

House Concurrent Resolution 20

Sponsored by JOINT COMMITTEE ON CAPITOL CULTURE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes standards of conduct applicable to Legislative Branch and other persons present in State Capitol. Establishes procedures for persons to make confidential disclosures, nonconfidential reports or formal complaints concerning prohibited conduct. Provides authority for interim safety measures to be imposed. Establishes procedures under which investigations of potential violations of rules are performed and remedial measures are imposed. Establishes standards of confidentiality and transparency pertaining to investigations. Establishes Senate and House Committees on Conduct.

CONCURRENT RESOLUTION

1
2 **Be It Resolved by the Legislative Assembly of the State of Oregon:**

3 That Legislative Branch Personnel Rule 27, as amended and in effect for the Eightieth Legisla-
4 tive Assembly, is repealed and the following Legislative Branch Personnel Rule 27 is adopted in lieu
5 thereof as a rule of proceeding of the Senate and the House of Representatives and a joint rule of
6 proceeding applicable to the Legislative Branch:
7

8 **Legislative Branch Personnel Rule 27: Safe, Respectful and Inclusive Workplace.**

9 **(1) Policy.**

10 **(a) The Legislative Branch is committed to promoting a respectful and inclusive envi-**
11 **ronment in the State Capitol and in any setting, including electronic media, in which conduct**
12 **has the ability to create a workplace environment that is intimidating, hostile or offensive.**

13 **(b) The Legislative Branch is committed to providing a safe and respectful workplace and**
14 **to taking proactive steps to improve its culture so that behavior from any source that has**
15 **a negative impact on the workplace may be effectively reported and promptly addressed and**
16 **resolved.**

17 **(c) This rule is designed to provide options to those who are experiencing or observing**
18 **harassing behavior, discriminatory behavior or other behavior prohibited by subsection (7)**
19 **of this rule to seek information, report behaviors or file complaints to address and resolve**
20 **concerns, while also enhancing options available to victims who seek to remain anonymous.**

21 **(2) Application.**

22 **(a) Any person who experiences behavior prohibited by this rule or observes behavior**
23 **inconsistent with this rule may use the reporting options described in subsections (9) to (11)**
24 **of this rule.**

25 **(b) An appointing authority or a supervisor, including any member of the Legislative**
26 **Assembly, shall report behavior prohibited by this rule by the means described in subsection**
27 **(10) of this rule.**

28 **(c) Any individual over whom the Legislative Branch may impose a remedy is an indi-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **vidual subject to the requirements of this rule, including but not limited to:**

2 **(A) Members of the Legislative Assembly;**

3 **(B) Legislative staff, interns, externs and volunteers;**

4 **(C) Lobbyists required to register under ORS 171.740;**

5 **(D) Contractors or employees of contractors who engage in business with the Legislative**
6 **Branch;**

7 **(E) Employees of the State of Oregon who are not employees of the Legislative Branch;**
8 **and**

9 **(F) Members of the public who are present in the State Capitol.**

10 **(3) Definitions.**

11 **(a) “Agency head” means the Legislative Administrator, the Legislative Counsel, the**
12 **principal officers of the Legislative Equity Office, the Legislative Fiscal Officer, the Legisla-**
13 **tive Policy and Research Director, the Legislative Revenue Officer and the Executive Direc-**
14 **tor of the Commission on Indian Services.**

15 **(b) “Appointing authority” means the person who has authority in the interest of the**
16 **employer to hire, transfer, suspend, lay off, promote, terminate or discipline an employee.**

17 **(c) “Caucus leader” means the Democratic or Republican leader of the Senate or the**
18 **Democratic or Republican leader of the House of Representatives.**

19 **(d) “Caucus office” means the office of the Democratic or Republican leader of the Senate**
20 **or the office of the Democratic or Republican leader of the House of Representatives.**

21 **(e) “Chamber” means the Senate or the House of Representatives.**

22 **(f) “Employee” means an employee who is performing services on behalf of the Legisla-**
23 **tive Branch. “Employee” includes any intern, extern or volunteer who is affiliated with a**
24 **Legislative Branch office.**

25 **(g) “Employee Services” means the division of Legislative Administration charged with**
26 **employment and human resources administration for the Legislative Branch.**

27 **(h) “Human Resources Director” means the manager of Employee Services.**

28 **(i) “Leadership chief of staff” means the Chief of Staff of the Office of the Senate Presi-**
29 **dent and the Chief of Staff of the Office of the Speaker of the House of Representatives.**

