



**POLICY AGAINST SEXUAL AND OTHER UNLAWFUL
HARASSMENT AND DISCRIMINATION**

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Statement of Purpose: The New Hampshire General Court is committed to creating and maintaining a work environment that is pleasant, healthy, comfortable, and in which all legislative employees and elected members are free from intimidation, hostility or other offenses that might interfere with work performance.

Policy: It is the policy of the New Hampshire General Court to provide all of its employees and members with a work environment that is free from any form of unlawful discrimination or harassment. Retaliation for reporting discrimination or harassment is also prohibited. Discrimination, harassment, and retaliation for reporting discrimination or harassment are serious offenses of the General Court's work rules and will subject employees to discipline, up to and including termination. Corrective action against non-employees (including elected members) will depend on the amount of control the General Court has over the non-employee and the Constitutional requirements or limitations that are applicable to the General Court.

Definitions: For purposes of this Policy, “employee” shall mean any permanent, full-time, part-time, or temporary legislative employee. “Member” shall mean elected members of the House and Senate. Non-employees also covered by this Policy include, but are not limited to, lobbyists registered under RSA 15, members of the media to whom a press badge has been issued, state officials or employees of the executive and judicial branches, and all other persons present for any reason in the legislative facilities.

Characteristics Covered: This Policy specifically prohibits harassment or discrimination based on the following characteristics: (1) age, (2) race, (3) color, (4) national origin, (5) religion, (6) sex, (7) sexual orientation, (8) marital status, (9) pregnancy, (10) physical or mental disability, (11) genetic information, and (12) veteran or military status.

For purposes of this Policy, harassment refers to conduct or behavior which is personally offensive or threatening, impairs morale or interferes with the work effectiveness of employees or members. Harassment based on a prohibited characteristic that is unwelcome, whether or not it is severe or pervasive, may subject the General Court and the individuals engaged in the harassment to liability. The General Court intends to prohibit and address conduct that violates this policy, regardless of whether the behavior rises to the level of illegal conduct or is severe or pervasive.

The General Court will not tolerate harassment or discrimination against an employee or member on the basis of sex or any of the other eleven characteristics referenced above. From this point forward in this policy “sexual harassment or discrimination” is used as the primary

example solely for a reference point. All of the other eleven characteristics protected from harassment or discrimination as set forth above may be substituted hereafter as equally applicable where appropriate in the same manner as is sexual harassment or discrimination described hereafter.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal, physical, and nonphysical conduct of a sexual nature when:

- Submission to such conduct is made explicitly or implicitly a term or condition of employment;
- Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting that individual or for awarding or withholding a favorable employment opportunity, evaluation, or assistance; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's performance at work, or creates an intimidating, hostile or offensive work environment.

Sexual harassment can include behavior by individuals of the same gender, as well as behavior by individuals of opposite gender, including harassment directed at a person because of his/her sex or sexual orientation.

Examples: Examples of prohibited harassment include, but are not limited to, conduct or comments that threaten physical violence; offensive, unsolicited remarks; unwelcome gestures or physical contact that relates to any of the characteristics listed above; display or circulation of degrading written or electronic materials, cartoons or images; and verbal abuse or insults.

Prohibited sexual harassment includes a wide range of behavior from the actual coercion of sexual relations to include unwelcome offensive comments, jokes, innuendo and other sexually oriented statements and unwelcome behavior emphasizing sexual identity. Indirect or unintentional conduct may violate this policy as well.

This Policy prohibits all of the activities discussed above, whether engaged in by an employee, member or non-employee who is on General Court premises or who comes in contact with the General Court's employees or members.

The purpose of this Policy is to ensure that in the workplace, no employee or member is subjected to harassment or discrimination. Harassment may be indirect and even unintentional. Violations of this Policy, whether intended or not, will not be permitted. The conduct prohibited by this Policy includes conduct in any form including but not limited to e-

mail, voicemail, chat rooms, internet use or history, text messages, pictures, images, writings, words or gestures including personal one-on-one contacts.

Employees and members need to be concerned not only with the intent of their actions, but also the effects of their actions on the receiver. Even unintentional conduct (including conduct that is intended as a "joke") can be a violation of this Policy.

Addressing and Reporting Harassment: The types of harassment discussed above are violations of the General Court's Policy and are prohibited by state and federal law. Any employee or member who believes that he/she has experienced conduct in violation of this Policy must report the incident in accordance with the Reporting Procedure set forth below. Supervisors, managers and all other management-level employees who become aware of discriminating or harassing conduct and/or of a complaint of discrimination or harassment are required to report such conduct or complaint using this procedure. Any matters reported through this procedure will be promptly investigated and the General Court will promptly take corrective action, which may include disciplinary action up to and including termination of employment.

