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Minnesota House of Representatives

POLICY AGAINST

DISCRIMINATION AND HARASSMENT

Adopted by the House Committee on Rules and
Legislative Administration,
Approved February 21, 2001
Revised June 4, 2008

This policy replaces previous
sexual harassment policies applicable to the
Minnesota House of Representatives.

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Introduction

The Minnesota House of Representatives seeks a safe and respectful work environment in which all members of the community can thrive. As part of that goal, the House of Representatives is committed to creating and maintaining a work environment in which all members and employees are treated with respect and are free from discrimination and harassment. To this end, discrimination or harassment by a member or employee of the House of Representatives is prohibited, and the House of Representatives commits to combat harassment or discrimination by and against its members and employees when interacting, in the course of their legislative work, with third parties, such as senators, other legislative employees, visitors, constituents, press persons, lobbyists, service persons, state employees employed by other branches of government, or members of the public.

The goal of this policy is to ~~ensure that all complaints of discrimination and harassment will be promptly, thoroughly, and respectfully handled~~ eliminate harassment and discrimination from the House of Representatives work environment by handling all reports and complaints of harassment or discrimination promptly, thoroughly, and respectfully.

▶ ~~Reporting and investigative procedures are designed to encourage members and employees to report what they believe to be discrimination or harassment~~ The House of Representatives encourages members, employees, and others to report any behavior they believe to be discrimination or harassment.

▶ The House of Representatives will handle reports, complaints, investigations, and resolutions ~~will be handled~~ as discreetly as possible, with information being shared only

2.1 with those who have a need to know and as may be required by the House of Representatives'
2.2 obligation to comply with the law.

2.3 ▶ ~~Retaliation will not be tolerated~~ The House of Representatives will not tolerate
2.4 retaliation, in any form, against any person who complains, reports, or testifies about
2.5 discrimination or harassment, or participates in an investigation of a discrimination or
2.6 harassment complaint.

2.7 ▶ ~~Appropriate disciplinary action will follow~~ The House of Representatives will impose
2.8 discipline under this policy when appropriate.

2.9 All those involved in the legislative process have a responsibility to contribute to a safe and
2.10 respectful work environment. The Minnesota House of Representatives encourages, expects,
2.11 and appreciates cooperation in implementing this policy.

2.12 **Scope of this Policy, Applicability, and Definitions**

2.13 ~~This policy seeks to help ensure compliance with federal and state discrimination and~~
2.14 ~~harassment laws; nothing in this policy shall be construed to guarantee members and~~
2.15 ~~employees greater protection than the protection provided under these laws. This policy is~~
2.16 ~~not intended to create, nor is it to be construed to constitute, a contract with any employee~~
2.17 ~~or employees.~~

2.18 This policy applies to all members and employees in the Minnesota House of Representatives
2.19 and includes all legislative facilities. This policy also covers the interaction of members
2.20 and employees away from the Capitol Complex during any activity that involves legislative
2.21 business.

2.22 In addition, the House of Representatives intends this policy to combat discriminatory and
2.23 harassing behavior by and against members and employees in encounters during the course
2.24 of their work with third parties, such as senators, other legislative employees, visitors,
2.25 constituents, press persons, lobbyists, service persons, state employees employed by other
2.26 branches of government, or any other member of the public. The House of Representatives
2.27 recognizes that it has limited power to compel third parties to participate in investigations
2.28 or discipline third parties for harassment and discrimination, but, the House will investigate
2.29 reports and complaints involving third parties to the best of its ability and will take reasonable
2.30 action within its power to stop harassment and discrimination by or against members or
2.31 employees in the course of their work with third parties.

2.32 **MEMBERS** - The term "members" means any representative of the Minnesota House of
2.33 Representatives.

3.1 **EMPLOYEES** - The term "employee" means any permanent, full time, part time, or
3.2 temporary employee (~~including interns~~), or any other employee of the Minnesota House of
3.3 Representatives, and includes House of Representative interns and high school pages.

