Tab 13

Legislature's Respectful Workplace Policy

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RESPECTFUL WORKPLACE POLICY OF THE IDAHO LEGISLATIVE BRANCH

A. THE IDAHO LEGISLATURE PROHIBITS WORKPLACE HARASSMENT

The Idaho Legislature is committed to creating and maintaining a respectful work environment for all members, legislative employees, legislative partners, the press, and guests testifying before committee or visiting the Capitol. Members, legislative employees and legislative partners have the right to an environment that is free from harassment and discrimination. The Idaho Legislature expressly prohibits harassment, including sexual harassment, and discrimination based on an individual's race, color, religion, sex, national origin, age, or disability. To that end, the Idaho Legislature, through this policy and by its actions, will strive to prevent, eliminate, and impede the recurrence of harassing and discriminatory behavior and retaliation against individuals who report, in good faith, violations of this policy. The Idaho Legislature will address with equal scrutiny those complaints that are found to be made in bad faith.

The Idaho Legislature emphasizes that all those to whom this policy applies are responsible for fostering and modeling respectful behavior in the Capitol and any other locations where legislative business is conducted. Likewise, all those to whom this policy applies have the personal and professional responsibility to maintain the confidentiality of any complaint reported and investigation conducted pursuant to this policy.

B. APPLICABILITY OF POLICY

This policy is applicable to all members of the Idaho Legislature, legislative employees, legislative interns and volunteers, and legislative partners in the course of conducting state business. The term "legislative partners" is defined in Section C of this policy. This policy does not apply to situations that only involve legislative partners. This policy also applies to any individual applying for a position as a legislative employee.

This policy applies to business conducted in the Capitol and to all events, locations, and times in which the member, legislative employee or legislative partner is acting in their official capacity. Examples of potential off-site events covered by this policy include, but are not limited to:

1. Legislative events
2. Lobbyist-sponsored receptions
3. Campaign and/or political party fundraisers
4. Off-site trainings
5. Travel to and from official events

Any complaints concerning alleged violations of this policy related to interactions with legislative partners or others sponsored to serve in the Capitol by an outside organization will be assessed under this policy and also under the policy of the legislative partners' sponsoring organizations. Outside organizations who employ legislative partners or sponsor individuals to serve in the Capitol are encouraged to develop their own Respectful Workplace policies that set

forth standards and expectations for professional behavior. Outside organizations who do business or otherwise sponsor individuals to serve in the Capitol may be asked for a copy of the organization's Respectful Workplace policy or its equivalent.

C. GENERAL DEFINITIONS

1. "Legislative employee" includes employees of the Legislature, the Legislative Services Office or the Office of Performance Evaluations; and Legislative pages.

2. "Member" means a member of the Idaho Legislature.

3. "Legislative Partner" includes, but is not limited to, lobbyists, representatives of state agencies, members of the media, and other individuals conducting business in the Capitol or conducting business with the Senate, the House of Representatives, the Legislative Services Office, or the Office of Performance Evaluations.

4. "Respectful Workplace Committee" is comprised of the Pro Tempore of the Senate, the Speaker of the House, and the Director of the Legislative Services Office, or their respective designees. Both males and females shall be represented on the committee. The Committee may choose to add a member to ensure that both males and females are represented when considering a complaint.

5. "Protected Status" as used in this policy means race, color, religion, sex, national origin, age, and/or disability.

6. "Complainant" shall mean the person who has submitted a complaint under Section J of this policy.

7. "Respondent" shall mean the person alleged to have violated this policy and against whom a complaint has been made.

8. "Day" shall mean one calendar day, holidays and weekends excluded.

9. "Investigator" shall mean an individual appointed by the Assistant Chief Deputy of the Idaho Attorney General's Office, or other independent party retained by the Respectful Workplace Committee, to review and investigate, as necessary, complaints alleging violation(s) of this policy.

