

## Harassment and Discrimination

The Washington State Senate will provide and maintain a work environment free from discrimination and harassment. Senators and employees are expected to maintain a workplace free from harassment and discrimination and to conduct themselves so that no harassment or discrimination occurs in any action with respect to hiring, firing, compensation, benefits, promotions, reclassification, disciplinary actions, or any other work conditions.

Harassment and discrimination undermine the integrity of the employment relationship and the self-esteem of the individuals to whom they are directed and negatively affect morale and work performance. All employees must be allowed to work in an environment free from unsolicited and unwelcome comments or conduct. Any Senator or supervisor who knows of harassment or discrimination will take appropriate steps under this policy to correct/stop such misconduct. Any conduct which violates this policy will not be condoned and will be subject to disciplinary action.

## Prohibited Harassment and Discrimination

### Prohibition of Harassment Based on Gender or Other Protected Status

Harassment includes but is not limited to comments, slurs, jokes, innuendos, cartoons, pranks, requests for favors or other verbal or physical conduct of a sexual, racial, or other nature related to a protected status, when:

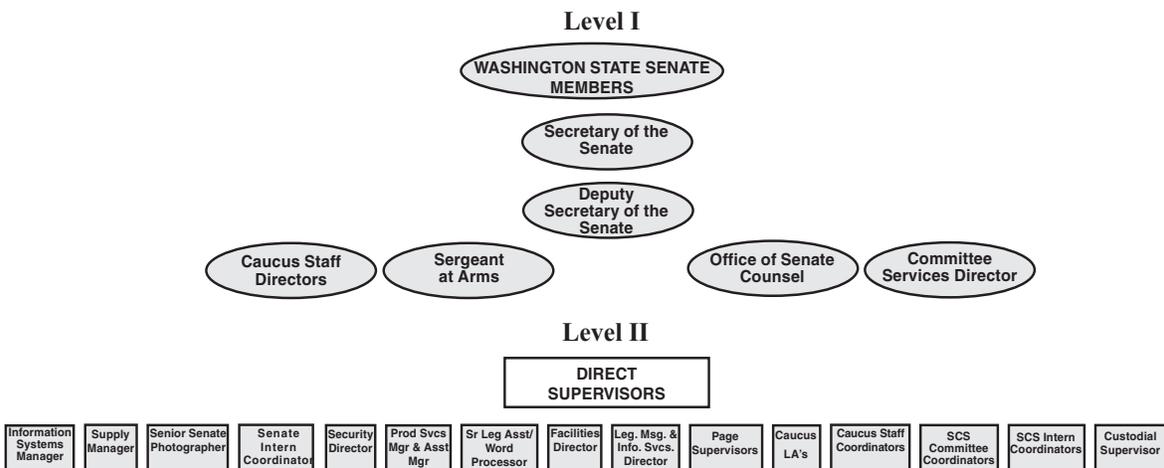
- Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis of employment decisions affecting the individual; or
- Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

No Senator or employee shall attempt to influence, control or otherwise affect the career, salary, job tasks or performance of an employee through harassment.

### Prohibition on Harassment Generally

No Senator or employee shall engage

### Harassment & Discrimination Policy Required Action Regarding A Respectful Workplace



in any behavior or make any comments which are demeaning and/or derogatory toward people if such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

### **Discrimination**

Discrimination occurs when an action or decision with respect to employment is made on the basis of protected status. Persons having questions about discrimination may contact the Washington State Human Rights Commission for assistance during regular working hours at 753-6770. Such contact does not constitute the filing of a formal complaint with the agency.

### **Conduct by Visitors**

Conduct by visitors which violates this policy may result in restrictions, including but not limited to, prohibitions on unaccompanied movement within the Senate areas. Such conduct should be reported to your supervisor and/or the Sergeant-at-Arms.

## **Complaint/Investigation Procedures**

### **I. Personal Action**

Some individuals may be unaware that certain words or conduct offend others in the work environment. If you are offended by the words or conduct of a Senator or fellow employee, you should ask the individual to refrain from the conduct found to be offensive. A request that the individual discontinue the offensive conduct is not a prerequisite to talking to a facilitator, complaining to a supervisor, or filing a complaint.

## **II. Facilitator Process and Functions**

### **Facilitator Functions**

Facilitators shall assist the complainant in determining who can effectively deal with the complainant's concerns. Facilitators shall advise complainants of the options available for addressing the situation. Facilitators are **not** legal advisers, and are not expected to provide advice about whether a complainant has a potential lawsuit or how to file it.

