

Legislative Coordinating Commission

**POLICY AGAINST
DISCRIMINATION AND HARASSMENT**

Adopted by the Legislative Coordinating Commission

_____, 2020

This policy replaces previous
sexual harassment policies applicable to the Legislative Coordinating Commission

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(TTY) 1-800-627-3529

I. Policy.

(a) It is the policy of the Legislative Coordinating Commission (LCC) to create and maintain a work environment in which all employees of the LCC, legislative members, and third parties are treated with dignity and respect. Employees, members, and third parties have the right to a workplace that is free from discrimination and harassment, both subtle and overt. Therefore, the LCC will strive to eliminate discriminatory and harassing behavior in the workplace based on race; color; national origin; sex, including pregnancy; marital status; religion; creed; familial status; sexual orientation; age; disability; status with regard to public assistance; and membership or activity in a human rights commission.

(b) The goal of this policy is to eliminate harassment and discrimination from the LCC work environment by handling all reports and complaints of harassment or discrimination promptly, thoroughly, and respectfully.

(c) To accomplish the goal of eliminating harassment and discrimination, the LCC will:

- (1) encourage individuals to report any behavior they believe to be discriminatory or harassing;
- (2) handle reports, complaints, investigations, and discipline discreetly, sharing information only with those who have a need to know and as required by law;
- (3) prohibit retaliation, in any form, against any individual who reports, files a complaint, or testifies about discrimination or harassment, or participates in an investigation of a discrimination or harassment complaint; and
- (4) impose discipline when appropriate.

II. Scope and Application.

(a) This policy applies to LCC employees and nonlegislative members of LCC commissions and task forces when they are in their work environment and applies to any interaction of those individuals at any place or activity that may affect the legislative working environment. This policy applies to employees of the LCC, the Office of the Revisor of Statutes, the Legislative Reference Library, the Office of the Legislative Auditor, the Legislative Budget Office, and all joint commissions, councils, task forces, and departments. Allegations of discrimination and harassment by or against a member of the house of representatives or senate are covered by the respective legislative body and not this policy.

(b) In addition, the LCC intends this policy to combat discriminatory and harassing behavior by and against employees and nonlegislative members of the LCC in encounters during the course of their work with third parties, as defined under section III, paragraph (j). The LCC 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 employees in the course of their work with third parties. This policy does not apply to the interaction of third parties that does not involve a complaint

of harassment or discrimination by or against an employee or nonlegislative member of the LCC.

III. Definitions.

(a) For the purposes of this policy, the following terms have the meanings given them.

(b) "**Contact person**" means an individual designated in the list of contact persons distributed by the LCC to whom an employee may report behavior prohibited by this policy.

(c) "**Discriminate**" means 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.

(d) "**Employee**" means a permanent, full-time, part-time, or temporary employee; paid or unpaid intern; or any other employee of the LCC.

(e) "**Harassment**" means unwelcome behavior, through words or other actions, that is based on a person's protected characteristic and (i) the behavior interferes with job performance or creates an intimidating, hostile, or offensive work environment or (ii) submitting to the behavior is a condition of employment or a basis for an employment decision. Harassment may include but is not limited to:

- (1) repeated disparaging, belittling, demeaning, or 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 or electronic materials or pictures degrading or offensive to a protected characteristic; and
- (5) kidding or abuse related to a protected characteristic.

(f) "**Member**" means a member of the house of representatives or senate.

(g) "**Protected characteristic**" means any of the characteristics covered by Title VII of the Civil Rights Act of 1964 and the Minnesota Human Rights Act, including:

- (1) race;
- (2) color;
- (3) national origin;

- (4) sex, including pregnancy;
- (5) marital status;
- (6) familial status;
- (7) religion;
- (8) creed;
- (9) sexual orientation;
- (10) age;
- (11) disability;
- (12) status with regard to public assistance; and
- (13) membership or activity in a human rights commission.

(h) "**Retaliation**" means job-related adverse action against a member or employee of the LCC who has engaged in conduct protected under this policy, including any of the following:

- (1) opposing discrimination or harassment in the workplace;
- (2) complaining of or reporting an incident of discrimination or harassment;
- (3) participating in an investigation;
- (4) testifying in a proceeding relating to a discrimination, harassment, or retaliation complaint; or
- (5) 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.