3.4 ~~This policy also covers the interaction of members and employees away from the Capitol~~
3.5 ~~Complex at legislative sponsored events, professional meetings or seminars, and those~~
3.6 ~~activities which involve legislative business.~~

3.7 ~~In addition, this policy is designed to eliminate discriminatory and harassing behavior by~~
3.8 ~~and against members and employees in encounters during the course of their work with~~
3.9 ~~third parties, such as senators, other legislative employees, visitors, constituents, press~~
3.10 ~~persons, lobbyists, service persons, or state employees employed by other branches of~~
3.11 ~~government.~~

3.12 This policy is not intended to create, nor is it to be construed to constitute, a contract with
3.13 any employee or employees.

3.14 **Protected Characteristics**

3.15 Under this policy, protected characteristics include those characteristics covered by Title
3.16 VII of the Civil Rights Act of 1964, and/or the Minnesota Human Rights Act, as follows:

3.17 ► race;

3.18 ► color;

3.19 ► national origin;

3.20 ► sex, including pregnancy;

3.21 ► marital status;

3.22 ► familial status;

3.23 ► religion;

3.24 ► creed;

3.25 ► sexual orientation;

3.26 ► age;

3.27 ► disability;

3.28 ► status with regard to public assistance; and

3.29 ► membership or activity in a human rights commission.

4.1 **Discrimination**

4.2 Discrimination is to treat a person differently based upon a person's protected characteristic,
4.3 with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or
4.4 privileges of employment, except when based on a bona fide occupational qualification.

4.5 **Harassment**

4.6 Harassment is unwelcome behavior (~~comments or conduct~~), through words or other actions,
4.7 that is based on a person's protected characteristic that interferes with job performance; or
4.8 creates an intimidating, hostile, or offensive work environment; or when submission to such
4.9 conduct is either a condition of employment or a basis for an employment decision.

4.10 Harassment may include, but is not limited to, the following forms:

4.11 1. Repeated disparaging, belittling, demeaning, insulting names or remarks, or any other
4.12 use of language implying inferiority due to a protected characteristic.

4.13 2. Repeated jokes about an employee or characteristic unique to an employee that relates
4.14 to a protected characteristic.

4.15 3. Sabotage of an employee's character, reputation, work efforts, or property based upon
4.16 a protected characteristic.

4.17 4. Display or circulation of written materials or pictures degrading or offensive to a
4.18 protected characteristic.

4.19 5. Kidding or abuse related to a protected characteristic.

4.20 **Sexual Harassment**

4.21 Sexual harassment is a form of sex discrimination. One of the ~~key~~ elements of sexual
4.22 harassment is that the behavior is ~~UNWELCOME~~ unwelcome. Sexual conduct or
4.23 communications that might be welcome to you may be unwelcome to another. Sexual
4.24 conduct or communications that might have been welcome between two individuals at one
4.25 time may become unwelcome at a later time. Whether the conduct or communications are
4.26 unwelcome depends on the total circumstances.

4.27 **The Minnesota Human Rights Act defines sexual harassment as follows.**

4.28 "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors,
4.29 sexually motivated physical contact or other verbal or physical conduct or communication
4.30 of a sexual nature when:

5.1 1) submission to that conduct or communication is made a term or condition, either
 5.2 explicitly or implicitly, of obtaining employment, public accommodations or public services,
 5.3 education, or housing;

5.4 2) submission to or rejection of that conduct or communication by an individual is used
 5.5 as a factor in decisions affecting that individual's employment, public accommodations or
 5.6 public services, education, or housing; or

5.7 3) that conduct or communication has the purpose or effect of substantially interfering
 5.8 with an individual's employment, public accommodations or public services, education, or
 5.9 housing, or creating an intimidating, hostile, or offensive employment, public
 5.10 accommodations, public services, educational, or housing environment.

5.11 **Minnesota Statutes, Section 363A.03, subdivision 43.**

5.12 Under this policy, conduct or communication need not be severe or pervasive to create an
 5.13 intimidating, hostile, or offensive work environment.