30 **(j) “Legislative Branch” means members and employees of the Legislative Assembly, the**
31 **parliamentary offices, Legislative Administration, the Legislative Counsel Office, the Legis-**
32 **lative Equity Office, the Legislative Fiscal Office, the Legislative Policy and Research Office,**
33 **the Legislative Revenue Office and the Commission on the Indian Services.**

34 **(k) “Legislative Equity Office” means the Legislative Equity Office established under**
35 **section 1, chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744).**

36 **(L) “Member of the Legislative Assembly” or “member” means a Senator or a Repre-**
37 **sentative.**

38 **(m) “Nonpartisan staff” means an employee of the parliamentary offices, Legislative**
39 **Administration, the Legislative Counsel Office, the Legislative Equity Office, the Legislative**
40 **Fiscal Office, the Legislative Policy and Research Office, the Legislative Revenue Office or**
41 **the Commission on Indian Services.**

42 **(n) “Parliamentarian” means the Secretary of the Senate or the Chief Clerk of the House**
43 **of Representatives.**

44 **(o) “Parliamentary office” means the Office of the Secretary of the Senate or the Office**
45 **of the Chief Clerk of the House of Representatives.**

1 (p) “Partisan staff” means an employee working directly for a member of the Legislative
2 Assembly, an employee of a caucus office or an employee of the office of the Senate Presi-
3 dent or the office of the Speaker of the House of Representatives.

4 (q) “Pervasive” means a series of more than one incident, any one incident of which is
5 unlikely to create a hostile work environment, but when taken together, creates a hostile
6 work environment.

7 (r) “Principal investigator” means the principal investigator of the Legislative Equity
8 Office who is appointed under section 1, chapter _____, Oregon Laws 2019 (Enrolled Senate
9 Bill 744).

10 (s) “Principal outreach officer” means the principal outreach officer of the Legislative
11 Equity Office who is appointed under section 1, chapter _____, Oregon Laws 2019 (Enrolled
12 Senate Bill 744).

13 (t) “Respondent” means a person named in a formal complaint made under subsection (11)
14 of this rule as engaging in behavior that is prohibited by this rule or a person who is the
15 subject of an investigation under subsection (13) of this rule to determine whether the person
16 engaged in behavior that is prohibited by this rule.

17 (u) “Severe” means that one incident by itself is sufficient to create a hostile work en-
18 vironment.

19 (v) “Supervisor” means an employee of the Legislative Branch who manages or directs
20 the work of another employee of the Legislative Branch.

21 (4) Harassment and hostile work environment.

22 (a) An individual engages in harassment by engaging in verbal or physical conduct, in-
23 cluding making a visual display or causing a visual display to be shown, that denigrates or
24 shows hostility toward a protected class or a member of a protected class. Examples of
25 harassment include, but are not limited to:

26 (A) Name-calling, slurs or stereotyping;

27 (B) Threatening, intimidating or hostile acts that relate to a protected class;

28 (C) Belittling, demeaning or humiliating a person because of a protected class; or

29 (D) Generating or displaying written or graphic material that denigrates or shows hos-
30 tility or aversion toward an individual or group because of a protected class.

31 (b) An individual creates a hostile work environment by engaging in behavior that is
32 unwelcome and is so severe or pervasive that it either affects a person’s ability to function
33 in the workplace or denies someone the benefits of the workplace.

34 (5) Sexual harassment.

35 (a) An individual engages in sexual harassment when the individual engages in unwel-
36 come conduct of a sexual nature, including but not limited to sexual advances, requests for
37 sexual favors, sexual comment, unwanted or offensive touching or physical contact, un-
38 wanted closeness, impeding or blocking movement, sexual gesture, sexual innuendo, sexual
39 joke, sexually charged language, intimate inquiry, persistent unwanted courting, sexist in-
40 sult, gender stereotype, or other verbal or physical conduct of a sexual nature, if:

41 (A) Submission to the conduct is made either explicitly or implicitly a term or condition
42 of a person’s employment;

43 (B) A person expressly or by implication conveys that declining to submit to the conduct
44 will affect an individual’s job, leave request, benefits, business before the Legislative As-
45 sembly, influence or opportunity of the individual to engage professionally with the Legisla-

1 tive Assembly, its members or staff; or

2 (C) The unwelcome conduct has the purpose or effect of unreasonably interfering with a
3 person's job performance, or creates a work environment that a reasonable person would
4 find intimidating, hostile or offensive. For purposes of this rule, "unwelcome conduct" means
5 conduct that an individual does not incite or solicit and that the individual regards as unde-
6 sirable or offensive. An individual may withdraw consent to conduct that was previously
7 welcomed, though a withdrawal of consent must be communicated to the person for whom
8 consent is being withdrawn.

