

HCR 20-4
(LC 3758)
3/19/19 (DJ/ps)

At the request of the JOINT COMMITTEE ON CAPITOL CULTURE

**PROPOSED AMENDMENTS TO
HOUSE CONCURRENT RESOLUTION 20**

1 On page 1 of the printed concurrent resolution, delete lines 3 through 6
2 and insert:

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4 the Eightieth Legislative Assembly, is repealed and the following Legislative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

8 “Further resolved that Legislative Branch Personnel Rules 12 and 32, as
9 amended and in effect for the Eightieth Legislative Assembly be further
10 amended as follows; and be it

11 “Further resolved that a new Legislative Branch Personnel Rule 33 be
12 adopted as a rule of proceeding of the Senate and the House of Represen-
13 tatives and a joint rule of proceeding applicable to the Legislative Branch,
14 as follows:”.

15 Delete lines 8 through 28 and delete pages 2 through 13 and insert:

16 “**Legislative Branch Personnel Rule 27: Safe, Respectful and Inclu-**
17 **sive Workplace.**

18 “**(1) Policy.**

19 “**(a) The Legislative Branch is committed to promoting a respectful**
20 **and inclusive environment in the State Capitol and in any setting in**
21 **which conduct has the ability to create a Capitol environment that is**

1 **intimidating, hostile or offensive, or may constitute conduct that**
2 **amounts to retaliation for the exercise of a legal right, for the making**
3 **of a good-faith complaint under this rule or for participation in an**
4 **investigation under this rule.**

5 **“(b) The Legislative Branch is committed to providing a safe and**
6 **respectful workplace and to taking proactive steps to improve its cul-**
7 **ture so that behavior from any source that has a negative impact on**
8 **the workplace may be effectively reported and promptly addressed and**
9 **resolved.**

10 **“(c) This rule is designed to provide options to those who are expe-**
11 **riencing or observing harassing behavior, discriminatory behavior,**
12 **retaliation or other behavior prohibited by subsection (8) of this rule**
13 **to seek information, report behaviors or file complaints to address and**
14 **resolve concerns, while also enhancing options available to victims**
15 **who seek to remain anonymous.**

16 **“(d) The Legislative Assembly intends the mandatory reporting ob-**
17 **ligations established under this rule to be a means by which the Leg-**
18 **islative Branch will take action to address conduct prohibited by this**
19 **rule, in the absence of a specific complaint about the conduct.**

20 **“(2) Application.**

21 **“(a) Any person who experiences behavior prohibited by this rule**
22 **or observes behavior inconsistent with this rule may use the reporting**
23 **options described in subsections (10) to (12) of this rule.**

24 **“(b) An appointing authority or a nonpartisan staff supervisor, in-**
25 **cluding any member of the Legislative Assembly, shall report behavior**
26 **prohibited by this rule by the means described in subsection (11) of this**
27 **rule.**

28 **“(c) Any individual over whom the Legislative Branch may impose**
29 **a remedy is an individual subject to the requirements of this rule, in-**
30 **cluding but not limited to:**

- 1 **“(A) Members of the Legislative Assembly;**
2 **“(B) Legislative staff, interns, externs and volunteers;**
3 **“(C) Lobbyists required to register under ORS 171.740;**
4 **“(D) Contractors or employees of contractors who engage in busi-**
5 **ness with the Legislative Branch;**
6 **“(E) Employees of the State of Oregon who are not employees of**
7 **the Legislative Branch; and**
8 **“(F) Members of the public who are present in the State Capitol.**
9 **“(3) Definitions.**
10 **“(a) ‘Agency head’ means the Legislative Administrator, the Legis-**
11 **lative Counsel, the principal officers of the Legislative Equity Office,**
12 **the Legislative Fiscal Officer, the Legislative Policy and Research Di-**
13 **rector, the Legislative Revenue Officer and the Executive Director of**
14 **the Commission on Indian Services.**
15 **“(b) ‘Appointing authority’ means the person who has authority in**
16 **the interest of the employer to hire, transfer, suspend, lay off, pro-**
17 **mote, terminate or discipline an employee.**
18 **“(c) ‘Caucus leader’ means the Democratic or Republican leader of**
19 **the Senate or the Democratic or Republican leader of the House of**
20 **Representatives.**
21 **“(d) ‘Caucus office’ means the office of the Democratic or Republi-**
22 **can leader of the Senate or the office of the Democratic or Republican**
23 **leader of the House of Representatives.**
24 **“(e) ‘Chamber’ means the Senate or the House of Representatives.**
25 **“(f) ‘Employee’ means an employee who is performing services on**
26 **behalf of the Legislative Branch. ‘Employee’ includes any intern, ex-**
27 **tern or volunteer who is affiliated with a Legislative Branch office.**
28 **“(g) ‘Employee Services’ means the division of Legislative Admin-**
29 **istration charged with employment and human resources adminis-**
30 **tration for the Legislative Branch.**

1 “(h) ‘Human Resources Director’ means the manager of Employee
2 Services.

3 “(i) ‘Leadership chief of staff’ means the Chief of Staff of the Office
4 of the Senate President and the Chief of Staff of the Office of the
5 Speaker of the House of Representatives.

6 “(j) ‘Legislative Branch’ means members and employees of the
7 Legislative Assembly, the parliamentary offices, Legislative Adminis-
8 tration, the Legislative Counsel Office, the Legislative Equity Office,
9 the Legislative Fiscal Office, the Legislative Policy and Research Of-
10 fice, the Legislative Revenue Office and the Commission on the Indian
11 Services.

12 “(k) ‘Legislative Equity Office’ means the Legislative Equity Office
13 established under section 1, chapter _____, Oregon Laws 2019 (Enrolled
14 Senate Bill 744).

15 “(L) ‘Member of the Legislative Assembly’ or ‘member’ means a
16 Senator or a Representative.

