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Respectful Workplace Policy of the Legislative Branch

A. THE IDAHO LEGISLATURE PROHIBITS WORKPLACE HARASSMENT

The Idaho Legislature is committed to creating and maintaining a work environment in which all members, employees and third parties are free from unlawful discrimination and harassment. Members, legislative employees and third parties have the right to a workplace that is free from harassment and discrimination. The Idaho Legislature prohibits harassment or discrimination, including sexual harassment, based on an individual's race, color, religion, sex, national origin, age, or disability.

B. APPLICABILITY OF POLICY

This policy is applicable to all members of the Idaho Legislature, all legislative employees, and third parties.

C. DEFINITIONS

1. "Legislative employee" means an employee, including pages of the Senate, the House of Representatives, the Legislative Services Office and the Office of Performance Evaluations.
2. "Member" means a member of the Idaho Legislature.
3. "Third party" means a newsperson, lobbyist, intern, volunteer, or member of the general public who has business at the state capitol or who is doing business with the Senate, the House of Representatives or with legislative services agencies.

D. SEXUAL HARASSMENT DEFINED

1. Unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature constitute sexual harassment when:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

2. Examples of Sexual Harassment

The following are examples of conduct or communication which may constitute sexual harassment:

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- a. Verbal
 - i. Sexual comments or innuendos about one's clothing, body, or sexual activity;
 - ii. Discussing sexual topics in the workplace, such as sexual practices or preferences or telling sexual jokes or stories; or
 - iii. Requesting or demanding sexual favors or suggesting that there is any connection between sexual behavior and any term or condition of employment, whether that connection be positive or negative.

- b. Nonverbal:
 - i. Displaying sexually explicit pictures or objects in the work area;
 - ii. Giving personal gifts of a sexual nature;
 - iii. Making sexually suggestive gestures;
 - iv. Making unwelcome visits to a member's, legislative employee's, or third party's home or hotel room; or
 - v. Displaying cartoons or sending e-mails, text messages, instant messages, other electronic forms of communication, or notes, any of which contain sexual pictures, images, words or phrases.

- c. Physical:
 - i. Kissing of a member, legislative employee, or third party;
 - ii. Patting, pinching, or intentionally brushing against a member's, legislative employee's, or third party's body; or
 - iii. Sexual contact, intercourse, or assault.

F. OTHER WORKPLACE HARASSMENT DEFINED

1. Workplace harassment is unwelcome conduct based on any characteristic protected by law where enduring the offensive conduct becomes a condition of continued employment; or where the conduct is severe or pervasive enough that a reasonable person would find the workplace atmosphere intimidating, hostile, or offensive.

2. Examples of Other Workplace Harassment

The following are examples of conduct or communication which may constitute other forms of workplace harassment:

- a. Verbal
 - i. Jokes or innuendos about individuals falling within protected statuses;
 - ii. Voicing opinions or assumptions that an employee is or is not capable of certain tasks due to his/her protected status; or
 - iii. Using slang terms or assigning a nickname to another individual based on or related to the individual's protected status

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- b. Nonverbal:
 - i. Making gestures to mimic an individual's disability or other protected status; or
 - ii. Displaying cartoons or sending e-mails, text messages, instant messages, other electronic forms of communication, or notes, any of which contain images, words or phrases denigrating or making inappropriate jokes about a protected group.
- c. Physical:
 - i. Pushing, shoving, or physically assaulting another individual because of that individual's protected status.

G. RESPECTFUL WORKPLACE DEFINED

- 1. The examples in the paragraphs above, concerning sexual and other forms of workplace harassment, are illustrative of the communications and conduct that may constitute harassment, but are not an exhaustive list. Other acts may constitute harassment depending on the circumstances of the specific situation. In that regard, the following should be kept in mind:
 - a. A single incident may or may not constitute harassment;
 - b. Whether a particular action is 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.

