
State of Oregon Legislative Branch RESPECTFUL WORKPLACE POLICY

Maintaining a Respectful Workplace

- (1) **Applicability.** Members of the Legislative Assembly; all Legislative Branch employees, including interns (paid and unpaid), externs (paid and unpaid), and volunteers; and lobbyists required to register under ORS 171.740 must adhere to conduct as defined in this policy.
- (2) **Policy.** The Legislative Branch is committed to providing a safe, respectful and professional workplace free of inappropriate workplace behavior. Members of the Legislative Assembly, all Legislative Branch employees and members of the Lobby are expected to conduct themselves in a professional and respectful manner and to discourage all inappropriate behavior anywhere and in any manner that has a nexus to legislative work and activities.
- (3) **Terms.** As used in this policy:
- a. "Complainant" means a person who has made a report as outlined in Sec. 6 of this policy. "Complainant" also includes a person who did not make a report but who has been named in a report as someone who has experienced behavior prohibited by this policy.
 - b. "Employee" means an employee who is performing services on behalf of the Legislative Branch. "Employee" includes legislative interns (paid and unpaid), externs (paid and unpaid), and volunteers performing services for the Legislative Branch.
 - c. "Inappropriate workplace behavior" is defined in Sec. 4 of this policy.
 - d. "Interim measure" means an interim safety measure that is put in place during the course of an investigation or other resolution process to ensure the safety of the complainant or any other individual who has experienced behavior that is prohibited by this policy or who may reasonably be foreseen as at risk of being subjected to behavior that is prohibited by this policy.
 - e. "Investigator" means a staff person of Employee Services or an external investigator under contract who performs the investigation described in Sec. 10 of this policy.
 - f. "Lobbyist" includes any person required to register as a member of the Lobby under ORS 171.40.

- g. “Corrective action” means a measure imposed on a respondent consistent with the investigator’s determination that the respondent violated the requirements of this policy, including coaching, training, counseling, up to and including termination.
- h. “Report” means providing information about conduct that is prohibited by this policy that a person has experienced or witnessed to any of the individuals identified to receive reports under Sec. 6 of this policy.
- i. “Respondent” means a person named in a report, made under Sec. 6 of this policy, as engaging in behavior that is prohibited by this policy or a person who is the subject of an investigation under Sec. 10 of this policy to determine whether the person engaged in behavior that is prohibited by this policy.
- j. “Retaliation” means action taken against a person or treating a person less favorably because the person made a good-faith complaint about conduct prohibited by this policy, participated in an investigation about conduct that is prohibited by this rule, took action to address conduct prohibited by this policy or implemented one or more provisions of this policy.

(4) Conduct

- a. The behavior under this Policy is behavior that is not otherwise prohibited by LBPR 27. See LBPR 27. It could include behaviors initially thought to be covered under LBPR 27 but later determined to fall outside the scope of that rule.
- b. Inappropriate workplace behavior covered by this policy includes any unwelcome or unwanted comments, actions, or behaviors by an individual or group that causes the effect of, and a reasonable person would find to be, embarrassing, humiliating, intimidating, disparaging, demeaning, or threatening; and has the effect of or is intended to unreasonably interfere with their job performance or causes fear in the workplace.
- c. Prohibited conduct could occur anywhere and in any manner, as long as it has a nexus to legislative work or activities.
- d. Examples of prohibited conduct under this policy include but are not limited to the following. Certain situation specific details may determine appropriateness:
 - A. Shout at someone in a staff meeting and demean their intelligence in front of others.
 - B. Start or perpetuate rumors/gossip that you know to be false or harmful.
 - C. Purposefully impede or prevent someone’s ability to do their job.
 - D. Share information known about someone with the intent to embarrass, humiliate or demean.
 - E. Threaten someone with physical harm.
 - F. Text, direct message or otherwise use technology to communicate insults or demeaning language to a colleague, co-worker or lobbyist.
 - G. Post on a social media site insulting or derogatory language about someone who is subject to the protections of this policy.
- e. Nothing in this policy may operate to infringe any right of expression guaranteed by the Oregon or United States Constitutions.