9 (b) Sexual harassment includes but is not limited to:

10 (A) Unwanted sexual advances, flirtations or propositions.

11 (B) Demands for sexual favors in exchange for favorable treatment or continued em-
12 ployment.

13 (C) Sexual jokes.

14 (D) Verbal abuse of a sexual nature.

15 (E) Verbal commentary about the body, sexual prowess or sexual deficiency of an indi-
16 vidual.

17 (F) Leering, whistling, touching or physical assault.

18 (G) Using sexually suggestive, insulting or obscene comments or gestures.

19 (H) Displaying sexually suggestive objects or pictures.

20 (I) Sending or forwarding electronic mail or other communications of an offensive or
21 graphic sexual nature.

22 (J) Discriminatory treatment based on sex.

23 (c) Sexual harassment includes any conduct described in subsection (4) of this rule that
24 is based on sex.

25 (6) Retaliation.

26 (a) A person engages in retaliation if the person treats another individual less favorably
27 because the person exercised a legal right, made a good-faith complaint about conduct pro-
28 hibited by this rule or that is otherwise unlawful, or participated in an investigation about
29 conduct that is prohibited by this rule or that is otherwise unlawful.

30 (b) A person engages in retaliation if the person treats another individual less favorably
31 because that individual engaged in a process described in this rule or implemented one or
32 more provisions of this rule.

33 (7) Prohibitions.

34 (a) The Legislative Branch prohibits conduct that:

35 (A) Constitutes harassment;

36 (B) Creates a hostile work environment;

37 (C) Constitutes sexual harassment; or

38 (D) Is retaliation.

39 (b) The Legislative Branch prohibits all forms of harassing behavior, even if the behavior
40 does not rise to the level of creating a hostile work environment.

41 (c) The Legislative Branch prohibits all retaliatory behavior, even if the retaliatory be-
42 havior does not rise to the level of unlawful retaliation.

43 (8) Reporting options. In order to encourage participation and effectiveness, this rule
44 establishes three options for reporting behavior prohibited by this rule:

45 (a) A confidential disclosure process described in subsection (9) of this rule;

1 (b) A nonconfidential reporting process described in subsection (10) of this rule; and

2 (c) A formal complaint process described in subsection (11) of this rule.

3 (9) Confidential disclosure process.

4 (a) Any individual who experiences behavior prohibited by this rule or observes behavior
5 that is inconsistent with this rule may make a confidential disclosure reporting the behavior
6 to the principal outreach officer of the Legislative Equity Office established under section
7 1, chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744).

8 (b) Information reported to the principal outreach officer and records created by the of-
9 ficer and the identity of the person making a disclosure under this subsection are confiden-
10 tial and may not be disclosed by the officer, except that the officer:

11 (A) May disclose information if the officer reasonably concludes that a threat of imme-
12 diate physical harm or other harm described in ORS 40.252 would exist if the disclosure were
13 not made;

14 (B) Shall disclose information if required by law;

15 (C) May disclose aggregate, nonpersonally identifiable data to facilitate the Legislative
16 Branch's identification of specific training and coaching needs;

17 (D) May disclose nonpersonally identifiable information to an individual who previously
18 made a confidential disclosure under this subsection for the purpose of encouraging the in-
19 dividual to make a nonconfidential report under subsection (10) of this rule or a formal
20 complaint under subsection (11) of this rule; and

21 (E) May disclose nonpersonally identifiable information in the course of performing cor-
22 rective coaching for an individual subject to the requirements of this rule.

23 (c) Except as provided in paragraph (b)(C) of this subsection, the principal outreach of-
24 ficer may not disclose information or records to the Legislative Equity Office principal in-
25 vestigator.

