

GENERAL ASSEMBLY 2.0
A TRANSFORMATIONAL APPROACH TO
LEGISLATIVE WORKPLACE CULTURE

ANALYSIS AND EVALUATION OF THE COLORADO GENERAL ASSEMBLY'S CULTURE,
POLICIES AND PROCEDURES AS THEY RELATE TO WORKPLACE HARASSMENT



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OBJECTIVE & INTRODUCTION

Colorado men [and women] are we

From the peaks gigantic, from the great sierras and the plateaus,

From the mine and from the gully, from the hunting trail we come, Pioneers! O Pioneers!

(Walt Whitman)

Coloradoans are no strangers to being the pioneers forging new trails, or being the first and best at what they do. Coloradoans enjoy the best economy in the country by some measures.ⁱ Colorado leads the nation in efforts to prevent and confront child abuse,ⁱⁱ and balance responsible energy development with environmental protections.ⁱⁱⁱ Coloradoans are the most physically fit people in the country,^{iv} and have more 14ers to focus their outdoor enthusiasm on than any other state (nearly twice as many as Alaska, which comes in at number 2).^v It is no surprise that Colorado is in the top ten healthiest and happiest of states.^{vi} Colorado men were the first voters in the country to give women the right to vote by popular referendum,^{vii} and Colorado has more women Legislators, by percentage, than all but four states.^{viii} We sent more Olympians to the 2018 games in PyeongChang, South Korea, than did any other state,^{ix} and 39% of the medals that Team USA took home were won by Coloradoans.^x An East High School graduate was one of a handful of astronauts who have flown to the moon, barely making it back after Apollo 13 developed problems in flight,^{xi} and recently Colorado astronaut Peggy Whitson returned to Earth after setting multiple records in space, including the U.S. record for most days off the planet (665), the most experienced woman spacewalker (with 10 walks) and the oldest woman astronaut in history.^{xii} Our Colorado General Assembly (the “General Assembly”) is, by some measures, the most effective legislature

in the country, passing an average of 63% of the bills introduced,^{xiii} despite the fact that control of its houses are split. There is much more that could be said about this special place we call home.

But no state is without its challenges, and no State Legislature is perfect. As the media coverage and recent events in the General Assembly reflect, there have been real problems of harassment in the General Assembly that have negatively impacted lives, careers and the wellbeing of Members of the Legislative Workplace.¹ In response, the Leadership of the General Assembly sought help in understanding the current state of affairs, and exploring options for a better, safer and more effective workplace culture and set of policies.

We were fortunate to be selected to provide that assistance. In this Report, we will describe the work we did to assess the General Assembly's culture and its policies, rules and procedures around harassment in the workplace. We were tasked with taking a look at what exists today, evaluating it in light of best (or better) practices, and recommending the best approach for the General Assembly going forward.

We saw our objective in this consultancy as two-fold. First, to respond to the specific requests in the RFP, which we have done. Second, to do so in such a way as to position Colorado first and best in another realm, that of creating the national model for legislative culture on the issue of workplace harassment. In this Report, we offer a "Next-Generation" plan² that blends transformational best practices gleaned from other states, corporations, practice experts, the legal community, and a local Colorado summit of experts with the particular needs and culture of the Colorado Legislative Workplace in mind.

¹ Throughout the report you will see us refer to "Members of the Legislative Workplace." This refers to the legislators, staff members, agency staff, and employees of the General Assembly, as well as the lobbyists, volunteers, student interns, custodial staff, security officers and others who regularly work and conduct business in the Capitol complex, the adjacent legislative buildings and other places where the work of the General Assembly is conducted.

² "Next-Generation" refers to the next stage of development, the modern reboot as it were, designed to take the institution of the General Assembly to a higher and better version of itself.

The approach we recommend will put Colorado out in front in creating and maintaining a Legislative Workplace where people are comfortable, safe and respected, and where discrimination or harassment are not tolerated. This Report contains our comprehensive review of the General Assembly's culture and existing policies, rules and procedures; describes the steps in our analytic process; sets forth the problems and opportunities that we identified through that process; and recommends structural, policy and process improvements. Specifically, the Report contains:

- A summary of our Findings and Recommendations;
- A description of the legal, social and historical background;
- A summary of the steps in our process used to gather and analyze data;
- Our recommendations for a Next-Generation plan to rectify problems, seize the available opportunities and take the General Assembly to the next level;
- A new Policy and set of procedures; and
- Substantive reference sections containing details on the data gathered and observations made on that data.

Our recommendations acknowledge the unique nature of the Legislative Workplace as an institution peopled by elected officials, staff member Employees, media, volunteers, lobbyists and other Third Parties, unlike nearly any other workplace in our state. Our recommendations should not be read as an endorsement or an indictment of the institution we reviewed, because there are positives and negatives in the Legislative Workplace, as in almost any work environment. Instead, we hope that our report and recommendations will be read as an opportunity for the General Assembly to take the Legislative Workplace to the next level: General Assembly 2.0, the upgrade.

ACKNOWLEDGEMENT

We would like to acknowledge the many Members of the Legislative Workplace who took the time to participate in our culture and public surveys, and who provided thoughtful feedback to our questions. In particular, we would like to recognize those individuals who accepted our invitation to meet face to face to provide feedback in confidential interviews, or who reached out and asked to meet. We gained valuable information in every interview we conducted. Finally, we would like to thank our Summit of local and national experts, who convened for a full day without pay to analyze, vigorously debate and offer constructive solutions for improving policies and procedures. Your help enabled us to gather a rich data pool and gave us the foundation to craft innovative ideas for transformation. None of this would have been possible without your assistance. We thank you.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

In every lengthy and complex project, the writer is faced with the dilemma of balancing the competing considerations of brevity with the obligation to demonstrate the thoroughness of the analysis, and show the detail required (and in this case, specifically requested) to support the conclusions reached. As a compromise between these two important imperatives, we decided to mix up the typical format one might expect in a report of this nature, and provide a summary of our findings and recommendations, up front. This will be followed by sections outlining the data we found, and then our fully described recommendations for action. This summary is offered as a helpful tool with which to navigate the Report.

Problems and Opportunities

We weighed all the data gathered in this project to compile a list of the items we believe represent problems or opportunities for improvement in the current culture, policy, rules and procedures. These items are more fully discussed below, and many contain a number of sub-parts. They are presented here in summary format, in ten “buckets” of observations:

1. The most important factor that drives workplace behavior is culture, and the culture of the Legislative Workplace requires transformation. While almost everyone we surveyed said they felt “safe” and “comfortable” in the Legislative Workplace, almost 30% reported having seen or experienced harassment (and only a small percentage reported it). This includes reported harassment based on sex (including sexual harassment) but people also reported harassment based on other protected classes. Another 50% of people have observed sexist behavior and/or reported episodes of seriously disrespectful behavior. This suggests to us that there is work to do.
2. A higher standard of behavior than simply avoiding unlawful conduct is already the standard for many whom we interviewed. This is not, however, codified in the current system and this is a missed opportunity.
3. The Human Resources function needs to be adequately resourced and empowered to help in these efforts. While there has been a strong start, more needs to be done.

4. In addition to strong culture, strong policies and rules are important, and the General Assembly's policies, rules and procedures must be updated, including reporting options and complaint handling. The fact that the General Assembly's policy and procedures are dated is not atypical, as that was the case until January 2018 in most state assemblies.
5. Retaliation is a real concern that is not adequately addressed in the present system.
6. The partial confidentiality in the present system undermines the process and should be redressed.
7. Accountability for misbehavior in the political arms of the institution should be strengthened, made consistent and be proportionate.
8. The complaint intake and resolution process needs to be professionalized, enhanced and also centralized.
9. Effective training and outreach should be a priority to enhance positive culture change and reflect best practices.
10. It is important that these efforts do not attempt to fix what is not broken, and that they build on the positives that exist, and preserve a collegial environment in the General Assembly.

Summary of Recommendations

Based on all of the data we gathered, and our assessment and analysis of the data, we present the following summary of what we believe are the best solutions to create a Next-Generation Legislative Workplace following the latest recommendations for best practices, and which can strive for the definition set forth in the RFP: "a harassment-free environment" where all "feel comfortable, safe, and protected."

Structures for Success: *Invest in Transformation*

1. Expand the role, leadership and staffing in the Human Resources function in a newly created Office of Legislative Culture ("OLC"), led by a Human Resources Director. Establish three additional positions in OLC: an Equal Employment Opportunity Officer; a Workplace Culture Specialist; and a Workplace Culture Ombudsperson.
2. Create an Independent EEO Advisory Panel, modeled on the Independent Ethics Commission, for handling complaints of unlawful behavior by Legislators.

3. Create a Standing Workplace Culture Committee in each chamber, that will receive the results of investigations and that will be responsible for deciding upon, and initiating appropriate disciplinary, remedial and/or legislative action.
4. Revise, as needed, the Colorado Open Records Act to provide better confidentiality during the complaint resolution process and to protect investigation records from disclosure except as determined to be necessary under the General Assembly's revised policy.

Prevention through Next-Generation Culture: When Members Thrive

1. Set the expectations for behavior greater than simply avoiding unlawful harassment and emphasize and formalize a respectful workplace expectation in your policy.
2. Emphasize a positive proactive focus on creating great culture, as an institutional imperative and as the most important step in creating the kind of workplace you envisioned in the RFP.
3. Create meaningful opportunities for building and maintaining great culture, including effective and relevant training across stakeholder groups.
4. Create a bicameral Student Intern Orientation Program, designed and managed by the Workplace Culture Specialist in collaboration with the Confidential Workplace Ombudsperson and individuals from both houses, to provide education, support and resources for Student Interns.

Remediation of Problems Quickly and Informally: When Members Struggle

1. Improve the policy to expand complaint contacts, including an anonymous option, while centralizing responsibility for handling, resolution and tracking.
2. Professionalize and standardize the response to complaints.
3. Add in the option of going to a confidential Ombudsperson.
4. Craft an informal resolution process designed to intercept and correct misbehavior at an early stage, and give it remedial resources (which should, under this structure, be available through the OLC) to effect behavior transformation.
5. Create a Respectful Workplace Expectation policy.

Serious Processes for Serious Workplace Misconduct: When Stakes Are High

1. Centralize, update and professionalize the Formal Resolution Process for situations involving alleged unlawful discrimination, harassment or retaliation.

2. Include avenues in the system for confidential advice through the Ombudsperson, and include anonymous reporting avenues, such as Convercent’s hotline system (accessible by phone, web or text).
3. Create two separate paths for Formal Resolution depending upon whether the Respondent is a Legislator or a non-legislator, each requiring full participation by everyone in the Legislative Workplace.
4. Engage, educate, support and protect the participants in the process. Include the availability of support persons for Student Interns who are participants in the Formal Resolution Process.
5. Ensure timely and reliable investigations.
6. Hold everyone accountable.
7. Create a holistic, thorough and accessible policy.

Transparency: *Serving Your Constituents*

1. Report complaint and resolution statistics, appropriately redacted, on an annual basis, via the EEO Officer.
2. Keep records of attendance at mandatory training, and affirmatively publish and recognize those members of the community who attend training and who earn the designation of “Certified Trainer” for attending a set number (or certain kinds of) training. Make all such records available for public inspection.

Look to the Future: *General Assembly 2.0*

1. Review and revise the new policies and procedures for efficacy and legal compliance annually, using the EEO Officer and H.R. Director, and appropriate other stakeholders.
2. Create ongoing and meaningful training and education opportunities.
3. Evaluate and reassess these protocols regularly – annual surveys, listening sessions, outreach, marketing, branding efforts.

These Recommendations are discussed in depth, later in the report.

The next Section of our Report provides a summary of the data we gathered, considered and analyzed in developing our recommendations.

THE HISTORIC MOMENT

At the very start of this project, we convened a research team to take a comprehensive look at the legal and social landscape, initiatives and best practices in other states, Next-Generation practices from private employers and other sectors of society, and the latest developments in effective training. In reaching any recommendations for action, we thought it was important to develop an understanding of this historical and legal context.

The Legal Framework

Anti-harassment policy exists as part of a legal framework prohibiting discrimination, including harassment, in the workplace. With the passage of Title VII of the federal Civil Rights Act of 1964, it became unlawful for employers with 15 or more employees to discriminate on the basis of race, color, religion, sex or national origin. Title VII was followed by the Age Discrimination in Employment Act in 1967 and the Americans with Disabilities Act of 1990, which reached discrimination based on age and disability respectively. These laws prohibit harassment on the basis of such protected classes where (1) enduring the unwelcome behavior becomes a condition of continued employment, or (2) the behavior is so severe or pervasive that a reasonable person would consider the work environment to be intimidating, hostile, or abusive. In 1986, the United States Supreme Court, in *Meritor Savings Bank v. Vinson*, recognized sexual harassment as a form of sexual discrimination in violation of the law.³

Colorado state law prohibits harassment “during the course of employment, or to discriminate in matters of compensation, terms, conditions, or privileges of employment against any person otherwise qualified because of disability, race, creed, color, sex, sexual orientation,

³ In doing so, the Court cited the 1980 Equal Employment Opportunity Commission (EEOC) guidelines for sexual harassment in the workplace.

religion, age, national origin, or ancestry.” *See* C.R.S. 24-4-402(1)(a). In the last year, these legal protections have become but part of a larger national discussion of workplace behavior and culture more generally.

The Renewed National Discussion

In the last year, a national discussion of sexual harassment in the workplace has been underway. As the RFP framed the context, “[i]n recent months, several allegations of sexual harassment have been made against members of the General Assembly, and some media reports have suggested that the existing culture is not conducive to keeping the Legislative Workplace harassment-free.”

Following allegations against powerful and public figures, social media has served as a platform for discussing sexual harassment and for inspecting the extent of individuals’ experiences with the issue. People, mostly women, began using the hashtag #MeToo to share their stories. The emergence of a culture shift accompanied this movement, as it conveyed to people that they are not alone in having experienced harassment. A month after the initial #MeToo message was used on Twitter, more than 24 million people from 85 different countries had participated in the conversation by posting, reacting, or commenting.^{xiv}

A 2017 Pew Research Center survey of over 1,500 adults revealed that 66 percent of participants believe the recent wave of sexual harassment and assault allegations “reflect widespread problems in society” as opposed to acts of individual misconduct. The majority of men and women surveyed, in both political parties, echoed this view. Furthermore, about 74 percent of participants deemed sexual harassment a “very important issue.”^{xv}

Nearly one-third of the approximately 90,000 complaints made to the Equal Opportunity Employment Commission (EEOC) in 2015 alleged workplace harassment. That number of

harassment complaints is startling, especially when one considers that many employees who have been harassed will not speak up out of a fear of not being taken seriously, or a concern that their harasser or employer will retaliate.

In a report issued by the EEOC in June 2016, a Select Task Force of the commission met over a period of 18 months and identified potential risk factors that can lead to harassment.⁴ The task force also made recommendations designed to help employers craft and implement policies, educate employees, implement procedures for complaints, reporting and investigations, and create a culture of zero tolerance for harassment. As noted in the Task Force Report preface, the problem of sexual harassment has stubbornly persisted in the workplace for more than thirty (30) years:

Thirty years ago, the U.S. Supreme Court recognized claims for sexual harassment as a form of discrimination based on sex under Title VII of the Civil Rights Act of 1964. In the years that followed, courts have filled in the legal landscape even further.

Six years ago, when we came to EEOC as commissioners, we were struck by how many cases of sexual harassment EEOC continues to deal with every year. What was further striking to us were the number of complaints of harassment on every other basis protected under equal employment opportunity laws the Commission deals with today. We are deeply troubled by what we have seen during our tenure on the Commission.

With legal liability long ago established, with reputational harm from harassment well known, with an entire cottage industry of workplace compliance and training adopted and encouraged for 30 years, why does so much harassment persist and take place in so many of our workplaces? And, most important of all, what can be done to prevent it? After 30 years - is there something we've been missing?

As commissioners of an enforcement agency, we could have taken a cynical approach. We could have assumed that some people will always engage in harassment and that we cannot expect to control how people behave in increasingly diverse workplaces. That is especially so in an environment where every manner of rude, crude, or offensive material can be accessed and shared with others with a few strokes on a phone. We could have suggested that the Commission simply continue to do what it has done well for decades - investigate and settle charges,

⁴ See *Select Task Force on the Study of Harassment in the Workplace*, available online at: https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf.

bring litigation, provide legal guidance, hear complaints from federal employees, and provide outreach and education.

We set cynicism to the side. We want to reboot workplace harassment prevention efforts.

Accordingly, we present this “Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace.” We offer this report to our fellow commissioners, the EEOC community nationwide, our state partners, employers, employees and labor unions, and academics, foundations, and community leaders across the country. We present this report with a firm, and confirmed, belief that too many people in too many workplaces find themselves in unacceptably harassing situations when they are simply trying to do their jobs.

Along with the Task Force Report, the EEOC issued proposed Enforcement Guidance,⁵ which has not yet been issued in final form. The Guidance identifies five critical components that a workplace must have to prevent and address harassment: 1) committed leadership; 2) demonstrated accountability; 3) strong, comprehensive policies; 4) trusted and accessible complaint procedures; and 5) regular, interactive training tailored specifically to the audience and the organization. The EEOC’s proposed new Enforcement Guidance on Harassment has been released in draft form, but is not yet final.

State Legislatures Around the Nation Respond

In the face of the renewed public discussion, the General Assembly is not alone in examining its anti-harassment policies, procedures, and training. State legislatures throughout the country, like many employers, have recently taken steps to respond. In January 2018, the Associated Press conducted a 50-state review of state legislative sexual harassment policies. It found that at least one legislative chamber in approximately three out of four states has updated its policy, developed a proposal to do so, or has begun reviewing its policy. Our research revealed that, when including the time since January through mid-March 2018, there has been at least some

⁵ Available online at: <https://www.regulations.gov/document?D=EEOC-2016-0009-0001>.

type of response, such as reviewing or revising a policy or instituting training, in all fifty state legislatures. The process of addressing sexual harassment policies is ongoing, with developments occurring every week, but the following table provides an example of at least one step taken in each state up through the middle of March of 2018:

<u>State</u>	<u>Action</u>
Alabama	The Alabama House of representatives will begin receiving mandatory sexual harassment training next year.
Alaska	A legislative subcommittee is considering possible revisions to the sexual harassment policy, looking to Oregon's as a model, and is broaching whether the body also needs a separate "civility" policy to address inappropriate behavior not covered by a more traditional harassment policy.
Arizona	The legislature went through training in January 2018, and a bipartisan panel of lawmakers is now considering a code of conduct to potentially include prohibiting relationships between legislators and staffers.
Arkansas	Legislative leaders offered voluntary courses on sexual harassment in late February 2018.
California	The legislature has created a subcommittee to address sexual harassment and has held public hearings, including on topics such as best practices for changing culture, for reporting sexual harassment, and for providing victim support. California is considering a climate survey.
COLORADO	The General Assembly issued the RFP to examine its culture, policy, rules and procedures.
Connecticut	Its General Assembly is reviewing its sexual harassment policies and procedures.
Delaware	The House passed its first ever policy in January, with the Senate expected to follow.
Florida	The Senate enacted a new policy effective January 18, 2018.
Georgia	In February 2018, the House and Senate adopted a new and expanded policy.
Hawaii	The House has increased the frequency of required training.

Idaho	The legislature has created a Respectful Workplace Task Force Committee, which includes legislators as well as lobbyist, staff, and press representatives. The Committee is assessing possible revisions to the legislature's policy.
Illinois	Starting this year, lobbyists are required to comply with sexual harassment rules, including ensuring that all lobbyist employers have a written sexual harassment policy. Also, annual training of legislators and staff is now required.
Indiana	A bill passed the House in late January that would require all lawmakers to complete at least an hour of annual training on sexual harassment.
Iowa	Earlier this year, the Senate received recommendations on improving its policies and procedures.
Kansas	Late in 2017, the legislature received recommendations from an outside organization and made certain amendments to its policy in February 2018.
Kentucky	A House committee is considering first time policies for addressing workplace complaints.
Louisiana	Both the House and Senate have been recently reviewing their policies.
Maine	The legislature now requires in-person training.
Maryland	The legislature amended its policy in December 2017, and the state is now conducting a global review of policies across all three branches of government.
Massachusetts	On March 1, 2018, the House received the results of a review of its policies and resulting recommendations.
Michigan	Legislators are now required to undergo anti-harassment training annually.
Minnesota	Earlier this year, legislators attended mandatory discrimination and sexual harassment training for the first time, and a committee was formed to review the legislature's policies.
Mississippi	The Senate started offering online training in January 2018.
Missouri	The Senate increased the frequency of required training.
Montana	Earlier this year, the legislature began a review of its policies.

Nebraska	The legislature is in the process of revising its policy.
Nevada	The legislature adopted a new policy and training requirements in January 2018.
New Hampshire	Legislative leaders reminded lobbyists that the policy covers them as well and have considered expanding the dissemination of training materials, and there is pending legislation that would make legislators employees for purposes of requiring training.
New Jersey	The AP report identifies New Jersey as a state where policies are under review in both the House and Senate.
New Mexico	The legislature adopted a new policy in January 2018.
New York	There is pending legislation in the Senate that would create a uniform policy across all branches of state and local government and create an agency to handle harassment complaints.
North Carolina	The legislature's policies are under review.
North Dakota	The legislature has been in the process of updating its policies.
Ohio	Legislators underwent required training earlier this year.
Oklahoma	The House received recommendations in January 2017, and now require annual training and that lawmakers sign anti-fraternization and anti-nepotism forms at the beginning of each term.
Oregon	House and Senate leadership have requested an outside review of their policy.
Pennsylvania	Both chambers have been considering updating their policies.
Rhode Island	Legislators went through training in January 2018.
South Carolina	The Senate has enacted a policy for the first time, and the House put on a training earlier this year.
South Dakota	Legislators attended sexual harassment training earlier this year.
Tennessee	Members of the House attended in-person training, and Senators received training via video.
Texas	The House has been revising its policy, and the Senate has been reviewing its policy as well.

Utah	A bill has passed the House and, as of early March 2018, was being considered in the Senate, that would require, among other things, that lobbyists undergo annual sexual harassment training.
Vermont	A review of both chambers’ procedures has been conducted, and training was provided to legislators in January 2018.
Virginia	The legislature now requires members to undergo annual sexual harassment training.
Washington	Annual training is now required, and the House has created a task force to consider other changers, including a potential code of conduct.
West Virginia	Legislators received training on their policies late in 2017.
Wisconsin	Representatives and staff in the state assembly will have to receive sexual harassment training at the beginning of each two-year term.
Wyoming	The legislature recently updated its sexual harassment and anti-discrimination policy.

Many states are making revisions to their harassment policy or updating their training. The more common revisions to policy have been how complaints are *reported, investigated, and recorded* as well as clearer statements regarding *dissemination, training, and periodic review* of policies. With that said, certain states have begun broaching the subject of expanding the scope of conduct covered by their policies or addressing specific areas of conduct through supplemental policies aimed at preventing harassment. And, as will be discussed below, some states, such as California, are asking deeper questions about their culture.

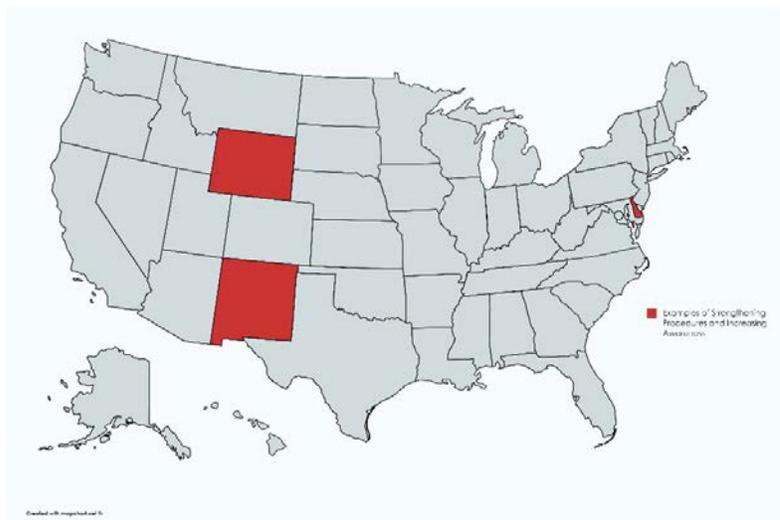
The National Conference of State Legislatures (“NCSL”) has studied the problem of harassment, in a political environment, extensively. We thank them for their support of our work and recognize the high quality of the resources they have available for state legislatures around the country. NCSL has identified multiple elements of a “strong” sexual harassment policy. It suggests including “examples of what behaviors are considered inappropriate in the workplace,”

and a statement providing confidentiality for all involved parties.^{xvi} A clear definition of “sexual harassment” and language that applies beyond legislators and staff are among other beneficial components. Researchers McLaughlin, Uggen, & Blackstone explain that “the salience of [these] organizational policies, along with norms of policy adherence” impacts the way in which employees uphold and view those policies.^{xvii} When organizations establish an explicit policy and take the steps to uphold norms surrounding that policy, employees are more likely to respect it as an organizational priority.

The General Assembly’s current policy and procedures follow many of the National Conference of State Legislature’s (NCSL) recommended elements. In fact, the organization lists the Colorado General Assembly as a representative “State Policy Example.”^{xvi} At present, the legislature’s policy provides definitions for both “workplace harassment” and “sexual harassment,” offers examples of sexual harassment (verbal, nonverbal, and physical), and includes a clause prohibiting retaliation for reporting. Regarding the reporting structure, those submitting complaints are to do so directly to the appropriate contact person or their designee of the opposite gender, as identified in the policy. It specifies that training “shall be provided in the course of orientation of newly elected members” and that the General Assembly “shall provide training opportunities for members.”^{xviii}

As noted above, many states have strengthened their approach to handling complaints of harassment and to increasing awareness. **Three examples are New Mexico, Wyoming, and Delaware.**

The New Mexico legislature had a 2008 harassment policy that provided general descriptions of the complaint and investigative process for harassment. This year, however, New Mexico issued a new policy.



The new policy added language to the definition of sexual harassment, making clear that it covered situations where the “submission to or rejection of such conduct by a person is used as the basis for decisions or actions related to the support or opposition of legislation or other legislative processes.” It also expanded and made more detailed its examples of nonverbal harassment. The most significant changes, however, were to the procedures around the handling of complaints and to the dissemination and review of the policy.

The policy details a complaint procedure based on whether the complaint is against legislative staff, non-staff and non-legislator, or a Legislator. For complaints against legislative staff, it empowers the hiring of an outside investigator and requires that the complainant and respondent are kept informed on its progress. New Mexico’s policy spells out potential consequences for violations of the policy by individuals who are neither a staff member nor Legislator: “Disciplinary action against a member of the public who is found to have violated this policy includes any appropriate action authorized by law, including a protective order, removal

from or denying access to legislative buildings or activities and notifying the individual's employer or clients." And, for complaints against New Mexico legislators, the policy contemplates use of outside counsel to provide an initial assessment of whether an investigation is required and to conduct any resulting investigation which will result in an investigation report that includes both factual findings and recommendations of counsel. The matter is then heard by an ethics committee who will make recommendations to the entire legislature. "Sanctions against a legislator who is found to have violated this policy include reprimand, censure or expulsion."

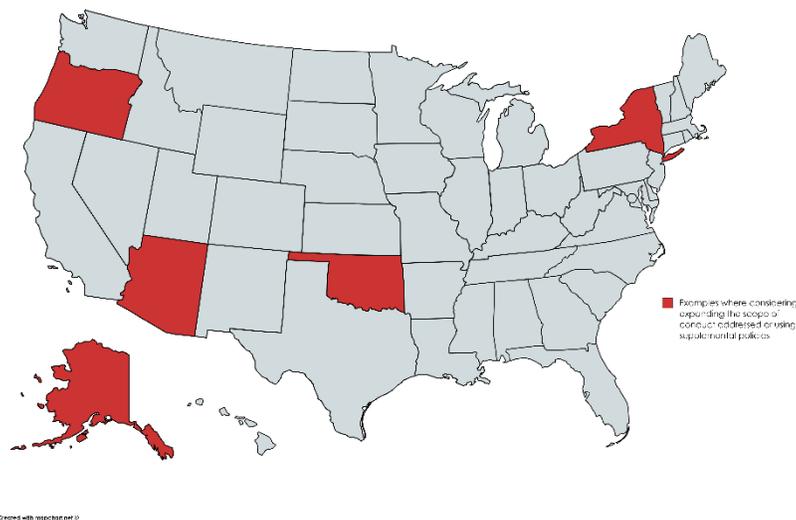
This focus on complaint processing, recordkeeping, reporting, dissemination, and training is found in a recently-updated policy in Wyoming. The Wyoming policy updates the definitions of the conduct at issue, but continue to hew closely to addressing only conduct that constitutes unlawful harassment. The most significant revisions were made to the procedural and dissemination aspects of the policy. For instance, the revision expands the number of people to whom a complaint can be made; details an investigation process that includes the ability to bring in an outside investigator; takes steps to minimize contact between the complainant and respondent; adds examples of potential corrective actions; clarifies and explains the confidentiality of the process;⁶ expressly provides that the legislature will ensure dissemination of the policy; and requires all legislators and staff to receive annual training on the policy.

⁶ The proposed confidentiality language is as follows: "All persons investigating a complaint or report shall keep confidential all aspects of the complaint, report and investigation unless all parties to the complaint or report waive confidentiality. Absent a waiver, any disclosure will be limited to only that which is necessary to investigate the complaint or report properly, to take corrective action or to report a potential violation of state or federal criminal law. If an investigation determinates that corrective action is required against a member, the identity of the person lodging the complaint or filing the report shall remain confidential, but the identity of the member shall be made available to the public if the appropriate corrective action requires the vote of the entire body as provided by the rules of the Legislature, the Wyoming Constitution and Wyoming statutes. In response to a request, the LSO director may release information on the number of complaints and reports received under this policy and other information to the extent the information does not allow for identification of any person and does not violate rules of the Legislature, Management Council Policy, the Wyoming Public Records Act or other applicable laws."

The Delaware House passed a sexual harassment policy for the first time in late January 2018. The policy includes a statement of policy that expresses the House’s commitment to a safe and respectful workplace. The policy reaches only that conduct that would potentially implicate unlawful harassment. It then details both informal and formal complaint procedures, outlines how complaints will be investigated and resolved, mandates confidentiality, and requires regular training.⁷

Other states have demonstrated a commitment to set the expectations for workplace behavior above the bare minimum of avoiding legal liability. For instance, the Oregon legislature

has a policy, most recently revised in January 2016, which already defines workplace harassment more broadly than the legal definition. The policy provides that “[w]orkplace harassment’ means unwelcome conduct in the form of treatment or behavior that, to a reasonable person,



creates an intimidating, hostile or offensive work environment,” without limiting it to protected classes. The policy has been identified as a strong example with many of the procedural elements

⁷ According to an Associated Press’ 50-state review, about a third of all legislative chambers as of January 2018 did not require sexual harassment training of any type. For those that do, most sexual harassment training for state legislators occurs at their orientation. As noted in in our table, additional states have begun to address training. See David Lieb, Associated Press, *State legislatures considering beefing up sexual harassment policies after wave of misconduct revelations*, (Jan. 11, 2018), available at <http://www.businessinsider.com/state-legislatures-considering-beefing-up-sexual-harassment-policies-2018-1>; and see also, Jonathan Griffin, National Conference of State Legislatures, *Sexual Harassment Policies and Training in State Legislatures*, 25 NCSL Legisbrief 1-2, (2017), available at <http://europepmc.org/abstract/med/28715164>

other states have more recently incorporated. For example, Oregon’s policy includes both informal and formal complaint procedures, with the informal complaint process aimed at preventing conduct from becoming severe.⁸ Despite the breadth of its policy, Oregon is in the process of reexamining its approach, having asked a consultant to review its policies.

The Alaska legislature has looked to Oregon’s current policy when drafting policy revisions. The subcommittee charged with revising the policy, however, is considering whether it also needs a separate “civility” policy to address inappropriate behavior not covered by a more traditional harassment policy.^{xix} As the draft proposed harassment policy frames the issue potentially requiring additional policy attention, “[t]here are actions that may be inappropriate in a professional work environment that may not be a violation of this policy.”

There are other supplemental policies that can help prevent harassment. For example, a bi-partisan panel of lawmakers from both the House and Senate in Arizona has been charged with drafting a code of conduct for state lawmakers that would include prohibiting relationships between legislators and staffers. The New York State Assembly has long had a detailed policy prohibiting fraternization with Student Interns. And, as noted above in our table Oklahoma now requires lawmakers to sign anti-fraternization and anti-nepotism forms at the beginning of each term.

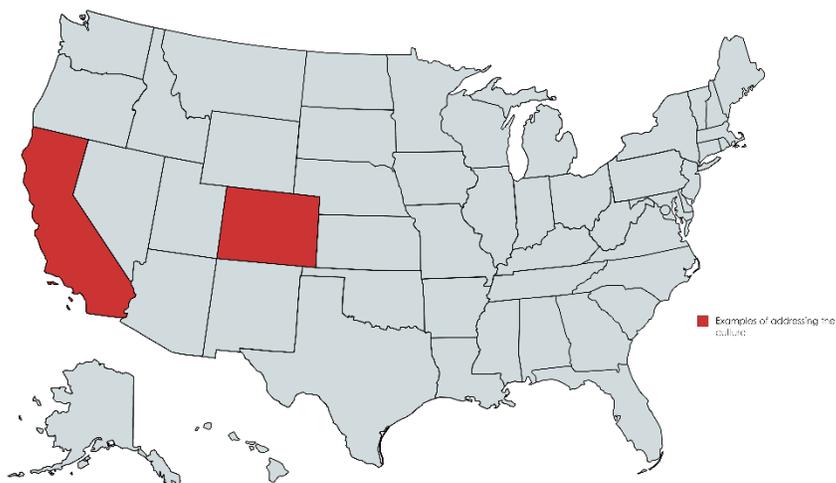
In addition to addressing specific policies and procedures, there is a larger discussion of workplace culture happening in legislatures around the country. Although not the only state

⁸ In addition to detailed procedures, the policy also requires dissemination of the following brief summary, via posting in common areas: “If you believe you have been a victim of harassment, you have options. You can tell the alleged offender about the harassing conduct that disturbed you and ask the alleged offender to stop. You can communicate to the alleged offender in person or in writing. You may also use the informal report or formal complaint process set forth in Legislative Branch Personnel Rule 27 to pursue a report or complaint of harassment if you: (A) Do not want to confront the alleged offender directly; (B) Have talked to the alleged offender and the harassing conduct has not stopped; or (C) Believe your report or complaint has resulted in retaliation. In addition, you have the right to seek redress with administrative agencies or the courts.”

legislature where culture is being discussed, the California legislature has taken significant and concrete steps to assess its culture.

A Joint Committee on Rules Subcommittee on Sexual Harassment Prevention and Response has been holding a series of hearings as part of an effort to review and revise the legislature’s sexual harassment policies and procedures.⁹ The topic of its first hearing was “Best Practices for Changing Culture

on Sexual Harassment,” which included testimony from an academic, a human resources expert, a corporate consultant, a university official, and a representative from NCSL. The stated purpose of the hearing was to put “the challenge of sexual



harassment in the Legislature in the context of the broader cultural challenges and the best practices for overcoming those challenges.”

Dr. Janet Denhardt, of the University of Southern California Price School of Public Policy, spoke to the subcommittee about changing public organizational culture. She defined organization culture as the “way things really work around here,” as opposed to how organizations say they will do things. Dr. Denhardt made the point that “culture eats policy for lunch,”¹⁰ meaning: no set of

⁹ While it considers how not only to improve its policies but to effectuate cultural change, the California legislature has begun working with a nonprofit to offer a hotline for confidential support and counseling and has created a “Sexual Harassment Prevention Suggestion Box.”

¹⁰ Paraphrasing management guru Peter Drucker, who famously has said, “Organizational culture eats strategy for breakfast.”

policies can do enough to change behavior if the culture does not set the appropriate norms of behavior. When culture and rules clash, according to Dr. Denhardt, culture wins. And, when managing resistance to cultural change, Dr. Denhardt told the subcommittee that using positive cultural norms is the most effective approach. The good news, according to Dr. Denhardt, is that strong cultures lead to productive and effective organizations.

Dr. Denhardt laid out how organizational leaders can change culture through (1) regularly talking about desired values, (2) carefully reacting to critical incidents, (3) modelling expected behavior, (4) highlighting and rewarding desired behavior, and (5) sharing successes and telling stories reflecting good culture. Other steps leaders can take are to issue formal statements of policy, processes and procedures; ensure that training reflects the cultural norms; and institute changes to organizational structure.

Johnny C. Taylor, the President and CEO of the Society for Human Resource Management, also testified before the California subcommittee, and emphasized the preeminence of culture. According to Mr. Taylor, strong cultures help to prevent harassment before policy compliance is needed: “a healthy workplace culture, when sexual harassment is observed or experienced, the community takes over and shuts it down collectively, with a message that such behavior will not be tolerated by anyone at any level.” A healthy culture can be reinforced through “swift action and transparency,” he informed the subcommittee: “Claims of harassment should be investigated immediately, quickly, and ideally by an independent panel.” Mr. Taylor also made clear that a “trustworthy due process should protect the accused until he or she is found either responsible or innocent of wrongdoing,” so as to avoid “creating a culture of ‘guilty until proven innocent.’”

“Manuals and training are useless in workplaces where bad behavior is silently tolerated. It is culture, not compliance, that guides workplace conduct.”

- Johnny C. Taylor, Jr., Pres. & CEO of the Society for Human Resource Management (SHRM)

Kathleen Savaty, the Title IX Coordinator for the University of California System, also emphasized that policies and procedures are not enough, but did stress that they are important precursors to change.¹¹

Like California, the Colorado General Assembly, by commissioning the present project, has taken concrete steps to assess the culture of its workplace. Doing so reflects an understanding that, while all of the activity by state legislatures to strengthen policies and increase training are a preliminary step, there may be a primary need to address any issues in the culture first.

Next-Generation Approaches in Other Sectors of Society

Other entities have also been exploring what constitutes the most effective approach to preventing harassment in the workplace. These examples, while not relating to political bodies, offer some helpful ideas and insights.

Recently, some prominent private-sector entities have embraced the opportunity to reevaluate and alter their sexual harassment policies.¹² For example, Microsoft recently eliminated forced arbitration agreements with employees who report sexual harassment. Kimberly-Clark offers employees multiple options for comfortably and safely making a complaint

¹¹ And, on the topic of policies, Joelle Emerson, of Paradigm Consulting, recommended considering a policy that describes the culture you want and not simply what constitutes unlawful conduct.

¹² Although there are certain limitations to comparing the approaches of private sector companies to the context of elected bodies, other states are recognizing that certain next generational approaches can be found in the policies and training employed by such large entities. For instance, the Phoenix City Council recently adopted new anti-harassment policies. In addition to looking at other cities’ policies, it also examined private sector examples. As noted above, at the state level, the Arizona legislature is considering adoption of a code of conduct and intends to review corporate examples.

and regards an increase in internal complaints (in the short-term) as evidence of the effectiveness of their training. Texaco provides an “Ethics in the Workplace” training course for all employees. The course not only addresses sexual harassment within the context of other ethical dilemmas, but also first includes an “ethics test” that allows participants to evaluate their own responses before the training. The company uses a toll-free hotline to track statistics on the number of questions and allegations reported regarding sexual harassment and also administers an employee survey every few years to gain insight on their experiences and satisfaction with the organization. AlliedSignal’s practices regarding workplace harassment prevention are similarly extensive. Employees are required to participate in 40 hours of learning per year. The company has also implemented “Lunch and Learns” in order to reach a broad range of employees. Senior leadership hosts the sessions and material is frequently updated to integrate new rulings and laws, as well as topics like same-sex sexual harassment and transgender discrimination.^{xx}

Interesting examples of next-generation approaches can be found in the public sector as well. The Nebraska Department of Administrative Services has a broad Sexual Harassment & Bullying policy that is part of a section of its workplace policies entitled “Respect in the Workplace.” The policy makes clear that the policy covers conduct “whether or not the incidents of harassment occur on employer premises and whether or not the incidents occur during working hours.” Pinellas County in Florida has a Respectful Workplace Behavior / Anti-Bullying Policy. The policy communicates the county’s expectation that “all who enter our workplace to be treated with dignity and respect,” and, before providing examples of prohibited conduct, states that it “is the policy of Pinellas County to address repetitive behavior or persistent conduct a reasonable party would find threatening, intimidating, abusive, coercive, humiliating, and/or malicious.” Maryland state employees are subject to an anti-bullying policy as well. The Los Angeles

Department of Water and Power has instituted “boot camp teams” to proactively address and remediate potential issues, including via coaching and training.

The federal government has also responded advancing reforms and updates to sexual harassment policies and procedures and reasserting commitment to and training on sexual harassment policies. For example, in February 2018, NASA released a video to all of its employees outlining the agencies policies and procedures for both employees and contractors. NASA’s acting administrator also announced that all employees would be required to undergo anti-harassment training by the end of the year. Also, in February, the National Science Foundation laid out measures to prevent sexual harassment by researchers it funds, including the prospect of suspending or cancelling research grants upon a finding that a grantee engaged in harassment. In Congress, the House of Representatives passed a bill in early February 2018 that would reform, if it passes the Senate, the Congressional Accountability Act to, among other things, streamline the process for reporting and resolving sexual harassment complaints by congressional employees and require repayment to the Treasury by elected officials for settlements or awards.

Next-Generation Training

Much of the foregoing efforts to update policies and to require training rest on a foundation of significant academic research.^{xxi} Academic research on the best methods for training in particular, however, deserve some additional and separate attention as it provides significant insight into how best to empower employees and members in a workplace with the skills necessary to move beyond mere technical understanding of legal requirements or procedural mechanisms. Research has confirmed that training can increase the probability, especially for men, of identifying and thinking about more forms of sexual harassment. In addition, training can clarify “gray” areas generated by unwanted sexual behavior with co-workers.^{xxii} Studies have found that

sexual harassment trainings are most successful when held with in-person instruction,^{xxiii} are about four hours long,^{xxiv} and have pre- and post- evaluations.

Although the structure of training is relevant, research reveals that the context in which training occurs may be just as, if not more, important. A 2010 study found that the effects training practices on sexual harassment training success differed depending on the organization’s reason for implementation.^{xxv} Some organizations may use sexual harassment training to minimize threats to liability and to enhance legitimacy—representing a legal motivation.^{xxvi} Alternatively, other organizations could implement sexual harassment training for strategic reasons, wanting to create a competitive advantage or establish a productive workplace environment. For those that implement sexual harassment training for legal reasons, the “existence of the training may be more important to its perceived success than the nature of the training provided” – meaning, the simple existence of training is prioritized, not the cultural change brought about as a result of that training.^{xxv}

The EEOC concluded in its 2016 Select Task Force Report on Workplace Harassment, that trainings have largely failed overall as a preventative tool because they are often “too focused on simply avoiding legal liability.”^{xxvii} Professional entities should therefore instead consider how training programs fit within their grander organizational and leadership visions.

The EEOC concluded in a 2016 report that trainings have failed overall as a preventative tool because they are often “too focused on simply avoiding legal liability.”

Some also still question the efficacy of sexual harassment training, as exposure to sexual harassment policy through training may have some unintended effects. A study investigated how legal and training interventions affect men’s beliefs about the gender hierarchy. Researchers

discovered that such interventions activate unequal gender beliefs that are contradictory to the interventions' goals. Participants in the treatment group, meaning those who were explained the sexual harassment policy, displayed more entrenched male-advantaged gender beliefs in comparison to the control group.^{xxviii} In review of a workplace sexual harassment education program, another study found that men were “less likely than other groups to perceive coercive sexual harassment, less willing to report sexual harassment, and more likely to blame the victim” even after the training.^{xxix} Although these potential effects should be carefully acknowledged in the design and implementation of training curriculums, differing approaches can expose what is and is not effective when it comes to sexual harassment training and support.

Bystander Training

Increasingly, community-based prevention efforts have focused on encouraging individuals who are third party witnesses of sexual harassment to be “responsive” bystanders. This approach aims to get others to see how their behavior can expand an essence of responsibility for safety across members of the broader community. Although bystander training has been adapted to fit technology-based modules and can feature mixed methods of training, most sessions on bystander education for sexual harassment have an in-person facilitator. Multiple programs have emerged in that past few decades, particularly in response to sexual assault and violence on college campuses. Some of these include: Bringing in the Bystander, Green Dot Violence Prevention Program, InterACT, and SCREAM Theater. These programs slightly differ in their specific curriculums and content; however, they all stem from the foundation of helping others. For example, Green Dot Violence Prevention Program (“Green Dot”) leans on social change theory and targets all members of a given community as potential bystanders. It specifically intends to heighten others' awareness of their agency to shape the culture of interaction around them. The

program considers “red dots” to be choices that cause harm. Trainees are therefore provided the skills they need to navigate a spectrum of potentially or clearly problematic circumstances, in order to keep “red dots” off the map. “Direct, Delegate, Distract” – the three D’s. These methods ensure that all bystanders, no matter their preferences, personality, or level of extroversion, are prepared with a toolkit of strong strategies for upholding responsibility in their larger social environment.^{xxx} The hope is that with more green dots, social norms will eventually change.

Researchers have found bystander training to be a fairly promising option. Through a meta-analysis that assessed the effectiveness of bystander education programs for preventing sexual assault on college campuses, researchers Katz and Moore discovered that training heightened bystander efficacy and desire to help others at risk.^{xxxi} Although no major studies have investigated the effectiveness of bystander training in state legislatures, such governing bodies may want to consider bystander education for their existing or potential training opportunities.

Respect-Based or Civility Training

Recently, the EEOC announced new training programs geared towards encouraging civility in the workplace. These trainings, instead of teaching people what not to do, focus on what people should do. In a holistic harassment prevention effort, this type of training primarily addresses “respect, acceptable workplace conduct, and the types of behaviors that contribute to a respectful and inclusive, and therefore ultimately more profitable, workplace.”^{xxxii} For instance, the training program provides participants with scripts for how to give and receive constructive feedback. It also helps supervisors learn to listen to complaints without being dismissive. These kinds of modules also offer promising results in an organization that wants to change its tone from negative and punitive to positive and empowering.