Facilitators do **not** have authority to take disciplinary actions. This shall be limited to supervisors or the Facilities and Operations Committee.

Facilitators shall, upon request, be prepared to provide information regarding available state and local counselling resources.

### **Selection Process**

Each work group shall select two staffpersons to be available for employees who have questions or concerns about possible harassment or discrimination, or who desire information about filing a complaint. These persons shall be known as "Facilitators".

Senate workgroups shall be divided as follows:

- Administration
- Committee Services
- Democratic Caucus (including members' personal staff)
- Republican Caucus (including members' personal staff)

### **Access to Facilitators**

All Senate employees shall have access to a facilitator of their choice, regardless of the facilitator's workgroup. Facilitators' supervisors and Senators shall make time and space available during work hours so

facilitators can perform their function in a timely and confidential manner.

### **Confidentiality**

Employees' contacts and conversations with facilitators shall be strictly confidential. The facilitator shall inform the complainant that ultimate ability to maintain confidentiality depends on (1) the eventual course chosen by the complainant, and (2) who must be involved in its resolution. In the event the complainant wishes to take further action, the facilitator shall limit information about the complaint to those who have a need to know, and then only with the complainant's knowledge and consent. All conversations and documentation taken shall remain confidential unless specifically authorized for release by the complainant in writing.

### **III. Supervisor Investigations**

Any Level I or Level II supervisor, as designated in the chart below, who receives a complaint of harassment or discrimination, or who becomes personally aware of conduct which violates these policies, **must** review such conduct. **If you want your complaint acted on, you should contact a Level I supervisor, or your direct supervisor in Level II.**

Level I: The individuals occupying these positions **must** take steps to remedy a harassment or discrimination situation about which they have knowledge and which involves **any** Senate employee.

Level II: The individuals occupying these positions **must** take steps to remedy a harassment or discrimination situation about which they have knowledge and which **involves a Senate employee over whom they have direct supervisory responsibilities.**

All other individuals, including those who perform supervisory duties, *may* but are not required to take steps to remedy a harassment or discrimination situation about which they have knowledge, except for facilitators who are required to keep conversations with complainants confidential. (See Section II. Facilitator Process and Functions)

When reviewing conduct that may violate the policy, supervisors shall limit inquiries about and discussions of the conduct to those who have a "need-to-know". Persons with a "need-to-know" will usually include the complainant, the person who is alleged to be committing the harassing or discriminatory behavior and their supervisor, and possible witnesses to the conduct. Supervisors may also consult with Senate Counsel and/or the Secretary of the Senate. If it is determined that conduct violating these policies has occurred, the supervisor shall impose, or recommend, the appropriate disciplinary action. The complainant and the facilitator, if one is involved, shall be informed of any action taken by supervisors.

### **IV. Investigative Committee**

In addition to the facilitator process and supervisory investigations, complaints may be filed by letter to the home address of the majority and minority leaders. Upon receipt of a complaint, the majority and minority leaders will appoint an investigative committee composed of a member from each caucus. In the event that the majority or minority leader is the subject of the complaint, the letter shall be sent to the majority and minority caucus chair. They will appoint the investigative committee. This process may also be initiated by investigating supervisory staff or persons accused of conduct which

violates this policy. The Office of Senate Counsel will serve as staff to the appointed members. Other resources may be used with approval of the appointing authority.

All efforts will be made to handle the complaint and the investigation in a confidential manner throughout this process. The investigation may include interviews with the parties who are directly involved, and where necessary, members and/or employees who may have observed or have knowledge of the alleged harassment/ discrimination or who may be similarly situated with the complainant. The respondent (**the person who is the subject of the complaint**) shall receive notice of the nature of the complaint and identity of complainant.

The complainant and respondent, as well as any other persons determined by the committee to have a substantial involvement in the matter, will be notified of the committee's findings and recommendations in writing. Findings, recommendations, and supporting documentation will be forwarded to the Senate Facilities and Operations Committee for appropriate action.

### **Appeals**

Within 14 calendar days of receipt, complainants or respondents who disagree with the investigative committee's findings and recommendations may appeal to the Senate Facilities and Operations Committee by filing all information they wish to have considered with the Committee Chair. The committee will conduct its review of the appeal within 30 calendar days of receipt. The committee may conduct further investigations. The committee will maintain the confidentiality of the investigation throughout its deliberations and conclusions.

