
CONFIDENTIAL INVESTIGATION REPORT

Investigation of Oregon Legislative Branch Personnel Rule 27 Conduct Complaint

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I. INTRODUCTION

A. Background on Investigation

Miller Nash (“Investigator”) was retained by the Legislative Equity Office (“LEO”) to conduct an independent and external investigation of a conduct complaint (the “Complaint”) raised by Representative Shelly Boshart Davis (“Complainant”) regarding Senator Chris Gorsek (“Respondent”). Representative Boshart Davis alleges that while she had the floor to speak during a committee meeting, Senator Gorsek interrupted and berated her, and that Senator Gorsek treated her differently because she is a woman. Representative Boshart Davis alleges that Senator Gorsek’s conduct violated Legislative Branch Personnel Rule 27 (“Rule 27”) and the Legislative Branch Respectful Workplace Policy (“Respectful Workplace Policy”).

This investigation report (this “Report”) contains factual findings based upon the information made available in the course of investigating this matter.¹ This investigation was independent from the Legislature, and the LEO did not conduct, direct, or otherwise impose constraints on the investigation process or the determination of factual findings.

II. SCOPE OF INVESTIGATION

This investigation was conducted pursuant to Rule 27. Section 14(f)(A) of Rule 27 directs the Investigator to use “best practices” when conducting the investigation and to prepare a draft report of written findings of fact. When the Respondent is a member of the Legislative Assembly, the Investigator’s role is limited to making factual findings, and the Committee on Conduct is tasked with determining whether Rule 27 has been violated. *See* Rule 27(14)(f)(B) and (E).

However, Section 14(f)(C) provides that in all investigations, the Investigator shall consider whether the conduct that is subject to the investigation constitutes discrimination “by denigrating or showing hostility toward a protected class or toward an individual because of the

¹ This fact-finding investigation was performed within the scope of my duties as an attorney licensed to practice law in the state of Oregon.

individual's status as a member of a protected class," and that the investigation report shall include the Investigator's findings.²

In this case, because Respondent is a member of the Legislative Assembly, this Report does not address whether Respondent's conduct constituted a violation of Rule 27 but does consider whether Respondent's conduct constituted discrimination. Additionally, because Complainant also alleged that Respondent violated the Respectful Workplace Policy, the LEO and Human Resources Director Tracey Yee requested to include that allegation in this investigation pursuant to the Respectful Workplace Policy.

Accordingly, in addition to making factual findings, this Report addresses whether Respondent's conduct constitutes a violation of the Respectful Workplace Policy, and whether the conduct constitutes discrimination, but does not otherwise address whether Respondent violated Rule 27.

In accordance with best practices, this Report provides findings of fact based on a preponderance of the evidence standard. When appropriate, I identify the absence of evidence or conflicts in evidence that I was unable to resolve.³

III. RULE 27

As outlined in Rule 27, the Legislative Branch is "committed to promoting a respectful and inclusive environment in the State Capital." Rule 27(1)(a). To that end, members of the Legislative Assembly and all Legislative Branch employees "are expected to conduct themselves in a manner that is free of harassment and to discourage all harassment in the workplace and at professional meetings, seminars or at any event at which legislative business is conducted." Rule 27(1)(e). In the event an individual experiences harassment or discrimination, Rule 27 "is designed to provide options to those who are experiencing or observing" harassing, discriminatory, or retaliatory behavior, to "seek information, report behaviors or file complaints to address and resolve concerns[.]" Rule 27(1)(f) and (g).

² Section 14(f)(C) further provides that if Respondent's conduct constitutes discrimination, "the investigator may not specify in the investigator's draft written findings the protected class to which the individual belongs."

³ This Report does not detail every piece of information collected in the investigation, but instead, contains the information I believe is necessary to explain my factual findings and provide the Committee on Conduct with the necessary information to determine whether a violation of Rule 27 occurred.

The provisions of Rule 27 that are relevant to this investigation are outlined below.

A. Harassment Under Rule 27

Rule 27 defines harassment as follows:

- (a) An individual engages in harassment by engaging in verbal or physical conduct, including making a visual display or causing a visual display to be shown, that denigrates or shows hostility toward an individual or group of individuals. Examples of harassment may include, but are not limited to:
 - (A) Name-calling, slurs or stereotyping;
 - (B) Threatening, intimidating or hostile acts that relate to a protected class;
 - (C) Belittling, demeaning or humiliating a person or group of persons because of a protected class; or
 - (D) Displaying written or graphic material that is described in subparagraphs (A) to (C) of this paragraph.
- (b) An individual creates a hostile work environment by engaging in behavior that is unwelcome and is so severe or pervasive that it either affects a person's ability to function in the workplace or denies a person the benefits of the workplace.
- (c) Conduct that is inconsistent with a safe, respectful and inclusive workplace but that does not rise to the level of creating a hostile work environment under this rule may be addressed under the Legislative Branch respectful workplace policy referenced in subsection (18) of this rule.