17 “(m) ‘Nonpartisan staff’ means an employee of the parliamentary
18 offices, Legislative Administration, the Legislative Counsel Office, the
19 Legislative Equity Office, the Legislative Fiscal Office, the Legislative
20 Policy and Research Office, the Legislative Revenue Office or the
21 Commission on Indian Services.

22 “(n) ‘Offsite process counselor’ means a person unaffiliated with the
23 Legislative Branch who has entered into a contract with the Legisla-
24 tive Equity Office under section 14, chapter _____, Oregon Laws 2019
25 (Enrolled Senate Bill 744), to provide services described in subsection
26 (10) of this rule.

27 “(o) ‘Parliamentarian’ means the Secretary of the Senate or the
28 Chief Clerk of the House of Representatives.

29 “(p) ‘Parliamentary office’ means the Office of the Secretary of the
30 Senate or the Office of the Chief Clerk of the House of Represen-

1 **tatives.**

2 **“(q) ‘Partisan staff’ means an employee working directly for a**
3 **member of the Legislative Assembly, an employee of a caucus office**
4 **or an employee of the office of the Senate President or the office of**
5 **the Speaker of the House of Representatives.**

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

9 **“(s) ‘Principal outreach officer’ means the principal outreach offi-**
10 **cer of the Legislative Equity Office who is appointed under section 1,**
11 **chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744).**

12 **“(t) ‘Protected class’ means a classification established by law that**
13 **offers protections to members of the classification, including but not**
14 **limited to:**

15 **“(A) Sex;**

16 **“(B) Race;**

17 **“(C) Ethnicity;**

18 **“(D) National origin;**

19 **“(E) Age;**

20 **“(F) Religion;**

21 **“(G) Marital status;**

22 **“(H) Sexual orientation;**

23 **“(I) Gender identity or expression;**

24 **“(J) Engaging in whistleblowing activity;**

25 **“(K) Opposing an employer’s actions when the employee reasonably**
26 **believes the actions to be unlawful;**

27 **“(L) Taking leave from work for purposes protected by law, includ-**
28 **ing but not limited to leave under the Oregon Family Leave Act, the**
29 **federal Family and Medical Leave Act or disability-related leave;**

30 **“(M) Injured worker status; or**

1 “(N) Any other classification established by a law that offers pro-
2 tections to members of the classification.

3 “(u) ‘Respondent’ means a person named in a formal complaint
4 made under subsection (12) of this rule as engaging in behavior that
5 is prohibited by this rule or a person who is the subject of an investi-
6 gation under subsection (14) of this rule to determine whether the
7 person engaged in behavior that is prohibited by this rule.

8 “(v) ‘Supervisor’ means an employee of the Legislative Branch who
9 manages or directs the work of another employee of the Legislative
10 Branch.

11 “(4) Harassment.

12 “An individual engages in harassment by engaging in verbal or
13 physical conduct, including making a visual display or causing a visual
14 display to be shown, that denigrates or shows hostility toward a pro-
15 tected class or toward an individual because of the individual’s status
16 as a member of a protected class. Examples of harassment may in-
17 clude, but are not limited to:

18 “(a) Name-calling, slurs or stereotyping;

19 “(b) Threatening, intimidating or hostile acts that relate to a pro-
20 tected class;

21 “(c) Belittling, demeaning or humiliating a person or group of per-
22 sons because of a protected class; or

23 “(d) Displaying written or graphic material that is described in
24 paragraphs (a) to (c) of this subsection.

25 “(5) Sexual harassment.

26 “(a) An individual engages in sexual harassment when the individ-
27 ual engages in unwelcome conduct of a sexual nature, including but
28 not limited to sexual advances, requests for sexual favors, sexual
29 comment, unwanted or offensive touching or physical contact, un-
30 wanted closeness, impeding or blocking movement, sexual gesture,

1 **sexual innuendo, sexual joke, sexually charged language, intimate in-**
2 **quiry, persistent unwanted courting, sexist insult, gender stereotype,**
3 **or other verbal or physical conduct of a sexual nature, if:**

4 **“(A) Submission to the conduct is made either explicitly or implic-**
5 **itly a term or condition of a person’s employment;**

6 **“(B) A person expressly or by implication conveys that declining to**
7 **submit to the conduct will affect an individual’s job, leave request,**
8 **benefits, business before the Legislative Assembly, influence or op-**
9 **portunity of the individual to engage professionally with the Legisla-**
10 **tive Assembly, its members or staff; or**

11 **“(C) The unwelcome conduct has the purpose or effect of unrea-**
12 **sonably interfering with a person’s job performance, or creates a work**
13 **environment that a reasonable person would find intimidating, hostile**
14 **or offensive. For purposes of this rule, ‘unwelcome conduct’ means**
15 **conduct that an individual does not incite or solicit and that the in-**
16 **dividual regards as undesirable or offensive. An individual may with-**
17 **draw consent to conduct that was previously welcomed, though a**
18 **withdrawal of consent must be communicated to the person for whom**
19 **consent is being withdrawn.**

20 **“(b) Sexual harassment includes but is not limited to:**

21 **“(A) Unwanted sexual advances, flirtations or propositions.**

22 **“(B) Demands for sexual favors in exchange for favorable treatment**
23 **or continued employment.**

24 **“(C) Sexual jokes.**

25 **“(D) Verbal abuse of a sexual nature.**

26 **“(E) Verbal commentary about the body, sexual prowess or sexual**
27 **deficiency of an individual.**

28 **“(F) Leering, whistling, touching or physical assault.**

29 **“(G) Using sexually suggestive, insulting or obscene comments or**
30 **gestures.**

1 **“(H) Displaying sexually suggestive objects or pictures.**

2 **“(I) Sending or forwarding electronic mail or other communications**
3 **of an offensive or graphic sexual nature.**

4 **“(J) Discriminatory treatment based on sex.**

5 **“(c) Sexual harassment includes any conduct described in sub-**
6 **section (4) of this rule that is based on sex.**