26 (d) When an individual makes a confidential disclosure under this subsection, the prin-
27 cipal outreach officer:

28 (A) Shall advise the person making the disclosure of other options that are available to
29 address the conduct, including nonconfidential reports under subsection (10) of this rule,
30 formal complaints under subsection (11) of this rule, state and federal administrative options
31 with the Bureau of Labor and Industries and the Equal Employment Opportunity Commis-
32 sion of the United States, law enforcement or the civil judicial process;

33 (B) Shall explain the actions that the officer may take following a disclosure made under
34 this subsection and due process and other rights that limit the scope of actions that may be
35 taken following a disclosure under this subsection; and

36 (C) If requested by a person making a disclosure under this subsection, may opine on
37 whether particular facts and circumstances constitute conduct that is prohibited by sub-
38 section (7) of this rule, except that an opinion offered by the officer is advisory and does not
39 bear on any determination made in an investigation undertaken under subsection (13) of this
40 rule.

41 (e) If requested by a person making a disclosure under this subsection, the principal
42 outreach officer shall refrain from making a confidential record of the identity of the person
43 making the disclosure. The officer shall explain the availability of this option to any person
44 making a disclosure under this subsection.

45 (f) The Legislative Equity Office, on or before January 1, 2020, shall establish a means

1 for persons to make disclosures under this subsection that are entirely anonymous, so that
2 the principal outreach officer cannot determine the identity of the person making a disclo-
3 sure using means described in this paragraph.

4 **(10) Nonconfidential reports.**

5 **(a) Any individual who experiences behavior prohibited by this rule or observes behavior**
6 **that is inconsistent with this rule may make a nonconfidential report of the behavior under**
7 **this subsection.**

8 **(b) An appointing authority or a supervisor, including any member of the Legislative**
9 **Assembly, shall make a report under this subsection if they have received information that**
10 **they reasonably believe describes behavior that may be prohibited by this rule, have observed**
11 **behavior that they reasonably believe may be prohibited by this rule or in any way have**
12 **knowledge, including unsubstantiated knowledge, of behavior that they reasonably believe**
13 **may be prohibited by this rule.**

14 **(c) A Legislative Branch contractor, or an employee of a contractor, that is contractually**
15 **obligated to do so, shall make a report under this subsection if they have information that**
16 **they received a report of conduct prohibited by this rule, have observed behavior prohibited**
17 **by this rule or in any way have knowledge, including unsubstantiated knowledge, of behavior**
18 **prohibited by this rule.**

19 **(d) A report made under this subsection shall be made to:**

20 **(A) The Legislative Equity Office principal investigator;**

21 **(B) The Human Resources Director; or**

22 **(C) Staff of Employee Services who have been designated by the Human Resources Di-**
23 **rector to receive reports made under this subsection.**

24 **(e) A reporter may make a report in any form and using any means. However, the Joint**
25 **Committee on Conduct established under section 1, chapter _____, Oregon Laws 2019 (En-**
26 **rolled Senate Bill 744), shall establish uniform recordkeeping processes applicable to the**
27 **Legislative Equity Office and Employee Services to ensure that reports made under this**
28 **subsection are adequately documented.**

29 **(f) A report made under this subsection that is received by Employee Services shall be**
30 **reviewed by the Human Resources Director, and, if the director determines that the report**
31 **describes conduct that is reasonably likely to be prohibited by this rule, the director shall**
32 **forward the report to the principal investigator.**

33 **(g) The principal investigator shall review all reports made under this subsection to de-**
34 **termine whether an investigation is needed to ascertain whether behavior described in a re-**
35 **port is conduct prohibited by this rule. If the investigator determines that an investigation**
36 **is warranted, an investigation as described in subsection (13) of this rule shall be undertaken.**
37 **If the investigator determines that a report does not unambiguously describe conduct pro-**
38 **hibited by this rule and that an investigation is not warranted, the investigator may:**

39 **(A) Engage in specific coaching of individuals to eliminate any uncertainty over appro-**
40 **priate workplace behavior;**

41 **(B) Confer with and recommend that the Legislative Equity Office principal outreach of-**
42 **ficer provide additional training to address reported circumstances;**

43 **(C) Confer with and make recommendations to the appropriate appointing authority or**
44 **legislative leader to facilitate training or guidance being given to address reported circum-**
45 **stances; or**

1 (D) Take any other action that is warranted to achieve the policies established under this
2 rule.

3 (11) Formal complaints.

4 (a) Any person who experiences behavior prohibited by this rule or observes behavior
5 that is inconsistent with this rule may make a formal complaint under this subsection.

6 (b) A formal complaint must:

7 (A) Be in writing;

8 (B) Identify the complainant and the person being accused of engaging in conduct pro-
9 hibited by this rule;

10 (C) Set forth the facts and circumstances that the complainant believes describe conduct
11 that is prohibited by this rule; and

12 (D) Be made in a declaration under penalty of perjury that is satisfied when the declarant
13 signs the complaint immediately under a sentence that states, "I hereby declare that the
14 above statement is true to the best of my knowledge and belief, and that I understand it is
15 made for use as evidence in proceedings under Legislative Branch Personnel Rule 27 and is
16 subject to penalty for perjury."

