomes available.

11. At the conclusion of the investigation, the investigator shall prepare an investigation report and transmit it to either the Office or the Committee, whichever one appointed him or her. Investigation reports are confidential documents and shall not be disclosed to either party, members, legislative staff, or third parties, except as set forth in this Policy. The investigation report shall:

a) Describe the complaint and scope of the investigation;

b) Include a statement of the investigation methodology;

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c) Summarize the material facts on both sides of each issue;

d) Provide an analysis of the material facts; and

e) State the factual finding(s).

All reports submitted to the Committee or a director shall be anonymized to remove the names of witnesses, and, when practicable, the complainant.

12. There are different paths in the formal resolution process to determine whether the facts as found in the investigation establish a violation of the policy, dependent on who the respondent is:

a) Complaints against nonpartisan staff: The Office shall determine whether the facts, based on a finding that behavior was more likely than not to have occurred, establish a violation of the policy.

b) Complaints against partisan staff: The Committee shall recommend to the staff member's caucus leadership and the supervising member whether the facts, based on a finding that behavior was more likely than not to have occurred, establish a violation of the policy. The supervising member shall make the determination in consultation with caucus leadership.

c) Complaints against members: The Committee shall determine whether the facts, based on a finding that behavior was more likely than not to have occurred, establish a violation of the policy.

13. At the conclusion of the formal resolution process, if it is determined that an individual has violated this Policy's prohibition against workplace or sexual harassment or retaliation, prompt and appropriate action will be taken to address the policy violation. There are different recommended action paths in the formal resolution process, dependent on who the respondent is:

a) Complaints against nonpartisan staff: The Office shall recommend to the relevant director an appropriate range of accountability. The relevant director shall determine and implement the accountability measures. If the director's decision is outside the range recommended by the Office, the Office may advise the Executive Committee of the Legislative Council.

b) Complaints against partisan staff: The Committee shall recommend to the staff member's caucus leadership and the supervising member an appropriate range of accountability. The supervising member shall determine and implement the

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accountability measures, in consultation with caucus leadership. If any party is not satisfied with the accountability measures, they may bring the matter to the attention of the Committee, which shall review the choices of the supervising member.

c) Complaints against members: The Committee shall determine the accountability measures:

(i) If the Committee finds that the actions warrant expulsion or censure, the members of the Committee who voted in favor of such discipline shall jointly introduce a resolution calling for such discipline;

(ii) If the Committee finds that the actions warrant accountability other than that which would require a resolution, the Committee shall inform the responding member of the recommended accountability and indicate that if the member fails to accept the accountability or fails to satisfy any conditions of the accountability, the Committee may recommend that a resolution for expulsion or censure be filed.

14. The Office or Committee shall strive to complete the formal resolution process within ninety (90) days, as follows:

a) When an external investigator is utilized, an investigator must be assigned within fourteen (14) days of the Office's receipt of complaint;

b) An investigator shall complete the investigation, make factual findings, and prepare and deliver the report to the Office within forty-five (45) days of assignment;

c) Determination or recommendation of policy violation, documentation of same, and transmittal to decision-maker shall be completed within fourteen (14) days of receipt of investigation report;

d) Determination of action:

(i) For nonmember respondents, the determination shall be made within fourteen (14) days of receipt of recommendations;

(ii) For member respondents, the determination shall be made as soon as practicable pursuant to the rules of the Committee and legislative body.

There may be situations when the timeline of the process must be extended to ensure a thorough and impartial process. Any reasons for deviating from this timeline shall be documented by the Office or the Committee and included in the case file.

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15. After final action has been taken in response to the complaint, the Office shall close the file and maintain it in a secure and confidential file under both parties' names.

I) CONFIDENTIALITY

1. The Office shall keep confidential all information received concerning inquiries and complaints under this Policy to the extent permitted by law; except as necessary to conduct an investigation, implement remedial or protective measures, or when it determines disclosure is necessary for the protection of the workplace. The Office may disclose nonidentifying, statistical information on complaints under both policies.

2. Partisan and nonpartisan staff shall maintain the confidentiality of all information received concerning inquiries and complaints under this Policy.

3. Pursuant to Joint Rule 38, members are required to maintain confidentiality of all information received concerning inquiries and complaints under this Policy.

4. All other parties are required to keep the investigation confidential to the extent permitted by law.

5. The Office shall inform complainants and respondents of the importance of maintaining the confidentiality of all information received concerning inquiries and complaints under this Policy.

6. Violations of these confidentiality provisions may constitute a violation of this Policy or the Workplace Expectations, subject to the informal or formal processes as described in sections G and H of this Policy.

EXHIBIT 7

Workplace Expectations of the General Assembly

Prepared by the Office of Human Resources

A) APPLICABILITY

This Policy is applicable to each member of the General Assembly, all legislative employees who are not subject to the state personnel system, and third parties.

B) DEFINITIONS

As used in this Policy:

1. **Complainant** means a person who files a complaint, whether formal or informal, under this Policy.

