



MEMORANDUM

Prepared for: Joint Committee on Conduct
Date: September 23, 2020
By: Jan Nordlund, LPRO Analyst
Re: Duties and Authority under Rule 27 and
HB 3377 (2020)

LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

Rule 27, the Legislative Branch Personnel Rule for a Harassment-Free Workplace, and the underlying legislation developed by the Capitol Culture Committee in 2019 (HB 3377) provide authority and duties to various entities and individuals.

JOINT COMMITTEE ON CONDUCT

- Recruit, interview candidates, and make recommendations for appointment of Legislative Equity Officer (LEO) by the Legislative Assembly. The LEO is selected by the Assembly by concurrent resolution. The Joint Committee may select an acting equity officer to fill a vacancy until there is an opportunity for the Assembly to appoint.
- Provide policy direction and oversight to the LEO.
- Receive annual reports from LEO and other reports the committee or LEO determines are warranted.
- Provide ongoing direction and oversight for continual updating of training.
- Develop and maintain a respectful workplace policy that will be administered by the Legislative Administrator.
- Approve, modify, or reject examples submitted by LEO of what constitutes harassment, a hostile work environment, sexual harassment, and retaliation.
- Adopt standards and criteria for selecting an independent investigator unaffiliated with the Branch. Direct the LEO to enter into one or more contracts with independent investigators.
- Establish minimum qualifications for an offsite process counselor and may establish other criteria for the selection of counselor.
- Establish uniform recordkeeping processes applicable to the LEO and Employee Services to ensure conduct reports are adequately documented.
- On or before January 1, 2021, make recommendation to presiding officers on whether investigation functions shall continue to be performed by one or more independent investigators or shall be performed by Legislative Branch personnel affiliated with the LEO.
- Consult with the Capitol Leadership Team in the performance of these duties.
- The Joint Committee does not receive conduct reports or determine if Rule 27 violations have occurred; such responsibility rests with the House Committee on Conduct and the Senate Committee on Conduct.

LEGISLATIVE EQUITY OFFICER

- Serves a four-year term and is eligible for reappointment. Is selected by Legislative Assembly through a concurrent resolution; the Joint Committee on Conduct can appoint an acting LEO to fill a vacancy.
- Is reimbursed for actual and necessary expenses paid by or incurred by the officer in the performance of their duties.
- Prepare and present annual report to the Joint Conduct Committee.
- Establish and maintain a Capitol Leadership Team.
- Employ professional assistants and other employees and enter into contracts to carry out functions of the Office
- Maintain a list of potential independent investigators who meet the standards and criteria. Contract with one or more individuals to serve as independent investigators.
- Contract with one or more offsite process counselors who receive information from individuals about harassing behavior.
- Conduct at least once each calendar quarter a minimum of two hours of respectful workplace training. May contract with others for the performance of the training.
- Consult with the Legislative Administrator and the Diversity and Equity Committee in development of respectful workplace training.
- Regularly conduct culture and climate surveys and make results publicly available. May contract with others to conduct the surveys.
- Develop and propose to the Joint Committee on Conduct examples of what constitutes harassment, a hostile work environment, sexual harassment, and retaliation under Rule 27. When approved, maintain and publish these examples.
- Establish means for people to make confidential disclosure that are entirely anonymous.
- Receive conduct reports and conduct complaints; convey such reports and complaints to an independent investigator.
- Receive confidential disclosure reports and explain next steps and options to the reporter.
- Recommend interim safety measures if sought by person making confidential disclosure.
- Refer reporters to the Human Resources Director if conduct does not rise to the level of creating a hostile work environment or violating public accommodation law.

INDEPENDENT INVESTIGATOR

- Receive complaints and reports alleging harassment or conduct asserted to violate standards of harassment, discrimination or retaliation.
- Conduct investigations, determine facts, write investigative reports, report outcomes of investigations.
- Make recommendations regarding interim safety measures.
- May not have confidential files and records of the LEO.

OFFSITE PROCESS COUNSELOR

- Works under contract with LEO.
- Available to receive information from any individual about harassing behavior.
- Does not receive conduct reports or conduct complaints but may be present when person makes disclosure, report, or complaint to the LEO if the person requests their presence.
- Provide confidential process counseling to individuals who believe they have experience or observed harassment.
- May not engage in any investigation following a report or complaint or following any consultation.
- May not share any information acquired in a consultation with the investigator except that non-personally identifiable information may be disclosed to facilitate the taking of action consistent with legislative rules and with principles of Due Process Clause of U.S. Constitution.

CAPITOL LEADERSHIP TEAM

- Established by the LEO. Membership includes legislators, legislative staff, lobbyists, executive and judicial branch staff who regularly interact with the legislative branch, employees of contractors who regularly interact with the legislative branch, and interested members of the public.
- Team members will serve as mentors and informal resources of information for others who are interested in promoting a more respectful workplace or who are facing challenges in the workplace.
- The team shall identify additional services or training needs and report these to the LEO and the Joint Committee on Conduct.

LEGISLATIVE ADMINISTRATOR

- Provide members of the Capitol Leadership Team with advanced respectful workplace training, with an emphasis on implementing cultural change in the workplace.