Assertiveness Training

There is some advocacy research that suggests that training components need to focus on teaching individuals how to effectively respond to incidents of sexual harassment when they occur. The intention of this type of training is to build assertive communication skills. The Dating Assertiveness Training, for example, aims to do this by allowing college students to practice resisting sexual coercion in a safe environment. An assessment of the program found that those who completed the program were less likely to be sexually victimized and more likely to respond assertively if victimized.^{xxxiii}

However, training of this sort remains controversial. Advocates believe that it places further responsibility on the victim, rather than holding harassers responsible. Furthermore, some believe teaching assertiveness may only perpetuate the stereotypes in the workplace, especially those associated with powerful women that drive denigration and harassment.^{xxxiv} An organization must, therefore, ensure that when using this training approach, it does not assume that the responsibility for stopping sexual harassment in the workplace lies with its victims. That said, assertiveness training might offer victims and employees a tool for handling sexual harassment in the moment, perhaps creating more direct communication in the workplace.

Computer-Based Training

Although best practices praise human-led training, computer-based modules are becoming a popular tool for implementing sexual harassment training and education. It offers the advantages of self-paced instruction, uniform content, and long run efficiency.^{xxxv} At the same time, lack of computer access, insufficient technology funding, and non-completion rates represent possible disadvantages. Researchers compared computer-based sexual harassment training with traditional instructor-led training among university employees. They found reactions were positive to both

types, and that regardless of the training method, learning among the university employees increased.^{xxxv} Yet, hesitation remains regarding mandatory technology-based training. A 2014 review of the Veteran Affairs (VA) Evidence-based Synthesis Program Coordinating Center's mandatory computer-based training efforts did not find any evidence that such improved workplace performance or environment.^{xxxvi} Computer-based training, however, may provide the ability to offer interim and supplemental trainings, refresher modules, and training to members and other employees who are away from the Capitol.

This discussion provides a broad foundation but can only be put to use effectively if informed by the realities of the workplace culture in the Legislative Workplace as well as by the expertise of the Summit's diverse group of experts. The following sections summarize the results of the Survey, the Interview process, and the Summit, before identifying the opportunities for improvement revealed by that process and our resulting recommendations.

CULTURE: THE GENERAL ASSEMBLY'S WORKPLACE TODAY

At the start of the 2018 legislative session, it was apparent that issues of sexual harassment would be front and center for the General Assembly. Four Colorado lawmakers were under investigation for formal complaints of sexual harassment.^{xxxviii} These complaints and the resulting media coverage heightened the internal demand for a review of the state legislature's workplace harassment policies. The Colorado General Assembly was one of 16 state legislatures at the time facing allegations of sexual harassment or assault.^{xxxix} It was clear that action had to be taken.

Accordingly, the leadership in the General Assembly acted to begin this process. A review of the policies began, and the Executive Committee of the Legislative Council published its Request for Proposal, seeking assistance in the analysis and evaluation of culture, rules, the policy and procedures around workplace harassment.

This section of the Report details the work we did to review of the existing culture at the Colorado General Assembly, and what we found. A central component of the work was reaching out directly to Members of the Legislative Workplace for their feedback about the culture in which they work. We provided six venues to provide us information, which included:

- A **culture survey** sent to 1267 members of the Legislative Community;
- A **public survey** available for any member of the public to use to weigh in;
- **Targeted interviews**, where we reached out to members of each stakeholder group to solicit information in interview format;
- **Community requested interviews**, where people reached out to us and asked to meet;
- **Designated contact person interviews**, where we met with people charged with taking and resolving complaints under the current policy; and
- **Additional stakeholder interviews**, where we met with parties with professional or other special expertise and perspective who have worked in and around the General Assembly.

The Surveys

A primary tool that we used to gather data to help us understand the present state of the General Assembly's culture was survey methodology to reach out and solicit information from as many people in the Legislative Workplace as possible. Our goal was to better understand the culture in the Legislative Workplace, and then determine whether, and to what extent, the culture has encouraged, normalized, or failed to deter harassment and the extent to which the existing harassment rules, policies and procedures of the General Assembly reflect or affect the existing culture. We used two different survey tools to accomplish this, including: (1) A Workplace Culture Survey, which was sent to all Members of the Legislative Workplace; and (2) a Public survey, which was available to any member of the public on the General Assembly's website.

The Workplace Culture Survey was designed to provide all members of the Legislative Workplace an opportunity to provide anonymous feedback on the current culture in the workplace, observations and experiences in regard to harassing behavior, sexual harassment and sexism, their knowledge of the current policies in place to prevent workplace harassment and their perceptions or experiences of policy effectiveness. We collected a broad range of demographic information to allow detailed analysis by role, age and gender. The breadth and depth of information collected from the survey provided comprehensive input to our recommendations to improve the current culture, workplace harassment policy and next-generation activities that will differentiate the Colorado Legislature.

Due to the unique nature of the Legislative Community, we were diligent to distribute the survey with minimal technological disruption. We partnered with the Legislative Council IT team to assist with email distribution and identify possible disruption. Once the survey was distributed,

we followed up with participants several times to provide ample opportunity to participate. ([See Survey Statistics](#))

We sent the Workplace Culture Survey to 1,267 individuals who work in the Legislative Workplace. This included elected officials, staff, lobbyists, aides, interns, sergeants and assignable clerks for both the House and Senate, capital complex facilities, media, students and volunteers. Legislative Leadership introduced the Workplace Culture Survey to participants in a [letter from the Executive Committee](#) prior to distribution to encourage open and honest feedback. The survey opened on February 16, 2018 and closed at midnight on February 24, 2018.

The results of our survey efforts were enlightening and offered a rich set of data to draw upon in understanding the General

“The average response rate for email surveys is 24.8%”
- FluidSurvey

Assembly’s culture, strengths and challenges. Of the 1,267 survey recipients, 42%, or 528 individuals participated in the survey. Given the

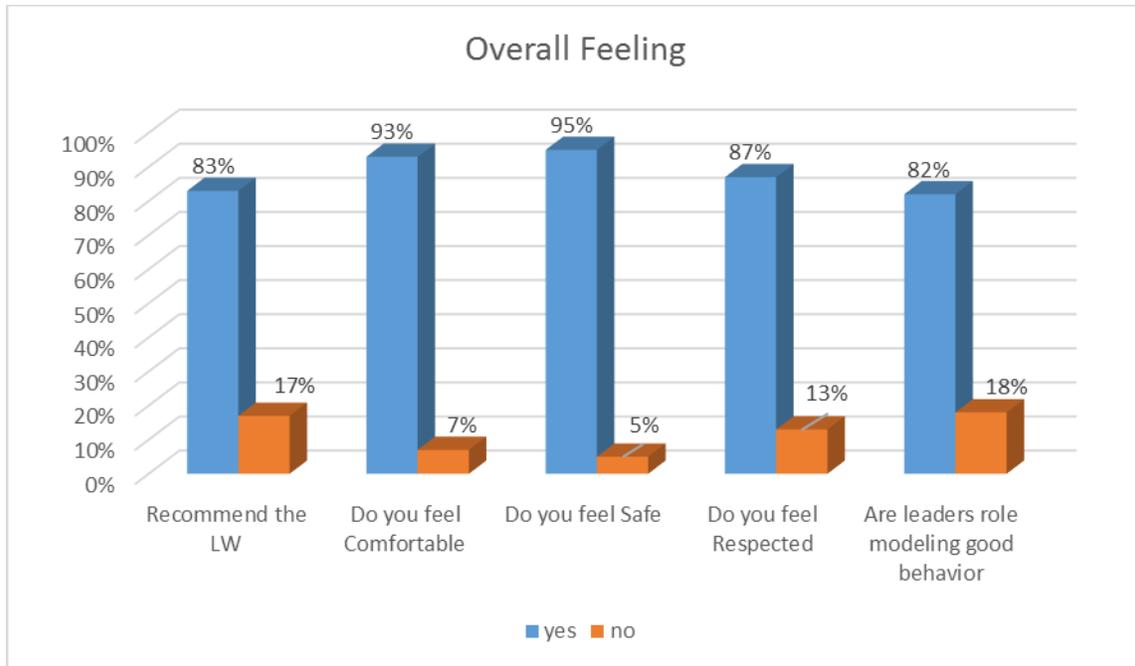
“Internal surveys will generally receive a 30-40% response rate on average”
- SurveyGizmo

unique nature of the Legislative Workplace, and average response rates generally, we consider this a strong response rate.^{x1} The survey respondents had a balanced representation by [gender](#) and [age](#). Lobbyists and Non-partisan / agency staff people made up the majority of the respondents, which in some part makes sense as lobbyists were the majority of our listed community members. However, statistical testing was performed to separate out [demographic differences](#) in analyzing all responses.

The Culture Survey Results

Overall, feedback about the Legislative Workplace is positive among all groups. Most of the individuals surveyed would recommend the Legislative Workplace as a place to work, and

overwhelmingly people feel comfortable, safe and respected, and believe leaders are positive role models. This positive feeling about the Legislative Workplace likely contributes to the highly effective nature of the Legislature and creates an important foundation on which to build a new and forward-thinking environment where harassment is not tolerated, and everyone has an opportunity to perform their best work every day.



When asked, respondents described the Legislative Workplace in generally [positive terms](#), with “friendly” being used most frequently. However, as one might expect, the environment by nature is stressful, tense and fast paced which is also reflected in the word cloud.

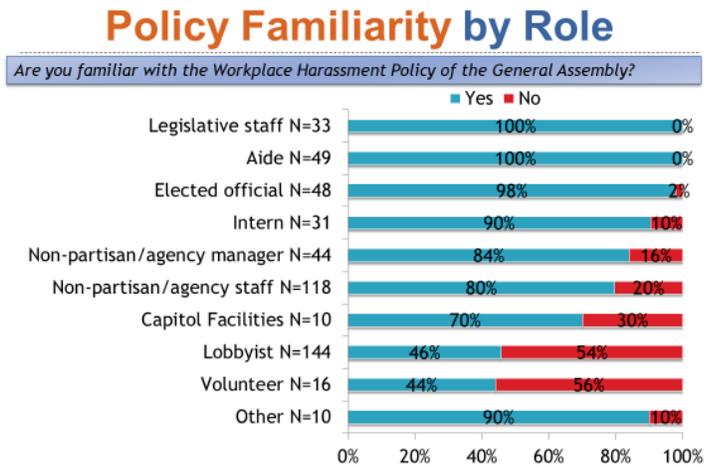


An in-depth review of the data indicate that power imbalance / abuse and lack of leadership accountability are the biggest issues in the Legislative Workplace culture. Although the number of problems are few, the nature of the problems are serious when it comes to deterring and resolving harassment issues. The data suggest that the current culture and system are not adequate for resolving behavior issues. While the data do not indicate that harassment is encouraged or normalized in the culture, the information collected shows that harassing behavior is not deterred in the environment. The current policy and practices are not effective in creating an environment where harassment is not tolerated, where people feel comfortable reporting harassment, or where harassment is appropriately dealt with, when it is reported. Below we have highlighted data surrounding the current policy, harassing behavior, sexual harassment and sexist behavior as this information led us to the conclusions above and contributed to our recommendations for future policy changes and staff investments.

Policy

One of the objectives for the Workplace Culture Survey was to assess familiarity with the existing policy, specifically related to designated contacts and the current complaint resolution process. Key findings for this part of the survey are below:

- Overall, [75%](#) of respondents are familiar with the Workplace Harassment Policy of the General Assembly. Legislative staff, Aides, Elected Officials and Interns are more familiar with the Workplace Harassment Policy than are Lobbyists and Volunteers.



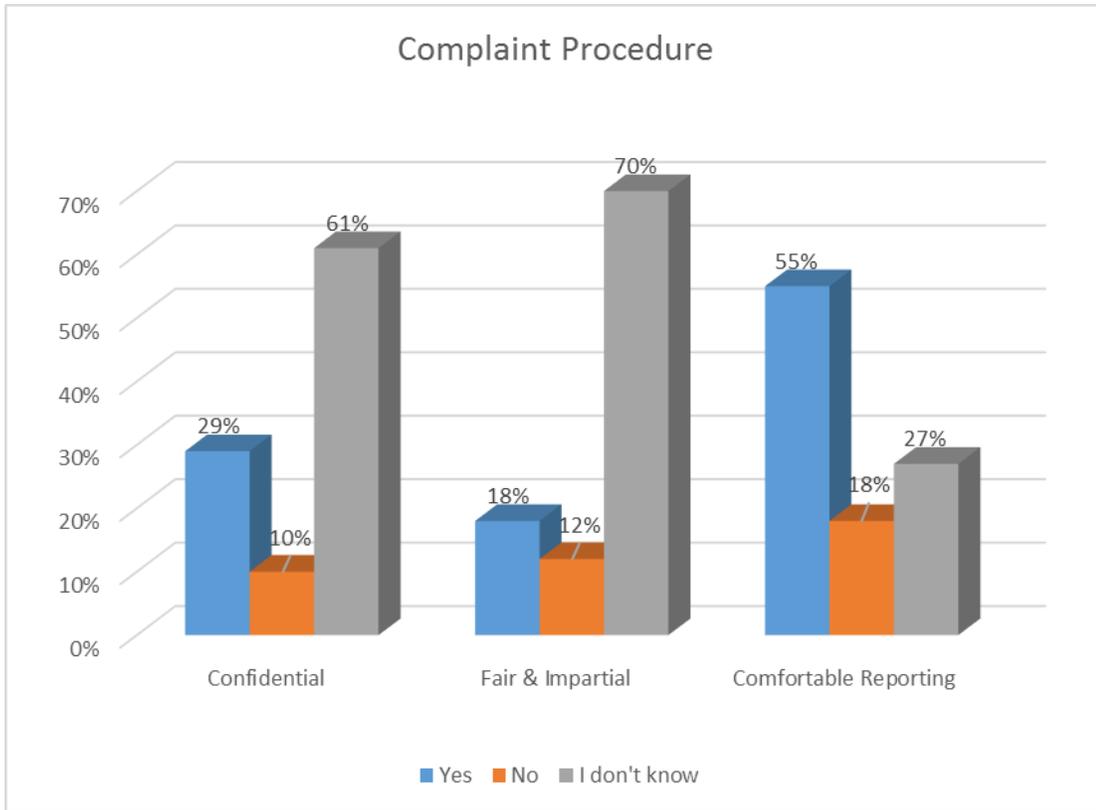
- 97% of Legislative Staff and 98% of Elected Officials know their Designated Contact. Less than half of Volunteers (44%), and even fewer Lobbyists (13%) know their designated contacts under the current harassment policy. [\[See results in Section 2.\]](#)

- When asked “Do you think this policy is taken seriously by those who work in the Legislative Workplace?” only 42% answered “Yes” while 25% answered “No” and 33% “I don’t know.” [\[See results in Section 2.\]](#)

“I felt like [the sexual harassment complaint] wasn’t taken seriously.”

- Representative quote from Workplace Culture Survey

- The majority of respondents do not know if complaints are confidential, fair and impartial, while slightly more than half would be comfortable reporting harassment.¹³

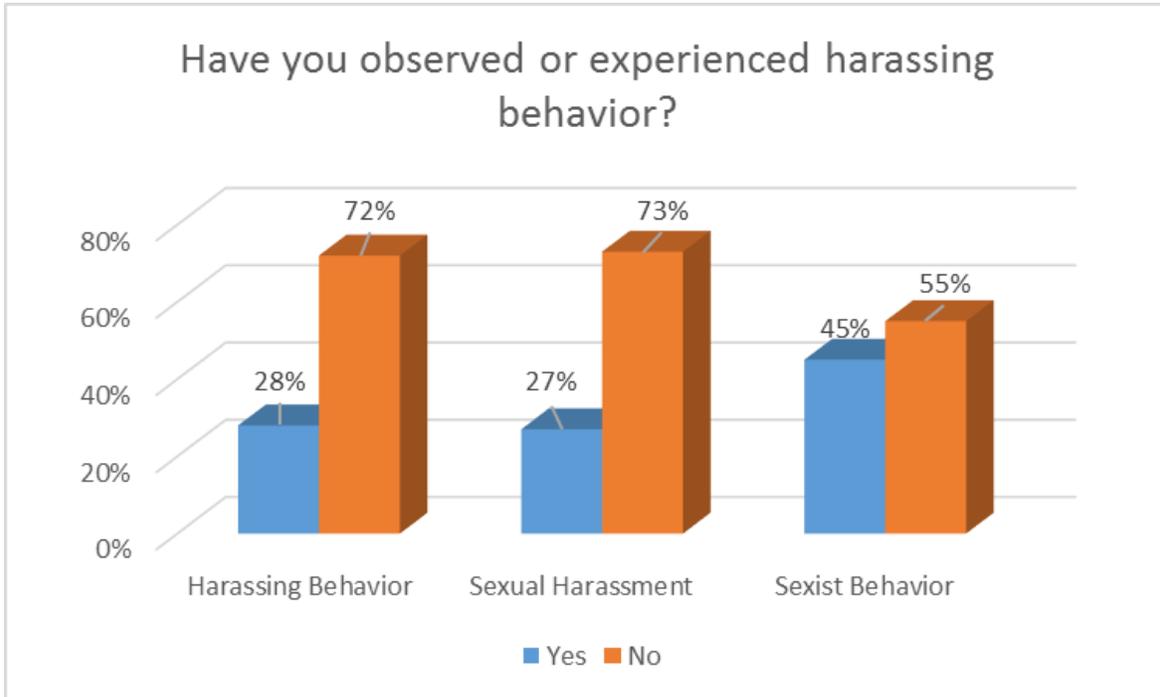


Harassing Behavior

The survey explored a number of items surrounding harassing behavior, including harassment seen or observed based on a person’s Protected Class, Sexual Harassment and Sexist Behavior. We broke up the questions in this way to determine if harassment other than sexual harassment, such as harassment based upon some other protected characteristic, is happening in the Legislative Workplace. We were not tasked with evaluating sexual harassment only, so this was an important step.

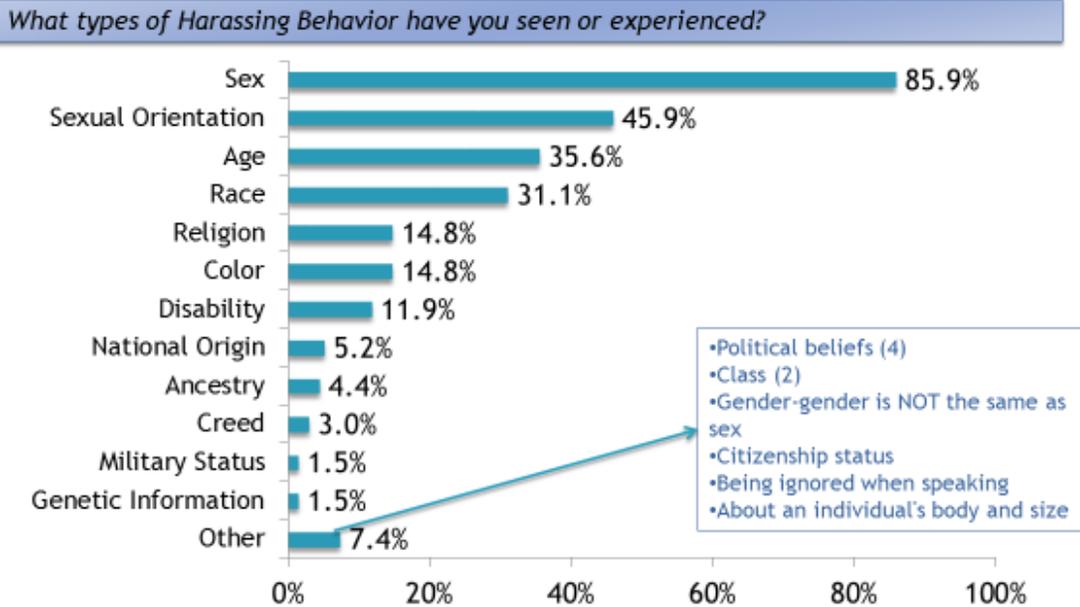
¹³ This number does not track with later responses, discussed below, where a much lower percentage of respondents indicate that they reported harassing behavior they observed.

Overall, women have seen or experienced inappropriate conduct much more frequently than men have, and an overwhelming majority of harassing behavior that occurs, happens verbally (Harassing Behavior = 97%; Sexual Harassment = 92%). [[See results in Section 2.](#)]



Harassment based on Sex is by far the most commonly observed or experienced kind of harassment, followed by (in order of magnitude) Sexual Orientation harassment, Age-based

Type of Harassing Behavior



harassment and Race-based harassment. (NOTE: this question allowed for multiple answers.)

These behaviors are not “one-off” situations. When asked how frequently participants observed harassing behavior, “Several Times” received the most answers at 82%. Other options in this question are “one time,” “weekly” and “daily.” [\[See results in Section 2.\]](#)

According to a respondent who reported the behavior based on race the complaint took more than three years to resolve during which time the harassing behavior continued. The time frame between reporting a complaint and action to stop

“One case, including harassment due to race and sexual orientation, a person was eventually fired. But it took three years of abuse before management took action.”

- Survey Respondent

the behavior indicates a serious lack in process and denigrates the trust in the system.

Sexual Harassment

More than a quarter of respondents answered “yes” to the question of whether they have observed or experienced sexual harassment in the Legislative Workplace. More women than men answered “yes” to this question. As with other kinds of observed harassment, most respondents who answered “yes” to this question said that they saw this behavior “Several Times,” and not just on a single occasion.

Those who have seen or experienced sexual harassment offered some insights into [where sexual harassment occurs](#), [who commits harassment](#) and [who experiences it](#). Our data suggest that harassment is not limited to off-premise events and is not occurring only when [alcohol](#) plays a role. Harassment in the Legislative Workplace also occurs in partisan offices and working areas, and public areas. Elected Officials are the reported group to be observed harassing others, by a large margin, followed by Lobbyists. On the receiving end of this behavior, respondents identified Lobbyists, followed by Aides & Interns and Legislative as the most frequent targets of harassment.

These findings suggest that power dynamics play a large role in sexual harassment in the Legislative Workplace. Those with the least power in the workplace are reported as the recipients of harassing behavior by those with the most ostensible power in a political environment.

That said, other Elected Officials are also observed as recipients of harassment behavior, and this is not insignificant. Female Elected Officials have observed or experienced harassing behavior [70%] or sexual harassment [55%] or sexist behavior [68%] significantly more than the [overall survey respondents](#). This finding likely says something about the role of gender and its relative power in the Legislative Workplace, which is also reflected in the survey’s findings on sexist behavior.

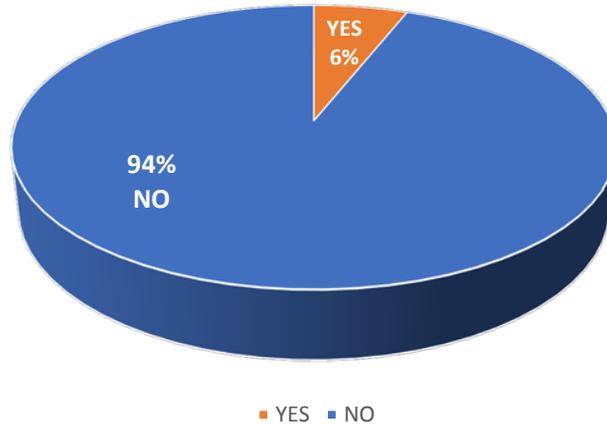
Sexist Commentary and Behaviors

[Sexist behavior](#) in the Legislative Workplace was referred to throughout the Survey. Male Legislators were identified as the those most likely to make sexist comments, and remarks made during Committee meetings was mentioned more than once. A “culture of silence” among women who do not report sexist behavior is believed to contribute to and embolden male Legislators. One survey respondent reported an event where male Committee Members were “bragging” about the fact that their committee contained no women, while non-partisan women were at the table taking minutes. “Locker room talk” and sexism towards women is considered common. A male Senator was reported to have called another Senator “eye candy” while “literally” on the microphone in a Committee Room. Comments about a woman’s looks, weight, clothing, dress length, crude jokes and devaluing in nature occur frequently. [\[See comment analysis data in Section 2.\]](#)

Bystander Data

The survey data include some interesting findings on bystander dynamics in the Legislative Workplace. For example, it is interesting to note that only a small percentage of respondents said they felt pressured to go along with (or behave in) sexually harassing behavior.

Have you felt pressure to go along with Sexually Harassing Behavior, or to behave in sexually harassing ways in the Legislative Workplace?



When asked if participants have seen others step in when there is harassing behavior in the Legislative Workplace, 110 indicated people look the other way while 82 said people step in to stop the behavior. The majority said they didn't know if anyone stepped in. [See results in Section 2.] Elected Officials, Volunteers and Capitol Complex Facilities team members are more comfortable stepping in to stop harassing behavior. [See results in Section 2.] This provides a good baseline as the Legislature introduces Bystander training to the workforce.

Reporting Misconduct

Of the respondents who have observed or experienced harassing behaviors, only 13%, reported it.

- Of the 18 responded who replied that they have utilized the complaint process to report harassment, 72% were not satisfied with the outcome. [See results in Section 2.]
- The majority who observed or experienced harassing behavior did not report it for a variety of reasons, including: Fear to use the process (30%); Harassment “not severe

enough” (18%); victim opted not to report (18%), they were a bystander and felt it was not theirs to report (10%), or they didn’t know the process (6%). [[See results in Section 2.](#)]

- 39% would be afraid of retaliation if they were to report Harassing Behavior in the Legislative Workplace, while 42% would not and 19% did not know. [[See results in Section 2.](#)]

These data suggest that the systems in place are not good enough, well known enough or trusted enough for people to come forward and report serious misbehavior. More than a quarter of your workplace has seen or experienced harassment, and almost half have seen or experienced sexist behaviors. Yet, only 18 have reported these events. This is a serious indicator that the present system is inadequate to detect and deter workplace harassment.

“Because it wouldn’t make any difference and it would mark me as a complainer.”
- Survey Respondent

The data from our Culture Survey indicate that the Executive Committee has a real opportunity to change the culture in the Legislative Workplace by implementing the policy recommendations provided in this report. Based on the survey feedback, it will be important going forward for awareness efforts to be undertaken so that Members of the Legislative Workplace are aware of the policy and understand how to address or report inappropriate behavior. It will be important for the complaint resolution process to be strengthened and made more impartial, and for the whole process to be professionalized. These measures are necessary to ensure that power and politics will not interfere with the process and will provide people with confidence that complaints will be handled in a professional and unbiased manner. A serious focus on anti-retaliation will be required in order to build a system that people feel comfortable using without

fear of reprisal. Finally, instituting annual training and awareness campaigns for everyone in the Legislative Workplace will send a strong message that the Executive Committee expects our Legislature to be a trailblazer in the nation in setting a new standard of Professionalism.

The Public Survey Results

In addition to the Workplace Culture Survey, we created a Public Survey. After our interview with the Executive Committee it was brought to our attention that the general public has some opinions on harassment in the workplace and they needed an avenue where they can express those opinions. We opened the survey to the public on February 22, 2018 and it closed at midnight on March 9, 2018. The survey was available on the Colorado General Assembly website and also on the Investigations Law Group website. Thirty-six (36) people participated in the Public Survey. The response to this Public Survey was light, but we still gained some valuable insights. For example, when asked to describe the Legislative Workplace, overall the comments were positive (56%).

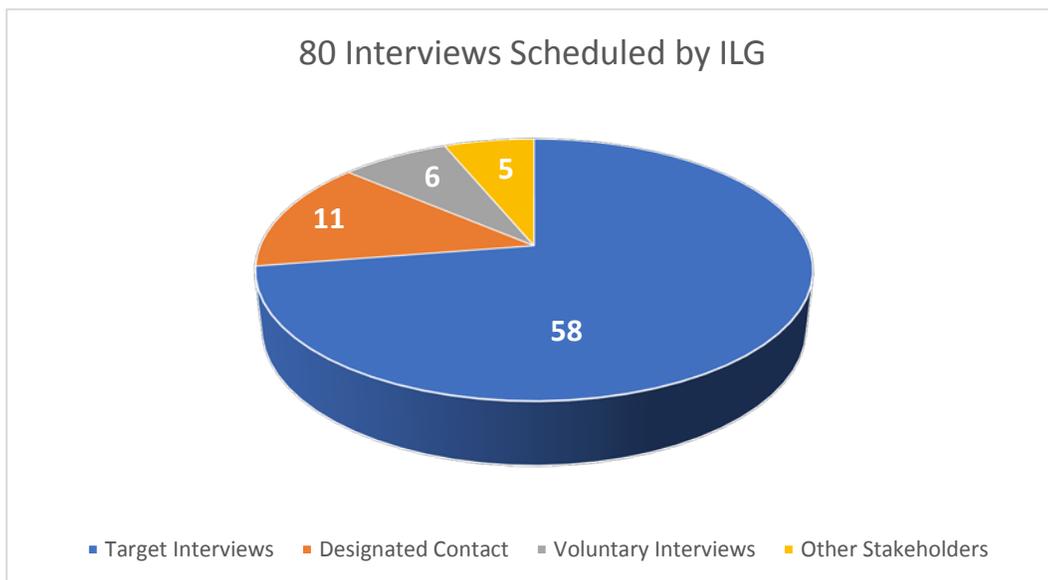
Describe the Legislative Workplace	Response	% Response
Good: delightful, professional, exciting, friendly, intelligent staff, fine, fun, good	14	56%
Busy; stressful	3	12%
Bad: secretive, hierarchal, “old boys club that isn’t inclusive of the diverse voices of our state”	3	12%
Building issues: well maintained, drafty	1	4%
Other: N/A; no comment	4	16%

Of those that participated in the Public Survey, 83% said that “yes” they have had a positive experience with the people that work in the Legislative Workplace, while only 44% replied “yes” when asked if they had any troubling experiences with people that work in the Legislative Workplace. [[See Public Survey results.](#)]

In addition to our surveys, we compiled a rich set of data from one-on-one interviews that we conducted across a broad range of stakeholder groups in the Legislative Workplace. A discussion of these data follows.

The Interviews

As part of our information gathering process, we conducted personal interviews so that we could have conversations directly with people from stakeholder groups regarding their experiences and their recommendations. We tailored these interviews so that we could best utilize our time with each person. As such, interview questions were designed for targeted and self-selected individuals, contact people and individuals with extensive institutional knowledge of the Legislature. Below is a discussion of the interview process for each of these groups and what we learned.



Targeted and Self-Selected Interviews

An essential part of the information gathering process was hearing directly from stakeholders regarding their personal experiences and insights into the culture and environment at the Legislative Workplace. It was important to us that the way in which we interfaced with stakeholders encouraged open and honest dialogue. As such, we conducted one-on-one interviews in a manner that would guarantee anonymity and ensured comfort with the process. We reached

out to people, spanning a broad range of stakeholder groups who are part of the Legislative Workplace. We chose people in addition to the categories we were asked to include in the RFP, to ensure broad participation within the Legislative Workplace across stakeholder groups. We also announced that we would interview anyone else who wanted to speak with us, and a number of people reached out and asked to be interviewed (and we met with them).

Ultimately, we conducted sixty (60) interviews in the targeted and self-selected interview process from the following eighteen (18) stakeholder groups:

- Representatives;
- Senators;
- Senate Staff;
- House Staff;
- Aides;
- Student Interns;
- Lobbyists;
- Members of the Media;
- Legislative Legal Services Employees;
- Legislative Council Employees;
- Joint Budget Employees;
- Office of the State Auditor Employees;
- Victim's Advocates;
- Joint Budget Office Employees;
- Capital Complex Employees;
- Former Legislators;
- Executive Branch Employees who work in the Legislative Workplace; and
- Volunteers.

We interviewed every person who expressed an interest in speaking with us. After the close of the survey, several people contacted us because they wanted to partake in the survey. Because that portion of our information gathering process had closed and they were no longer able to take the survey, we instead offered them the opportunity to sit with us for an interview.

We gave interviewees the option of meeting with us in person or over the phone in order to accommodate schedules and to ensure that everyone had an avenue to speak with us in a manner

in which they felt most comfortable. We conducted all in-person interviews away from the Capitol in a private conference room or office to protect anonymity. Interviews ranged from fifteen (15) to ninety (90) minutes depending on how much the interviewee had to say. We also received several post-interview emails clarifying points made in the interview or adding information that only came to the interviewee’s mind after the fact. We included the data in all follow up emails in our analysis.

We followed the same outline of questions in most of the interviews we conducted, although we allowed people to stray from this

 and direct the dialogue elsewhere as they *“I remember coming to the Colorado Legislature and feeling like the members were a lot more accessible, friendly, welcoming and respectful towards people . . . it is a really great environment in that regard.”*

 wished. Additionally, there were questions that were asked only when an interviewee

indicated that they had seen or experienced harassing behavior in the Legislative Workplace. Questions consisted of both yes/no and open-ended answers. The yes/no questioning allowed us to quantify answers numerically so that we could analyze answers both as a whole and broken down by stakeholder group. Interviewees were allowed and encouraged to expand upon their yes/no answers to provide more explanation and deeper insight into their experience at the Legislative Workplace. At the end of the interview, everyone was asked to provide recommendations on how to improve the Legislative Workplace.

We found that people have had a wide variety of experiences while working at the Capitol. Many witnesses have never experienced or seen harassment in their office, while some have

 “You know, it is almost a running joke that the legislators do not respect us.”

 witnessed or have been subjected to harassment regularly. Nonetheless, there were a number of common themes that emerged from the

interviews. These themes were particularly helpful in framing our recommendations and are listed below, in no particular order.

Witness Observations

- Many people stated that their workplace was respectful and professional.
- There is a high need for an independent Human Resources department.
- Those who have worked in other state legislatures stated that Colorado's General Assembly was far more welcoming, professional and respectful than any other state legislature in which they had worked.
- People in positions of power by and large set a good example for professional and appropriate workplace behavior, but there are a few "bad actors."
- Inappropriate behavior that may not rise to the level of harassment is a serious problem.
- The attention on recent sexual harassment allegations and investigations have greatly increased tension in the workplace and have created an uncomfortable climate in which to work.
- Alcohol is present in the Legislative Workplace, and sometimes people drink in lawmakers' offices after hours. This concerned some people who said they were worried about Student Interns and aides, or others in lesser positions of power, and about this kind of socializing.
- People do not want the workplace to become a completely sterile environment void of personal interaction.
- Many people do not know what sexual harassment is and don't know where the line is drawn between appropriate and inappropriate behavior.
- The power structure at the Capitol discourages individuals from reporting incidents of harassment due to the fear of retaliation and of jeopardizing one's career.
- There is a sentiment among some individuals that reporting harassment "won't do any good."
- Many people have heard sexist comments in the Legislative Workplace.

Witness Recommendations

- It is essential that the process of filing a complaint and any following investigation procedure is clear and transparent. Anyone who has been the target of sexual harassment or been subjected to inappropriate behavior must have access to clear information regarding their rights, reporting options and the investigation process.
- Training should occur regularly. Such training should go beyond harassment and cover topics such as professionalism and leadership.
- There are extensive concerns about the lack of confidentiality. A clear explanation of when and how confidentiality will be maintained is critical.
- The General Assembly must send a clear message that it takes the issue of sexual harassment seriously.
- It is important that there are multiple tiers for reporting and investigating because every incident may not require a full formal investigation.
- Complaints and investigations should be documented in personnel files. Such records should be maintained in the Human Resources department so that any problematic patterns are identifiable.
- Recommendations for consequences should come from an independent, neutral entity to insulate the process from politics.
- Elected officials should set a good example of professionalism.
- There needs to be a clearer explanation of what is and what is not appropriate workplace behavior with examples of behavior that crosses the line.
- Those in positions of power should be cognizant that the power dynamic alters the way in which people respond to them. Therefore, the fact that an individual “goes along” with certain behavior is not necessarily indicative of their comfort level with such behavior.
- It is essential that both the Complainant and the respondent are regularly updated as the investigation progresses.
- Victims of sexual harassment need to be supported throughout the process. They should never feel like they made a complaint and “nothing happened.”
- There needs to be clear consequences for inappropriate behavior.
- It is essential that the complaint and investigation process be depoliticized. As such, investigations should be independent and insulated from political influence or interests.

- Aides and Student Interns were identified as particularly vulnerable. As such, additional protections for aides and Student Interns are needed as they are young, and this is often their first real experience in a serious workplace.
- There needs to be a greater level of accountability.
- An anonymous reporting option is essential. Additionally, there should be multiple reporting options so that anyone who has been the target of sexual harassment or been subjected to inappropriate behavior can report in a manner they feel most comfortable.

Certain ideas listed above may appear to be in tension with one another. We have included the competing observations people conveyed because we were tasked with doing a comprehensive review, and not just to present a majority viewpoint. People’s experiences working at the Capitol are dramatically different. This tension also highlights the importance of considering culture transformation and drafting a policy that will allow for these differing experiences. We considered all perspectives and attempted to strike the right balance in our recommendations.

Designated Contact Person Interviews

In addition to our targeted and self-selected interview process, we reached out to the “Designated Contact Persons,”¹⁴ people tasked under the present policy with taking complaints and handling investigations and complaint resolution. We conducted eleven (11) such interviews. Our focus in these meetings was to understand how familiar the person was with the policy and procedures, whether they received any training or support in their role as Contact Person, and their observations about what works, and does not work, with the present set of policies and procedures.

¹⁴ The General Assembly’s present policy identifies certain “Contact Persons” as the place where individuals are to bring complaints of harassment, and gives these Contact Persons responsibilities for handling, investigating and resolving complaints.

Themes emerged from these interviews as well. They do not contain quite as many dueling perspectives as our other interviews did, perhaps because of the nature of these more focused discussions:

- All of the Contact Persons took their role seriously and were conscientious and concerned about doing a good job in the role. Outside of the legislative bodies, the agency Contact Persons have done almost no complaint handling or investigation, as they have received virtually no harassment complaints (although all Complaint Contacts had opinions about the process as reflected below).
- None of the Contact Persons has been trained in their role or in the conduct of workplace investigations. For each of the Contact Persons we interviewed, this role is outside of their area of expertise and experience. The Contact Persons do not have easy access to someone with employment law expertise to advise them.
- There is no central repository of harassment complaints over the years, or their resolution.
- Concern was expressed about bias occurring when contact persons who work with the parties on a regular basis are charged with investigating their professional colleague's misconduct. Investigations are not sufficiently protected from bias under the current system.
- Contact Persons cannot talk to each other to standardize their approach, or even to determine if another Contact Person is investigating the same complaint. This siloing harms the process and leads to inconsistency and confusion.
- Some Contact Persons thought the present system works, particularly in the agencies. Others thought it is not a good enough system to operate under the pressures of the public scrutiny that can ensue. The fact that Contact Persons are not trained in how to do the role was raised as a significant concern, as well as the regular turnover of positions, making it difficult to keep people who learn the role in those roles for long.
- Contact Persons were concerned about retaliation happening under the present system, and it being subtle and hard to prevent because of the nature of the workplace, e.g., killing a bill someone is working on or "smearing their reputation" in a workplace that runs in large part on the strength of personal relationships. Several Contact Persons said the present system does not do enough to prevent and address retaliation, and some portions of the system make it more likely that it will occur (providing the full report to parties, for example).
- Several Contact Persons expressed the need for special protections and training for aides and Student Interns and see them as the most vulnerable members of the community in terms of harassment risk.

- Contact Persons should not be the only complaint contacts and ideally there should be an independent authority with resources and the authority to do the job effectively who can take and investigate complaints.
- It was expressed that the atmosphere at the Capitol is too informal and this is a concern with respect to inappropriate informality setting the stage for problems.
- There is confusion between and among the Contact Persons about the role of confidentiality in the process, and who is bound (and who is not) at what stage of the proceedings. There are inconsistent interpretations of confidentiality, and Contact Persons are sometimes advised in dramatically different ways about what confidentiality is required. Several Contact Persons said they believe the obligation to disclose the complaint to the Respondent before the investigation begins is unwise because it encourages retaliation, and others thought this was important for due process. Contact Persons had similar viewpoints on the provision that allows Respondents to disclose investigative materials to the public to exonerate him or herself: some thought this was a bad idea that could prevent people from participating in the process, others thought it was important given the inadequacies in the current system.
- Informal complaint resolution happens at times when people bring a concern to a Contact Person because they just want behavior to stop. The Contact Persons involved dealt with these situations in the informal role of facilitator. This seemed to occur because of the respect the Contact Person had within their organization, and less so because of their role as Contact Person.
- It is critical to design a system that can insulate the process from politics, and “trial by media,” to the greatest extent possible. A common refrain is that the present climate makes getting at the truth more difficult than it should be. We heard from Contact Persons across the workplace that it is imperative to take the procedures out of the hands of the political process.
- There is a high need for a clear, well-defined complaint and policy structure that is objective and contains protections of due process for Respondents. It was noted as important that the policy not be framed to pit “one group against another group,” but instead should reflect protection and consideration of all parties involved.
- Leadership needs to be fully committed to the process of getting to the truth and rooting out the problems. Lip service is not enough.
- There is concern about how long investigations take to complete, particularly in an environment where there is media and public interest in the situation.
- There needs to be a way to create more trust in the system.
- Contact Persons, for the most part, do not want to be the person deciding upon discipline but think this should be a shared responsibility, and one as insulated from political pressure

as possible. The suggestion was raised to create a “new Ethics Committee” which could handle some portion of the process inside the legislative bodies, and it should be bipartisan. The suggestion was also raised of creating suggested ranges of punishments for certain misbehavior to bring more consistency and clarity to the process.

- The process should not be subject to re-investigation / re-examination to protect it and the parties from being delegitimized with second guessing after the work has been done.
- Some Contact Persons reflected the desire expressed by others in the Legislative Workplace for positive steps by the General Assembly to recognize and prevent problems “on the front end” before they become unlawful harassment.
- Several Contact Persons mentioned the need for more effective training that helps people “know where the line is” between acceptable and not acceptable behaviors. It was also expressed that regular climate surveys should be done to assess the culture.
- Concerns were raised about how you “mete out justice” in a system where some individuals cannot be fired and there are not traditional employment relationships between some people. It was voiced that “why should a young person come forward if there are no consequences”?

Other Stakeholder Interviews

Finally, we met with some people from other stakeholder groups who work (or have worked) in and around the Legislature for many years. These meetings were primarily conducted to educate ourselves about the landscape of the workplace, and to gain the benefit of these peoples’ years of experience working in the General Assembly. These interviews provided a helpful perspective on the nuances that make this workplace different. We used the data from these meetings to help inform our data gathering in other areas, including the survey, and to help guide our assessment of the information we found.

POLICY & PROCEDURE: THE PRESENT SYSTEM

The second portion of our process involved assessing the present workplace harassment rules, policy and processes in the General Assembly. This process involved three steps. First, our team performed its own assessment of the harassment policies, procedures and rules, and began brainstorming sessions on an ongoing basis throughout the project. We did this as the data came in to begin thinking about how to create a Colorado-specific set of “best practices.”

In the second part of our process we gathered a brain trust of local and national experts in a one-day Summit, where individuals from diverse professional and personal perspectives spent the day offering assessment, feedback and improvements on the policies and procedures. Our experts met for a full day to discuss, vigorously debate and analyze the General Assembly’s present harassment program. The final part of our policy assessment work involved reaching out to each of the General Assembly’s 100 lawmakers to give them an opportunity to provide feedback on the harassment policies and procedures. These components informed our recommendations and the new Policy we have created.

The Summit

Introduction

ILG held its Summit on February 22, 2018. Leaders from the private, public, and nonprofit sectors attended by invitation. Attendees included men and women, plaintiff and defense attorneys, human resources experts, victim’s advocacy experts, municipal government experts, Association of Workplace Investigators Board Members, people who have worked for, and who have advised, the California legislature on its parallel efforts to revise its culture and policies, representatives from the National Conference of State Legislatures, a graduate policy student, a non-profit CEO, a small business owner from rural Colorado, and a CEO from a high-tech company in Denver.

The focus of the day was to consider recommendations specific to the Colorado General Assembly, and this diverse group of stakeholders from the private, public, and nonprofit sectors contributed a full set of approaches and perspectives. We found this led to opportunities for productive contrast and creative idea generation.

The event's central objective was to generate a collective discussion about the present workplace harassment policy and procedures and brainstorm recommendations for Next-Generation improvements to consider. Each participant received the full policy and procedures and studied it before the Summit, arriving ready to work. We encouraged participants to consider best practices outlined and described throughout the day, acknowledge the Assembly's unique constraints, and keep the pursuit for transformational impact on culture and work environment in mind. We addressed questions and concerns throughout the Summit; however, we also designated time for debrief and discussion after both sessions, as well as the dot-alignment process.

Event Methodology

We organized the Summit into a "morning" and an "afternoon" session. A professional moderator helped to guide discussion and activities throughout the day. To invite dialogue, we mixed attendees and assigned them seats at tables arranged in a large "U-shape." The moderator asked participants to describe their expertise, reason for attending, and general perspective on the issue at the start of the Summit. This, along with tips for productive discussion, set a tone of respect which continued throughout the event, even during passionate disagreement.

The Summit had three key brainstorming components: 1) a morning "Policy Assessment Session", 2) an afternoon "Solution-Focused Mind Mapping Session" and 3) a final "Alignment & Consensus Session." The morning session allowed all participants to discuss the Assembly's current written policy, while the first afternoon session served as a culminating activity for actively

engaging attendees to devise potential solutions to different aspects of the issue. The final “Alignment & Consensus Session” permitted the review of, and deliberation upon, all compiled ideas before the event’s conclusion.

Policy Assessment Session

The moderator encouraged attendees to do a deep dive into the present policy and gave instructions for utilizing a provided evaluation tool—a multi-paged table with five Areas of Focus: 1) Definitions/Classifications, 2) Complaint Procedure, 3) Harassment Investigation Process, 4) Protections for all Parties, and 5) Other. For each area, they listed out answers to the following questions:

- What aspects of the current policy are strong and should remain?
- What aspects of the current policy need to be edited?
- What is missing from the current policy?

To move on to the debrief activity, participants compiled and wrote out their findings for each area of focus and each question on individual sticky notes. The moderator then asked them to share these findings in front of the group, while placing their sticky notes on a wall of the event space that tracked comment sections in the evaluation tool. Participants revisited suggestions, discussing them at greater length during the closing “Alignment & Consensus Session.”

Our midday Keynote address was provided by a national investigations expert, whose firm has been helping the State of California investigate misconduct in their legislature. Following the Keynote, we presented briefly on recent policy changes within other state legislatures across the country, research we compiled with the guidance of NCSL and its resources.

Solution-Focused Mind Mapping Session

During the first afternoon session, our facilitator worked to help compile participants’ ideas from the morning into tangible, organized recommendations. On another wall of the event space,

we distinguished six different categories: 1) Third Party, 2) Tools for Protecting Victims, 3) Standards of Confidentiality, 4) Protection – Make, Support, Investigate, Resolve Claims, 5) Remedies, 6) Culture and Training. The moderator instructed participants to independently write out recommendations for any/all of the categories on sticky notes. Individuals then read their various suggestions aloud before placing them on the wall. Again, participants later reviewed all ideas through the final “Alignment & Consensus Session.”