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

(i) "**Sexual harassment**" has the meaning given in the Minnesota Human Rights Act, Minnesota Statutes, section 363A.03, subdivision 43. Sexual harassment is a form of discrimination based on sex. One of the elements of sexual harassment is that the behavior is unwelcome. Sexual conduct or communications that might be welcome to one person 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 circumstances. Sexual 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:

- (1) verbal behavior, including:
 - (i) unwelcome sexual comments, compliments, innuendos, or suggestions about one's clothing, body, or sexual activity;

- (ii) turning work discussions into sexual topics, such as sexual practices or preferences, or telling sexual jokes or stories;
- (iii) 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; or
- (iv) use of offensive or sexual words or phrases;
- (2) nonverbal behavior, including:
 - (i) displaying sexually explicit pictures or objects in the work area;
 - (ii) giving personal gifts of a sexual nature;
 - (iii) making sexually suggestive facial expressions or gestures;
 - (iv) making unwelcome visits to a member's or employee's home or hotel room; or
 - (v) displaying cartoons or sending e-mails, text messages, instant messages, or notes, any of which contain sexual pictures, words, or phrases; and
- (3) physical behavior, including:
 - (i) kissing, touching, patting, pinching, or intentionally brushing against a person's body; or
 - (ii) sexual contact, intercourse, or assault.

(j) "**Third party**" means a member of the media, lobbyist, vendor, visitor, constituent, member of the house of representatives or senate, house of representatives or senate employees, other state employees, and any other member of the general public who has business with or at the LCC.

IV. Responsibility to address and prevent discrimination, harassment, and retaliation.

- (a) Every employee of the LCC is responsible for contributing to a safe and respectful workplace.
- (b) **The Director of the LCC shall:**
 - (1) publish and post the LCC's discrimination and harassment policy in a manner that makes the policy readily accessible to members of the public;
 - (2) publish and post a list of contact persons consisting of supervisors, employees, and members to whom reports or complaints of harassment and discrimination may be made;
 - (3) inform all employees and nonlegislative members of the LCC about the LCC's discrimination and harassment policy and procedures;
 - (4) train supervisors, contact persons, and employees on their roles and responsibilities in dealing with discrimination and harassment;
 - (5) make certain that each employee who makes or recommends employment and other personnel decisions is fully aware of, and complies with, this policy;
 - (6) take disciplinary or other appropriate action within its authority against individuals

- who fail to meet their obligations under this policy;
- (7) promote fair, efficient, and careful handling of all complaints; and
 - (8) regularly review its discrimination and harassment policy and procedures.

(c) Supervisors and contact persons shall:

- (1) promote an office working environment free from discrimination and harassment;
- (2) respond to discrimination and harassment when it is observed or reported;
- (3) respect the privacy as much as possible of all parties involved in a discrimination or harassment concern or complaint;
- (4) engage in productive and respectful conversations about harassment and discrimination, including discussion of confidentiality and the investigation process under this policy;
- (5) promptly report discrimination or harassment, or reports or complaints of discrimination or harassment, to the Director of the LCC; and
- (6) participate in training on discrimination and harassment provided by the LCC. For the purposes of this requirement, a contact person who is a member or employee of the house of representatives or senate is deemed to have met this requirement if the member or employee has completed training offered by the house of representatives or senate, as applicable.

(d) Employees shall:

- (1) promptly report concerns or complaints;
- (2) participate in training on discrimination and harassment provided by the LCC;
- (3) cooperate with requests for information and data that will help a supervisor or contact person carry out her or his responsibilities under these procedures; and
- (4) be sensitive to and eliminate discrimination and harassment by themselves and their peers.

V. Confidentiality.

(a) The LCC has a legal obligation to respond to all complaints of discrimination, harassment, and retaliation. Complaints 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.

(b) If you are concerned about making a report because of confidentiality concerns, discuss those concerns first with a supervisor or contact person before sharing any confidential details.

VI. How to report discrimination, harassment or retaliation.

A. Summary of options.

| If you believe you have experienced discrimination or harassment, you may: | Keeping in mind: |
|---|--|
| Tell the individual | Only if you feel comfortable doing so. If the behavior does not stop, you should pursue another option below. |
| Contact the Employees Assistance Program | EAP, a free benefit for employees, can offer support and counseling and answer any questions you may have before you make a complaint. |
| Make a complaint to a contact person or supervisor | An investigation will be conducted pursuant to this policy. |
| Seek legal advice | You may contact the Minnesota Department of Human Rights (MDHR) or the Equal Employment Opportunity Commission (EEOC). You may also consult an attorney at your own expense. |

(a) You should report any concern about discrimination, harassment, or retaliation, whether directed at you or someone else, to any LCC supervisor, or any contact person designated in the list of contact persons maintained by the Director of the LCC.