17 (c) A formal complaint shall be delivered to the Legislative Equity Office principal in-
18 vestigator unless the complaint is about the principal investigator, in which case the com-
19 plaint shall be delivered to the Legislative Equity Office principal outreach officer who shall
20 serve as the principal investigator until the matter described in the complaint is resolved.

21 (d) The principal investigator shall promptly examine the complaint and determine if the
22 complaint meets the requirements of paragraph (b) of this subsection. If the complaint does
23 not meet the requirements of paragraph (b) of this subsection, the investigator shall request
24 the complainant to supplement the complaint. A complaint that does not meet the require-
25 ments of paragraph (b) of this subsection may not be the subject of an investigation under
26 subsection (13) of this rule.

27 (e) The principal investigator shall promptly:

28 (A) Deliver a copy of the complaint to the person accused of engaging in behavior pro-
29 hibited by this rule, who shall thereafter be the respondent; and

30 (B) If the respondent:

31 (i) Is a member of the Legislative Assembly, deliver a copy of the complaint to the caucus
32 leader of the caucus in which the member serves;

33 (ii) Is a caucus leader, deliver a copy of the complaint to the presiding officer of the
34 chamber in which the caucus leader serves;

35 (iii) Is a Legislative Branch employee in either a partisan or nonpartisan staff position,
36 to the appointing authority for the respondent; or

37 (iv) Is a registered lobbyist, executive or judicial branch employee or a member of the
38 public, to the Legislative Administrator.

39 (f) Upon delivery of the complaint, the principal investigator shall promptly begin the
40 preliminary investigation described in subsection (13)(a) of this rule, unless the principal in-
41 vestigator determines that there is a need for interim safety measures to be implemented
42 as described in subsection (12) of this rule.

43 (12) Interim safety measures.

44 (a) Upon receipt of a nonconfidential report made under subsection (10) of this rule or a
45 formal complaint made under subsection (11) of this rule, or at any time during the course

1 of an investigation, the Legislative Equity Office principal investigator or other person who
2 is conducting the investigation may determine that an interim safety measure needs to be
3 implemented to ensure the safety of the complainant or any other individual who has experi-
4 enced behavior that is prohibited by this rule or who may reasonably be foreseen as at risk
5 of being subjected to behavior that is prohibited by this rule. The investigator may recom-
6 mend any interim safety measure that the investigator determines is appropriate to the sit-
7 uation, including but not limited to:

8 (A) Temporary reassignment;

9 (B) Alternative work location, including being duty-stationed at home;

10 (C) Establishing a no contact order;

11 (D) Placing the respondent on paid or unpaid leave and prohibiting the respondent from
12 being present in the workplace or the State Capitol;

13 (E) Directing the respondent to be absent from the State Capitol until the investigation
14 is complete; or

15 (F) In severe situations, involving law enforcement.

16 (b) Any interim safety measure that the investigator may recommend or that is imple-
17 mented may not prejudice a complainant or put a complainant in a worse position than the
18 complainant was in before the complaint was made.

19 (c)(A) Any interim safety measure that is imposed may not unlawfully impair any lawful
20 rights an accused person may exercise.

21 (B) Any interim safety measure that is imposed on a member of the Legislative Assembly
22 must be narrowly tailored to minimize limitations on the member's ability to perform core
23 legislative functions and to address immediate safety concerns, and an interim safety meas-
24 ure may not be imposed until after the member is given notice of the proposed interim safety
25 measure and an opportunity to be heard by the applicable chamber committee on conduct.

26 (d) If the respondent is a member of the Legislative Assembly:

27 (A) The committee on conduct of the chamber in which the respondent serves is au-
28 thorized to impose an interim safety measure on the respondent that lasts no longer than
29 until the complaint is resolved;

30 (B) The investigator shall report the investigator's interim safety recommendation and
31 the reasons for the recommendation to the respondent and to the committee; and

32 (C) The committee shall promptly deliberate on the recommendation and shall adopt such
33 interim safety measures that the committee determines are appropriate.

34 (e) If the respondent is not a member of the Legislative Assembly, the investigator shall
35 make the investigator's interim safety recommendation:

36 (A) In the case of an respondent who is a Legislative Branch employee in either a parti-
37 san or nonpartisan staff position, to the employee's appointing authority.