Alignment & Consensus Session

After collecting all ideas, participants received a sheet of different colored stickers to approve, question, or disapprove suggestions of their choosing. Each person went around the room placing red stickers on ideas they did not support, green dots on those they did, and yellow dots on ideas they wanted to hear more about. ILG staff recorded the number of colored dots for each idea in order to understand both opinion prevalence and type.

We received a wide variety of insights during the Summit. In the interests of brevity, we will not attempt to include every idea in this Report. Instead we compiled a list of some common themes that emerged, listed here (in no particular order):

Themes and Ideas from Policy Assessment Section

- The Assembly should change the number of designated “contact persons,” not so as to minimize options, but to make the complaint process more approachable, distinct, and clear. All persons authorized to receive complaints should be sufficiently trained on how to do so.
 - If other systems, such as a centralized hotline, are implemented, directions and details for record keeping, anonymity, and access must also be outlined.
- It is crucial to avoid explicit mention of falsity or false claims in the written policy, as such may drive hesitation and deter individuals from filing complaints.
- Included examples of workplace harassment should be expanded further to comprise all categories, as this allows policy readers to better understand what constitutes harassment in the workplace.

- Because Student Interns may experience unique power dynamics and scenarios, it is important for the General Assembly to integrate policy language and procedures that specifically address this stakeholder group.
- The General Assembly should consider waiving the immunity from liability it grants to its members and make them liable to the same extent as others in the Legislative Workplace and in other Colorado workplaces. It was asked why lawmakers are not subject to the same laws they pass for others to follow.
- If immunity from suit stays, and to make long-term, genuine culture change, the General Assembly must assume a higher standard for conduct than simply avoiding legal liability. It is unlikely that a written policy can establish this alone.
- It is key to preserve preponderance of the evidence standard within the Assembly’s written policy.
- The General Assembly must ensure all investigation procedures are conducted in a timely manner and should provide language that defines “timely.”

Themes and Ideas from Solution-Focused Mind Mapping and Alignment and Consensus Sessions

Third Party

- The General Assembly must consider the use of an external multi-vendor committee for investigative processes.

Tools to Protect Victims

- Creating an Ombudsperson office and a strong, expanded HR office with discretion to contract out would generate a centralized body for harassment complaints. This would ensure both the Complainant and the accused have access to the support, information, and resources they need.
 - Student Interns must still be considered separately and receive specialized support.
- Because individuals may not initially want to file a complaint, the General Assembly should avoid limiting the amount of time an individual has to report an incident.
- Avenues for anonymous reporting must be considered. Although participants recognized that anonymity could restrict the Assembly’s ability to assist a Complainant, the Assembly would still need to record and track anonymous complaints and have guidelines for processing.

- Similarly, the Assembly could implement mandatory reporting, meaning it could designate certain individuals as “mandatory reporters,” to heighten the body’s responsiveness to harassment incidents. However, such requires careful consideration, because the Assembly must not impede on victims’ agency or ability to make decisions regarding investigations.

Standards of Confidentiality

- Participants noted tensions between confidentiality and transparency. Nevertheless, the Assembly must clarify the confidential reporting process and confirm that the complaint and investigation processes will be kept confidential to the fullest extent possible.

Protection – Make, Support, Investigate, and Resolve Claims

- The General Assembly must clarify protections for Student Interns, including Title IX protection, and mandate a workplace relationships policy to prevent elected officials from becoming sexually involved with Student Interns.

Remedies

- In order to increase a sense of transparency, the General Assembly should track and publish findings (in accordance with confidentiality terms). It must be acknowledged that effective changes to policies and reporting processes could lead to an increase in the number of sexual harassment reports in the short term.
- The General Assembly should use public censure to reprimand members found to be in serious violation of law or policy.
- With Colorado taxpayers currently carrying the financial burden of harassment investigations, the General Assembly should consider a policy that mandates lawmakers to cover investigation costs.

Culture & Training

- The General Assembly must increase the frequency of its harassment training and integrate a comprehensive training curriculum tailored for each stakeholder group. It should include respect-based, assertiveness, civility, and bystander training elements.
- It is important for trainings to be in-person and mandatory.
- Early intervention for inappropriate behavior is essential for sexual harassment prevention.
- Top Assembly leadership is responsible for setting the tone for trainings, policy changes, and overall workplace culture. Procedures enacted with the priority of avoiding liability will not stimulate long-lasting cultural change.

- Out-of-session, bipartisan service events could complement policy and procedure changes and, again, could motivate widespread cultural change.
- It is imperative for the General Assembly to prioritize regular climate surveying to monitor the issue, assess policy and training effectiveness, and inform future practice.

Certain themes received particularly strong support. For instance, the need for a strong Human Resources office was a point of emphasis, as was the use of an external committee during the investigation and discipline process dealing with Legislator Respondents. Other areas of particular focus were the need for public censure and for findings against legislators to be made public, as well as a desire for multiple pathways for confidential reporting. Participants believed Student Interns need special protections. On the topic of training, the Summit participants advocated for bystander training as well as opportunities for separate trainings for different stakeholder groups and more frequent training overall. The consensus was strong that training should be mandatory. These themes and areas of particular emphasis strongly informed the creation of our recommended Policy.

Direct Legislator Input on the Policies

In addition to our own assessment of the policies, and the data gathered in the Summit, we reached out to all 100 elected officials in the General Assembly and asked them for their policy recommendations. We received responses from two Members, which we appreciated and treated seriously in our study of the present system.

The data described thus far, and continued in the sections that follow the body of this Report, informed the Recommendations we reached to improve the Legislative Workplace and

help make it a safe and respectful place for all its members. These recommendations follow in the next section of the Report.

RECOMMENDATIONS: Next-Generation Culture Protected by a Next-Generation Policy – “THE PLAN”

Introduction

The foregoing sections provide the foundation for our specific recommendations to the General Assembly, which are informed by (1) what brought the General Assembly to this moment and how other institutions have recently addressed harassment in their workplaces, (2) the results of our research efforts, including our Summit; (3) the feedback we received in our outreach efforts, including our surveys and interviews; and (4) our analysis bringing together all of the data. The outcome is a series of recommendations that are, in many regards, specifically tailored to the Colorado General Assembly, while also reflecting state-of-the-art approaches to addressing workplace harassment.

These Recommendations begin at the most important part: redefining the importance of culture in the Legislative Workplace. Great policies, procedures and training are important, but

“Culture eats policy for lunch.”
- Dr. Janet Denhardt, USC Price School of Public Policy

without a strong culture they are simply window dressing. Our research overwhelmingly suggests that focusing

only upon compliance is not an effective approach to preventing workplace harassment. Although the General Assembly must be prepared to appropriately respond to disrespectful, disruptive, and discriminatory behavior, it will be imperative at the start to invest in formalizing a culture of respect, collegiality and inclusion.

Therefore, our recommendations are layered.

- First, we identify necessary **STRUCTURE** changes that we believe will help provide the resources and expertise the General Assembly will need as it moves forward in this endeavor, including the creation of the Office of Legislative Culture,

and associated new roles and resources for implementing our other recommended changes.

- Next, we outline the steps the General Assembly should take to demonstrate its commitment to a **CULTURE** where respectful, inclusive, and supportive behaviors are encouraged and rewarded, thus aiming to prevent conduct from rising to the level of workplace harassment in the first instance.
- Third, we recommend specific mechanisms which will allow the General Assembly to proactively remediate behaviors that can erode culture and be precursors to harassment through informal **REMEDIATION** and related activities.
- Fourth, we provide a robust set of **SERIOUS PROCESSES** to address and respond to workplace harassment, discrimination and retaliation.
- Fifth, we discuss the importance of creating mechanisms for more **TRANSPARENCY** to the voters who are at the core of the General Assembly’s mission.
- Finally, we include recommendations aimed toward sustainability into the **FUTURE**.

Our core recommendation, the newly revised Respectful Workplace Policy (“the RWP” or “the Policy”) reflects this progression. One generally need move farther into the policy where there are more serious issues to address. If there is buy-in to the process, one hopes the need to proceed more deeply into policy will be quite rare. In this way, the policy and the recommendations collectively constitute a holistic Plan.¹⁵

¹⁵ Throughout the following discussion of the recommendations, we will introduce and explain the various policy provisions, procedures, and personnel required to implement the Plan’s elements. The summaries below, however, do not include every sentence or provision of the RWP, but rather explains the purpose and intent of policy categories. The entire RWP, including its appendices, is attached at [Section 1](#), below.

STRUCTURES FOR SUCCESS: Invest in Transformation

Before turning to the categories of culture and policy recommendations, it is important to identify an overarching structural change, the subparts of which will be described in greater detail below. A recommendation from our research and the Summit, reinforced by Survey and Interview results, is to have strong, independent and professional Human Resources capacities to provide expertise on culture and workplace harassment. Based on these and other data points, we recommend some structural changes.

What Our Research, including Our Summit, Tells Us: The need for a professional Human Resources function, independent from political pressures, was identified as a critical component in our research. Professionalizing and resourcing an independent Human Resources department is consistent with steps taken by other legislatures and institutions to improve their approach to harassment in the workplace. The General Assembly's decision to hire a Legislative Human Resources Administrator demonstrates that the need for this internal resourcing has already been recognized. Some of the most forward-thinking legislative developments around the country have emphasized the ability to provide informal resolution processes and support services to members of the legislative community, and not just a formal investigatory process - all of which requires expertise. Some comparably-sized legislatures, with shorter sessions, have already staffed up: Oregon's legislature has a human resources office of five people serving a body of 90 elected officials; Idaho, with 105 members, has four people providing human resources services, one in each of its four agencies.¹⁶

¹⁶ Oregon's session runs for 35 days in even years and 160 days in odd years; Idaho's session runs from early January through mid to late March (this year's session is approximately 77 days).

Our Summit participants strongly voiced the need for strong internal Human Resources capabilities, with resources and expertise to bring to the workplace. A primary theme that emerged was the need to take steps to ensure that Human Resources is truly independent. Specifically, our Summit participants noted that it will be important to protect the HR staff from political pressures with funding protection, job protections, and the ability for the department to rely upon external expertise when needed.

What Our Outreach Tells Us: The legislative community wants access to a professional HR department. This desire was clearly stated. Additionally, the requirement that the Human Resources function be independent came out as a strong theme of our interview and survey responses. This was emphasized as important if the function is to be trusted by the community as impartial, professional and effective.

The Plan: We believe that a commitment to a healthy culture begins with committing resources to provide the necessary expertise and services to do so. The essential first step in hiring a Legislative Human Resources Administrator has occurred and is a great start. However, it is our recommendation that there should be a new agency dedicated to these functions with appropriate authority and protection from the political pressures inherent in the workplace. We have named this agency the Office of Legislative Culture (“OLC”) because, as we see it, the OLC’s mission will encompass, but go beyond, compliance to include a holistic focus on creating and preserving a healthy workplace culture.

It is our further recommendation that personnel be hired in addition to the Legislative Human Resources Administrator to ensure that there are

“Unless commitment is made, there are only promises and hopes . . . but no plans.”
- Peter Drucker, Management Consultant

adequate resources to meet the needs we have identified. We believe it will simply be too much work for one person to provide all human resources services needed by the General Assembly, including benefits, hiring and termination assistance, along with effectively running a professional complaint resolution program and provide internal expertise and resources. Adding additional staff, with an attempt to identify a diverse pool of applicants for positions in the OLC, is recommended.

The Office of Legislative Culture

We recommend that the human resources function become part of a new separate agency, the OLC. This should be a separate agency-level Office, with space both in the Capitol and at the State Services Building at 1525 Sherman Street, including confidential meeting areas. This will allow for more confidentiality in scheduling meetings, as they can occur at either location. It will also provide more visibility by having it available in both areas where there are significant staff presence. In addition to general HR duties, the focus of this agency will be threefold: primary caretaking of legislative culture; responsibility over all complaint resolution; and workplace engagement through training, education and outreach.

The OLC should have some protections from the politicization of complaint resolution. This could be achieved with some funding protections for the agency and job protections for its full-time Employees, such as by making them classified state employees or otherwise requiring “cause” for their termination through some other similar mechanism. The Human Resources Director, who will run the OLC, should report to a non-partisan supervisor. These efforts should help insulate the OLC as much as possible from partisan pressures in the conduct of its work.

We recommend that personnel in the newly created OLC will include the Director of Human Resources, which the current Legislative Human Resources Administrator may be

qualified and interested in filling, in addition to a full-time Equal Employment Opportunity Officer, a part-time (initially) Workplace Culture Specialist and an external trusted third-party to serve as Confidential Workplace Ombudsperson. As we see it, responsibilities will be divided as follows: the Human Resources Director will be generally responsible for all aspects of human resources in the General Assembly and will oversee the OLC; the EEO Officer will be responsible for all claims and activities under the newly created RWP and will report to the Director; the Workplace Culture Specialist will be responsible for prevention efforts, training and education, professional development, awareness, outreach and support resources, as well as internal mediation and facilitation assistance. This position will also report to the Director. Finally, the Confidential Workplace Ombudsperson will provide a completely confidential venue for Members of the Legislative Workplace to discuss workplace problems, decisions about filing complaints and concerns about the process. We think the nature of this position inherently makes a trusted third-party partner, rather than an Employee, the appropriate choice. Our ideas about the skills and qualifications needed for the EEO Officer and Workplace Culture Specialist positions are set forth in Section 1 at [Appendix D](#) and [Appendix E](#), respectively.

A few notes about full-time versus part-time status. The Director and EEO Officer positions should be full-time permanent Employees, protected in their jobs with appropriate mechanisms described above. We believe that structuring the roles, particularly the EEO Officer's, in this way would send a strong message of commitment to fairness and impartiality, as well as a willingness to devote talent and resources to the issues of workplace discrimination and harassment.

The Workplace Culture Specialist could initially be a part-time role as the needs for training, mediation and other services are developed. However, it is our sense that the need for

continuous culture initiatives and ongoing training, as well as the needs of the informal resolution process we recommend, will ultimately require a full-time person. Keeping this expertise in house will ensure consistency, availability and ultimately will save money over using outside consultants for every training or outreach effort required.

We recommend that the Confidential Workplace Ombudsperson role be filled with a trusted third-party partner who will agree to provide confidential services under parameters created by the OLC. This position could be filled by someone with expertise in victim's advocacy, who could likely be recommended by the staff of the Colorado Coalition Against Sexual Assault or a similar entity. It could also be served by someone with Title IX ombudsperson experience (which has some overlap with the landscape of harassment). These are not the only two available options, but present two we believe are appropriate. Having the Confidential Workplace Ombudsperson serve as an hourly outside consultant, providing services only when needed, will provide some budgetary flexibility.

The Independent EEO Advisory Panel

An additional step we recommend is the creation of an Independent EEO Advisory Panel ("the Panel"), modeled on the Independent Ethics Commission ("IEC"),¹⁷ to handle complaints of unlawful behavior by Legislators in a venue outside the Capitol and better protected from political pressure. We envision the Panel to consist of five (5) members, chosen in a manner similar to the process utilized for the IEC, except requiring that Panel members have extensive relevant experience. We recommend that the Panel include a combination of experienced employment lawyers or judicial arbitrators with a focus on employment law, experienced workplace investigators and former Legislators who have been out of office for some period of time. The

¹⁷ See <https://www.colorado.gov/iec>.

Panel should be created as a non-partisan volunteer board, to serve for a set term, with the power to manage complaints of discrimination, harassment and/or retaliation against Legislators.

We created the Panel to handle just the kinds of high profile investigations that are most difficult to keep impartial and appropriately insulated from political pressures, in any political environment. Once initially comprised, the Panel should be empowered to choose its successors among other equally qualified and experienced practitioners and individuals. The Panel's role in the formal complaint resolution process is discussed in more detail below.

Standing Workplace Culture Committees

We recommend that each chamber of the General Assembly create its own Standing Workplace Culture Committee, to serve as the body to receive the results of investigations managed by the Panel and to make decisions about consequences. This Committee ideally should be "standing" to avoid the political pressures inherent in putting together an ad hoc committee in response to a particular complaint and should be equally bipartisan. The Workplace Culture Committees will be empowered to review investigation findings and issue, on their own authority, private discipline (verbal warnings to cease behavior, direction to apologize, removal from leadership positions, reassignment of Student Interns and/or loss of Student Intern funding) and remedial action (mediation, coaching, training or other measures). They would also be the bodies which would be responsible for initiating appropriate processes should formal Legislator discipline (reprimand, censure, expulsion) be the decided-upon consequence.

Revise CORA, if Necessary

Finally, in order to better ensure confidentiality and protect witnesses, we advise the General Assembly to revise, as needed, the Colorado Open Records Act to provide better confidentiality during the complaint resolution process and to protect investigation records from

disclosure except as determined necessary under the RWP. It is our recommendation that investigation reports and materials be kept confidential except under very limited circumstances where formal Legislator discipline or termination from employment is the suggested consequence. Further, we recommend that the provision allowing a Respondent to disclose these materials to the public at any time to exonerate himself or herself be stricken or revised because, as currently stated, it increases the likelihood of (if not encourages) retaliation during the process. These changes are required to protect the parties from disclosures that, in our view, compromise the integrity of the process. We see these provisions as serious flaws in the present process.

Challenges and Advantages of Our Structural Recommendations

Any change in structure can be difficult for people to adjust to, and this is a consideration in implementing any new positions in the General Assembly. It will be very important to find the right people for these roles and this may take some time. These changes will also come with the associated expense of new personnel and new office space.

However, we believe these challenges are far outweighed by the benefits of having the necessary personnel bandwidth to create and maintain the culture the General Assembly seeks: one where all persons are safe and respected and where harassment is not tolerated. A healthy culture, and effective and fair complaint process, requires people with expertise. Having this expertise in-house means that these individuals will be committing all their professional efforts to this end. The enhanced Professionalism of complaint handling, and including a completely confidential venue for raising concerns, are positive investments in the wellbeing of your community. The expertise we recommend will increase the impartiality, fairness, and trust in the overall system. Importantly, these structural changes embody the positive message we hope will

lead the agenda of not just focusing on process and punishment but committing to a positive culture.

PREVENTION THROUGH NEXT-GENERATION CULTURE: When Members Thrive

The General Assembly’s primary focus should be on reinforcing and strengthening a strong workplace culture of higher expectations and awareness, affirmatively encouraging strong practices around bystander empowerment, awareness, and mutual respect. The General Assembly is fortunate because there are strengths in the existing culture and a widely-shared belief that the culture should be respectful, professional and congenial. This is a very good place to begin. Our culture recommendations essentially formalize the shared expectations that, in large part, already exist.

What Our Research, including Our Summit, Tells Us: There is strong support in the research we did supporting the idea that culture is the first and most important variable in determining whether harassment will, or will not, thrive in a given workplaces. The importance of culture can almost not be overstated. As described above, Colorado and national experts are coming out on this subject strongly on the side of a strong respectful culture being the most important ingredient in creating a workplace where

“Workplace culture has the greatest impact on allowing harassment to flourish, or conversely, in preventing harassment.”
- EEOC Report of the Select Task Force on the Study of Harassment in the Workplace (2016)

harassment simply cannot take root. An important point along these lines was raised by Mr. Taylor, President and CEO of SHRM, when he noted that healthy workplace cultures self-actualize when it comes to harassment, “when sexual harassment is observed or experienced, the community takes over and shuts it down collectively, with a message that such behavior will not be tolerated by anyone at any level.”

The strong consensus of our Summit participants, who approached this issue from a diverse set of experiences and perspectives, was that there needs to be a focus on culture that extends

beyond the legally proscribed definitions of harassment. For instance, in addition to other recommendations related to culture, Summit participants encouraged that members and staff receive respect-based and civility training, bystander awareness tools, and engage in shared experiences, such as through a non-confrontational, team building event such as a service day.

What Our Outreach Tells Us: As noted above, the General Assembly embarks on this effort from a position of relative strength. Our outreach results reveal that many people find the workplace to be a professional and friendly place, with the overwhelming majority of Survey respondents indicating that they feel comfortable, safe, and respected in the Legislative Workplace and would encourage a family member or friend to work there. A few people raised their concern that any effort to change things in the Capitol will “sterilize” an environment they see as collegial. Most people believe those in positions of power are setting a good example. This feedback demonstrates that the culture is, in many important ways, quite strong. The General Assembly should take pride in those areas of strength, and not interpret recommendations for improvement as a complete indictment of the culture.

However, despite this strong foundation nearly 3 out of 10 Survey respondents have seen or experienced what they believed was harassment based on somebody’s protected class and/or sexual harassment, and almost half of the respondents said they have seen or experienced sexist commentary and behavior. Of those who saw or experienced discriminatory or sexual harassment a larger majority saw or experienced it multiple times. Some said that there exist outposts of harassing conduct and problematic ideas about diversity and inclusion. We heard about instances of yelling and bullying. In one case, we heard from a person who walked away from an encounter with spit on their face after a Legislator yelled at them just inches away from their face. The vast majority of people who expressed these problems said they exist primarily on the legislative side

of the General Assembly, with the non-partisan agency side reporting relatively few instances of this kind of bad behavior.

It is telling that *almost no one reported these situations*. Many stated the belief that nothing would happen if they did raise the problem, and others said they kept silent because the behavior did not happen to them. Others thought the behavior was inappropriate but did not believe it severe enough to report. People expressed a fear about what would happen to them if they reported it, noting the power differentials, and fear of job or career reprisals. This is one of the most significant patterns to emerge from our outreach because it indicates that people are not comfortable raising serious concerns in the Legislative Workplace.

Even if these behaviors are not experienced by everyone in your workplace, or in some cases are isolated or are happening in only part of your workplace, there should not be room within the General Assembly's culture for such conduct to continue. Not only is it inconsistent with a professional workplace, harms those subjected to it, and reduces institutional efficiency, it can create an environment where harassment can thrive and where people receive the message that nothing can be done about such behavior.

The data are mixed on the experience Student Interns have in the Legislative Workplace. On the one hand, there have been high profile complaints involving harassment of Student Interns, and a group of interns and aides (some present and some former) expressed serious concerns in a letter to leadership about their safety and wellness in the workplace. On the other hand, the Interns who responded to our survey did not express significant concerns about harassment. We weighed this conflict in the data seriously, and we also considered the inherently vulnerable nature of the Student Intern's role, in making some recommendations specific to Student Interns.

Our outreach identified gaps in training and knowledge of the present policy, and an expressed desire for more and better training. Bystander skills and respect and civility were expressed as areas of interest in developing more effective training. An opportunity for greater outreach and demonstrated commitment was revealed by the fact that more than half of Survey respondents either did not believe that, or did not know whether, the General Assembly’s current harassment policy is taken seriously.

The Plan: There are concrete steps the General Assembly can take to begin to address these problems in the culture and to fill the training and awareness gaps: (1) define the expectations for workplace behavior above legal compliance, and commit to higher expectations; (2) empower one of the newly hired OLC Employees to implement this commitment; (3) provide tools to proactively meet those expectations; and (4) offer training that reflects the General Assembly’s vision for how its community *will* act, not just how it *will not act*. These steps are embraced by our recommendations for Culture.

Commit to and communicate higher expectations for workplace behavior. The RWP does not only define minimum expectations for behavior; it describes and advances a vision for respectful and inclusive behavior. The **Preamble** communicates a larger vision for the General Assembly’s workplace than mere compliance with legal obligations. While many policies do that, they often transition immediately to legalistic definitions of misconduct. By contrast, the RWP outlines resources available for prevention and education. It also identifies the General Assembly’s

***RESPECTFUL WORKPLACE
POLICY – PREAMBLE***

The citizens of the State of Colorado expect their elected officials to behave in a manner befitting the honor and privilege they hold as representatives of the citizens of Colorado. . . . For this reason, the General Assembly holds the members of its community and its legislators, in particular, to a higher standard of conduct than simply avoiding unlawful harassment.

Respectful Workplace Expectation. This Expectation is higher than legal compliance, and reflects the expectations many Members of the Legislative Community already have: that in doing work on behalf of the citizens of Colorado, the Members of the Legislative Community should be professional and respectful to one another.¹⁸

Include protections and resources specifically for Student Interns. We recommend four steps with respect to Student Interns. First, they should be explicitly included as persons who are covered by the RWP. Second, the RWP should make clear that intimate personal relationships

***PROTECTIONS AND
RESOURCES FOR STUDENT
INTERNS***

1. Covered by the RWP.
2. Intimate personal relationships with legislators prohibited.
3. Access to a support person, if desired, in the formal complaint process.
4. Intern-specific training and onboarding regarding the RWP and available resources.

between Legislators and Student Interns are prohibited. Third, Student Interns should have the option of having a support person with them should they become participants in the formal complaint resolution process. Finally, the General Assembly should implement a centralized Orientation Program for Student Interns, that should include role-specific training on the RWP, introduction to the Confidential

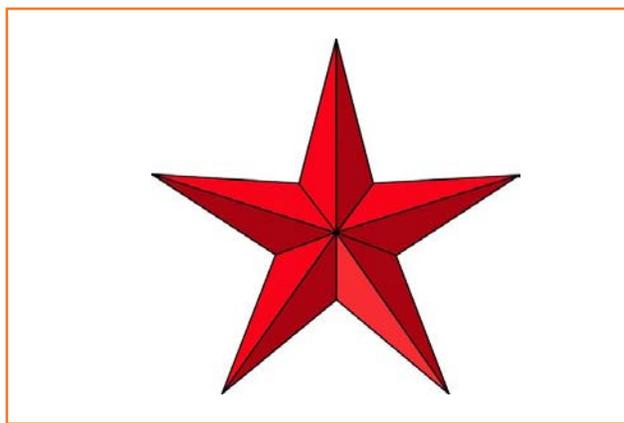
Workplace Ombudsperson as a resource, and additional education and support as needed. These recommendations are made to enhance the Student Intern experience, and also to provide them with resources and protections that we believe are appropriate, given the nature of their role.

¹⁸ It is important to note that the “Speech and Debate” clause of the Constitution of the State of Colorado protects legislators of the General Assembly from legal action based upon their Legitimate Legislative Activity. Heated discussion, pointed questions, vigorous debate, efforts to persuade, angry and even disrespectful exchanges can and do occur as part of the legislative process. The Respectful Workplace Policy should not be read to apply to, or attempt to infringe upon, this Legitimate Legislative Activity. This Policy reaches Legislator behavior if actions are outside the sphere of Legitimate Legislative Activity, as when a Legislator mistreats someone outside the legislative process.

Student Interns are in a uniquely vulnerable position when it comes to issues of harassment in a legislative workplace. They are young people at the start of a career, who serve at the pleasure of the Legislator for whom they work. As one person in our interviews described it, they are “very young, impressionable and they’re eager to please.” They went on, “I think that part of the environment in the Capitol is a difficult environment to young impressionable people, combined with more powerful dynamic people. Things can happen.” The inherent power differential between Student Interns and Legislators requires special consideration in the Policy and in the procedures. For this reason, we recommend some special measures to protect and enhance the Student Intern experience.

Stating these commitments through policy is a simple first step. As emphasized above, however, the policies themselves are not the source of the institution’s culture and will not self-actualize. Those stated commitments must be put into action, for stakeholders will be more attuned as to what the General Assembly does, than they are to what it says it will do.

Build and emphasize positive transformational culture as your North Star. That is where your new Workplace Culture Specialist (the “Specialist”) comes in. The Specialist will serve as a



resource to Employees on a broad range of issues relating to the health of the legislative culture. This will include positive outreach and awareness building, training and professional development. The focus will be on positive behaviors and growth, team

building, and identifying issues proactively. The Specialist will also have mediation and facilitation skills, to serve in a remedial role as needed for the newly comprised informal resolution

process. The Specialist’s mandate should be broad, allowing them to work on strengthening workplace interactions and professional conduct across an array of topics. By strengthening workplace culture by helping staff and members thrive as colleagues, the Specialist will be advancing values that are inconsistent with harassment. The Specialist will be responsible for implementing the General Assembly’s commitment to culture by providing tools for success and training beyond legal compliance.

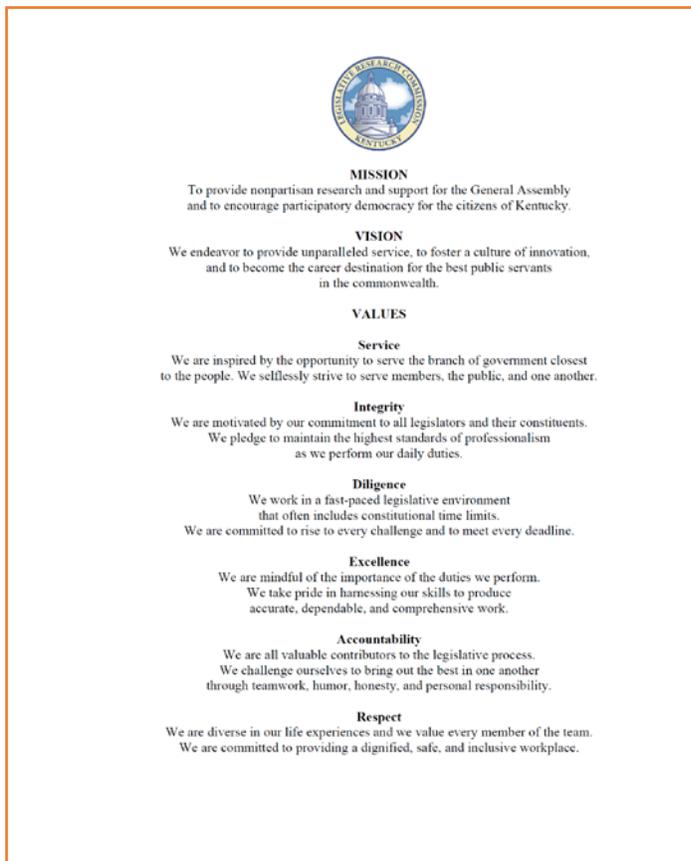
Provide meaningful positive tools for success. The Specialist will create an evolving toolbox to advance the workplace culture. The Specialist should be authorized to exercise discretion and professional judgment, in consultation with OLC colleagues, to develop programs aimed at strengthening workplace culture. Examples could include listening sessions where OLC could sponsor stakeholder meetings to hear people’s feedback and questions; organizing collaborative events; providing individual, joint, and team coaching; facilitating mediation; being a visible and available resource to staff; providing referrals for more specialized counseling or other supportive services; engaging in outreach to the workplace community on issues of culture; conducting periodic workplace culture assessments; and managing communications and marketing efforts about Next-Generation workplace practices. In particular, by enacting the RWP, the General Assembly will be committing to supporting and funding an annual Awareness Campaign.

“Expand resources for enhancing a culture of respect in the workplace through employee resource groups, diversity speaking engagements, and cultural competency training.”

- Recommendation in the Minnesota Management and Budget “Sexual Harassment Prevention Policy and Procedure Report: Review and Recommendations” (Jan. 2018)

Through these efforts, and in collaboration with the community, the Specialist will identify core values for adoption by the legislative community. Although different legislative agencies might develop or maintain their own mission statements, e.g., the OLLS has a mission statement, and visions for their respective organizations, e.g., the Legislative Council Staff have a vision statement, the community should seek consensus around certain core values underlying all of their work, with a statement of how they will effectuate each value in the context of their respective roles.

For example, the Kentucky Legislative Research Commission (LRC) recently developed such a document, which is included on this page. As the Director of the Kentucky LRC explained,



they intend to incorporate their mission statement and values “into the agency’s fabric by incorporating them into job interviews, and by discussing them in new-employee orientations, at manager’s training sessions and each time we see an opportunity for employee recognition,” and “will continually make clear that these statements express who we are as legislative staffers when we are at our best.” In the Colorado General Assembly, the Specialist can help

activate a similar focus on positive values and aspirational conduct by developing workplace culture programs and messaging informed by the community's shared values.

Provide training beyond legal compliance. Based on the feedback we received in the surveys and interviews, sexual harassment is not the only kind of serious misbehavior people have seen and experienced in the General Assembly. We recommend that training emphasize other kinds of discriminatory harassment, particularly race- and age-based as well as gender identity-based mistreatment and harassment. It is important that all members of your community be protected from discriminatory harassment.

Additionally, while stakeholders must be trained about what the policies require of them, they should also be educated about *what they can and should do*, rather than only what they cannot and should not do. This will increase the chance of real growth and health in the culture. The Specialist will help provide community members with better tools and a greater understanding to both prevent misconduct and to thrive as colleagues and Members of the Legislative Workplace.

The state-of-the-art in anti-harassment training reaches beyond a recitation of legal obligations and negative behaviors to avoid. The RWP reflects that, by providing examples of training areas in civility, respectful workplace expectations and bystander awareness. Per the RWP, the Specialist will be responsible for staying up-to-date on the most effective training modules and effective training techniques and must be empowered to implement those training programs. This includes utilizing next-generation technology as appropriate.

Challenges and Advantages of Our Culture Recommendations

Cultures change slowly and over time, and there is always resistance when a culture makes changes. People who were successful in the prior culture must redefine how they achieve their own measure of success in a new landscape, which can feel challenging. This will take a skilled

hand at the tiller to effectively manage the change and will require a sustained commitment to the program by leadership.

However, we believe that it is time to formally redefine the expectations for behavior in the Legislative Workplace to align with what most of its members already believe: Members of this body are privileged to work where they do and for whom they do, every day, and their behavior ought to reflect this privilege. Our recommendations emphasize that culture is the most important driver in creating better behavior across the board and puts resources in place to help facilitate great culture. They acknowledge the realities of the power differential for Student Interns and provides some tools and information to help them have the most positive and productive experience possible. Importantly, our recommendations put positive tools in place to increase engagement, provide effective education and awareness, and increase accountability, all of which will support the goals of attaining a respectful and collegial Legislative Workplace for all.

REPORTING AND REMEDIATION IMPROVEMENTS: Informal Processes When People Struggle

When the General Assembly commits to this culture of higher expectations, and our policy reflecting that culture, it will need a new mechanism for addressing conduct that is inconsistent with those expectations. Our recommended approach reflects the reality that there is a spectrum of behavior between the aspirations reflected in an institution's values, the expectations outlined in a policy, and pervasive or severe workplace harassment. We therefore offer recommendations for responding to unprofessional, disrespectful, or disruptive workplace behavior *before* it rises to the level of harassment.

What Our Research, including Our Summit, Tells Us: Other state legislatures have enacted policies that reflect the reality that often all a Complainant might want is for the behavior to stop. Some states have included or are contemplating respectful workplace policies (AR, AK). Some states have addressed this by adding or considering an informal complaint resolution process (DE, OR, AK), designed to nip bad behavior in the bud before it becomes full-fledged harassment. Additional reporting venues have been added in some states, including confidential hotlines and consideration of using a confidential ombudsperson to offer an additional confidential option (CA, NE, MO).

Feedback from the Summit stressed expanding how and to whom concerns can be raised. Summit participants recommended that the number of designated contact people in the policy be increased. There was a call for a centralized hotline for complaints, including anonymous reporting of concerns, and an ombudsperson option.

What Our Outreach Tells Us: Nearly half of the people who responded to our outreach process described behavior they have observed that they thought was inappropriate, but that did not rise to the level of harassment. We heard feedback in interviews about informal steps that are

already happening on an *ad hoc* basis to resolve these kinds of behaviors. There is no set informal process, or resources to help in these efforts, at the moment. The lack of informal processes has contributed to some fear, raised by a few people, that complaining means you trigger the fully investigative response and there is nothing short of this process available. The present policy does not address how to raise complaints about behaviors that do not rise to the level of harassment, but which corrode the culture and could be precursors to harassing behavior. It does not have any proportionate process to deal with these kinds of situations.

Additionally, other participants in our outreach expressed a strong desire to have more people to go to and to have an anonymous option for raising complaints. The current policy silos complaints and provides too restricted a set of options for raising concerns. Furthermore, there is no dedicated person responsible for overseeing all complaints to ascertain consistency and proportionate handling.¹⁹

The Plan: Our suggestions in this section build upon those in the previous recommendations on structure and culture. In this section, we suggest that the General Assembly adjust its complaint system to cure some of the deficiencies we note above, and build – as part of the complaint resolution process – an informal track that will allow the system to effectively respond to complaints about disrespectful and inappropriate behavior that may not implicate any protected class or unlawful harassment.

¹⁹ It is important to note that the informal process we recommend here relates to how complaints will be handled *under the Policy*. Supervisors in the various agencies will retain the power to impose consequences or remedial measures for misbehavior outside that which is reported under the new RWP.

Broaden the pool of complaint contacts but create centralized responsibility. The first thing that the General Assembly needs is assurance that it will hear about problem. The General Assembly cannot stop bad behavior that it does not know about. Accordingly, a critical first step is providing two important improvements in the reporting system: broaden the pool of trained people to whom a Complainant can come and create centralized oversight of all complaints. These suggestions may seem inconsistent, but actually they are not. The RWP expands the pool of

RWP COMPLAINT CONTACTS

Complaints may be reported verbally or in writing to **any** of the following **Complaint Contacts**, in the Complainant's discretion:

- (1) Any supervisor, manager, or director;
- (2) Any one of the following designated contact persons:
 - (a) The Director of Legislative Council;
 - (b) The Director of the Office of Legislative Legal Services;
 - (c) The Staff Director for the Joint Budget Committee;
 - (d) The State Auditor;
 - (e) The Secretary of the Senate; or
 - (f) The Chief Clerk of the House of Representatives.
- (3) The Human Resources Director;
- (4) The Equal Employment Opportunity Officer;
- (5) The Workplace Culture Specialist; or
- (6) The General Assembly's Convercent hotline for anonymous complaints, which reports can be submitted by phone, on the web or by mobile texting.

complaint contacts (which will apply whether the complaint relates to the **Respectful Workplace Expectation** or forms of harassment, which will be discussed below). Of particular note, under the new process, Complainants may go to, among others, *any* supervisor or to a member of the OLC. All of these complaint contacts will receive training on how to handle complaints. This keeps the part of the present policy that is positive – making sure there is someone whom the

Complainant feels comfortable going to – and even broadens the pool. However, we have instituted one important change to the process after a complaint comes to a complaint contact person. Upon receiving any complaint, a complaint contact *will be required* to refer it to the EEO

Officer, who will triage the complaint to determine if the informal or formal process should be used.

Professionalize and standardize the response to complaints by vesting ultimate responsibility in the EEO Officer. At this stage of the process, the Equal Employment Opportunity (EEO) Officer begins to play a larger role. The EEO Officer receives all complaints, whether implicating respectful workplace issues or harassment. The responsibility for determining how to proceed in response to a given complaint falls to one person with expertise. In this way, the RWP both expands the complaint contacts while centralizing the response, relieving much of the present burden on designated contact people, who – going forward – will only be responsible for receiving the initial complaint and forwarding it on. This should ensure consistency, appropriate handling and tracking of complaints.

Create and utilize an informal resolution process to intercept and correct misbehavior at an early stage and include remedial resources in the toolbox. Next, we recommend that the General Assembly add an informal resolution process into its complaint response toolkit. This process will be appropriate for handling complaints that identify issues of disrespect, sexism or other workplace misconduct that doesn't rise to the level of discrimination, harassment or retaliation. When a complaint comes in that the EEO Officer believes to fall into this category, he or she will do some initial informal fact-finding to determine what is going on, and then will be available (together with the Specialist) to discuss an array of remedial options designed to help and support the parties in reaching a confidential non-disciplinary resolution. This could include Specialist-provided mediation, re-training, conversation facilitation or coaching, team building or other measures. For instance, if a complaint relates to inappropriately raising one's voice at a staff member, training or coaching on communication skills might be in order. Records of these

resolutions will be maintained by the EEO Officer. Those records should become a part of the Complainant's and Respondent's personnel files and remain confidential but will be available for reference if behavior recurs.²⁰

Triaging matters into the Informal Complaint Resolution Process is only one part of the EEO Officer's job. As will be described later in this report, situations may require escalation to a more formal process of investigation and potential discipline, and the EEO Officer will play a central role in those cases as well.²¹

Utilize and train the confidential workplace ombudsperson to help educate the community about informal resolution resources. As a first step for many people, the option of getting advice and asking questions about the complaint process – before deciding whether or not to proceed – is imperative. Many victim's advocates and others emphasize the loss of control that a person feels when they come forward with a complaint. Providing a resource for people to use to make that decision, or just process options, would convey that the General Assembly understands this dynamic and wants to provide a resource to address it.

We recommend that the General Assembly provide the Confidential Workplace Ombudsperson for advice and support for community members, but we also recommend that this person be utilized to get the word out about the informal resolution resources available. This will provide additional outreach and education to Members of the Legislative Community about what new and additional options the person has, short of full investigation processes, for resolving their concerns (provided they do not implicate an imminent risk of serious harm or violence and the Ombudsperson can see no responsible option other than breaking confidence).

²⁰ **NOTE TO LEADERSHIP:** These provisions will have to be carefully drafted to ensure that the materials are not available to CORA requests.

²¹ As the Policy makes clear, there may be times when a complaint may need to be moved from the informal to the formal process. The opposite is also true.

Challenges and Advantages of Our Reporting and Remedial Recommendations

Creating more reporting avenues, while centralizing responsibility, will require coordination among a number of people. There may be some inefficiencies while people adjust to the new structure. Moreover, there will have to be good outreach and education efforts so that Members of the Legislative Workplace understand the appropriate role (and limits of) the Informal Resolution Process. The health of this process will depend upon the skill and expertise of the EEO Officer, so it will be imperative to find and hire the right person.

That said, we believe that making these changes to the system will provide significantly more advantages than disadvantages. They retain (and enhance) the positive aspect of giving people options to find a complaint person they are comfortable with, but cure the problems of silos and no central person or agency charged with overseeing processes under the Policy. They promote consistency and Professionalism in complaint management, while providing the ability to determine what a proportionate response should be to a given complaint based on its content. Fundamentally, these recommendations give the General Assembly a better chance of hearing about misbehavior and a systematized way to contend with it if it is not severe or pervasive or directed at someone because of their protected class.

SERIOUS PROCESSES: Formal Processes for Serious Misconduct

Even after a culture is strong and remedial steps have been instituted, the General Assembly must have a robust system in place if allegations are serious. We recommend changes to the present complaint process that will fairly and confidentially determine whether discriminatory harassment, sexual harassment, or retaliation, has occurred and that will promptly and proportionally hold people accountable when it has.

Having clear and effective policies in place that prohibit discriminatory and sexual harassment, as well as retaliation, is the bare minimum required for any workplace. The RWP, including its Formal Resolution Process, aims higher. It strives to be state-of-the-art by creating (1) professional and independent capacities to address complaints of misconduct and (2) providing detailed requirements and explanations of all aspects of the process, as discussed below. Before delving into those recommendations, we first describe how our research and outreach efforts informed the creation of the Formal Resolution Process and other elements of the RWP specifically relating to holding individuals accountable. We also identify those specific opportunities for improvement that relate to this aspect of the RWP.

What Our Research, Including Our Summit, Tells Us: Our research into other legislative and corporate best practices, as well as our own analysis of the policies and procedures, suggests that the General Assembly's policy and procedures need to be updated. Having strong complaint policies that are updated to reflect best practices in complaint management, investigation and resolution is important to the health of any anti-harassment program, and the present policy does not achieve these things. In legislatures around the country, many other states are grappling with how this is best accomplished in a political environment, and we gave that context special consideration in our recommendations.

As we noted above, all 50 state legislatures have recently considered how they address sexual harassment. None of the policies that were in place before January 2018 were in perfect shape, and like Colorado's, many have needed to be revised. In addition, some states are exploring the option of using outside parties (like outside counsel) to assist with complaints against lawmakers, and many states include the option of using outside investigators (i.e., NM, WY) to enhance the impartiality of the process. Still other states have used or are contemplating a dual-track system, where complaints against lawmakers proceed along a different track than complaints against staff and employees (for example, NM).

Our Summit participants provided a great deal of thoughtful advice on how to improve and modernize the present complaint system. This was their central objective in the Summit. Their recommendations, in no particular order, included: expanding the examples of harassment to track changes in the law; creating a formal procedure with "teeth" as well as "walls" to ensure accountability and impartiality; ensuring a timely investigation while avoiding a statute of limitations; partnering with community-based advocacy organizations to offer confidential advocacy to those experiencing harassment; providing interim relief during investigations; and protecting Student Interns with special measures. Our Summit experts expressed discomfort and confusion surrounding the current policy's language regarding the Respondent having access to all of the documents and saw the need for more complete (and better protected) confidentiality in the process. There was agreement that the "false claims" provision should be removed. There was some disagreement about whether to include a mandatory reporting requirement, with the concern about discouraging people from seeking help on the one hand and obligations of employers to act when they become aware of certain forms of harassment on the other. The group also discussed how and whether to address anonymous complaints in the policy and ultimately concluded that

problems investigating complaints without attribution can be managed, and an anonymous option should be included. The Summit participants stated a belief that public findings and censure for Legislators who violate the policy is an important element. Another suggestion was mandating a workplace relationships policy to prevent Legislators from having relationships with Student Interns. Other suggestions included requiring Legislators to pay the cost of investigations that result in substantiated findings and the use of victim impact statements during the disciplinary process.

One of the strongest consensus recommendations was to implement independent third-party involvement in the process, whether in the form of an ombudsperson, an outside committee and/or impartial third-party investigators.

What Our Outreach Tells Us: The Members of the Legislative Workplace had many helpful observations that provided important insight into how members of the Legislative Workplace interact with and feel about the policy and the present state of affairs with complaint resolution. There were strong feelings about the lack of confidentiality, skepticism about whether complaints would be investigated fairly and impartially, and concerns about overall trust in the process, especially from members working on the partisan side of the community.

As discussed above, there is a notable discrepancy between the number of people who reported seeing or experiencing workplace misconduct, and the number who were willing to come forward to report it. This indicates that the system does not work to detect and deter harassment. This must be rectified, and our recommendations are aimed to do just that. The Process must have mechanisms for safe reporting (as discussed) and there must not be the sense that reporting will be futile (or fatal to the Complainant's career).

A fear of retaliation is a serious concern for people in bringing complaints forward in the Legislative Workplace. This was described by multiple people from all levels on the partisan side of the workplace and was referenced by those on the agency side as a problem they see (but primarily for their partisan colleagues). It is imperative for the General Assembly to do more to protect people from retaliation and to do its utmost to protect the process from politicization.

Additionally, it is equally important that people see that the process works when misbehavior is identified, and that wrongdoing comes with a consequence for everyone, no matter their role. Ideas were raised including having a person (or independent body) involved when serious complaints are raised against Legislators, having suggested “ranges” of consequences for certain kinds of misbehavior, improving and requiring better confidentiality, and basically ensuring that no one is “above the law.”