2. **Consensual Relationship** means and refers to any relationship, either past or present, which is romantic, intimate, or sexual in nature and to which both parties consent or consented. This includes marriage.

3. **Legislative Employee** means an employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, the Senate, or the House of Representatives, including any legislative aide to a member. For purposes of this Policy, "legislative employee" also includes a legislative intern and volunteer staff.

4. **Legislative Workplace** means the capitol complex and premises, the legislative services building and the state services building, or any other surrounding buildings or office spaces utilized by the General Assembly.

5. **Member** means a legislative member of the General Assembly.

6. **Nonpartisan Staff** means an employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, or an employee of the Senate or the House of Representatives who does not work for any specific member and who does not represent any political affiliation. For purposes of this Policy, "nonpartisan staff" may also include volunteer staff when the other criteria under this definition is met.

7. **Partisan Staff** means an employee of the Senate or House of Representatives who works for a specific member or who represents a political affiliation within the General

Assembly. For purposes of this Policy, "partisan staff" also includes a legislative intern and may include volunteer staff when the other criteria under this definition is met.

8. **Professionalism** means conducting one's self in a manner that is consistently appropriate in tone and content. Elements of "professionalism" include adhering to workplace policies, consistent and timely attendance, demonstrating accountability for one's own actions, and communicating respectfully.

9. **Respondent** means a person who is accused of wrongdoing under this Policy.

10. **Retaliation** is an act of punishment, reprisal, or revenge that is taken against a person because he or she complained of behavior under this Policy or because he or she assisted or participated in an investigation of a complaint under this Policy. Retaliation can take many forms in a legislative workplace, but essentially retaliation can be any action that is taken against a person that would deter a reasonable person from coming forward to complain of misbehavior under this Policy.

    Retaliation in a legislative work environment can take many forms and can be work-related or not work-related. Some examples can include, but are not limited to:

    <u>Work-related retaliation:</u>
    - Disparaging a person to a caucus or other legislative body;
    - Changing the person's role, responsibilities, supervisory, or legislative authority;
    - Newfound scrutiny of work performance by a supervisor;
    - Denial of a promotion, demotion, suspension, or termination;
    - Warnings, reprimands, or poor performance evaluations;
    - Exclusion from beneficial networking or other opportunities;
    - Requiring reverification of work status;
    - Encouraging coworker shunning;
    - Exclusion from work-related activities;
    - Workplace surveillance or workplace or legislative sabotage; or
    - Assignment of disproportionate workload.

    <u>Non-work-related retaliation</u>:
    - Disparaging the person to others or in the media;
    - Disparaging the person to potential new employers;
    - Threatening legal action;
    - Threatening immigration action; or
    - Abusive verbal or physical behavior.

10. **Third Party** means a lobbyist, member of the media, or member of the general public who is interacting with the General Assembly or with legislative service agencies, the Senate, or the House of Representatives.

C) EXPECTATIONS

The General Assembly is committed to creating and maintaining a work environment in which all individuals are treated with dignity and respect. Members of the General Assembly, legislative employees, and third parties are expected to conduct their duties with the highest standards of integrity and professionalism. Members, legislative employees, and third parties shall:

1. Be professional, respectful, truthful, and courteous to all in the legislative workplace at all times;
2. Always strive to perform at the highest level possible;
3. Serve as a positive role model to others;
4. Be responsive to member and coworker requests and needs;
5. Accept responsibility for their own work, behavior, and actions;
6. Communicate in a professional and respectful manner;
7. Resolve conflicts in an appropriate, respectful, timely, and courteous manner;
8. Be active learners who are committed to forward-looking innovation and solutions;
9. Treat everyone fairly and demonstrate respect for all people and their ideas;
10. Avoid conflicts of interest that may harm the reputation of the General Assembly;
11. Act on the values of the General Assembly and be good stewards of public trust; and
12. Adhere to all federal and state laws, General Assembly policies, and legislative service agency/Senate/House of Representatives policies and procedures.

D) CONSENSUAL RELATIONSHIPS

The General Assembly does not interfere with private choices regarding personal relationships when these relationships do not interfere with the values and policies of the General Assembly. However, consensual romantic or sexual relationships in which one party retains a direct

supervisory or authoritative position over the other party have the potential to interfere with these values and policies.

A romantic, intimate, or sexual relationship in which one individual is in a position to exercise authority over the other creates conflicts of interest and perceptions of undue advantage or disadvantage. When both parties have consented at the outset to a romantic, intimate, or sexual relationship, this consent does not remove grounds for a charge of a violation of this Policy or the Workplace Harassment Policy, based upon subsequent unwelcome conduct.

Pursuant to its commitment to dignity and respect, the following represents the General Assembly's expectations regarding consensual relationships in the work environment:

1. If the consensual relationship exists between a supervisor and supervisee, in a direct evaluative relationship, or between a member and any other person in the legislative workplace, it must be disclosed to the Office with all parties present. The disclosure will be documented in writing and kept within each individual's personnel file. The responsibility to disclose rests with the person in the evaluative or authoritative position.

