

Recommendations from the Senate Respectful Workplace Taskforce

The taskforce recommends the attached policy for employees and Senators, and looks forward to a second phase when voices from the rest of the legislative community can be heard.

Summary of recommended changes from current policy

- Title change to "policy on appropriate workplace conduct".
- Clarified opening intent statement, and placed a greater emphasis on employees' rights.
- Clearly described each type of prohibited conduct, while moving the options for addressing behaviors to a single section (compared to current policy that mixes the options for redress in with each description of the types of prohibited conduct).
- Eliminated sections on "participation in caucus" under types of prohibited conduct.
- Emphasized "retaliation" as a distinct type of prohibited conduct.
- Changed section header to "reporting prohibited conduct" from "complaint/investigation procedures".
- Replaced section on "personal action" with a statement about why early reporting is critical, and added a clear summary of options for redress.
- Eliminated the facilitators and investigative committee roles.
- Created a "Legislative Human Resources Officer (HRO)" for employees and Senators. The HRO has the authority to receive complaints and conduct investigations, and serves as a resource regarding options under the Policy and coordinates training regarding the Policy. The Legislative HRO selection process mirrors that currently used for the Senate Committee on Employment, meaning representatives of both caucuses must agree to the hiring/firing of the individual.
- Streamlined the supervisor section and clarified their duties. Added reference examples for types of appropriate action Supervisors can take.
- Clarified the option of reporting directly to Senate Administration (Senate Counsel or Secretary of the Senate) who have the authority to work with a neutral third party external to the Senate. Created an appeals process to the Senate Facilities and Operations Committee for decisions made by Senate Administration.
- Added a section with a statement about preserving the confidentiality of complaints and investigations, except where deemed to be in the public interest. Explicitly state that where a Senator is the respondent and the Secretary of the Senate or F&O Committee (after an appeal) finds a violation, the findings will be published as they are always in the public interest (excluding the names of the involved parties other than the Senator).
- Added requirements for mandatory training on the policy upon hire, election, or appointment, and at least every two years thereafter. The training will be conducted by an individual or entity with expertise in harassment and discrimination prevention. • Added a section on additional resources.

Policy on Appropriate Workplace Conduct

All employees, regardless of protected class status, have the right to work in an environment that is safe and respectful, free from unsolicited and unwelcome comments or conduct. The Washington State Senate has the responsibility to provide and maintain a respectful workplace environment free from discrimination, harassment, retaliation, bullying, and other offensive conduct.

Senators and employees are expected to conduct themselves so that such behavior does not occur in any action with respect to hiring, firing, compensation, benefits, promotions, reclassification, disciplinary actions, working relationships, or any other work conditions. This behavior undermines the integrity of the employment relationship and the self-esteem of the individuals to which it is directed; It negatively affects morale and work performance.

Any employee who knows of violations of this policy is strongly encouraged to report them. Any Senator or supervisor who knows of violations of this policy must take action under this policy to correct/stop such misconduct. Taking action may include intervening, investigating, or reporting to an appropriate supervisor, Senate Counsel, or the Secretary of the Senate.

The Senate will not tolerate conduct that violates its commitment to maintaining a respectful workplace, and such violations may result in disciplinary action.

PROHIBITED CONDUCT

Discrimination

No Senator or employee shall engage in discrimination. Discrimination occurs when an adverse action or decision with respect to employment is made on the basis of protected status.

As defined in RCW Chapter 49.60, and as used in this policy, "protected status" means: race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

Harassment

No Senator or employee shall engage in harassment. As used in this policy, the term "harassment" includes but is not limited to comments, slurs, jokes, innuendos, cartoons, pranks, requests for favors or other verbal, non-verbal, or physical conduct of a discriminatory nature, related to a protected status as defined in RCW Chapter 49.60, 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 any individual's work performance or creating an intimidating, hostile, or offensive work environment.

Other Offensive Conduct

No Senator or employee shall engage in any behavior that a reasonable person would find to be bullying, threatening, intimidating, coercive, demeaning or derogatory toward another, or which could be reasonably anticipated to have the effect of interfering with an individual's work performance.