H. COMPLAINTS REGARDING WORKPLACE HARASSMENT.

A member, legislative employee, or third party who believes he or she is the subject of any type of workplace harassment in any manner from anyone, should submit a complaint directly to one of the appropriate contact persons identified below:

- 1. If the complainant is a member of the Idaho legislature, he/she may report complaints to:
 - a. The President Pro Tempore of the Senate, or the Pro Tempore's designee of the opposite gender;
 - b. The Speaker of the House of Representatives, or the Speaker's designee of the opposite gender; or
 - c. Assistant Chief Deputy of the Idaho Attorney General's Office, or the Assistant Chief Deputy's designee of the opposite gender.

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2. If the complainant is a legislative employee of the Senate, he/she may report complaints to:
 - a. The President Pro Tempore of the Senate, or the Pro Tempore's designee of the opposite gender;
 - b. The Speaker of the House of Representatives, or the Speaker's designee of the opposite gender;
 - c. The secretary of the Senate, or the secretary's designee of the opposite gender; or
 - d. Assistant Chief Deputy of the Idaho Attorney General's Office, or the Assistant Chief Deputy's designee of the opposite gender.

3. If the complainant is a legislative employee of the House of Representatives, he/she may report complaints to:
 - a. The President Pro Tempore of the Senate, or the Pro Tempore's designee of the opposite gender;
 - b. The Speaker of the House of Representatives, or the Speaker's designee of the opposite gender;
 - c. The chief clerk of the House of Representatives, or the chief clerk's designee of the opposite gender; or
 - d. Assistant Chief Deputy of the Idaho Attorney General's Office.

4. If the complainant is a legislative page, he/she may report complaints to:
 - a. The President Pro Tempore of the Senate, or the Pro Tempore's designee of the opposite gender;
 - b. The Speaker of the House of Representatives, or the Speaker's designee of the opposite gender;
 - c. The Sergeant at Arms or the Assistant Sergeant at Arms; or
 - d. Assistant Chief Deputy of the Idaho Attorney General's Office, or the Assistant Chief Deputy's designee of the opposite gender.

5. If the complainant is a legislative employee of the Office of Legislative Services, he/she may report complaints to:
 - a. The President Pro Tempore of the Senate, or the Pro Tempore's designee of the opposite gender;
 - b. The Speaker of the House of Representatives, or the Speaker's designee of the opposite gender;
 - c. The director of the Office of Legislative Services, or the director's designee of the opposite gender;
 - d. The Chief Operations Officer of the Office of Legislative Services;

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- e. Any Division Manager of the Office of Legislative Services; or
 - f. Assistant Chief Deputy of the Idaho Attorney General's Office, or the Assistant Chief Deputy's designee of the opposite gender.
6. If the complainant is a legislative employee of the Office of Performance Evaluations, he/she may report complaints to:
- a. The President Pro Tempore of the Senate, or the Pro Tempore's designee of the opposite gender;
 - b. The Speaker of the House of Representatives, or the Speaker's designee of the opposite gender;
 - c. The director of the Office of Performance Evaluations, or the director's designee of the opposite gender; or
 - d. Assistant Chief Deputy of the Idaho Attorney General's Office, or the Assistant Chief Deputy's designee of the opposite gender.
7. If the complainant is a legislative intern or volunteer, he/she may report complaints to:
- a. The President Pro Tempore of the Senate, or the Pro Tempore's designee of the opposite gender;
 - b. The Speaker of the House of Representatives, or the Speaker's designee of the opposite gender; or
 - c. The Chief Operations Officer of the Legislative Services Office; or
 - d. Assistant Chief Deputy of the Idaho Attorney General's Office, or the Assistant Chief Deputy's designee of the opposite gender.
8. If the complainant is a third party, he/she may report complaints to:
- a. The President Pro Tempore of the Senate, or the Pro Tempore's designee of the opposite gender;
 - b. The Speaker of the House of Representatives, or the Speaker's designee of the opposite gender; or
 - c. Assistant Chief Deputy of the Idaho Attorney General's Office, or the Assistant Chief Deputy's designee of the opposite gender.
9. For any of the above enumerated provision 1 through 8, the designees of the opposite gender for the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or the director of the Office of Legislative Services shall be the Chief Operations Officer of the Legislative Services Office.