38 (B) In the case of a respondent who is a State of Oregon employee but not a Legislative
39 Branch employee, to the employee's supervisor and to the employee's agency director.

40 (C) In the case of an respondent who is a lobbyist, contractor employee or member of the
41 public, to the Legislative Administrator.

42 (f) The person who receives the investigator's interim safety recommendation made un-
43 der paragraph (e) of this subsection shall act promptly on the recommendation.

44 (13) Investigations.

45 (a)(A) In all instances in which a formal complaint has been made under subsection (11)

1 of this rule against a member of the Legislative Assembly, a leadership chief of staff, a
2 caucus office chief of staff, a parliamentarian, an agency head or the Human Resources Di-
3 rector, the Legislative Equity Office principal investigator shall promptly appoint an outside
4 investigator from among investigators on a list maintained under subparagraph (B) of this
5 paragraph.

6 (B) The Joint Committee on Conduct, on or before January 1, 2020, shall adopt standards
7 and criteria for the selection of an outside investigator and the Legislative Equity Office
8 shall maintain a list of potential outside investigators who meet the standards and criteria
9 established by the committee.

10 (C) In all formal complaints made under subsection (11) of this rule other than those
11 described in subparagraph (A) of this paragraph, the principal investigator, taking the
12 allegations stated in the complaint in the light most favorable toward to the complainant,
13 shall make an initial determination of whether the complaint describes conduct that rea-
14 sonably could constitute a violation of this rule. If the principal investigator determines that,
15 based on the complaint, there is a reasonable possibility of a rule violation, the principal in-
16 vestigator shall conduct an investigation as described in paragraph (b) of this subsection. If
17 the principal investigator determines that facts and circumstances warrant an outside in-
18 vestigator conducting the investigation, the principal investigator shall select an investigator
19 from the list maintained under subparagraph (B) of this paragraph.

20 (b) An investigation that is to be conducted under this subsection shall be conducted
21 promptly and shall be completed as soon as is practicable. The investigation must be com-
22 pleted within 84 days from the date the complaint is made, except that the Legislative Equity
23 Office may extend the time by which the investigation must be completed if the investigator
24 provides advance notice to the complainant and the respondent of the extension request and
25 an explanation justifying the extension.

26 (c) At the outset of the investigation and on a regular basis thereafter, the investigator
27 shall keep the complainant and the respondent apprised of the investigation timeline and the
28 status of the investigation.

29 (d)(A) The investigator shall use best practices in conducting the investigation and shall
30 make findings of fact relevant to the allegations. The investigator shall prepare draft written
31 findings of fact at least eight days before the investigation must be concluded under para-
32 graph (b) of this subsection and shall provide the draft written findings to the complainant
33 and the respondent.

34 (B) If the respondent is someone other than a member of the Legislative Assembly, the
35 draft written findings shall also contain a proposed finding of whether one or more violations
36 of this rule occurred.

37 (C) The complainant and the respondent may give responses to the draft written findings
38 to the investigator within seven days of receiving the draft.

39 (D) The investigator shall consider responses supplied under subparagraph (C) of this
40 paragraph and shall prepare a final report that sets forth the investigator's findings of fact.
41 If the respondent is someone other than a member of the Legislative Assembly, the final
42 report should also include a determination by the investigator of whether the facts consti-
43 tute a violation of this rule.

44 (e)(A) If a member of the Legislative Assembly is the respondent, the investigator shall
45 deliver the final report to the complainant, the respondent and the committee on conduct for

1 the chamber in which the respondent serves on or before the date established under para-
2 graph (b) of this subsection for the completion of the investigation.

3 (B) The complainant and the respondent may each submit to the appropriate committee
4 on conduct a written challenge to the factual findings set forth in the final report within
5 seven days of receipt of the report. A challenge must identify the factual findings that are
6 the subject of the challenge and articulate the reason those findings are in error.

7 (C) The committee on conduct shall conduct a hearing on the allegations made in the
8 complaint and the investigator's final report within 28 days of receiving the report from the
9 investigator. The committee shall permit the complainant and the respondent to appear,
10 present documents and physical evidence and suggest witnesses. The committee may deter-
11 mine to hear witnesses, but only committee members may question witnesses.

