

Respectful Workplace in the Idaho Legislature

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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 assaulting 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

Question and Answer