7 **“(6) Retaliation.**

8 **“(a) A person engages in retaliation if the person treats another**
9 **individual less favorably because the person exercised a legal right,**
10 **made a good-faith complaint about conduct prohibited by this rule or**
11 **that is otherwise unlawful, or participated in an investigation about**
12 **conduct that is prohibited by this rule or that is otherwise unlawful.**

13 **“(b) A person engages in retaliation if the person treats another**
14 **individual less favorably because that individual engaged in a process**
15 **described in this rule or implemented one or more provisions of this**
16 **rule.**

17 **“(7) The Legislative Equity Office shall develop, maintain and pub-**
18 **lish examples of what constitutes harassment, sexual harassment and**
19 **retaliation under this rule.**

20 **“(8) Prohibitions.**

21 **“The Legislative Branch prohibits conduct that:**

22 **“(a) Constitutes harassment;**

23 **“(b) Constitutes sexual harassment; or**

24 **“(c) Is retaliation.**

25 **“(9) Reporting options. In order to encourage participation and ef-**
26 **fectiveness, this rule establishes three options for reporting behavior**
27 **prohibited by this rule:**

28 **“(a) A confidential disclosure process described in subsection (10)**
29 **of this rule;**

30 **“(b) A nonconfidential reporting process described in subsection (11)**

1 of this rule; and

2 “(c) A formal complaint process described in subsection (12) of this
3 rule.

4 “(10) Confidential disclosure process.

5 “(a) Any individual who experiences behavior prohibited by this rule
6 or observes behavior that is inconsistent with this rule may make a
7 confidential disclosure reporting the behavior to the principal outreach
8 officer or an offsite process counselor.

9 “(b) Information reported to the principal outreach officer or offsite
10 process counselor, records created by the officer or counselor and the
11 identity of the person making a disclosure under this subsection are
12 confidential and may not be disclosed by the officer or counselor, ex-
13 cept that the officer or counselor:

14 “(A) May disclose information if the officer or counselor reasonably
15 concludes that a threat of immediate physical harm or other harm
16 described in ORS 40.252 would exist if the disclosure were not made;

17 “(B) Shall disclose information if required by law;

18 “(C) May disclose aggregate, nonpersonally identifiable data to fa-
19 cilitate the Legislative Branch’s identification of training and coaching
20 needs;

21 “(D) May disclose nonpersonally identifiable information to an in-
22 dividual who has made a confidential disclosure under this subsection
23 for the purpose of encouraging the individual to make a nonconfiden-
24 tial report under subsection (11) of this rule or a formal complaint
25 under subsection (12) of this rule; and

26 “(E) May disclose nonpersonally identifiable information in the
27 course of performing corrective coaching for an individual subject to
28 the requirements of this rule.

29 “(c) Except as provided in paragraph (b)(C) of this subsection, the
30 principal outreach officer or offsite process counselor may not disclose

1 **information or records to the Legislative Equity Office principal in-**
2 **vestigator.**

3 **“(d) As an initial matter when a person seeks to make a confiden-**
4 **tial disclosure under this subsection, the principal outreach officer or**
5 **offsite process counselor shall:**

6 **“(A) Explain the availability or lack of availability of any privilege**
7 **that would permit the individual seeking to make a confidential dis-**
8 **closure under this subsection to refuse to disclose, and to prevent any**
9 **other person from disclosing, confidential communications and re-**
10 **ords; and**

11 **“(B) Ask whether the individual making a confidential disclosure**
12 **under this subsection needs one or more safety measures described in**
13 **subsection (13) of this rule put in place.**

14 **“(e) When an individual makes a confidential disclosure under this**
15 **subsection, the principal outreach officer or offsite process counselor:**

16 **“(A) Shall advise the person making the disclosure of other options**
17 **that are available to address the conduct, including nonconfidential**
18 **reports under subsection (11) of this rule, formal complaints under**
19 **subsection (12) of this rule, interim safety measures under subsection**
20 **(13) of this rule, state and federal administrative options with the**
21 **Bureau of Labor and Industries and the Equal Employment Opportu-**
22 **nity Commission of the United States, law enforcement or the civil**
23 **judicial process;**

24 **“(B) In the case of a person making the disclosure being affiliated**
25 **with an institution that is subject to Title IX of the Education**
26 **Amendments Act of 1972, 20 U.S.C. 1681 to 1688, as amended, shall ad-**
27 **vice the person of the Title IX reporting process and provide applicable**
28 **institution contact information and information on the resources**
29 **available at the institution;**

30 **“(C) Shall explain the availability of employee assistance program**

1 counselors and other available service providers and may refer the
2 individual making a disclosure under this subsection to a counselor
3 or other provider, as appropriate; and

4 “(D) Shall explain the actions that the officer or counselor may
5 take following a disclosure made under this subsection and due process
6 and other rights that limit the scope of actions that may be taken
7 following a disclosure under this subsection, including possible limi-
8 tations on the availability of safety measures.

9 “(f) If requested by a person making a disclosure under this sub-
10 section, the principal outreach officer or offsite process counselor shall
11 refrain from making a confidential record of the identity of the person
12 making the disclosure. The officer or counselor shall explain the
13 availability of this option to any person making a disclosure under this
14 subsection.

15 “(g) The Legislative Equity Office, on or before January 1, 2020,
16 shall establish a means for persons to make disclosures under this
17 subsection that are entirely anonymous, so that the principal outreach
18 officer or offsite process counselor cannot determine the identity of
19 the person making a disclosure using means described in this para-
20 graph.

21 “(11) Nonconfidential reports.

22 “(a) Any individual who experiences behavior prohibited by this rule
23 or observes behavior that is inconsistent with this rule may make a
24 nonconfidential report of the behavior under this subsection within
25 five years of the date the behavior occurred.

26 “(b) An appointing authority, including any member of the Legis-
27 lative Assembly, shall promptly make a report under this subsection
28 if they have received information that they reasonably believe de-
29 scribes behavior that may be prohibited by this rule, have observed
30 behavior that they reasonably believe may be prohibited by this rule

1 or in any way have knowledge of behavior that they reasonably believe
2 may be prohibited by this rule.

