

## **Sexual and Other Workplace Harassment Policy**

*(Adopted by Legislative Council on January 20, 2000)*

**DRAFT – 2017 - 2018**

### **Purpose:**

It is the policy of the Alaska State Legislature to maintain a workplace that is free of all illegal discrimination. The Legislature as an employer will not tolerate, condone, or permit sexual harassment or harassment on the basis of sex, color, race, religion, national origin, age, mental or physical disability, marital status, change in marital status, pregnancy, or parenthood.

Employees who knowingly instigate or participate in harassment in violation of this policy will be subject to disciplinary action up to and including suspension or discharge. Supervisors and managers who knowingly permit harassment activity without taking corrective action will be subject to disciplinary action up to and including suspension or discharge.

### **Retaliation:**

It is a violation of law and this policy to retaliate against a person who has opposed practices forbidden under AS 18.80.220 – 18.80.280. No person will be subject to retaliation for having complained of workplace harassment or for having assisted or participated in an investigation of alleged workplace harassment. Anyone who believes that he or she may have been the subject of retaliation should promptly report that the retaliation to the designated staff. ~~or who has reported or participated in the investigation of an allegation of harassment.~~

### **Sexual Harassment Defined:**

The Alaska State Commission for Human Rights defines sexual harassment as:

- Unwelcome sexual advances; or
- Requests for sexual favors; or
- Verbal/Physical/Visual conduct of a sexual nature when:
  1. submission to the conduct is made 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 or hostile work environment.

Examples of sexual harassment may include, but is not limited to, a range of subtle or overt behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to unwelcome: sexual advances or requests for sexual favors; Sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, commentary about an individual's sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; displaying, communicating, or distributing sexually suggestive objects, pictures, or messages in the workplace; and other physical, verbal, nonverbal or visual conduct of sexual nature.

A single incident may or may not constitute sexual harassment. Whether an action is sexual harassment will depend on the facts and determinations will be made on a case-by-case basis. Conduct or communications that might be welcome to one person may be unwelcome to another person. Conduct or communications that might have been welcome between two individuals at one time may become unwelcome at a later time. Other conduct or communications not expressly described in the examples, but which is substantially similar to examples, may violate this policy.

### **Workplace Harassment:**

Workplace harassment is unwelcome conduct in the form of treatment or behavior that, to a reasonable person, creates an intimidating, hostile or offensive work environment. Workplace harassment includes discrimination based on a person's protected class. Workplace harassment also includes unwelcome conduct that occurs outside of work during nonwork hours if the conduct creates a work environment that a reasonable employee would find intimidating, hostile or offensive. Workplace harassment does not include every minor annoyance or disappointment that an employee may encounter in the course of performing the employee's job.

### **If You Witness or Experience Harassment:**

If you witness or experience harassment and if you feel you are able to do so, you are encouraged to speak to the person who you believe is doing the harassing, point out the offensive behavior, and tell the person to stop. By taking this action you may be able to stop the harassment immediately. If it does not stop, or if you are reluctant to confront the person, you should report the problem using the procedure below. Managers and supervisors who witness or are aware of harassment must take action to stop the behavior and to report the alleged harassment to one of the persons noted in the reporting procedure below.

### **Reporting Procedure:**

You do not have to be the person being harassed to report harassment. You may make a written or oral report of violations of the Policy on Sexual and Other Workplace Harassment to any of the following: your supervisor, manager, or director; the ~~legislative EEO Officer~~ Legislative Affairs Agency Human Resources Manager; designated staff in the Office of the Senate President or the Speaker of the House; designated staff in the Senate or House Rules Committee Offices; staff in the Senate or House Minority Leader's Office, or designated staff in the Senate or House Finance Committee Co-Chair offices. A list including the name, phone number, office number, and email address of each of the designated staff will be published on the Legislative Affairs Agency intranet site at the beginning of each Legislature.

It is important for harassment to be reported as soon as possible. Reports of harassment that are reported after a lot of time has passed are hard to be substantiated as witness tend to forget the specifics of the event over time. Another factor is that surveillance recordings are only maintained for 30 days before being copied over.

Violation of AS 18.80.220 – 18.80.280 is also a violation of the Legislative Ethics Act, and complaints may be pursued through the Select Committee on Legislative Ethics.

### **Investigations:**

All reports or complaints will be taken seriously and investigated to determine if there has been a violation of this policy. Investigations will be performed by the Legislative Affairs Agency Human Resources Manager or their designee unless there is a conflict of interest or the appointing authority requests an independent outside investigator. Cost for the independent outside investigator will be borne by the appointing authority. When an investigatory report is completed it will be presented to the appropriate appointing authority. If an outside investigator is utilized a copy of the final report, in its entirety, will be provided to the Legislative Affairs Agency Human Resources Manager at the time it is presented to the appointing authority. The conclusion section will be presented to the complainant and alleged harasser. If the investigation reveals conduct in violation of this policy by a Legislator, the matter will be referred to the appropriate legislative body for resolution. If the investigation reveals conduct in violation of this policy by an employee, manager, or supervisor, appropriate action will be taken.

### **Confidentiality:**

All complaints and reports will be considered confidential for purposes of public records. The Legislature will maintain confidentiality as much as possible but cannot guarantee absolute confidentiality. Absolute

confidentiality is not possible since through the course of an investigation the investigator will need to discuss names, places, events, and other pertinent questions with witnesses and others whom the investigator feels may add value or insight into the outcome of the investigation. However, all effort will be to maintain confidentiality to the extent possible.

### **Training:**

Appointing authorities will ensure that each of their employees will be trained in this sexual and other workplace harassment policy at least once each legislature. This training will be in coordination of the training provided with the Select Committee on Legislative Ethics and considered required under the Ethics Act. Designated staff will be provided additional training regarding the proper way to handle a complaint once it has been received.

### **Discipline:**

Even if a complaint is unsubstantiated corrective action may still be appropriate. Just because an action does not fit the definition of sexual or other workplace harassment does not mean that the actions are appropriate for a professional work environment. Discipline will depend on the severity of the infraction. Discipline can range from verbal warnings and training up to and including dismissal.

### **Elected Officials:**

Investigatory reports for elected officials will be distributed as follows:

- Senate majority member will be presented to the Senate President.
- Senate minority member will be presented to the Senate Minority Leader with a carbon copy to the Senate President.
- Senator member unaffiliated will be presented to the Senate President.
- House majority member will be presented to the Speaker of the House.
- House minority member will be presented to the House Minority Leader with a carbon copy to the Speaker of the House.
- House member unaffiliated will be presented to the Speaker of the House.

When an investigator interviews a majority member or an unaffiliated member, the respective Presiding Officer of his/her designee may be present. When an investigator interviews a minority member the respective Minority Leader or his/her designee may be present.

### **Appointing Authority:**

Appointing authorities for the Legislative Branch is set out in statute and/or policy as:

- The appointing authority during session for house and senate employees is their respective Rules Chairman.
- The appointing authority during interim for house and senate employees is their respective Presiding Officers.
- The appointing authority for select staff in the finance committees are hired by their respective Finance Co-Chairmen.
- The appointing authority for employees hired by a permanent interim committee is their respective committee chairman.
- The appointing authority for the Legislative Affairs Agency is the Executive Director.
- The appointing authority for the Legislative Finance Division is the Legislative Fiscal Analyst.
- The appointing authority for the Ombudsman's Office is the Ombudsman.
- The appointing authority for the Office of Victims' Rights is the Chief Victims' Rights Advocate.