



California State Assembly

POLICY AGAINST SEXUAL HARASSMENT

It is the policy of the California State Assembly that sexual harassment in the workplace is prohibited. This policy is intended to prevent sexual harassment of Assembly employees and other persons with whom Assembly employees interact in the course and scope of their employment. The Assembly will take all reasonable steps to prevent harassment from occurring, and will take prompt and appropriate action when it knows that sexual harassment has occurred.

Sexual harassment in the workplace is also prohibited by state and federal law. Under the California Fair Employment and Housing Act, sexual harassment is in violation of the law if the harassment is sufficiently severe or pervasive as to alter the conditions of employment and create an abusive working environment, or if submission to conduct of a sexual nature is made either explicitly or implicitly a term or condition of employment. Sexual harassment is prohibited in similar circumstances under federal law by Title VII of the Civil Rights Act of 1964. Retaliation for making a complaint or providing information about sexual harassment is also prohibited by California and federal law and Part IX of this policy.

The sexual harassment policy of the Assembly imposes a stricter standard of conduct than that in state and federal law. It is a “zero tolerance” standard, prohibiting sexual harassment (defined below) even though the conduct may not be sufficiently severe or pervasive to constitute sexual harassment in violation of law.

This policy does not create a contract. The Rules Committee may, in its discretion, discipline employees for conduct or follow procedures not described in this policy.

A summary of this policy shall be posted in every office and distributed with the employee handbook. A copy of the policy shall be given to every employee upon

employment, at the beginning of every session, and whenever the policy is revised.

Assembly Members and employees are required to participate in sexual harassment prevention training programs provided by the Assembly Rules Committee during the first six months of every session or within the first six months of employment.

WHAT IS SEXUAL HARASSMENT?

For purposes of this policy, sexual harassment includes unwanted sexual advances, requests for sexual favors, and other visual, verbal, or physical conduct of a sexual nature when: (1) submission to the conduct is made either an explicit or implicit term or condition of employment; (2) submission to or rejection of the conduct is used as the basis for an employment decision; or (3) the conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Conduct which violates this policy may take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, or cartoons. Examples of conduct which may violate this policy also include requests for sexual favors, conversation containing sexual comments which would be offensive to a reasonable person of the same sex as the complainant, and unwelcome sexual advances. Specific examples of conduct which may be found to violate this policy are:

1. Offering employment benefits in exchange for sexual favors.
2. Making or threatening reprisals after a negative response to sexual advances.
3. Verbal sexual advances or propositions; or pressuring or persistently asking an employee for dates.
4. Visual conduct: leering, sexual gestures, display

of sexually suggestive objects or pictures, cartoons, calendars or posters.

5. Verbal conduct: sexually degrading or derogatory comments, epithets, slurs or jokes regarding a person's sex, sexual orientation, or physical appearance; frequently questioning someone about his or her personal life and speculating about his or her sex life.
6. Written conduct: suggestive or obscene letters, notes, electronic mail messages, or invitations.
7. Physical conduct: unwelcome touching, assault, or impeding or blocking normal movement.
8. Other unwelcome conduct of a sexual nature which is unbecoming of an Assembly official or employee and which creates an intimidating, hostile or offensive work environment.

Harassment may involve outside vendors, lobbyists, visitors or other members of the public. If the harassment is by a person who is not employed by the Assembly, or if a person who is not employed by the Assembly believes he or she has been harassed, the conduct should nevertheless be reported to one of the people listed below.

Not all conduct which an employee may find offensive will necessarily violate this policy. For example, an ordinary social invitation to an employee, made under circumstances and in a manner that would not intimidate or offend a reasonable person of the same sex under the same or similar circumstances, is not sexual harassment, even though the particular employee may find the conduct objectionable.

WHAT TO DO IF YOU BELIEVE YOU HAVE BEEN SEXUALLY HARASSED

If you have been subjected to conduct of a sexual nature that is not welcome, you may choose to speak directly with the person responsible for the conduct. This could be a quick and effective way to bring the offensive conduct to a halt.

If you believe you are being sexually harassed or have been exposed to a sexually hostile work environment, you should bring the problem to the attention of one of the following people: your supervisor, the Member of the Assembly in whose office you work, a Compliance Officer, the Chief Administrative Officer, or any Member of the Rules Committee. If you receive a sexual harassment complaint or observe conduct in the

workplace which you believe violates this policy, you should notify one of these same people. Complaints of sexual harassment should be reported as soon as possible after the incident or incidents have occurred. You are not required to notify your supervisor first, especially if your supervisor is the individual whom you believe is doing the harassing.

ASSEMBLY RULES COMMITTEE COMPLAINT POLICY AND PROCEDURES

All complaints of sexual harassment reported to the Assembly Rules Committee within one year of the harassment will be investigated by the Rules Committee's designated representative. The Rules Committee's designated representative will promptly investigate these claims and, if necessary, appropriate corrective action will be taken. The complainant and the accused will be interviewed. Other employees and witnesses may also be interviewed if circumstances warrant.