(5) Reporting parties. Members of the Legislative Assembly, all Legislative Branch employees, including interns (paid and unpaid), externs and volunteers, and lobbyists

required to register under ORS 171.740 may report conduct that they have experienced or witnessed that are prohibited under this policy.

(6) Reporting conduct.

- a. A person included in Sec. 5 of this policy may report what they believe to be inappropriate behavior to any of the following individuals:
 - A. Employee Services;
 - B. Legislative Equity Officer;
 - C. The person's supervisor; or
 - D. The person's appointing authority.
- b. Reports should include:
 - A. Reporter's name;
 - B. Name of the person(s) alleged to be involved in the inappropriate behavior; and
 - C. A detailed description of the alleged inappropriate behavior that occurred.
- c. A report may not necessarily trigger the resolution process outlined in Sec. 10 of this policy. Appointing authorities, supervisors and Employee Services may directly address behavior when appropriate as outlined in Sec. 7 of this policy.
- d. A complainant's preferred method of resolution will be taken into consideration by the person who receives the report. A report to a supervisor, appointing authority or Employee Services may warrant an investigation upon receipt.
- e. A person may make a confidential report to the Legislative Equity Officer which will not trigger the resolution process as outlined in Sec. 10 unless directed to by the reporting party and allowable under this policy. A person can receive confidential process counseling through the Legislative Equity Officer.
- f. Designated recipients of reports under this policy are to take all reasonable steps to maintain privacy and confidentiality for the integrity of the process. Records may be required to be disclosed pursuant to Oregon's Public Records Law. Reports made to the Legislative Equity Officer are exempt from disclosure.

(7) Appointing authorities and supervisors. An appointing authority or supervisor shall take appropriate action to prevent, promptly correct or report violations of this policy about which the appointing authority or supervisor knew or, with the exercise of reasonable care, should have known.

- a. Appointing authorities and supervisors shall timely take action on allegations or knowledge of alleged inappropriate behavior as follows:
 - A. Address the behavior directly with their employee through coaching or counseling and appropriately document action with the Legislative Equity Officer;
 - B. Consult with Employee Services to determine appropriate steps to address inappropriate conduct of an employee and appropriately document action with the Legislative Equity Officer; OR
 - C. Report the conduct to Employee Services as outlined in Sec. 9.

(8) Interim Safety Measures.

- a. Interim safety measures may be put into place while a report is being resolved and may be applied to either the complainant or the respondent.
- b. Interim safety measures may include but are not limited to reassignment of work, reassignment of supervisor/peers, modified communication/interaction protocols for involved parties, and paid administrative leave.
- c. Interim safety measures are determined as follows:
 - A. If the person impacted by the interim measures is a member of the Legislative Assembly:
 - 1. The Human Resource Director or the Legislative Administrator shall prepare a written recommendation for imposing interim safety measures and provide it to the member.
 - 2. If the member voluntarily accepts the interim safety measures recommended in writing, the member signs the recommendation. A voluntarily signed interim safety measure carries the full weight and effect of a measure imposed by the appropriate conduct committee. The Human Resources Director or the Legislative Administrator shall notify the appropriate conduct committee co-chairs and Presiding Officer that voluntary safety measures have been imposed.
 - 3. If the member does not voluntarily accept the recommendation, the Human Resources Director or Legislative Administrator shall report the interim safety recommendation and the reasons for the recommendation, to the appropriate Presiding Officer.
 - 4. If the member does not agree to interim safety recommendation from Presiding Officer, the Human Resources Director or Legislative Administrator shall report the interim safety recommendation to the appropriate conduct committee who shall promptly deliberate on the recommendation and shall adopt such interim safety measures that the committee determines are appropriate. For purposes of conducting a hearing to deliberate on interim safety measures under this paragraph, the committee hearing need only comply with one-hour notice requirements.
 - B. If the person impacted by the interim measures is an employee, the Human Resource Director or the Legislative Administrator shall prepare a written recommendation for imposing interim safety measures and provide it to the employee's appointing authority.
 - 1. In the event the employee is an agency director, the recommendation is taken directly to the co-chairs of the committee overseeing the agency director
 - 2. In the event that the employee's appointing authority is the respondent, the recommendation is taken directly to the co-chairs of the committee overseeing the appointing authority if the employee is in nonpartisan position, and to the appropriate Presiding Officer if the employee is in a partisan position.

