

Legislative Management Committee Policy E -- Legislative Workplace

Discrimination Prevention

(Adopted December 9, 2024)

Part 1. General Provisions

Section E-101. Replacing and superseding previous policies -- Purposes of policy.

(1) This policy replaces and supersedes any policy previously adopted by the Legislative Management Committee or legislative leadership relating to workplace discrimination or harassment.

(2) The purposes of this policy are:

(a) to express the Legislature's firm commitment to providing a legislative environment that is free from discriminatory conduct, including sexual harassment;

(b) to encourage the reporting of an incident of discriminatory conduct or retaliation;

(c) to provide a process for handling complaints that allege discriminatory conduct or retaliation; and

(d) to provide for corrective action against anyone found to have engaged in discriminatory conduct or retaliation.

Section E-102. Definitions.

As used in this policy:

(1) "Complaint" means a formal statement that:

(a) alleges discriminatory conduct or retaliation; and

(b) manifests a clear intent to request or initiate a formal investigation of an allegation of discriminatory conduct or retaliation.

(2) "Compliance officer" means an individual designated under Section L-103.

(3) "Discriminatory conduct" means:

(a) workplace conduct that is unlawful under federal or state antidiscrimination law;

(b) violence or unfair treatment directed toward a legislator or legislative employee in the workplace because of any of the following characteristics of the individual:

(i) race;

(ii) color;

(iii) sex;

(iv) sexual orientation;

(v) gender identity;

(vi) a pregnancy, childbirth, or pregnancy-related condition;

(vii) age, if over 40 years;

(viii) religion;

- (ix) national origin;
- (x) citizenship status;
- (xi) a disability; or
- (xii) genetic information;
- (c) harassment; or
- (d) sexual harassment.

(4) "Harassment" means unwelcome workplace conduct that denigrates or shows hostility or aversion toward an individual because the individual has any of the characteristics listed in Subsection (3)(a)(ii), if the conduct:

- (a) has the purpose or effect of:
 - (i) creating an intimidating, hostile, or abusive work environment; or
 - (ii) unreasonably interfering with the individual's work performance; or
- (b) otherwise adversely affects the individual's employment opportunities.

(5)(a) "Legislative employee" means an individual:

- (i) employed by a legislative unit; or
- (ii) applying for employment with a legislative unit.
- (b) "Legislative employee" does not include a legislator.

(6) "Legislative area" means the same as that term is defined in Utah Code Section 63O-1-101.

(7) "Legislative services" means the Office of Legislative Services created by Section D-201 of Legislative Management Committee Policy D - Legislative Services.

(8) "Legislative unit" means:

- (a) the Legislature;
- (b) the Senate;
- (c) the House of Representatives;
- (d) the Office of the Legislative Fiscal Analyst;
- (e) the Office of the Legislative Auditor General;
- (f) the Office of Legislative Research and General Counsel; or
- (g) the Office of Legislative Services.

(9) "Responsible officer" means:

- (a) the speaker of the House of Representatives, for a report or complaint involving:
 - (i) a representative other than the speaker of the House of Representatives; or
 - (ii) the chief of staff of the House of Representatives;
- (b) the majority leader of the House of Representatives, for a report or complaint involving the speaker of the House of Representatives;
- (c) the president of the Senate, for a report or complaint involving:
 - (i) a senator other than the president of the Senate; or
 - (ii) the chief of staff of the Senate;

(d) the majority leader of the Senate, for a report or complaint involving the president of the Senate;

(e) the president of the Senate and speaker of the House of Representatives, for a report or complaint involving:

(i) the director of the Office of Legislative Research and General Counsel;

(ii) the legislative fiscal analyst;

(iii) the legislative auditor general; or

(iv) legislative general counsel;

(f) the chief of staff of the House of Representatives, for a report or complaint involving an employee of the House of Representatives other than the chief of staff;

(g) the chief of staff of the Senate, for a report or complaint involving an employee of the Senate other than the chief of staff;

(h) the director of the Office of Legislative Research and General Counsel, for a report or complaint involving an employee of the Office of Legislative Research and General Counsel other than the director;

(i) the legislative fiscal analyst, for a report or complaint involving an employee of the Office of the Legislative Fiscal Analyst other than the legislative fiscal analyst;

(j) the legislative auditor general, for a report or complaint involving an employee of the Office of the Legislative Auditor General other than the legislative auditor general;

(k) legislative general counsel, for a report or complaint involving the executive officer of the Office of Legislative Services; or

(l) the executive officer of the Office of Legislative Services, for a report or complaint involving an employee of the Office of Legislative Services other than the executive officer.

(10) "Retaliation" means an adverse action taken against an individual because the individual:

(a) opposes discriminatory conduct;

(b) reports discriminatory conduct or submits a complaint; or

(c) testifies, assists, or participates in any manner in a formal or informal investigation of a report or complaint of discriminatory conduct.

(11) "Sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or other conduct of a sexual nature if:

(a) submission to the advance, request, or conduct is explicitly or implicitly made a term or condition of:

(i) an individual's employment; or

(ii) the individual's receipt of a beneficial employment or legislative action;

(b) submission to or rejection of the advance, request, or conduct is used as a basis for an employment decision concerning the individual; or

(c) the advance, request, or conduct:

- (i) unreasonably interferes with an individual's work performance; or
- (ii) creates an intimidating, hostile, or offensive, work environment.

Section E-103. Designation of compliance officer.