3 “(c) A nonpartisan staff supervisor shall promptly make a report
4 under this subsection if they have received information that they
5 reasonably believe describes behavior that may be prohibited by this
6 rule, have observed behavior that they reasonably believe may be
7 prohibited by this rule or in any way have knowledge of behavior that
8 they reasonably believe may be prohibited by this rule.

9 “(d) A Legislative Branch contractor, or an employee of a contrac-
10 tor, that is contractually obligated to do so, shall promptly make a
11 report under this subsection if they have information that they re-
12 ceived a report of conduct prohibited by this rule, have observed be-
13 havior prohibited by this rule or in any way have knowledge of
14 behavior prohibited by this rule.

15 “(e) Notwithstanding paragraphs (a) to (d) of this subsection, if a
16 reporter is required to make a report under this subsection but is also
17 the person experiencing behavior prohibited by this rule, the person
18 may make a confidential disclosure under subsection (10) of this rule
19 that satisfies the requirements of reporting under this subsection.

20 “(f) A report made under this subsection shall be made to:

21 “(A) The Legislative Equity Office principal investigator;

22 “(B) The Human Resources Director; or

23 “(C) Staff of Employee Services who have been designated by the
24 Human Resources Director to receive reports made under this sub-
25 section.

26 “(g) A reporter may make a report in any form and using any
27 means. However, the Joint Committee on Conduct established under
28 section 1, chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744),
29 shall establish uniform recordkeeping processes applicable to the Leg-
30 islative Equity Office and Employee Services to ensure that reports

1 made under this subsection are adequately documented.

2 “(h) A report made under this subsection that is received by Em-
3 ployee Services or the Human Resources Director shall be forwarded
4 to the principal investigator.

5 “(i) The principal investigator shall review all reports that the in-
6 vestigator receives under this subsection to determine whether the
7 reported conduct, when taken on its face, could be prohibited by this
8 rule. If the investigator determines that an investigation is warranted,
9 an investigation as described in subsection (14) of this rule shall be
10 undertaken and the investigator or principal outreach officer shall
11 provide the person who is reported to be experiencing the conduct with
12 information on available resources, including resources described in
13 subsection (10)(e)(B) and (C) of this rule. If the investigator determines
14 that the reported conduct, on its face, is not conduct prohibited by this
15 rule, the investigator may:

16 “(A) Engage in specific coaching of individuals to eliminate any
17 uncertainty over appropriate workplace behavior;

18 “(B) Confer with and recommend that the principal outreach officer
19 provide additional training to address reported circumstances;

20 “(C) Confer with and make recommendations to the appropriate
21 appointing authority or legislative leader to facilitate training or
22 guidance being given to address reported circumstances; or

23 “(D) Take any other action that is warranted to achieve the policies
24 established under these rules.

25 “(12) Formal complaints.

26 “(a) Any person who experiences behavior prohibited by this rule
27 or observes behavior that is inconsistent with this rule may make a
28 formal complaint under this subsection within five years after the date
29 the behavior occurred.

30 “(b) A formal complaint must:

1 **“(A) Be in writing;**

2 **“(B) Identify the complainant and the person being accused of en-**
3 **gaging in conduct prohibited by this rule;**

4 **“(C) Set forth the facts and circumstances that the complainant**
5 **believes describe conduct that is prohibited by this rule; and**

6 **“(D) Be made in a declaration under penalty of perjury that is sat-**
7 **isfied when the declarant signs the complaint immediately under a**
8 **sentence that states, ‘I hereby declare that the above statement is true**
9 **to the best of my knowledge and belief, and that I understand it is**
10 **made for use as evidence in proceedings under Legislative Branch**
11 **Personnel Rule 27 and is subject to penalty for perjury.’**

12 **“(c) A formal complaint shall be delivered to the Legislative Equity**
13 **Office principal investigator unless the complaint is about the princi-**
14 **pal investigator, in which case the complaint shall be delivered to the**
15 **Legislative Equity Office principal outreach officer who shall serve as**
16 **the principal investigator until the matter described in the complaint**
17 **is resolved.**

18 **“(d) The principal investigator shall promptly examine the com-**
19 **plaint and determine if the complaint meets the requirements of par-**
20 **agraph (b) of this subsection. If the complaint does not meet the**
21 **requirements of paragraph (b) of this subsection, the investigator shall**
22 **request the complainant to supplement the complaint. A complaint**
23 **that does not meet the requirements of paragraph (b) of this sub-**
24 **section may not be the subject of an investigation under subsection**
25 **(14) of this rule.**

26 **“(e) The principal investigator shall promptly:**

27 **“(A) Deliver a copy of the complaint to the person accused of en-**
28 **gaging in behavior prohibited by this rule, who shall thereafter be the**
29 **respondent; and**

30 **“(B) If the respondent:**

1 “(i) Is a member of the Legislative Assembly, deliver a copy of the
2 complaint to the caucus leader of the caucus in which the member
3 serves;

4 “(ii) Is a caucus leader, deliver a copy of the complaint to the pre-
5 siding officer of the chamber in which the caucus leader serves;

6 “(iii) Is a Legislative Branch employee in either a partisan or non-
7 partisan staff position, to the appointing authority for the respondent;

8 “(iv) Is an agency head, to the presiding officers;

9 “(v) Is a parliamentarian, to the presiding officer of the chamber
10 in which the parliamentarian serves; and

11 “(vi) Is a registered lobbyist, executive or judicial branch employee,
12 employee of a contractor or a member of the public, to the Legislative
13 Administrator.

14 “(f) The principal investigator shall promptly provide, or shall en-
15 sure that the principal outreach officer provides, the complainant with
16 information on available resources, including resources described in
17 subsection (10)(e)(B) and (C) of this rule.

18 “(g) Upon delivery of the complaint, the principal investigator shall
19 promptly begin the investigation described in subsection (14) of this
20 rule and recommend any necessary interim safety measures as de-
21 scribed in subsection (13) of this rule.