D. WORKPLACE HARASSMENT IS PROHIBITED

Workplace harassment is prohibited. Workplace harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information 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.

Sexual harassment is prohibited. Sexual harassment includes unwelcome sexual advances or requests for sexual favors. Other verbal, nonverbal, or physical conduct 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;

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.

Prohibited harassment includes harassment based on any other protected status. Workplace harassment may include, but is not limited to: offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Petty slights, annoyances, and isolated incidents (unless extremely serious) do not constitute workplace harassment.

The following are several examples of conduct that may constitute workplace harassment:

1. Verbal

    a. Discussing sexual topics in the workplace, such as sexual practices or preferences or telling sexual jokes or stories; or

    b. Voicing opinions or assumptions that an employee is or is not capable of certain tasks due to his/her protected status; or

   c. Using slang terms or assigning a nickname to another individual based on or related to the individual's protected status.

2. Nonverbal

   a. Making gestures to mimic an individual's disability or other protected status; or

   b. Posting offensive pictures or phrases; or

   c. Forwarding emails that contain offensive pictures or language.

3. Physical

   a. Pushing, shoving, or assaulting another individual; or

   b. Unwanted or unwelcome kissing, touching, or brushing of another's body; or

   c. Unwanted or unwelcome sexual contact, intercourse, or sexual assault.

The above examples 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:

1. A single incident may or may not constitute harassment;

2. Whether a particular action is harassment will depend on the facts, and determinations will be made on a case-by-case basis;

3. Conduct or communications that might be offensive to one person may not be offensive to another person;

4. Conduct or communications that might have been acceptable between two individuals at one time may become unacceptable at a later time;

5. Working within the legislative environment often includes interactions with minors. Adults must take particular care to avoid behavior that could violate this policy or otherwise be construed as inappropriate.

E. COMPLAINTS REGARDING WORKPLACE HARASSMENT

Anyone who believes he or she has been subject to or otherwise witnessed workplace harassment prohibited by this policy is encouraged to address the matter directly with the perpetrator. If, for whatever reason, the person does not feel comfortable directly addressing the matter with the perpetrator, the person should submit a complaint directly to one of the appropriate contact persons identified below:

1. The President Pro Tempore of the Senate; or
2. The Speaker of the House of Representatives; or
3. The Director of the Legislative Services Office; or
4. The Chief Operations Officer of the Legislative Services Office; or
5. The Director of the Office of Performance Evaluations; or
6. The Assistant Chief Deputy of the Idaho Attorney General's Office; or
7. The Secretary of the Senate; or
8. The Chief Clerk of the House of Representatives; or
9. The Sergeant at Arms or Assistant Sergeant at Arms.

Pages and interns are encouraged to report any concerning behavior to one of the above individuals.

F. RETALIATION PROHIBITED

Retaliation is strictly prohibited against individuals because they complained of workplace harassment or assisted or participated in an investigation of alleged workplace harassment. Any person who believes 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 one of the contact persons identified above in section E.

G. RECORDKEEPING

When a respectful workplace complaint is made, the Respectful Workplace Committee shall create a personnel file titled "complaint file" under the complainant's name, to be kept separately and apart from the main personnel file. The Committee shall also create a complaint log with the following information for each complaint: the date of the complaint, the name(s) of the Complainant(s), and the name(s) of the Accused.

Except as otherwise specifically stated in this policy, the records in the workplace harassment personnel file are confidential. Records of respectful workplace complaints and investigations maintained pursuant to this policy are not subject to public inspection. Such records shall be retained for three years following termination of employment or service.

H. CONFIDENTIALITY AND PUBLIC DISCLOSURE

Complaints filed under this policy, and all information pertaining to the investigation, outcome, and complaint, shall be considered confidential personnel records and shall be exempt from disclosure under the Idaho Public Records Law, Idaho Code § 74-106(1) as provided for by law, except as follows:

1. When the person, or persons, against whom the complaint is filed consents in writing to disclosure;

2. When compelled by a court of appropriate jurisdiction to release such information.

Depending on the circumstances of the complaint, investigation, and proceedings, other exemptions provided for by law may exempt information that may otherwise be disclosed as provided above.

