



Minnesota House of Representatives
POLICY AGAINST
DISCRIMINATION AND HARASSMENT

**Adopted by the House Committee on Rules and
Legislative Administration,
Approved April 25, 2018**

**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 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 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.

- ▶ 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 as discreetly as possible, with information being shared only with those who have a need to know and as may be required by the House of Representatives' obligation to comply with the law.

- ▶ The House of Representatives will not tolerate retaliation, in any form, against any person who complains, reports, or testifies about discrimination or harassment, or participates in an investigation of a discrimination or harassment complaint.
- ▶ The House of Representatives will impose discipline under this policy when appropriate.

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

Scope of this Policy, Applicability, and Definitions

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

In addition, the House of Representatives intends this policy to combat discriminatory and harassing behavior by and against members and employees in encounters during the course of their 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 any other member of the public. The House of Representatives recognizes that it has limited

power to compel third parties to participate in investigations or discipline third parties for harassment and discrimination, but, the House will investigate reports and complaints involving third parties to the best of its ability and will take reasonable action within its power to stop harassment and discrimination by or against members or employees in the course of their work with third parties.

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

EMPLOYEES - The term "employee" means any permanent, full time, part time, or temporary employee, or any other employee of the Minnesota House of Representatives, and includes House of Representative interns and high school pages.

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

Protected Characteristics

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

- ▶ race;
- ▶ color;
- ▶ national origin;
- ▶ sex, including pregnancy;
- ▶ marital status;
- ▶ familial status;

- ▶ religion;
- ▶ creed;
- ▶ sexual orientation;
- ▶ age;
- ▶ disability;
- ▶ status with regard to public assistance; and
- ▶ membership or activity in a human rights commission.

Discrimination

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

Harassment

Harassment is unwelcome behavior, through words or other actions, that is based on a person's protected characteristic that interferes with job performance; or creates an intimidating, hostile, or offensive work environment; or when submission to such conduct is either a condition of employment or a basis for an employment decision. Harassment may include, but is not limited to, the following forms:

1. Repeated disparaging, belittling, demeaning, insulting names or remarks, or any other use of language implying inferiority due to a protected characteristic.
2. Repeated jokes about an employee or characteristic unique to an employee that relates to a protected characteristic.

3. Sabotage of an employee's character, reputation, work efforts, or property based upon a protected characteristic.
4. Display or circulation of written materials or pictures degrading or offensive to a protected characteristic.
5. Kidding or abuse related to a protected characteristic.

Sexual Harassment

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

The Minnesota Human Rights Act defines sexual harassment as follows.

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

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

- 2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or
- 3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

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

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

The following are examples of sexual conduct or communication that may constitute sexual harassment or sexually offensive behavior. Sexual harassment or sexually offensive behavior may include, but is not limited to, the following types of behavior:

VERBAL

- ▶ unwelcome sexual comments, compliments, innuendos, or suggestions about one's clothing, body, or sexual activity
- ▶ turning work discussions into sexual topics, such as sexual practices or preferences, or telling sexual jokes or stories

- ▶ requesting or demanding sexual favors or suggesting that there is any connection between sexual behavior and any term or condition of employment, whether that connection be positive or negative
- ▶ use of obscene or sexual words or phrases or the use of words such as "sweetheart," "stud," "honey," "babe," or "hunk"

NON VERBAL

- ▶ displaying sexually explicit pictures or objects in the work area
- ▶ giving personal gifts of a sexual nature
- ▶ making sexually suggestive facial expressions or gestures
- ▶ making unwelcome visits to a member's or employee's home or hotel room

PHYSICAL

- ▶ kissing, or touching, patting, pinching, or brushing against a person's body
- ▶ sexual contact, intercourse, or assault

Retaliation

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

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

- ▶ opposing discrimination or harassment in the workplace;
- ▶ complaining of or reporting an incident of discrimination or harassment;
- ▶ participating in any investigation;
- ▶ testifying in any proceeding relating to a discrimination, harassment, or retaliation complaint; or
- ▶ associating with a person or group of persons who are disabled or who are of different race, color, creed, religion, sexual orientation, or national origin.

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

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

Responsibility to Address and Prevent Discrimination and Harassment

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

House of Representatives Responsibility

THE MINNESOTA HOUSE OF REPRESENTATIVES has a responsibility to:

- ▶ publish and post its discrimination and harassment policy, in a manner that makes the policy readily accessible to members of the public,
- ▶ publish and post a list of supervisors and members to whom reports or complaints of harassment and discrimination may be made,
- ▶ inform all employees and members about the House of Representatives' discrimination and harassment policy and procedures,
- ▶ train supervisors, other employees, and members on their roles and responsibilities in dealing with discrimination and harassment,
- ▶ make certain that each individual who makes or recommends employment and other personnel decisions is fully aware of, and complies with, this policy,
- ▶ take disciplinary or other appropriate action within its authority against individuals who fail to meet their obligations under this policy,
- ▶ promote fair, efficient, and careful handling of all complaints, and

- ▶ regularly review its discrimination and harassment policy and procedures.