12 (D) At the hearing or a subsequent hearing, the committee on conduct shall deliberate
13 and:

14 (i) Make a final determination of facts;

15 (ii) Make a final determination of whether the facts constitute a violation of this rule;
16 and

17 (iii) If the determination is that a violation of this rule occurred, prescribe or recommend
18 remedies as described in subsection (14) of this rule.

19 (f) If a member of the Legislative Assembly is the respondent and irrevocably resigns the
20 member's office at any time after the formal complaint is made, the investigation described
21 in this subsection and the committee on conduct hearing and final committee determinations
22 described in paragraph (e) of this subsection shall nevertheless take place.

23 (g)(A) If someone other than a member of the Legislative Assembly is the respondent,
24 the investigator shall deliver the final report, including proposed findings of violations, to the
25 complainant, the respondent and:

26 (i) In the case of a respondent who is a Legislative Branch employee in a nonpartisan
27 staff position, to the respondent's appointing authority.

28 (ii) In the case of a respondent who is a Legislative Branch employee in a partisan staff
29 position, to the respondent's appointing authority and to the committee on conduct of the
30 chamber with which the employee is affiliated.

31 (iii) In the case of a respondent who is a State of Oregon employee but not a Legislative
32 Branch employee, to the respondent's supervisor and to the respondent's agency director.

33 (iv) In the case of a respondent who is a lobbyist, contractor employee or member of the
34 public, to the Legislative Administrator.

35 (B) A nonpartisan staff appointing authority who receives an investigator's final report
36 under subparagraph (A)(i) of this paragraph, or the Legislative Administrator upon receiving
37 an investigator's final report under subparagraph (A)(iv) of this paragraph, shall make a
38 determination to accept or reject the findings of the investigator and determine remedial
39 measures described in subsection (14) of this rule within 14 days of receiving the
40 investigator's final report.

41 (C) The appropriate committee on conduct that receives an investigator's final report
42 under subparagraph (A)(ii) of this paragraph shall make a recommendation on remedial
43 measures described in subsection (14) of this rule to the supervising member of the Legisla-
44 tive Assembly within seven days of receiving the investigator's final report. The supervising
45 member of the Legislative Assembly shall consider the recommendations and make a final

1 determination on the remedial measures within 14 days of receiving the investigator's final
2 report.

3 (14) Remedial measures.

4 (a) In a case where the respondent is a member of the Legislative Assembly and the ap-
5 propriate committee on conduct has made a determination under subsection (13)(e) of this
6 rule that a violation of this rule has occurred, the committee shall impose any remedy that
7 is appropriate under the circumstances, including but not limited to a reprimand, monetary
8 fine or other remedy that the committee determines is appropriate under the circumstances,
9 except that:

10 (A) If the committee recommendation is to expel the member, the committee shall report
11 that recommendation to the full chamber, which shall act on that recommendation at its
12 earliest opportunity; and

13 (B) If the committee recommendation is to remove the member from one or more com-
14 mittees to which the member is assigned, the committee shall report that recommendation
15 to the presiding officer of that chamber.

16 (b)(A) In a case where the respondent is a Legislative Branch employee in a nonpartisan
17 staff position, the appointing authority shall determine an appropriate remedy that is con-
18 sistent with the investigator's determination that the respondent violated the requirements
19 of this rule.

20 (B) The respondent may appeal the investigator's final report or any remedial measure
21 imposed under this paragraph after the report has been delivered to the appointing authority
22 but no later than seven days after the imposition of remedial measures under this sub-
23 section. The appeal may be made to the Joint Committee on Conduct.

24 (c)(A) In a case where the respondent is a Legislative Branch employee in a partisan staff
25 position, the committee on conduct of the chamber with which the employee is affiliated
26 shall make a recommendation on an appropriate remedy consistent with the investigator's
27 determination that the respondent violated the requirements of this rule. The committee's
28 recommendation shall be made to the member of the Legislative Assembly for whom the
29 respondent works.

30 (B) The member shall determine the appropriate remedy within 14 days of receiving the
31 final report from the investigator and shall notify the Legislative Equity Office upon making
32 the determination.

33 (C) If the Legislative Equity Office determines that the remedial measures imposed under
34 subparagraph (B) of this paragraph are substantially different from the remedial measures
35 recommended by the committee, the office shall notify the committee and the complainant
36 of the disparity. The committee may hold a hearing to consider the appropriateness of the
37 remedy and may determine to modify the remedy imposed.

38 (D) The respondent may appeal the investigator's final report or the remedial measure
39 imposed under this paragraph to the committee on conduct with which the respondent is
40 associated within 14 days after the remedial measure is imposed.