In most cases, the Rules Committee's designated representative will attempt to resolve the problem internally. If internal resolution is not feasible or appropriate, the Assembly Rules Committee's Chief Administrative Officer may initiate an external investigation, with specific findings. If the complaint is found to have merit, disciplinary action may be recommended.

If a complaint involves a Member of the Rules Committee or a Rules Committee administrative staff person, the Member or staff person shall recuse himself or herself from participation in the investigation and disposition of the complaint. Complaints against Rules Committee administrative staff shall be referred to Legislative Counsel for resolution pursuant to this policy and Legislative Counsel's findings and recommendations shall be reported to the Chair and Vice Chair of the Rules Committee. For purposes of this policy, "Rules Committee administrative staff" means the Chief Administrative Officer, the Deputy Administrative Officer, the Fiscal Officer and Chief Counsel.

The Rules Committee will strive to limit disclosure of any complaint to those directly concerned, consistent with its duty of fairness to the people involved and its duty to prevent harassment from occurring in the future. However, complete confidentiality cannot be guaranteed.

In determining whether or not particular conduct violates this policy, the Rules Committee's designated representative will take into account the totality of the circumstances in each case, including the severity and nature of the conduct, the frequency of the conduct, and the total number of days over which all of the conduct occurred. In addition, the Assembly prohibits retaliation against any employee for making a complaint or cooperating in an investigation. As set forth below, retaliation is a separate violation of this policy and the law.

I. INTERNAL INVESTIGATION AND RESOLUTION

A. Internal Investigation and Resolution by a Supervisor

If a complaint of harassment is initially brought to the attention of a supervisor, the supervisor may attempt to resolve the problem within 10 working days, or may immediately refer the matter to a Compliance Officer. If the supervisor attempts to resolve the problem and either the complainant or the accused rejects the proposed resolution, the supervisor shall report both the complaint and the proposed resolution promptly to a Compliance Officer. If the supervisor successfully resolves the problem, both the complaint and its resolution shall be reported promptly to a Compliance Officer.

B. Internal Investigation and Resolution by the Rules Committee

Any unresolved complaint of harassment brought to the attention of the Rules Committee shall be investigated and, where appropriate, effective corrective action shall be taken. The Rules Committee in its sole discretion may investigate the complaint through internal procedures, and will complete these procedures within 21 working days whenever possible.

A Compliance Officer, or other person designated by the Rules Committee, will conduct an internal investigation. The internal investigator will interview and take statements from the complainant, the accused, and as appropriate, other individuals. The internal investigator will attempt to verify the veracity of the statements provided and may review other evidence. The Rules Committee will strive to keep the investigation confidential to the extent possible. Disciplinary action pursuant to Section IV of this policy may be imposed under the internal resolution procedure.

Upon completion of an internal investigation, either an employee, applicant or independent contractor who has reported a complaint or the accused may request that the matter be handled through the external resolution procedure outlined below. If an external investigation is initiated, the internal investigator shall prepare a written report for the Chief Administrative Officer, including a summary of the internal investigation and copies of the statements provided.

At any time the Chief Administrative Officer, a Compliance Officer, or Legislative Counsel in a matter involving a complaint against Rules Committee administrative staff, may decide that any claim is to be handled through the external investigation and resolution procedure.

II. EXTERNAL INVESTIGATION AND RESOLUTION

The Rules Committee's Chief Administrative Officer will initiate an external investigation under the following guidelines:

A. Interviews and Information Gathering

1. If the internal resolution procedure has not resolved the complaint an outside investigator will review all reasonably available evidence and will interview the complainant, the accused, and as appropriate, other individuals with information on the matter.
2. The investigator will attempt to complete the investigation within 90 calendar days. The Chief Administrative Officer may exercise sole discretion to extend the time for completion of the investigation.
3. The Rules Committee will strive to keep the investigation confidential to the extent possible.
4. The matter may be resolved internally at any time during the external resolution procedure.

B. Findings and Recommendations

At the conclusion of the investigation, the investigator shall prepare a written report of findings of fact, and shall file the report with the Chief Administrative Officer.

1. If the Chief Administrative Officer determines that the facts found by the investigator do not constitute a violation of this policy, the investigation is complete.
2. If the Chief Administrative Officer determines that the facts found by the investigator constitute a viola-

tion of this policy, the Chief Administrative Officer shall promptly notify the Chair and Vice-Chair of the Rules Committee of the determination that a violation of this policy has occurred. If an employee has violated the policy, the Chief Administrative Officer shall also notify the Chair and Vice-Chair of any corrective action that the Chief Administrative Officer proposes to take, and any discipline that the Chief Administrative Officer proposes to impose pursuant to Part IV. If a Member has violated the policy, the Chief Administrative Officer shall report to the Chair and Vice Chair pursuant to Part V.

Both parties shall be informed in writing of the outcome of the investigation immediately.

III. RIGHTS OF APPEAL

The decision of the Chief Administrative Officer shall be final. However, the accused or the complainant may appeal this decision to the Chair and Vice-Chair of the Rules Committee by filing written objections with the Chief Administrative Officer within 10 working days of receipt of notification of the decision. If the Chair and Vice-Chair both determine that the accused or the complainant has been denied a fair evaluation of the complaint, the Chair and Vice-Chair shall direct the Chief Administrative Officer to take remedial action. Remedial action includes any of the forms of discipline or sanctions specified in Parts IV and V and may also include further investigation of the complaint.