5.14 The following are examples of sexual conduct or communication ~~which, WHEN~~
 5.15 ~~UNWELCOME AND DEPENDING UPON THE TOTAL CIRCUMSTANCES,~~ that
 5.16 may constitute sexual harassment or sexually offensive behavior. Sexual harassment or
 5.17 sexually offensive behavior may include, but is not limited to, the following types of
 5.18 behavior:

5.19 **VERBAL**

5.20 ► unwelcome sexual comments, compliments, innuendos, or suggestions about one's
 5.21 clothing, body, or sexual activity

5.22 ► turning work discussions into sexual topics, such as sexual practices or preferences,
 5.23 or telling sexual jokes or stories

5.24 ► requesting or demanding sexual favors or suggesting that there is any connection
 5.25 between sexual behavior and any term or condition of employment, whether that connection
 5.26 be positive or negative

5.27 ► use of obscene or sexual words or phrases or the use of ~~unwelcome~~ words such as
 5.28 "sweetheart," "stud," "honey," "babe," or "hunk"

5.29 **NON VERBAL**

5.30 ► displaying sexually explicit pictures or objects in the work area

5.31 ► giving personal gifts of a sexual nature

6.1 ► making sexually suggestive facial expressions or gestures

6.2 ► making unwelcome visits to a member's or employee's home or hotel room

6.3 **PHYSICAL**

6.4 ► kissing, or touching, patting, pinching, or brushing against a person's body

6.5 ► sexual contact, intercourse, or assault

6.6 **Retaliation**

6.7 The House of Representatives will not tolerate retaliation, whether verbal, non verbal, or
6.8 physical, as a consequence of engaging in protected conduct, and complaints of retaliation
6.9 will be vigorously pursued.

6.10 Retaliation is any job-related adverse action or materially adverse action against a member
6.11 or employee who has engaged in protected conduct. Protected conduct includes:

6.12 ► opposing discrimination or harassment in the workplace;

6.13 ► complaining of or reporting an incident of discrimination or harassment;

6.14 ► participating in any investigation;

6.15 ► testifying in any proceeding relating to a discrimination, harassment, or retaliation
6.16 complaint; or

6.17 ► associating with a person or group of persons who are disabled or who are of different
6.18 race, color, creed, religion, sexual orientation, or national origin.

6.19 Retaliation could include, but is not limited to, denial of a promotion, a demotion,
6.20 intimidation, harassment, or conduct by anyone in the workplace that could reasonably be
6.21 expected to have an adverse impact on an individual's performance. It also includes any
6.22 actions that could dissuade a reasonable employee from engaging in protected conduct.

6.23 If you believe you have experienced retaliation under this policy you should report the
6.24 situation to any House supervisor, the Speaker, Majority Leader, Minority Leader, House
6.25 Director of Human Resources, or House Employment Law Counsel.

6.26 **Responsibility to Address and Prevent Discrimination and Harassment**

6.27 Every member and employee in the Minnesota House of Representatives is responsible for
6.28 contributing to a safe and respectful workplace.

6.29 **House of Representatives Responsibility**

6.30 **THE MINNESOTA HOUSE OF REPRESENTATIVES** has a responsibility to:

7.1 ► publish and post its discrimination and harassment policy, in a manner that makes
7.2 the policy readily accessible to members of the public,

7.3 ► publish and post a list of supervisors and members to whom reports or complaints
7.4 of harassment and discrimination may be made,

7.5 ► inform all employees and members about the House of Representatives' discrimination
7.6 and harassment policy and procedures,

7.7 ► train supervisors, other employees, and members on their roles and responsibilities
7.8 in dealing with discrimination and harassment,

7.9 ► make certain that each individual who makes or recommends employment and other
7.10 personnel decisions is fully aware of, and complies with, this policy,

7.11 ► take disciplinary or other appropriate action within its authority against individuals
7.12 who fail to meet their obligations under this policy,

7.13 ► promote fair, efficient, and careful handling of all complaints, and

7.14 ► regularly review its discrimination and harassment policy and procedures.

7.15 **Supervisor Responsibility**

7.16 **SUPERVISORS have a responsibility to:**

7.17 ► promote a department working environment free from discrimination and harassment
7.18 and deal with discrimination and harassment when it is observed or reported,

7.19 ► respect the privacy as much as possible of all parties involved in a discrimination or
7.20 harassment concern or complaint,

7.21 ► engage in productive and respectful conversations about harassment and
7.22 discrimination, including discussion of confidentiality and the investigation process under
7.23 this policy,

7.24 ► promptly report discrimination or harassment, or reports or complaints of
7.25 discrimination or harassment to the House Director of Human Resources or House
7.26 Employment Law Counsel, and

7.27 ► participate in training on discrimination and harassment provided by the House of
7.28 Representatives.