Conduct by Persons Other than Senators or Senate Employees

Conduct by persons other than Senators or Senate employees, including by lobbyists and visitors, which constitutes prohibited conduct under this Policy may result in restrictions, including but not limited to, prohibitions on unaccompanied movement within the Senate.

Retaliation

No Senator or employee shall directly or indirectly intimidate or threaten any person to prevent them from reporting conduct prohibited by the Policy on Appropriate Workplace Conduct, nor shall any such action be taken in retaliation for reporting a violation of this Policy, filing a complaint, participating in an investigation, or assisting in the enforcement of an approved disciplinary sanction.

REPORTING PROHIBITED CONDUCT

Early reporting and intervention is the most effective way to resolve incidents of prohibited conduct. Delays in reporting can affect the ability to take appropriate action. Accordingly, reports of prohibited conduct should be made promptly after experiencing, observing, or learning of the conduct so that appropriate action can be taken.

The Senate strongly encourages a person who has experienced or observed prohibited conduct to identify the offensive behavior and advise the offender to stop and to report the conduct as provided in this policy. Senators and Senate employees have several options for seeking further resolution, including reaching out to any of the following:

- A Supervisor
- Senate Administration (Senate Counsel or Secretary of the Senate)
- The Legislative Human Resource Officer (HRO)

Criminal activity, including physical or sexual assault, should be reported to law enforcement immediately.

Legislative Human Resource Officer (HRO) Actions and Responsibilities

Functions

- All Senators and Senate employees have access to the Legislative HRO.
- The Legislative HRO must inform Senators and Senate employees of options for reporting the complaint and information regarding available resources. The Legislative HRO is not a legal adviser.
- The Legislative HRO has the authority to receive complaints and conduct investigations, but may not take disciplinary action.
- Upon completion of an investigation, the Legislative HRO must forward their findings to the appropriate supervisor and Senate Counsel for further action. If a Senate employee files a complaint regarding their supervisor with the Legislative HRO and an investigation takes place, investigative findings will be forwarded to the Senate Counsel only.
- An investigation by the Legislative HRO may include collection of evidence, including interviews and documents.
- When investigating a complaint, the Legislative HRO will consult as necessary with the appropriate supervisor and Senate Administration, but will maintain, to the extent feasible, the confidentiality of the complaint and investigation.
- The Legislative HRO will coordinate trainings of Senators and Senate employees on the Senate's Policy on Appropriate Workplace Conduct, in accordance with the provisions of this Policy.

Selection Process

The Legislative Human Resource Officer's selection and employment shall be determined by the majority vote of a committee consisting of six members, three from the majority party and three from the minority party. The chair shall be appointed by the majority leader.

Supervisor Actions and Responsibilities

Senate employees in supervisory positions have a duty to take appropriate action if they receive a complaint or become aware of prohibited conduct. Senators are considered supervisors under this policy. Appropriate action may include the following:

- Consulting with or referring the matter to Senate Administration;
- Consulting with or referring the matter to a supervisor in their chain of command (for example, Caucus Chief of Staff or Senate Committee Services Director);
- Referring the matter to the a supervisor with direct supervisory responsibilities over the Senate employee alleged to be engaging in the prohibited conduct;
- Referring the matter to the Legislative HRO.

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 or alleged victim, the person alleged to be committing the behavior and their supervisor, an investigator, and possible witnesses to the conduct.

If it is determined that prohibited conduct has occurred, the supervisor shall impose, or recommend as applicable, the appropriate disciplinary action. The complainant and the Legislative Human Resource Officer (if involved) shall be informed of any action taken by supervisors.

Senate Administration Action and Responsibilities

Upon receipt of a complaint, the Senate Counsel or Secretary of the Senate must take action. Actions may include conducting an investigation, or referring the complaint to either the Legislative Human Resource Officer or a neutral third party external to the Senate to conduct the investigation.

