

TITLE 10. HARASSMENT POLICY

This title establishes the policies and procedures governing the prohibition of harassment in the workplace.

Chapter 1. Harassment Policy

Sec. 1.1. Policy.

It shall be the policy of the Hawaii State Senate to:

- (1) Ensure that all members and employees serve in a workplace devoid of harassment and are treated with dignity and respect;
- (2) Establish a procedure that will handle all complaints of harassment in a confidential, proper, thorough, and respectful manner; and
- (3) Provide for disciplinary action for any violations of the Senate's harassment policy.

Sec. 1.2. Duties and Responsibilities.

It shall be the duty of every member and employee of the Senate to:

- (1) Treat one another with dignity and respect;
- (2) Ensure that harassment does not occur in the Senate;
- (3) Avoid any activities in the workplace which could be construed as harassment;
- (4) Affirmatively discourage harassment through communication, education, and training;
- (5) Report incidents of harassment promptly, treat each reported incident in a dignified and respectful manner, and take corrective or disciplinary action, or both, when appropriate; and
- (6) Prevent reprisals or retaliation against any member or employee who reports any incident of harassment.

Sec. 1.3. Definitions.

- (1) Harassment Defined. Harassment is defined as conduct which:
 - (a) Is unwelcome by the person to whom it is directed;
 - (b) Unreasonable interferes with the performance of elected or job duties of the person; or
 - (c) Creates a hostile, intimidating, or offensive work environment.

Harassment on the basis of race, gender, sexual orientation, age, religion, color, ancestry, disability, marital status, or arrest or court record is a form of misconduct which undermines the work environment. Such harassment is a violation of Title VII of the federal Civil Rights Act or Chapter 378, Hawaii Revised Statutes, or both.

- (2) Sexual Harassment Defined. Sexual harassment, in particular, has become the focus of much discussion and is a violation of federal and state law. Title VII of the federal Civil Rights Act and Chapter 378, Hawaii Revised Statutes, specifically prohibit employment discrimination based on sex. Sexual harassment is a form of sex discrimination. Sexual harassment is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

The following behaviors consist of sexual harassment:

- A. Submission to the conduct is made either implicitly or explicitly a term or condition of employment.
- B. Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual.

A and B are examples of quid pro quo forms of sexual harassment. Quid pro quo is a situation where the employee is asked for sexual favors in return for something given the member or employee.

- C. The conduct has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.

C is an example of a hostile work environment.

- (3) Harassment can occur between Senate members and staff members, as well as between supervisors and subordinates of the Senate, or vendors or lobbyists.

Harassment takes many forms. It includes, but is not limited to, the following types of behaviors: (A) offensive nonverbal behavior such as leering, making obscene gestures or suggestive or insulting sounds with or without implied or expressed employment related consequences; (2) verbal threats, insults, repeated suggestive or derogative comments, or sexist, racist, or other remarks about a person or the person's body, clothing, sexual, or other activities; or (3) physical behavior including patting, pinching, or unnecessary touching.

Sec. 1.4. Resolution process for harassment complaints.

An employee who feels victimized by any form of harassment may complain directly to the offender (verbally or in writing) about the action of harassment. If an employee does not wish to complain directly to the offender, or if the harassment continues even after a direct complaint, the employee may:

- (1) Complain to the employee's immediate supervisor;
- (2) Complain to a higher level supervisor, if the immediate supervisor is the offending person or to the President of the Senate or the Affirmative Action Officer designated by the President; or
- (3) Take action through the Hawaii Civil Rights Commission or go to court.

All harassment complaints shall be investigated promptly and in a confidential manner.

If a legislator or supervisor has reason to believe or has been provided information that an incident of harassment or potential harassment has occurred, the legislator or supervisor shall immediately report any incident of harassment or potential harassment to the President or the Affirmative Action Officer. It is not for a legislator or supervisor to determine the validity or veracity of the incident or potential incident of harassment prior to reporting of said incident. Upon notification of a harassment complaint, either directly or indirectly, the President of the Senate or the Affirmative Action Officer shall immediately begin the investigation. If a complaint is found to be valid, the President or the Affirmative Action Officer shall take the appropriate corrective action to discipline the offender, and to prevent recurrence of the harassment.

Corrective action may range from informal counseling to termination of employment. Senate members shall be subject to the procedures and punishments outlined in the Rules of the Senate, Part IX, Rule 72.

Sec. 1.5. Other remedies not precluded.

No disciplinary action taken by the Senate shall preclude the aggrieved employee or member from seeking other remedies.