

# NORTH DAKOTA LEGISLATIVE COUNCIL POLICY AGAINST WORKPLACE HARASSMENT

## WORKPLACE HARASSMENT STATEMENT

It is the policy of the Legislative Council to create and maintain an environment in which all legislators, legislative employees, Legislative Council employees, interns, and third parties are treated with dignity and respect. Legislative Council employees and interns have the right to an environment free from workplace harassment, both subtle and overt. The Legislative Council strives to eliminate all workplace harassment that employees and others may encounter.

## APPLICABILITY

This policy applies to employees and interns of the Legislative Council. The individuals subject to this policy are expected to comply with this policy and take appropriate measures to ensure the prohibited conduct does not occur.

## DEFINITIONS

1. "Contact person" means:
  - a. The Director of the Legislative Council or a designee of the opposite gender;
  - b. The Legal Division Director or a designee of the opposite gender;
  - c. The Legislative Budget Analyst and Auditor or a designee of the opposite gender;
  - d. The Administrative Services Division Director or a designee of the opposite gender; and
  - e. The intern coordinator.
2. "Intern" means a student employed or otherwise engaged for a proscribed time period as part of an internship at the Legislative Council.
3. "Investigator" means a neutral individual with appropriate knowledge or experience designated by the Director of the Legislative Council or, if the Director of the Legislative Council is the subject of the complaint, by the contact person who received the complaint.
4. "Legislative Council employee" means an employee, including a temporary employee, of the Legislative Council.
5. "Sexual harassment" includes harassment based on sex or sexual orientation and consists of unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature when:
  - a. Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - b. Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual; or
  - c. The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
6. "Workplace harassment" includes sexual harassment or harassment based on disability, race, creed, color, religion, age, national origin, military status, genetic information, or ancestry, including verbal or physical behavior or conduct, which denigrates or shows hostility or aversion toward an individual because of that individual's disability, race, creed, color, sex, sexual orientation, religion, age, national origin, military status, genetic information, or ancestry or which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

## COMPLAINTS

1. A Legislative Council employee or intern who believes he or she has been subjected to any type of workplace harassment is encouraged to report the conduct to an appropriate contact person as soon as possible. The complaint may be verbal or in writing and should specifically describe the conduct. If the complaint is not in writing, the contact person receiving the complaint shall create a written record describing the circumstances comprising the complaint. The contact person shall complete the intake requirements in the [Checklist for Intake and Investigations Under the North Dakota Legislative Council Policy Against Workplace Harassment](#) and refer the written complaint or written record of the complaint to an investigator. The investigator shall complete the investigation requirements in the [Checklist for Intake and Investigations](#)

*Under the North Dakota Legislative Council Policy Against Workplace Harassment*, including conducting investigation requirements in the checklist for an investigation and preparing findings of fact and recommendations for resolution of the complaint within 25 calendar days of receipt of the complaint by the contact person. The contact person may grant extensions of the 25-day deadline as reasonably necessary, but in no case may the contact person, review panel, and investigator take more than 75 calendar days to complete the checklist. The investigator shall inform both the complainant and the individual accused of the outcome of the investigation and the recommendations for resolution.

2. The Legislative Council is responsible for the cost of an investigator hired pursuant to this policy.
3. This policy does not require an individual accused of workplace harassment to involuntarily provide any facts, information, or evidence in response to an investigation of a complaint or to involuntarily sign a written statement or confession.

## **RESOLUTION OF A WORKPLACE HARASSMENT COMPLAINT**

If an investigation results in a determination this policy has been violated, appropriate disciplinary action will follow. As a general rule, remedies must be assessed proportionate to the seriousness of the violation. Remedies may include an apology, direction to stop the offensive conduct, counseling or training, verbal warning, written warning, suspension, demotion, termination, and referral for criminal prosecution.

## **CONFIDENTIALITY**

Any record pertaining to a complaint or investigation of workplace harassment against public employees is an exempt record under North Dakota Century Code Section 44-04-18.1 until the investigation is complete but no longer than 75 calendar days from the date the complaint was made. For the purposes of this policy, a public employee includes a Legislative Council employee and an intern. While the records relating to a complaint are exempt, a contact person and an investigator may share information relating to a complaint or investigation only with an individual who has a legitimate need to know the information to perform legislative work duties or participate in the investigation. Except as necessary to perform the work duties or participate in an investigation, employees and interns of the Legislative Council may not disclose information received regarding a complaint or investigation as long as records pertaining to the complaint or investigation are exempt. Any disclosure allowed under this provision during that period is limited to the minimum information necessary. Any request for records pertaining to a complaint or investigation of workplace harassment must be forwarded to the Director or the Legal Division Director of the Legislative Council.

## **EVIDENTIARY STANDARDS**

Disciplinary action must be taken if the evidence, when viewed from the perspective of a reasonable individual with the same disability, or of the same race, creed, color, sex, sexual orientation, religion, age, national origin, military status, genetic information, or ancestry as the complainant, supports the claim of the complainant.

## **RETALIATION**

1. It is prohibited to subject an individual to any coercion, intimidation, retaliation, interference, or discrimination for having complained of workplace harassment or for having assisted or participated in an investigation of alleged workplace harassment. An individual found to be in violation of this prohibition is subject to appropriate disciplinary action that may include counseling or training, verbal warning, written warning, suspension, demotion, and termination.
2. An individual who believes he or she may have been the subject of coercion, intimidation, retaliation, interference, or discrimination for having complained of workplace harassment or for having assisted or participated in an investigation related to an allegation of workplace harassment is encouraged to report that information to a contact person.

## **FALSE COMPLAINT**

Any complaint of workplace harassment found to be intentionally or recklessly dishonest or malicious will not be tolerated. A Legislative Council employee or intern who files a complaint found to be intentionally or recklessly dishonest or malicious is subject to appropriate disciplinary action.

## **TRAINING**

At least once each year, the Legislative Council shall conduct or arrange to conduct mandatory classes and training sessions regarding workplace harassment for employees. Interns must receive training on workplace harassment at the beginning of their internships.