We have made recommendations tailored to these goals. Our Formal Resolution Process takes what is best from other states, as informed by local and national experts, and tailors it for the needs and desires of this community.²²

The Plan: Under our recommended approach, the new process for investigating and imposing discipline for discriminatory harassment, sexual harassment and retaliation is called the Formal Resolution Process. In addition to utilizing the structural and staffing changes discussed above, and the improvements in the process for receiving complaints, the Formal Resolution Process clarifies, updates and professionalizes the process for situations involving serious workplace misconduct.²³ There are some primary elements of that improved process.

²² The new Formal Resolution Process is detailed, but hopefully easy to digest and follow. We have included flow charts with the policy that visually depict how a complaint moves through the system, as well as a one-page summary. This section will hit the highlights of the new Formal Resolution Process, but the reader is encouraged to review [the Policy](#) in all its detail, which is in [Section 1](#) (and [Appendix C](#)) below.

²³ The Policy includes elements identified in the 2016 Report of the EEOC’s Select Task Force on the Study of Harassment in the Workplace, which recommends: “A clear explanation of prohibited conduct, including examples; Clear assurance that employees who make complaints or provide information related to complaints, witnesses, and

Update the Policy and make it Easily accessible. We have significantly revised the General Assembly’s existing policy. Included in that policy are detailed procedures. The specificity and detail are intentional. The policy and attendant procedures should be transparent. Those who are considering whether to complain will want to know what to expect. They should understand the respective roles

“Empirical research indicated that individuals feel more encouraged to file a complaint of harassment, discrimination, or sexual misconduct when they understand what the process entails.”

- Michele A. Paludi, Introduction to “Sexual Harassment in Education and Work Settings: Current Research and Best Practices for Prevention”

of those involved, their rights and responsibilities, and the potential outcome of the process. Those accused of misconduct should understand the process and their right to a fair and impartial assessment. The public has a strong interest in understanding how individuals who represent them in their state legislature will be treated around the issue of harassment. The voters must have faith in the system. Therefore, the procedures should be clear, exhaustive, and detailed.

At the heart of the Formal Resolution Process is our recommendation to put the bulk of the process into the hands of trained professionals. The key individual in the process is the EEO Officer, who makes the initial determination of whether a complaint should be processed through the Informal or Formal Resolution Process. This offers a much-needed consistency to complaint processing, eliminating the ad hoc and inconsistent approach that can result from having many disparate complaint contact people make these decisions without coordination or training.

others who participate in the investigation will be protected against retaliation; A clearly described complaint process that provides multiple, accessible avenues of complaint; Assurance that the employer will protect the confidentiality of harassment complaints to the extent possible; A complaint process that provides a prompt, thorough, and impartial investigation; and Assurance that the employer will take immediate and proportionate corrective action when it determines that harassment has occurred, and respond appropriately to behavior which may not be legally-actionable ‘harassment’ but which, left unchecked, may lead to same.”

Some (but not all) of the additional improvements in the new Formal Resolution Process include:

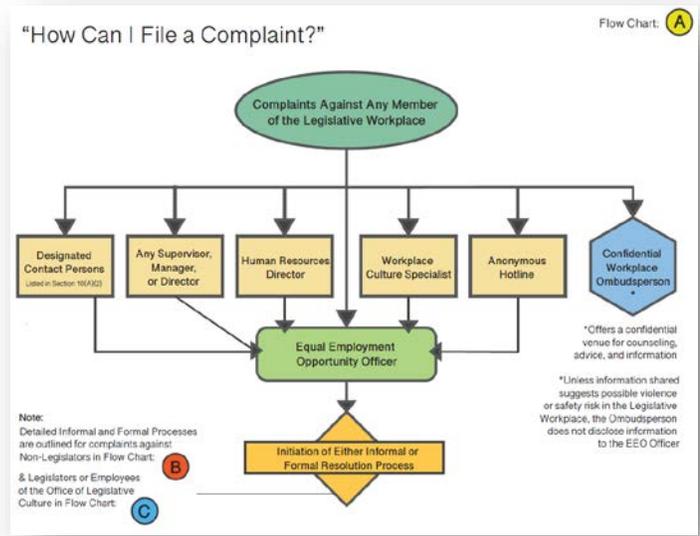
- Professionalizes and standardizes the process from start to finish.
- Provides resources to parties, including Student Interns, going through an investigation.
- Creates standards and guidance for appropriate investigations.
- Appropriately separates out the distinct functions of investigation / factual findings / determinations of policy violation / discipline.
- Includes a timeline for completing the process.
- Removes the dated provision relating to “false claims,” and enhances confidentiality.²⁴
- Puts a proactive focus on anti-retaliation.
- Moves some parts of the process to knowledgeable outsiders to protect the process from political pressures.
- Provides guidance on appropriate disciplinary and remedial measures.

We attempt to balance the specificity needed with accessibility, putting the particular procedures in their own separate appendix [[Appendix C](#)] for reference and taking other steps to make the Policy provisions easy to access and digest. We have written the RWP so that a person generally need only proceed farther into the policy if they are experiencing more severe forms of misconduct. Many of the tools for prevention and procedures to address unprofessional or disrespectful behavior are toward the beginning of the policy. If there is a long-term commitment to the recommendations, one would hope that most individuals will not need to utilize the more detailed formal procedures. However, if they do have a more serious problem, they will be better able to understand the process and their rights than they can under the current policy.

Moreover, we have provided the RWP in a format that includes hyperlinks allowing navigation to relevant sections of interest and to appendices that contain some of the more detailed information. We recommend that the General Assembly make the policy similarly accessible in this format, allowing the document to be searched and navigated electronically.

²⁴ As noted previously, these changes may require revision to existing CORA provisions.

Finally, we have created [flow charts](#) and a [one-page summary](#) of the RWP, attached at the end of [Section 1](#) below, providing key pieces of information presented in formats that can be quickly understood. These tools are offered as an example of how the core elements of the RWP can be succinctly summarized. The Office of Legislative Culture can develop something of its own, but such tools should be posted and circulated, both on paper and posters as well as electronically to get the word out.



Try to depoliticize the process as much as possible. We have designed a process that should minimize the negative impact that politicization can have on a process that relies upon trust, appropriate confidentiality and protection from retaliation in order to be effective. We have done this by including confidential and anonymous options for reporting, as well as bringing in the newly created Independent EEO Advisory Panel and Standing Workplace Culture Committees to help.

We have previously discussed the Ombudsperson as an important resource in our system, and we also recommend that the General Assembly contract with an outside vendor such as Converscent to obtain an anonymous reporting hotline. This will provide a viable option for people too fearful to come forward and be named. While investigating anonymous complaints can prove

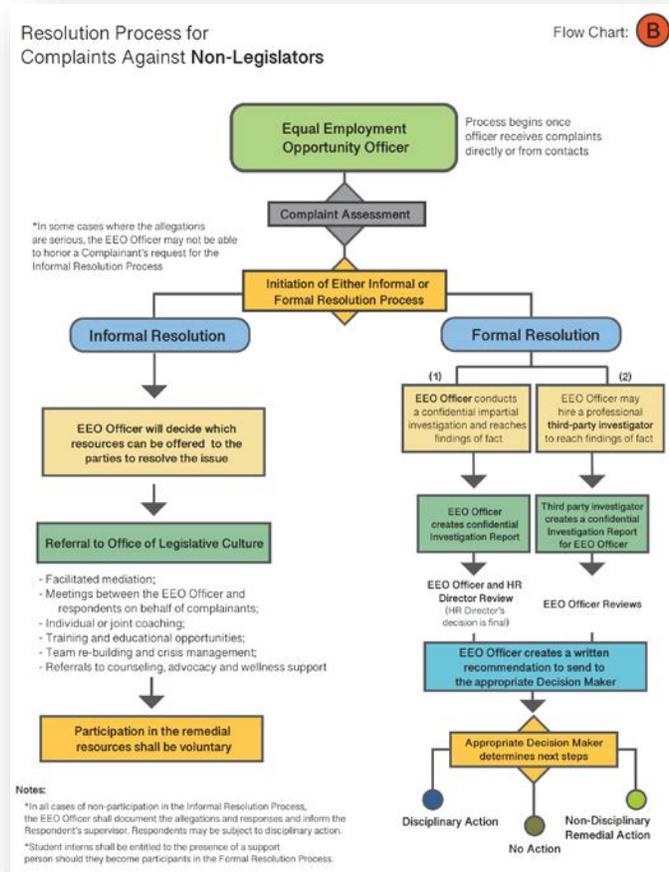
difficult, and resolution is sometimes not as satisfactory as if a complaint was attributed, it is not impossible to deal with anonymous complaints. These steps will help rebuild trust in the system.

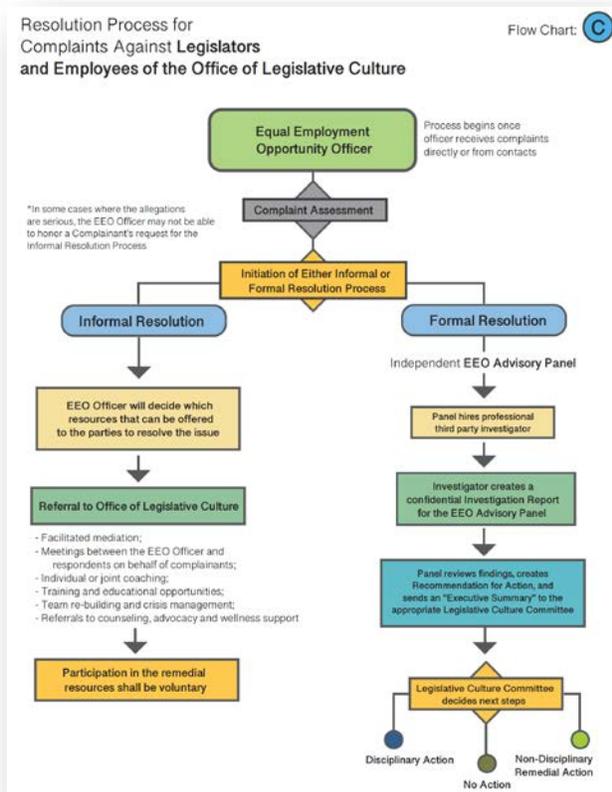
Once a complaint has been designated for the Formal Resolution Process, we have created two paths for resolution. For non-Legislators, the EEO Officer remains involved in the process either by investigating the allegations him or herself or by retaining an outside investigator for that purpose.

In the case of a complaint against a Legislator (or an Employee of the OLC), the Independent EEO Advisory Panel takes responsibility over retaining an investigator. This bifurcation reflects the unique dynamics presented by each

category, affording independent investigations managed by an Employee or body of requisite independence and authority to withstand the relative risk of political pressure placed by each category of complaint.

Whether the EEO Officer or the Panel, the party overseeing the investigation must be further empowered by a requirement that *all* Members of the Legislative Workplace must participate in the investigative process. An individual must not be allowed to unilaterally obstruct an investigation by refusing to take part. We recognize that this may require modification of the





rules in the Senate and House to specifically address Legislator participation. But again, it must be stated that there is a strong desire within your community that Legislators hold themselves to the same laws they pass for every other workplace in Colorado and not hold themselves apart and above what is required of their constituents.

Educate, engage, and protect participants in the process. We recommend, as part of the Formal Resolution Process, several steps tailored

to provide information and prevent retaliation. The Formal Process requires that parties be provided information and resources and be updated on the progress of an investigation. These requirements aim to improve trust in the process and mitigate the stress for both parties involved. They demonstrate a sensitivity to the real human toll of an investigation and a commitment to being true to the workplace culture throughout all steps of the process, even those dealing with the most serious allegations of misconduct.

The education of the parties extends further. The Policy includes detailed information provided to parties about what to expect, what their rights are, and how confidentiality works, and anticipates that the EEO Officer will communicate this information to both parties in the Formal Complaint Process. It also includes a requirement that the EEO Officer connect the parties with

resources, if desired, to help them navigate the process. Many of these resources will be available from the personnel we have suggested adding to the OLC (anti-retaliation guidance, information about the process), others will be external resources that we believe should be made available to assist the parties (for things like mental health services and wellness support).

The engagement and education running through the whole Policy, including the Formal Resolution Process, include the development of a mandatory anti-retaliation plan for each complaint moving forward with investigation under the formal system. This will be a step in the process where the EEO Officer (or other staff of the OLC) will develop a plan for detecting and preventing retaliation during and after an investigation, in discussion with both parties. A Complainant should not only be free from retaliation in a general sense but should be assured that attention is being paid to preventing it in the specific circumstances presented. These plans are bolstered by the Policy's more explicit protections against retaliation, which make it unambiguous that an act of retaliation is a new, independent, and serious violation of the Policy.

Further, we advise that the Policy should allow a Student Intern, who is a participant in the Formal Resolution Process, the option of being accompanied by a support person of their choosing during interviews and other steps of the process. The support person will be someone who can provide emotional, logistical, or other kinds of assistance to the Student Intern. Similar to the Title IX context, this person would be a silent supporter during the Student Intern's interview and would not be allowed to actively participate. We have included these and other parameters around the role of the support person in the Policy, and believe that with these strictures in place, the support person will serve a positive support role without becoming disruptive to the process.

Ensure reliable investigations, appropriately separate out some functions, and get things done timely. Centralizing complaint triage and engaging participants throughout the process will

do little good if there is not a resulting investigation in which people have faith. Therefore, the Policy professionalizes the investigation process, whether conducted by the EEO Officer or a qualified outside investigator. The EEO Officer will have to be experienced and trained in workplace investigation techniques, and the Panel will be expected to retain qualified outside investigators. That professional experience will be the primary assurance that investigations be reliable. The Policy, however, provides additional guidance on investigation steps and the core elements of a resulting report to not only guide investigators but also to educate the Legislative Workplace regarding what to expect.

Additionally, the Policy separates the functions of finding facts and determining policy violations, and likewise separates recommendations for consequences with the actual imposition of discipline. Findings of fact will be reached by investigators while determinations of policy violation will be made by the EEO Officer or Panel (whomever is managing the case). The EEO Officer or Panel will make recommendations for discipline or remedial action, but actual consequences will be determined by appropriate decision makers (depending upon whom the Respondent is). These separations create checks through the process and conform with best practice by ensuring that investigators are focused (and trusted) with fact determinations without the risk of those facts becoming prematurely entwined with or filtered through policy provisions or concerns about outcome. It provides more guidance to decision makers while simultaneously increasing the impartiality in the imposition of discipline. We believe this recommendation for separate steps and authorities is particularly important in the context of a political body to provide the most impartial and consistent results.

The Policy now includes a timeline for completion of the complaint resolution process. Informal resolution must be completed within thirty (30) days, and formal resolution must

conclude within ninety (90) days.²⁵ There are timelines for each part of the formal process. This ensures that complaints are fair and thorough, without being needlessly prolonged or inconsistently prioritized. The timelines guide those involved in processing and investigating complaints, while providing additional information and transparency to stakeholders. Finally, this recommendation tracks the General Assembly's legal obligations to promptly investigate complaints of potentially serious misconduct.

Hold everyone accountable. A fair and reliable investigation, in which all have been educated, engaged, and protected, provides the legitimacy for imposing consequences for substantiated complaints of workplace harassment or retaliation. There must be appropriate, proportional and consistently imposed consequences to ensure faith in the process, to protect Employees, and to demonstrate true commitment to a respectful workplace culture. As noted above, the Formal Resolution Process separates out the recommendations for disciplinary or remedial action from the decision about what action to take. The Policy also includes examples of ranges of discipline for common situations. By both separating roles and providing disciplinary guidance, the Policy includes another layer of impartiality and strives for discipline that is consistent, appropriate and proportional. As discussed elsewhere, the Policy also requires records to be kept on all complaints and resolutions and for statistics to be reported annually, both of which will provide additional data informing proportional and consistent discipline over time.

The process does all of this without divesting authority from those in charge. The ultimate authority remains where it should be – with the agency director or with the newly created Standing Legislative Culture Committees of each chamber. We emphasize the importance of having

²⁵ This timeline will be flexible if need be in unusual circumstances where the complexity of the matter, availability of the parties or other difficulties arise. On the flip side, simpler cases with few witnesses should proceed to conclusion even faster than the timeline we have created.

standing committees of equal party membership, thus further insulating the process from politics that could influence the process were committees instead convened and comprised in response to a particular complaint.

Challenges and Advantages of our Formal Process Recommendations

The new policy constitutes a significant change in approach and structure. In the short term, this may result in certain inefficiencies while stakeholders educate themselves on the Policy and the staffing process can fully meet the requirements of the Policy. Moreover, particularly while getting the process fully functional, the Formal Resolution Process will undoubtedly come with some measure of additional financial cost. The success of the system will hinge on the good judgment and expertise of the EEO Officer, and the expertise and dedication of the Independent EEO Advisory Panel, so those two roles must be chosen and filled with care.

However, the changes we recommend to the formal process present far more opportunities for positive change than obstacles. These changes will put the General Assembly on the forefront of creative transformation in the current climate. They will get the system in line with best practices for complaint handling and investigations and provide important mechanisms to insulate the process from politics as much as is possible. Our recommendations will put both proactive emphasis on anti-retaliation and will provide clarity about how retaliation will be dealt with. Our recommendations will provide important resources that will help people going through the stress of a formal resolution process. Ultimately, these suggested changes will enhance the fairness and integrity of the formal complaint process for all participants.

We note as another positive that there will likely be an initial uptick in complaints. Any system that provides viable and trustworthy complaint venues, after not having such options in place, tends to see this dynamic.^{xli} Unlike the system in place now, where people see and recognize

serious misconduct but stay silent, a system where problems bubble up is a system where problems can be identified and fixed. In other words, it is an anti-harassment system that is working.

TRANSPARENCY: Serving Your Constituents

An essential duty of any state assembly is accountability to the public it serves. Colorado voters deserve to have access to some information about complaints and complaint trends as they relate to their Legislators. This right, however, must be balanced with the needs of parties for safe, fair and impartial processes with appropriate confidentiality. Accordingly, we advise that annual statistical reporting should be done, without identifying personal data, and records should be made available with respect to attendance at mandatory training. This will achieve the balance between keeping the public apprised and preserving confidentiality and the parties' dignity to the greatest extent possible.

What Our Research, Including the Summit, Tells Us: States are examining issues of transparency to try to find the right balance. Maryland's policy, for instance, requires that the "Human Resources Manager . . . report annually to the Legislative Policy Committee the number of incident reports made each year, by type of workplace harassment and resolution." And, the California Legislature has made records of substantiated harassment complaints, including the names of involved lawmakers, public.^{xlii} Disclosure came after persistent requests from The Los Angeles Times for more transparency for access to these records, some of which had been shielded from disclosure for more than a decade.

The participants in our Summit were united in the perspective that, at the very least, voters have the right to know if their representatives are engaged in harassment in the Legislative Workplace. The idea that training attendance records be made public was also voiced.

What Our Outreach Tell Us: There was not as much feedback on this issue in our interviews and survey data. Concerns with transparency came more from our summit discussion and our own team analysis of the issue which relates more directly to the public's interest and the

General Assembly’s oversight responsibilities than to how the policy is experienced by internal stakeholders.

The Plan: Our plan requires annual reporting on some statistical data that will begin to be compiled under our new centralized system. This will provide information to voters about behavior trends in the Legislative Workplace, as well as substantiated serious misbehavior by lawmakers. Our plan also requires keeping and using attendance records in training sessions in positive and proactive ways, while also making those records available for public inspection.

Report complaint and resolution statistics. We recommend that numbers and kinds of complaints under the Policy should be tracked and reported to the public on an annual basis, appropriately redacted to protect confidential personnel decisions and party identities. With respect

**RWP ANNUAL REPORTING
AND REVIEW**

The EEO Officer shall publicly report, on an annual basis, the total number of complaints under the Policy, and the resolution of each complaint, appropriately redacted to protect confidential personnel decisions and party identities. . . . This obligation strikes a balance between the public’s right to know about serious substantiated misbehavior by elected officials, a Complainant’s right to privacy and the General Assembly’s obligation to create a system with integrity and appropriate confidentiality that will engender trust in the process and its outcomes.

to the Informal Resolution Process, we recommend that the report state the number of complaints, and the way(s) in which the complaint(s) were resolved: i.e., 15 complaints, 9 resolved with facilitated mediation, 3 with individual coaching, 2 with mandated training and 1 failed to

reach resolution. In the case of matters resolved in the Formal Resolution Process, we recommend that the report should identify the number of complaints in each protected class category, and the policy determination: i.e., 3 complaints of Sexual Harassment, 2 substantiated and 1 not substantiated as a policy violation.

In the case of substantiated allegations against Legislators of discriminatory harassment, sexual harassment or retaliation, we further recommend that the EEO Officer should be required to disclose the Legislator offices against whom complaints of serious misconduct were substantiated.

We believe these recommendations strike the appropriate balance between the public's right to know about serious substantiated misbehavior by elected officials, parties' expectations of privacy, and the General Assembly's obligation to create a system with integrity and appropriate confidentiality that will engender trust in the process and its outcomes.

Make mandatory training attendance records available but use them in a positive manner primarily. Finally, we recommend using participation in training as an opportunity to promote positive engagement. While we recommend that training be mandatory, and subject to appropriate discipline when skipped, we also believe that training attendance can and should be used in positive ways, e.g., publish the lists of those Legislators who attend training in person; and make any Legislator or other Member of the Legislative Community a designated "EEO Trainer" if they attend three or more required sessions and put them

**RWP – DESIGNATED EEO
TRAINER**

The Office of Legislative Culture shall maintain a list of legislators who have attended mandatory and voluntary trainings made available to the Legislative Workplace and shall designate legislators who have achieved the status of "Designated EEO Trainer" by virtue of their attendance in training and other educational opportunities. This list shall be made publicly available.

to work. In this way, you can allow those positive and committed members of the community to assist in training others and build engagement. Additionally, we recommend that leadership in each body consider a Legislator's training attendance record in making leadership and committee

chairmanship appointments. Require your leaders to live the values that you are trying to build in your culture.

Challenges and Advantages of Our Transparency Recommendations

There will be some stakeholders who will want more data than just statistics to be disclosed. Additionally, there could be pressure brought to bear to artificially deflate complaint numbers to make things appear like they are improving. This could result in attempts to manipulate the data.

We evaluated these considerations and arrived at our recommendations because we believe they strike the right balance between the public's right to know, and victim's and other parties' rights for privacy, concerns about retaliation and the system's need for trust and confidentiality in order to work at its best. This sort of disclosure may encourage people to use the informal system when they see that others are taking advantage of it, and this would be a positive development. Our recommendations will also enable the General Assembly to track for trends and patterns, as well as improvement in the culture, over time. Fundamentally, appropriate transparency in our public institutions is required in a representative democracy, and we believe our recommendations meet this imperative.

LOOK TO THE FUTURE: General Assembly 2.0

The state-of-the-art in workplace harassment prevention is to look beyond legal compliance and focus on the broader workplace culture. This includes, as we have described, intercepting non-unlawful – but problematic – conduct that can create an environment where harassment can more easily occur. From this perspective, Colorado can be a leader among state legislatures in adopting our Next-Generation approach while not venturing too far beyond the innovations that are already occurring in workplaces across the country. In this way, upon the short-term enactment of new policies and hiring of new staff, the General Assembly will already be looking to the future.

But the process of assessing culture, updating procedures, and employing state-of-the-art training needs to be ongoing. Therefore, our recommendations include mechanisms for ongoing review, recordkeeping, and reporting to ensure the self-evaluation and improvement process continues. In this way, the General Assembly’s approach can evolve, be corrected as needed, and remain in the forefront.

The Plan:

Review and revise policies and training annually. While success in this undertaking will require some level of commitment to improved culture by all Members of the Legislative Workplace, the OLC will be the primary keeper of the Policy and culture. It will be the OLC’s task to annually review the Policy and determine what, if any, changes should be proposed. Other state legislatures have recently recognized the importance of including a requirement for regular review in their revised policies, and this is best practice in private workplaces as well. We anticipate that the OLC will engage with leadership and others in the Legislative Workplace to ensure that any stakeholder concerns or suggestions about revisions are captured.

Training should likewise be revisited each year to keep presentations fresh and engaging, and to ensure that state-of-the-art content and delivery are yearly goals. [Appendix B](#) to the Policy

RWP – ANNUAL REVIEW

The EEO Officer and the Human Resources Director shall review this Policy and all related appendices and procedures annually to measure efficacy and compliance with changing legal requirements and workplace conditions and shall propose revisions as necessary.

lays out training requirements we created for year one, but these modules should be updated from year-to-year. We recommend that certain modules, like civility, respect in the workplace and bystander intervention, be included each year along with a policy

review. This will be particularly important while efforts at culture change are still underway.

We have afforded the Specialist in our system the discretion to modify the nature and approach to various proactive and informal resolution measures under the Policy. If the Specialist (or any member of the OLC) identifies additional or new approaches to conflict resolution or coaching, the Policy contemplates the ability to put those immediately into effect.

Evaluate the health of the culture regularly, starting with annual reviews for three years.

We recommend that the General Assembly regularly evaluate how well all of these efforts are working by using an annual survey tool, listening sessions, brown bag lunches or other avenues for gathering stakeholder feedback. There are benefits of having a set survey with questions you can compare from year to year, but it is also important to allow for the kinds of narrative input that spoken feedback permits. Ideally, both kinds of data should be sought and evaluated annually, for at least some period of time to track progress. We would anticipate that these efforts could scale back over time, but we recommend that they remain a regular (if ultimately less frequent) undertaking.

Commit to an awareness campaign and get the word out. It will be important to develop a creative strategy and plan for rolling out these transformational changes. Awareness campaigns, some with catchy slogans, are one way of doing this. Using visual or online media can reach stakeholders in various physical and online spaces in the Legislative Community. Providing resources for the OLC to sponsor fun events where awareness about this program is coupled with teambuilding can be another effective way of getting the information out to the people who want and need to hear it. Outreach can take various other forms, like posting this Policy and the Reporting Process in appropriate areas in the Legislative Workplace or making individualized summary cards with information tailored to particular stakeholder groups or parts of the process. These efforts will help ensure that the General Assembly's approach strengthens over time.

Create and maintain a central repository of complaint data. Keeping records of all complaints and their resolution will develop a body of institutional knowledge within the OLC regarding patterns of behavior, trends and the effectiveness of different proactive, remedial, and disciplinary approaches. This will enable the system to respond to real information and continuously improve.

Challenges and Advantages of Our Future-Focused Recommendations

Annual reassessment obviously requires resources and time. There must be strong integrity and commitment on the part of the OLC staff to report trends and results accurately, with no attempts to shade results. And the annual revision approach runs some risk of being misused as an opportunity to exert politically motivated changes to serve some purpose other than the wellness of the holistic system.

However, this sort of re-examination on a periodic schedule is a best practice, and one which will afford the General Assembly the chance to be responsive to what is happening and stay

ahead of trends it sees in the workplace. It keeps things fresh and relevant. In addition, this regular review period could be scheduled to coincide with the annual process for review and re-approval of the chamber rules that already occurs. From this perspective, the concept of annual review is not a wholly unfamiliar process. Taking a deep look once a year will give the General Assembly information to allow for mitigation of problems as they are arising and for some degree of nimble response. Finally, this annual examination reminds your community of how important these issues, and your culture, really is. Issues of harassment and discrimination in the workplace are incredibly important issues and are worthy of your ongoing time and attention.

CONCLUSION

In closing, we note that much of what we recommend can be implemented on a fairly short time line, even while staff hires and other steps are in process. The Policy can be approved and implemented with some interim tactical measures. An outside vendor for 800 services can be obtained fairly quickly. The current Legislative Human Resources Administrator, who has an investigative and EEO background, could step into a role to manage the complaint resolution process in the interim, and could play the role the EEO Officer (and Panel) will eventually play. Outside help could be contracted out in the short-run to provide him with additional bandwidth or skills he needs to augment. CCASA could be tapped to help staff an interim Confidential Workplace Ombudsperson. Initial outreach and a “kick-off” community engagement event could be planned. Tapping into local business leaders from strong corporate cultures could be done to create a fun “Ted-Talk” style launch party, featuring for example, a leader from a local company with a strong workplace culture to come and talk about the importance of strong culture.

Each legislative body can begin its internal processes for implementing rule changes, creating Standing Workplace Culture Committees and assessing any required changes to CORA. Approvals can be voted upon authorizing hiring additional staff and comprising the Independent EEO Advisory Panel. Recruiting of candidates can begin and take place over the recess, and planning could begin for the Next-Gen training to implement next session, including some of the modules we recommend.

Our recommendations represent investment of resources, time and continuing momentum. The problems that our recommendations are intended to address did not arise overnight, and ultimately, they will be resolved only if the General Assembly commits the requisite resources, including time.

We recognize that the General Assembly has the ultimate authority to choose how to proceed and might choose to modify the Policy or not utilize the precise staffing structures recommended. We have aimed to provide a holistic set of recommendations to meet both the stated objectives in the RFP and to also reach our higher objective of doing so in such a way that we are not just advising short-term solutions for long-term problems. Instead, we have provided a carefully considered plan for holistic and sustainable growth and improvement. We hope that our data and recommendations will provide the General Assembly with Next-Generation tools for meeting future challenges and creating a workplace where all members feel safe and respected and where all are free from workplace harassment.

SECTION 1.

The General Assembly’s Respectful Workplace Policy and Appendices

Respectful Workplace Policy

Preamble

The General Assembly is committed to maintaining a workplace that encourages mutual respect and promotes respectful, professional and congenial relationships and that is free from harassment from or toward Employees, Legislators, Student Interns, and other persons working for or conducting business in the Legislative Workplace.

The citizens of the State of Colorado expect their elected officials to behave in a manner befitting the honor and privilege they hold as representatives of the citizens of Colorado. The Colorado Constitution makes clear that “all political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.” For this reason, the General Assembly holds the members of its community and its Legislators, in particular, to a higher standard of conduct than simply avoiding unlawful harassment. When disrespectful behavior and harassment persist, even when not unlawful or directed at someone because of a protected class, it diminishes the dignity and stature of the institution of the General Assembly and can lead to unlawful harassment.

This Respectful Workplace Policy (“the Policy”) embodies the General Assembly’s commitment to prevention and early intervention where behavior can be addressed before reaching the level of Discriminatory Harassment, Sexual Harassment, or Retaliation. This Policy embodies the General Assembly’s commensurate commitment to vigorous response when behavior is severe, pervasive or based on someone’s protected class.

It is important to note that the “Speech and Debate” clause of the Constitution of the State of Colorado protects Legislators of the General Assembly from legal action based upon their Legitimate Legislative Activity. Heated discussion, pointed questions, vigorous debate, efforts to persuade, angry and even disrespectful exchanges can and do occur as part of the legislative process. The Respectful Workplace Policy should not be read to apply to, or attempt to infringe upon, this Legitimate Legislative Activity. This Policy reaches Legislator behavior if actions are outside the sphere of Legitimate Legislative Activity, as when a Legislator engages in Discriminatory Harassment, Sexual Harassment, or Retaliation or engages in conduct that violates the Respectful Workplace Expectation outside the legislative process.

Through adoption, implementation and enforcement of this Policy and through continuing education and training under the Office of Legislative Culture, the General Assembly will seek to prevent, correct and address behavior that violates this Policy.

1. Policy Application

This Policy applies to all Members of the Legislative Workplace for their conduct within the Legislative Workplace, and while conducting business offsite but on behalf of the General Assembly. This Policy must appear in each Legislative Agency’s personnel manual or equivalent document.

2. Student Interns

All of the protections and provisions set forth in this Policy apply to Student Interns in the Legislative Workplace to the same extent as Legislators, Employees and other Third Parties of the Legislative Workplace. The General Assembly acknowledges the special role Student Interns play, and the vulnerability inherent in their relative lack of job security and influence in the Legislative Workplace. For these reasons, the General Assembly affirms its commitment to providing a workplace that is safe, professional, respectful and congenial for Student Interns, as for others in the Legislative Workplace. Student Interns shall be entitled to the presence of a support person should they become participants in the Formal Resolution Process, below, and in addition shall receive special orientation training and resources related to this Policy, as set forth in [Appendix B](#).

3. The Equal Employment Opportunity Officer’s Responsibility and Authority

This Policy, its procedures and all complaints under this Policy are overseen by the General Assembly’s Equal Employment Opportunity Officer (“the EEO Officer”), who resides in the Office of Legislative Culture. While a variety of reporting options, complaint resolution resources, procedures, education and support opportunities are offered and managed at times by others under this Policy, all activity under the Policy is the ultimate responsibility of the EEO Officer. The EEO Officer shall have authority to propose adoption of modified or new policies in the event this Policy requires amendment to remain up to date and effective. You can reach out to our EEO Officer at any time to ask questions, seek clarification, get advice or raise a concern at: **FILL IN THEIR NAME AND CONTACT INFORMATION.**

4. Content and Definitions

The Respectful Workplace Policy consists of this Policy and [Appendices A-C](#), containing definitions, training requirements and a comprehensive description of the complaint and resolution processes, respectively. Appendices to this Policy have the same force and effect as information in the body of the Policy itself and have been separated to streamline the Policy for ease of reading. Important terms are also capitalized and hyperlinked to their definitions or the appropriate section of the Policy, throughout.

5. Prevention and Education

(A) Resources of the Office of Legislative Culture

The Office of Legislative Culture provides education, support, professional development opportunities and professional expertise in complaint management, investigations and complaint resolution. The Office of Legislative Culture is responsible to lead prevention and education efforts on behalf of the General Assembly. The General Assembly will appropriate adequate funds each year to fund the activities of the Office of Legislative Culture.

The Office of Legislative Culture is led by the General Assembly's Human Resources Director, supported by the EEO Officer, the Workplace Culture Specialist and the Confidential Workplace Ombudsperson. While the roles and responsibilities of these positions may evolve over time, the Human Resources Director is responsible for all aspects of human resources in the General Assembly; the EEO Officer is responsible for all claims and activities under this Policy; the Workplace Culture Specialist is responsible for prevention efforts, training and education, professional development, awareness, outreach and support resources for Members of the Legislative Workplace; and the Confidential Workplace Ombudsperson is available to hear concerns, answer questions and give advice to Members of the Legislative Workplace who have not (or not yet) chosen to move forward with a complaint under this Policy. Any one of these individuals can answer questions about this Policy and can be reached at: **INFORMATION ON WEB PORTAL, PHONE NUMBERS, EMAIL ADDRESSES AND HYPERLINK.**

(B) Awareness Campaign

The General Assembly will conduct an annual Awareness Campaign to promote its commitment to creating and maintaining a respectful and congenial workplace culture free of Discriminatory Harassment, Sexual Harassment and Retaliation. The Awareness Campaign will evolve from year to year and shall be the responsibility of the Workplace Culture Specialist.

(C) Required Training

All Members of the Legislative Workplace, and other Third Parties whose business requires registration for access to the Legislative Workplace, are required to participate in trainings relating to this Policy, harassment, workplace civility and bystander awareness, on an annual basis.²⁶ This training is offered to give Members of the Legislative Workplace and Third Parties skills and awareness to enhance prevention efforts, and to appropriately train Members of the Legislative Workplace and Third Parties about appropriate behavior, reporting and complaint resolution. Such training will be scheduled and conducted by the Workplace Culture Specialist, or outside experts when necessary or appropriate. Current training requirements can be found at [Appendix B](#).

²⁶ **NOTE TO LEADERSHIP:** Some metric of level of involvement in the Legislative Workplace should be considered as a "threshold" for requiring training. For example, lobbyists who come to the Capitol a few times a year may be permitted to waive this requirement and/or have some other avenue to demonstrate awareness of the Policy. This will protect against this requirement becoming time prohibitive. Cost should not be a factor as this training will be done by in-house personnel.

6. The Colorado Assembly's Respectful Workplace Expectation²⁷

The General Assembly is committed to ensuring a Respectful Legislative Workplace. Accordingly, this Policy establishes certain expectations and responsibilities for Members of the Legislative Workplace.

(A) Expectations for Members of the Legislative Workplace

- (1) Conduct yourself in a manner that demonstrates Professionalism and Respect for others in the Legislative Workplace and while conducting business on behalf of the General Assembly;
- (2) Address issues with Professionalism and Respect by informal means and directly with the individual(s) involved, when possible;
- (3) Report issues with Professionalism and Respect as set forth below in the Reporting Process²⁸ when informal direct resolution is not possible or comfortable for you;
- (4) Participate fully and in good faith in the Informal Resolution Process or, if necessary, in the Formal Resolution Process.

(B) Additional Expectations for Legislators, Directors and Supervisors

In addition to the responsibilities outlined above, Legislators, directors and supervisors are also expected to:

- (1) Set a good example of Professionalism and Respect in their own behavior;
- (2) Educate and inform their Employees, staff, aides, Student Interns and any other persons for whom they are responsible of the expectations outlined in this Policy; and
- (3) Timely take appropriate action, including reporting alleged violations of this Policy, as set forth in the Reporting Process below.

(C) Report Violations of the Respectful Workplace Expectation Policy

Members of the Legislative Workplace are encouraged to report violations of this Respectful Workplace Expectation Policy by following the Reporting Process whenever informal direct resolution has failed or is not possible or comfortable for the Complainant.

(D) Informal Resolution Process

Most violations of this Respectful Workplace Expectation Policy will be handled under the Informal Resolution Process, described in more detail below. This process provides Members of the Legislative Workplace with a confidential avenue to obtain assistance to

²⁷ **NOTE TO LEADERSHIP:** This is purposefully referred to as an Expectation and not a Code of Conduct. This is because the remedy for breaching this expectation is designed to be remedial, and not punitive in nature, as it otherwise could be for a violation of a Code of Conduct or a violation of anti-harassment rules. This is done to strike a balance between having a higher expectation for behavior, but not creating a policy that makes disrespectful behavior (short of harassment) subject to a full investigatory response.

²⁸ The Reporting Process and Complaint Resolution Process are briefly described below. For a full description of these processes, see [Appendix C](#).

mediate, educate, coach and/or correct disrespectful conduct before it rises to the level of Discriminatory or Sexual Harassment and/or Retaliation. However, the Formal Resolution Process may be used if the EEO Officer finds reported conduct sufficiently serious or persistent to justify a more formal process.

(E) Legitimate Legislative Activity Exempted

This Respectful Workplace Expectation Policy does not apply to conduct that occurs as part of Legitimate Legislative Activity.

7. Discriminatory Harassment Prohibited

The General Assembly prohibits Discriminatory Harassment by Legislators, Employees, Student Interns, Third Parties or others in the Legislative Workplace, and will take prompt and appropriate action in response to complaints or knowledge of Discriminatory Harassment.

(A) Discriminatory Harassment is verbal or physical conduct that demeans, stereotypes, or shows hostility or aversion toward a person or group because of the individual's Protected Class. A "Protected Class" includes a person's race, color, religion, national origin, sex (including pregnancy, childbirth and related medical conditions), ancestry, sexual orientation, age, disability status, marital status, genetic information, gender identity or expression, active military personnel status, citizenship status, transgender status, or a person's association with others in a Protected Class. Discriminatory Harassment is conduct directed towards a member of a protected class where the conduct:

- (1) Has the purpose or effect of creating an intimidating, hostile, humiliating, or offensive working environment;
- (2) Has the purpose or effect of unreasonably interfering with a person's work performance; or
- (3) Otherwise adversely affects a person's employment opportunities.

(B) No policy can provide an exhaustive list of behaviors that can rise to the level of Discriminatory Harassment. Some examples of Discriminatory Harassment might include, but are not limited to, the following conduct if it is **severe or pervasive** under all of the circumstances:

- (1) Epithets, slurs, insults, innuendo or negative stereotyping comments related to the protected classes;
- (2) Mocking someone's accent, speech, attire or mobility;
- (3) Acts or jokes that are hostile or demeaning with regard to the protected classes;
- (4) Threatening, intimidating or hostile acts that relate to the protected classes;
- (5) Racially offensive words or phrases;
- (6) Written or graphic material that insults, stereotypes or shows aversion or hostility to an individual or group because of protected class and that is placed on walls, bulletin boards, email, voicemail or elsewhere on the premises of the Legislative Workplace; and

- (7) Displays of symbols, slogans or items that are associated with hate or intolerance towards any select group, such as swastikas or nooses;
- (8) Pranks or hazing directed at someone because of their protected class; and
- (9) Physical aggression or gestures based on someone's protected class.

(C) Members of the Legislative Workplace are encouraged to report violations of this Discriminatory Harassment Policy by following the Reporting Process.²⁹

(D) Reported violations of this Discriminatory Harassment Policy will be handled in the Formal Resolution Process.³⁰

(E) This Discriminatory Harassment Policy may apply to Legitimate Legislative Activity if behavior goes beyond vigorous debate and legislative discourse to include conduct directed at a person by a Legislator another because of their protected class.

(F) Notwithstanding the provisions of this section, a legislative Employee with a workplace harassment complaint may file a charge of discrimination with the United States Equal Employment Opportunity Commission or the Colorado Civil Rights Division as provided by law.

8. Sexual Harassment Prohibited

Sexual Harassment is a form of Discriminatory Harassment. The General Assembly prohibits Sexual Harassment and will take prompt and appropriate action in response to complaints or knowledge of violations of this Policy.

(A) Sexual Harassment can be “**Quid Pro Quo**” or “this for that” harassment. This includes direct or implied requests by a Legislator or supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or support of legislation or other legislative processes.

(B) Sexual Harassment can also be “**Hostile Work Environment**” harassment. This is sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when:

- (1) Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment;
- (2) It is used as a basis for employment decisions;
- (3) Submission to or rejection of such conduct by a person is used as the basis for decisions or actions related to the support or opposition of legislation or other legislative processes; or
- (4) Such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

²⁹ A full description of the **Reporting Process and Complaint Resolution Process** is available at [Appendix C](#).

³⁰ *Id.*

(C) **Intimate Personal Relationships between Legislators and Student Interns Prohibited:** the General Assembly prohibits intimate personal relationships between Legislators and Student Interns, and considers this behavior to implicate this prohibition against Sexual Harassment.

(D) **Examples of Sexual Harassment** include, but are not limited to the following conduct, if **unwelcome** by the recipient and sufficiently **severe or pervasive** under all of the circumstances:

(1) **Inappropriate Commentary:**

- Sexual “kidding,” epithets, jokes, written or oral references to sexual conduct;
- Gossip regarding a person’s sex life;
- Comment on a person’s body or sexual activity, deficiencies or prowess;
- Sexually suggestive comments about a person’s clothing;
- Vocal activity like catcalls or whistles;
- Leering or staring at a person or part of their body;
- Obscene letters, notes, emails, text messages, photographs, cartoons, articles or other written or pictorial materials of a sexual nature; and/or
- Sexting or sexual messages or images posted on social media, for example, texts, instant messages, Facebook posts, Tweets, Snapchat, Instagram, or blog entries.

(2) **Direct Sexual Propositions:**

- Persistent requests for dates, drinks or other personal contact after being informed that the interest is unwelcome;
- Inappropriate sexually themed communication in person, online or via mobile devices;
- Indecent exposure; and/or
- Unwelcome sexual advances or invitations, including but not limited to, requests for sexual activity or intimate meetings at one’s home, in the Legislative Workplace, or a hotel room.

(3) **Sexual Coercion and Retaliation:**

- Intimate personal relationships between Legislators and Student Interns;
- Quid pro quo harassment, including explicit or implicit requests for sexual activity or silence about harassment in exchange for reward, position or career advancement, support of legislative initiatives, introductions, referrals, meetings or “facetime,” invitations to exclusive events, support for candidacies, position stability and continuation, or any other such condition or potential benefit;
- Sexual coercion under threat of punishment, including demotion, firing, negative reviews, opposition to legislative initiatives, blacklisting or otherwise interfering with someone’s access to fellow lawmakers or opportunities; and/or
- Retaliating against a Member of the Legislative Workplace for refusing a sexual advance or reporting an incident of possible Sexual Harassment per this policy or the person’s other legal avenues for reporting.

(4) **Sexual Contact:**

- Unwanted physical touching or assault, or blocking or impeding movements;
- Unconsented physical contact of a sexual nature, including but not limited to touching, groping, or kissing;
- Sexual contact without proper consent due to intoxication; and/or
- Rape.

(E) Sexual Harassment may involve individuals of the same or different genders, or those who do not identify as gender binary.

(F) Members of the Legislative Workplace are encouraged to report violations of this Sexual Harassment Policy, by following the Reporting Process (section fill in below).³¹

(G) Reported violations of this Sexual Harassment Policy will be handled in the Formal Resolution Process, outlined below.³²

(H) The Legitimate Legislative Activity exception, described above, obviously does not apply to sexually harassing behaviors, which are always prohibited.

(I) Notwithstanding the provisions of this section, a legislative Employee with a workplace harassment complaint may file a charge of discrimination with the United States Equal Employment Opportunity Commission or the Colorado Civil Rights Division as provided by law.

9. **Retaliation Prohibited**

Retaliation is an act of punishment, reprisal or revenge that is taken against a person because they complained of behavior, or assisted in a complaint under this Policy, or because they participated in an investigation under this Policy. Retaliation can take many forms in a legislative workplace, as described below, but essentially ***Retaliation can be any action that is taken against a person that would deter a reasonable person from coming forward to complain of misbehavior under this Policy.***

Retaliation is a serious problem and a fear of retaliation prevents issues from surfacing, keeps people from raising problems and enables a culture of harassment to fester. The General Assembly recognizes the seriousness of Retaliation and is committed to responding to and addressing Retaliation concerns proactively and reactively upon receipt of a complaint of Retaliation.

The General Assembly prohibits Retaliation against any person for having complained about violations of this Policy, assisting in such a complaint or participating in an investigation into such a complaint, whether the complaint raises a failure to meet the Respectful Workplace Expectations or raises a violation of the Discriminatory or Sexual Harassment provisions, or for having assisted or participated in an investigation of alleged violations.

³¹ A full description of the **Reporting Process and Complaint Resolution Process** is available at [Appendix C](#).

³² *Id.*

(A) Retaliation in a legislative work environment can take many forms and can be work-related or not work-related. Some examples can include but are not limited to:

(1) **Work-related Retaliation:**

- Granting access to a person differently after a complaint in a manner that negatively affects the person's legislative business (i.e., a Legislator refusing to meet with a lobbyist after a complaint);
- Removing a person from a committee assignment;
- Change in support for legislation proposed by, or supported by, a person in their professional capacity (i.e., Legislator, lobbyist, activist, etc.);
- Disparaging a person to a caucus or other legislative body;
- Changing the person's role, responsibilities, supervisory or legislative authority;
- Newfound scrutiny of work performance by a supervisor;
- Denial of a promotion, demotion, suspension, or termination;
- Warnings, reprimands, or poor performance evaluations;
- Exclusion from beneficial networking or other opportunities;
- Requiring re-verification of work status;
- Encouraging coworker shunning;
- Exclusion from team lunches;
- Workplace surveillance or workplace or legislative sabotage; and/or
- Assignment of disproportionate workload.