22 “(13) Interim safety measures.

23 “(a) Upon receipt of a nonconfidential report made under subsection
24 (11) of this rule or a formal complaint made under subsection (12) of
25 this rule, or at any time during the course of an investigation, the
26 Legislative Equity Office principal investigator or other person who is
27 conducting the investigation may determine that an interim safety
28 measure needs to be implemented to ensure the safety of the
29 complainant or any other individual who has experienced behavior
30 that is prohibited by this rule or who may reasonably be foreseen as

1 at risk of being subjected to behavior that is prohibited by this rule.
2 The principal outreach officer or an offsite process counselor may also
3 recommend an interim safety measure if interim safety measures are
4 sought by an individual making a confidential disclosure under sub-
5 section (10) of this rule. The investigator, outreach officer or counselor
6 may recommend any interim safety measure that they determine is
7 appropriate to the situation, including but not limited to:

8 “(A) Temporary reassignment of the respondent;

9 “(B) Alternative work location for the respondent, including being
10 duty-stationed at home;

11 “(C) Establishing a no contact order;

12 “(D) Placing the respondent on paid or unpaid leave and prohibiting
13 the respondent from being present in the workplace or the State Cap-
14 itol;

15 “(E) Directing the respondent to be absent from the State Capitol
16 until the investigation is complete; or

17 “(F) In severe situations, involving law enforcement.

18 “(b) Any interim safety measure that is recommended or that is
19 implemented may not prejudice a complainant or put a complainant
20 in a worse position than the complainant was in before the complaint
21 was made.

22 “(c)(A) Any interim safety measure that is imposed may not un-
23 lawfully impair any lawful rights an accused person may exercise.

24 “(B) Any interim safety measure that is imposed on a member of
25 the Legislative Assembly must be narrowly tailored to minimize limi-
26 tations on the member’s ability to perform core legislative functions
27 and to address immediate safety concerns, and an interim safety
28 measure may not be imposed until after the member is given notice
29 of the proposed interim safety measure and an opportunity to be heard
30 by the applicable chamber committee on conduct.

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

2 “(A) The committee on conduct of the chamber in which the re-
3 spondent serves is authorized to impose an interim safety measure on
4 the respondent that lasts no longer than until the complaint is re-
5 solved;

6 “(B) The investigator shall report the investigator’s interim safety
7 recommendation and the reasons for the recommendation to the re-
8 spondent, to the committee and to the presiding officer of the cham-
9 ber; and

10 “(C) The committee shall promptly deliberate on the recommen-
11 dation and shall adopt such interim safety measures that the com-
12 mittee determines are appropriate. For purposes of conducting a
13 hearing to deliberate on interim safety measures under this paragraph,
14 the committee hearing need only comply with one-hour notice re-
15 quirements.

16 “(e) If the respondent is not a member of the Legislative Assembly,
17 the investigator shall make the investigator’s interim safety recom-
18 mendation:

19 “(A) In the case of a respondent who is a Legislative Branch em-
20 ployee in either a partisan or nonpartisan staff position, to the
21 employee’s appointing authority.

22 “(B) In the case of a respondent who is a State of Oregon employee
23 but not a Legislative Branch employee, to the employee’s agency di-
24 rector and the Legislative Administrator.

25 “(C) In the case of a respondent who is a lobbyist, employee of a
26 contractor or member of the public, to the Legislative Administrator.

27 “(f) The person who receives the investigator’s interim safety rec-
28 ommendation made under paragraph (e) of this subsection shall act
29 promptly on the recommendation.

30 “(g) The principal outreach officer or an offsite process counselor

1 that has received a confidential disclosure under subsection (10) of this
2 section may recommend interim safety measures under this subsection
3 if requested by the individual making a disclosure under subsection
4 (10) of this section, except that the interim safety measure may not:

5 “(A) Identify the individual making the confidential disclosure
6 without the consent of the individual; or

7 “(B) Penalize or place the person who is the subject of the disclo-
8 sure in a worse position than before the disclosure was made.

9 “(14) Investigations.

10 “(a)(A) In all instances in which a formal complaint has been made
11 under subsection (12) of this rule against a member of the Legislative
12 Assembly, a leadership chief of staff, a caucus office chief of staff, a
13 parliamentarian, an agency head or the Human Resources Director,
14 the Legislative Equity Office principal investigator shall promptly ap-
15 point an outside investigator from among investigators on a list
16 maintained under subparagraph (C) of this paragraph.

17 “(B) If, in any instance other than those described in subparagraph
18 (A) of this paragraph, the principal investigator determines that facts
19 and circumstances warrant an outside investigator conducting the in-
20 vestigation, the principal investigator shall select an investigator from
21 the list maintained under subparagraph (C) of this paragraph.

22 “(C) The Joint Committee on Conduct, on or before January 1, 2020,
23 shall adopt standards and criteria for the selection of an outside in-
24 vestigator and the Legislative Equity Office shall maintain a list of
25 potential outside investigators who meet the standards and criteria
26 established by the committee.

27 “(b) An investigation that is to be conducted under this subsection
28 shall be conducted promptly and shall be completed as soon as is
29 practicable. The investigation must be completed within 84 days from
30 the date the complaint is made, except that the Legislative Equity

1 **Office may extend the time by which the investigation must be com-**
2 **pleted if the investigator provides advance notice to the complainant**
3 **and the respondent of the extension and an explanation justifying the**
4 **extension.**

5 **“(c) The investigator shall keep the complainant and the respondent**
6 **apprised of the investigation timeline and the status of the investi-**
7 **gation at the outset of an investigation, on a regular basis thereafter**
8 **and upon request of the complainant or respondent.**

9 **“(d)(A) The investigator shall use best practices in conducting the**
10 **investigation and shall make findings of fact relevant to the**
11 **allegations. The investigator shall prepare draft written findings of**
12 **fact at least eight days before the investigation must be concluded**
13 **under paragraph (b) of this subsection and shall provide the draft**
14 **written findings to the complainant and the respondent.**