IV. DISCIPLINE AGAINST AN EMPLOYEE

Upon determination that a violation of this policy has occurred, the Chief Administrative Officer shall take appropriate corrective action, and shall also impose appropriate discipline on an employee which may include, but is not limited to, reprimand, suspension without pay, reduction in pay, demotion, or termination. In addition, an employee may be required to participate in additional training or individual counseling about sexual harassment and the responsibilities of personnel to maintain a working environment free from harassment.

Within five working days after the expiration of the appeals period, the Chief Administrative Officer shall notify an employee found to have violated this policy of the discipline to be imposed.

V. SANCTIONS AGAINST A MEMBER

Upon receipt of a report by the Chief Administrative Officer that a Member has violated this policy, the Chair and Vice-Chair of the Rules Committee shall consult with the Speaker and Minority Floor Leader to determine what further actions, if any, shall be taken. If appropriate, they may bring the matter before the Rules Committee in closed session. The Rules Committee may decide on discipline, including, but not limited to, additional training or counseling about sexual harassment and/or a recommendation to the Speaker to change the Member's budget(s), committee assignments, or leadership positions.

The Rules Committee may also vote to present a resolution to the floor of the Assembly for the formal discipline of a Member. Formal discipline may include reprimand, censure, or expulsion. In addition, a Member may be required to participate in additional training or individual counseling about sexual harassment and the responsibilities of supervisory personnel to maintain a working environment free from harassment.

VI. NOTICES AND RECORD-KEEPING IN ALL CASES

A. Notice of Action Taken

The Rules Committee shall promptly inform the complainant and the accused of the outcome of its investigation under this policy, including any corrective actions taken as a result of the complaint and investigation. The Rules Committee will limit the information conveyed in order to protect the reasonable expectations of privacy of the parties and witnesses.

B. Written Records to be Maintained

The Rules Committee shall keep written records for at least 6 years of any supervisor's reports, internal or external Rules Committee investigations, and any recommendations for discipline, corrective action, or sanctions made pursuant to this policy.

VII. STATE AND FEDERAL COMPLAINTS

In addition to or in lieu of filing a complaint with the Assembly under this policy, a person who believes that he or she has been subjected to sexual harassment in violation of law may file a complaint with the California Department of Fair Employment and Housing (DFEH) or the Federal Equal Employment Opportunity Commission (EEOC). A complaint with the DFEH generally must be filed within one year of the last act of harassment. A complaint with the EEOC must be filed within 300 days of the last act of harassment.

EEOC (800) 669-4000 TDD (415) 744-7392
DFEH (800) 884-1684 TDD (213) 897-2840 L.A.
TDD (916) 324-1678 SAC.

No Assembly supervisor or Rules Committee investigator may attempt to dissuade any person from filing a complaint with the DFEH or the EEOC. To the contrary, an employee who is not satisfied with the complaint procedure outlined in this policy may pursue his or her claim with these outside agencies.

VIII. PERSONAL LIABILITY

A Member of the Assembly who is found liable by a court of law for acts or omissions constituting sexual harassment, as defined by law, or constituting retaliation pursuant to Part IX, may be personally liable to the plaintiff for the total judgment and for the costs of the Member's defense (see Sec. 815.3, Gov. C.).

Any employee of the Assembly who is found liable by a court of law for acts constituting sexual harassment, as defined by law, or constituting retaliation pursuant to Part IX, may be personally liable to the plaintiff for money damages awarded because of those acts.

IX. RETALIATION IS PROHIBITED

Retaliation for reporting sexual harassment, filing a complaint, or providing information or assisting in the investigation of any complaint of sexual harassment is prohibited by this policy and by law if the reporting employee reasonably believed, at the time of the reporting, that the conduct reported would constitute sexual harassment. Retaliation in any form is prohibited. Examples of retaliation include, but are not limited to, verbal abuse,

reduction in pay, termination, refusal to hire, or any other adverse employment actions which are intended to have a detrimental effect on an employee and are substantially influenced by improper retaliatory motives.

Retaliatory conduct is a separate violation of this policy and state and federal laws and is subject to the same procedures for investigation, discipline and sanctions that are applicable to sexual harassment.

X. SELECTION OF COMPLIANCE OFFICER AND OUTSIDE INVESTIGATOR

The Chief Administrative Officer shall make the selection of a Compliance Officer and shall select an outside investigator when one is needed from a list of candidates previously approved by the Chair and Vice-Chair of the Assembly Rules Committee.

XI. NO EFFECT ON EMPLOYMENT RELATIONSHIP OR LEGAL REMEDIES

Nothing in this policy shall alter the at-will employment relationship between the employee and the Assembly as set forth in the Personnel Policy Manual for Assembly Employees.

Nothing in this policy shall create any new cause of action or waive, extend, or otherwise alter any applicable statute of limitations in state or federal law.

Policy Adopted February 1993; revised July 1995; revised July 1997; revised May 2001; revised July 2003; revised September 2005; revised May 2007.