Final action will be transmitted in writing to all persons who were notified by the investigative committee. A copy of the final report and all supporting documentation shall be filed with the Secretary of the Senate. Confidentiality shall be maintained by the Secretary of the Senate. Information which does not disclose identifying details may be disclosed by the Secretary of the Senate.

### **Disciplinary or Remedial Action**

In the case of Senators, disciplinary action includes, but is not limited to, reprimand, censure, or expulsion. For employees, appropriate action includes, but is not limited to, verbal or written reprimand, probation, suspension, or termination.

The Senate Facilities and Operations Committee will take final action on the recommendations, except in the case of the censure or expulsion of a member. In such cases, the Secretary of the Senate will provide a method for conducting a vote of the Senate in the event that the Legislature is not in session.

If the committee believes that the facts may constitute a criminal violation, it will notify the appropriate law enforcement agency.

In cases of alleged discrimination, the employment action taken or not taken will be subject to review and action by the Facilities and Operations Committee.

### **Other Provisions**

#### **Retribution Prohibited**

No Senator or employee may directly or indirectly use or attempt to use his or her official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command or influence any person to hinder or prevent exercise of the right to complain about harassment or discrimination either

personally or on behalf of another person; nor may any such action be taken in retribution for the filing of a complaint.

### **Filing Further Actions**

The complainant is responsible for determining the applicable statute of limitations for outside action with the Human Rights Commission, the Equal Employment Opportunity Commission, a court, or through the Senate complaint process. The Senate complaint process **does not** suspend the time period for filing a complaint outside the Senate. In the event the complainant wishes to file an action, he or she shall be provided the appropriate addresses and telephone numbers.

### **Communication of Policy to Employees and Members**

New employees will have a copy of the policy included in their employee packets, and will be required to sign a copy to be included in their personnel files.

All employees must attend training sessions and will be supplied with a copy of the policy. Members will be briefed on the policy, provided with a copy of the policy as part of their orientation materials, and given the opportunity to participate in training sessions. The Senate policy will be incorporated into the Senate Personnel Policies and Procedures, which are also included in the Senate Reference Manual.

## **Americans with Disabilities Act (ADA) Policy**

To comply with the federal Americans with Disabilities Act of 1990 (ADA) and Revised Code of Washington 49.60.030, the Washington State Senate has the following policy to ensure reasonable accommodation for persons with disabilities.

The Washington State Senate is an Equal Opportunity Employer. It is the policy of the Washington State Senate to provide all its employees with a working environment free from discrimination and harassment on the basis of sex, race, disability, or any other status protected by law. The Senate strongly encourages all qualified applicants, especially racial and ethnic minorities, women, persons of disability, persons over 40 years of age, and veterans to apply.

Similar to the Merit System Rules, the Washington State Senate recruits, hires, trains, and promotes individuals without regard to sensory, mental, or physical disability, who meet the terms, benefits, and conditions of employment with or without reasonable accommodation.

Reasonable accommodation for employees may include, but is not limited to, making Senate facilities accessible and usable; job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; modification of examination or training materials or policies; and the provision of qualified readers or interpreters.

The law generally requires that members of the public with disabilities not be excluded, based on their disabilities, from participation in Senate programs, services, or activities. This extends to participation in hearings, attending floor action, communicating with members and staff, and obtaining legislative documents.

The Senate has no obligation to provide accommodations which would impose an undue hardship. Generally, an accommodation would constitute an undue hardship if it would result in significant difficulty or expense. Undue hardship will

be determined on a case-by-case basis. The federal law contains detailed standards on what constitutes undue hardship and these standards should be reviewed in each case.

Supervisors and staff will be asked to review this policy and any subsequent updates. A copy of this policy will be presented to all new staff members upon hiring.

Failure on the part of any Washington State Senate employee to carry out the intent of the policy and procedures concerning reasonable accommodation is appropriate cause for corrective action.

The Washington State Senate will continue to work with persons with disabilities and appropriate organizations to comply with and implement the ADA.