15 **“(B) If the respondent is someone other than a member of the**
16 **Legislative Assembly, the draft written findings shall also contain a**
17 **proposed finding of whether one or more violations of this rule oc-**
18 **curred.**

19 **“(C) The complainant and the respondent may give responses to the**
20 **draft written findings to the investigator within seven days of receiv-**
21 **ing the draft.**

22 **“(D) The investigator shall consider responses supplied under sub-**
23 **paragraph (C) of this paragraph and shall prepare a final report that**
24 **sets forth the investigator’s findings of fact. If the respondent is**
25 **someone other than a member of the Legislative Assembly, the final**
26 **report should also include a determination by the investigator of**
27 **whether the facts constitute a violation of this rule.**

28 **“(e)(A) If a member of the Legislative Assembly is the respondent,**
29 **the investigator shall deliver the final report to the complainant, the**
30 **respondent and the committee on conduct for the chamber in which**

1 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
4 appropriate committee on conduct a written challenge to the factual
5 findings set forth in the final report within seven days of receipt of the
6 report. A challenge must identify the factual findings that are the
7 subject of the challenge and articulate the reason those findings are
8 in error.

9 “(C) The committee on conduct shall conduct a hearing on the
10 allegations made in the complaint and the investigator’s final report
11 within 28 days of receiving the report from the investigator. The
12 committee shall permit the complainant and the respondent to appear,
13 present documents and physical evidence and suggest witnesses. The
14 committee may determine to hear witnesses, but only committee
15 members may question witnesses.

16 “(D) At the hearing or a subsequent hearing, the committee on
17 conduct shall deliberate and:

18 “(i) Make a final determination of facts;

19 “(ii) Make a final determination of whether the facts constitute a
20 violation of this rule; and

21 “(iii) If the determination is that a violation of this rule occurred,
22 prescribe or recommend remedies as described in subsection (15) of
23 this rule.

24 “(f) If a member of the Legislative Assembly is the respondent and
25 irrevocably resigns the member’s office at any time after the formal
26 complaint is made, the investigation described in this subsection and
27 the committee on conduct hearing and final committee determinations
28 described in paragraph (e) of this subsection shall nevertheless take
29 place.

30 “(g)(A) If someone other than a member of the Legislative Assem-

1 bly is the respondent, the investigator shall deliver the final report,
2 including proposed findings of violations, to the complainant, the re-
3 spondent and:

4 “(i) In the case of a respondent who is a Legislative Branch em-
5 ployee in a nonpartisan staff position, to the respondent’s appointing
6 authority.

7 “(ii) In the case of a respondent who is a Legislative Branch em-
8 ployee in a partisan staff position, to the respondent’s appointing au-
9 thority and to the committee on conduct of the chamber with which
10 the employee is affiliated.

11 “(iii) In the case of a respondent who is a State of Oregon employee
12 but not a Legislative Branch employee, to the Legislative Adminis-
13 trator, the respondent’s supervisor and the respondent’s agency di-
14 rector.

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

17 “(B) A nonpartisan staff appointing authority who receives an
18 investigator’s final report under subparagraph (A)(i) of this paragraph,
19 or the Legislative Administrator upon receiving an investigator’s final
20 report under subparagraph (A)(iii) or (iv) of this paragraph, shall make
21 a determination to accept or reject the findings of the investigator and
22 determine remedial measures described in subsection (15) of this rule
23 within 14 days of receiving the investigator’s final report.

24 “(C) The appropriate committee on conduct that receives an
25 investigator’s final report under subparagraph (A)(ii) of this paragraph
26 shall make a recommendation on remedial measures described in
27 subsection (15) of this rule to the supervising member of the Legisla-
28 tive Assembly within seven days of receiving the investigator’s final
29 report. The supervising member of the Legislative Assembly shall
30 consider the recommendations and make a final determination on the

1 remedial measures within 14 days of receiving the investigator’s final
2 report.

3 **“(15) Remedial measures.**

4 **“(a) In a case where the respondent is a member of the Legislative**
5 **Assembly and the appropriate committee on conduct has made a de-**
6 **termination under subsection (14)(e) of this rule that a violation of**
7 **this rule has occurred, the committee shall impose any remedy that**
8 **is sufficient to reprimand the member and deter future conduct that**
9 **violates the rule, including but not limited to a reprimand, monetary**
10 **fine or other remedy that the committee determines is appropriate**
11 **under the circumstances, except that:**

12 **“(A) If the committee recommendation is to expel the member, the**
13 **committee shall report that recommendation to the full chamber,**
14 **which shall act on that recommendation at its earliest opportunity;**
15 **and**

16 **“(B) If the committee recommendation is to remove the member**
17 **from one or more committees to which the member is assigned, the**
18 **committee shall report that recommendation to the presiding officer**
19 **of that chamber.**

20 **“(b)(A) In a case where the respondent is a Legislative Branch em-**
21 **ployee in a nonpartisan staff position, the appointing authority shall**
22 **determine an appropriate remedy that is consistent with the**
23 **investigator’s determination that the respondent violated the require-**
24 **ments of this rule.**

25 **“(B) The respondent may appeal the investigator’s final report or**
26 **any remedial measure imposed under this paragraph after the report**
27 **has been delivered to the appointing authority but no later than seven**
28 **days after the imposition of remedial measures under this subsection.**
29 **The appeal may be made to the Joint Committee on Conduct.**

30 **“(c)(A) In a case where the respondent is a Legislative Branch em-**

1 ployee in a partisan staff position, the committee on conduct of the
2 chamber with which the employee is affiliated shall make a recom-
3 mendation on an appropriate remedy consistent with the investigator's
4 determination that the respondent violated the requirements of this
5 rule. The committee's recommendation shall be made to the member
6 of the Legislative Assembly for whom the respondent works.

7 “(B) The member shall determine the appropriate remedy within
8 the time prescribed in subsection (14)(g)(C) of this rule and shall notify
9 the Legislative Equity Office upon making the determination.

