

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.
2. IN ADDITION, THE GENERAL ASSEMBLY IS COMMITTED TO PREVENTION OF WORKPLACE HARASSMENT AND TO EARLY INTERVENTION WHERE BEHAVIOR CAN BE ADDRESSED BEFORE REACHING THE LEVEL OF WORKPLACE HARASSMENT, SEXUAL HARASSMENT, OR RETALIATION. THIS POLICY EMBODIES THE GENERAL ASSEMBLY'S COMMENSURATE COMMITMENT TO A VIGOROUS RESPONSE WHEN BEHAVIOR DOES NOT MEET THE EXPECTATIONS OF A RESPECTFUL WORKPLACE AND WHEN BEHAVIOR IS SEVERE, PERVASIVE, OR BASED ON AN INDIVIDUAL'S PROTECTED CLASS.

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 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.

- c. "Member" means a member of the General Assembly.
- d. "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.
- d.e. "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.f. "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.
 - 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 gestures.
 - IV. Making unwelcome visits to a member's, legislative employee's, or

third party's home or hotel room.

- 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. RESPECTFUL WORKPLACE EXPECTATIONS

1. THE GENERAL ASSEMBLY IS COMMITTED TO ENSURING A RESPECTFUL LEGISLATIVE WORKPLACE. ACCORDINGLY, THIS POLICY ESTABLISHES CERTAIN EXPECTATIONS AND RESPONSIBILITIES FOR MEMBERS, LEGISLATIVE EMPLOYEES, AND THIRD PARTIES.
2. RESPECTFUL WORKPLACE EXPECTATIONS REQUIRE THAT MEMBERS, LEGISLATIVE EMPLOYEES, AND THIRD PARTIES SHALL:
 - a. CONDUCT THEMSELVES IN A MANNER THAT DEMONSTRATES PROFESSIONALISM AND RESPECT FOR OTHERS IN THE LEGISLATIVE WORKPLACE AND WHILE CONDUCTING BUSINESS ON BEHALF OF THE GENERAL ASSEMBLY;
 - b. ADDRESS CONCERNS REGARDING PROFESSIONALISM AND RESPECT BY INFORMAL MEANS AND DIRECTLY WITH THE INDIVIDUAL OR INDIVIDUALS INVOLVED, WHEN POSSIBLE;
 - c. REPORT CONCERNS REGARDING PROFESSIONALISM AND RESPECT AS SET FORTH IN SECTION G.2. OF THIS POLICY WHEN DIRECT RESOLUTION IS NOT POSSIBLE OR COMFORTABLE; AND
 - d. PARTICIPATE FULLY AND IN GOOD FAITH IN THE INFORMAL RESOLUTION PROCESS DESCRIBED IN SECTION J.1. OF THIS POLICY AND IN THE FORMAL RESOLUTION PROCESS DESCRIBED IN SECTION J.2. OF THIS POLICY IF THAT PROCESS BECOMES NECESSARY.
3. IN ADDITION TO THE RESPONSIBILITIES SET FORTH IN SECTION F.2. OF THIS POLICY, INDIVIDUALS WHO HAVE SUPERVISORY RESPONSIBILITIES IN THE LEGISLATIVE WORKPLACE, INCLUDING MEMBERS, THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES AND THE SECRETARY OF THE SENATE, SHALL:
 - a. SET A GOOD EXAMPLE OF PROFESSIONALISM AND RESPECT IN THEIR OWN BEHAVIOR;
 - b. EDUCATE AND INFORM THEIR EMPLOYEES, STAFF, AIDES, STUDENT INTERNS, VOLUNTEERS, AND ANY OTHER PERSONS THEY SUPERVISE IN THE LEGISLATIVE WORKPLACE OF THE RESPECTFUL WORKPLACE EXPECTATIONS