### **Procedure for Public Accommodation**

- A. The Senate will provide auxiliary aids or services to facilitate public participation. Among other things, aids or services may include providing legislative documents in alternate formats, readers, sign language interpreters, and adaptive equipment, and modifying Senate facilities. Persons with disabilities who need aids or services are invited to request them. Requests must be made in a timely manner, providing the Senate with opportunity to make the appropriate arrangements at reasonable costs and without undue hardship. Generally, the Senate will not provide auxiliary aids or services to persons with disabilities under circumstances where their employers have the legal duty to do so.
- B. The process to request an accommodation is informal and simple. The person with disability makes a

request to the appropriate staff person or staff director, who in turn grants or denies the request or provides a suitable alternative. If at any time a disabled person believes that his or her informal request has not been handled or decided properly or expeditiously, he/she may file a formal complaint with the ADA Coordinator(s). Note that a staff director's or division head's authority to deal with informal requests under this policy does not include the authority to incur expenditures without the approval of the Secretary of the Senate.

Complaints filed with the ADA Coordinator(s) will be decided by the Secretary of the Senate. There will not be a hearing on the complaint. The complaint must be in writing; if necessary, the ADA Coordinator(s) may assist the person in writing his/her complaint. It should include the following: (1) a description of the request made to the staff director or division head in the informal process; (2) a statement explaining why, in the complainant's opinion, the request is reasonable; (3) a statement showing why, in the complainant's opinion, granting the request is required under the law; (4) a statement showing why, in the complainant's opinion, the informal process has not been adequate; and (5) if necessary, a medical verification that the complainant's disability constitutes a "disability" within the meaning of Title II of the ADA.

- C. When necessary to avoid discrimination, the Senate will make reasonable modifications in its policies, practices, and procedures. However, the Senate will not make modifications that would fundamentally alter the nature of its programs, services, or activities.

Complainants will be notified of their right to seek resolution of any dispute through the Washington Human Rights Commission, the U.S. Dept. of Justice, or by filing a private cause of action.

### **Procedure for Employee Accommodation**

- A. The Washington State Senate provides, as each situation dictates, appropriate and reasonable accommodation(s), which allow a person with a disability to meet the terms, benefits, and conditions of employment (“reasonable accommodation”).
- B. An employee with a disability has the right to request reasonable accommodation. Requests should be made to the Secretary of the Senate in writing. (If necessary, the ADA Coordinator(s) may assist the employee in submitting the request in writing.) Such requests should outline the reasonable accommodation(s) desired and may be accompanied by a written statement from a physician or a qualified expert about the general nature of the disability.

A doctor or qualified expert’s role will be limited to advising the Secretary of the Senate about an individual’s medical condition and its symptoms. The doctor or expert will not be responsible for making employment decisions or deciding whether or not it is possible to make reasonable accommodation for a person with a disability. That responsibility lies with the Secretary of the Senate and/or the Facilities and Operations Committee.

Information resulting from medical inquiries and examinations must be kept separate from personnel files and treated

as confidential. Supervisors, managers, and other persons in the workplace (as determined by the Secretary of the Senate and the employee) may be informed regarding restrictions on work or duties of employees and regarding necessary accommodations. In addition, First Aid and Safety personnel may be informed if persons with disabilities might require emergency treatment. Any current or future requests for reasonable accommodation must follow this procedure.

- C. Upon receipt of a request for reasonable accommodation(s), the Secretary of the Senate, in consultation with the Office of Senate Counsel and Senate ADA Coordinators, may seek outside expertise for a professional evaluation of the request in order to determine the disability status of the requester and its relationship to the terms, benefits, and conditions of the position. A determination can then be made whether the request for accommodation(s) is appropriate.
- D. The Secretary of the Senate will make a final determination on the accommodation(s) and, as warranted, consult with the Facilities and Operations Committee. The employee will be notified of the accommodation(s) determination by memorandum. In making the determination:
- The Washington State Senate and the Facilities and Operations Committee have the responsibility to balance the rights of disabled individuals with the duty of the Washington State Senate to maintain the integrity of its responsibilities and work effort.
  - Accommodation may be refused only if such action cannot be

“reasonably” undertaken. Refusals to accommodate cannot be arbitrary and capricious. Rejections of requested accommodations should reflect that the accommodations were in fact considered in more than a cursory fashion and were rejected for legitimate reasons.

- E. Complainants will be informed of their right to seek resolution of any dispute through the Washington State Human Rights Commission, the U.S. Department of Justice, or by filing a private cause of action.

(The Washington State Senate ADA coordination is through the Sergeant at Arm’s office at 786-7572.)