



Alaska State Legislature

Sexual and Other Workplace Harassment Subcommittee

February 1, 2018

Discussion Points and Recommendations

A. Required Reporting to LAA Personnel, Informal Reporting, and Informational Database

Required reporting to LAA Personnel and an informational database managed by the LAA Human Resources Manager allow the LAA Personnel Office to notice and document reports of conduct that may not rise to the level of harassment when taken individually but can show pervasive conduct when aggregated. Required reporting to LAA Personnel also ensures that the LAA Human Resources Manager is aware of behavior that legally must be addressed.

However, many situations in the Legislature have been handled informally to the complainant's satisfaction and mandating a report to LAA Personnel for every complaint may have a "chilling" effect on reporting for those that may want the behavior to stop but are concerned about repercussions or want to remain anonymous.

The following questions should be considered:

A.1. Informal Reports to Third Parties:

1. Should we require a third party to report all informal reports to LAA Personnel?
 - a. Supervisors & Appointing Authorities
 - b. Legislators who are not the supervisor of the complainant
 - c. Designated Staff
 - d. Other staff
2. If a third party is required to report to LAA Personnel, what should they be required to report?
 - a. Can the entire report be kept confidential?
 - b. Can some information, especially if it would identify the complainant, be kept confidential?
 - c. If a complaint is "handled" informally to the complainant's satisfaction, what must a supervisor or legislator report and when?
3. If reporting is not required, should the policy address recordkeeping for persons who receive informal reports that are not forwarded to LAA personnel?

Recommendations:

- i. Third parties should not be required to notify LAA Personnel of all informal reports, if the claimant requests. However, third parties should document, in writing, and encourage claimants to document the report for their records.
- ii. Third parties receiving informal reports should be able to forward reports to LAA Personnel with identifying information kept confidential.

A.2: Informal Report to the Personnel Office

4. Can a person file an informal report anonymously with LAA Personnel?
5. Should LAA Personnel keep a confidential informational database of conduct that does not rise to the level of illegal conduct, but taken as an aggregate, could be pervasive?
6. What happens when conduct is determined to be “pervasive” or “severe?” How does LAA Personnel address individuals who previously requested confidentiality? How should LAA Personnel address the pervasive conduct?

Recommendations:

- iii. Informal reports should be allowed to be made anonymously.
- iv. LAA Personnel should keep a confidential, informational database of reports.
- v. Once determined by the LAA Human Resources Manager to be possible illegal conduct, LAA Personnel should encourage the complainant(s) to come forward to file a formal complaint. If the complainant(s) are not willing to do so, the LAA Human Resource Manager should file a formal complaint to initiate an investigation.

B. Time to File a Complaint: 1 Year, 18 Months, 2 Years

Alaska Statute (AS 09.10.070) allows two years from the “cause of action” for a civil complaint; the Alaska State Commission for Human Rights deadline for filing a complaint is within 180 days of the alleged discriminatory act; and the EEOC requires complaints to be filed within 300 days of the alleged discriminatory act.

Recommendation: Policy should encourage claimants to come forward in a timely manner, but policy should be consistent with two-year statute of limitations in state law for tort claims.

C. Mandatory Use of Outside Investigator: Legislator, Staff, Non-Employees

7. When does an outside investigator need to be used? What are the benefits of mandatory use of an outside investigator? What are the benefits of using LAA Personnel and our HR Manager?

Options:

1. LAA Human Resource Manager has the discretion to determine whether an outside investigator is warranted under the circumstances.
2. All reports against legislators will be referred to an outside investigator; reports against others can be referred to an outside investigator at the discretion of the LAA Human Resource Manager.