(2) **Non-work-related Retaliation:**

- Disparaging the person to others or in the media;
- Disparaging the person to potential new employers;
- Threatening legal action;
- Threatening immigration action; and/or
- Abusive verbal or physical behavior.

(B) Members of the Legislative Workplace are encouraged to report violations of this Retaliation Policy by following the Reporting Process.³³

(C) Because of the serious nature of Retaliation, reported violations of this Retaliation Policy, including those that arise from complaints originally handled in the Informal Resolution Process, will be handled in the Formal Resolution Process, outlined below.³⁴

(D) The Legitimate Legislative Activity exception, described above, may apply but careful examination will occur to determine if the behavior is prohibited Retaliation cloaked in the mantle of ostensible legislative business.

(E) Notwithstanding the provisions of this section, a legislative Employee with a workplace harassment complaint may file a charge of retaliation with the United States Equal

³³ A full description of the **Reporting Process and Complaint Resolution Process** is available at [Appendix C](#).

³⁴ *Id.*

Employment Opportunity Commission or the Colorado Civil Rights Division as provided by law.

10. Reporting Process³⁵

The General Assembly encourages every Member of the Legislative Workplace to bring problems addressed in this Policy to the General Assembly's attention so that proper steps can be taken to address the issue. The report should contain all facts available to the Complainant regarding the alleged policy violation. The General Assembly has provided the following options for reporting violations of this Policy:

(A) Complaint Contacts

Any Member of the Legislative Workplace who: (a) believes that he or she has been the object of Discriminatory or Sexual Harassment and/or Retaliation; (b) witnesses Discriminatory or Sexual Harassment and/or Retaliation; (c) becomes aware of such harassment and/or Retaliation; or (d) wishes to report a violation of the Respectful Workplace Expectations Policy is encouraged to report their complaint. Complaints may be reported verbally or in writing to **any** of the following **Complaint Contacts**, in the Complainant's discretion:

- (1) Any supervisor, manager, or director;
- (2) Any one of the following designated contact persons:
 - (a) The Director of Legislative Council;
 - (b) The Director of the Office of Legislative Legal Services;
 - (c) The Staff Director for the Joint Budget Committee;
 - (d) The State Auditor;
 - (e) The Secretary of the Senate; or
 - (f) The Chief Clerk of the House of Representatives.
- (3) The Human Resources Director;
- (4) The Equal Employment Opportunity Officer;
- (5) The Workplace Culture Specialist; or
- (6) The General Assembly's Convercent hotline for anonymous complaints, which reports can be submitted by phone, on the web or by mobile texting to: **FILL IN.**

Complaint Contacts shall document all complaints and immediately transmit them to the EEO Officer for assessment and handling regardless of whether the party chooses to file a "formal complaint." The EEO Officer shall be responsible for assessing the complaint and assigning it to either the Informal Resolution Process or the Formal Resolution Process. This decision is not based on the form of the complaint, but on the substance of the allegation(s).

³⁵ A full description of the **Reporting Process and Complaint Resolution Process** is available at [Appendix C](#). This appendix must be reviewed and understood by all Complaint Contacts and is available for any Member of the Legislative Workplace who wants to know more about how complaints are taken, managed, investigated and resolved in the General Assembly.

Please note that while the General Assembly is committed to responding appropriately to all complaints under this Policy, reporting a complaint anonymously may limit the degree to which it can be effectively and thoroughly investigated, based on the information provided.

Sexual assault or other crimes should be reported to law enforcement.

(B) Confidential Workplace Ombudsperson

The Confidential Workplace Ombudsperson offers a confidential venue where Members of the Legislative Workplace can go to receive counseling and confidential advice to help them understand their options and choices, before moving forward to bring a complaint to one of the designated Complaint Contact persons above. This resource is described more fully in [Appendix C](#).³⁶

(C) Mandatory Reporting for Some Individuals

Legislators, directors, managers and supervisors **are required** to promptly report to the EEO Officer any knowledge or awareness of **Discriminatory Harassment, Sexual Harassment or Retaliation**. A Legislator, director, manager or supervisor who witnesses or otherwise has direct or indirect knowledge regarding such information and fails to report it commits a violation of this Policy. Such violation may be subject to disciplinary action, particularly if the Legislator, director, manager or supervisor has engaged in a pattern of overlooking Harassment or Retaliation.

Such reports must be made regardless of whether the recipient of the behavior has filed a complaint under this Policy or requests that no action be taken. The EEO Officer will be responsible for assessing the information and coordinating how best to proceed in light of all the circumstances, including the wishes of the recipient of the behavior. In many cases, engaging in the Informal Resolution Process may be an adequate and appropriate response.

11. Complaint Resolution

The General Assembly is committed to treating all complaints seriously, and the EEO Officer will handle each complaint on a case-by-case basis, using a flexible approach that considers the wishes of the Complainant, the nature and severity of the alleged conduct, and the resources available in both the Informal Resolution Process and the Formal Resolution Process.

(A) Confidentiality during the Resolution Process

Both the Formal and Informal Resolution Process are confidential processes. This means that they shall be kept confidential by all involved parties (including witnesses, those who handle and investigate complaints, those who recommend and impose discipline or remedial action, and the

³⁶ **NOTE TO LEADERSHIP:** This could be an internal person, or it could be an outside partnership agency who agrees to provide a contact person for legislative members, for confidential advice and counseling for those who wish to understand their options and consider their choices. There are pros and cons to using either approach and ultimately it depends upon available funding and internal expertise.

principal parties), to the fullest extent available by law,³⁷ until the Complaint Resolution Process has been finally concluded.³⁸ Confidentiality during the Complaint Resolution Process protects all parties involved and has been consistently highlighted as a critical consideration of individuals who may be thinking about making a complaint or otherwise reporting workplace concerns, particularly concerns of Discriminatory or Sexual Harassment or Retaliation.

(B) Informal Resolution Process

Complaints under the Respectful Workplace Expectations Policy shall be handled in the Informal Resolution Process, except in those cases where the EEO Officer finds that the Formal Resolution Process is more appropriate to the circumstances.

In addition, other kinds of complaints arise because a person simply wants behavior to stop, needs assistance in having a difficult conversation, or needs the help of a trained facilitator to help communicate and resolve the problem. In such cases, provided that the allegations do not potentially implicate Discriminatory or Sexual Harassment or Retaliation in the opinion of the EEO Officer, and the parties agree to utilize this process, the EEO Officer will initiate the Informal Resolution Process, described in more detail in [Appendix C](#).

(C) Formal Resolution Process³⁹

- (1) Complaints that allege conduct that could rise to the level of Discriminatory or Sexual Harassment or Retaliation are handled in the Formal Resolution Process. This determination is made by the EEO Officer and does not depend upon the form of the complaint or the words the Complainant uses, but instead depends upon the substance of the complaint.
- (2) Student Interns shall be entitled to the presence of a support person of their choosing if they are participants in the Formal Resolution Process. The parameters around the support person's role are described in [Appendix C](#).
- (3) The Formal Resolution Process follows two different tracks, depending upon the identity of the Respondent:
 - (a) **Complaints against Non-Legislators:** For Discriminatory or Sexual Harassment and Retaliation complaints against non-Legislators, the EEO Officer will conduct

³⁷ **NOTE TO LEADERSHIP:** The "available by law" language is there because amending CORA may be required to provide full confidentiality. Also, depending on the circumstances, certain witnesses may have a First Amendment right to speak about events they happened to witness at the Capitol.

³⁸ If a Legislator is subject to Formal Legislator Discipline (i.e., reprimand, censure or expulsion) because of a substantiated finding of misconduct, or if an employee is subject to potential separation from employment, certain investigation materials and information shall not be designated as Confidential. Additionally, certain information may have to be disclosed to witnesses by investigators in order to fully investigate allegations. For a description of these exceptions, see [Appendix C](#).

³⁹ The Formal Resolution Process has robust procedures, protections for parties, and formal processes. For ease of reading it is not included here in its entirety but is instead described in [Appendix C](#).

a confidential impartial investigation or may hire a professional third-party investigator to do so.

- (b) **Complaints against Legislators or Employees of the Office of Legislative Culture:** For Discriminatory or Sexual Harassment and Retaliation complaints against Legislators, the EEO Officer shall refer the matter to the Independent EEO Advisory Panel (“the Panel”). The EEO Officer shall make such referral within seven (7) days of receiving the complaint and shall inform the Complainant that the matter has been so referred. For Discriminatory or Sexual Harassment and Retaliation complaints against Employees of the Office of Legislative Culture, complaint contacts shall refer the matter directly to the Panel. The Panel shall hire a qualified third-party investigator to investigate either category of complaint.

(D) Notifications and Resources for Parties; the Anti-Retaliation Plan

The EEO Officer, or another Employee of the Office of Legislative Culture, shall provide the parties with notifications explaining the Formal Complaint Resolution and investigation process, confidentiality, and resources available to help support the parties through the process. The EEO Officer, or other Employee of the Office of Legislative Culture, shall also prepare an anti-retaliation plan with the input of the parties. These are described in more detail in [Appendix C](#).

(E) Complaint Timelines

- (1) **Time Line for Bringing a Complaint Forward:** With the caveat that there is no “statute of limitations” under this policy, Legislators, Employees, Student Interns, and Third Parties are encouraged to promptly report misbehavior under this Policy. Memories fade; evidence is lost; and the investigation process becomes more difficult, and may be less effective, with the passage of time.

(2) **Timelines for Complaint Resolution:**

- **Informal Resolution Process:** The process shall be completed **within thirty (30) days** of the EEO Officer’s receipt of the complaint. It should be noted that remedial action such as ongoing coaching, training or other efforts may be decided upon within the thirty (30) day timeline but may be ongoing after that time frame has elapsed.
- **Formal Resolution Process:** The Formal Resolution Process should be completed **within ninety (90) days**, as set forth in [Appendix C](#).

12. Non-Employees

(A) Complaints by Third Party Members of the Legislative Workplace

Third Party Members of the Legislative Workplace may avail themselves of the protections of this Policy to the same extent as Legislators, Employees, and Student Interns. These Third Parties may

include lobbyists, vendors, volunteers, security personnel, custodial staff and others who work in and around the Legislative Workplace.

(B) Complaints against Third Party Members of the Legislative Workplace

Members of the Legislative Workplace are encouraged to report *all* instances of Policy violations that occur in the Legislative Workplace, including those by Third Parties. While the General Assembly's authority to impose sanctions on a Third Party is limited, upon receipt of a complaint of Discriminatory or Sexual Harassment or Retaliation by a Third Party, the General Assembly will follow the same process described herein to the greatest extent possible. Upon a determination that Discriminatory or Sexual Harassment or Retaliation by a Third Party is substantiated, the General Assembly will take all action reasonably necessary and practicable to stop the behavior and prevent its reoccurrence. This can include actions relating to the Third Party's registration status, notification to the Third Party's employer, exclusion from chambers or other legislative areas, protection orders or other available and appropriate actions.

13. Social Media and Electronic Communications

Social media exist in many forms, including blogs, Student Internet forums, personal websites, Twitter, Facebook, LinkedIn, podcasts, video-sharing and picture-sharing forums, and other interactive sites. The General Assembly understands and appreciates that many Legislators, Student Interns, and Employees use various social media platforms as a means of communication and have First Amendment rights regarding communications.

However, Legislators, Student Interns, and Employees are ultimately responsible for what they post online. If they post material that constitutes Discriminatory or Sexual Harassment or Retaliation, they may be subject to action under this Policy. A Member of the Legislative Workplace who is the subject of Discriminatory or Sexual Harassment or Retaliation through social media or electronic communications should report such conduct to any of the Complaint Contacts referenced in Section 9.

14. Legislators, Student Interns, and Employees Working Off Site

All of the protections and provisions set forth in this Policy apply whenever Members of the Legislative Workplace are conducting the business of the General Assembly, regardless of whether a Legislator, Student Intern, or Employee is working: (i) in the Capitol complex, (ii) in a district office, (iii) in the field, or (iv) at a meeting, district meeting, conference or event while conducting such business.

15. Annual Reporting and Review

The EEO Officer shall publicly report, on an annual basis, the total number of complaints under the Policy, and the resolution of each complaint, appropriately redacted to protect confidential personnel decisions and party identities:

- (A) In the case of matters that were resolved in the Informal Resolution Process, the report shall state the number of complaints, and the way(s) in which the complaint were resolved: i.e., 15 complaints, 9 resolved with facilitated mediation, 4 with individual coaching and 2 with mandated training.
- (B) In the case of matters resolved in the Formal Resolution process, the report shall state the number of complaints in each Protected Class Category and the policy determination: i.e., 3 complaints of Sexual Harassment, 2 substantiated and 1 not substantiated as a policy violation.
- (C) In the case of substantiated allegations of Discriminatory Harassment, Sexual Harassment or Retaliation against Legislators, the EEO Officer shall disclose the Legislator offices against whom complaints of Discriminatory and Sexual Harassment and/or Retaliation were Substantiated.

This obligation strikes a balance between the public's right to know about serious substantiated misbehavior by elected officials, a Complainant's right to privacy and the General Assembly's obligation to create a system with integrity and appropriate confidentiality that will engender trust in the process and its outcomes.

The Office of Legislative Culture shall maintain a list of Legislators who have attended mandatory and voluntary trainings made available to the Legislative Workplace and shall designate Legislators who have achieved the status of "Designated EEO Trainer" by virtue of their attendance in training and other educational opportunities. This list shall be made publicly available.

The EEO Officer and the Human Resources Director shall review this Policy and all related appendices and procedures annually to measure efficacy and compliance with changing legal requirements and workplace conditions and shall propose revisions as necessary.

QUESTIONS?

The General Assembly EEO Officer is available to answer any questions about this Policy. The EEO Officer can be reached at _____ or _____. Additional information is also available on the following web portal maintained by the HR Director: _____

This Respectful Workplace Policy was last updated on _____.

Appendix A: Definitions

Complainant: A person who files a complaint, whether formal or informal, under this Policy.

Discriminatory Harassment is verbal or physical conduct that demeans, stereotypes, or shows hostility or aversion toward a person or group because of the individual's Protected Class. A "Protected Class" includes a person's race, color, religion, national origin, sex (including pregnancy, childbirth and related medical conditions), ancestry, sexual orientation, age, disability status, marital status, genetic information, gender identity or expression, active military personnel status, citizenship status, transgender status, or a person's association with others in a Protected Class. Discriminatory Harassment is conduct directed towards a member of a protected class where the conduct:

- (1) Has the purpose or effect of creating an intimidating, hostile, humiliating, or offensive working environment;
- (2) Has the purpose or effect of unreasonably interfering with a person's work performance; or
- (3) Otherwise adversely affects a person's employment opportunities.

No policy can provide an exhaustive list of behaviors that can rise to the level of Discriminatory Harassment. Some examples of Discriminatory Harassment might include, but are not limited to, the following conduct if it is **severe or pervasive** under all of the circumstances:

- Epithets, slurs, insults, innuendo or negative stereotyping comments related to the protected classes;
 - Mocking someone's accent, speech, attire or mobility;
 - Acts or jokes that are hostile or demeaning with regard to the protected classes;
 - Threatening, intimidating or hostile acts that relate to the protected classes;
 - Racially offensive words or phrases;
 - Written or graphic material that insults, stereotypes or shows aversion or hostility to an individual or group because of protected class and that is placed on walls, bulletin boards, email, voicemail or elsewhere on the premises of the Legislative Workplace; and
 - Displays of symbols, slogans or items that are associated with hate or intolerance towards any select group, such as swastikas or nooses;
 - Pranks or hazing directed at someone because of their protected class; and
 - Physical aggression or gestures based on someone's protected class.
- (4) Discriminatory Harassment can be a single serious incident or a series of incidents over time.
 - (5) Discriminatory Harassment is not determined by looking at the intention of the person who engaged in the behavior. Discriminatory Harassment is determined by asking: (1) Did the recipient of the behavior **him or herself** find it unwelcome, offensive, hostile, insulting, intimidating, demeaning, humiliating, hurtful or degrading (or any other synonym for these concepts); **and** (2) would a **reasonable person in the recipient's position** find the behavior similarly offensive? It is a subjective plus objective standard.

Employee: An Employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, the Senate, or the House of Representatives, or any legislative aide to a member.

Formal Legislator Discipline: Reprimand, censure or expulsion.

Legislative Workplace: The Capitol complex and premises, the Legislative Services Building and the State Services Building, or any other surrounding buildings or office spaces utilized by the General Assembly.

Legislator: Legislative member of the General Assembly.

Legitimate Legislative Activity: The “Speech and Debate” clause of the Constitution of the State of Colorado protects Legislators of the General Assembly from legal action based upon their legislative activities. Heated discussion, pointed questions, vigorous debate, efforts to persuade, angry and even disrespectful exchanges can and do occur as part of the legislative process. The Respectful Workplace Policy does not apply to this activity. This Policy reaches Legislator behavior if a Legislator acts outside the sphere of Legitimate Legislative Activity, as is the case if a Legislator engages in Discriminatory Harassment, Sexual Harassment, and/or Retaliation or treatment that violates the Respectful Workplace Expectation occurring outside the legislative process.

Member of the Legislative Workplace: Legislators, partisan staff, nonpartisan staff, legislative aides, Student Interns, Legislative Council Staff, Office of Legislative Legal Services, Joint Budget Committee Staff, the Office of the State Auditor, lobbyists, vendors, custodians, security personnel, volunteers, advocates and others who work in the Legislative Workplace.

Professionalism: Displaying the good judgment and proper behavior that is reasonably expected in the workplace.

Respect: Behavior or communication that demonstrates positive consideration and treats individuals in a manner that a reasonable person would find appropriate.

Respondent: A person who is accused of wrongdoing under this Policy.

Retaliation: Retaliation is an act of punishment, reprisal or revenge that is taken against a person because they complained of behavior under this Policy, or because they assisted or participated in an investigation of a complaint under the Policy. Retaliation can take many forms in a legislative workplace, but essentially Retaliation can be any action that is taken against a person that would deter a reasonable person from coming forward to complain of misbehavior under this Policy.

Sexual Harassment: Sexual Harassment is a form of Discriminatory Harassment. The General Assembly prohibits Sexual Harassment and will take prompt and appropriate action in response to complaints or knowledge of violations of this Policy.

- (1) Sexual Harassment can be “**Quid Pro Quo**” or “this for that” harassment. This includes direct or implied requests by a Legislator or supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or support of legislation or other legislative processes.
- (2) Sexual Harassment can also be “**Hostile Work Environment**” harassment. This is sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when:
 - Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment;
 - It is used as a basis for employment decisions;
 - Submission to or rejection of such conduct by a person is used as the basis for decisions or actions related to the support or opposition of legislation or other legislative processes; or
 - Such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.
- (3) **Intimate Personal Relationships between Legislators and Student Interns Prohibited:** the General Assembly prohibits intimate personal relationships between Legislators and Student Interns, and considers this behavior to implicate this prohibition against Sexual Harassment. **Examples of Sexual Harassment** include, but are not limited to the following conduct, if **unwelcome** by the recipient and sufficiently **severe or pervasive** under all of the circumstances:

Inappropriate Commentary:

- Sexual “kidding,” epithets, jokes, written or oral references to sexual conduct;
- Gossip regarding a person’s sex life;
- Comment on a person’s body or sexual activity, deficiencies or prowess;
- Sexually suggestive comments about a person’s clothing;
- Vocal activity like catcalls or whistles;
- Leering or staring at a person or part of their body;
- Obscene letters, notes, emails, text messages, photographs, cartoons, articles or other written or pictorial materials of a sexual nature; and/or
- Sexting or sexual messages or images posted on social media, for example, texts, instant messages, Facebook posts, Tweets, Snapchat, Instagram, or blog entries.

Direct Sexual Propositions:

- Persistent requests for dates, drinks or other personal contact after being informed that the interest is unwelcome;
- Inappropriate sexually themed communication in person, online or via mobile devices;
- Indecent exposure; and/or
- Unwelcome sexual advances or invitations, including but not limited to, requests for sexual activity or intimate meetings at one’s home, in the Legislative Workplace, or a hotel room.

Sexual Coercion and Retaliation:

- Intimate personal relationships between Legislators and Student Interns;

- Quid pro quo harassment, including explicit or implicit requests for sexual activity or silence about harassment in exchange for reward, position or career advancement, support of legislative initiatives, introductions, referrals, meetings or “facetime,” invitations to exclusive events, support for candidacies, position stability and continuation, or any other such condition or potential benefit;
- Sexual coercion under threat of punishment, including demotion, firing, negative reviews, opposition to legislative initiatives, blacklisting or otherwise interfering with someone’s access to fellow lawmakers or opportunities; and/or
- Retaliating against a Member of the Legislative Workplace for refusing a sexual advance or reporting an incident of possible Sexual Harassment per this policy or the person’s other legal avenues for reporting.

Sexual Contact:

- Unwanted physical touching or assault, or blocking or impeding movements;
- Unconsented physical contact of a sexual nature, including but not limited to touching, groping, or kissing;
- Sexual contact without proper consent due to intoxication; and/or
- Rape.

- (1) Sexual Harassment may involve individuals of the same or different genders, or those who do not identify as gender binary.
- (2) Sexual Harassment can be a single serious incident or a series of incidents over time.
- (3) Sexual Harassment is assessed using the same **objective and subjective standard** described above in the Discriminatory Harassment definition.

Third Parties: Volunteers, lobbyists, custodians, vendors, security personnel, advocates, media, contractors or other non-employees working or conducting business in the Legislative Workplace.

This Appendix A to the Respectful Workplace Policy was last updated on _____.

Appendix B: Training Requirements and Opportunities

1. **Members of the Legislative Workplace and Third Parties** whose business requires registration for access to the Legislative Workplace are required to attend:

(A) **One Orientation training session** on respect in the Workplace and Anti-Harassment policies.

- (1) Such training will occur during orientation to emphasize the General Assembly's commitment that all parties, no matter what their role, are subject to the same rules of behavior in the Legislative Workplace.
- (2) Examples of substantive areas included in the orientation training session **must include**: (a) Civility, Respect and Professionalism in the Workplace; (b) Bystander Awareness and Responsibility; (c) Discriminatory Harassment, Sexual Harassment and Retaliation in the workplace; and (d) the Reporting and Complaint Resolution Process under the Policy.
- (3) The training will include specific examples of behavior that violates and does not violate the Policy; explanations of how the same conduct can be viewed differently by different employees; strategies for intervening as a bystander; and review of acceptable use of electronic communications, including social media and texting.
- (4) The training shall be at least three hours in duration, interactive, conducted by in-person trainers, and limited to no more than 35 people per session.

(B) **Annual re-training session** on Respect in the Workplace and Anti-Harassment.⁴⁰

- (1) Such training will occur in sessions including participants from a variety of positions within the Legislative Workplace and shall not be divided by role. This requirement reinforces the General Assembly's commitment that all parties, no matter what their role, are subject to the same rules of behavior in the Legislative Workplace.
- (2) Substantive areas in the annual re-training session **may include**: (a) Civility, Respect and Professionalism in the Workplace; (b) Bystander Awareness and Responsibility; or (c) and Discriminatory Harassment, Sexual Harassment and Retaliation in the workplace. Substantive areas will be determined each year based on complaint analysis from the prior session, survey information, and topics that are trending in case law, media reports, or changing legal thresholds.
- (3) Every year, the Reporting and Complaint Resolution Process under the Policy shall be reviewed and discussed.
- (4) Based on the substantive content, the training will include specific examples of behavior, scenarios, and details that bring to life the content.
- (5) The training shall be at least 90 minutes in duration, interactive, conducted by in-person trainers, and limited to no more than 35 people per session.

⁴⁰ **NOTE TO LEADERSHIP:** We recommend evaluating how you make this requirement work without undue expense when it comes to lobbyists, who may number in the hundreds in your workplace. Perhaps this could be accomplished by using a requirement of one initial training and thereafter certificates of completion for annual updates via an online refresher tool.

- (C) **Legislators, directors, managers and supervisors** shall attend one orientation training specific to their obligations as leaders, with annual updates thereafter. The sessions will focus on Leadership and Management Roles and Responsibilities in a Respectful Workplace.
- (1) Examples of substantive areas included in the specialized training **may include**: (a) obligations of leaders and managers under the Policy; (b) prevention strategies; (c) appropriate complaint handling; (d) power dynamics in a legislative workplace and their impact on issues of harassment and respectful behavior; (e) responsibility to intervene as a bystander; and (f) best practices for monitoring the workplace for issues and identifying patterns of problem behavior.
 - (2) The initial orientation session shall be at least two hours in duration, interactive, conducted by in person trainers, and limited to no more than 25 people per session.
 - (3) Annual update trainings shall be at least one hour in duration, interactive, conducted by in person trainers, and limited to no more than 25 people per session. Annual updates should be topical in nature.
- (D) **Student Interns** shall attend one additional annual training session as part of their Student Intern Orientation Program, under the direction of the Workplace Culture Specialist. This training may be done separately for House and Senate Student Interns, and shall contain material relevant to this Policy and Student Interns' role in the Legislative Workplace, including:
- (1) Substantive responsibilities and protections for Student Interns under this policy, including: (a) Civility, Respect and Professionalism in the Workplace; (b) Bystander Awareness and Responsibility; (c) Discriminatory Harassment, Sexual Harassment and Retaliation in the workplace; and (d) the Reporting and Complaint Resolution Process under the Policy, including the support person option and anonymous reporting options available.
 - (2) The training will be tailored to the Student Intern experience, and will include introduction to the Confidential Workplace Ombudsperson, who will be available to Student Interns during their student internship, for confidential questions, advice or other matters.
 - (3) The training shall be at least two hours in duration, interactive, and conducted in-person by the Workplace Culture Specialist, Confidential Workplace Ombudsperson, at least one Legislator from the appropriate body, and any other personnel working on Student Intern orientation for the body. Training will be limited to no more than 35 people per session.
- (E) **Assertiveness Training** shall be available on a periodic basis and attendance shall be voluntary. Any Member of the Legislative Workplace may attend. The availability of this training is not a statement by the General Assembly that recipients of harassing behavior are responsible for correcting harassing behavior of other Members of the Legislative Workplace. It is offered to provide additional tools and support for Members of the Legislative workplace who are interested in acquiring them.

2. Complaint Contacts and Employees of OLC

- (A) All Complaint Contacts shall be trained on confidentiality, proper complaint handling and complaint documentation. Complaint Contacts will be re-trained thereafter no less than bi-annually.
- (B) All Employees of the Office of Legislative Culture shall be trained in trauma-informed interviewing techniques each year, and they shall be so designated as trauma informed in the list of Complaint Contacts.

This Appendix B to the Respectful Workplace Policy was last updated on _____.

Appendix C: Reporting and Complaint Resolution Processes

1. Reporting Process

(A) Complaint Contact Persons' Responsibilities

- (1) Complaint Contact Persons ensure that Complainants can communicate privately and confidentially with them in discussing their complaint.
- (2) Complaint Contact Persons may not agree to take no action on a complaint under this Policy but will convey a Complainant's preference for no action when transmitting the complaint to the General Assembly's Equal Employment Opportunity Officer ("the EEO Officer").
- (3) Complaint Contact Persons shall document all complaints using the Complaint Intake Form,⁴¹ and shall immediately transmit the Complaint Intake Form to the EEO Officer for assessment and handling regardless of whether the Complainant chooses to file a "formal complaint." The only exception is when the complaint is about any Employee of the Office of Legislative Culture, i.e., the Human Resources Director, the EEO Officer, or the Workplace Culture Specialist. In that case, the Complaint Intake Form shall be transmitted directly to the Independent EEO Advisory Panel ("the Panel"), and the matter shall proceed under their jurisdiction, as set forth below.
- (4) Complaint Contact Persons will keep the complaint, the Complaint Intake Form and all information on the matter confidential.
- (5) Convercent hotline complaints will be routed directly to the EEO Officer, unless the complaint is about the Human Resources Director, the EEO Officer, or the Workplace Culture Specialist, in which case they will be routed directly to the Panel.
- (6) Complaint Contact Persons will be trained as outlined in [Appendix B](#).

(B) The Confidential Workplace Ombudsperson⁴²

- (1) The Confidential Workplace Ombudsperson is a resource for any Member of the Legislative Workplace to utilize as a confidential venue to discuss their problems, get advice on options to proceed under the Policy, and to process their decision before taking their complaint to a Complaint Contact Person.
- (2) The Confidential Workplace Ombudsperson shall ensure that they can communicate privately and confidentially with people in discussing their concerns.
- (3) The Confidential Workplace Ombudsperson keeps no case records and keeps confidentiality to the extent permitted by law. An exception occurs when there appears to be imminent risk of serious harm or violence to a person and the Ombudsperson can see no responsible option other than breaking confidence. In such a case, the Confidential Workplace Ombudsperson shall report the matter to the EEO Officer.

⁴¹ **NOTE TO LEADERSHIP:** Under this scheme, the EEO Officer and the Office of Legislative Culture would be empowered to create protocols to effectuate the Policy, including forms.

⁴² **NOTE TO LEADERSHIP:** This could be an internal person, or it could be an outside partnership agency who agrees to provide a contact person for legislative members, for confidential advice and counseling for those who wish to understand their options and consider their choices. There are pros and cons to using either approach and ultimately it depends upon available funding and internal expertise.

- (4) The Confidential Workplace Ombudsperson shall assist in the Student Intern Orientation Program and shall be a resource available to receive Student Intern concerns to the same extent that he or she is available to other Members of the Legislative Workplace.
- (5) The Confidential Workplace Ombudsperson shall be knowledgeable about the options and resources available through the Informal and Formal Resolution Processes and shall encourage people to avail themselves of these processes when possible and comfortable for the person to do so.

(C) The EEO Officer's Responsibilities

- (1) The EEO Officer shall be responsible for assessing all reported complaints and assigning them to either the Informal Resolution Process or the Formal Resolution Process. The form of the complaint will not control its assignment to the Formal or Informal processes, as this decision is based on the substance of the complaint.
- (2) The EEO Officer shall communicate with the Complainant to determine his or her wishes in the handling of the complaint and will endeavor to honor a Complainant's request as to which process he or she desires. However, in some cases where the allegations are serious, the EEO Officer may not be able to honor a Complainant's request for the Informal Resolution Process. This is because the General Assembly has a responsibility to promptly and appropriately deal with serious misbehavior, including Discriminatory and Sexual Harassment and Retaliation, which may necessitate using the Formal Resolution Process.

(D) Complaint Form Does Not Dictate Process

- (1) Complaints can be reported verbally, in writing or as provided by the Convercent system.
- (2) A complaint that is presented informally, but that contains allegations that raise serious concerns, will be handled in the Formal Resolution Process.
- (3) The Complainant does not need to be the person to whom the harassing conduct is directed. The Complainant may be a bystander who was offended or otherwise affected by the conduct. The Respondent may be any Member of the Legislative Workplace or Third Party.

2. Informal Resolution Process

(A) The Informal Resolution Process is, as the name suggests, flexible and intentionally open to individualized response and resources. This shall be a confidential process, and the parties' names, the process itself and any resolution shall not be subject to disclosure to any party. The Informal Resolution Process is intended to stop and redirect behavior before it reaches the level of unlawful harassment and prevent it from reoccurring.

(B) Informal Fact Finding by the EEO Officer. The EEO Officer shall take such steps as necessary to understand the complaint and find facts to determine if the behavior occurred. These steps need not follow the formal investigation protocols set forth below in the Formal

Resolution Process and are not subject to the same requirements. After the informal fact finding has concluded, the EEO Officer will determine a range of resources to offer to the parties to resolve the issues.

(C) The Office of Legislative Culture has internal and external resources that it can provide as part of the Informal Resolution Process, including:

- (1) Facilitated mediation;
- (2) Meetings between the EEO Officer and Respondents on behalf of Complainants;
- (3) Individual or joint coaching;
- (4) Training and educational opportunities;
- (5) Team re-building and crisis management;
- (6) Referrals to counseling, advocacy and wellness support; and
- (7) Other remedial actions.

(D) The EEO Officer shall create a record of all complaints handled under the Informal Resolution Process and the outcome and shall maintain such records in secure and confidential files. All such records and work product of this process will be confidential.

(E) Participation in the Informal Resolution Process shall be voluntary. If the parties agree to the Informal Resolution Process, they shall be expected to participate fully and in good faith. If a Respondent does not agree, or fails to participate fully and in good faith, the EEO Officer shall refer the matter to the Respondent's supervisor, with the EEO Officer's summary of the material facts. The supervisor may subject the Respondent to disciplinary action for the alleged behavior as ordinarily determined by the supervisor of the agency. In all cases of non-participation, the EEO Officer shall document the allegations and responses in the complaint file, and this information may be considered as grounds for more serious treatment of future complaints about the same Respondent, should they arise.

3. Formal Resolution Process

(A) The Formal Resolution Process is a more traditional investigative response to certain complaints, including all complaints alleging facts that could constitute Discriminatory or Sexual Harassment or Retaliation. This shall be a confidential process, and the parties' names, witness names, the process itself and any resolution shall not be subject to disclosure to any party, except as provided herein. The Formal Resolution Process is intended to stop serious misbehavior and prevent it from reoccurring.

(B) The Office of Legislative Culture has internal and external resources that it can provide as part of the Formal Resolution Process, including:

- (1) Internal staff trained in thorough and impartial investigations;
- (2) Trauma-informed interviewers and data assessors;
- (3) An EEO Officer with substantial experience in EEO matters, investigations, data analysis and reporting;

- (4) Referrals to qualified third-party investigators to use when circumstances require outside expertise;
- (5) The Independent EEO Advisory Panel, to use when allegations present facts that could constitute Discriminatory or Sexual harassment or Retaliation by a Legislator; and
- (6) All of the resources available in the Informal Resolution Process, which can be employed as necessary in the Formal Resolution Process.

(C) The EEO Officer will make a record of all complaints handled under the Formal Resolution Process and the outcome and shall maintain such records in secure and confidential files. All such records and work product of this process will be confidential.

(D) Participation in the Formal Resolution Process is mandatory for all Members of the Legislative Workplace.⁴³ Parties shall participate fully and in good faith. A failure to participate could subject a party to further disciplinary action as recommended by the EEO Officer, pursuant to his or her authority to make Recommendations for Action, as set forth below.

(E) Student Interns are entitled to a support person. If a Student Intern becomes a participant in the Formal Resolution Process, he or she may be accompanied to any proceedings in the process with the support person of their choice, with some limited exceptions.

- (1) The support person will be allowed to be present at proceedings to assist the Student Intern by taking notes, organizing documentation, or providing emotional support and reassurance.
- (2) The support person may consult with the Student Intern during the Formal Resolution Process in a way that does not disrupt or delay any proceeding, except during interviews when the role of the support person is that of silent non-participant.
- (3) The support person may not be a witness in the matter, present information or evidence on behalf of the Student Intern, attend any proceedings in lieu of the Student Intern or otherwise actively participate in any proceeding.
- (4) Support persons who act in a manner contrary to these requirements or otherwise disrupt any proceeding in the Formal Resolution Process may be excluded from that proceeding and/or future proceedings.
- (5) Support persons are bound by complete confidentiality and may not disclose any information they become aware of in their role as a support person.

(6) There are two paths in the Formal Resolution Process, depending upon who the Respondent is:

- (1) **Complaints against Non-Legislators:** For Discriminatory Harassment, Sexual Harassment or Retaliation complaints against non-legislators, the EEO Officer will conduct a confidential impartial investigation or may hire a professional third-party

⁴³ **NOTE TO LEADERSHIP:** This may require amendment to the internal rules of both houses.

investigator to do so, based on the seriousness of the allegations, at the EEO Officer's discretion.

(2) **Complaints against Legislators:** For Discriminatory Harassment, Sexual Harassment or Retaliation complaints against Legislators, the EEO Officer shall refer the matter to the Independent EEO Advisory Panel. For Discriminatory or Sexual Harassment and Retaliation complaints against Employees of the Office of Legislative Culture, complaint contacts shall refer the matter directly to the Panel. The Panel shall hire a professional third-party investigator to investigate the matter.

(7) **Notifications, Resources and Anti-Retaliation Plans:** As part of every Formal Resolution Process, the EEO Officer, or another Employee of the Office of Legislative Culture, shall make certain notifications to the parties in writing, make referrals to resources available for parties, and shall ensure that an Anti-Retaliation Plan is created.

(1) **Notifications:** The EEO Officer, or another Employee of the Office of Legislative Culture shall provide the following notifications in writing to both the Complainant and Respondent in the Formal Resolution Process:

- i. An explanation of the investigatory procedures, including the contemplated timeline of the process;
- ii. An advisement on the requirement and importance of confidentiality, as well as the applicable limits on confidentiality;
- iii. A reminder of the prohibition against retaliation and reporting options concerning retaliation; and
- iv. A listing of **Resources** available to support the parties through the Formal Resolution Process, which may include: mental health services, counseling, anti-retaliation support, wellness and/or referral to other support services.

Such notification shall ordinarily occur, in the case of the Complainant, when the EEO Officer receives the complaint; and in the case of the Respondent, at the time of his or her first investigation interview.

(2) **Anti-Retaliation Plan:** The EEO Officer, or another Employee of the Office of Legislative Culture shall meet with the Complainant upon receiving the complaint, and with the Respondent at the time of his or her first interview, to discuss and create a proactive anti-retaliation plan. The EEO Officer, or another Employee of the Office of Legislative Culture has flexibility in designing such a plan. The process for creating this plan, and some of its contents, may include:

- (a) Discussion with Complainant regarding his or her feelings or fears about retaliation, and identifying individualized areas of concern for monitoring and proactive involvement;
- (b) Discussion with Complainant about anti-retaliation protections generally, information on how to report retaliation and support available for dealing with personal feelings and fear about retaliation while carrying out employment or legislative business;
- (c) Discussion with Respondent about the obligation not to retaliate, ways to avoid engaging in retaliation and support available for dealing with personal feelings about the allegations while carrying out managerial or legislative business and the

possibility for increased severity of potential penalties for misconduct if Retaliation occurs;

- (d) Review of projects, pending legislation and/or work projects on which Complainant and Respondent are working together to identify possible areas of concern to monitor for possible retaliation;
- (e) Exploring options for physically separating the parties during the investigation, including (where available) leaves of absence, reassignment and office moves;
- (f) Devising a schedule for periodic check in by the EEO Officer with the parties to determine whether compliance with anti-retaliation is happening; and
- (g) Devising other communication or monitoring plans to enable the EEO Officer to be aware of Complainant's work performance, proposed legislation and/or projects with an eye toward identifying and interrupting possible retaliation occurring.

The anti-retaliation plan will be made part of the permanent confidential investigation file.

(8) The Rights and Responsibilities of the Parties during an Investigation: In investigations in the Formal Resolution Process, both Complainant and Respondent have certain rights and responsibilities.

(1) Responsibilities of the Parties: Complainant and Respondent have the responsibility to:

- (a) Participate fully and in good faith in the investigation process;
- (b) Tell the truth in investigative interviews and proceedings;
- (c) Refrain from influencing, coercing or otherwise tampering with witnesses or evidence;
- (d) Keep the investigation process, parties and issues confidential during the investigation; and
- (e) Provide all information relevant to the matter within their possession and not withhold relevant information.

(2) Rights of the Parties: Complainant and Respondent have the right to:

- (a) To be treated with dignity and respect throughout the process;
- (b) A meaningful opportunity to produce any evidence in their possession to defend themselves from allegations or counter-allegations by being afforded:
 - (i) A full description of the allegations against them, which ordinarily shall be provided verbally during their initial witness interview;
 - (ii) The opportunity to provide a written statement, other evidence, the identity of relevant witnesses and additional evidence and/or questions for investigators to ask the other party, during and for a reasonable time after their initial witness interview (contingent on investigation deadlines); and
 - (iii) The opportunity for a follow-up interview if new evidence is discovered or, if evidence inconsistent with their version of material events is discovered, the

- opportunity to explain or otherwise respond to evidence not available in their initial witness interview. This right is subject to the investigation timeline.
- (c) Access to trauma-informed interviewers and investigators, if the circumstances require it; and
 - (d) Counseling, mental health and wellness resources, external referrals and any other resource available from the Office of Legislative Culture.

(9) Investigation Process

- (1) **Choice of Investigator:** Investigations shall be conducted by investigators who are impartial in the matter and who have the necessary skills and experience to conduct the investigation. This may mean hiring an outside investigator if the parties have been involved in previous complaints or negative interactions with the EEO Officer, if the matter involves special expertise outside the EEO Officer's qualifications, or if the EEO Officer does not have the available time to do the investigation in a timely and professional manner or otherwise finds that it is in the General Assembly's best interests to engage outside expertise.

(2) Conduct of Investigation

- (a) The investigator shall conduct a thorough and impartial investigation of the allegations.
- (b) The EEO Officer or the Panel shall set the scope of the investigation under their supervision. The "scope" refers to the specific questions that the investigation will seek to answer. The scope shall be documented in writing. If the scope of the investigation changes during the investigation, the investigator shall discuss the change with the EEO Officer or Panel at the time, and if the change is approved, it shall be noted in writing in the file.
- (c) The investigation shall conform to professional practice standards in the workplace investigations industry.
- (d) Witness interviews should generally be in person unless witnesses are unavailable. This is particularly important with Complainant and Respondent interviews. Interviews should generally occur in an environment and with a method that maximizes the chances of getting reliable information and should be documented in a reliable and consistent fashion, either through note taking, recording or witness statements.
- (e) Documentary evidence and electronically stored information should be gathered in a way that preserves its integrity. Investigators should use outside expertise, such as forensic data or accounting experts, where necessary and within the investigation budget, to gather evidence in a forensically defensible manner if such evidence is material to the investigation.
- (f) Investigators shall be provided with full access to witnesses, evidence and data within the control of the General Assembly that the investigator deems necessary for a thorough investigation of the matter.

- (g) The investigator shall document his or her methodology and the material evidence on both sides of each issue, so that there is a reliable record of the evidence the investigator relied upon in reaching his or her findings.

(3) Communications during the Investigation

- (a) The EEO Officer or the Panel, whomever is managing the investigation, shall check in with both Complainant and Respondent during the investigation once interviews commence to:
 - (i) Ascertain the parties' wellbeing and provide continued support and monitoring on the issue of anti-retaliation; and
 - (ii) Provide timeline updates as to whether the investigation is on track to be completed within the timelines set forth below. It should be noted that things change during an investigation and an update that the investigation is "on track" does not guaranty that it will remain on track.
- (b) These check-ins should occur no less frequently than bi-weekly and shall be done weekly when practicable.
- (c) No other interim reports to or by any parties are permitted.

(4) Findings of Fact

After all evidence has been gathered, the investigator shall analyze the evidence using the preponderance of the evidence standard and shall reach findings of fact that are consistent with the scope of the investigation.

- (a) Findings of fact shall be based on evidence that a reasonable mind might accept as adequate to either substantiate or not substantiate the conduct.
- (b) Findings of fact shall state whether the allegation is:
 - (i) "Admitted," which means that the Respondent admitted the conduct in substantial part.
 - (ii) "Refuted," which means that there is undisputed evidence tending to show that the conduct did not occur.
 - (iii) "Substantiated," which means that it is more likely than not that the complained of conduct occurred.
 - (iv) "Not substantiated," which means it is less likely than so that the complained of conduct occurred.
 - (v) "Inconclusive," which means that there is not a preponderance of evidence on either side of the issue. This finding is not desired and should be extremely rare, as credibility assessments can often provide additional evidence on one side of the issue.
- (c) Findings of fact shall include credibility assessments. The Investigator shall describe his or her process for assessing credibility and shall base credibility assessments on reliable objective factors.
- (d) The investigator's findings of facts shall be final and shall not be re-investigated.

- (5) **Standard of Proof:** All investigators under this Policy shall weigh evidence and reach findings and determinations using the preponderance of the evidence standard of proof, which requires a finding of whether it is more likely than not that conduct occurred.
- (6) **The Confidential Investigation Report:** At the conclusion of the investigation, the investigator shall prepare a Confidential Investigation Report and transmit it to either the EEO Officer or the Panel, whichever one appointed him or her. Confidential Investigation Reports shall be confidential documents not subject to disclosure except as set forth herein.⁴⁴ The Investigation Report shall not be disclosed to either party, Legislators, Employees, Student Interns, or Third Parties, except as set forth below. The Confidential Investigation Report shall:
- (a) Describe the complaint and scope of the investigation;
 - (b) Include a statement of the investigation methodology;
 - (c) Summarize the material facts on both sides of each issue;
 - (d) Provide an analysis of the material facts; and
 - (e) State the factual finding(s).

(10) Determinations of Policy Violations

- (1) **Complaints against Non-Legislators:** In the case of a complaint against a non-Legislator, the EEO Officer shall use the Investigation Report and Findings of Fact and shall make a Determination as to whether conduct violates the Policy. Such a Determination shall be made using a preponderance of the evidence standard and shall be final. In the case of an investigation where the EEO Officer was the investigator, he or she will make this Determination collaboratively with the HR Director, but if they disagree, the HR Director's decision shall be final.
- (2) **Complaints against Legislators and Employees of the Office of Legislative Culture:** In the case of a complaint against a Legislator or Employee of the Office of Legislative Culture, the Panel shall use the Investigation Report and Findings of Fact and make a Determination as to whether conduct violates the Policy. Such a Determination shall be made using a preponderance of the evidence standard and shall be final.

(11) Recommendations for Action

At the conclusion of the Formal Resolution Process, if it is determined that a Member of the Legislative Workplace has violated this Policy's prohibition against Discriminatory Harassment, Sexual Harassment or Retaliation, the EEO Officer or Panel shall make Recommendations for Action as follows:

- (1) **Complaints against Non-Legislators:** In the case of a complaint against a non-Legislator, after analyzing the seriousness of the substantiated violation, past practices

⁴⁴ **NOTE TO LEADERSHIP:** This may require amendment to the Colorado Open Records Act.

and proportionality, the EEO Officer shall make Recommendations for Action which he or she shall document in writing.

- (2) **Complaints against Legislators and Employees of the Office of Legislative Culture:** In the case of a complaint against a Legislator or Employee of the Office of Legislative Culture, after analyzing the seriousness of the substantiated violation, past practices and proportionality, the Panel shall provide a Recommendation for Action that the panel will document in writing. Outside of circumstances finding no substantiated misbehavior or very serious substantiated misbehavior, the Panel shall ordinarily propose a range of appropriate actions when providing Recommendation for Action in a case involving a Legislator.

