



SENATE JOINT RESOLUTION 19-010

BY SENATOR(S) Garcia and Holbert, Fenberg, Court, Gonzales, Lee, Moreno, Pettersen, Rodriguez, Story, Todd, Williams A., Bridges, Danielson, Fields, Foote, Ginal, Priola, Winter, Zenzinger;
 also REPRESENTATIVE(S) Becker and Neville, Garnett, Arndt, Baisley, Benavidez, Bird, Buckner, Buentello, Caraveo, Carver, Catlin, Coleman, Cutter, Duran, Froelich, Galindo, Geitner, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Larson, Liston, McCluskie, McKean, McLachlan, Melton, Michaelson Jenet, Mullica, Pelton, Ransom, Roberts, Singer, Sirota, Snyder, Soper, Sullivan, Tipper, Titone, Valdez A., Van Winkle, Weissman, Will, Williams D., Wilson.

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

Be It Resolved by the Senate of the Seventy-second General Assembly of the State of Colorado, the House of Representatives 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) ***Prohibited practices.*** No person engaging in lobbying shall:

(11) VIOLATE THE WORKPLACE HARASSMENT POLICY OF THE 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 IN EXECUTIVE SESSION, AND THE COMMITTEE MEMBERS SHALL NOT RELEASE ANY INFORMATION ABOUT THE MEETINGS OR THE TESTIMONY RECEIVED EXCEPT AS PERMITTED UNDER THE GENERAL ASSEMBLY'S WORKPLACE HARASSMENT POLICY ADOPTED PURSUANT TO JOINT RULE 38.

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 LEGISLATIVE WORKPLACE RELATIONS 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 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, EXCEPT AS NECESSARY TO COMPLETE AN INVESTIGATION AND PROVIDE ANY ACCOMMODATIONS, THE IDENTITY OF A COMPLAINANT MUST NOT BE DISCLOSED TO ANYONE, INCLUDING MEMBERS OF A WORKPLACE HARASSMENT COMMITTEE AND LEADERSHIP;

 - (C) THAT THE INFORMATION OBTAINED DURING THE INFORMAL COMPLAINT PROCESS OR THE FORMAL COMPLAINT PROCESS REMAINS CONFIDENTIAL, EXCEPT AS AUTHORIZED IN THE WORKPLACE HARASSMENT POLICY;

 - (D) 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;

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

- (F) 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 OR ON AN ACT OF RETALIATION UNDER THE POLICY;
- (G) 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; AND
- (H) IF, FOLLOWING A FORMAL INVESTIGATION, IT IS FOUND THAT A LOBBYIST HAS VIOLATED THE WORKPLACE HARASSMENT POLICY, AN EXECUTIVE SUMMARY OF THE FINDINGS OF ANY INVESTIGATION MUST BE FORWARDED TO THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, WHO SHALL TREAT THE SUMMARY AS A COMPLAINT UNDER JOINT RULE 36.

(c) *Workplace Expectations Policy.*

- (1) THE OFFICE OF LEGISLATIVE WORKPLACE RELATIONS 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, EXCEPT AS NECESSARY TO COMPLETE THE INFORMAL COMPLAINT RESOLUTION PROCESS AND PROVIDE ANY ACCOMMODATIONS, THE IDENTITY OF A COMPLAINANT MUST NOT BE DISCLOSED TO ANYONE, INCLUDING MEMBERS OF A WORKPLACE HARASSMENT COMMITTEE AND LEADERSHIP;
 - (C) THAT THE INFORMATION OBTAINED DURING THE INFORMAL COMPLAINT PROCESS REMAINS CONFIDENTIAL, EXCEPT AS AUTHORIZED IN THE WORKPLACE HARASSMENT POLICY; AND
 - (D) 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 LEGISLATIVE WORKPLACE RELATIONS 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.

(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 PUBLIC INSPECTION 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 LEGISLATIVE WORKPLACE RELATIONS 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. A LIST OF ANY MEMBERS WHO DO NOT ATTEND THE ANNUAL TRAINING SHALL BE PUBLICLY AVAILABLE.
- (2) PRIOR TO OR SOON AFTER 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.
- (3) PRIOR TO OR SOON AFTER THE COMMENCEMENT OF EACH REGULAR SESSION OF THE GENERAL ASSEMBLY, THE OFFICE SHALL PROVIDE VOLUNTARY TRAINING ON THE POLICIES TO

THIRD PARTIES, WHO ARE ENCOURAGED TO ATTEND SUCH TRAINING.

(g) **Definitions.** AS USED IN THIS JOINT RULE 38:

- (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 PERSON.
- (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.

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