B. Discrimination Under Rule 27

Rule 27 does not define "discrimination," but provides that in all investigations, the investigator "shall consider whether the conduct that is the subject of the investigation constitutes discrimination by denigrating or showing hostility toward a protected class or toward an individual because of the individual's status as a member of a protected class." Rule 27

(14)(f)(C). Under Rule 27, “protected class” includes, but is not limited to the following: sex; race; ethnicity; national origin; age; religion; marital status; sexual orientation; gender identity or expression; engaging in whistleblowing activity; opposing an employer’s actions when the employee reasonably believes the actions be unlawful; taking leave from work for purposes protected by law, including but not limited to leave under the Oregon Family Leave Act, the federal Family and Medical Leave Act or disability-related leave; injured worker status; disability; or veteran status.

C. Legislative Branch Respectful Workplace Policy

Conduct that is inconsistent with a safe, respectful, and inclusive workplace but may not rise to the level of creating a hostile work environment under Rule 27, may be addressed under the Respectful Workplace Policy. Rule 27(4)(c). The Respectful Workplace Policy⁴ provides that all members of the Legislative Assembly “are expected to conduct themselves in a professional and respectful manner and to discourage all inappropriate behavior anywhere and in any manner that has a nexus to legislative work and activities.” Section (2). The Respectful Workplace policy prohibits, in relevant part, the following conduct under Section 4:

- (b) Inappropriate workplace behavior covered by this policy includes any unwelcome or unwanted comments, actions, or behaviors by an individual or group that causes the effect of, and a reasonable person would find to be, embarrassing, humiliating, intimidating, disparaging, demeaning, or threatening; and has the effect of or is intended to unreasonably interfere with their job performance or causes fear in the workplace.
- (c) Prohibited conduct could occur anywhere and in any manner, as long as it has a nexus to legislative work or activities.
- (d) Examples of prohibited conduct under this policy include but are not limited to the following. Certain situation specific details may determine appropriateness:

⁴ The Respectful Workplace Policy is referenced in Rule 27, but the language of the policy is not included in Rule 27 and is outlined separately in the Respectful Workplace Policy.

- (A) Shout at someone in a staff meeting and demean their intelligence in front of others.
- (B) Start or perpetuate rumors/gossip that you know to be false or harmful.
- (C) Purposefully impede or prevent someone's ability to do their job.
- (D) Share information known about someone with the intent to embarrass, humiliate or demean.
- (E) Threaten someone with physical harm.
- (F) Text, direct message or otherwise use technology to communicate insults or demeaning language to a colleague, co-worker or lobbyist.
- (G) Post on a social media site insulting or derogatory language about someone who is subject to the protections of this policy.

IV. INVESTIGATION APPROACH

A. Summary of Allegations

Complainant alleges that on June 20th, 2025, during a Joint Committee on Transportation Reinvestment meeting, while discussing House Bill 2025 ("HB 2025"), Respondent engaged in conduct that violated Rule 27 and the Respectful Workplace Policy. Complainant makes the following allegations:

- Respondent interrupted Complainant multiple times to berate her when she had the floor to speak;
- In describing the amendments to HB 2025, Complainant used similar language of other men on the committee;
- At one point during the meeting, Respondent leaned out of his chair toward Complainant, extended a finger at her, and shouted at Complainant while she was making objections to the bill;

- Respondent's body language and speech were intimidating, belittling, and aggressive;
- Complainant stayed quiet during the rest of the committee meeting;
- Respondent treated Complainant differently compared to other men on the committee who made similar comments; and
- Respondent has a pattern of engaging in this conduct.

B. Individuals Interviewed and Evidence Considered

I interviewed Complainant on October 1, 2025. I interviewed Respondent on December 23, 2025. In addition to the Complainant and Respondent, I also interviewed four witnesses. I do not identify third-party witnesses by name in this Report as some witnesses were unwilling to participate in the process, unless I provide assurances that they will not be identified by name in the Report. All interviews were conducted remotely via Microsoft Teams.

In addition to conducting witness interviews, I also reviewed the following:

- The recording of the committee meeting on June 20th, 2025⁵
- Information sent to me by Complainant regarding testimony from other legislators
- A written statement provided to me by Respondent

C. The Report

Section 14(f)(A) requires the Investigator to provide the Complainant and Respondent a draft of the written findings of fact at least eight days before the investigation is concluded.⁶ On

⁵ The recording is publicly available on the legislature's website.

