

Maryland General Assembly

Department of Legislative Services

Anti-Harassment Policy and Procedures

I. Statement of General Assembly Policy

The Maryland General Assembly and the Department of Legislative Services are committed to creating and maintaining a work environment in which all employees and non-employees that interact with the General Assembly and the Department of Legislative Services, including interns, and pages, lobbyists and reporters are treated with respect **and are** free from unlawful discrimination and harassment. It is the policy of the Maryland General Assembly and the Department of Legislative Services that harassment based on an individual's race, color, religion, gender, gender identity, sexual orientation, national origin, age, disability, marital status, citizenship, sex, or any other characteristic protected by law is prohibited.

A. Workplace Harassment Prohibited

Workplace harassment means any harassment based on any characteristic protected by law and has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. While workplace harassment includes sexual harassment, sexual harassment raises issues that are to some extent unique in comparison to other types of workplace harassment and is further emphasized in section B. of this policy.

B. Sexual Harassment Prohibited

Sexual harassment is a form of sex discrimination that could violate federal and State law, as well as the United States and Maryland Constitutions. Sexual harassment is illegal and is in conflict with the personnel practices and public policies of the State of Maryland. Sexual harassment by a member or employee of the Maryland General Assembly or an employee of the Department of Legislative Services is prohibited and will not be tolerated.

Sexual harassment, for the purpose of this policy, is defined as unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical contact of a sexual nature, or conduct which is directed at an individual because of that individual's sex, for example:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting an individual; or
- 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,

which is perceived by the individual to be abusive or hostile, even if the reporting individual is not the intended target of the sexual harassment.

Sexual harassment may include a range of subtle or overt behaviors and may involve individuals of the same or a different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; leering, whistling, or touching; 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.

II. Scope of Policy

This policy applies to members of the General Assembly and all regular, full-time, part-time, temporary and contractual employees of the legislative branch, as well as interns and pages assigned to the Maryland General Assembly or the Department of Legislative Services.

III. Procedures for Reporting, Investigating and Resolving Harassment Incidents

A. Reporting Incidents

Early reporting and intervention are most effective in resolving actual or perceived incidents of harassment, regardless of the offender's identity or position. Therefore, the Maryland General Assembly encourages individuals who believe they have been subjected to or have witnessed discrimination, harassment, or retaliation to promptly advise the offender that the behavior is unwelcome and request that it be discontinued. Often this action alone will resolve the problem. The Maryland General Assembly recognizes, however, that an individual may prefer not to address the alleged offender directly. If, for any reason, an individual does not wish to address the offender directly, or if such action does not successfully end the offensive conduct, the individual should promptly report the incident.

The Maryland General Assembly encourages the prompt and good-faith reporting of incidents or concerns so that rapid and constructive action can be taken before relationships become irreparably strained and before offensive conduct continues or escalates. Individuals who believe that they have been exposed to or witnessed prohibited conduct should discuss their concerns with a supervisor, an office director of the Department of Legislative Services, the legislature's Human Resources Manager, the Executive Director of the Department of Legislative Services, the Administrative Assistant to either Presiding Officer, the Chief of Staff for the President of the Senate, or the Chief of Staff for the Speaker of the House.

Except for a complaint filed with the Joint Committee on Legislative Ethics, reports of prohibited conduct may be made verbally or in writing.

A complaint that a member of the General Assembly has engaged in prohibited conduct may also be filed directly with the Joint Committee on Legislative Ethics. The process and procedures for a complaint filed with or referred to the Joint Committee on Legislative Ethics are outlined in the Maryland General Assembly Joint Committee on Legislative Ethics Workplace Harassment Complaint Policy and Procedures.

Retaliation is prohibited. No individual covered by this Policy may be subject to adverse employment action, including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the individual reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. Actions taken in retaliation constitute a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action. An individual making a report will be advised of the prohibition against retaliation at the time the individual makes the report. As appropriate, remedial measures will be discussed with the individual who made a report.

B. Investigation

Except for a complaint filed with the Joint Committee on Legislative Ethics, if the problem is not resolved informally to the satisfaction of the individual who made the report, the Human Resources Manager will conduct an investigation of the report within 30 days of the complaint. The Presiding Officer for the relevant chamber of a member who is the subject of an investigation shall be advised of requests for interim remedial measures and steps taken to prevent interference and retaliation during the investigation. Any person making a report or investigating a report may request an interim remedial measure.