(12) Notification to Decision Makers and Parties

- (1) **Notifications to Decision Makers:** The EEO Officer or the Panel shall provide the Findings of Fact, the Determination as to policy violation(s) and their Recommendation for Action in writing to the appropriate Decision Maker in the matter. This document shall be referred to as the Investigation “Executive Summary” and shall be considered confidential and not to be disclosed by any recipient to any other person, except as set forth below. The Executive Summary shall not include witness names or identifying information, if possible.
- (2) **The Decision Makers Are:**
- (a) For matters involving a Respondent who is an Employee of the General Assembly, the Director of the agency where the Employee works;
 - (b) For matters involving a Respondent who is a Director of the General Assembly, the Executive Committee of the Legislative Council;
 - (c) For matters involving a Respondent who is an Employee of the Office of Legislative Culture, the Director of Human Resources.
 - (d) For matters involving a Respondent who is a Legislator, the Legislative Culture Committee of the legislative body where the member serves.
- (3) **Authority of Decision Makers:** The Decision Maker(s) shall be ultimately responsible for deciding upon and imposing discipline and/or instituting disciplinary proceedings in a legislative body, remedial action, or other action that is consistent with the seriousness of the substantiated violation, past practices and proportionality.
- (4) **Notification to Parties:** The EEO Officer or the Panel shall provide the Executive Summary to the Complainant and Respondent in the matter.
- (5) **Where the Recommendation is Separation from Employment of an Employee**
- (a) The EEO Officer, or the Panel in the case of Employees of the Office of Legislative Culture, shall prepare or cause to be prepared a Redacted Report for submission to the appropriate Decision Maker.

- (b) The Redacted Report shall have witness names and identifying information redacted, as well as extraneous material that might inflame, cause reputational injury or otherwise create a risk of retaliation or collateral harm to the parties or witnesses as a result of disclosure.
- (c) Such Redacted Report shall be carefully prepared with the goal of protecting the identity and privacy of witnesses and preventing potential retaliation as a result of disclosure.
- (d) The Redacted Report shall be used by the Decision Maker to inform their decision as to the appropriate action to take in response to the matter.
- (e) The Decision Maker shall return or delete all copies of the Redacted Report to the EEO Officer, ensuring that no person retains any copy, once he or she has taken action on the matter and it has concluded.

(6) Where the Recommendation is Formal Legislator Discipline

This section shall apply if the Panel recommends reprimand, censure or expulsion of a Legislator.

- (a) The Panel shall prepare or cause to be prepared a Redacted Report for submission to the appropriate Legislative Culture Committee and shall follow the process described above in the immediately preceding section.
- (b) If the Legislative Culture Committee determines that Formal Legislator Discipline shall proceed, the Legislative Culture Committee shall make the Redacted Report available for individual Legislator review but shall not provide physical or electronic copies or allow members to remove it from the office or space made available for their review. Members shall be allowed to take notes during their review of the Redacted Report, which they shall agree to keep confidential.
- (c) The Legislative Culture Committee shall return all copies of the Redacted Report to the EEO Officer, ensuring that no Member retains any copy, once it has taken action on the matter and it has concluded.

4. Disciplinary Action and Remedial Measures

Decision makers shall promptly take appropriate and necessary disciplinary action to institute remedial measures pursuant to the timelines of this policy.

The disciplinary or remedial measures that are appropriate in a given case are decided on a case-by-case basis by the Decision Makers. The Decision Makers shall not be bound by the Recommendations from the EEO Officer or the Panel, but shall consider the Findings of Fact, Determinations and Recommendations seriously, as well as the fact that a professional, impartial process was utilized to provide data that are as insulated from bias and politics as possible, in reaching recommendations for appropriate action in the matter.

Discipline and remedial action, short of Formal Legislator Discipline, shall be handled and imposed confidentially. Confidentiality of Formal Legislator Discipline shall be subject to the rules of the legislative body involved.

(A) Non-Disciplinary Remedial Action

Non-Disciplinary Remedial Action should be guided, but is not bound, by the following suggested range of consequences for: (1) substantiated violations of this policy that constitute single or isolated instances of inappropriate commentary that is not severe or pervasive, but that could constitute Discriminatory or Sexual Harassment if it continued to reoccur, or (2) failures to comply with the Respectful Workplace Expectations.

(1) Verbal Direction

- (a) Formal direction to cease the offensive behavior and notification of consequences for a failure to stop.

(2) Remediation

- (a) A required written or verbal apology, if the Complainant consents to receiving one;
- (b) Support and resources offered to the Complainant to support him or her and to ensure no repetition of behavior by the Respondent; and/or
- (c) Mediation and/or facilitated conversation or use of any other of the resources available in the Office of Legislative Culture.

(3) Education

- (a) Meeting with EEO Officer and Respondent for individual training on this Policy and directive to cease the offensive behavior; and/or
- (b) Additional training or coaching for a Respondent.

If behavior reoccurs and implicates the definitions of Discriminatory or Sexual Harassment, it may be treated as severe or pervasive in terms of recommended consequences, depending on the circumstances.

(B) Disciplinary Action

In addition to any appropriate remedial measures, Disciplinary Action may be imposed based on the severity of the conduct at issue.

(1) Inappropriate Commentary

Disciplinary Action should be guided, but is not bound, by the following suggested range of consequences for severe or pervasive inappropriate commentary that is determined to constitute Discriminatory or Sexual Harassment, but does not amount to direct sexual propositions, sexual coercion or retaliation:

- (a) Written warning, suspension with or without pay;
- (b) Probation;
- (c) Demotion, removal of supervisory or leadership responsibilities (in the legislature or employment realm), withholding of a promotion or pay increase;
- (d) Removal of staffing authority for extra legislative staff (i.e., Student Interns);
- (e) Changing the Respondent's work area or reporting structure;
- (f) Removal of Committee Chairmanship or other legislative or caucus leadership role;
- (g) Formal reprimand, censure or expulsion of a Legislator; and/or
- (h) Separation from employment.

(2) **Direct Sexual Propositions, Sexual Coercion and Retaliation, Sexual Contact, or Retaliation**

Disciplinary Action should be guided, but is not bound, by the following suggested range of consequences for direct sexual propositions, sexual coercion or retaliation, sexual contact, or Retaliation against a person who reported Discriminatory or Sexual Harassment or who participated in an investigation:

- (a) Separation from employment; or
- (b) Expulsion.

5. Timelines for the Resolution Process

Violations of this Policy and the Complaint Resolution Process may be difficult and stressful for the people involved and disruptive for the General Assembly's workplace and legislative business operations. For these reasons, it is critical that complaint resolution be completed as quickly as possible while maintaining a full and fair investigative process. With that guiding principle in mind, the following timelines have been established for prompt resolution of complaints under this Policy:

(A) Informal Resolution Process

The Informal Resolution Process shall be completed within **thirty (30) days** of the EEO Officer's receipt of the complaint. It should be noted that remedial action such as ongoing coaching, training or other efforts may be decided upon within the thirty (30) day timeline but may be ongoing after that time frame has elapsed.

(B) Formal Resolution Process

The Formal Resolution Process should be completed within **ninety (90) days**, as follows:

- (1) **Investigator Assigned** within **fourteen (14) days** of EEO Officer's or Panel's receipt of complaint.
- (2) **Investigation Completed**, factual findings made, report prepared and delivered to the EEO Officer or Panel within **forty-five (45) days** of assignment.
- (3) **Determination of Policy Violation and Recommendations**, documentation of same and transmittal to decision maker within **fourteen (14) days** of receipt of Investigation Report.
- (4) **Determination of Action**
 - (a) **Non-Legislator Respondents**: In cases involving non-Legislator Respondents, **within fourteen (14) days** of receipt of recommendations.
 - (b) **Legislator Respondents**: In cases involving Legislator Respondents, as soon as practicable pursuant to the rules of the appropriate Legislative Culture Committee and legislative body.

There may be times when the timeline of the process must be extended to ensure a thorough and impartial process. Any reasons for deviating from this timeline should be documented by the EEO Officer and/or Panel in the Investigation Report.

6. Closing and Maintaining the File

After final action has been taken in response to the complaint, the EEO Officer shall close the file and maintain it in a secure and confidential file under both parties' names.

7. Procedures Do Not Create a Defense

The foregoing procedures are designed to guide the implementation of the Respectful Workplace Policy and to inform stakeholders of what to expect from the process. Divergence from any specific provision, including timelines, does not excuse or provide a defense to any substantiated complaint.

This Appendix C to the Respectful Workplace Policy was last updated on _____.

SAMPLE ONE-PAGE FLYER DESCRIBING THE POLICY

The General Assembly is Committed to a Respectful Workplace

The General Assembly is committed to maintaining a workplace that encourages mutual respect and promotes respectful, professional and congenial relationships, and that is free from all forms of harassment from or toward Employees, members and other persons working for or conducting business in the Legislative Workplace.

The Respectful Workplace Policy: To effectuate that commitment, the General Assembly has adopted the Respectful Workplace Policy, which covers everybody who works in the Legislative Workplace.

WHAT IS EXPECTED OF YOU? The Respectful Workplace Expectation: All members of our workplace are expected to conduct themselves in a manner that demonstrates *Professionalism* and *Respect* for others in the Legislative Workplace and while conducting business on behalf of the General Assembly.

HOW CAN I RECEIVE HELP? You can bring a concern to your supervisor, anyone in the Department of Workplace Culture, or one of the Complaint Contact persons whose names and phone numbers appear on the back of this card. Or you can reach out to our Ombudsperson who can provide a confidential ear, advice and information on our process.

WHAT HAPPENS NEXT? If you report your concern to anyone except our Ombudsperson, the EEO Officer will reach out to you to discuss if you would like to proceed with the Informal or Formal Resolution Process. Although your preference will not necessarily determine the resolution process used, the EEO Officer will consider your wishes. We have options to help you resolve a problem with mediation, coaching or other assistance, and we also have more formal procedures, like investigations, to handle more serious problems in our workplace such as discriminatory harassment, sexual harassment, or retaliation.

HOW AM I PROTECTED? We are committed to a zero-tolerance policy on retaliation. We will work with you to come up with a plan to address any concerns you have on this.

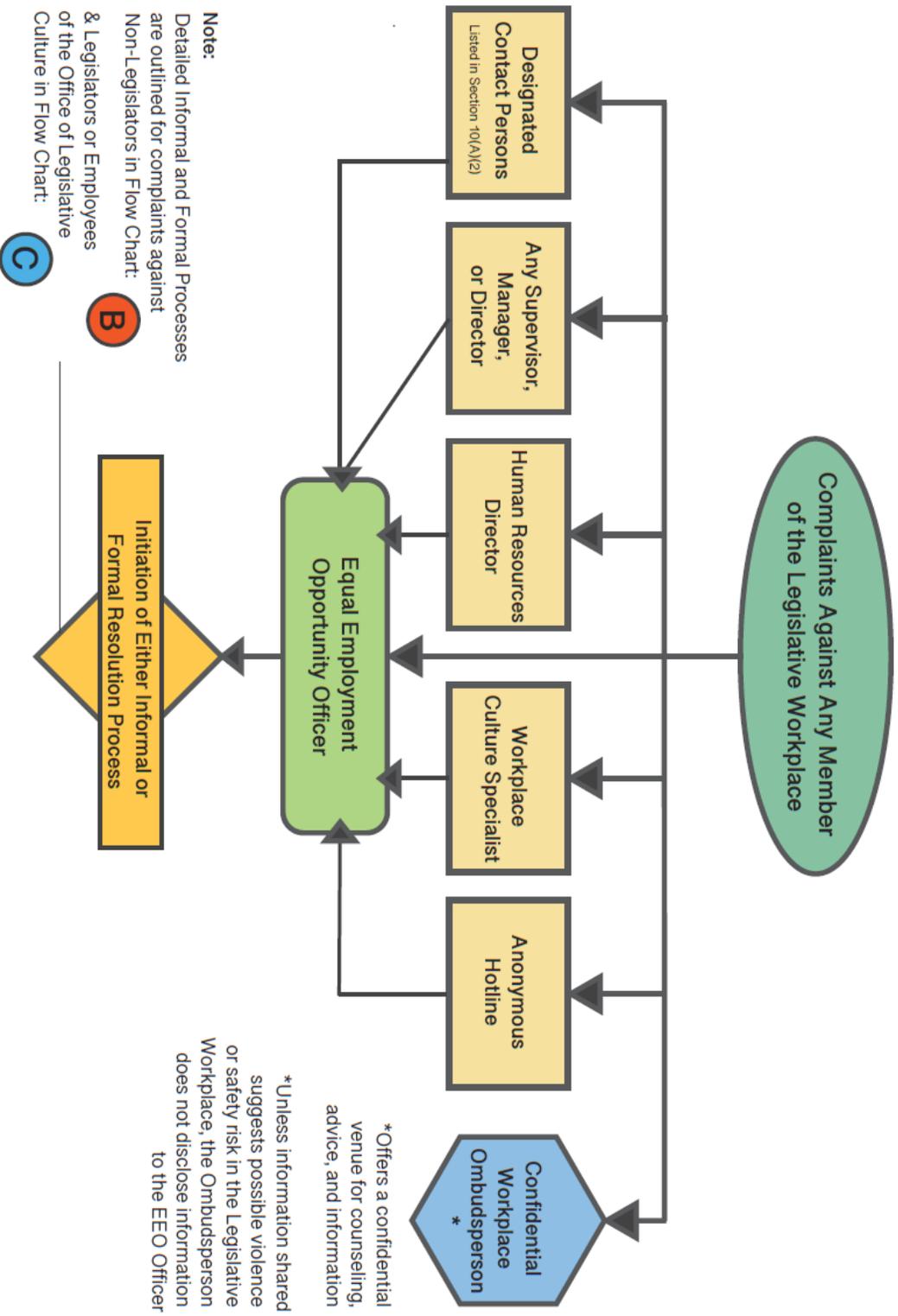
HOW CAN I LEARN MORE? For more information about the Respectful Workplace Policy, as well as resources that are always available, including mediation, team building, and referrals for more specialized support, please contact the Workplace Culture Specialist at _____/email address/website///// A complete copy of the Policy can be found at _____.

***** could be produced on two-sided glossy card, with abbreviated complaint flow chart on the back and names/emails/phone numbers for contact persons, Ombudsperson and Convercent hot line contact information***

Flow Charts – Complaint Handling and Resolution Processes

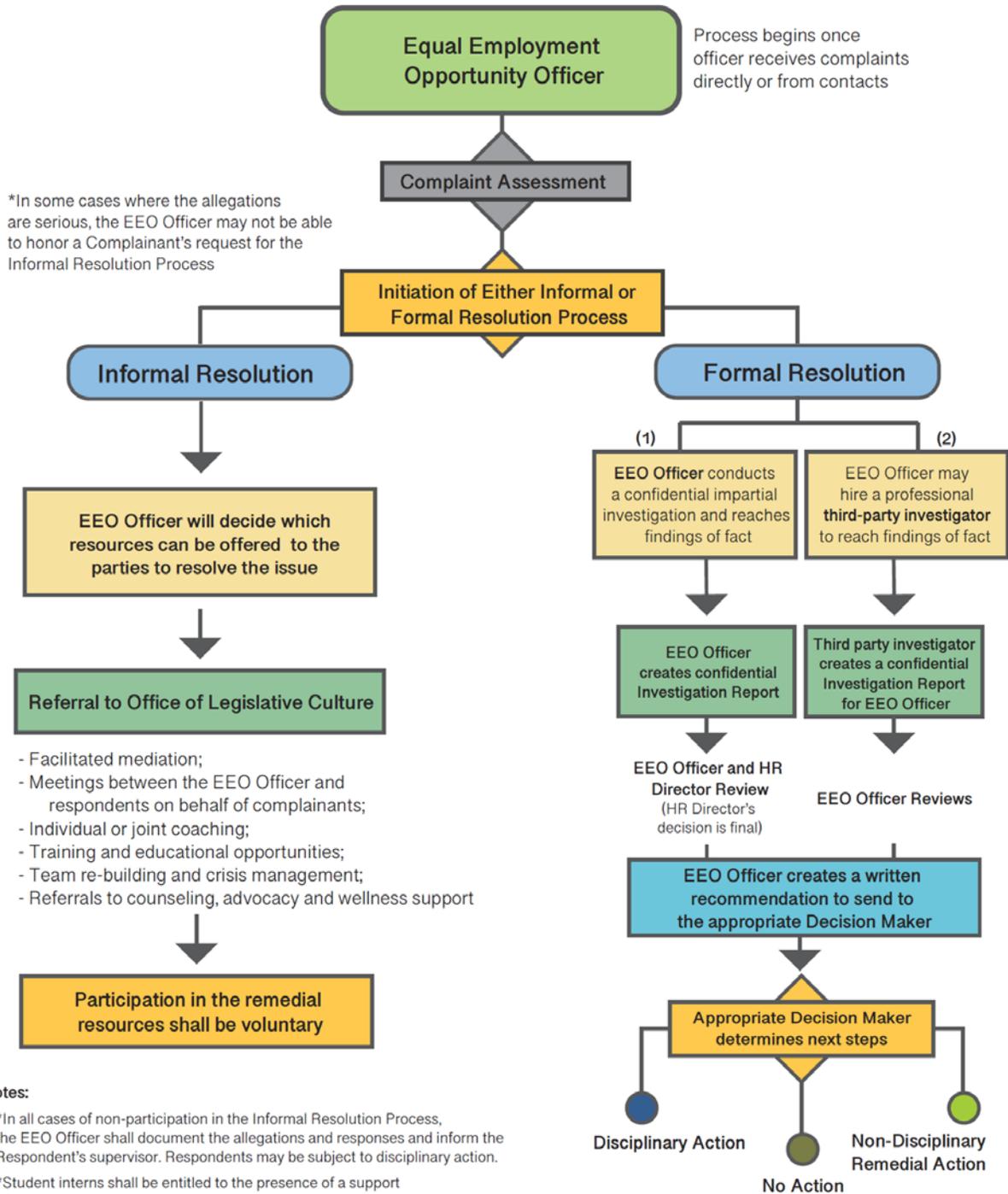
“How Can I File a Complaint?”

Flow Chart: **A**



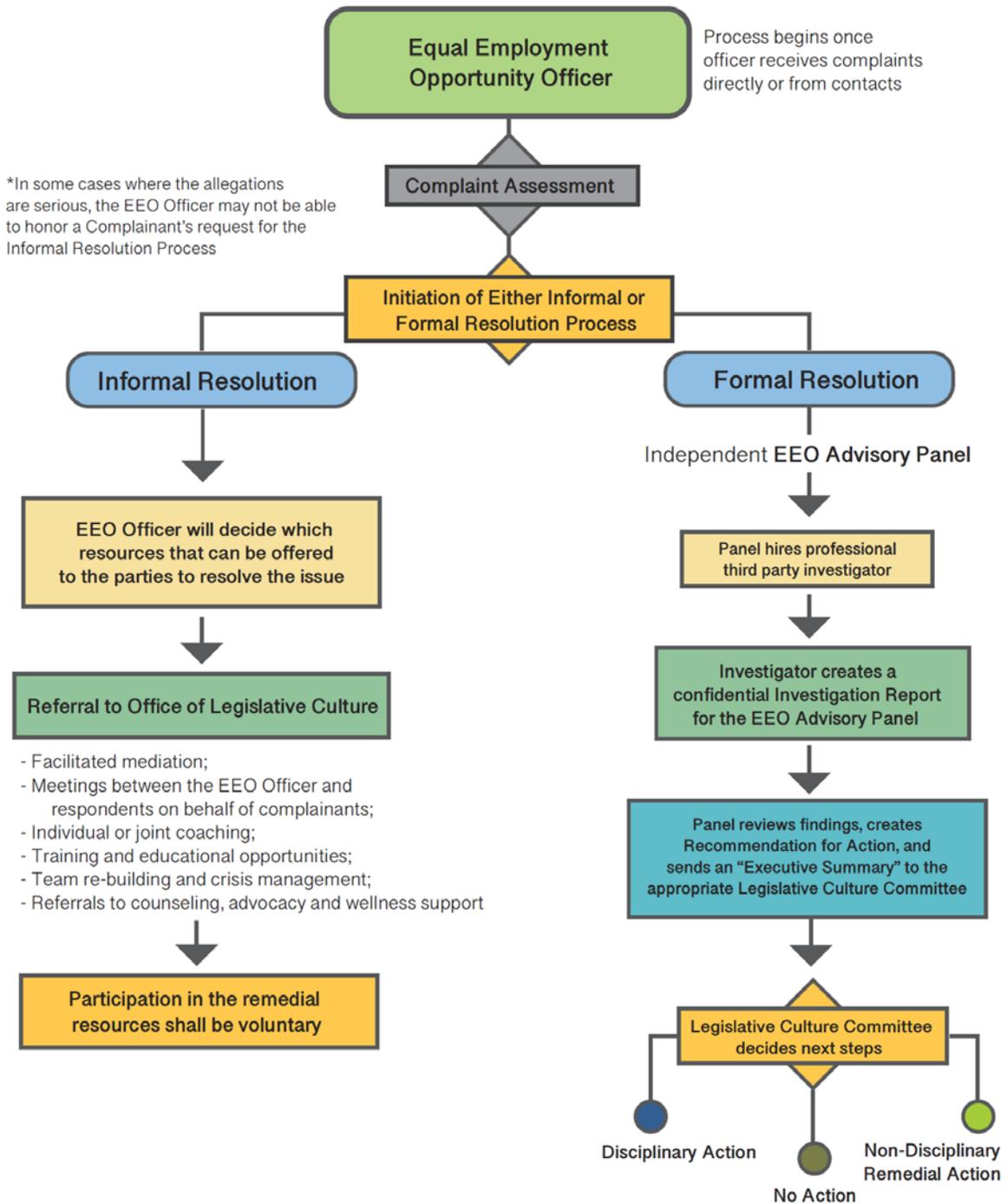
Resolution Process for Complaints Against Non-Legislators

Flow Chart: **B**



Resolution Process for Complaints Against Legislators and Employees of the Office of Legislative Culture

Flow Chart: **C**



Appendix D: Position Description for EEO Officer

Position Description

Office of Legislative Culture

Title: Equal Employment Opportunity Officer

Reports to: Human Resources Director

Status: Full-time; Classified

Position Overview

The EEO Officer serves a critical role to ensure equal employment opportunity for all members of the Legislative Workplace. The primary focus for this position is ensure compliance with the Respectful Workplace Policy by managing complaints of workplace harassment and retaliation, providing resources and guidance when informal complaints are made, and reporting metrics to Leadership to continuously improve the Policy and process. The individual in this role must demonstrate discretion, impartiality, expertise, and thoroughness in the execution of his or her duties.

Duties and Responsibilities

1. Manages the complaint process in accordance with the Workplace Culture Policy.
 - A. Analyzes workplace harassment complaints to determine credibility and develop an action plan.
 - B. Receives complaints from the anonymous reporting tool and engages with complainants to establish a plan of action.
 - C. Non-credible complaints are documented and filed.
 - D. Credible complaints will be investigated in a timely fashion by the designated investigative body: EEO Officer, Third Party Investigator or will be referred to the EEO Advisory Board in the event of a complaint against an Elected Official.
 - E. Maintains detailed records of each complaint, formal and informal, in a secure and confidential location.
 - F. When appropriate, provides the Executive Summary of the Investigation to the complainant and respondent.
2. Conducts effective, prompt, thorough and impartial investigations of sensitive and complex EEO complaints of discrimination, harassment, retaliation and other policy violations.
 - A. Utilizes investigative best practices by developing an investigation plan and documenting findings and observations in a detailed report.
 - B. Interviews witnesses, the complainant and the respondent in an impartial manner.
 - C. Employs trauma-informed interviewing techniques when necessary.

- D. Reiterates anti-retaliation and confidentiality expectation during each step of the process.
- E. In collaboration with the HR Director, makes a recommendation to submit to the appropriate Decision Maker.
3. Oversees third party investigations.
 - A. Ensures third party investigations comply with the Workplace Culture Policy.
 - B. Reviews confidential investigation report and makes a written recommendation to the Decision Maker.
 - C. Maintains all documentation for the confidential file.
4. Refers complaints made against Elected Officials to the EEO Advisory Panel.
5. Manages the Informal Complaint process.
 - A. Meets with complainant to understand and document the wishes of the complainant and evaluate options for resolution.
 - B. Refers the complainant to the Office of Legislative Culture to provide resources and expertise in complaint resolution, mediation, coaching, training and other options to address the concern.
6. Manages the relationship with the anonymous complaint reporting resource.
7. Works closely with team members in the Office of Legislative Culture to collaborate on training opportunities, trend identification and mitigation, and annual awareness campaigns.
8. Provides periodic reports to the Leadership Committee with information about complaint types, volume, resolutions, trends and opportunities for improvement.
9. Makes recommendations to enhance the complaint resolution process and Workplace Culture Policy based on annual data and trends.
10. Stays abreast of workplace harassment best practices and investigative techniques.

Requirements

- Juris Doctorate preferred; Bachelor's Degree with substantial experience in workplace investigations, EEO, or employment law may be considered.
- Certified Investigator or extensive training in investigative techniques.
- Trained in trauma-informed interviewing.
- At least 2 years of experience in EEO investigations and complaint management.
- Exceptional writing skills.
- Highest ability to exercise and maintain confidentiality.
- Substantive knowledge of federal, state and local employment law.

Appendix E: Position Description for Workplace Culture Specialist

Position Description

Office of Legislative Culture

Title: Workplace Culture Specialist

Reports to: Human Resources Director

Status: Part-time; Classified

Position Overview

The Workplace Culture Specialist is a key team member of the Office of Legislative Culture. This role is tasked with creating engaging and forward-thinking annual training and awareness campaigns about the Respectful Workplace Policy, providing resources and expertise to participants in the Informal Complaint resolution process, and engaging with stakeholders throughout the Legislative Workplace to support workplace culture initiatives.

Duties and Responsibilities

11. Collaborates with team members to develop annual training programs to ensure awareness and adoption of the Workplace Culture Policy.
 - A. Creates and delivers training on the Workplace Culture Policy, including policy guidelines, formal and informal complaint processes, protected class designations, and the anonymous reporting tool.
 - B. Builds training modules on bystander intervention and responding to and stopping inappropriate workplace conduct, in addition to other emerging topics surrounding workplace harassment.
 - C. Creates specific training on the Workplace Culture Policy for Interns and volunteers, that addresses the unique nature of the role and how to utilize the complaint procedure.
 - D. Ensures annual awareness campaigns are rolled out in a uniform fashion throughout the Legislative Workplace.
 - E. Works with Leadership to develop role-specific training when requested.
 - F. Integrates new materials into annual training programs that have been identified by the EEO Officer during annual trend analysis and metric evaluation.
 - G. Provides evaluation tools to training participants to continuously improve program content and delivery.
 - H. Works with training consultants to enhance training opportunities and participant experience when necessary.

12. Collaborates with members of the Office of Legislative Culture to create tools and resources that can be used during the Informal Complaint Process and when requested by specific departments or Leadership.
 - A. Maintains a library of resources for individuals and teams on topics such as team building, crisis management, mediation, coaching, and self-awareness.
 - B. Provides coaching and mentoring support when requested.
 - C. Establishes relationships with experts in a variety of specialties as referral sources during Informal Complaints or as requested. Services will include counseling, victim's advocacy, and wellness, among others.
13. Remains abreast of emerging training techniques and topic areas to continually enhance training programs offered through the Office of Legislative Culture.

Requirements

- Bachelor's degree in Organizational Development, Human Resources, Psychology or related field required. Advanced degree preferred.
- 2+ years of experience creating and delivering training on workplace issues.
- Experience using ADDIE Methodology in the development and evaluation of training programs.
- Knowledge of EEO and employment law required.
- Excellent presentation and writing skills.
- Experience working with Instructional Design tools a plus (Articulate, Captivate, etc).
- Ability to establish trust and maintain confidentiality with stakeholders.

SECTION 2.

Additional Survey Material

Survey Statistics:

- 1357 total contacts
 - 90 of those bounced back because of invalid emails or unsubscribed emails
- 1267 active emails were sent a survey link
- 528 responses received
 - 485 complete surveys
 - 43 partial surveys
- They survey opened on February 16, 2018
- The survey closed on February 28, 2018

Attempts to solicit participation:

- February 14, 2018 – the Executive Committee sent a letter to participants introducing the Workplace Culture Survey, encouraging participation and welcoming feedback on how to improve policies governing workplace harassment. Participants were also provided the opportunity to participate in confidential interviews instead of taking the Workplace Culture Survey online.
- February 16, 2018 – the survey was opened, at which time participants received an email message from Survey Gizmo inviting them to take the Survey. On that same day, participants received a separate email from lcs.ga@state.co.us announcing that the Survey was open and to report to ILG if they had difficulties using the Survey tool or did not receive the Survey link.
- February 21, 2018 – 959 participants who had yet to complete the survey received a reminder email directly from Survey Gizmo, with the subject line, “Reminder: Workplace Culture Survey.”
- February 22, 2018 – all Senators and Representatives who had yet to take the survey received an email from ILG containing the Survey link.
- February 25, 2018 – an email was sent to 854 participants who had yet to take the survey, providing their unique link to the survey.

- February 27, 2018 – another email reminder was sent to 801 participants who had not yet taken the survey. Additionally, on this day ILG sent an email with the subject line, “Reminder: Workplace Culture Survey – CLOSES TOMORROW” that contained individual links and instructions to aides, interns and Capitol Complex Employees who had not taken the survey due to their low participation rate.
- February 28, 2018 – a reminder email with the subject line, “Participation in workplace culture review process” was sent to participants from lcs.ga@state.co.us to remind everyone that the survey would be closing at midnight.
- February 28, 2018 – the Survey closed at midnight.

Date data was received from the State:

- Aides and Interns – 1/31/18
- Senate Democrat Aides – 2/1/18
- House Democrat Aides and Interns – 2/1/18
- House Republican Aides and Interns – 2/1/18
- Directory – 2/6/18
- Lobbyists – 2/6/18
- House Sergeants and Assignable Clerks – 2/9/18
- Senate Sergeants and Assignable Clerks – 2/9/18
- Capitol Complex Facilities – 2/9/18
- Colorado Legislator emails – 2/12/18
- Media – 2/16/18
- Students and Volunteers – 2/23/18

Statistics of people invited to the survey:

Role	Number invited to the Survey	% invited to the Survey	Number completed the Survey	% completed the Survey
Non-partisan / agency staff, manager, supervisor	227	17.01%	162	30.90%
Lobbyist	614	45.18%	155	29.30%
Elected Official	100	7.36%	51	9.70%
Aide	111	8.17%	49	9.30%
Intern	109	8.02%	36	6.70%
Legislative Partisan staff	63	4/64%	35	6.70%
Students and Volunteers	46	3.38%	16	3.00%
Other	32	2.35%	14	2.50%
Capitol Complex Facilities Employees	55	4.05%	10	1.90%

528 participated in the survey out of 1,267, which equals 42% participation.

- 1,267 represents the number of valid emails we had
- 90 emails were unsubscribed, bounced back or were incorrect

COLORADO GENERAL ASSEMBLY

EXECUTIVE COMMITTEE
Rep. Crisanta Duran, Chair
Sen. Kevin Grantham, Vice Chair
Sen. Lucia Guzman
Sen. Chris Holbert
Rep. KC Becker
Rep. Patrick Neville

STAFF
Mike Mauer, Director



EXECUTIVE COMMITTEE OF THE
LEGISLATIVE COUNCIL

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February 14, 2018

Dear Member of the Legislative Community:

We want to give you an update and ask for your engagement on an issue that is important to all of us.

As you may already know, the Executive Committee of the Legislative Council issued a Request for Proposal (RFP) in late December seeking a consultant to conduct an independent and comprehensive review of the workplace culture in the General Assembly and make specific recommendations for how to improve statehouse policies governing workplace harassment.

On January 24 a consultant was selected for this project – Denver-based Investigations Law Group ("ILG") – and its work is already underway. ILG has come up with a robust process for gathering and reviewing feedback anonymously about your experiences in the legislative workplace. This process will include surveys, interviews and other data gathering efforts.

The success of this effort depends on receiving input from a wide range of members of the legislative community. **We urge you to participate in this process** in any way you can so that ILG has as much data as possible when crafting its recommendations, which will be made public at the conclusion of the work. This means that if you have seen or experienced problems in the workplace, ILG needs to hear from you. If you have not had any issues or concerns, ILG likewise needs your feedback. ILG's process is designed to gather as much input from as many diverse perspectives as possible. This will ultimately help us understand any workplace issues and challenges and help us identify and make changes that are necessary to ensure a safe and respectful workplace at the Capitol.

In the next week or two, you will receive an email from *Investigations Law Group* <invites@mailers.surveygizmo.com> with the subject line "*Workplace Culture Survey*," inviting you to take the survey and providing detailed instructions. Some spam filters may catch this email and route it to your spam/junk folders. **If you have not seen the survey by February 19, please check these folders.**

The survey will take around 10 minutes to complete, and we hope everyone will participate. Additionally, ILG will be proactively reaching out to a sampling of members of the legislative community to ask if you would sit down for a confidential interview. We encourage you to do this, if asked. Finally, there will be a number of interview opportunities available if you would prefer an interview to taking the online survey. If you would like the opportunity to be confidentially interviewed, send an email to: interviews@ilgdenver.com. ***Your participation and feedback in any interview in this process will be anonymous***, just as with the survey.

We ask for your participation so that ILG can capture better information, allowing us to create better policies and a better workplace for everyone. We thank you in advance for your help with this important initiative.

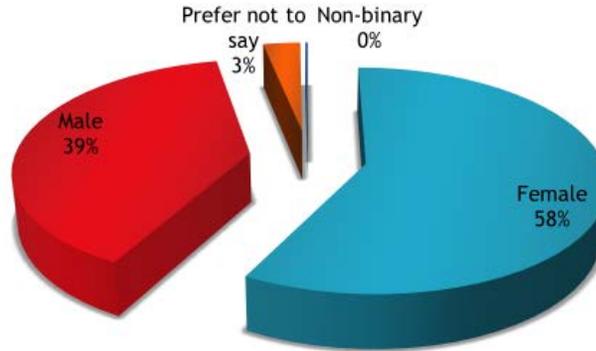
Sincerely,

Representative Crisanta Duran, Chair
Senator Kevin Grantham, Vice-Chair
Senator Lucia Guzman
Senator Chris Holbert
Representative KC Becker
Representative Patrick Neville

Participation Demographics

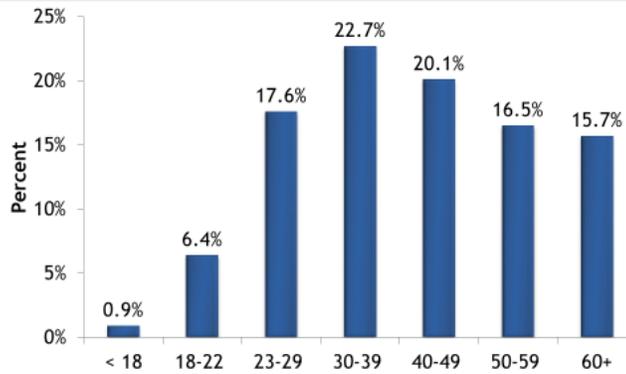
Gender

What is your gender?



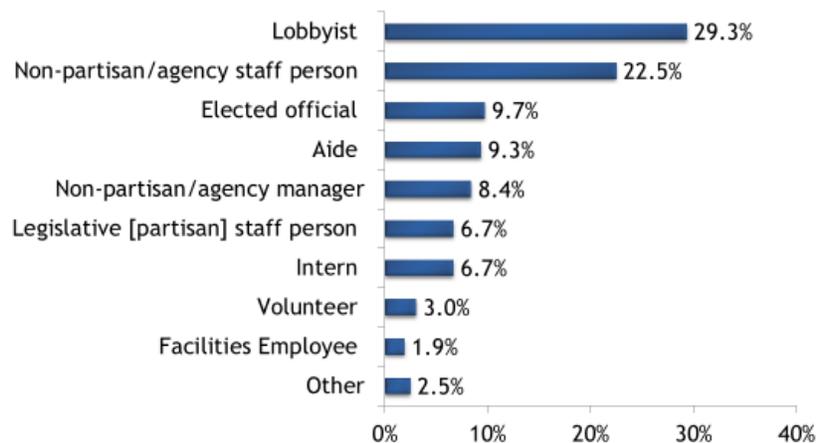
Age

How old are you?



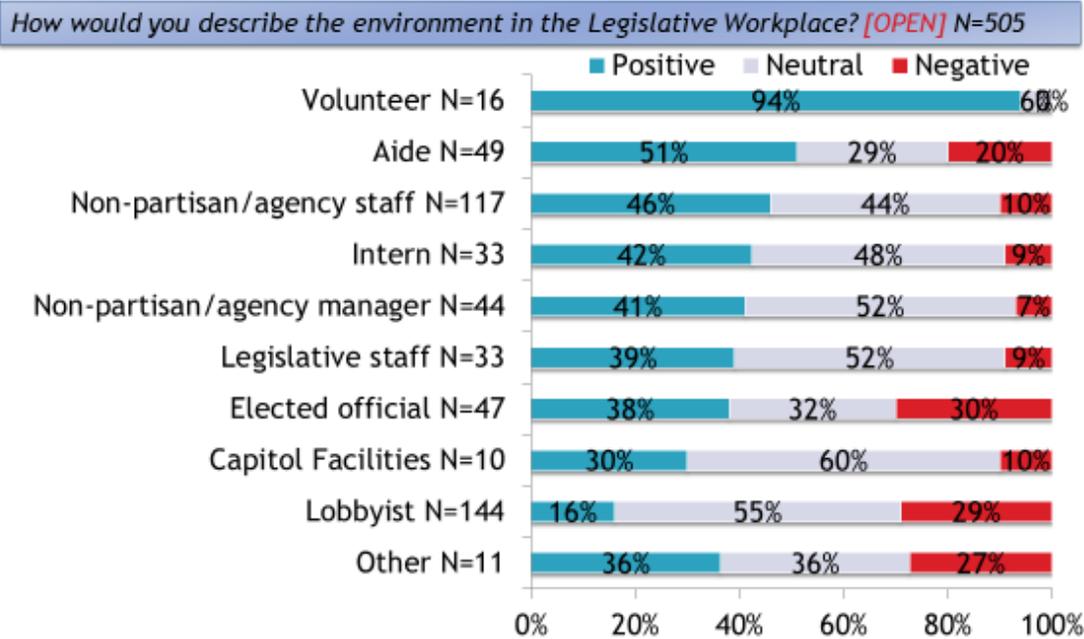
Legislative Role

What is your role within the Legislative Workplace? N=525



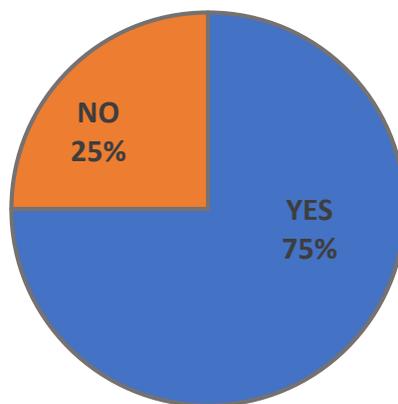
Comment Analysis - Tone

Describe Environment by Role



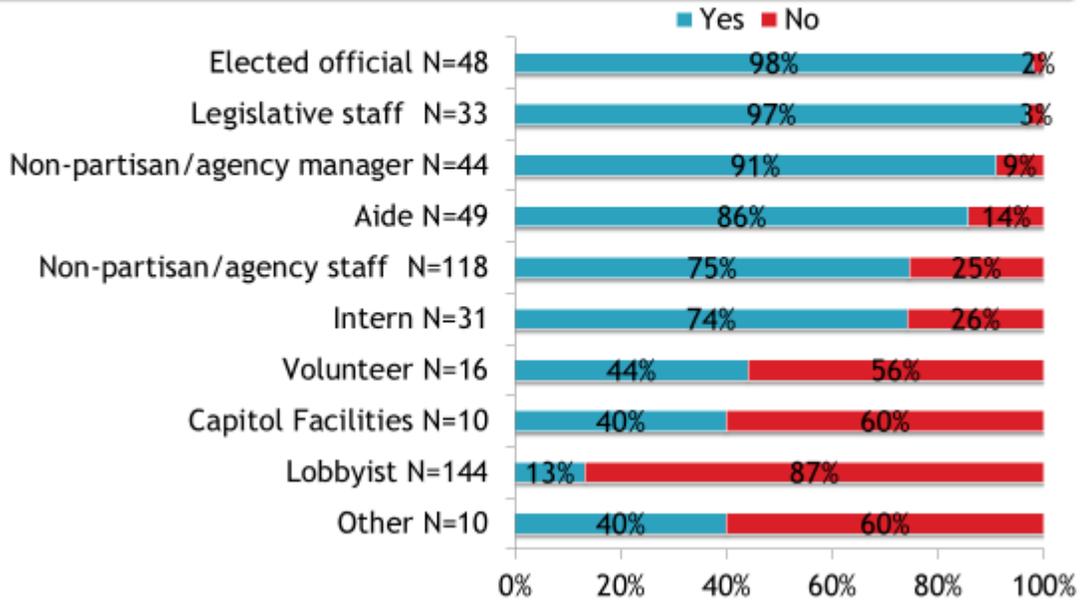
Policy

Are you familiar with the Workplace Harassment Policy of the General Assembly?

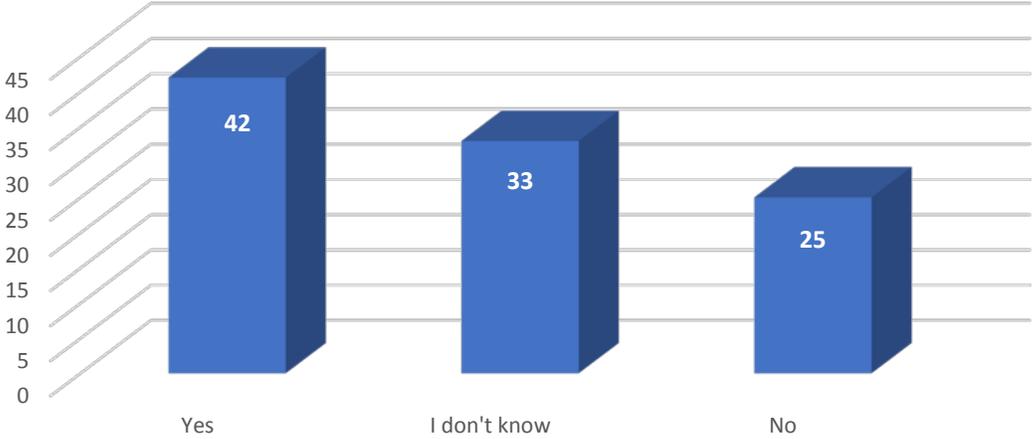


Designated Contact by Role

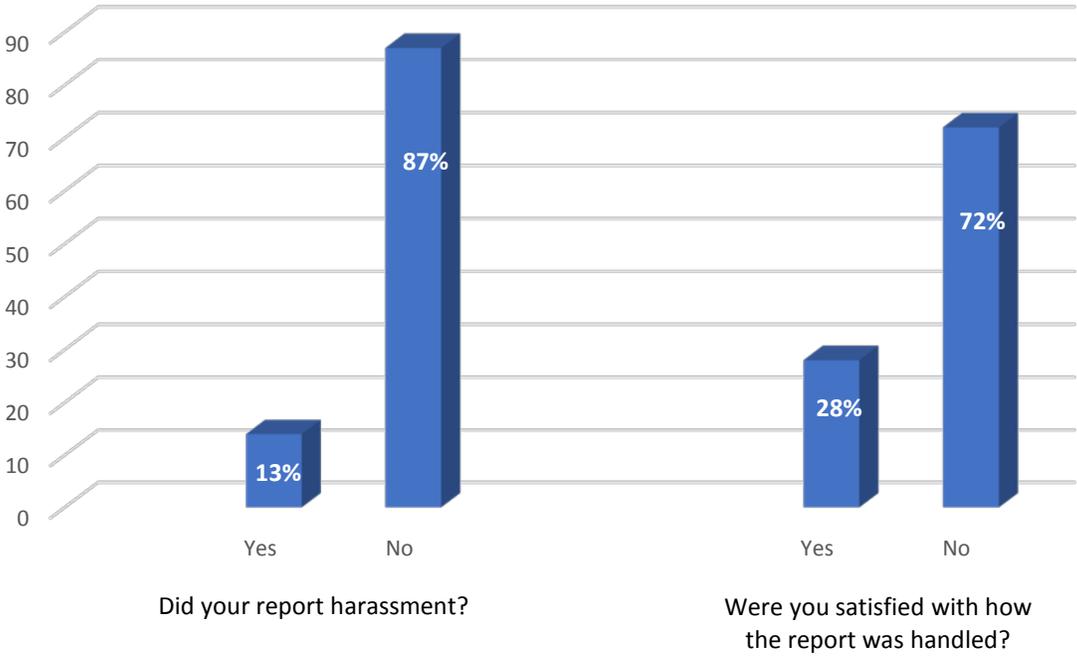
Do you know who your designated contact person is under the harassment policy?



Do you think the harassment policy is taken seriously by those who work in the Legislative Workplace?