No Retaliation: Retaliation against an employee or member who in good faith complains or participates in an investigation about sexual or other unlawful harassment is a violation of the General Court's Policy and is prohibited by state and federal law. Retaliation is a form of harassment and will be handled in the same manner as other forms of harassment. Any employee or member who believes that he/she has experienced retaliation must report it using the reporting procedure described below. Supervisors, managers and all other management-level employees who become aware of retaliatory conduct are also required to report such conduct or complaint using this procedure.

REPORTING PROCEDURE FOR HARASSMENT AND DISCRIMINATION

Complaint and Investigation Procedures: Any employee or member who feels that he/she has experienced harassment, discrimination or retaliation in violation of this Policy must immediately report such actions in accordance with the following procedure. Supervisors, managers and all other management-level employees who become aware of discrimination or harassing conduct and/or of a complaint of discrimination or harassment are also required to report such conduct or complaint using this procedure. All oral and written complaints reported through this procedure will be promptly and thoroughly investigated. Employees of the General Court may file a complaint regarding harassment, discrimination or retaliation with the Legislative Ethics Committee under the procedure established in RSA 14-B. This Policy provides an alternative complaint process to the procedure under RSA 14-B for complaints concerning members, officers or employees of the General Court. Any person who has made a complaint under this Policy, that subsequently makes a complaint to the Legislative Ethics

Committee, shall advise the Chief of Staff of the House or Senate, Director of the Office of the Legislative Budget Assistant, Speaker of the House or President, as appropriate, that they have elected to pursue their complaint under RSA 14-B. To the extent that an investigation has been initiated or completed at the time that such an election is made, the Chief of Staff, Director, Speaker or President, as appropriate, shall provide any information obtained, and findings made, to the Legislative Ethics Committee, and in the case of a complaint against a member, shall not continue to conduct an investigation under the Policy. The Chief of Staff, Director, Speaker or President, as appropriate, will take such action as is within his or her authority and is reasonably calculated to prevent further harassment from occurring during the pendency of the investigation by the Legislative Ethics Committee.

Complaints Concerning Employee Conduct: Complaints of harassment, discrimination or retaliation regarding employees of the General Court shall be made, either in writing or verbally, to the House or Senate Chief of Staff, as appropriate. Employees of the Office of the Legislative Budget Assistant ("LBA") shall make complaints to their appropriate Director. Complaints may also be made to a supervisor, who shall then refer the complaint to the appropriate Chief of Staff or Director. The Chief of Staff or Director may designate an investigator to conduct the investigation. If an investigator is designated, he or she shall report his or her findings and recommendations to the Chief of Staff or Director of the LBA used herein "Chief of Staff" shall refer to the person to whom a complaint of harassment, discrimination or retaliation has been made according to the terms of the Policy and may include the House or Senate Chief of Staff; the appropriate Director of the Office of the Legislative Budget Assistant; the Speaker of the House; or the President of the Senate. In the case of joint legislative employees, the investigation shall be carried out jointly unless the Chiefs of Staff agree in writing that only one of them will lead the investigation.

Complaints made against a Chief of Staff shall be made directly to the Senate President or Speaker of the House, who may conduct the investigation or appoint a member to do so. In all such cases the person conducting the investigation shall have the assistance of the Legal Counsel for the body.

All complaints shall be investigated as thoroughly and as expeditiously as is reasonably possible. The Chief of Staff shall take such action as is within his or her authority and is reasonably calculated to prevent further harassment from occurring during the pendency of the investigation.

The General Court will conduct all investigations in a discrete manner. All complaints will be considered confidential, and disclosure will be limited to those with a need to know in order to investigate the complaint or take remedial action.

Employees and members about whom a complaint has been made will not be assumed to have violated the policy. Conclusions will be reached only after the investigation is completed. Investigations will typically involve interviews with the employee(s)/member(s) making the complaint, the employee(s)/member(s) alleged to have violated the policy, and witnesses who may have relevant information.

Any employee who has engaged in harassment or discrimination or otherwise violated this Policy will be subject to appropriate disciplinary action, up to and including immediate discharge. The complainant shall be informed of the outcome of the investigation.

Any employee, including the complaining employee, who participates in good faith in any investigation under this Policy, is hereby assured that no reprisals will be taken as a result of a complaint or participation in the investigation, but not necessarily the specific action taken as to an employee, which is confidential personnel information.

