

Sexual and Other Workplace Harassment Policy  
(Adopted by Legislative Council on \_\_\_\_\_ )

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 race, religion, color, national origin, age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood.

All legislative branch employees and Legislators who knowingly instigate or participate in harassment in violation of this policy will be subject to disciplinary action as described in this policy. 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.

**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 include, but are not limited to:

- Sexual advances or requests for sexual favors;
- Unwanted or offensive touching or physical contact of a sexual nature;
- Unwanted closeness;
- Impeding or blocking movement;
- Sexual gestures, innuendos, jokes, or sexually charged language;
- Intimate inquiry;
- Persistent unwanted courting;
- Sexist insult;
- Gender stereotype;
- Commentary about an individual's body, leering, or whistling;
- Commentary about an individual's sexual prowess or sexual deficiencies;
- 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 a sexual nature.

A single incident may constitute sexual harassment. Sexual harassment may involve individuals of the same or different gender. 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 above may violate this policy.

**Retaliation Prohibited:**

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 or who has reported or participated in the investigation of an allegation of harassment. Examples of retaliation against a person include, but are not limited to:

- Termination;
- Suspension;
- Demotion;
- Denial of promotion;
- Refusal to hire;
- Disparaging the person to others or in the media;
- Work-related threats, warnings, or reprimands;
- Negative or lowered performance evaluations;
- Transfers to less prestigious or desirable work or work locations;
- Making false reports to government authorities or in the media;
- Filing a civil action;
- Making threats of reassignment;
- Scrutinizing work or attendance more closely than that of other employees, without justification;
- Removing supervisory responsibilities;
- Engaging in abusive verbal or physical behavior that is reasonably likely to deter a person from engaging in a protected activity, even if it is not yet "severe or pervasive," as required to be classified as a hostile work environment;
- Requiring reverification of work status, making threats of deportation, or initiating other action with immigration authorities because of protected activity; or
- Taking or threatening to take a materially adverse action against a close family member.

**Hostile Work Environment Prohibited:**

Discriminatory behavior sufficiently severe or pervasive to alter the conditions of the subject's employment and to create a hostile work environment violates AS 18.80.220 and is prohibited under this policy.

Workplace harassment may include unwelcome conduct that occurs outside of work during nonwork hours if it has consequences in the workplace. Workplace harassment does not include a minor annoyance or disappointment that an employee may encounter in the course of performing the employee's work.

**If You Witness or Experience Harassment:**

You do not have to be the person being harassed to report 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 to a manager, a supervisor, the Legislative Affairs Agency (LAA) Human Resources Manager, or Designated Staff using one of the procedures outlined below. Managers and supervisors who witness or are aware of harassment must take action to stop the behavior and report the alleged harassment to the Legislative Affairs Agency (LAA) Human Resources Manager.

The Alaska State Legislature encourages persons to make all reports of harassment in a timely manner. You may make a report of violations of this policy under either the informal reporting procedure or formal reporting procedure outlined below. If you are unsure of which type of procedure to pursue, you are encouraged to contact the LAA Human Resources Manager for guidance. All reports will be taken seriously and investigated to determine whether there has been a violation of this policy.

False complaints of workplace harassment that are found to be intentionally or recklessly dishonest or malicious will not be tolerated and may be considered harassment.

**Informal Reporting Procedure:**

A person who may have experienced harassment may simply want the conduct to stop and may not be interested in pursuing a formal reporting procedure. The informal reporting procedure is intended to meet that need.

An informal report may be oral or in writing and may be made to a manager, supervisor, or the LAA Human Resources Manager. The LAA Human Resources Manager shall create a form for informal reports that requires specific documentation of the alleged harassment, including:

1. The name(s) of the person(s) involved in the alleged harassment, including witnesses;
2. The date, place, and time of the alleged harassment;
3. A description of the alleged harassment; and
4. The action taken to resolve the informal report or the action requested by the subject to address the conduct.

All managers or supervisors who receive an informal report shall submit the report on the designated form to the LAA Human Resources Manager, who shall maintain a confidential record of all reports received. The name of the subject of the alleged harassment may be kept anonymous for informal reporting purposes, as long as the person submitting the report to the LAA Human Resources Manager is identified.

The LAA Human Resources Manager retains the right to request a formal investigation if the allegation is one of severe or pervasive harassment. A subject of alleged harassment may request that an informal report be converted into a formal report at any time. A formal report supersedes and terminates an informal report regarding allegations of the same harassing conduct.

**Formal Reporting Procedure:**

A formal report must be made in writing to the LAA Human Resources Manager. However, if you do not feel comfortable making a report to the LAA Human Resources Manager, you may make a report to the following Designated Staff:

1. LAA Personnel Office;
2. House Chief Clerk or Senate Secretary; or
3. Speaker of the House or Senate President.

A formal report must include the following:

1. The name of the subject of the alleged harassment;
2. The name(s) of the person(s) involved in the alleged harassment, including witnesses;
3. The date, place, and time of the alleged harassment; and
4. A description of the alleged harassment.

Upon receipt of a formal report, the LAA Human Resources Manager shall immediately inform the appropriate manager or supervisor to ensure that the subject of the alleged harassment has a safe and nonhostile work environment. After informing the parties, the LAA Human Resources Manager will initiate an investigation, as described in the Investigations section below.