All information will be maintained on a confidential basis to the greatest extent possible. Only those who need to know in order to accomplish the purpose of the investigation will be provided with the identity of the complainant and the allegations. All parties, including the complainant and the alleged harasser, contacted in the course of an investigation will be advised of the necessity of confidentiality and that any breach of confidentiality will be treated as misconduct subject to disciplinary action.

C. Resolution

If the investigation supports a finding of a violation of this policy, prompt and effective remedial action will be taken. Responsive action for a non-legislator may include, but is not limited to, warning, reprimand, training, referral to counseling, disciplinary action as the department or the Presiding Officers determine appropriate under the circumstances, withholding of a promotion or pay increase, reassignment, temporary suspension without pay, or termination.

For constitutional reasons, disciplinary action for a legislator may include warning, reprimand, reassignment, expulsion, or other punishment in accordance with Article III, Section 19 of the Maryland Constitution, including referral for further investigation by the Joint Committee on Legislative Ethics.

If the investigation does not support a finding that this policy has been violated, the individual making the complaint and the individual against whom the allegation was made will be

advised of the determination. Both individuals will be advised that retaliation for making or participating in the investigation of the complaint is prohibited.

D. Appeal

If a Department of Legislative Service's employee involved in the reported incident does not agree with its resolution, that party may appeal by initiating a grievance at Step III in accordance with the grievance procedures as described in the Personnel Guidelines for the Department of Legislative Services adopted by the Legislative Policy Committee.

If a General Assembly member or employee is involved in the reported incident under this policy does not agree with its resolution, that party may appeal to the appropriate Presiding Officer within 10 days of receiving notice about resolution of the complaint. Within 45 days, the presiding officer or designee will render a decision on the appeal.

IV. Anti-Harassment and Discrimination Training and Education

Beginning in 2019, and every two years thereafter, the Department of Legislative Services will conduct a climate survey of members and employees of the General Assembly and the Department of Legislative Services related to discrimination and harassment issues in the legislative branch of State government. The Department of Legislative Services will issue a report on the survey on or before October 1 of the year in which the survey is conducted.

The Department of Legislative Services will arrange for an education and training program on sexual harassment and discrimination prevention for all members and employees that meets or exceeds the requirements of State law. Legislators must receive training at the beginning of the term and two years into the term. Legislators appointed during the term will receive individualized training. Training will be specialized to members and to staff, and must occur in-person, and may not occur online.

Training for supervisory and managerial employees will address their specific responsibilities as well as the steps that such employees should take to ensure immediate and appropriate corrective action in addressing harassment complaints. Additionally, training will be provided for all authorized recipients of reports. Human Resources will undertake educational and outreach activities to further educate members and staff about harassment, discrimination, and these policies and procedures.

V. Policy Summary

This policy reflects the strong commitment of the Maryland General Assembly and the Department of Legislative Services to providing its members and employees with an environment free from unlawful discrimination, including sexual harassment, and from retaliation for exercising rights under this policy. The General Assembly and the Department are committed to investigating complaints of discrimination, harassment, and retaliation promptly and thoroughly, regardless of who brings them or against whom they are brought.

The Human Resources Manager shall report annually to the Legislative Policy Committee the number of incident reports made each year, by type of workplace harassment and resolution.

**To report violations or if you have any questions about this policy,
see or call any of the following persons:**

Jake Weissmann

Chief of Staff, President of the Senate
(410) 841-3700

Alexandra Hughes

Chief of Staff, Speaker of the House
(410) 841-3800

Joy Walker

Administrative Assistant to the Senate President
(410) 841-3700

Jeremy Baker

Senior Advisor, Speaker of the House
(410) 841-3800

Victoria L. Gruber

Executive Director, Dept. of Legislative Services
(410) 946-5500

Ryan Bishop

Director of Policy Analysis
(410) 946-5200

Lori L. Mathis

Director, Ofc of Operations and Support Services
(410) 946-5120

Bridget M. Wicklein

Human Resources Manager
(410) 946-5120

Michelle L. Davis

Diversity, Equity and Opportunity Officer
(410) 946-5215

Jackie Blocher-Moran

OLA – Dir of Quality Assurance and
Professional Dev, (410) 946-5921

Joint Committee on Legislative Ethics

(410) 946-5200

VI. State and Federal Remedies for Employees

In addition to the above, if an individual believes the individual has been subjected to unlawful discrimination or harassment, the individual may file a formal complaint with one of the governmental agencies set forth below. **Using the legislature’s complaint process does not prohibit an individual from filing a complaint with one of these agencies. Each of the agencies has a time period for filing a claim of the alleged unlawful incident: (EEOC: 300 days; MCCR: 6 months).**