10 “(C) If the Legislative Equity Office determines that no remedial
11 measures were imposed under subparagraph (B) of this paragraph or
12 that the remedial measures imposed were substantially different from
13 the remedial measures recommended by the committee, the office
14 shall notify the committee of the disparity. The committee may hold
15 a hearing and may impose a remedy.

16 “(D) The respondent may appeal the investigator's final report or
17 the remedial measure imposed under this paragraph to the committee
18 on conduct with which the respondent is associated within 14 days af-
19 ter the remedial measure is imposed.

20 “(d)(A) In a case where the respondent is a lobbyist, employee of a
21 contractor, other person who is present in the State Capitol for pro-
22 fessional or work reasons, or is a member of the public, and the
23 investigator's final report determines that a violation of this rule has
24 occurred, the Legislative Administrator shall determine an appropriate
25 remedy that is consistent with the investigator's determination, in-
26 cluding but not limited to:

27 “(i) A monetary fine; or

28 “(ii) Limiting access to the State Capitol.

29 “(B) The Legislative Administrator shall provide notice of the pro-
30 posed remedy under this paragraph to the respondent and the

1 respondent’s employer within 14 days of receiving the final report from
2 the investigator. If the respondent is a lobbyist who is a member of
3 an association of professional lobbyists, the Legislative Administrator
4 shall also provide notice of the proposed remedy to the association.

5 “(C) The Legislative Administrator may modify the proposed rem-
6 edy at any time until 28 days after receipt of the investigator’s final
7 report, but thereafter the proposed remedy is final.

8 “(16) Confidentiality and transparency.

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

12 “(b) The investigator and the Legislative Equity Office shall main-
13 tain all records and information about an investigation confidentially,
14 except that:

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

20 “(B) In the case of a respondent who is a member of the Legislative
21 Assembly, the investigator may disclose the fact of the investigation
22 and any relevant details of the investigation to the person to whom
23 the formal complaint was delivered under subsection (12)(e)(B) of this
24 rule.

25 “(c) A formal complaint made under subsection (12) of this rule is
26 disclosable upon being made under subsection (12) of this rule, but all
27 records relating to an ongoing investigation under subsection (14) of
28 this rule shall be maintained in confidence.

29 “(d) Records and information of the investigator and the Legislative
30 Equity Office shall be exempt from disclosure as prescribed under ap-

1 plicable law, except that, also as prescribed under applicable law:

2 “(A) A formal complaint made under subsection (12) of this rule is
3 disclosable when requested;

4 “(B) Records relating to a member of the Legislative Assembly fol-
5 lowing a formal complaint being made concerning the member or
6 employee are subject to disclosure after the fact-finding investigation
7 has concluded, even if a legislative committee has not yet met or de-
8 liberated on the investigation’s findings; and

9 “(C) Records relating to an investigation of allegations of conduct
10 prohibited by legislative branch personnel rules and not described in
11 subparagraph (A) or (B) of this paragraph are subject to disclosure
12 upon a determination being made that the person who was the subject
13 of the investigation is subject to remedial measures or discipline.

14 “(17) Establishment of committees on conduct.

15 “(a)(A) The Senate Committee on Conduct is established, consisting
16 of four Senators and two alternates. Two Senators and one alternate
17 must be from the majority party and two Senators and one alternate
18 must be from the minority party. Each Senator must be approved by
19 majority vote of the Senate to serve on the committee or to serve as
20 an alternate.

21 “(B) The Senate Committee on Conduct shall perform those func-
22 tions assigned by this rule to carry out the purposes of Article IV,
23 section 15, of the Oregon Constitution, for the Senate.

24 “(C) The Senate shall appoint members of the Senate Committee
25 on Conduct within 15 days after the date of the convening of an or-
26 ganizational session of the odd-numbered year regular session of the
27 Legislative Assembly, as soon as practicable after a vacancy occurs
28 or as soon as practicable after this rule takes effect.

29 “(b)(A) The House Committee on Conduct is established, consisting
30 of four Representatives and two alternates. Two Representatives and

1 one alternate must be from the majority party and two Represent-
2 tatives and one alternate must be from the minority party. Each
3 Representative must be appointed by majority vote of the House of
4 Representatives to serve on the committee or to serve as an alternate.

5 “(B) The House Committee on Conduct shall perform those func-
6 tions assigned by this rule to carry out the purposes of Article IV,
7 section 15, of the Oregon Constitution, for the House of Represent-
8 tatives.

9 “(C) The House of Representatives shall appoint members of the
10 House Committee on Conduct within 15 days after the date of the
11 convening of an organizational session of the odd-numbered year reg-
12 ular session of the Legislative Assembly, as soon as practicable after
13 a vacancy occurs or as soon as practicable after this rule takes effect.

14 “(c) The members of the Senate Committee on Conduct and the
15 members of the House Committee on Conduct shall together comprise
16 the Joint Committee on Conduct. The Joint Committee on Conduct
17 shall perform the duties assigned to the joint committee under chapter
18 _____, Oregon Laws 2019 (Enrolled Senate Bill 744), or this rule.

19 “(d) When a member of a committee on conduct is named as a re-
20 spondent under this rule, the member may not serve as a member of
21 the committee or as a member of the joint committee until the matter
22 is resolved.

23

24 “Legislative Branch Personnel Rule 12: Resignation, Retirement or
25 Separation from Service.

26 “APPLICABILITY: This rule applies to all employees of the Legislative
27 Branch and all interns, externs and volunteers performing service in
28 the Legislative Branch. This rule does not apply to members of the Legis-
29 lative Assembly.

30 “(1) Notice of resignation or retirement. An employee who is resigning

1 or retiring shall file written notice with the employee’s appointing authority
2 stating the effective date and time of the resignation or retirement.

3 **“(2) Notification to Employee Services and Legislative Equity Office.**

4 **“(a)** Upon notification from an employee of a pending resignation or re-
5 tirement, the employee’s appointing authority shall notify Employee Services
6 before the effective date of the resignation or retirement.