2. If a relationship that has been disclosed to the Office ends, either party may update the disclosure to state that the relationship ended and the date on which it ended. The updated information will be documented in writing and kept within each individual's personnel file.

3. The Office and the individuals in the relationship shall preserve confidentiality, sharing names and pertinent information only with individuals who have a legitimate need to know, as described in section G of this Policy.

4. The Office may disclose the relationship to the appropriate director or legislative leadership when disclosure is necessary for the protection of the workplace or when the relationship may pose a direct conflict of interest and the work environment must be managed to appropriately minimize the conflict.

D) RETALIATION PROHIBITED

The General Assembly prohibits retaliation against any person for having complained about alleged violations of this Policy, assisting in such a complaint, or participating in an investigation into such a complaint.

Retaliation is a serious problem, and a fear of retaliation prevents issues from surfacing, keeps people from raising problems, and enables a culture of harassment to fester. The General Assembly recognizes the seriousness of retaliation and is committed to responding to and addressing retaliation concerns proactively and reactively upon receipt of a complaint of

retaliation. As such, any complaint of retaliation will be addressed under the formal resolution process, described in section H. of the Workplace Harassment Policy.

E) REPORTING PROCESS

Any member, legislative employee, or third party who wishes to report a violation of this Policy should submit a complaint directly to the Office of Human Resources (Office) or its opposite gender designee, if applicable.

If the complaint concerns a staff member from the Office, a complainant should submit a complaint to the director of the Office of Legislative Legal Services or his or her opposite gender designee.

Complainants may also submit complaints through the General Assembly's anonymous reporting hotline (link/phone number/info here). Please note that while the General Assembly is committed to responding appropriately to all complaints under this Policy, reporting a complaint anonymously may limit the degree to which it can be effectively and thoroughly resolved, based on the information provided.

F) INFORMAL RESOLUTION PROCESS

1. Complaints submitted under this Policy are addressed via an informal resolution process. The informal resolution process is, as the name suggests, flexible and intentionally open to individualized responses and resources. This shall be a confidential process, and the parties' names, the process itself, and any resolution shall not be subject to disclosure to any party. The informal resolution process is intended to stop and redirect inappropriate behavior and prevent it from reoccurring.

2. The Office shall take such steps as necessary to understand the complaint and find facts to determine if the behavior occurred. After the informal fact finding has concluded, the Office will determine a range of resources to offer to the parties to resolve the issues.

3. The Office has internal and external resources that it can provide as part of the informal resolution process, including:

    - Facilitated mediation;
    - Meetings between the Office and respondents on behalf of complainants;
    - Individual or joint coaching;
    - Training and educational opportunities;
    - Team rebuilding and crisis management;
    - Referrals to counseling, advocacy, and wellness support; and
    - Other remedial actions.

4. The Office shall create a record of all complaints handled under the informal resolution process and the outcome and shall maintain such records in secure and confidential files ten years or after the last party involved is no longer within the legislative workplace, whichever is longer. All such records and work product of this process must be confidential; except that:

    a. If the Office finds a pattern of issues with a respondent under the informal process, the Office may disclose to the respondent's supervisor or caucus leadership the issues raised without disclosing the identity of any person involved in the process except for the respondent; and

    b. The Office shall collect nonidentifying, statistical data regarding informal complaints and shall annually submit a report to the General Assembly on informal complaints received during the previous calendar year.

5. Participation in the informal resolution process shall be voluntary. If the parties agree to the informal resolution process, they shall be expected to participate fully and in good faith. In all cases of nonparticipation, the Office shall document the allegations and responses in the complaint file, and this information may be considered as grounds for more serious treatment of future complaints about the same respondent, should they arise.

6. The Office shall strive to complete the informal resolution process within thirty (30) days of the Office's receipt of the complaint. It should be noted that remedial action such as ongoing coaching, training, or other efforts may be decided upon within the thirty (30) day timeline but may be ongoing after that time frame has elapsed.

7. There is nothing in this Policy or in the informal resolution process that precludes future advancement into the formal resolution process described in section H. of the Workplace Harassment Policy, should the alleged behavior qualify under that policy.

G) CONFIDENTIALITY

1. The Office shall keep confidential all information received concerning inquiries and complaints under this Policy to the extent permitted by law, except as necessary to conduct an investigation, implement remedial or protective measures, or when it determines disclosure is necessary for the protection of the workplace. The Office may disclose nonidentifying, statistical information on complaints under both policies.

2. Partisan and nonpartisan staff shall maintain the confidentiality of all information received concerning inquiries and complaints under this Policy.

3. Pursuant to Joint Rule 38, members are required to maintain confidentiality of all information received concerning inquiries and complaints under this Policy.

4. All other parties are required to keep the investigation confidential to the extent permitted by law.

5. The Office shall inform complainants and respondents of the importance of maintaining the confidentiality of all information received concerning inquiries and complaints under this Policy.

6. Violations of these confidentiality provisions may constitute a violation of this Policy or the Workplace Harassment Policy, subject to the informal or formal processes as described in section F of this Policy and sections G and H of the Workplace Harassment Policy, respectively.