I. RETALIATION PROHIBITED

Retaliation is prohibited against individuals because they complained of workplace harassment or assisted or participated in an investigation of alleged workplace harassment. Any person who believes

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that he or she may have been retaliated against for having complained of workplace harassment or for having assisted or participated in an investigation related to an allegation of workplace harassment should report that information to the appropriate contact person.

J. RECORDKEEPING

1. When a workplace harassment complaint is made, the offices of the President Pro Tempore, the Speaker, and the Director of Legislative Services shall create a personnel file under the complainant's name, to be kept separately and apart from the main personnel file.
 - a. All written documentation arising from the complaint in the file including, but not limited to the following: The complaint, if it is in writing; the contact person's or other investigator's investigatory notes, information, and other writings; witness statements; and the disposition, if any, of the complaint. Except as otherwise specifically stated in this Policy, the records in the workplace harassment personnel file are confidential. Records of sexual harassment complaints and investigations maintained pursuant to this Policy are not subject to public inspection. Such records shall be retained for not less than three years.

K. RESOLUTION OF A WORKPLACE HARASSMENT COMPLAINT

1. Upon receipt of a complaint, the contact person shall notify:
 - a. The Speaker of the House if it involves a House member or employee or a third party engaged in conduct within the House of Representatives;
 - b. The President Pro Tempore if the complaint involves a Senate member or employee or third party involved in conduct within the Senate;
 - c. The Director of Legislative Services if it involves an employee of the Legislature or a third party engaged in conduct not within the House of Representative or the Senate.
2. Upon reporting, the Speaker, President Pro Tempore, or Director may consult with the Office of Attorney General to obtain legal advice including but not limited to what type of review, inquiry or investigation should be conducted, and any other appropriate measures that should be taken concerning the complaint.
3. Upon request, the Office of Attorney General shall investigate or direct the investigation of a complaint and provide a recommendation to the Speaker, President Pro Tempore, or Director of Legislative Services with regard to findings and remedies.
4. A panel made up of The Speaker, President Pro Tempore and the Director of Legislative Services or their designee may accept, reject, or modify the findings and recommendations of the Office of Attorney General.

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5. As a general rule, remedies will be assessed proportionate to the seriousness of the violation. For members, this may include an apology to the complainant, direction to stop the offensive conduct, counseling or training, oral warning, written warning or referral to the ethics committee of the appropriate body.
6. If it is determined that a member of the Legislature has violated this Policy, leadership of the respective body, shall handle the disciplinary action, if any, according to this Policy and the rules of the appropriate house of the Legislature.
7. For legislative employees, remedies may include an apology to the complainant, direction to stop the offensive conduct, counseling or training, oral warning, written warning or termination.
8. For third parties, remedies may include an apology to the complainant, direction to stop the offensive conduct, oral warning, written warning, or referral of the complaint to appropriate law enforcement agencies.
9. If the workplace harassment recurs after a complaint is made, the complainant should immediately bring the matter to the attention of the appropriate contact person.

L. MANDATORY TRAINING

All members and legislative staff shall attend respectful workplace training no less than once every two years. Members appointed during the midst of a legislative term and newly hired legislative staff shall receive respectful workplace training within 3 months of their appointment to office or hire date. Such training shall be approved by the Senate President Pro Tempore, the Speaker of the House of Representatives or the Director of the Office of Legislative Services.

M. COMPLAINTS NOT MADE IN GOOD FAITH

Complaints of workplace harassment that are not made in good faith may subject the complainant to those remedies outlined in paragraph K of this policy. If the contact person determines that the complaint was not made in good faith, they shall refer the matter to the Attorney General's office or the Senate President Pro Tempore or the Speaker of the House or the Director of the appropriate legislative services office.