What We Will Cover Today

- Updated Respectful Workplace Policy
- Elements of Harassment and Discrimination
- Ways to Create and Maintain a Respectful Workplace
THE UPDATED RESPECTFUL WORKPLACE POLICY
Policy Development Process

- A bipartisan committee made up of legislators, employees, lobbyists and the media met on multiple occasions.
- The committee created a draft, which was reviewed by legal counsel and leadership.
- The draft was simplified to create a clear process that could be adapted to a wide range of circumstances.
What Does the Policy Prohibit?

• Harassment, including sexual harassment, and discrimination based on an individual’s race, color, religion, sex, national origin, age or disability

• Retaliation against individuals who report, in good faith, violations of the policy
Who Does the Policy Cover?

• Members of the Idaho Legislature
• Legislative employees
• Legislative interns and volunteers
• Legislative partners, which includes:
  – Lobbyists
  – Representatives of state agencies
  – Media
  – Others conducting business in the Capitol
Where Does the Policy Apply?

• Business conducted in the Capitol
• All events, locations and times in which a covered individual is acting in their official capacity, for example:
  – Legislative events
  – Lobbyist-sponsored receptions
  – Campaign and/or political party fundraisers
  – Off-site trainings
  – Travel to and from official events
DEFINITION OF HARASSMENT AND DISCRIMINATION
Harassment/Discrimination Defined

• Unwelcome conduct that is based on a protected status, where:
  1. Enduring the offensive conduct becomes a condition of continued employment; or
  2. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive
Protected Classes

- Age (40+)
- Color
- Disability
- Genetic Information
- National Origin
- Race
- Religion
- Sex/Gender
Sexual Harassment Defined

• Sexual harassment includes unwelcome sexual advances or requests for sexual favors.

• Other verbal, nonverbal, or physical contact of a sexual nature may also constitute sexual harassment when:
  1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or advancement;
Sexual Harassment Defined (cont’d)

• Other verbal, nonverbal, or physical contact of a sexual nature may also constitute sexual harassment when:

  2. Submission to or rejection of such conduct by an individual is used as the basis for employment or advancement decisions affecting such individual; or

  3. 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.
EXAMPLES OF PROHIBITED HARASSMENT/DISCRIMINATION
Verbal Harassment

• Discussing sexual topics, making sexual jokes, telling sexual stories
• Making stereotyping comments
• Using offensive slang, slurs, epithets
• Ridiculing, mocking or insulting based on a protected status
Non-Verbal Harassment

• Making gestures to mimic or mock an individual’s disability or protected status
• Posting offensive pictures or memes
• Forwarding emails with inappropriate jokes or that contain offensive pictures or language
• Allowing stereotypes to affect work assignments or evaluations
Physical Harassment

• Pushing, shoving or assaultng another individual
• Unwelcome or unwanted kissing, touching, or brushing of another’s body
• Unwelcome or unwanted sexual contact, intercourse, or assault
Additional Factors to Consider

• A single incident may or may not constitute harassment

• Subjective and objective elements
  – What is offensive to one person may not be offensive to another
  – Conduct that was acceptable at one time may become unacceptable later

• Particular care must be given to interactions with minors
COMPLAINT PROCESS
How Can You Address Harassment and Discrimination?

• Address the situation one-on-one
• If you do not feel comfortable addressing the situation one-on-one, you can submit a complaint to one of the identified contact people
Policy Contact Persons

• President Pro Tempore of the Senate
• Speaker of the House of Representatives
• Director of LSO
• Chief Operations Officer of LSO
• Director of OPE
Policy Contact Persons (cont’d)

• Assistant Chief Deputy of the Attorney General’s Office
• Secretary of the Senate
• Chief Clerk of the House of Representatives
• Sergeant at Arms or Assistant Sergeant at Arms
Complaint Resolution

• Contact person will refer the complaint to the Respectful Workplace Committee
• Resolution process will depend on allegations
• May be able to resolve informally
• May be referred for investigation
Complaint Resolution (cont’d)

• Committee will promptly notify Respondent that Complaint made and process to be used
• If an investigation is conducted, a written report will be prepared
• Investigator will share factual findings with Complainant and Respondent
• The Committee will determine whether a policy violation occurred
Complaint Resolution (cont’d)

• Any action taken by the Committee will be proportionate to the seriousness of the violation

• Potential actions may include:
  – An apology to the complainant
  – Direction to cease the offensive conduct
  – Training
  – Formal disciplinary action
  – Referral to the appropriate ethics body
OTHER POLICY ELEMENTS
Complaints Made in Bad Faith

• Complaints that are not made in good faith may subject the Complainant to the same remedies discussed previously

• Bad faith requires more than a finding that there was not enough evidence to substantiate a complaint

• Typically requires either willful misconduct, or recklessness coupled with an improper purpose
Retaliation is Prohibited

• Retaliation is prohibited against those who:
  – Made a complaint
  – Assisted or participated in a complaint investigation

• If you believe you have been retaliated against for one of these activities, report that to one of the previously mentioned contact persons
Recordkeeping and Training

• A record of the Complaint and a log of Complaints will be kept
  – Records are confidential personnel records

• All members and legislative employees will attend respectful workplace training no less than once every two years
  – Legislative partners are encouraged to attend the training after beginning activities in the Capitol
HOW DO YOU MAINTAIN AN ENVIRONMENT OF RESPECT?
Common Sense Research Finding

• The EEOC Task Force Found:

• Workplaces that tolerate harassment have more of it

• Workplaces that are not tolerant of harassment have less of it
A Respectful Dialogue Is Key

• Do not look the other way – let others know conduct is unwelcome
  • Do not attack or label someone
• Be willing to hear that feedback and commit to not becoming defensive
  • Respect that feedback and eliminate the objectionable behavior
• You may also lodge a complaint