(1)(a) Except as provided in Subsection (1)(b), the executive officer of legislative services shall act as compliance officer.

(b)(i) The executive officer of legislative services may request the legislative general counsel to designate an individual to act as compliance officer in the place of or in addition to the executive officer.

(ii) If a report or complaint alleges discriminatory conduct or retaliation by the executive officer of legislative services, the legislative general counsel shall designate an individual other than the executive officer to act as compliance officer with respect to that report or complaint.

(2) The executive officer of legislative services or the executive officer's designee shall conspicuously post at various locations within the legislative area notices containing:

- (a) information about how to report discriminatory conduct or retaliation and submit a complaint; and
- (b) the identity and contact information of each compliance officer.

Part 2. Complaint Process

Section E-201. Report or complaint of discriminatory conduct or retaliation -- Investigation.

(1) An individual who believes to have been the subject of or to have witnessed discriminatory conduct or retaliation may report the discriminatory conduct or retaliation or submit a complaint to the compliance officer.

(2)(a) A compliance officer:

(i) shall conduct or direct an investigation of a report or complaint of discriminatory conduct or retaliation as the compliance officer considers necessary and appropriate under all the circumstances; and

(ii) may consult with and advise:

(A) an individual who reports allegations of discriminatory conduct or retaliation or is considering submitting a complaint; or

(B) the responsible officer or other supervisor of the individual.

(b) Subject to budgetary constraints, a compliance officer:

(i) shall engage an outside investigator to conduct an investigation of a complaint alleging discriminatory conduct or retaliation by a legislator or a member of the Legislative Services Management Council; and

(ii) may engage an outside investigator to conduct an investigation of a report or

complaint alleging discriminatory conduct or retaliation by an individual other than a legislator or a member of the Legislative Services Management Council.

(3) The compliance officer shall:

(a) provide the individual named in the complaint notice of the complaint and an opportunity to be heard concerning the allegations of the complaint; and

(b) take all reasonable steps to ensure that the investigation of the complaint is fair and free from bias, collusion, intimidation, and retaliation.

(4) A compliance officer may refer alleged discriminatory conduct or retaliation for criminal prosecution if the compliance officer determines that referral is warranted.

Section E-202. Corrective action.

(1) If, following an investigation of a complaint under Section E-201, a compliance officer finds that it is more likely than not that a legislator or legislative employee engaged in discriminatory conduct or retaliation, the compliance officer shall promptly refer the complaint and the compliance officer's findings to the responsible officer for appropriate corrective action.

(2) A corrective action is intended to:

(a) impose discipline, as appropriate, on an individual who is found, as provided in Subsection (1), to have engaged in discriminatory conduct or retaliation; and

(b) prevent any further discriminatory conduct or retaliation by the individual who is subject to the corrective action.

(3) A corrective action for an individual found, as provided in Subsection (1), to have engaged in discriminatory conduct or retaliation may include:

(a) for any individual:

(i) a requirement to undergo discriminatory conduct training; and

(ii) monitoring behavior for a period of time to ensure compliance with prohibitions on discriminatory conduct and retaliation;

(b) for a legislator:

(i) removal from a committee assignment or other legislative assignment; or

(ii) other disciplinary action the responsible officer considers appropriate; and

(c) for a legislative employee, disciplinary employment action, including:

(i) a negative report to the employee's employment file;

(ii) a temporary suspension;

(iii) a reduction in pay;

(iv) termination of employment; or

(v) any other disciplinary action that the responsible officer considers appropriate.

(4) A corrective action under this section:

(a) is not the exclusive remedy for discriminatory conduct or retaliation; and

(b) is separate from and in addition to any other sanction or penalty that could be

imposed under applicable law against an individual who engages in discriminatory conduct or retaliation.

(5)(a) If the compliance officer finds, as provided in Subsection (1), that an individual other than a legislator or legislative employee has engaged in discriminatory conduct or retaliation against a legislator or legislative employee, the compliance officer shall report that finding to the responsible officer for possible corrective action against the individual to safeguard the legislator or legislative employee.

(b) Corrective action under Subsection (5)(a) may include:

- (i) directing the individual to discontinue interacting with the legislator or legislative employee who submitted the report or complaint; or
- (ii) limiting the individual's access to some or all of the legislative area.

Section E-203. Confidentiality.

(1)(a) To the extent permitted by law and except as otherwise provided in Utah Code Title 63G, Chapter 2, Government Records Access and Management Act, all communications, documents, or other materials related to a report, complaint, or investigation of discriminatory conduct or retaliation shall be maintained strictly confidential, subject to the need for limited disclosure to conduct investigative activities or take corrective action.

(b) Confidentiality is important to avoid the negative consequences that disclosure might cause, including embarrassment to an individual reporting or submitting a complaint of discriminatory conduct or retaliation and discouraging individuals from reporting discriminatory conduct or retaliation or submitting a complaint in the future.

(2) A compliance officer and responsible officer shall maintain documents relating to a report or complaint of discriminatory conduct or retaliation separate from other documents or files that are not related to the report or complaint.

(3) A compliance officer may report an allegation, report, or complaint of discriminatory conduct or retaliation to the responsible officer of the individual alleged to have engaged in discriminatory conduct or retaliation, if the compliance officer determines the circumstances warrant reporting to the responsible officer.

Section E-204. Duty to report.

A responsible officer or a legislator or legislative employee in a supervisory role who has knowledge of discriminatory conduct or retaliation shall report the discriminatory conduct or retaliation to a compliance officer.