- An investigation by the Senate Counsel, Secretary of the Senate, or external third party may include collection of evidence, including interviews and documents.
- The respondent shall receive notice of the nature of the complaint and alleged violation of the policy.
- Findings, recommendations, and supporting documentation from an investigation by the Legislative Human Resource Officer, Senate Counsel, or external third party must be forwarded to the Secretary of the Senate for appropriate action. The complainant (or alleged victim) and respondent shall be notified of the Secretary's determinations in writing.
- After completion of the investigation and any necessary personnel action, the Secretary of the Senate may provide follow-up information to affected individuals, witnesses, staff, or the work unit, considering the nature of the conduct and the circumstances of each case.

Appeals Process to Senate Facilities and Operations Committee

- Within 14 calendar days of receipt of the Secretary's determinations, complainants or respondents who disagree with the Secretary's determinations may appeal to the Senate Facilities and Operations Committee by filing all information they wish to have considered with the Committee Chair.
- Within 30 calendar days of receipt of the appeal, the Committee will conduct its review of the appeal, which may include further investigation. The Committee may extend this 30-day limit if additional investigation is needed.
- Final determination by the Committee will be communicated to the Secretary of the Senate.

Disciplinary Action

- In the case of Senate employees, disciplinary action under this policy includes, but is not limited to, verbal or written reprimand, probation, suspension, demotion, or termination.

- In the case of Senators, disciplinary action under this policy includes, but is not limited to, reprimand, censure, limitations on staff access, removal from committee or caucus leadership, removal from caucus, or expulsion.
- The Secretary of the Senate or Senate Facilities and Operations Committee must take final action on their recommendations, except in the case of the censure or expulsion of a member, which action must be taken in accordance with Senate Rules and the Constitution.
- If the Secretary of the Senate or Facilities and Operations Committee believes that the facts may constitute a criminal violation, the Secretary will notify the appropriate law enforcement agency.

Confidentiality

The Secretary of the Senate, Senate Counsel, and Legislative HRO will maintain, to the extent feasible, the confidentiality of a complaint and investigation. Upon completion of an investigation and any action taken, the Secretary of the Senate may release any findings, conclusions, or reports, or portions thereof, if the Secretary determines that such release is in the public interest or required by law.

Where a Senator is the respondent and the Secretary of the Senate or Facilities and Operations Committee (following an appeal) finds a violation of prohibited conduct, these findings, excluding the names of involved parties other than the Senator, are in the public interest and will be released.

FILING FURTHER ACTIONS

Persons having questions about discrimination may contact the Washington State Human Rights Commission for assistance. Such contact does not necessarily constitute the filing of a formal complaint with the Senate.

The complainant is responsible for determining the applicable statute of limitations for outside action with the Human Rights Commission, the Federal 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.

SENATE LIABILITY FOR ACTIONS

The Senate reserves the right, upon the vote of at least three-fourths of the Facilities and Operations Committee, to seek indemnification from Senators whose actions give rise to a claim or claims, including all damages or other amounts paid resulting therefrom, and any increased risk management premiums the Senate may incur, arising from violation of the Policy on Appropriate Workplace Conduct.

POLICY COMMUNICATION AND TRAINING

Employees and Senators must sign an acknowledgement that they have read the entire Policy on Appropriate Workplace Conduct and will comply with its provisions. This acknowledgement will be included in their personnel files, and could be subject to public disclosure.

The Senate is responsible for training all Senators and employees on this Policy upon hire, election, or appointment, and at least every two years thereafter. The training will be conducted by an individual or entity with expertise in harassment and discrimination prevention.

ADDITIONAL RESOURCES
Employee Assistance Program https://des.wa.gov/services/hr-finance-lean/employee-assistance-program-eap
Equal Employment Opportunity Commission https://www.eeoc.gov/employees/index.cfm
Human Rights Commission https://www.hum.wa.gov/employment
Dispute Resolution Center of Thurston County http://www.mediatethurston.org
SafePlace https://www.safeplaceolympia.org
Washington Coalition of Sexual Assault Programs http://www.wcsap.org
Rape, Abuse & Incest National Network (RAINN) https://www.rainn.org