- C. If the person impacted by the interim measures is a State of Oregon employee but not a Legislative Branch employee, the Human Resource Director or the Legislative Administrator shall prepare a written recommendation for imposing interim safety measures and provide it to the employee's agency director.
- D. If the person impacted by the interim measures is a member of the Lobby but not an employee of the State of Oregon, the Human Resource Director or the Legislative Administrator shall prepare a written recommendation for imposing interim safety measures and provide it to the lobbyist and the Legislative Administrator.
- d. The person who receives the interim safety recommendation made under this section shall act promptly on the recommendation.
- e. Any interim safety measure that is recommended or that is implemented may not prejudice a complainant by negatively reflecting on the merit of the complaint or the investigative outcomes.

(9) Report to Employee Services. When a report of conduct is received by Employee Services it will be taken seriously and reviewed.

- a. Employee Services shall provide private non-confidential process counseling including informing parties of the following:
 - A. Disclosing limitations to or lack of confidentiality applied to communication with Employee Services and investigators; identifying individuals who may be notified of the report in addition to Employee Services, the investigator and parties to the report; explaining the types of records that may be required to be disclosed pursuant to Oregon's Public Records Law; and explaining options to seek confidential process counseling through the Legislative Equity Office.
 - B. Options that are available to address the conduct including the resolution process outlined in Sec. 10 of this policy and any other applicable Legislative Branch policies or personnel rules available, including LBPR 27 and state and federal administrative options for resolution, including the Bureau of Labor and Industries and the Equal Employment Opportunity Commission of the United States.
 - C. Support available to a complainant, beyond interim measures outlined in Sec. 8 of this policy, including but not limited to any available employee assistance program services, federal and state protected leave options, and options for confidential process counseling.
 - D. Options within Sec. 13 of this policy that may be available to appeal determinations made within this policy.
- b. Upon receipt of a report, Employee Services will perform an intake to gather additional facts for clarity including but not limited to:
 - A. Reporter's name;
 - B. Names of person(s) alleged to be involved in the inappropriate behavior(s);
 - C. Detailed description of the inappropriate behavior(s) including dates, times, locations, other information;
 - D. Collect documentation such as emails, texts, photos, etc.; and

- E. Desired or requested remedy or safety measures.
- c. A report of conduct prohibited under this policy made to Employee Services may result in an investigation.
 - A. Employee Services shall take into consideration the presence of one or more of the following factors when deciding whether notice of behavior will require an investigation as defined in Sec. 10 of this policy:
 1. Parties dispute material facts that are necessary to reach a determination;
 2. Respondent has previous documented reports or findings that show a potential pattern of behavior related to reported conduct;
 3. Reporting party alleges being the target of serial conduct by the respondent;
 4. Report alleges pervasive behavior;
 5. Report includes more than one complainant;
 6. Report includes conduct that would more likely than not result in employment termination if corroborated; or
 7. Employee Services, in consultation with the Department of Justice or independent counsel, may determine an investigation of certain allegations is necessary based on information reported.
 - B. Employee Services may determine that an investigation is not necessary. A reporting person may appeal a decision to not investigate as described in Sec. 13 of this policy.
- d. Employee Services shall document all disclosures and reports of alleged prohibited conduct under this policy by notifying the Legislative Equity Officer of party names, date of conduct and type of conduct.
- e. If an investigation is not warranted as outlined in paragraph (c) of this section, Employee Services may address the behavior directly through coaching, training or counseling.

(10) Resolution process.