Supervisor Responsibility

SUPERVISORS have a responsibility to:

- ▶ promote a department working environment free from discrimination and harassment and deal with discrimination and harassment when it is observed or reported,
- ▶ respect the privacy as much as possible of all parties involved in a discrimination or harassment concern or complaint,
- ▶ engage in productive and respectful conversations about harassment and discrimination, including discussion of confidentiality and the investigation process under this policy,
- ▶ promptly report discrimination or harassment, or reports or complaints of discrimination or harassment to the House Director of Human Resources or House Employment Law Counsel, and
- ▶ participate in training on discrimination and harassment provided by the House of Representatives.

Member and Employee Responsibility

MEMBERS AND EMPLOYEES have a responsibility to:

- ▶ promptly report concerns or complaints,
- ▶ participate in training,
- ▶ cooperate with requests for information and data that will help a supervisor or complaint handler

- carry out her or his responsibilities under these procedures, and
- ▶ be sensitive to and eliminate discrimination and harassment in themselves and among their peers.

Dealing With Discrimination or Harassment

Concern, Report, or Complaint

You should report any concern about discrimination, harassment, or retaliation, whether directed at you or someone else, to any House supervisor, the Speaker, Majority Leader, Minority Leader, or Director of Human Resources. If you have a concern and are uncertain whether behavior you experienced or witnessed constitutes harassment, discrimination, or retaliation, you should err on the side of reporting the concern.

Harassment, discrimination, or retaliation need not have been directed at you for you to report such conduct. Bystanders and witnesses are encouraged to report what they have seen and heard.

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

Supervisors and others designated to receive complaints, reports, and concerns, should take a broad view of what may be harassment, discrimination, or retaliation, and err on the side of promptly reporting to the House Director of Human Resources or House Employment Law Counsel. Complaints, reports, and concerns could come from a number of sources including House employees, members, other legislative or executive branch employees,

lobbyists, or other members of the public. If a supervisor has any doubt whether they have received a report of harassment and discrimination, they can always contact the House Director of Human Resources or House Employment Law Counsel to talk through the issue. It is the goal of this policy to eliminate harassment and discrimination by investigating and acting on reports, and this can be accomplished only if any and all reports, complaints, and concerns are transmitted to House Director of Human Resources or House Employment Law Counsel.

Investigation of a Complaint

As part of the investigation process:

- ▶ Those with relevant information will be asked for such details as who was involved, what was said or done, how the conduct affected you, and your opinion as to how the situation should be resolved.
- ▶ Complaints, investigations, and resolutions will be handled as discreetly as possible, with information being shared only with those who have a need to know and as may be required by the House of Representatives' obligation to comply with the law.
- ▶ Discrimination and harassment complaints will be responded to promptly, thoroughly, and fairly.
- ▶ Members or employees with information about the offensive behavior may be contacted and are expected to cooperate with any investigation.
- ▶ The alleged offender will be advised of the complaint and given an opportunity to provide information about what happened and matters concerning possible resolution.

- ▶ The investigator and/or supervisor will discuss the proposed resolution of the problem with the parties involved, and affected parties will be advised of the resolution, with concern shown for the privacy of the parties.
- ▶ Retaliation against you or any person investigating or participating in a complaint investigation is strictly forbidden and is a very serious violation of this policy.
- ▶ The House Director of Human Resources, in consultation with House Counsel, may hire outside investigators to investigate a potential violation of this policy. Whenever outside investigators are hired, House Counsel will, upon completion of the investigation, provide House leadership with a memorandum containing recommendations for changes to House policy and practices, if any, based on the results of the investigation.
- ▶ The results of an investigation involving policy violation allegations against a member must be reported both to the Speaker and Minority Leader. The requirements of discretion and confidentiality under this policy continue to apply in this circumstance.

Resolution of a Complaint

Resolution of complaints can include, but not necessarily be limited to, an apology, direction to stop the offensive behavior, counseling or training, oral warning, written warning, transfer to another department, suspension with or without pay, or termination. Disciplinary action involving members of the House will be handled by Leadership or pursuant to the Rules of the House.

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

Other Options

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

False Complaints

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

Confidentiality

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

Questions

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

Kelly Knight, House Director of Human Resources
185 State Office Building
651-296-0297

Marta James, House Employment Law Counsel
155 State Office Building
651-296-5057