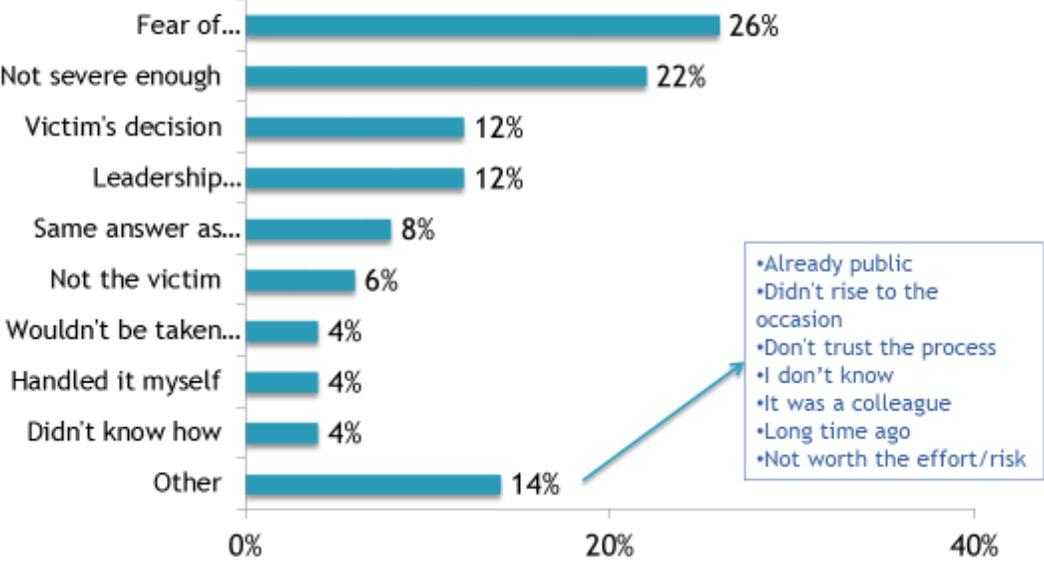
Harassment Reporting



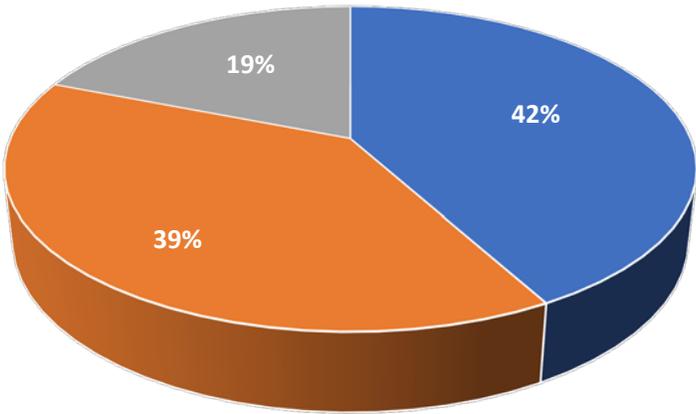
Comment Analysis

Reasons for Not Reporting SH

Why not? [report Sexually Harassing Behavior] N=112



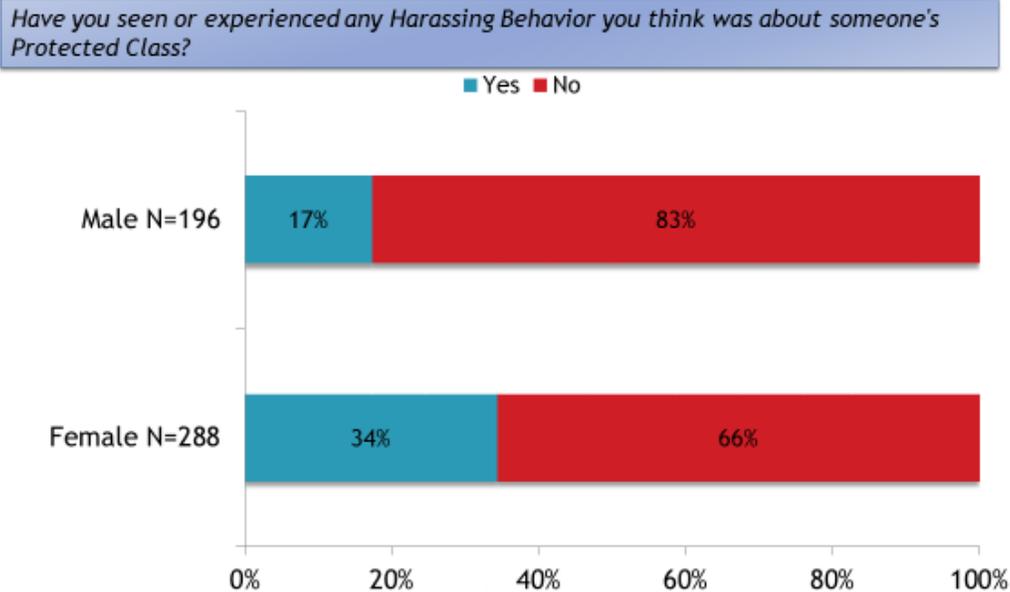
Would you be afraid of retaliation if you reported Harassing Behavior in the Legislative Workplace?



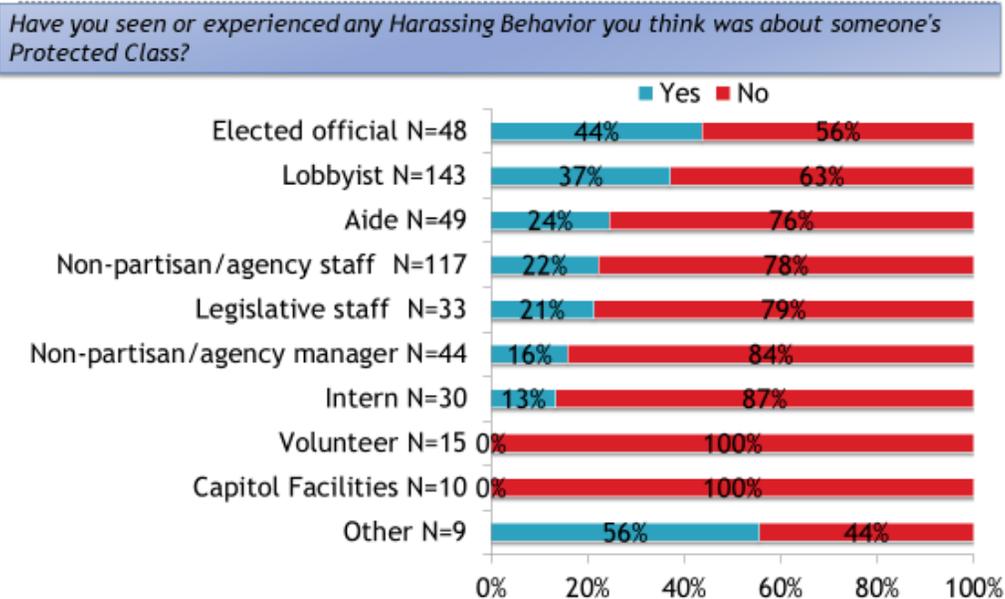
■ No ■ Yes ■ I don't know

Harassment

Seen or Experience Harassment by Gender

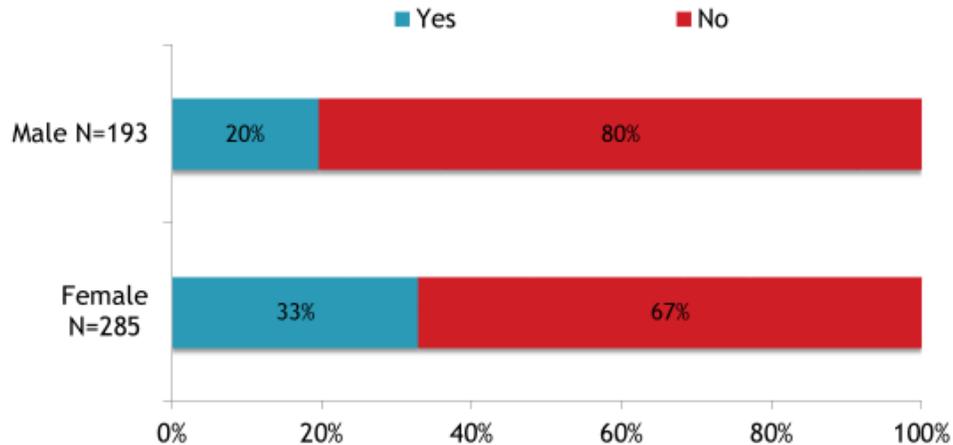


Seen or Experienced Harassing Behavior by Role



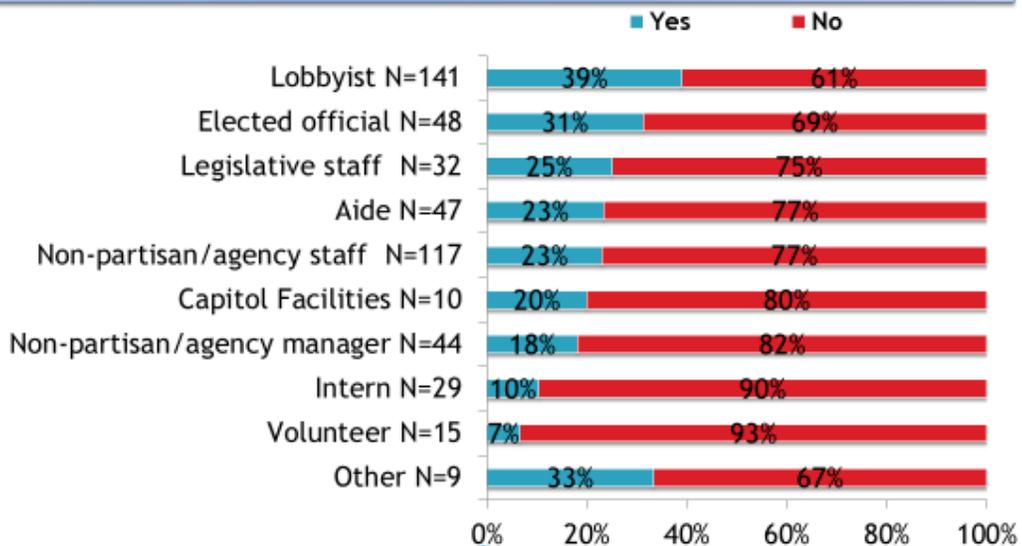
Seen or Experienced SH by Gender

Sexual Harassment has been in the news. Have you seen or experienced anything you believe could be described as Sexually Harassing Behavior in the Legislative Workplace?



Seen or Experienced SH by Role

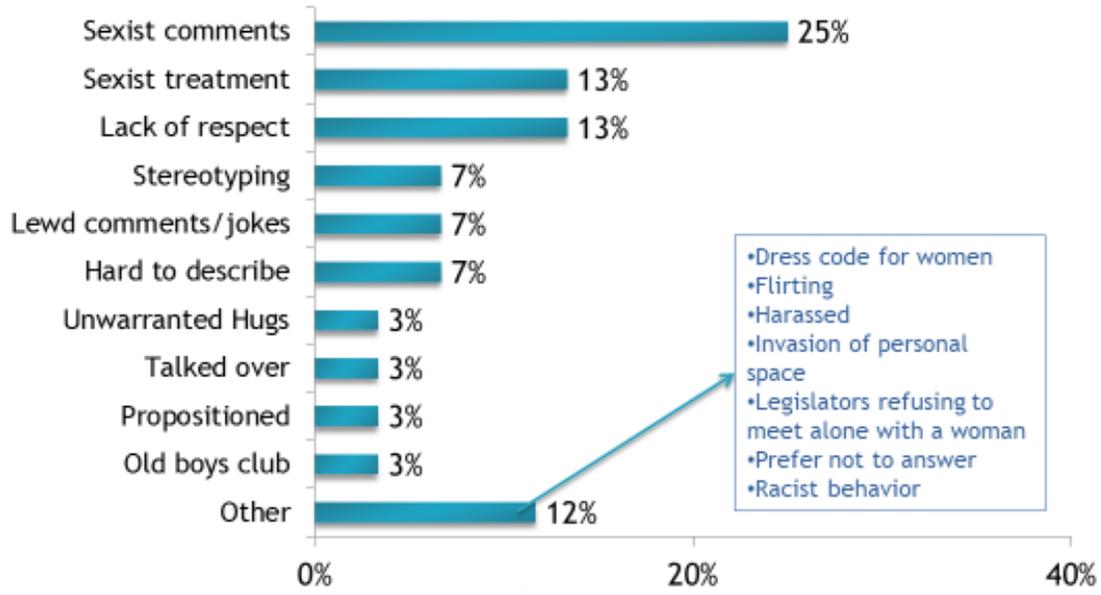
Sexual Harassment has been in the news. Have you seen or experienced anything you believe could be described as Sexually Harassing Behavior in the Legislative Workplace?



Comment Analysis

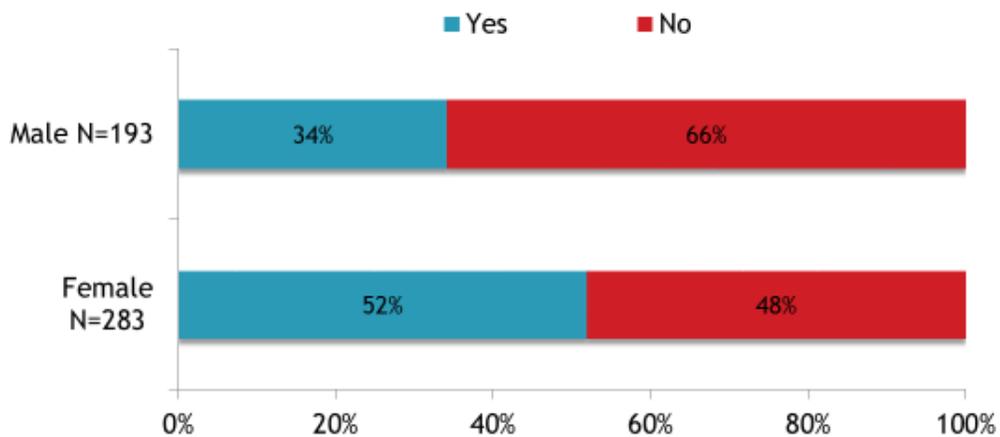
Descriptions of Sexist Behavior

Have you seen or experienced "Sexist Behavior" in the Legislative Workplace? [Y-N]
Please describe. N=212



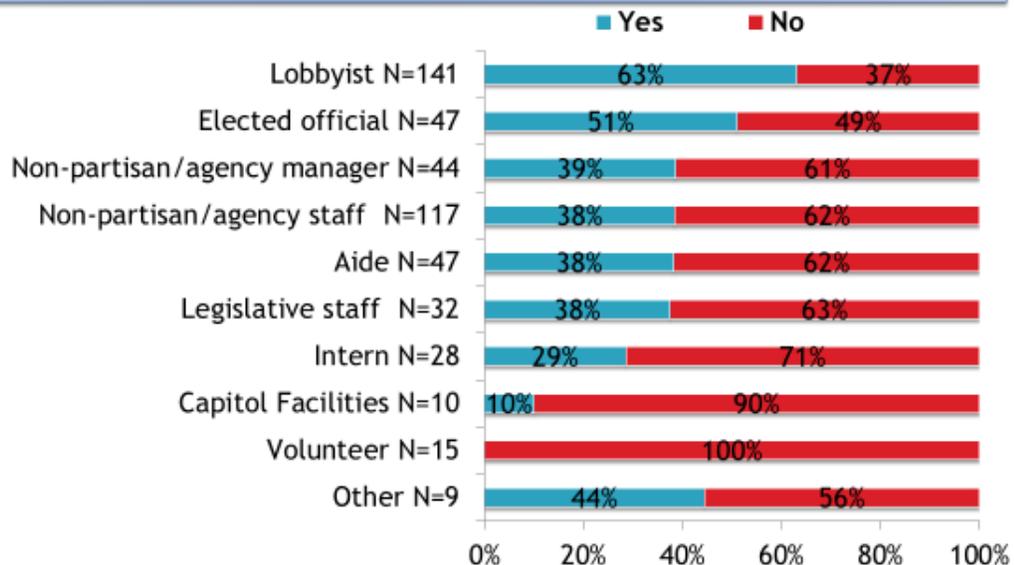
Seen or Experienced Sexism by Gender

Have you seen or experienced "Sexist Behavior" in the Legislative Workplace?



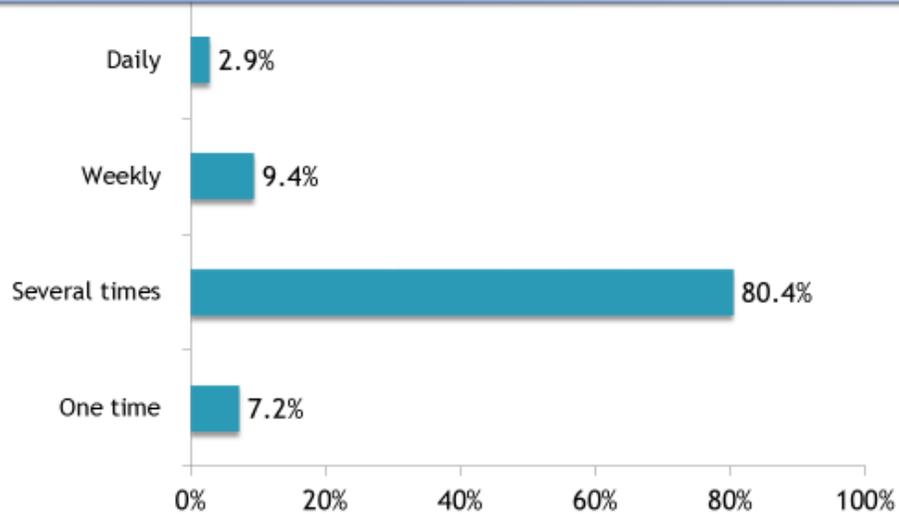
Seen or Experienced Sexism by Role

Have you seen or experienced "Sexist Behavior" in the Legislative Workplace?



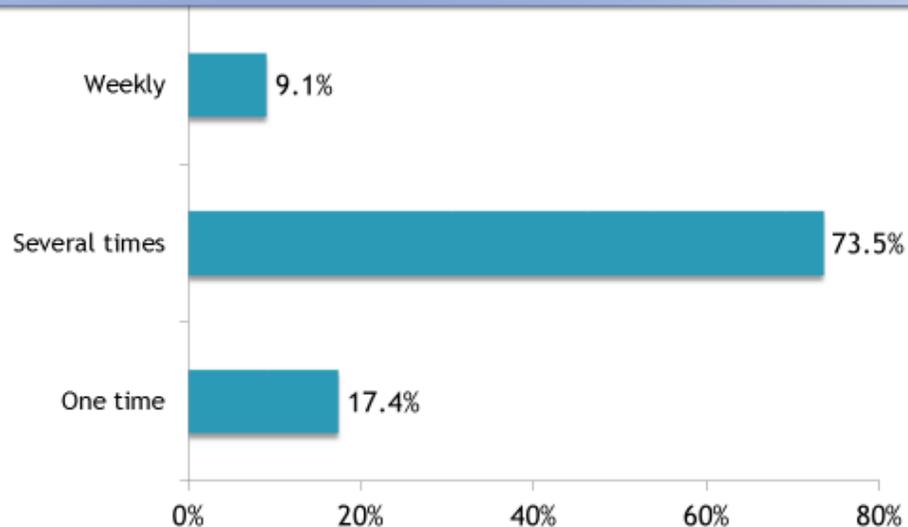
Frequency of Harassing Behavior

Was the Harassing Behavior you saw or experienced in the form of [click all that apply]:
N=138



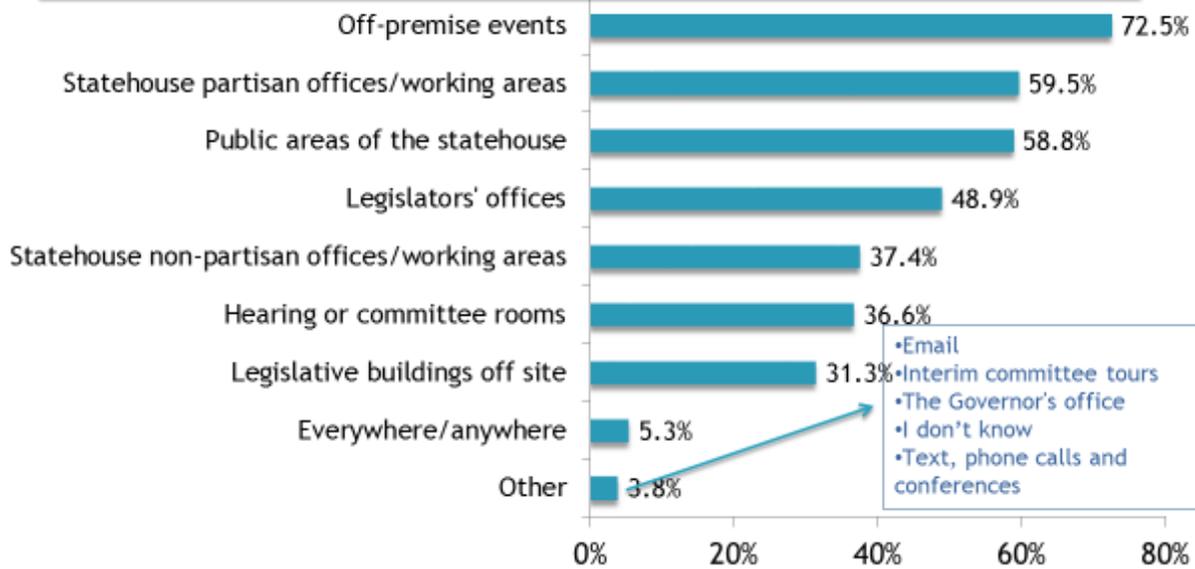
Frequency of Sexual Harassment

How frequently have you seen or experienced Sexually Harassing Behavior in the Legislative Workplace? N=132



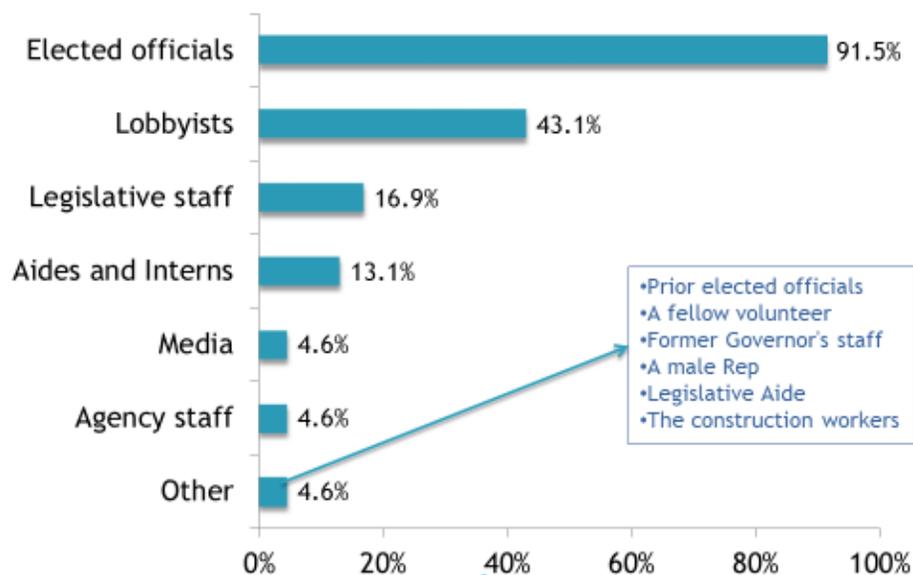
Sexual Harassment Location

Where does Sexually Harassing Behavior take place in the Legislative Workplace? [check all that apply] N=131



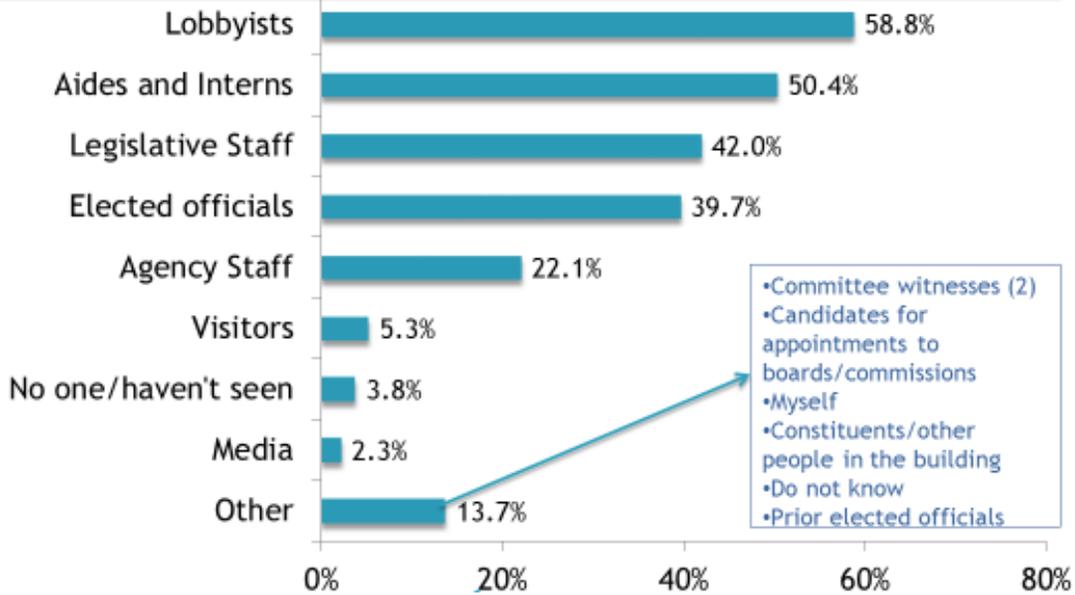
Who is Sexually Harassing

Who have you seen behaving in sexually harassing ways? N=131



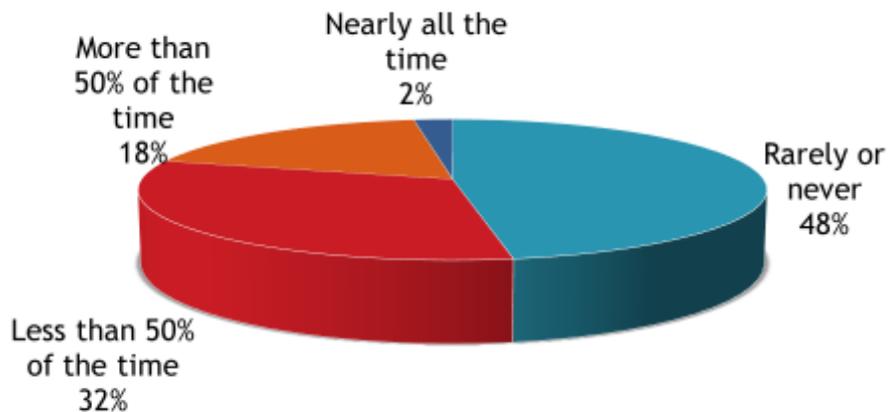
Sexual Harassment Subjects

Who have you seen subjected to Sexually Harassing Behavior in the Legislative Workplace? [check all that apply] N=131

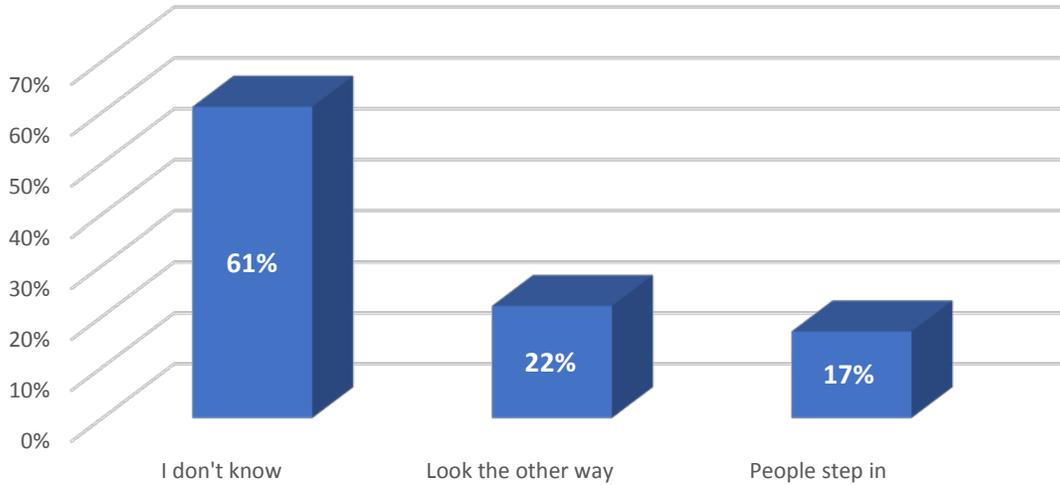


Alcohol as a Factor

Have you seen alcohol as a factor in Sexually Harassing Behavior in the Legislative Workplace? N=131

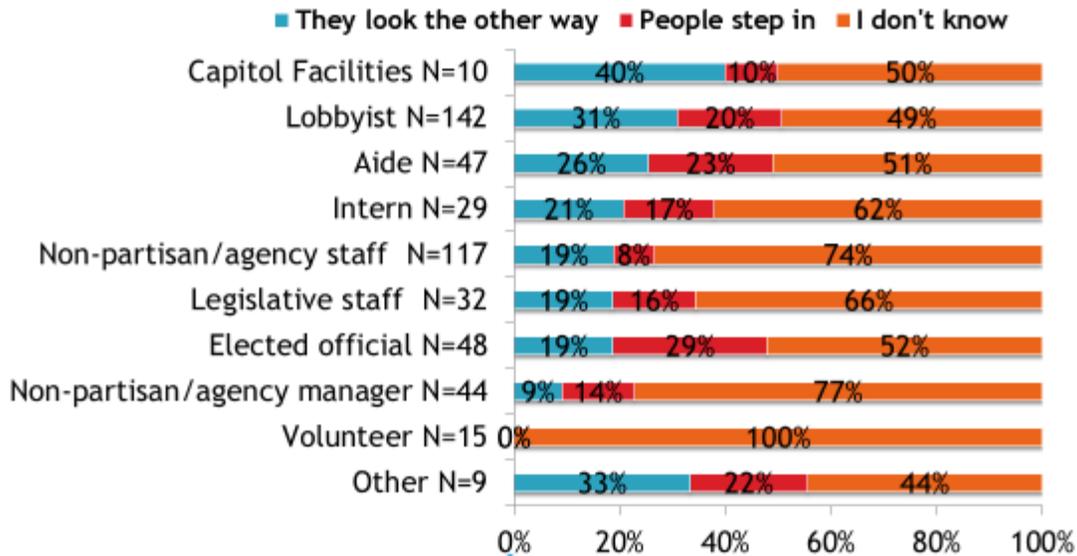


Have you seen anyone step in when there is Harassing Behavior in the Legislative Workplace, or do they look the other way?



Seen Others Step In by Role

Have you seen anyone step in when there is Harassing Behavior in the Legislative Workplace, or do they look the other way?



Public Survey Results

Describe your positive experience in the Legislative Workplace
Friendly
Kind
Courteous
Professional
Helpful
Senator Kerr’s office is positive and inclusive
Legislative staff is great
Legislators and OLLS/Leg Council/general staff all seem to be very helpful
Many positive interactions with Representatives and their staff in the common areas
Met with Governor Hickenlooper and was impressed with his pragmatism
Staff are generally intelligent, work hard, and want to do the right thing. Good staff at JBC, legislative council, and bill drafters.
Legislative staff is amazing
The nonpartisan legislative staff is great and helpful.
The staff of legal services is very professional

Explain a troubling experience you have had in the Legislative Workplace
Fights among legislators. Not professional environment with legislators.
I have often felt that as a woman, I haven’t been heard. I have felt leering glances and made to feel like my voice didn’t matter because of the power of my constituency or lack of money. It has consistently felt that I need to fit a certain demographic in order to have a valid opinion or policy stance.
Passions run high at the capitol and people are quick to be on the defensive. Others use intimidation tactics to accomplish their goals. There is an unrealistic expectation -that few can meet -to remain level headed about the work under the gold dome
I have seen verbal harassment behavior from members and improper relationships.
In the elevator a Senator created an uncomfortable moment with commentary that was said about undocumented individuals.
Bullying tactics by certain legislators
The lobby can be a very difficult place to work. Competitors are often dishonest

What ideas do you have to make our Legislative Workplace the example for the nation

Elevate the culture of the elected officials to eliminate harassment and focus on delivering results that build on the reputation of the state

Go beyond the “easy fix” or the politically convenient solution

Have more professional requirements of legislators

Hold people accountable and no discussion on 3rd reading anymore

I think frequent reminders about what constitutes good behavior for everyone is important. It may feel like kindergarten but the ‘basic soft skills’ of how to treat people cannot be overlooked or taken for granted.

I think the lobby needs to have a place in the building for Just the lobby. I feel this is important for the overall all culture in the building. The legislature has changed over the years since amendment 41, it collegiality has all but disappeared.

It is very apparent to me that legislators need diversity, harassment, and discrimination trainings. Additionally, it would be helpful to have clear workplace policies in place to protect workers at the capitol but also constituents who engage.

Make it clear to all people working in the legislation that there will be consequences for inappropriate actions.

Make things more open. More open testimony (and less texts to members) would make the process more transparent.

Seasonal staff employees should not be subjected to labor policies based on the capricious decision making

Stay true to the institution’s purpose and mission

We need a better workplace culture. We need a stronger, easier-to-understand workplace policy, and we need to actually hold members accountable for their actions. In this building, members are above reproach and there are consequences for calling out members for their bad actions. There are no consequences for them in this building. People are encouraged not to make formal complaints and instead try to work things out internally. That should not be the case because it allows the bad behavior and toxic culture to continue.

What do you want your elected official to know about your experience in the Legislative Workplace

Creating a safe working environment for all is important.

I appreciate the Solidarity shown for Rep. Winters. We all know this happens all the time to many people in our society but also those that interact with you as a legislator. You must do better both for the capitol but for folx outside

Just because my experience (or even if the majority of people's experience) has been positive doesn't mean that there isn't an issue that needs to be addressed or improvements to be made

Overall, things are good. More training and efforts to remove the very worst actors is always a continuously effort that needs to be made. But, again, things are actually good right now.

That it has been an honor working for them

That it is a very pleasant place but elected officials must be accountable to the same standards

They are role models and they should expect appropriate behavior from the lobby too.

They do mostly a great job

We are grateful for their service. I feel that the Rules have changed in the building in recent months. I feel some of the allegations albeit inappropriate aren't fair given the culture that has existed in the capitol for many years. It's unfortunate lives of some of these legislators now have been ruined.

We are people too. Treat us with respect.

SECTION 3.

Additional Interview Material

Voice of your Community

Following is a detailed compilation of information we collected during the interview stage of the information gathering process. The discussion focuses on many of the questions asked, answers given, and numerical breakdowns of how people answered. Because of the nature of an in-person interview, even yes/no questions weren't always as simple as a yes or no answer. As such, we have categorized answers as "Yes, but" or "No, but" when the person interviewed qualified their yes or no.

Additionally, we have provided direct, unattributed quotes from those interviewed. We feel it is important to hear what people had to say in their own words because it best conveys the diversity of experiences and gives a better sense of the emotion that surrounds this difficult issue. Because we guaranteed anonymity and a safe place to discuss these issues, many of the quotes are brutally honest. This is a rare opportunity for you to hear directly from your community in a way that most would never feel comfortable speaking without this guaranteed anonymity.

Finally, it should be noted that often people were only asked to expand if they answered no or qualified their yes in some way. Therefore, the quotes below contain more criticisms than is representative of the overall answer pool. As such, there are tables, when appropriate, to give a better picture of the overall breakdown of answers.

Do you feel comfortable in the Legislative Workplace?

Gender	Yes	Yes, but	No, but	No
Female	74%	16%	7%	3%
Male	86%	14%	0%	0%
Grand Total	79%	15%	4%	2%

The first few questions served two purposes. First, we wanted to gauge the level of comfort, safety and respect that people felt in the Legislative Workplace. Second, because these were the first substantive questions asked, we wanted it to ease people into the interview process. They are fairly simple yes or no questions that didn't require the person being interviewed to divulge more than they were comfortable at this stage of the interview. On the other hand, if the individual hesitated, struggled to answer or indicated they had more to say, the interviewer encouraged them to expand upon their answer.

Notably, only one person answered definitively "no" when asked if they felt comfortable in the Legislative Workplace. This individual was in the aides and interns stakeholder group.

Quotes from your community:

- "Yes, for the most part. . . Um, well, certainly the current circumstances have made it not terribly comfortable. There's tension both around the members and - and their struggles with how to deal with some of the recent events."
- "'Cause I'm a man."
- "I've read everything in the media and there is nothing there that constitutes any of what's happening. And now I feel like the smallest, littlest infraction is a threat to me and my position here. And I - I don't appreciate feeling the looming threat of these other people looking to just cry and complain about stupid little things. Well then, in addition, I feel like maybe to protect myself I maybe need to go start complaining about small, stupid little things that have happened to me."
- "Last session there was one of the aides that she was down at the end of the hallway and every single day I was here she would be screaming at her intern."
- "I did until recently."
- "Most the time. There are definitely, um, creepy people. Inappropriate sexual comments, and touching, and things like that."
- "There's just so much tension and there's a lot of things going on that's at the surface so, you know, I can't say it's a comfortable environment for me personally at the moment."

Do you feel safe in the Legislative Workplace?

Gender	Yes	Yes, but	No, but	No
Female	77.4%	9.7%	3.2%	9.7%
Male	85.7%	14.3%	0.0%	0.0%
Grand Total	80.8%	11.5%	1.9%	5.8%

Here again, it was the aides and interns stakeholder group who answered “no” or “no, but” to this question. Additionally, half of the custodial staff stakeholder group we interviewed said that they did not feel safe in the Legislative Workplace.

Quotes from your community:

- “It’s not that I don’t feel safe. It’s that I feel uncomfortable by what a handful of members do from time to time.”

Do you feel respected?

Gender	Yes	Yes, but	No, but	No
Female	61%	26%	3%	10%
Male	81%	14%	5%	0%
Grand Total	69%	21%	4%	6%

The stakeholder groups that said they do not feel respected in the Legislative Workplace were aides and interns, custodial staff and partisan staff. Notably, only women gave a firm no without qualifiers to this answer.

Of the partisan staff stakeholder group, 75% of those interviewed did feel respected. Thirteen percent answered “yes, but” and 13% said “no.” Many of those interviewed reported incidents of bullying. Much of what was described to us were incidents of Members yelling at their staff and, in turn, the staff yelling at aides and interns. It is likely that the reports of bullying are reflected in the partisan staff’s not feeling respected in the workplace.

Conversely, all of the nonpartisan staff said that they felt respected in the workplace, with 69% answering “yes” and 31% qualifying their yes in some way.

Quotes from your community:

- “There’s moments of confrontation where I deliver unwelcome news to certain legislatures and at times there will be, uh, belligerent responses from legislatures in reaction to it.”
- “You know - it almost is a running joke that the legislators do not respect us.”
- “By my boss and peers, for sure. Um, from members, I would say it depends. Um, I think that there are members who - I think in general all the members respect what we do as partisan staff. I think that some members respect it more than others and value it more than others.”
- “Well I, I guess, the answer I’ll give you is yes but remember that we have just by virtue of the fact that we are - have two different political parties represented here they don’t - the other side doesn’t and won’t respect, you know, my beliefs, my principals.”
- “Yes. I think it’s because I’m old.”
- “My level of respect had to do more with my party than my gender.”
- “Ah, yeah. I think it depends on who my interactions are with. On whether I’m treated seriously as a professional, um, being a female.”

Do people in positions of power set a good example for professional, appropriate workplace behavior?

Gender	Yes	Yes, but	No, but	No
Female	22.6%	32.3%	19.3%	25.8%
Male	25%	65%	5%	5%
Grand Total	23.5%	45.1%	13.7%	17.7%

We received a wide range of responses to this question. As the above table shows, the majority of people interviewed, 69%, responded affirmatively. Forty-five of the affirmative responses were qualified. These “yes, but” answers tended to be that most of the Members set a good example, but there are few “bad actors.”

Quotes from your community:

- “I think when you are in an elected position like that, you are held to higher standards.”
- “I remember coming to the Colorado Legislature and feeling like the members were a lot more accessible, friendly, welcoming, and respectful towards people who, like, when I was at [another] Legislature they would not, like, even look at an intern. Whereas here people were very interested to meet you, to get to know you. I remember feeling like it was just a really great environment from that regard.”

- “There are about 40% that don’t engage in what I’d say are traditional norms of workplace etiquette in terms of courtesies or certain levels of professionalism, they resort to bullying or, uh, verbal abuse to get their way.”
- “I would say that the majority yes, but certainly not all, and because we have a dynamic legislature with people who are term limited out and we are always cycling in new members the dynamic can change. The - you know, from year to year.”
- “I’m trying to think how to sort of phrase this in a fair way. I mean, I think that in - there’s sort of unique dynamics at the Legislature where you’ve got a lot of sort of lobbyists jockeying for attention and time and things like that with the legislators and so, you know, there’s sometimes inappropriate behavior from the lobby.”
- “I would rather say maybe 60% do and 40% not so much.”
- “Well I think in part it is due to term limits and trying to climb the ladder too quickly, really quick to impress without trying to think about the ramifications of either, um, holding something against someone because you lobbied against someone on a vote one day and people didn’t understand it’s a long-term kinda thing. So, just the lack of maturity frankly because of the lack of - because we have term limits I think drives a lot of that.”
- “A legislator yelling at you for no reason, just you know, unleashing. And then so a- so which was very inappropriate behavior. I mean, it’s inappropriate for anybody to do that, to scream and yell at each other down there, and so, um, whether you’re a lobbyist and an aide or a legislator. So I think that that’s, um, that kind of behavior needs to be reported as well. Just - it feels bullying. Abuse of power and bullying.”
- “Yeah. I think in the general atmosphere. Again, I’m a man. And I think that maybe women get treated differently, especially women in a subordinate role, you know?”
- “It sucks. I have to have chaperones when I meet with legislators now. This is my [xx]th fucking session and I have to have chaperones as a result of this. I can’t be with a man alone because, apparently, I am now a threat just by being a young woman, or what they perceive as a young, attractive woman.”
- “I think that I find that some of the men and some of the women are very flirtatious in their interactions with each other. And those are the kinds of things that make me feel uncomfortable. But it seems, like, the culture and the climate allows for the flirtatious kind of environment to exist.”
- “I think in this particular environment, because of the sort of, pop culture moment that we’re in because of the things that have gone to the media, I think that leadership is really in a position where they ought to do something and there doesn’t seem to be any sense of what that should be, what it would look like who should lead it. And so there’s just a lot of, uh, nothing really happens one way or the other.”
- “From what I’ve seen they kind of tag along with the subordinates instead of being a manager and acting as such.”

- “It would make more sense for me to hire a man, at this point, as a result of what is happening. I’m very uncomfortable with it. I’m very upset by it.”
- “Ah, it depends. It depends on the individual. I feel like my caucus absolutely does. I feel like other individuals in other areas don’t necessarily.”
- “I think that it has varied over my tenure here. Sometimes there’s been people who leadership has been amazing and respectful, and other times, not so much.”
- “There’s certainly a level of informality that some people use in their day-to-day work that probably is less than professional.”
- “I don’t think that all members totally respect the institution like they should.”
- “Staff, yes. Members. Which, by members, the House and Senate do not.”
- “The ones with which I work the most closely do definitely. I would say that overall it’s very professional. I think that there’s occasionally some really questionable passive aggressive behavior in the context of the political arena.”
- “In my immediate office yes.”
- “I think that may be an issue where the General Assembly could improve. I used to describe the General Assembly a little bit like school. It gets to be a little bit of a mentality, kind of like we’re all in college, we’re living in a dorm, we’re friend, we’re gonna joke and then there’s a sense of professionalism that’s not always there 100% of the time, I think. And I’ve noticed it just kind of when members get together in groups.”
- “I would say that there’s not been a lot of policing of professional appropriate behavior. There are a few bad apples in the legislature. And it’s not my job at this point to name names, but there are a few really bad people who behave very badly. Very inappropriately. I have never seen another legislator call them out on it. Even when the behavior is in a group of - is in front of another group of legislators. I’ve never seen another legislator say, ‘That’s not appropriate.’ ‘This is a professional workplace environment.’ And if legislators, the really good ones, the ones who are honorable and professional and respect everybody, if legislators aren’t willing to speak up, we have no voice.”

Is the General Assembly’s Harassment policy enforced?

Quotes from your community:

- “It makes it hard when you’re simultaneously trying to make sure that people are held accountable for their actions but also protecting confidentiality of people who didn’t wanna make things public when a lot of the outcomes that are possible or that are that would be appropriate for if there is, like, serious harassment in some regard would be very public.”
- “Certainly within my own immediate office, yes it would be followed.”

- “We have complaints that have been lodged against different members and, personally, you know, it’s kinda swept under the rugs. The information’s not shared in reference to opportunity for us to learn from some of these situations. So it creates a continuous culture of people maybe not knowing how to behave because we don’t know if those things are ever addressed. And it takes too long. I mean, some people have allegations that have taken months. I mean, really, like, a half of a year.”
- “So, if for instance I was uncomfortable in the corporate world and went to my supervisor and said this happened and I’m not really comfortable with it and they said okay, tell me about it. They would create a document and it would become part of my personnel record and then if I filed a complaint then that would become a part of the HR record. Here if I file a complaint it’s handled by my supervisor and then that’s taken to leadership and then if whether or not I go forward with a complaint that documentation is within that bubble. And so there is no way to determine a pattern of behavior. For instance, if this went on over a period of years.”
- “Yes, I do. I think the policy isn’t strong enough but yes, I do think that what’s there is enforced, yes.”
- “It’s something that, like you setting a boundary which is something that they will respect 99.9% of the time. It doesn’t mean that it always happens and that we shouldn’t have protections there that don’t get those boundaries respected, but we need to be working on how to empower these women to have those boundaries and set those in place. What we are doing right now is so disempowering, it’s so insulting to me. It’s making us all victims and it’s not the way things are.”
- “I see women who all of the time use their sexuality to their advantage down there. All the time. Throw themselves at male legislators for votes, flirt, wear their short skirts, wear their low-cut dresses, and so we put these men in this environment where they’re used to having women throw themselves at them, we tell them to act respectful, but then they go to a point where they have a flirtatious nature, which is fun, and then they talk to somebody else where that’s too far, and now it’s abuse.”
- “I think that it’s set up to fail. Even now I think it’s pretty well displayed that if you allow individuals to be the judge, jury and the punisher it’s not gonna happen. I think it’s just innately a huge conflict when you have caucuses and their leadership who their job is to protect their caucus, and now you’re asking them to not only punish a member of their caucus, but ultimately make the entire caucus look bad. So, I just don’t think it’s good policy at all. I think it’s more for show.”
- “I have no doubt that my boss would handle things immediately and appropriately were I to take something to him.”
- “I’ve never seen them enforced to date. I hope that will change in the future. There are a few very bad actors in the area of sexual harassment, and I’ve never seen them disciplined.”
- “I think on the occasions when I’ve heard people that I work with aides primarily express concerns not particularly - in fact not about sexual harassment but about other workplace concerns. They’ve been very hesitant to raise them with me or with their designated contact person for those matters and expressed the concern that they don’t want to get known as a

complainer and they want to leave the employment with a good record of being a cooperative helpful employee and not the kind that makes waves. And I think those are serious concerns that employees have.”

Have you received any training on the policies or harassment?

Almost everyone said that they received training when they were first hired, whether that was twenty years or six months ago. Other than the recent training this year, there has not been regular training of the Members of the Legislative Workplace.

Quotes from your community:

- Regarding Sexual Harassment training – “Cause people speak of it as something that they just have to do as a formality but that they’re above it somehow.”
- “And so for somebody who’s been here for a while I didn’t receive it for a long time, this year clearly that’s different. We just got our new training and, I think going forward we’re pretty clear that we wanna have yearly for legislators and staff, like, everybody needs to be doing this and be aware of what their recourses are and what the policy is.”
- “We did a training years ago that all of the lobbyists came to and, you know, the years go by - there was a training but it has been a long time. So there’s definitely a kind of breed - a new breed of lobbyists who have not been through that.”
- “I have but it was about 20 years ago.”
- “I think that last training that I went to was my first year.”
- “Yes, when we’re hired we attend a workplace harassment training that is either one or two hours and as I recall having worked in multiple settings and with different agencies in the State of Colorado - it was very good. It was the best one I had actually sat through. It was really clear what you could and could not do.”
- “I think I did, and I think I may have – twice in my career, but it has been so long ago that I couldn’t tell you any specifics about it or when that occurred.”