8.1 **Member and Employee Responsibility**

8.2 **MEMBERS AND EMPLOYEES have a responsibility to:**

- 8.3 ▶ promptly report concerns or complaints,
- 8.4 ▶ participate in training,
- 8.5 ▶ cooperate with requests for information and data that will help a supervisor or
- 8.6 complaint handler carry out her or his responsibilities under these procedures, and
- 8.7 ▶ be sensitive to and eliminate discrimination and harassment in themselves and among
- 8.8 their peers.

8.9 **Dealing With Discrimination or Harassment**

8.10 **Concern, Report, or Complaint**

8.11 ~~If you believe you have experienced discrimination or harassment, or if you believe your~~
8.12 ~~complaint has resulted in retaliation towards you, report your complaint of~~ You should report
8.13 any concern about discrimination, harassment, or retaliation, whether directed at you or
8.14 someone else, to any House supervisor, the Speaker, Majority Leader, Minority Leader, or
8.15 Director of Human Resources. If you have a concern and are uncertain whether behavior
8.16 you experienced or witnessed constitutes harassment, discrimination, or retaliation, you
8.17 should err on the side of reporting the concern. Harassment, discrimination, or retaliation
8.18 need not have been directed at you for you to report such conduct. Bystanders and witnesses
8.19 are encouraged to report what they have seen and heard.

8.20 ~~This~~ There is no wrong way to make a complaint or report a concern. A report may be made
8.21 in person, in writing, by phone, or by other means with which you are comfortable.

8.22 Supervisors and others designated to receive complaints, reports, and concerns, should take
8.23 a broad view of what may be harassment, discrimination, or retaliation, and err on the side
8.24 of promptly reporting to the House Director of Human Resources or House Employment
8.25 Law Counsel. Complaints, reports, and concerns could come from a number of sources
8.26 including House employees, members, other legislative or executive branch employees,
8.27 lobbyists, or other members of the public. If a supervisor has any doubt whether they have
8.28 received a report of harassment and discrimination, they can always contact the House
8.29 Director of Human Resources or House Employment Law Counsel to talk through the issue.
8.30 It is the goal of this policy to eliminate harassment and discrimination by investigating and
8.31 acting on reports, and this can be accomplished only if any and all reports, complaints, and
8.32 concerns are transmitted to House Director of Human Resources or House Employment
8.33 Law Counsel.

9.1 **Investigation of a Complaint**

9.2 ~~Any one of the above persons receiving a complaint must promptly report the complaint to~~
 9.3 ~~the House Director of Human Resources or House Employment Law Counsel.~~

9.4 **As part of the complaint investigation process:**

9.5 ▶ ~~You~~ Those with relevant information will be asked for such details as who was
 9.6 ~~involved in the offensive behavior~~, what was said or done, how the conduct affected you,
 9.7 and your opinion as to how the situation should be resolved.

9.8 ▶ Complaints, investigations, and resolutions will be handled as discreetly as possible,
 9.9 with information being shared only with those who have a need to know and as may be
 9.10 required by the House of Representatives' obligation to comply with the law.

9.11 ▶ Discrimination and harassment complaints will be responded to promptly, thoroughly,
 9.12 and fairly.

9.13 ▶ Members or employees with information about the offensive behavior may be
 9.14 contacted and are expected to cooperate with any investigation.

9.15 ▶ The alleged offender will be advised of the complaint and given an opportunity to
 9.16 provide information about what happened and matters concerning possible resolution.

9.17 ▶ The investigator and/or supervisor will discuss the proposed resolution of the problem
 9.18 with the parties involved, and ~~you and the alleged offender~~ affected parties will be advised
 9.19 of the resolution, with concern shown for the privacy of the parties.

9.20 ▶ Retaliation against you or any person investigating or participating in a complaint
 9.21 investigation is strictly forbidden and is a very serious violation of this policy.