**Reports and Investigations Involving a Legislator:**

Upon receipt of a formal report involving a Legislator, the LAA Human Resources Manager shall immediately inform the parties, including the appropriate manager or supervisor, the presiding officer and, if the Legislator involved is a member of the minority caucus, the Minority Leader to ensure that the subject of the alleged harassment has a safe and nonhostile work environment. After informing the parties of the report, the LAA Human Resources Manager will initiate an investigation, except that an independent investigator may be hired at the discretion of the LAA Human Resources Manager or upon the recommendation of the presiding officer or Minority Leader at the request of either party involved. The parties involved may only make a request for retention of an independent investigator through the presiding officer or Minority Leader. The request for retention of an independent investigator must be made by the subject of the alleged harassment within three business days after making the formal report or by the alleged harasser within three business days after receipt of the formal report. If a recommendation for retention of an independent investigator is made, the investigation shall begin within seven calendar days of the recommendation. An independent investigator shall report to the LAA Human Resources Manager and shall be paid for by Legislative Council. Investigations must follow the procedure described below.

**Investigations:**

An investigation must begin within 10 calendar days after the receipt by the LAA Human Resources Manager of a formal report. The LAA Human Resources Manager shall investigate all reports of harassment, except that an independent investigator may be hired for incidents involving a Legislator as described above and for incidents involving, or allegations made against, the LAA Human Resources Manager under this policy. However, for incidents not involving a Legislator, the LAA Human Resources Manager retains the discretion and authority to hire an independent investigator in extenuating circumstances.

Within 30 calendar days after an investigator is assigned, the investigator shall complete a draft report and present the report to the subject of the alleged harassment, the alleged harasser(s), and, in the event of an independent investigation, the LAA Human Resources Manager. Each party has five business days to provide comments or requests for modification. Requests for modification must include the reason for the request. Modifications will be at the discretion of the investigator.

After the comment period, the investigator has 10 calendar days to finalize the report and submit it to the appropriate manager or supervisor of the subject of the alleged harassment and alleged harasser(s), and, in the event of an independent investigation, the LAA Human Resources Manager. For reports involving a Legislator, the final report must be submitted to the presiding officer and, if the Legislator is a member of the minority caucus, to the Minority Leader.

Investigatory deadlines may be extended for good cause.

#### **Final Reports and Disciplinary Action:**

Upon receipt of the final report, the appropriate manager or supervisor of the subject of the alleged harassment shall immediately present the final report to the subject of the alleged harassment, the appropriate manager or supervisor of the alleged harasser(s) shall immediately present the final report to the alleged harasser(s), and the presiding officer or Minority Leader shall immediately present the final report to the Legislator.

If the final report reveals conduct in violation of this policy, appropriate corrective or disciplinary action must be taken. An employee who is found to be in violation of this policy may be subject to disciplinary action, up to and including dismissal. A Legislator who is found to be in violation of this policy may be subject to the disciplinary action considered appropriate by the presiding officer, Minority Leader, or body. For more serious violations, a formal reprimand, censure, expulsion, or other penalty may be recommended, subject to approval by the body.

A person who is not employed by the Legislature who is found to be in violation of this policy may be subject to action, up to and including permanent or temporary removal from legislative buildings.

#### **Appeals:**

Within five business days after receiving the final report of the investigator, the subject of the alleged harassment or alleged harasser may appeal the conclusions, but not findings of fact, contained in the final report to the appropriate appointing authority.

For reports involving a Legislator, within five business days after receiving the final report of the investigator, the subject of the alleged harassment or the Legislator may request a hearing before the appropriate Rules Committee to appeal the conclusions contained in the final report.

Notwithstanding the deadline to appeal, all legislative branch employees retain the right to discuss any dissatisfaction with the outcome of a final report involving that employee with a manager, supervisor, appointing authority, or the LAA Human Resources Manager.

**Confidentiality:**

All reports, including informal, formal, draft, and final reports, are considered, and must be treated as confidential under the Legislative Council Records Policy, except that the appropriate Rules Committee may consider release of all or a portion of a final report involving a Legislator. A violation of this provision is a violation of this policy and may also result in an ethics violation under AS 24.60.060. The Alaska State Legislature will protect the identity of all persons involved in a report of harassment to the maximum extent possible, but to conduct an effective investigation, some information may need to be revealed.

**Ethical Duties and Training:**

A violation of AS 18.80.220 – 18.80.280 is also a violation of the Legislative Ethics Act, and reports or complaints may be pursued through the Select Committee on Legislative Ethics. Training that teaches the means of compliance with AS 18.80.220 - 18.80.280 and this policy is required under AS 24.60.155 as a component of the legislative ethics course.

In this policy, "appointing authority" means:

1. The LAA Executive Director for LAA employees;
2. Legislative Council for the LAA Executive Director, employees of Legislative Council, the Ombudsman, the Victims' Advocate, or employees not otherwise listed;
3. The Legislative Fiscal Analyst for employees of the Division of Legislative Finance, other than the Legislative Fiscal Analyst;
4. The Legislative Auditor for employees of the Division of Legislative Audit, other than the Legislative Auditor;
5. The Legislative Budget and Audit Committee for the Legislative Fiscal Analyst, the Legislative Auditor, and employees of the Legislative Budget and Audit Committee;
6. The appropriate Finance Committee for employees of the Senate or House Finance Committees;
7. The appropriate Rules Committee for employees of
  - (A) standing committees of the legislature, other than the Finance Committees;
  - (B) the Senate Secretary's office and the office of the Chief Clerk of the House of representatives; and
  - (C) House Records and Senate Records;
8. The legislator who made the hiring decision for employees of individual legislators; however, the legislator may request the appropriate rules committee or presiding officer to act in the legislator's stead;
9. The Ombudsman for employees of the office of the Ombudsman, other than the Ombudsman;
10. The Victims' Advocate for employees of the office of Victims' Rights, other than the Victims' Advocate;