41 (d)(A) In a case where the respondent is a lobbyist, contractor employee, other person
42 who is present in the State Capitol for professional or work reasons, or is a member of the
43 public, and the investigator's final report determines that a violation of this rule has oc-
44 curred, the Legislative Administrator shall determine an appropriate remedy that is con-
45 sistent with the investigator's determination, including but not limited to:

1 (i) A monetary fine; or

2 (ii) Limiting access to the State Capitol.

3 (B) The Legislative Administrator shall provide notice of the proposed remedy under this
4 paragraph to the respondent and the respondent's employer within 14 days of receiving the
5 final report from the investigator. If the respondent is a lobbyist who is a member of an
6 association of professional lobbyists, the Legislative Administrator shall also provide notice
7 of the proposed remedy to the association.

8 (C) The Legislative Administrator may modify the proposed remedy at any time until 28
9 days after receipt of the investigator's final report, but thereafter the proposed remedy is
10 final.

11 (15) Confidentiality and transparency.

12 (a) The investigator undertaking an investigation under subsection (13) of this rule and
13 the Legislative Equity Office shall provide as much privacy as possible during the course of
14 an investigation.

15 (b) The investigator and the Legislative Equity Office shall maintain all records and in-
16 formation about an investigation confidentially, except that:

17 (A) The investigator may disclose the fact of the investigation and any relevant details
18 of the investigation to the appointing authority of the complainant and the respondent and
19 the Joint Committee on Conduct, if the investigator determines there is a legitimate need
20 to disclose the information; and

21 (B) In the case of a respondent who is a member of the Legislative Assembly, the in-
22 vestigator may disclose the fact of the investigation and any relevant details of the investi-
23 gation to the caucus leader of the caucus in which the respondent is a member.

24 (c) A formal complaint made under subsection (11) of this rule is disclosable upon being
25 made under subsection (11) of this rule, but all records relating to an ongoing investigation
26 under subsection (13) of this rule shall be maintained in confidence.

27 (d) The results of the investigation and the final report of the investigator shall be sub-
28 ject to disclosure following the determination of remedial measures under subsection (14) of
29 this rule or when the investigation is concluded, whichever occurs earlier. The Joint Com-
30 mittee on Conduct may determine to disclose the final report of the investigator and the
31 investigative file following the conclusion of the investigation but earlier than the determi-
32 nation of remedial measures.

33 (e) Reports made under subsection (10) of this rule that do not result in an investigation
34 shall be maintained as confidential records of the Legislative Equity Office.

35 (16) Establishment of committees on conduct.

36 (a)(A) The Senate Committee on Conduct is established, consisting of two Senators ap-
37 pointed by the Senate Majority Leader and two Senators appointed by the Senate Minority
38 Leader. The President of the Senate may designate a majority party alternate and a minority
39 party alternate for the Senate Committee on Conduct.

40 (B) The Senate Committee on Conduct shall perform those functions assigned by this rule
41 to carry out the purposes of Article IV, section 15, of the Oregon Constitution, for the Sen-
42 ate.

43 (C) The appointing authorities shall appoint members of the Senate Committee on Con-
44 duct within 15 days after the date of the convening of an organizational session of the odd-
45 numbered year regular session of the Legislative Assembly.

1 **(b)(A) The House Committee on Conduct is established, consisting of two Representatives**
2 **appointed by the House Majority Leader and two Representatives appointed by the House**
3 **Minority Leader. The Speaker of the House of Representatives may designate a majority**
4 **party alternate and a minority party alternate for the House Committee on Conduct.**

5 **(B) The House Committee on Conduct shall perform those functions assigned by this rule**
6 **to carry out the purposes of Article IV, section 15, of the Oregon Constitution, for the House**
7 **of Representatives.**

8 **(C) The appointing authorities shall appoint members of the House Committee on Con-**
9 **duct within 15 days after the date of the convening of an organizational session of the odd-**
10 **numbered year regular session of the Legislative Assembly.**

11 **(c) The members of the Senate Committee on Conduct and the members of the House**
12 **Committee on Conduct shall together comprise the Joint Committee on Conduct. The Joint**
13 **Committee on Conduct shall perform the duties assigned to the joint committee under**
14 **chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744).**

15 **(d) When a member of a committee on conduct is named as a respondent under this rule,**
16 **the member may not thereafter serve as a member of the committee or as a member of the**
17 **joint committee.**

18 _____