(b) 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.

B. Making a report or filing a complaint.

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

(b) Supervisors and contact persons should take a broad view of what may be harassment, discrimination, or retaliation, and err on the side of promptly forwarding the report to the Director of the LCC. Supervisors and contact persons should be open and accepting of reports from members, employees, and third parties. If a supervisor or contact person is in doubt about whether a report constitutes discrimination, harassment, or retaliation, the supervisor or contact person should contact the Director of the LCC to discuss the report and any concerns.

(c) It is the goal of this policy to eliminate discrimination, harassment, and retaliation by investigating and acting on reports, and this can be accomplished only if any and all reports are forwarded on to supervisors or contact persons and the Director of the LCC.

C. Investigating a report of discrimination, harassment, or retaliation.

(a) The supervisor or contact person will work jointly with the Director of the LCC including the director of the relevant LCC office, agency, task force, or commission, as appropriate, to undertake an investigation as follows:

- (1) 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;
- (2) 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 required by the LCC's obligation to comply with the law;
- (3) discrimination and harassment complaints will be responded to promptly, thoroughly, and fairly;
- (4) members or employees with information about the discriminatory or harassing behavior may be contacted and are expected to cooperate with an investigation;
- (5) the alleged offender will be advised of the complaint and given an opportunity to provide information about what happened and matters concerning possible resolution; and
- (6) the Director of the LCC, with the assistance of the supervisor or contact person or director of an LCC office, 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.

(b) Retaliation against an individual making a report or filing a complaint, or any person investigating or participating in a complaint investigation, is strictly forbidden and is a very serious violation of this policy.

(c) The Director of the LCC may hire outside investigators to investigate a potential violation of this policy. Whenever outside investigators are hired, the Director of the LCC must, upon completion of the investigation, provide LCC legislative leadership with a memorandum containing recommendations for changes to the LCC policy and practices, if any, based on the results of the investigation.

D. Resolving a report of discrimination, harassment, or retaliation.

(a) Resolution of a complaint includes but is not limited to any of the following:

- (1) a requirement that an apology be delivered verbally or in writing;
- (2) direction to stop the offensive behavior;

- (3) a verbal or written warning;
- (4) a requirement of counseling or training;
- (5) transfer to another position or demotion;
- (6) suspension with or without pay; or
- (7) termination of employment.

(b) If the discriminatory or harassing behavior does not stop or reoccurs after you make a complaint, you should immediately report this to any supervisor or contact person.

E. Other options.

If you believe you have been subjected to discrimination, harassment, or retaliation, you have a number of options that are in addition to or in lieu of filing a report or complaint under this policy.

(1) Contact the Employee Assistance Program.

If you are an employee of the LCC, consider contacting the Employee Assistance Program (EAP), which is a free service that is part of your package of benefits provided through the State Employee Group Insurance Program (SEGIP). The EAP may be helpful if you would like confidential counseling regarding whether what you experienced was discrimination or harassment or if you simply need someone to talk to about what you are experiencing.

The EAP will not initiate a report and is prohibited from disclosing what you tell them without your permission, unless what you tell them indicates there is a concern about the immediate safety of an individual from very serious harm. The EAP counselor will explain the confidentiality policy to you during your first contact with them. You may contact an EAP consultant at (651) 259-3840.

(2) Contact the MDHR or EEOC.

You have a right to file a charge of discrimination with the federal Equal Employment Opportunity Commission (EEOC) or the Minnesota Department of Human Rights (MDHR). You may contact MDHR at (651) 539-1100.

(3) Consult with an attorney.

You may consult with an attorney at your own expense.

F. False reports or complaints.

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

G. Not an employment contract.

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

H. Training requirements.

(a) Nondiscrimination and antiharassment training is mandatory for all employees and nonlegislative members of LCC task forces or commissions. Attendance at trainings will be documented and attendance records will be maintained by the LCC. Failure to meet nondiscrimination and antiharassment training requirements may result in disciplinary action.

(b) Supervisors must attend nondiscrimination and antiharassment training provided for supervisors at least once every two years.

(c) Employees must attend nondiscrimination and antiharassment training at least once every two years. New employees shall attend training when offered following their initial employment.

VII. QUESTIONS.

If you have any questions about this policy, see or call the director of any LCC office or Greg Hubinger, Director, Legislative Coordinating Commission, 72 State Office Building, (651) 296-2963.