The Chief of Staff shall make a finding regarding whether the conduct complained of has been sufficiently proven and whether it constitutes harassment, discrimination, retaliation or other inappropriate conduct under this Policy. If a violation of this Policy is found to have occurred, the complainant will be advised that appropriate corrective action will be taken. Any recommendation for corrective action shall be based on the severity of the offense, which shall be determined according to the totality of the circumstances. The intensity, frequency, and duration of the prohibited conduct shall be considered. Other factors may include the extent to which the misconduct, however minor, may serve to isolate, limit, intimidate or otherwise increase the difficulties of job performance or atmosphere in the workplace for the complainant.

Complaints Concerning Member and Non-Employee Conduct: Complaints of harassment, discrimination or retaliation regarding members and/or non-employees shall be made either in writing or verbally to the Chief of Staff. If the complaint involves a member, the Chief of Staff shall meet with the complainant and ask the employee whether the employee wants the complaint to be addressed under this Policy, which provides more confidentiality but does not provide the option of formal discipline, or under the legislative complaint process under RSA 14-B. Complaints and investigations outside of the complaint process under RSA 14-B shall be handled as confidentially as possible with information being shared only with those who have a need to know and as may be required by the General Court's obligation to comply with the law.

Deference shall be given to the employee's preference regarding confidentiality unless it is determined by the Speaker of the House or the President of the Senate that the conduct of the member is so egregious that further action or reporting is required in order to ensure the safety and well-being of the complainant or other legislative members, officers or employees.

If the Speaker of the House or the President of the Senate determines that disciplinary or other action not within their authority is required, they shall refer the matter to the Legislative Ethics Committee under RSA 14-B.

If the employee is not satisfied with the result obtained by the confidential method described above, the employee may at any time decide to file a complaint with the Legislative Ethics Committee under RSA 14-B.

A. Complaints Against Executive or Judicial Branch Employees

If the complaint is against a state official or employee of the executive branch or judiciary, the Chief of Staff shall obtain the complaint in writing or orally. The written and/or oral complaint shall be provided to the Director of the Division of Personnel, Department of Administrative Services or to the Administrative Office of the Courts, as appropriate. It is expected that the executive or judiciary branch that employs the alleged harasser will handle the complaint under the policy regarding sexual harassment adopted by the respective branch of government. In light of the separation of powers limitations applicable to state government, the General Court will defer to the authority of the executive or judiciary over their respective employees and will take no further action to investigate or take corrective action.

Notwithstanding the foregoing, the Chief of Staff shall take such action as is within his or her authority and is reasonably calculated to prevent further harassment. Action may include temporarily denying the alleged harasser access to the complainant's workspace, and if appropriate and desired by the complainant, providing additional protective services to the complainant or temporarily changing the employee's work assignment.

B. Members

1. Confidentiality Requested: The Chief of Staff, or his/his designee, shall obtain a detailed account of the allegations from the employee. The Speaker or President or an appropriate member of the leadership of the House or Senate, as designated by the Speaker or President, or a member of the House and Senate staff designated by the Speaker or President shall meet with the member, who shall be advised of the nature of the allegations and requested to respond. The Speaker and President and any member of leadership and staff shall respect the confidentiality and privacy of the individuals reporting or accused of harassment to the extent reasonably possible. Based on the information available, the Speaker and President, in consultation with the designated member of the leadership of the House or Senate and staff, shall determine whether conduct in violation of the Policy has occurred.

Corrective action and confidentiality regarding members may be constitutionally limited with regard to formal discipline such as reprimand, censure or expulsion. Appropriate corrective action and/or counseling will attempt to stop the inappropriate behavior.

If the employee is not satisfied with the result obtained by the confidential method described above, the employee may at any time decide to file a complaint with the Legislative Ethics Committee under RSA 14-B.

2. No Confidentiality Requested: The Chief of Staff shall provide the complaining employee with a copy of RSA 14-B and the Legislative Ethics Rules. The employee shall submit the complaint in writing and signed under oath as required by RSA 14-B:4 to the Chief of Staff. The Chief of Staff shall then submit the complaint to the Legislative Ethics Committee, which shall handle the matter thereafter in accordance with the statutes and rules governing complaints under RSA 14-B. The employee may submit the complaint directly to the Legislative Ethics Committee if desired. The Chief of Staff shall take such action as is within his or her authority and is reasonably calculated to prevent further harassment from occurring during the pendency of the investigation. Action may include temporarily denying access to the complainant's workspace to the alleged harasser, and if appropriate and desired by the complainant, providing additional protective services to the complainant or temporarily changing the employee's work assignment.

3. If the complaint is against the Chief of Staff then the Speaker or President shall be substituted in the above policies in place of the words Chief of Staff.