⁶ Rule 27 generally requires an investigation to be completed within 84 days from the date of the complaint, unless the LEO extends the time by which the investigation must be completed. Rule 27(14)(d). In this case, the LEO granted two extensions due to availability of witnesses and Respondent.

January 9, 2026, I provided Complainant and Respondent a draft of this Report. Under Rule 27, each had seven days to provide responses to the draft findings. Rule 27(14)(f)(D). On January 21, 2026, Complainant and Respondent both provided me with comments. Complainant disagreed with the framing of some aspects of the draft Report. Respondent disagreed with my determination that he violated the Respectful Workplace Policy.⁷

Pursuant to Section 14(f)(E), I considered the “responses supplied,” and where appropriate, I revised the Report.

V. FINDINGS

Based on a preponderance of the evidence standard, I make the following factual findings:⁸

1. On June 20, 2025, the Joint Committee on Transportation Reinvestment held a work session on HB 2025, a bill on transportation, known as the “Transportation Package.” The committee had been working on HB 2025 for several months and was planning on voting on the bill at the end of the June 20, 2025, meeting.
2. Representative Susan McClain and Respondent were the co-chairs of the committee. As co-chairs of the committee, Representative McClain and Respondent alternated at each committee meeting who would be responsible for running the meeting. At the June 20, 2025, work session, Representative McClain was leading the meeting.

⁷ Respondent further stated that the Respectful Workplace Policy should not be applied to legislators engaging in protected speech during a public legislative hearing, because the policy was not meant to apply to legislative debate, and that doing so, violates Oregon’s free speech clause. Whether the Respectful Workplace Policy should apply or not as a matter of law to legislators during a legislative hearing is outside the scope of this investigation. Consistent with the scope of this investigation, this Report assesses whether the conduct at issue violates the Respectful Workplace Policy but does not otherwise consider or opine on challenges to the policy itself.

⁸ These factual findings are not legal conclusions. Phrases and terms used in this Report that also have specific legal meanings and definitions are used in their general, not legal, sense.

3. Complainant and Senator Bruce Starr served as co-vice chairs of the committee.
4. Complainant was in opposition of the bill and Respondent was in favor of the bill.
5. At the June 20, 2025, work session, the committee discussed various proposed amendments to the bill, including Dash 8, 13, and 23 amendments.
6. During the June 20, 2025, work session, Respondent interrupted Complainant on two occasions while she had the floor to speak.
7. The first interruption by Respondent occurred at approximately the 1:00:20 mark, during which Complainant was responding directly to a comment Respondent had made:

Complainant: “[Respondent], you mentioned abdicating our responsibility, I do want to point out immediately because of that, indexing the CPI to inflation is abdicating our responsibility. I know that people are talking about...”

Respondent: “No, its not.”

Complainant: “It’s saying...”

Respondent: “We’re indexing it, we’re not giving it to another agency.”

Complainant: “Indexing any sort of gas tax, indexing abdicates our responsibility because it lacks accountability for an agency to come back to the legislature...”

Respondent: “Not the same thing...”

Complainant: “And saying that we need to have an increase in taxes and then we as a legislative body can say, do you deserve this, have you done

your job, we get to ask questions, and us as a legislative body gets to approve—we have the power of the purse and so having the CPI... am I done?”

Co-chair McClain: “No you can finish it up.”

8. The second interruption occurred at around the 1.21:19 mark.

Co-Chair McClain: “Okay, at this time, are there any other comments before we call for a vote? One final comment.”

Complainant: Okay, then I will take advantage of it. I want to state that we are looking at the largest tax increase in Oregon’s history. To compare that, House Bill 2017 was a \$5.3 billion dollar tax increase over 10 years. The CAT tax, which was the previous largest tax increase in Oregon’s history, has raised an average of about \$1.2 billion dollars per year, which is \$12 billion dollars over 10 years. And the Dash 23s that we’re looking at today, that we will be signing, next week sometime—again, that the public has not had time to weigh in since we’ve received the revenue impact. So when we had eight hours of public hearing on the Dash 13 or the base bill, the public didn’t know that it cost \$15 billion dollars over the next 10 years. They may have said something different if they knew that it would be the largest tax hike in Oregon’s history. And, so since we’ve known that realization, the public has not had the opportunity to weigh in. What we do know from the public though is their online testimony, and it currently sits at opposition two to one. And I think that matters because oftentimes the members of this committee quote numbers from going around the state. How many people are in a work group? How many people showed up? But this is what’s in front of us now, and we know that opposition is two to one. So if we are going to listen to Oregonians, we need to listen to Oregonians. We’re left with a \$15 billion dollar tax increase with a few days left in session with a really bad process. When we talk about being grossly irresponsible, that’s what this is. I will be a no on this vote...”

Respondent: "Excuse me. You are impugning all of us that have worked on that bill, so stop with that."

