



Alaska State Legislature

Sexual and Other Workplace Harassment Subcommittee

February 6, 2018

Discussion Points and Recommendations

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

Subcommittee members were concerned that one year was not enough time and didn't mirror any current Alaska deadlines. However, there was also concern that a later deadline would lead to less accurate recall of the situation by participants and witnesses, in addition to losing access to some participants and witnesses. 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.

The Legislature's legal counsel has recommended that either the policy should not include a complaint deadline or it should be consistent with the Alaska State Commission for Human Rights' deadline of 180 days (see memo, attached).

Recommendation: Policy should encourage claimants to come forward in a timely manner but should either not set a deadline or set the deadline consistent with the Alaska State Commission for Human Rights.

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

All subcommittee members shared concerns that the investigation process be fair and impartial. Subcommittee members supported use of an outside investigator due to concerns about political gamesmanship and objectivity. Some subcommittee members opined that the LAA Human Resources Manager would be best suited to do investigations due to familiarity with the individuals involved. There was also concern about expense for an outside investigator. Questions to consider:

1. When does an outside investigator need to be used?

Options:

1. LAA Human Resource Manager or appointing authority 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 or appointing authority.

4. Reporting to Designated Staff

In an ideal world, all reports of harassing conduct would go to the Personnel Office, which has staff that is specially trained in these areas. However, there are times when a staff member might feel more comfortable talking to a peer or might want to keep his/her identity anonymous. Some committee members had concerns that having too many designated staff would be confusing for claimants, would create a larger risk of having claims “fall through the cracks,” or would lead to inconsistent responses from different designated staff. Another concern is ensuring the correct staff is chosen to reduce the politicization of complaints. Questions to consider:

1. What is the appropriate number of designated staff?
2. Who should be designated staff?
 - a. Supervisors
 - b. LAA Personnel
 - c. House Clerk and Senate Secretary
 - d. House Speaker and Senate President
 - e. Others

Recommendations:

1. Policy should encourage people to make reports to LAA Personnel Office or to their supervisors, however a limited number of designated staff should also be listed in the case that complainants that would feel more comfortable reporting to peers. Policy should require additional training for the designated staff on informal complaint resolution.

5. Appeals

Many subcommittee members wanted a more defined appeal process, however not a lot of detail was provided. Questions to consider:

1. Should there be a right to appeal/who should have a right to appeal?
2. What needs to be included in the process?
3. Who should decide the appeal?