I. RESOLUTION OF A WORKPLACE HARASSMENT COMPLAINT

All complaints will be processed promptly and fairly in the following manner:

1. Upon receipt of a complaint, the contact person identified in Section E above may consult with the Office of the Attorney General or any member of the Respectful Workplace Committee, who include the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Director of Legislative Services, or their respective designees, to resolve the complaint. If, after consultation, it is determined that an investigation may be in order, the contact person shall notify all members of the Respectful Workplace Committee of that determination.

2. Promptly after receiving the complaint and determination that an investigation may be in order, the Respectful Workplace Committee may consult with the Office of the 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. The Office of the Attorney General will advise the Committee if it believes the complaint should be referred to law enforcement authorities for a criminal investigation.

3. After determining what measure should be taken in response to the complaint, the Committee will promptly notify the Respondent of the fact a complaint has been made, and will advise both the Complainant and the Respondent of the process that will be utilized in response to the complaint. If the Committee determines the

complaint does not state a violation of the policy, the Committee will promptly communicate that conclusion to the Complainant and the Respondent.

4. If the Respectful Workplace Committee determines an investigation should be conducted, the Committee may request an investigator to investigate or direct the investigation of the complaint. If so requested, the investigator shall promptly commence the investigation, and a written report shall be prepared concerning the investigator's factual findings and conclusions as to whether the conduct at issue violated this policy.

5. Any investigation report that may be prepared will be provided to the members of the Respectful Workplace Committee. The members of the Respectful Workplace Committee may consult with the Office of the Attorney General, which will provide the Committee with legal advice concerning the investigation and any potential actions to be taken in response to the investigation. In the event a formal investigation is not conducted because the Committee determined a lesser level of review would suffice, the members of the Respectful Workplace Committee may consult with the Office of the Attorney General, which will provide the Committee with legal advice concerning the results of the review and any potential actions to be taken in response to the review.

6. Any actions the Committee determines should be taken will be assessed proportionate to the seriousness of the violation. 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. In the event the Committee determines it is appropriate to refer the matter to the ethics committee of the appropriate body, the Committee may provide any investigation report prepared on the matter to the appropriate ethics body for its review. The investigation report will remain a confidential record in accordance with the rules of the respective legislative body. For employees, interns, and volunteers, in addition to the above, actions may also include corrective action, up to and including termination. For legislative partners, in addition to the above, actions may also include limitation of access and/or privileges within the State Capitol.

7. Following the conclusion of any investigation, the Investigator will meet separately with the Complainant and the Respondent to advise of the Investigator's factual findings. This meeting is not an opportunity to argue with the Investigator, but instead for both the Complainant and the Respondent to be notified: that the investigation

has been concluded, of the factual findings, and to know that any investigation report has been provided to the Respectful Workplace Committee.

J. MANDATORY TRAINING

All members, legislative employees and legislative partners shall attend respectful workplace training no less than once every two years. The training provided will be recorded and new members and legislative employees are required to view the training video after appointment, hire, or beginning activities in the State Capitol. Legislative partners are encouraged to attend the training after beginning activities in the State Capitol and are encouraged to attend the training provided thereafter. Each attendee will verify attendance or viewing by signing an acknowledgment that they attended or viewed the training. The training content shall be approved by the Respectful Workplace Committee.

K. COMPLAINTS NOT MADE IN GOOD FAITH

Complaints alleging violations of this policy that are not made in good faith may subject the Complainant to those remedies outlined in paragraph I of this policy. If the Respectful Workplace Committee, after consulting with the Office of the Attorney General, determines that the complaint was not made in good faith, the Committee shall determine what action, if any, should be taken against the Complainant.