9.22 ▶ The House Director of Human Resources, in consultation with House Counsel, may
 9.23 hire outside investigators to investigate a potential violation of this policy. Whenever outside
 9.24 investigators are hired, House Counsel will, upon completion of the investigation, provide
 9.25 House leadership with a memorandum containing recommendations for changes to House
 9.26 policy and practices, if any, based on the results of the investigation.

9.27 ▶ The results of an investigation involving policy violation allegations against a member
 9.28 must be reported both to the Speaker and Minority Leader. The requirements of discretion
 9.29 and confidentiality under this policy continue to apply in this circumstance.

9.30 **Resolution of a Complaint**

9.31 Resolution of complaints can include, but not necessarily be limited to, an apology, direction
 9.32 to stop the offensive behavior, counseling or training, oral warning, written warning, transfer

10.1 to another department, suspension with or without pay, or termination. Disciplinary action
 10.2 involving members of the House will be handled by Leadership or pursuant to the Rules of
 10.3 the House.

10.4 If the offensive behavior does not stop or reoccurs after you make a complaint, you should
 10.5 immediately bring this problem to the attention of any House supervisor, the Speaker,
 10.6 Majority Leader, Minority Leader, the House Director of Human Resources ~~Director~~ or
 10.7 House Employment Law Counsel.

10.8 **Other Options**

10.9 In addition to ~~or instead of this complaint procedure~~ the procedures available under this
 10.10 policy, you have a right to file a charge of discrimination with the Equal Employment
 10.11 Opportunity Commission (EEOC), the Minnesota Department of Human Rights, or to
 10.12 consult with an attorney.

10.13 **Retaliation**

10.14 ~~No retaliation will be tolerated, whether verbal, non-verbal, or physical, as a consequence~~
 10.15 ~~of engaging in protected conduct, and complaints of retaliation will be vigorously pursued.~~

10.16 ~~Retaliation is any job-related adverse action or materially adverse action against a member~~
 10.17 ~~or employee who has engaged in protected conduct. Protected conduct includes:~~

10.18 ~~▶ opposing discrimination or harassment in the workplace;~~

10.19 ~~▶ complaining of or reporting an incident of discrimination or harassment;~~

10.20 ~~▶ participating in any investigation;~~

10.21 ~~▶ testifying in any proceeding relating to a discrimination, harassment, or retaliation~~
 10.22 ~~complaint; or~~

10.23 ~~▶ associating with a person or group of persons who are disabled or who are of different~~
 10.24 ~~race, color, creed, religion, sexual orientation, or national origin.~~

10.25 ~~Retaliation could include, but is not limited to, denial of a promotion, a demotion,~~
 10.26 ~~intimidation, harassment, or conduct by anyone in the workplace that could reasonably be~~
 10.27 ~~expected to have an adverse impact on an individual's performance. It also includes any~~
 10.28 ~~actions by an employer that could dissuade a reasonable employee from engaging in protected~~
 10.29 ~~conduct.~~

10.30 ~~If you believe you have experienced retaliation because you have complained, reported, or~~
 10.31 ~~testified about discrimination, harassment, or retaliation or participated in an investigation~~

11.1 ~~of a discrimination, harassment, or retaliation complaint, you should report the situation to~~
11.2 ~~the House Human Resources Director or House Employment Law Counsel.~~

11.3 **False Complaints**

11.4 Complaints that are found to be intentionally dishonest or malicious will not be tolerated,
11.5 and any person making a false complaint is subject to disciplinary action.

11.6 **Confidentiality**

11.7 All employers have a legal obligation to respond to all complaints of discrimination and
11.8 harassment. Complaints of discrimination and harassment will be investigated and handled
11.9 as discreetly as possible with information being shared with those having a need to know
11.10 and in accordance with legal obligations.

11.11 **Questions**

11.12 If you have any questions about this policy, see or call:

11.13 Kelly Knight, House Director of Human Resources~~Director~~

11.14 185 State Office Building

11.15 651 296 0297

11.16 Ben Weeks, House Employment Law Counsel

11.17 600 State Office Building

11.18 651-296-5808