SET FORTH IN THIS SECTION F.; AND

- c. TAKE APPROPRIATE AND TIMELY ACTION, INCLUDING REPORTING ALLEGED VIOLATIONS OF THIS POLICY, AS SET FORTH IN SECTION G. OF THIS POLICY.
4. MOST VIOLATIONS OF THIS SECTION F. MAY BE REPORTED PURSUANT TO SECTION G.2. AND HANDLED THROUGH THE INFORMAL RESOLUTION PROCESS, DESCRIBED IN SECTION J.1 OF THIS POLICY. THIS PROCESS PROVIDES MEMBERS, LEGISLATIVE EMPLOYEES, AND THIRD PARTIES WITH AN AVENUE BY WHICH TO SEEK ACCOMMODATION OR OBTAIN ASSISTANCE TO MEDIATE, EDUCATE, COACH, OR CORRECT DISRESPECTFUL CONDUCT BEFORE IT RISES TO THE LEVEL OF WORKPLACE HARASSMENT, SEXUAL HARASSMENT, OR RETALIATION.
5. NOTHING IN THIS POLICY IS INTENDED TO INTERFERE WITH CONDUCT PROTECTED BY THE "SPEECH OR DEBATE" CLAUSE, SECTION 16 OF ARTICLE V OF THE CONSTITUTION OF THE STATE OF COLORADO.

F.G. COMPLAINTS REGARDING WORKPLACE HARASSMENT COMPLAINT REPORTING PROCESS

1. A 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 APPROPRIATE CONTACT PERSON DESCRIBED IN SECTION C.1.a. OF THIS POLICY OR TO A LEGISLATIVE HUMAN RESOURCES EMPLOYEE AS SET FORTH IN THIS SECTION G.
2. TO REPORT A VIOLATION OF THE RESPECTFUL WORKPLACE EXPECTATIONS DESCRIBED IN SECTION F. OF THIS POLICY, THE COMPLAINANT MAY SUBMIT THE COMPLAINT TO EITHER GENDER THE APPROPRIATE 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 co-workers, and by considering the circumstances surrounding the alleged incident or incidents which form the basis of the complaint.~~ DESCRIBED IN SECTION C.1.a. OF THIS POLICY OR TO A LEGISLATIVE HUMAN RESOURCES EMPLOYEE. IF THE COMPLAINANT SUBMITS HIS OR HER COMPLAINT TO A CONTACT PERSON OTHER THAN A LEGISLATIVE HUMAN RESOURCES EMPLOYEE, THAT CONTACT PERSON SHALL PROMPTLY NOTIFY LEGISLATIVE HUMAN RESOURCES OF

THE COMPLAINT AND LEGISLATIVE HUMAN RESOURCES SHALL, IN TURN, FACILITATE THE INFORMAL RESOLUTION PROCESS AS FOLLOWS:

- a. LEGISLATIVE HUMAN RESOURCES SHALL TAKE SUCH STEPS AS NECESSARY TO UNDERSTAND THE COMPLAINT AND FIND FACTS TO DETERMINE WHETHER THE BEHAVIOR COMPLAINED OF OCCURRED. THESE STEPS NEED NOT FOLLOW THE FORMAL INVESTIGATION PROTOCOLS SET FORTH IN SECTION G.3. OF THIS POLICY FOR THE FILING OF A FORMAL COMPLAINT OF WORKPLACE HARASSMENT, SEXUAL HARASSMENT, OR RETALIATION AND ARE NOT SUBJECT TO THE SAME REQUIREMENTS. AFTER LEGISLATIVE HUMAN RESOURCES HAS CONCLUDED ITS INFORMAL FACT FINDING, LEGISLATIVE HUMAN RESOURCES SHALL DETERMINE A RANGE OF RESOURCES OR ACCOMMODATIONS TO OFFER TO THE PARTIES TO RESOLVE THE ISSUES.
 - b. PARTICIPATION IN THE INFORMAL RESOLUTION PROCESS IS VOLUNTARY. IF THE PARTIES AGREE TO THE INFORMAL RESOLUTION PROCESS, THEY SHALL PARTICIPATE FULLY AND IN GOOD FAITH. IF THE RESPONDENT DOES NOT AGREE, OR FAILS TO PARTICIPATE FULLY AND IN GOOD FAITH, LEGISLATIVE HUMAN RESOURCES SHALL REFER THE MATTER, INCLUDING A SUMMARY OF THE MATERIAL FACTS, TO THE DIRECTOR OF THE LEGISLATIVE SERVICE AGENCY WITH WHICH THE RESPONDENT IS EMPLOYED, THE STATE AUDITOR, THE SECRETARY OF THE SENATE, THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES, OR LEADERSHIP OF THE APPLICABLE HOUSE, WHICHEVER IS APPROPRIATE.
 - c. IN ALL CASES OF NON-PARTICIPATION, LEGISLATIVE HUMAN RESOURCES SHALL DOCUMENT THE ALLEGATIONS AND RESPONSES IN THE COMPLAINT FILE DESCRIBED IN SECTION I. OF THIS POLICY, WHICH INFORMATION MAY BE CONSIDERED AS GROUNDS FOR MORE SERIOUS TREATMENT OF FUTURE COMPLAINTS, IF ANY, INVOLVING THE SAME RESPONDENT.
 - d. ALL INFORMATION CONCERNING THE INFORMAL RESOLUTION PROCESS SHALL REMAIN CONFIDENTIAL, EXCEPT UPON THE REQUEST OF THE PARTIES
3. TO FILE A FORMAL COMPLAINT OF WORKPLACE HARASSMENT, SEXUAL HARASSMENT, OR RETALIATION, THE COMPLAINANT MAY SUBMIT A COMPLAINT TO THE APPROPRIATE CONTACT PERSON DESCRIBED IN SECTION C.1.a. OF THIS POLICY. UPON RECEIPT OR NOTIFICATION OF A FORMAL COMPLAINT OF WORKPLACE

HARASSMENT, SEXUAL HARASSMENT, OR RETALIATION, THE CONTACT PERSON SHALL PROCEED AS FOLLOWS:

- a. THE CONTACT PERSON SHALL OVERSEE THE FORMAL COMPLAINT PROCESS, INCLUDING CONDUCTING, OR CONTRACTING WITH A QUALIFIED THIRD PARTY TO CONDUCT, AN IMPARTIAL INVESTIGATION AS PROMPTLY AND CONFIDENTIALLY AS PRACTICABLE.

2.4. 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.
- IV. A description of the complainant's reaction to the incident or incidents.
- 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.
- 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.
- III. What the complainant or the ~~person accused of workplace harassment~~ RESPONDENT told them ABOUT THE ALLEGED INCIDENT.

3.5. Nothing in ~~paragraph b. of subsection 2. of this section F.~~ SECTION G.4.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.

6. 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.

4.7. 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.~~

5.8. 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 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.3 OF THIS POLICY.
5. BECAUSE OF THE SERIOUS NATURE OF RETALIATION, REPORTED VIOLATIONS OF THIS SECTION H., INCLUDING THOSE THAT ARISE FROM COMPLAINTS ORIGINALLY HANDLED IN THE INFORMAL RESOLUTION PROCESS SET FORTH IN SECTION J.1. OF THIS POLICY, WILL BE HANDLED UNDER THE FORMAL RESOLUTION PROCESS SET FORTH IN SECTION J.2. OF THIS POLICY.