US Equal Employment Opportunity Commission - <https://www.eeoc.gov/>

Maryland Commission on Civil Rights - <http://mccr.maryland.gov/Pages/Intake.aspx>

12/12/19

Maryland General Assembly
Joint Committee on Legislative Ethics
Workplace Harassment Complaint Policy and Procedures

A. Workplace Harassment Complaint

- a. Under the policy of the Maryland General Assembly and consistent with Title 5, Subtitle 5 of the General Provisions Article, a person may file a complaint directly with the Joint Committee on Legislative Ethics alleging that a legislator has violated the Maryland General Assembly Anti-Harassment Policy and Procedures, including allegations that a legislator has retaliated against an individual for reporting or participating in an investigation of a violation of the Anti-Harassment Policy and Procedures.
- b. Filing a Complaint
 - i. Any person may file a complaint alleging that a legislator has violated the Anti-Harassment Policy with the Joint Committee on Legislative Ethics. The complaint should be signed and in writing.
 - ii. In addition, the Joint Committee may initiate a complaint alleging a violation on its own motion.
 - iii. Finally, a Presiding Officer of the General Assembly may refer a matter to the Joint Committee.
- c. An alleged victim, a complainant, witness, and the legislator who is the subject of the complaint may be represented by counsel at any stage of the Joint Committee's activities related to a complaint.
- d. With limited exceptions, § 5-517 of the General Provisions Article requires that matters before the Joint Committee remain confidential. This restriction applies to members of the Joint Committee, its staff, and any outside investigator retained by the Joint Committee.

B. Preliminary Evaluation

- a. As required by §§ 5-516 and 5-517(c) of the General Provisions Article, the Joint Committee must provide a copy of the complaint to the Presiding Officer of the accused legislator's chamber of the General Assembly and to the legislature's Human Resources Manager. The Presiding Officers are ex officio members of the Joint Committee.
- b. Unless the alleged victim objects, the Joint Committee must refer the complaint to an outside and independent investigator for evaluation. If the alleged victim objects, Joint Committee staff will conduct the investigation.

- c. After conducting the preliminary evaluation of the complaint, the outside investigator must submit the investigator's findings and recommendations to the Joint Committee. The Joint Committee may dismiss the complaint at this stage if:
 - i. the outside investigator recommends dismissal; or
 - ii. the alleged victim objects to the use of an outside investigator and, after review of the preliminary evaluation conducted by Joint Committee staff, the Joint Committee determines that further proceedings are not warranted.

C. Investigation

- a. If the Joint Committee does not dismiss a complaint after the preliminary evaluation:
 - i. the outside investigator will conduct a full investigation; or
 - ii. if the alleged victim objects to the use of an outside investigator, Joint Committee staff will conduct a full investigation.
- b. Upon completion of the investigation, the outside investigator will submit findings and recommendations to the Joint Committee, which may include recommendations that the Joint Committee conduct further proceedings or dismiss the complaint. The Joint Committee will advise the complainant of the findings and recommendations of the outside investigator.
- c. If Joint Committee staff conducts the investigation, Joint Committee staff will present a report on the investigation to the Joint Committee.

D. Joint Committee Actions

- a. The Joint Committee will review the investigation report.
- b. If the Joint Committee decides that further proceedings are not necessary, the Joint Committee may counsel the legislator who is the subject of a complaint, make recommendations to the appropriate Presiding Officer, or dismiss the complaint. If the Joint Committee dismisses the complaint, the Joint Committee will advise the complainant, the accused legislator, the Presiding Officer of the accused legislator's chamber, and the legislature's Human Resources Manager.
- c. The Joint Committee may conduct further proceedings, including a hearing, in accordance with Title 5, Subtitle 5 of the General Provisions Article and the Joint Committee's Investigative Procedures.
 - i. The Joint Committee and the legislator who is the subject of the complaint may call witnesses to provide testimony at the hearing. The Joint Committee may consider relevant documents and evidence at the

hearing. The legislator who is the subject of the complaint may present documents and evidence at the hearing.

E. Final Committee Action

- a. After a hearing, the Joint Committee will make findings and recommendations.
- b. In accordance with § 5-518 of the General Provision Article, the Joint Committee may:
 - i. issue recommendations, including any recommendations for appropriate sanctions, to the Presiding Officer or the full membership of the accused legislator's chamber; or
 - ii. dismiss the complaint if no finding is made.
- c. After the Joint Committee concludes its activities, the committee will advise the complainant, the relevant Presiding Officer, the legislator who is the subject of the complaint, and the legislature's Human Resources Manager of its actions.