

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 substantially 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 behavior that a reasonable person would find to be bullying, threatening, intimidating, coercive, demeaning or derogatory toward another, and which could be reasonably anticipated to cause harm and to have the effect of interfering with an individual's work performance. A single physical, verbal, or written act or behavior generally will not constitute a violation of this section, unless especially severe and egregious. Evaluating work performance, such as constructive feedback relating to improving professional skills, is appropriate and reasonable and does not constitute bullying behavior.

Conduct by Persons Other than Senators or Senate Employees

All members of the legislative community are subject to the Legislative Code of Conduct, which is posted online and around the legislative campus. In addition to legislators and employees of the Legislature, members of the legislative community include:

- Other elected or appointed officials;
- Lobbyists;
- Employees of state agencies, boards, and commissions and others representing government entities;
- Members of the press; and
- Members of the public participating in the business of the Legislature.

The Legislative Code of Conduct states:

The Legislature is committed to maintaining a professional and respectful environment for all members of the legislative community. As stewards of the public trust, each member of the legislative community is expected to:

- Conduct themselves with self-awareness, self-respect, and professionalism;
- Treat all others with respect, dignity, and civility, regardless of status or position; and
- Refrain from engaging in hostile, intimidating, offensive, or unlawful activities or behaviors that may amount to discrimination, harassment, sexual harassment, or bullying under the respectful workplace policies of the Senate.

This Code of Conduct applies equally and at all times to all members of the legislative community, both on and off the capitol campus.

The Senate will address any complaints of violations of the Code of Conduct involving Senators or Senate employees in a manner that is apolitical, impartial, transparent, prompt, thorough, and respectful. Reported violations involving Senators or Senate employees will be investigated in accordance with this Policy. No person will be granted special privilege or immunity from consequences of violations on the basis of their status or position in the legislative community.

Retaliation or threat of retaliation against any person who complains of or reports violations will not be tolerated. The Senate may take disciplinary action against a person who retaliates or threatens retaliatory action in accordance with this Policy.

Behavior which constitutes prohibited conduct under this Policy may result in disciplinary action. Such action may include reporting to the respondent's organization or employer, or prohibitions on unaccompanied movement within the Senate.

Retaliation

No Senator or employee shall engage in intimidation, reprisal, retaliation, or any action that might deter a reasonable person from 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 Senate Human Resource Officer (HRO)

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



Senate 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, the Senate Human Resource Officer, 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.

In order to facilitate a fair and complete investigation of reported matters, the Senate expects all legislative members and employees to fully and honestly cooperate in any investigation. In addition, the Senate expects that no person will utilize this Policy for political purposes.

SENATE HUMAN RESOURCE OFFICER (HRO) JOB DESCRIPTION AND HIRING PROCESS

Job Description

- The Senate HRO directs and coordinates human resources activities, such as compensation, employee relations, benefits, and training. In addition to these duties, the Senate HRO is charged with administering this Policy. All Senators and Senate employees have access to the Senate HRO.
- The Senate HRO must inform Senators and Senate employees of options for reporting the complaint and information regarding available resources. The Senate HRO is not a legal adviser.
- The Senate HRO has the authority to receive complaints and conduct investigations, but may not take disciplinary action.
- Upon completion of an investigation, the Senate 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 Senate HRO and an investigation takes place, investigative findings will be forwarded to the Senate Counsel only.
- An investigation by the Senate HRO may include collection of evidence, including interviews and documents.
- When investigating a complaint, the Senate 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 Senate 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 Senate HRO'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 supervisor with direct supervisory responsibilities over the Senate employee alleged to be engaging in the prohibited conduct;
- Referring the matter to the Senate 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 Senate HRO (if involved) shall be informed of any action taken by supervisors.

Administration Complaint Intake and Process

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

- The Senate HRO, Senate Counsel, or external third party will receive, document, and investigate complaints, and track them for reasonable progress.
- An investigation 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.
- Upon receipt of a complaint, the Senate HRO, Senate Counsel, or external third party will make a preliminary determination of whether, taking the facts in the light most favorable to the complainant, there would be a violation of this Policy. If there would be no violation, the matter will be handled informally with the complainant and respondent.
- Findings from an investigation of a harassment or discrimination complaint by the Senate HRO, Senate Counsel, or external third party must be forwarded to the Secretary of the Senate for appropriate action. Findings from investigations related to other policy violations will be communicated to the appropriate supervisor for remedial action.
- The complainant (or alleged victim) and respondent shall be notified of the determinations in writing.
- After completion of the investigation and any necessary personnel action, the Senate HRO, Senate Counsel, external third party, or 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.

Remedial Action

- Violations of this Policy will lead to prompt and appropriate remedial action. This may include a broad range of actions to promote a culture of respect, civility, and diversity, and may not always be disciplinary in nature.
- In the case of Senate employees, disciplinary action under this Policy includes, but is not limited to, counseling, training, or other corrective action which may include 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, counseling, training, or other corrective action which may include 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 Senate 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 of a harassment or discrimination complaint 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 and identifying information 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>