H.I. RECORDKEEPING

1. RESPECTFUL WORKPLACE EXPECTATIONS COMPLAINTS AND 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. LEGISLATIVE HUMAN RESOURCES SHALL SECURELY MAINTAIN RECORDS OF ALL COMPLAINTS HANDLED UNDER THE INFORMAL AND FORMAL RESOLUTION PROCESSES DESCRIBED IN SECTION J. OF THIS POLICY AND THE OUTCOMES OF THOSE COMPLAINTS.
- b. WHEN A RESPECTFUL WORKPLACE EXPECTATIONS COMPLAINT IS MADE UNDER SECTION G.2. OF THIS POLICY, LEGISLATIVE HUMAN RESOURCES SHALL CREATE A SEPARATE FILE UNDER THE COMPLAINANT'S NAME. LEGISLATIVE HUMAN RESOURCES 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; LEGISLATIVE HUMAN RESOURCES' NOTES, INFORMATION, AND OTHER WRITINGS; WITNESS STATEMENTS; AND THE DISPOSITION, IF ANY, OF THE COMPLAINT. EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THIS POLICY, LEGISLATIVE HUMAN RESOURCES SHALL KEEP THE RECORDS IN THE FILE CONFIDENTIAL.
- a.c. 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 LEGISLATIVE HUMAN RESOURCES. Except as otherwise specifically stated in this Policy, ~~the contact person~~ LEGISLATIVE HUMAN RESOURCES shall keep the records in the ~~workplace harassment~~ file confidential.
- b.d. Section 24-72-204 (3)(a)(X), 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.
- 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. **INFORMAL RESOLUTION PROCESS.** LEGISLATIVE HUMAN RESOURCES CAN PROVIDE INTERNAL AND EXTERNAL RESOURCES AS PART OF AN INFORMAL RESOLUTION PROCESS, INCLUDING:
 - a. FACILITATED MEDIATION;
 - b. MEETINGS BETWEEN LEGISLATIVE HUMAN RESOURCES AND A RESPONDENT ON BEHALF OF COMPLAINANT;
 - c. INDIVIDUAL OR JOINT COACHING;
 - d. TRAINING AND EDUCATIONAL OPPORTUNITIES;
 - e. TEAM RE-BUILDING AND CRISIS MANAGEMENT;
 - f. REFERRALS TO COUNSELING, ADVOCACY, MENTAL HEALTH SERVICES, AND WELLNESS SUPPORT;
 - g. WORKPLACE ACCOMMODATIONS, IF REASONABLE AND AVAILABLE; AND
 - g.h. OTHER REMEDIAL ACTIONS.

1.2. FORMAL RESOLUTION PROCESS.

- a. 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.b. 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.
- c. UNLESS INFORMATION IS DIRECTLY RELEVANT TO A MATERIAL ISSUE, A CONTACT PERSON OR INVESTIGATOR WILL NOT CONSIDER AN INDIVIDUAL'S PRIOR SEXUAL CONDUCT OR THE TESTIMONY OF THOSE WHO CAN ONLY SPEAK TO A PARTY'S CHARACTER OR THOSE WHO HAVE NO DIRECT, FIRST-HAND KNOWLEDGE OF THE SITUATION.
- d. LEGISLATIVE HUMAN RESOURCES 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.e. 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 PROCEEDING UNDER THE FORMAL RESOLUTION PROCESS DESCRIBED IN SECTION J.2. 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:

- 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 DESCRIBED IN SECTION J. OF 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 INFORMAL RESOLUTION PROCESS MUST BE COMPLETED WITHIN THIRTY DAYS AFTER LEGISLATIVE HUMAN RESOURCES RECEIVES OR IS NOTIFIED OF A COMPLAINT. REMEDIAL ACTION SUCH AS ONGOING COACHING, TRAINING, OR OTHER EFFORTS MAY BE DECIDED UPON WITHIN THE THIRTY-DAY TIMELINE, BUT MAY BE ONGOING AFTER THAT PERIOD OF TIME HAS ELAPSED.
3. THE FORMAL 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. DETERMINATION OF ACTION
 - I. 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 AFTER LEGISLATIVE HUMAN RESOURCES' DETERMINATION OF A VIOLATION.
 - II. IN A MATTER INVOLVING A RESPONDENT WHO IS A MEMBER OF THE GENERAL ASSEMBLY, LEADERSHIP OF THE APPROPRIATE HOUSE

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.