7 **“(b) The supervisor or appointing authority of each intern, extern**
8 **or volunteer shall notify the principal outreach officer of the Legisla-**
9 **tive Equity Office appointed under section 1, chapter_____, Oregon**
10 **Laws 2019 (Enrolled Senate Bill 744), or the principal outreach officer’s**
11 **designee, when an intern, extern or volunteer plans to separate from**
12 **service in the Legislative Branch.**

13 **“(c) The principal outreach officer, or the principal outreach**
14 **officer’s designee, shall proactively attempt to conduct an exit inter-**
15 **view with each employee, intern, extern or volunteer who is resigning,**
16 **retiring or otherwise separating from service. If limited by resources,**
17 **the Legislative Equity Office shall prioritize conducting exit interviews**
18 **with interns, externs and volunteers.**

19 **“(3) Job abandonment.**

20 **“(a)** An employee who fails to report to work for five or more consecutive
21 work days and fails to contact the employee’s appointing authority, immedi-
22 ate supervisor or a staff member of Employee Services may, at the discretion
23 of the appointing authority, be deemed to have abandoned the employee’s job
24 and will be treated as having voluntarily resigned.

25 **“(b)** If the appointing authority deems that the employee has abandoned
26 the employee’s job, the appointing authority shall notify the employee in
27 writing by mailing notice to the employee’s address on record with Employee
28 Services, and give the employee the opportunity to present extenuating cir-
29 cumstances for not reporting for work or contacting the appointing author-
30 ity.

1 “(c) If the appointing authority determines that sufficient extenuating
2 circumstances exist to excuse the employee’s absence, the absence may be
3 covered by a subsequent grant of accrued leave or leave without pay.

4
5 **“Rule 32: Employees of Members, Leadership, Caucuses and Non-**
6 **partisan Offices.**

7 “APPLICABILITY: This rule applies to [*personal staff of members of the*
8 *Legislative Assembly and to caucus office and leadership office staff*] **all em-**
9 **ployees, interns, externs and volunteers of the Legislative Branch.**

10 “(1) Personal staff of members of the Legislative Assembly.

11 “(a) Employees, **interns, externs and volunteers** appointed as personal
12 staff serving a member of the Legislative Assembly directly serve at the
13 pleasure of the member.

14 “(b) Applicants for personal staff positions shall apply for employment in
15 the manner prescribed by the member of the Legislative Assembly. The ap-
16 plication must include, at a minimum, a summary of the applicant’s prior
17 relevant education and experience and a signed legislative application form
18 as required of all applicants for other positions.

19 **“(c) Notwithstanding paragraph (b) of this subsection, a copy of**
20 **each application received under this subsection for which the ap-**
21 **pointing authority determines to appoint the applicant shall be deliv-**
22 **ered to Employee Services prior to the date of appointment. Employee**
23 **Services shall maintain a database that includes personal contact in-**
24 **formation, start dates and, if applicable, end dates for the appoint-**
25 **ment.**

26 “(2) Leadership office and caucus office staff.

27 “(a) Employees, **interns, externs and volunteers** appointed to work for
28 a leadership office or a caucus office serve at the pleasure of the appointing
29 authority.

30 “(b) Applicants for employment with a leadership office or a caucus office

1 shall apply for employment in the manner prescribed by the appointing au-
2 thority. The application must include, at a minimum, a summary of the
3 applicant's prior relevant education and experience and a signed legislative
4 application form as required of all applicants for other positions.

5 **“(c) Notwithstanding paragraph (b) of this subsection, a copy of**
6 **each application received under this subsection for which the ap-**
7 **pointing authority determines to appoint the applicant shall be deliv-**
8 **ered to Employee Services prior to the date of appointment. Employee**
9 **Services shall maintain a database that includes personal contact in-**
10 **formation, start dates and, if applicable, end dates for the appoint-**
11 **ment.**

12 **“(3) Nonpartisan staff.**

13 **“Employees, interns, externs and volunteers serve at the pleasure**
14 **of the appointing authority. A copy of each application received by a**
15 **nonpartisan office of the Legislative Assembly for which the appoint-**
16 **ing authority determines to appoint the applicant shall be delivered to**
17 **Employee Services prior to the date of appointment. Employee Ser-**
18 **vices shall maintain a database that includes personal contact infor-**
19 **mation, start dates and, if applicable, end dates for the appointment.**

20 **“(4) Employee Services.**

21 **“Following receipt of an application under this rule, Employee Ser-**
22 **vices must notify the Legislative Equity Office of the start date of the**
23 **employee, intern, extern or volunteer. The office shall ensure that**
24 **each employee, intern, extern and volunteer is provided with the**
25 **training described in section 7 (1), chapter _____, Oregon Laws 2019**
26 **(Enrolled Senate Bill 744), as soon as practicable after the start date.**

27

28 **“Legislative Branch Personnel Rule 33: Operative date and transi-**
29 **tion.**

30 **“(1) Subsections (1) to (16) of Legislative Branch Personnel Rule 27,**

1 as set forth in this concurrent resolution, become operative on the
2 date that the Joint Committee on Conduct, as established in section
3 1, chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744), notifies
4 the presiding officers that the principal outreach officer and the prin-
5 cipal investigator of the Legislative Equity Office, as established in
6 section 1, chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744),
7 have been appointed or, pursuant to section 4, chapter _____, Oregon
8 Laws 2019 (Enrolled Senate Bill 744), an acting principal outreach of-
9 ficer and an acting principal investigator have been appointed.

10 “(2) For periods after the adoption of this concurrent resolution and
11 before notice is given under subsection (1) of this section, the Legis-
12 lative Administrator and the Human Resources Director may impose
13 interim safety measures as described in Legislative Branch Personnel
14 Rule 27 (13), to protect any person present in the State Capitol from
15 harassment, sexual harassment or retaliation.”.

16