C. Lobbyists and Press

The Chief of Staff or his or her designee shall investigate the complaint as thoroughly and expeditiously as is reasonably possible in the same manner provided for investigating complaints regarding employees. During the investigation and upon determination that a complaint is founded, the Chief of Staff shall take such action as is within his or her authority and is reasonably calculated to prevent further harassment from occurring. Action may include temporarily denying access to the complaint's workspace to the alleged harasser, and if appropriate and desired by the complainant, providing additional protective services to the complainant or temporarily changing the employee's work assignment.

If a complaint is determined to be founded, in addition to any other action taken, up to and including expulsion from the General Court, notice of the finding, redacted to protect the identity of the complainant, shall be sent to the employers of any lobbyist identified in the most recent filing with the Secretary of State under RSA 15:1 or with the media employer of any member of the press.

D. General Public

The Chief of Staff or his/her designee, shall investigate the complaint as thoroughly and expeditiously as is reasonably possible in the same manner provided for investigating complaints regarding employees. During the investigation and upon determination that a complaint is founded, the Chief of Staff shall take such action as is within his or her authority and is reasonably calculated to prevent further harassment from occurring. Action may include temporarily denying access to the complainant's workspace by the alleged harasser, and if appropriate and desired by the complainant, providing additional protective services to the complainant or temporarily changing the employee's work assignment. Discipline is not generally available in regard to the general public.

EDUCATION AND TRAINING

This Policy shall be communicated to all employees and members. Periodic training shall be conducted to inform employees and members of the Policy and the complaint and investigation procedures set forth herein.

All employees and members shall be given a copy of this Policy and shall be requested to read it and sign a statement acknowledging receipt of the Policy and that they have read it.

This Policy shall be provided at the beginning of the biennium to all members and at any other time that it is readopted or updated by the Joint Facilities Committee. The Policy shall be available upon request to registered lobbyists, the press, and the general public. The orientation provided to new members shall inform them of the Policy and the complaint and the investigation procedures set forth herein.

ACKNOWLEDGMENT OF RECEIPT OF POLICY

I hereby acknowledge that I have received and read a copy of the General Court's Policy Against Sexual And Other Unlawful Harassment And Discrimination.

Employee/Member

Date

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General Court of New Hampshire
Policy Against Sexual and Other Unlawful Harassment and Discrimination

Addendum
January 1, 2020

Statement of Purpose

The purpose of this Addendum is to update, modify, and amend the Policy Against Sexual and Other Unlawful Harassment and Discrimination (“Policy”) to reflect the provisions of SB 235, Chapter 311, Laws of 2019. The provisions of this Addendum shall supersede and prevail over any provisions contained within the Policy which may conflict with or be contrary to this Addendum.

Establishment of General Court Administrative Office

There shall be a General Court Administrative Office in the State House under a Director who may employ and contract for such additional professional, technical, clerical, or other employees necessary to perform the functions and duties of the office.

Designation and Duties of Independent Human Resources Professional

The Director shall designate a person as an Independent Human Resources Professional (“Professional”) who has had or will receive training or certification in sexual harassment investigations. The Professional shall carry out obligations as set forth in the Policy, including but not limited to, the receipt, investigation, and processing of verbal or written complaints from legislative staff, members of the public, or other members of the General Court concerning current members of the General Court, or members of the General Court whose service ceased within 2 years prior to the complaint. Consistent with the Policy, persons covered by the Policy may report incidents of harassment, discrimination, or retaliation to any other person, including supervisory authorities. Such reports may thereafter be reported to the Professional for appropriate action.

Confidentiality of Complaints

A sexual harassment complaint filed with the General Court Administrative Office shall be confidential and not subject to disclosure to any third party, including but not limited to the Attorney General’s Office; provided that the complainant may waive such confidentiality protections with informed, written consent. Nothing in this paragraph shall prevent the Professional from consulting with any person reasonably necessary to conduct an investigation.

Authority of Presiding Officers

Neither the Office of the Senate President nor the Office of the Speaker of the House of Representatives shall have any oversight or responsibility for any complaints involving sexual harassment submitted to the Professional.

Duties of the Joint Committee on Legislative Facilities

Prior to the beginning of each biennium, the Joint Committee on Legislative Facilities shall review sexual harassment policies of other jurisdictions and legislatures and adopt a sexual harassment policy consistent with best practices, which shall include procedures for the Professional to address sexual harassment complaints and ensure independence from the Office of the Senate President and the Office of the Speaker of the House of Representatives. Prior to the beginning of each biennium, the committee shall determine whether to propose to the Senate and House of Representatives that each body shall propose by rule that all legislators, legislative officers, and legislative staff shall attend in-person education and training regarding sexual and other unlawful discrimination and harassment. The Policy shall be posted online and shall be included in the ethics guidelines, statutes, and procedural rules booklet.