- a. A report to Employee Services may lead to an investigation as outlined in this section. All allegations will be taken seriously and reviewed.
- b. Interim safety measures shall be evaluated and recommended as outlined in Sec. 8.
- c. If Employee Services determines an investigation is to be conducted, Employee Services shall do the following:
 - A. Provide written notice to the parties of the investigation and allegations.
 - B. When a member of the Legislative Assembly is alleged to be involved in the inappropriate behavior, Employee Services shall forward the information gathered to an external investigator who is not an employee of the Legislative Branch and who shall have experience conducting inappropriate workplace behavior investigations.
 1. A written report prepared by the investigator shall be provided to the Human Resources Director. The report shall include findings of fact, determination of responsibility, and, when appropriate, recommended coaching, training or counseling.

- C. When the person alleged to be involved in the inappropriate behavior is not a member of the Legislative Assembly, assign the investigation to an employee of Employee Services with training and experience conducting inappropriate workplace behavior investigations or to an external investigator who is not an employee of the Legislative and who shall have experience conducting inappropriate workplace behavior investigations.
 - 1. An investigation may involve:
 - a. Witness interview(s);
 - b. Review of provided information and documentation;
 - c. Written summary or report of findings; and
 - d. Recommendation of remedies or sanctions for conduct or behavior in violation of this policy.
- D. Complete any investigation under this section within 84 days from the date the complaint is made. The Human Resources Director may grant an extension of time to complete the investigation when advance notice with an explanation justifying the extension is provided.
- E. Provide parties a copy of the written summary or report of findings of fact and determination of responsibility.

(11) Corrective action.

- a. In a case where the respondent is a member of the Legislative Assembly, the Human Resources Director shall determine if training, coaching or counseling is beneficial for the parties involved.
- b. When the respondent is not a member of the Legislative Assembly, the respondent's appointing authority, in consultation with the Human Resources Director, shall determine an appropriate corrective action consistent with the investigator's determination that the respondent violated the requirements of this policy, up to and including termination. If a partisan staff person is the respondent and the appointing authority does not impose appropriate corrective action, the matter shall be referred to the co-chairs of the appropriate conduct committee. If a nonpartisan staff person is the respondent and the appointing authority does not impose appropriate corrective action, the matter shall be referred to the co-chairs of the committee overseeing them.

(12) Retaliation is prohibited. Retaliation against any person who participates in a process described in this policy is prohibited. A person who believes they are experiencing retaliation as a result of participating in an investigation or reporting inappropriate behavior should report it immediately using the options in this policy. Any person found to have engaged in retaliation may be subject to corrective action. Retaliation may constitute harassment under LBPR 27.

(13) Appeals.

- a. A complainant or respondent may appeal the following:
 - A. Determination of responsibility; or
 - B. Determination to not investigate the complaint.
- b. Any party wishing to appeal must file their request to appeal in writing with the

Legislative Administrator within 5 business days after being provided a written copy of the determination or notice. The appeal request must include the basis for appeal.

- c. The basis for appeal may be any of the following:
 - A. Procedural irregularity. The procedures set out in this policy were not followed and affected the outcome of the matter.
 - B. New evidence. New evidence that was not reasonably available at the time of the determination or decision, that affected the outcome of the matter.
 - C. Bias. The investigator or the person that imposed a remedy acted with bias.

(14) Legislative Equity Officer duties.

- a. When it is determined through a LBPR 27 investigation that behavior did not rise to the level of a violation of LBPR 27, but did violate this policy, the LEO shall forward the information to the Human Resources Director to address the violation under this policy.
- b. If the LEO receives a report of allegations that may violate this policy, the LEO provides available resources, including those in LBPR 27(10)(e)(B) and (C).
- c. The LEO shall maintain confidential records of incidences reported under this policy by the Human Resources Director, supervisors and appointing authorities, and confidential reports by employees, members of the Legislative Assembly and lobbyists.

(15) Training expectations. Training must be attended annually by members of the Legislative Assembly; all Legislative Branch employees, including interns, externs, and volunteers; and lobbyists required to register under ORS 171.740. Training shall be provided by Employee Services in conjunction with the Legislative Equity Officer.

(16) Effective Date. This policy takes effect on January 1, 2021 and applies to conduct occurring on or after January 1, 2021.

Adopted by the Joint Committee on Conduct, December 22, 2020