Co-Chair McClain: "Okay, okay..."

Complainant: "I used Representative Gamba's words."

Respondent: "Stop with it."

Complainant: "He said grossly irresponsible..."

Respondent: "You've made your point, Representative."

Complainant: "so I used it..."

Complainant: "I'm using words that somebody on this committee actually used."

Respondent: "You've made your point..."

Co-chair McClain: "You guys, that's it."

Respondent: "Enough."

Co-chair McClain: "We'll carry this into another room. So thank you very much, both of you, for your comments. That's enough."

9. The second time that Respondent interrupted Complainant, Respondent turned his chair towards Complainant, leaned forward, and raised his voice to tell Complainant to stop "impugning" members of the committee who worked on the bill. As Complainant tried to explain her point, Respondent continued to interrupt Complainant and spoke louder and louder with each statement directed at Complainant.

10. Afterwards, Complainant felt shocked and embarrassed, and did not speak for the rest of the meeting.⁹ Given Respondent's position as the co-chair, she felt intimidated and singled out. Complainant felt that Respondent had aggressively shut her down and she did not have the opportunity to finish her thought. Complainant further shared that in the moment she felt humiliated and was dismayed with the way the situation was handled. I find Complainant's feelings to be sincere.
11. Earlier in the meeting, Representative Gamba had expressed that, in his view, the Dash 8 amendments were "irresponsible" and that he was strongly opposed to the amendment.
12. Earlier in the meeting, Complainant had also expressed that she felt the bill was "grossly irresponsible," stating the following: "What I think is grossly irresponsible is not allowing the public to weigh in to a \$15 billion dollar package. That's grossly irresponsible. They have not been able to weigh in after we got the revenue impact."
13. In addition to Representative Gamba, at least two other male members of the committee made statements in opposition of HB 2025 and expressed critiques of the bill. Representative Gamba was the only male member of the committee who used the term "irresponsible."
14. Respondent acknowledged that he interrupted Complainant on two occasions, and that the second time he interrupted Complainant, he raised his voice and may have leaned forward in his seat while speaking to Complainant. Respondent expressed that if he could go back, he would not have interrupted Complainant. Respondent denied interrupting Complainant because she is a woman. When asked why he did not interrupt other male members of the committee who had previously made similar comments to Complainant, he responded that he felt Complainant was repeating her statement over and over again, and that by doing so she was denigrating the process and denigrating the people

⁹ At the end of the meeting, Complainant did inform the committee and the public that she would be filing a Rule 27 complaint against Respondent, but she did not otherwise speak on the substance of the bill.

working on the process. I find Respondent's explanation to be believable. However, that does not make Respondent's actions excusable.

15. Prior to the Committee Meeting on June 20, 2025, Complainant and Respondent had a good working relationship and Complainant had never had any issues with Respondent.
16. Respondent engaged in a somewhat similar incident in 2015, in which he interrupted and raised his voice at a female legislator on the house floor. In that instance, the legislator felt that Respondent was impugning her members and when she got up to speak, Respondent began yelling and moving toward her while she was speaking. At that time, a recess was called, after which Respondent apologized for his actions.¹⁰

VI. DETERMINATION

The Respectful Workplace Policy applies to members of the Legislative Assembly and “discourage[s] all inappropriate behavior anywhere and in any manner that has a nexus to legislative work and activities.” Section (2) and (4)(c). The Respectful Workplace Policy applies broadly to all inappropriate behavior that has a nexus to legislative work and activities, regardless of location. A legislative committee hearing has a clear nexus to legislative work. Inappropriate workplace behavior is defined as “any unwelcome or unwanted comments, actions, or behaviors by an individual or group that causes *the effect of*, and a reasonable person would find to be, embarrassing, humiliating, intimidating, disparaging, demeaning, or threatening; and has *the effect of* or is intended to unreasonably interfere with their job performance or causes fear in the workplace.” Section (4)(b)(emphasis added). The focus of the Respectful Workplace Policy is on the impact to and effect of the conduct on the recipient of the alleged conduct.

Here, I find that Respondent's actions were disrespectful and unwelcome, and whether he intended them or not, they had the effect of causing Complainant to be embarrassed and

¹⁰ The witness shared with me that she felt Respondent's apology was sincere and that she had accepted his apology. She also shared that though she did not know if Respondent would have acted the same way if she were a man, she did not think Respondent had interrupted her because she was a woman, but rather because he was passionate about the bill being discussed.

intimidated and interfered with Complainant's ability to perform her job. Accordingly, I conclude that Respondent violated the Respectful Workplace Policy.

While I conclude that Respondent's actions were disrespectful, I do not find that his actions, standing alone, constituted discrimination under Rule 27.

This concludes my investigation.