Do you know who to go to if you have a concern about harassment?

Quotes from your community:

- “Yes, we have two people in our office who are assigned as the people to whom we go, one is male and one is female just depending on whomever we would feel most comfortable.”
- “I wouldn’t go to anybody [to file a complaint]. [Why?] Well, I mean, to be honest with you I don’t think I’m a likely target. And so, I go down there, I conduct myself with professionalism, and in many cases, in almost all cases that professionalism is returned by many legislators. But,

I have seen, especially a lot of young women get harassed. I suppose I don't really feel like it's my place to speak up on their behalf."

Have you seen, heard or experienced any harassing behavior in the Legislative Workplace?

Gender	Yes	Yes, but	No, but	No
Female	16	3	2	10
Male	5	4	2	10
Grand Total	21	7	4	20

This question illuminated the fact that most people do not have a clear understanding of what is and is not harassment. Many people struggled to answer this question because they did not know if what they had seen would constitute harassment or was just inappropriate. Additionally, quite a few people said that while they have not witnessed harassment, they have witnessed a lot of bullying.

This question also triggered a different path of questioning. If the person indicated that they had witnessed or experienced harassment, they were asked a series of follow up questions to better understand the type of harassment, where it occurred, who was the subject of harassment and by whom, among other questions.

Quotes from your community:

- "How do you define sexual harassment I guess? Can we differentiate between slimy and sexual harassment?"
- "No, not per se. It depends on what is your definition? You have to realize, women's definition and men's definition are different."
- "Some mild unwanted advances as opposed to something more overt."
- "Per the policy instructions about harassment based on class I would say no. Which is hard for me because I feel like I have witnessed harassment. But purely in the sort of power dynamics of legislator versus subordinate rather than some class-based harassment."
- "There have been sort of maybe inappropriate encounters that I've had but not that I felt had risen to the level of that."

- “It was not based on any certain type of protected class. I witnessed sexual harassment several times and then mostly I’ve witnessed bullying tactics, pushing, putting your finger in someone’s face, a slight pushing. More than anything else it’s a verbal berating of people.”
- “Yeah, inappropriate comments, inappropriate behavior.”
- “I’ve been in earshot of it. And I would just kinda shake my head saying, uh, that’s inappropriate. But the two people who were engaged in it, it didn’t seem to bother them. And so I didn’t do anything about it. I just kinda shook my head.”
- “All of which I would construe to be - at a bare minimum, inappropriate and in some circumstances, it’s sexist or whatever, but, yes.”
- “I have sometimes felt a vibe that one could describe as a little strange but I have not actually observed anything that I would say, oh yes, that’s a clearly harassing behavior.”
- “And he responded by getting into my face and yelling so loudly and spitting into my face.”
- “No, the only thing I heard was when I first started, someone had mentioned, you know, there is just legislators, people to stay away from. But other than that, we were just talking about the culture.”
- “Have I ever had a male legislator be flirtatious? Sure. . . . yes occasionally. Absolutely. Was I ever offended? No, because I think it was the definition of what really offends me, what doesn’t offend me. That’s a personal decision about what I find offensive. What I have had more of is bullying.”
- “I just think it’s a matter of what we’re comfortable, cultures, our personal space. Some cultures, as you know, have very close personal space. Others do not. So, I think it’s about you being able to personally define that for yourself.”
- “I’ve seen a couple of things that I have observed. A male legislator hugging a little too tightly, and I have witnessed a female legislator unbutton the top button of her shirt and go talk to somebody, and then walk away and button her shirt back up.”
- “There’s no HR department for the entire building.”
- “I guess it depends on what you define harassing by. I think a lot of the allegations and a lot, um, of things have - have surfaced. I don’t consider that, uh, some of them so for me as far as harassing where I would think that it would be inappropriate - where I would say something then I haven’t experienced that because then I would kind of intervene if I actually heard something along those lines. I mean, I guess it’s hard though because everyone has different personalities and different opinions so one person can make a joke and maybe someone else didn’t like that or harass, as far as what I’m concerned - as far as, harassment. No. When it intervenes on sex, race, origin, anything of that sort where I would feel uncomfortable for anyone else - I haven’t felt that.”
- “I would have to say really no. I’ve heard about things happening but I’ve not personally witnessed it myself.”

What kind of harassment have you witnessed?

Twenty-two people said that they have seen what they considered to be harassment. Others said that they have witnessed harassment based on race, gender, a disability, religion and/or sexual orientation.

Quotes from your community:

- “Several aides quit because of harassment based on sexual orientation.”
- “Oh, sexual harassment, a ton.”
- “Like the young lady that I told you about with the disability issue. That involved somebody parking in a spot and an elected official questioning whether she legitimately should be parking in the handicapped spot.”
- “I think there have been maybe five or six times I’ve seen lingering hugs or touching that clearly was making someone uncomfortable but they didn’t say anything.”
- “I have seen some words about gay people.”
- “I’ve also heard lobbyist tell me that they’re not gonna report anything even though they’ve seen tons of stuff because this is their livelihood. They’ll be blackballed. Who’s gonna talk to them if they say anything about a legislator? And it’s true. That’s not a good culture. It’s not good for them to work in that kind of an environment.”
- “Probably a little bit of all. And when I first started, on my first day I was warned about specific members because of their inappropriateness and they’re just generally expected that they harass many people.”
- “Bullying I would say with the legislature’s in session it’s usually about every maybe three weeks or so someone on my team will report it to me that it’s happened.”

How frequently have you witnessed harassment in the Legislative Workplace?

Quotes from your community:

- “Kind of depended on the year and the group of legislators that were down there. So, there have been years when the culture has been worse than other years, it’s almost like fraternityish of kind of immature banter.”
- “It does kinda change depending on who is in leadership and what kind of example is being set and what the tone and the tenure is different under different people through the years.”

- “You know, there was a couple of bad actors who had reputations of being inappropriate with female staff and female lobbyists.”
- “A few times. I wouldn’t say on a weekly basis I see something, but regularly. Not as much now that I’m getting older. I’m not in as many of these situations as I’m getting older.”
- “Inappropriate comments, inappropriate hugs. Hugs lasting too long. Inappropriate, the way you look at people. Inappropriate invitations to dinner, to lunch, to drinks. Sharing highly inappropriate pictures on your iPhone with people. All of the above lots and lots of times.”

Did you report the harassment?

Gender	Yes	Yes, but	No, but	No
Female	7	1	0	9
Male	1	1	1	4
Grand Total	8	2	1	13

Many people who witnessed harassment did not report it because it did not happen to them. This indicates that there is a great need for bystander training to empower those individuals to speak up when they see harassing behavior. Others said that they did not report harassment that they had experienced because they were not sure if it was just inappropriate or whether it constituted harassment. This indicates that there is a need for better training so that people know where the line is drawn.

Others expressed concern with the reporting process. Some did not report because they did not think that anything would come of filing a complaint, or, worse, that they would be retaliated against for filing a complaint. Some were concerned with confidentiality and would have reported if they could have done so in a confidential manner.

Quotes from your community:

- “Frankly because I did not feel threatened or I did not feel like I was in a hostile environment for it. I thought it was inappropriate, but it didn’t rise to a level where I could not do my job or I felt like somebody else could be threatened from it. It was more really juvenile just behavior as opposed to feeling threatening if that makes sense.”
- “I just kinda felt like it was inappropriate, but I did not do anything about it. I didn’t bring it to anybody’s attention or anything like that.”

- “It was not against me and I didn’t think it was my place to be the reporter.”
- “I feel like there would be some retaliation.”
- “I’ve had a couple of my own experiences that for whatever reason I just didn’t - well, in one case I didn’t really realize what was happening until so long after that I wasn’t motivated to make an issue of it.”
- “I just don’t feel like the current climate there’s a lot of benefit to saying anything. It just doesn’t seem like a whole lot would happen.”
- “Yes, but not through the appropriate means I understand now. I didn’t file a formal complaint.”
- “I just didn’t feel like there would be any type of consequence. I don’t know if it would be properly handled. I don’t know if I could trust, if that makes sense, anyone to report it and that it would be confidential.”
- “No. I didn’t because I’m a big boy about it you know, I can handle it. But it just gets monotonous when I see some of the same stuff goin’ on again and again.”
- “I have absolutely zero faith in the current policy that something would actually be done. I think, if anything, it would just harm the person making the accusation.”
- “Well who you gonna report to? Who supervises the lobbyists?”
- “I’m in a position and kind of going with the flow not letting things get under my skin much and I never felt anything threatening directed toward me.”
- “I wasn’t the one being harassed.”
- “Sure, it creates a toxic environment. But, I’m also not confident if I spoke up that anything would be done or my confidentiality would be maintained. And to be honest with you, I have a lot of trepidation even talking to you today. Because if my confidentiality is breached, it could negatively affect me.”

Where does Sexual Harassing behavior happen in the Legislative Workplace?

Quotes from your community:

- “Most frequently I think not physically in the workplace I think it would be more after-hours.”
- “[The current policy] doesn’t talk about any sort of harassment that occurs outside of the Capitol or outside of the workplace. It only talks about the workplace, the office, meetings, that sort of thing. But, every year at the end of the Session there’s this big post-Session party. And so there’s nothing in here that covers what if someone is a little bit creepy at that party and touches you or does something that you find uncomfortable? So, it’d be nice to see that resolved.”

- “There’s a long tradition in the legislature of when the – this is just a random example – but when the stock show comes to town the rodeo queens come to the legislature and the male legislators are very enthusiastic about getting their picture taken with them and giving them hugs and this and that and it’s just like, ‘No. Stop.’”
- “Just like someone would grab her buttocks on the senate floor and come up to her in her office and give her an inappropriate hug. And someone saw pornographic pictures shown at them in someone’s office. So I think a lot of it is within the capital.”
- “Everywhere; in the hallways, in offices, in meetings, in events outside of the building. With lobbyists. Lobbyist events. I mean, it’s everywhere. It’s rampant”
- “It can be in people’s offices. It can be in the hallways. And there’s a lot of post work, lunch, dinner, drinks that happen.”
- “I would say within like the legislative like official workplaces you see more of just immature and unprofessional behavior not necessarily what you would call harassment. So that would be the subject of a different interview. How to properly act like an adult.”

Who behaves in Sexually Harassing ways?

Quotes from your community:

- “I’ve seen lobbyists do it. Legislators do it. I’ve seen staffers do it. I think it’s a lot of people.”
- “I would say that more comments than not come from members. Rarely over the years I mean I can count on one hand the number of like weird things that have happened staff on staff.”

Who is most frequently subjected to Sexual Harassment?

Quotes from your community:

- “It’s more with experienced ones than it is with the inexperienced ones are the stories that I hear.”
- “I think staffers, aides, interns, definitely a lot staffers and I think lobbyist too.”
- “Most of them are either the really young aides or interns or lobbyist who are not gonna say anything ‘cause of their business relationships. So, you know, there’s very few people who still would willing to talk about the issue in the building.”
- “I would say legislative staff. And then close behind female lobbyists.”

Is there pressure to go along with Sexually Harassing behavior?

Gender	Yes	No, but	No
Female	7	2	4
Male	2	1	3
Grand Total	9	3	7

Quotes from your community:

- “I think there’s a desire not to rock the boat. And I don’t know that it necessarily has to do with, oh I better not say anything or I’ll lose my job so much as I just don’t wanna create waves.”
- “You’re younger and you’re not seasoned and you haven’t been - you wanna keep your job.”
- “I don’t think there’s so much pressure as I think we’re just not aware.”
- “It’s such a strange environment that we’re not aware of what are the do’s and don’ts. And I think this training was really helpful because it really outlined some of the do’s and the don’ts and they gave you examples, you know, it’s not uncommon for people to shake hands all the time but hugs and putting arms around one another, I mean, those are the things that were discussed in the training. And now I think we have a clear understanding of what we what we do and don’t have to put up with.”
- “If I was an aide or an intern and a letter of recommendation or potential future job was riding on my going along with going to get a few beers with so and so, I would absolutely say that well consciously or unconsciously, you’re gonna feel compelled to participate in some of that stuff.”
- “Absolutely.”
- “I don’t know if it’s pressure to go along with it, more as it is just to kind of try not to, like, pay attention to it.”
- “Of course.”
- “I think an aide or intern would feel pressure to more laugh it off then say hey that’s not right. They may feel pressure if it did cross the line and went from something that’s like, what a fucking slime bag into hey I should say something they would feel pressure not to say anything.”
- “Absolutely. Yes. There is - well, I wouldn’t say there’s pressure not to report. But I would say, what’s the use in reporting? It’s not gonna change. We have no one to report it to. Our confidentiality may be breached. We have to talk to these people. We have to ask these people for favors all the time. If we step out of line they will stop talking to us. And once they shut us out we can’t do our jobs down there.”

Have you heard or experienced any sexist comments?

Gender	Yes	Yes, but	No
Female	48.2%	7.4%	44.4%
Male	46.7%	0%	53.3%
Grand Total	47.6%	4.8%	47.6%

Over half of the people we interviewed have heard or been the subject of sexist comments. Almost as many men as women have heard these comments. This indicates that there is a culture of acceptance around sexism.

Quotes from your community:

- “Where do I begin? Generally - and it’s odd because it comes from both men and women.”
- “I absolutely have seen and experienced older gentlemen, regardless if they’re staff, legislators, lobbyists, whatever, they tend to refer to women as darling, sweetie, honey, girly, you know. There’s an assumption that we have less value, or that we are somehow assistants rather than colleagues or co-workers.”
- “That tends to be just a more normal part of everyday life for women generally which is sometimes we’re touched in ways that we don’t necessarily like, but we just put up with because we don’t wanna be rude.”
- “Absolutely. No matter if you’re the smartest person in the room image things are still commented on in the lobby, comments that I’ve heard from a legislator that’s no longer there. He’d be like, oh do you know that heel height is inverse to intelligence, like, this woman with these high stilettos must be an idiot because she’s in those. That was said by another woman. So yeah, those kinda comments are heavy and catty and they’re commonplace.”
- “I’ve heard things like that especially with these older guys. But they think they’re being polite when they’re really just being creepy.”
- “I’m sure I have but mostly things that you might have heard in passing.”
- “No. Not ever.”
- “Just like, ‘Oh, I really like the way your ass looks.’ Just kinda that type of stuff.”
- “No. Because ironically there’s a lot more women at the Capitol than there are men.”
- “Massive number of times. Even this year, after people have been accused of sexual harassment, I’ve still heard inappropriate comments from those individuals who have been accused.”
- “There are a couple of legislature members who have been the subject of complaints. And I

have once in a while witnessed their behavior in terms of general demeanor. Never any specific comment. Never any specific gesture or, um, approach to any individual. So the short answer is no, I have not.”

Do you trust that any harassment complaint you raised would be kept confidential?

Confidentiality was a big concern for many people we interviewed. Only 40% of those interviewed had full confidence that their complaint would be kept confidential. An equal amount of the people interviewed were certain that it would not be kept confidential. With such little faith in the complaint system, it cannot be effective.

Additionally, many people wanted a way to anonymously file complaints so that they could stop poor behavior without the Respondent knowing they complained, for fear of retaliation. For most, the risk of harming their career outweighed the benefit of reporting inappropriate or harassing behavior.

Quotes from your community:

- “Well because as of today watching Twitter explode with people demanding to see redacted information, people trying to insinuate who those people might be. Clear comments of retaliation from the accused. I think that despite best efforts that any woman could be easily outed if they - especially if they’re currently working there.”
- “The way that the policy has been construed, I guess, it depends on your definition of confidential. If it was simply that, let’s say I -- hypothetical situation -- let’s say I wanted to file a complaint against somebody. I just wanted their behavior to be addressed, I didn’t want them to know who had filed it against them. Under the policy the way it’s currently being construed there’s not a way to make an anonymous complaint so no, in terms of against the perpetrator.”
- “I think it’s really challenging if victims feel that they don’t have control over whether things become public or not. There shouldn’t be -- in my opinion -- sort of an either/or choice between either my issue gets resolved hopefully, and it’s gonna be public or I keep it private and nothing happens. I think if you make it too open and public, I think that’s gonna be really challenging for people and it could lead to a chilling effect.”
- “I do think that there needs to be some more flexibility in terms of the confidentiality piece but I also think that there need to be adequate protection so that people feel that it’s a process that they can use.”
- “You know, it seems like an unlevel playing field about who has to keep it confidential and who doesn’t.”

- “I don’t know. It sounds bad. I just don’t know - and again, it goes back to is it worth it to report it? What is the potential fallout?”
- “I think it’s true in any office environment. But certainly in our office, people know each other and if you’ve been around long enough, people know you really well, their friends with one another and so if all the team leaders in our office are very close friends with each other, if I tell one of those team leaders something that happens to me, can I realistically expect that that team leader is not gonna say anything to anyone else in the office that knows me? That really doesn’t seem likely.”
- “I would hope so. But, you know, we’re all human. Someone’s gonna say don’t say anything, but it will slip, it will happen. But I would trust that my own instincts that I would tell the right person that I know I could trust that it wouldn’t go any further than where it should go.”
- “It would depend on who had the information.”
- “Yes. But I’m a white male over 50. I mean, that’s sort of a given, right? Sad to say.”
- “No, absolutely not.”
- “If it were for staff, yes. With members, I don’t know that it would.”
- “Nope.”
- “Because the media plays a huge part in that and somehow the media keeps getting everything and people like to talk and people at the Capitol, it’s not confidential.”
- “Yes. Because of the people that are immediately in my chain of who I report to.”
- “I do. I think that I’m in a little bit of a more unique position than other people who might report. Because I work in a non-partisan staff office, so the people that I would report to would be people that I work with on a daily basis and know and trust. I wouldn’t report to members of leadership with whom I might have a different relationship and so I have a basis of trust about any complaint that I might make because I trust the people that I would report to and I trust them personally. In terms of how that might play out on the larger scale, I don’t know.”
- “As far as it could be but there are limits to how confidential you can keep it and for how long and so I would expect it would be treated confidentially - I think it would be, as far as feasible.”
- “I just don’t think there’s anything confidential at the Capitol.”

Do you trust that any harassment complaint you raised would be investigated fairly and impartially?

Only 40% of the people we interviewed believed that a complaint would be investigated fairly and impartially. Politics played a big role in this answer. Almost everyone who said they

were not confident in the system's impartiality stated politics as the reason.

Quotes from your community:

- “I could see the way that things are set up with who the other contact people are, people having concerns about that. I mean, anytime you have somebody who's a partisan elected official that's supposed to be investigating a complaint that could be politically challenging for them or their members or that could be used as a weapon against a member of the other party, you're gonna have issues.”
- “It's like employment law. You have it in place to guard against the worst behavior and sometimes people take advantage of that but the law is still there for a better purpose.”
- “Because I do feel that given the fact that we have two different parties at work here and that we are often at odds with each other that there is a certain trust level with people of our own party that doesn't necessarily transcend to the other party.”
- “I think that because of the nature of the work people want or need to protect the members of their caucus before they want or need to protect people who work in the building.”
- “I would trust it would be investigated. But, I don't know whether impartially. I think it depends on who it is and what party's in power. I would hope that it would be investigated impartially. But I think the confidentiality issue creates less likelihood of people reporting.”
- “I think it depends on who's doing it. I think Mountain State, whose doing them now, is actually showing credibility. And I'm actually very, very surprised about their findings. So I have a little bit more faith in the investigation processed through them.”
- “Before these allegations I probably would've said yes and then now seeing how things have kind of turned out, no.
- “I really think that the Capitol needs an HR department because I know [the designated contact people] and I don't even know if they even have training to be honest like they are in the HR department so even going to them when you do have a complaint, I don't even know if they're qualified to be taking my complaint to be honest.”
- “Yes, some of it has to do with that my personality would dictate that it would have to be.”
- “Hmm, I mean within a political environment as much as it can be. It depends on who it's with. Let's say I had an issue with a member. I mean I trust it's as fairly investigated as it can within a political entity. If it was me with another staff person yes, I would have faith it was fair. If it was a lobbyist and myself, yeah I'd have faith that it was fair. It's whenever it's with an elected official I think there's always that element of like okay, because you're going to go through everybody's background that's investigating you and find out who they're donating to. So then you're always . . . Yeah it's all money right. Who's giving money to somebody.”
- “For instance, if it was reported to my contact person in my non-partisan agency I don't know what they would do from that point. I don't know if they know. I don't know if they would have to seek outside advice from either the legal staff or the legislature or some other entity

which they were referred to. I think some of that process might be made more clear in the future. So I feel comfortable making the report, I feel comfortable that it would be maintained - that confidentiality would be maintained. But I don't know how the big investigation process would go and I really don't know if my complaint were against a member who would be subject to discipline by leadership. I don't know how that process would interface with the contact people that I go to. My contact people can't impose discipline on a member of the legislature."

- "I think it wouldn't be if the people assessing the complaint were unduly sympathetic to the person complained of or were lacking in sympathy for the person making the complaint and I think that's quite likely to happen in many cases because if the accused or the person complained of is a friend and a colleague of the people being complained to, I think that's liable to influence the reaction of the – friendship may influence it."

Do people generally trust the complaint system?

Fifty-two percent of people interviewed said "no" when asked if people generally trust the complaint system. Only 11% answered "yes." No complaint system can be effective if people don't trust it. The sign of a good complaint system is people utilizing it. Though it may seem counter intuitive, an increased rate of complaints, especially in the beginning, is a positive sign that people are familiar with and trust the effectiveness of the complaint system.

Quotes from your community:

- "I don't think people knew what the complaint system was or is for that matter. So I'd say no."
- "I think if they felt that they could come talk to us about some things, because being young and working in a very professional place like this, I think is already shocking. Just an aide and intern - I'm not fully sure if they'd feel as trusting I guess. To bring that complaint."
- "The concerns that I've heard -- and this is purely hearsay -- just from other people about how something may or may not be handled, I felt it tended to be very biased . . . I have no doubt personally that things would be handled appropriately and be addressed."
- "I don't think that as many people know about it so I think they neither trust nor distrust it. I think the average person that comes to work at the Capitol doesn't really know about it."

Is there flirting or sexual innuendo in workplace interactions?

Gender	Yes	Yes, but	No, but	No
Female	19	2	0	7
Male	11	3	1	4
Grand Total	30	5	1	11

This question and the following question should be considered together. Though thirty

people said that there was flirting or sexual innuendo in the workplace, only fourteen of those thought that it was a problem. For most, it became a problem when it crossed the line into unwanted attention. Although, it should be noted that for many who thought it was a problem, it was because they did not feel that behavior was appropriate, on any level, in the workplace. It was also noted by many that this type of behavior is not common in the non-partisan offices, but that it is a regular occurrence among Legislators and others working in the Capitol.

Quotes from your community:

- “That would be the kind of thing that I might of heard in passing. It’s not something I experience in my own immediate workplace environment. I’ve actually not had anything that I felt was inappropriate go on around there directly.”
- “Yes and yes.”
- “Not in terms of the interactions that I have and probably the interactions that most staff or at least non-partisan staff members have. But I’m not surprised at all that it probably does go on amongst other people that work in the Capitol.”
- “I don’t know that I’d go to sexually suggestive commentary, but flirtatious behavior absolutely.”
- “Flirting - think that’s an everyday thing so I think that’s everywhere. I think I walked into this building and someone flirted with me. As far as sexual innuendo - no because you don’t get alone time at the Capitol. You are never alone.”
- “Absolutely, all the time.”
- “Flirting or sexual innuendo, yes I suppose I have, but not much. No not much. I haven’t seen any - though this may be that I’m insensitive but I haven’t seen any that made me wince.”

If you have seen flirting or sexual innuendo in workplace interactions, do think it is a problem or not?

Gender	Yes	Yes, but	No, but	No
Female	8	5	2	8
Male	6	1	2	5
Grand Total	14	6	4	13

Quotes from your community:

- “I think what’s important is the relationship between the two individuals that the interaction

occurs. I think if you have a relationship with someone and you generally know them to be someone who's a little more expressive or someone who is little bit more intimate in their personal relationship with you that they can give you a hug instead of a handshake. But if you get a weird vibe from someone and you had not given them that permission to kinda have that interaction with you, I think that's when it's inappropriate."

- "No. But it certainly is the, you know, the slippery slope. Where does this end?"
- "I think because people who work in politics are naturally gregarious. I feel like people who work with each other in that realm, like cohorts, co-workers, there's a lot of banter, social interactions. They get together outside of work, that kind of a thing, and I personally don't think that there's anything wrong with flirting and being who you are in this space."
- "Our office is very, very professional."
- "I don't think that it is realistic or even sort of desirable for workplaces to be entirely sterile of natural human interactions. When it gets to a place of people feeling uncomfortable and feeling like they can't express that they're uncomfortable with it or that they feel they have to put up with it or else their career is gonna be impacted, that's where I think it becomes a problem and I think we've seen some instances of that but I dunno. There's sort of a spectrum between just perfectly cold interactions to friendliness to flirting to sexual harassment and I think we need to be able to fall somewhere on that spectrum. But, when it becomes persistent, or people make it clear that they're not comfortable with it and it continues, I think that's a problem."
- "Yep, I do. I really do."
- "I think it makes it difficult to know what that line looks like or how to behave. But it can also be fun to joke around with your colleague or a staff member or whomever, and so it's just kind of this confusion, not knowing what's okay and what's not. But I also think that you can make comments that are clearly innuendo and it could make somebody uncomfortable and someone else could potentially laugh it off and that makes for a difficult environment for people on both sides."
- "I do not think it's a problem, but, maybe it's just my personality. I think you become friends with legislators and joking and flirting is kind of all part of that over time."
- "Gosh, I think it depends on who you talk to. You know, some lobbyist definitely use that to their advantage. You know, it just depends if its consensual. But for a lot of people, yeah, that is a problem."
- "I don't think it's any more flirtatiousness than any other job I've ever worked in."
- "It's part of the way human beings communicate with each other."
- "So as far as anyone in a position of power and someone younger? No. I don't see that because that'd be extremely inappropriate but I'm looking at more of colleagues that way and so I see it as that but anyone on the other side of that? Definitely not."
- "I think that's it a problem when it crosses a line and it makes the person who is the recipient

of some of the comments uncomfortable.”

- “It creates an extremely hostile environment.”

Have you seen inappropriate sexual relationships in this workplace?

Most people hadn’t seen inappropriate sexual relationships in the workplace. The comments surrounding this question mainly focused on the fact that a relationship between a Legislator and an aide would be inappropriate because of the inequities in the power dynamic.

Quotes from your community:

- “I don’t think that anyone in my nonpartisan office should have any relationships with anybody that could have influence over their work.”
- “I think it becomes inappropriate when there’s a power dynamic that’s being exploited. Like a relationship between a legislator and their aide or somebody else’s aide could potentially be really challenging.”
- “There’ve been relationships in the past between legislative members who were married to other people. There have been relationships between staffers and legislators. The staffer, legislator thing is inappropriate just from a professional standpoint.”
- “A legislator dating a lobbyist while he was married. A legislator dating another legislator while she was married.”
- “The power structure I think you could find question in that. Even if both parties are single I’m not sure. I guess it comes down to does one party think that they’re getting something out of it or not besides hurt feelings but that’s just life right. I mean that’s not professional. I think there are instances where people should probably take stock of is this worth having sex with this person? What am I going to get out of this? But that’s also life, right?”

How important is it, for people’s career success, to maintain cordial relationships with people in positions of power, on a scale of one to ten?

It is undeniable that maintaining cordial relationships with people in positions of power is extremely important. Almost everyone ranked it between nine and ten, with the vast majority of people ranking it is a ten.

Quotes from your community:

- “That building runs on relationships and it also runs on spite.”
- “I think relationships are important in any profession. In leadership, if you don’t have good

relationships it's hard to get cooperation, it's hard to influence and drive performance. So, I believe that relationships are important.”

- “Very important. . . I think it depends on your job within the general assembly.”
- “10 being absolutely yes. You can't be successful, you can't work down there unless you have good relationships.”
- “100%. Very important. I think that's one of the things that makes this issue is so complicated is that as a staff person our whole mode of operation is very deferential to the members that are elected. Because the members of the legislature are citizens themselves until they come into that role, I don't think they always understand that that's the basis on which people are interacting with them. I think that they think I'm a normal person and now I have this role. And some of them think of themselves as very powerful and others of them think of themselves as I'm just a normal person and now I'm doing this different kind of job. But across the board I think when they're interacting with staff, especially staff who have been there for a long time, we're gonna perceive them as powerful and people that we need to defer to.”

Would the importance of maintaining cordial relationships with people in positions of power impact your willingness to bring forward a complaint of harassment?

Answers to this question varied. Some people said it would absolutely impact their willingness to bring forward a claim while others said that it would not deter them if they had a legitimate cause for concern.

Quotes from your community:

- “If you're talking about a staff member who feels like a conversation has gone into the inappropriate with a legislator, do they want to pursue that because they're worried about the impact it would have on the staff person? I think that's absolutely true.”
- “You wouldn't want your name associated with it. If you've taken this internship - if you've taken this gig, it's presumably because you're interested in a career in the public policy arena. You're dealing with very powerful people in the state you are working in the policy arena, you don't want to alienate anyone or make anyone think that you're trouble or you're difficult or really sensitive or whatever it is.”
- “100% yes.”
- “Boy, I suppose it could be a factor. I wouldn't wanna rule it out. But if someone genuinely had a complaint about someone that they worked with, even someone that they work with regularly who was, a supervisor of theirs, that because we have an anonymous process and because the workplace is very respectful around here. I don't believe a person would be deterred from making a complaint if there was a legitimate basis for it.”
- “I think staff you lose your job, interns and aids - they don't really stick around. They're there for a session or two, and they get paid hourly and then they leave so to be honest I feel that

they should feel safer if anything then maybe staff. Because staff has a salary job and benefits and that's technically their boss. Everyone in the Capitol's kind of your boss in a sense, all the members that you work for."

- "You know, I think, in any situation it depends on the people with whom you work and given who my boss is I don't think so. I do think that there's situations where depending on who the supervisor is or what may need to happen, that that could possibly be the case. But, I don't feel that way at all with my boss or the people who have been around my workplace for a really long time."
- "I mean if you were that intern and you're a guy or a girl and you're coming in stars in your eyes and then your boss or their colleague tries to grip up on you or something, or continually invites you out for drinks. I mean those things are weird. It's just weird but what do you do? I mean you have to say something but at the same time your options are really limited especially if you're an intern you're not getting paid maybe you're getting college credit or something like that. I don't envy people in those positions. That's a big challenge."

On a scale of 1-10, with 1 being the worst environment in terms of harassment and 10 being a harassment free workplace, how would you rate the Legislative Workplace?

On average, people interviewed ranked the environment an eight. Some people qualified this answer by explaining that their office is nearly harassment free, but that they could not speak to the larger Capitol setting. While some people ranked the Legislative Workplace closer to a three or four, most often people had a positive impression of the workplace in terms of being relatively low levels harassment. This indicates that there are pockets of harassment or individuals who may be particularly bad actors. If individuals do not happen to interact with those individuals, their experience is generally very positive.

Quotes from your community:

- "I think part of it depends on how frequently you interact with certain people. It seems like there are some people who are kind of serial crossing the line or harassing, inappropriate behavior, and so if you are somebody who has to work with those people a lot I imagine you might have a very different perspective on it than somebody who doesn't work with those people a lot. I personally have not worked with those individuals very much."
- "I don't know. I'm not an intern. I'm not a lobbyist. So, I don't know how it feels for them. I think it could potentially feel very different. But I don't feel from my perspective in work that my office does that it's a particularly high level of harassment. I feel like it's about average."
- "I think the legislative workplace is too broad. I would actually rank my personal workplace as a 10. I have really had no concerns. I would say the general assembly as a whole based on

things you over hear. Things you see. Lower than that I don't know. I mean I could pick a number 7, 8 - again from my immediate work it's been totally fine."

- "You know, I think the culture over in the Capitol might be a little different. They get a little bit different people and my office is very small also, so we don't have as many issues I don't think because it's not like the bigger groups of people where you might not interact with everybody daily. And our group is smaller, so I think that if someone were to have those issues that they wouldn't last very long."
- "Well, I think it really varies year-to-year depending on who's there and what their environment is and the level of ethical standards that are held. And it can really vary chamber-to-chamber. So, at any given time I think that really shifts."
- "I guess again it goes back to the definition of harassment."

Are there groups of people or individuals who you think we should try and interview if we can?

We asked this question to not only confirm we had identified all the stakeholder groups, but to also identify groups that were perceived as particularly vulnerable. Many people said that aides and Interns are vulnerable, pointing to their age or lack of sophistication in this particular workplace. Others saw the lobbyists as most vulnerable as their jobs depend on maintaining relationships and gaining access to Legislators.

Quotes from your community:

- "Aides and Lobbyists are the people in the most vulnerable situation."
- "I mean just from my perspective I would probably focus on the aides, interns. A lot of them are younger, first job. They're also interacting with more people in positions of power."
- "I'm not buying it with the aides and interns from a different office being vulnerable to a senator, especially of a different party, who has no authority over them or any ability to affect their career. But the female lobbyists up there are, in my opinion, very, very vulnerable. And they tend - I'm friends with lots of them, and several of them trust me a lot, and they tend to work together to try to make sure that they protect each other. As I said earlier, maintaining relationships - on a scale of one to ten they are an eleven for importance. I worry about them a lot."
- "Administrative assistants or office managers - They are the eyes and ears of everything."

What are your recommendations?

We concluded each interview by giving individuals an opportunity to provide

recommendations or expand upon something we had already discussed. For many, this portion of the interview was far lengthier and in depth than the prepared questions above.

Quotes from your community:

- “Build something into the policy that protects the younger workers from being either harassed or disrespected just because they’re a little bit younger.”
- “As a legislative aide working for one of the caucuses how often you aspire to be a staffer. And so coming to the staff and telling them that you’re having this issue and kind of creating problems for them, or what you worry that you’re creating, you know, creating hassle for them, I think is an additional deterrent whereas if you have, an independent HR that you can go to try to handle those things, I think that would be really important.”
- “More openness. I don’t understand why if the legislature has a process for dealing with ethical behavior where an ethics panel is convened with penal powers to do their own investigation why this isn’t treated the same way.”
- “If I had to pick one thing it would be to fully empower the year-to-year employees, the aides, the interns, the young people that come in that are wide-eyed and ready to learn, and to me seem the most vulnerable to inappropriate behavior because they’re just learning to navigate how the workplace works and how the capitol works.”
- “I think workplace harassment trainings in general are kind of challenging because everybody comes into that meeting, like, I’m not a harasser. I know this is great for everybody else but for me I know what I’m doing and that’s kind of a barrier to effectiveness.”
- “One other sort of small piece is the retaliation component. And how you handle what are the repercussions if these things happen. Those are some things that need to be flushed out. There needs to be sort a guideline of what are appropriate responses to things.”
- “Ultimately having a little bit more of an HR department.”
- “There’s a certain extent to which people need to be empowered to feel like they can stand up for themselves as well. I don’t think we want a system where everybody feels that they need to just file a complaint about everything that happens. But they need to feel that they can if they need to and they need to feel also empowered to handle things on their own if they feel that that’s a better way that they wanna handle it.”
- “They’re just sort of maybe don’t realize that that’s how they come off. They don’t recognize that having a power differential like that really impacts how people are able to respond to you when you sort of flirt with them or whatever. And that it can come off as aggressive or, create an uncomfortable or hostile work environment. I think some of them just simply don’t understand or haven’t sort of put the thought into understanding the impact that that has.”
- “We need to treat each other with respect and this is a moment of reckoning. My worry is that men are gonna be so afraid to have any kind of a professional relationship with a woman that women are gonna, somehow they’re gonna lose. They’ve been victims and then they’re

ultimately gonna lose anyway because they've worked so hard to be included at the table and now the old boys club is gonna rise again in the shadows."

- "It's almost, like, if you're in the cafeteria - let's say, you know, all the secretaries eat together and then all the managers eat together and then the vice presidents have their private lounge or whatever. There's a lot of silos within the Capitol. So, I think that there needs to be a high level of respect and the ability to look for opportunities to get to know someone."
- "The biggest thing would be to be able to come forward to someone who is independent like an HR person and have that complaint reviewed independently from the leadership. When I say leadership, I mean the senators and the political leadership."
- "I really think that HR person should be located downtown somewhere in an office separate from any of our Legislative buildings."
- "In the corporate world if I went and I said I was uncomfortable that would be documented, be put in my personnel file and it would be turned over to HR. And then if this were to happen over and over and over that's how HR can establish a pattern of behavior. That's how you determine if a pattern of tardiness exists or a pattern of calling in sick - any sort of pattern that is not conducive to a productive work environment. And that documentation trail does not exist in the Legislature."
- "I think having some sort of concrete accountability would make it better."
- "I actually think that we have to work together, we have to work as colleagues with both sides of the aisle and that means we have to be able to meet. We have to be able to meet in closed rooms. We have to be able to meet with people, constituents, etcetera, lobbyists."
- "I do think that effective training and effective messaging could be very helpful. Particularly with the members. I have, for example, heard from other staff, younger staff who attended sexual harassment training when they started that they felt like a lot of the legislators sort of sat in the back and giggled the whole time and it wasn't actually taken seriously."
- "I think a more professional attire."
- "Respect. When people don't do a very good job with seeing each other as humans. A lot of the time they see each other as a means to an end. And I think that makes for a really complicated work environment takin' the nature of the work."
- "I think a lot of the managers need training. Supervisors need training. Just on- overall just ethics and professionalism."
- "Oh dear. Well I mean my job is pretty great and my office is really great. Just going by the news, it'd probably be some more openness about the process. It sounds like the process, particularly at certain levels is not very transparent."
- "I think that, the legislator, the elected legislators need to be trained. I think everybody needs to be trained, but I think they don't only need to be trained on sexual harassment. I think that they need to be trained on professional courtesy and the expectation of that environment."

Nothing's going to alter everyone's behavior, but I think that there's some explanation about what hostile workplace environments are. It might be helpful. And specifically to young interns."

- "Holding people accountable. Having a completely independent system where an individual can file a complaint and not only is the investigation, the complaint and the punishment process completely out of the hands of any department there, not just the legislative branch, but as far as nonpartisan staff I think that would be a huge help. And just getting rid of the incestual relationships where people protect each other, that would be great."
- "I think a greater emphasis on personal responsibility amongst all of the people that work there."
- "Accountability of the members."
- "I think legislative leadership should work with Leg Council and Leg Services to include in their really wonderful orientation of freshmen legislators, a whole section on sexual harassment, and very specifically address these problems and what's appropriate and inappropriate behavior."
- "I think everyone should do training, if you get a badge to that building I think everyone should have to go through training and I think everyone should feel safe. I think having an HR room and people completely not into the politics of it."
- "If legislators would police their own colleagues. Because we will never be able to speak up, but if colleagues called each other on the floor, and said, "You can't do that." Some of this would change."
- "I do think that there could be a level of professionalism among all of the members. The staff isn't there to be friends with legislators and I think there's sometimes a relationship like an expectation that we should be having fun with them or joking around with them. And not every member and not every situation, but there is a little bit of a need to develop kind of a fun and joking personality to interact with certain members and I think if we could just keep all the interactions just like about work, professionalism."
- "The power dynamic is probably the biggest thing to make members of the legislature aware of. That somebody is maybe joking along. And they're just doing it because they think that they need to be deferential to you or they think that's what they need to do as part of their job and to show respect to somebody who's in an elected position."
- "A complaint procedure that is clear, confidential until released. Give the complainant clear timelines so that the complainant knows that it will be kept confidential until such time and he or she knows exactly the time that will take to unfold."
- "I would love to see a regular HR presence in the capitol. A definitive reporting system that feels safe to use. . . there are no tiers. Like right now, filing a formal complaint is - as we've seen a very big deal. . . but right now it's either - from my perspective it's nothing or it's the big guns and very little in between"

- “But, that personal conduct that’s outlined and that should exist inside of your office is the same sort of conduct you would expect to see anywhere that a public official goes.”
- “I wanna make sure all these boxes get checked and this action gets taken and I want you to be a part of this process. I’m gonna follow-up with you on this process let you know what’s going on so that you feel comfortable that we’re not taking your complaint lightly.”
- “I would like to see a better-defined policy.”
- “I would love it if the general assembly could actually figure out how to deal, particularly with members who are not treating staff and lobbyists appropriately. I mean those aides that’s a huge concern, right? That’s a tremendous power imbalance and I would like it to be very clear what’s acceptable behavior and not and I would very much like if there were clear and immediate consequences for members.”
- “I would hope that the recommendations would give power to people, not to make complaints but to also make interventions and define it for themselves - help them to feel like they have power.”
- “Boy. If you uncover some facts that I’m not aware of I would be interested. But in our particular agency -- and I don’t mean the Legislature generally, but -- in [our agency], I would be surprised to learn if it’s not squeaky clean. I have to marvel at how respectful everybody is around here.”
- “I would like to see a detailed new policy that’s actually catered to a political environment and not a corporate environment. Where the policies offer support for the individual filing the complaint. That the process was so confident that the individual reporting will not face retaliation, will not have to face punishment from leadership or the legislative branch. And that it’s fair and accurate.”
- “I would love to see more relationship building practices and exercises.”
- “There should be clear lines drawn between different complaints. Just having some understanding that nothings really gonna happen to the individual you’re complaining about except for maybe it will be brought to their attention and they’re gonna need to address their behavior and make sure they’re a little bit more careful in the future of other people’s feelings.”
- “I think that we should be looking for who is not at the table. And we should be saying who’s not at the table that needs to be a part of this dialogue? Because I think the best public policy is one where you have all the appropriate stakeholders. So, if there’s all males in the room and there’s not females in the room, then someone would say, ‘Well we need to check on it to see their perspective.’”
- “I might add one thing is that kind of the environment the legislature set has a trickledown effect to the legislative staff and while I haven’t seen sexual harassment from legislative staff I certainly have seen harassment or bullying type behaviors from legislative employees towards [our] employees. And I think that’s a direct relationship to them seeing how their employers here treat people.”

- “I would like to see a clear and anonymous process laid out.”
- “Especially when you speak to people who’ve been here 30, 40 years. There used to be a very high level of respect between the nonpartisan staff and the members, and from their observation, and mine – that has been deteriorating over time, and so we’re on the slippery slope where we are just becoming nameless subordinates rather than well-respected, highly-experienced people.”
- “If we have kids coming down here from different school groups - I mean, there’s very few people of color in any positions down here. And so what would really be nice to see - have someone on the Governor’s Cabinet or behind the front desk. We don’t see a lot of people of color. Now we do have ‘em cleanin’ the building. But I would like for our young people to be able to see someone that’s not cleaning the – maybe they’re drafting legislation.”
- “Overall it’s a good place to work. I know that a lot of people have left due to management. I just think there should definitely be some training for management. Sexual harassment, harassment, ethics, things of that nature.”
- “The best thing that I can say is that being an intern and being a staffer and a lobbyist - I’ve never been treated differently.”
- “In everything that I’ve eluded to has pointed to one thing and that is culture change.”
- “When you said this - this is how it impacted me and I just wanted to get this off my chest. Where do we do that at?”
- “I’ll put it this way, if I were to rank all 100 legislators in terms of importance, meaning leadership, ability to pass bills versus the least important people in the building you could go through the bottom five and those are the three to five people who have complaints filed against them. That doesn’t mean it’s those people at the bottom of the level of importance that are the ones making all the offenses, it underscores there is a lack of comfort in coming forward if it’s someone who can really harm your career. There are certain people who have complaints out there that are very well near the top of the order of priority or importance in the legislature that will probably never see complaints filed against them because they could make life very difficult for people.”
- “If we had some kind of ombudsman that handles these things I think that would resolve this issue really well. Because they would be able to keep the file and be able to look back and see, has this person had issues over the years. But now when you have the complaint the contact people that are elected officials that get term-limited and then leave there’s not a provision really for handing over your records to the next person.”
- “I mean, when it all boils down to it there’s a lot of good people.”
- “Bullying leads to harassment in the workplace, or hostile environment in the workplace.”
- “We don’t need all the details, we just need to know that it’s not being ignored.”

SECTION 4.

Additional Research Material

Attempts to Measure the Scope of the Harassment Problem Nationally

Since #metoo emerged on the scene, there have been efforts made to measure the problem nationally. In 2017, the EEOC processed over 6,650 new sexual harassment reports.^{xliii} However, this number likely underrepresents the prevalence of sexual harassment in the workplace, as the agency estimates that 75 percent of all workplace harassment incidents go unreported altogether. A significant body of research supports this estimation, finding that many of those who have been sexually harassed neither report the instance to management nor file a formal complaint with EEOC.^{xliiv} The EEOC explained in a 2016 comprehensive study of workplace harassment that “anywhere from 25 percent to 85 percent of women report having experienced sexual harassment in the workplace.”^{xliv} Though this presents a wide gap, its conservative estimate predicts that one in four people are affected by sexual assault. A recent national survey found the baseline number to be more like one in two (48 percent).^{xlvi} Moreover, men brought forward 17 percent of EEOC sexual harassment complaints in 2017.

It is also difficult to measure retaliation. Although the EEOC reports that retaliation is the most common issue alleged by federal employees and the most common discrimination finding in federal sector cases, it estimates that these figures are likely not representative of actual occurrence.^{xlvii} Individuals may fear further retaliation for filing another report, in addition to their initial complaint of sexual harassment. This reiterates the importance of retaliation policies, as well as the monitoring and enforcement of those policies.

Determining which methods to use, as well as how frequently to measure sexual harassment is essential. That said, the EEOC clarifies that prevention is ultimately the best tool for eliminating sexual harassment in the workplace. Having an official written policy allows workplaces to create a legal framework for protection and to clearly communicate that sexual harassment and retaliation will not be tolerated. However, policy implementation and effectiveness are dependent on overall workplace culture.^{xlviii}

Fraternization Policies

There are other supplemental policies that can help prevent issues of harassment from occurring. For example, a bi-partisan panel of lawmakers from both the House and Senate in Arizona has been charged with drafting a code of conduct for state lawmakers that would include prohibiting relationships between legislators and staffers. The New York State Assembly has long had a detailed policy prohibiting fraternization with Student Interns. And, as noted above, Oklahoma now requires lawmakers to sign anti-fraternization and anti-nepotism forms at the beginning of each term.

More Far-Reaching Legislative Steps

Some legislatures have also sought, compiled or received recommendations for taking even more expansive approaches to policy than what is recommended here. For instance, top lawmakers in the Kansas legislature requested that the Women's Foundation ("WF") of Missouri review its anti-harassment policy. The resulting WF recommendations were formulated through input from legal experts, advocates, and community stakeholders, and are grouped into four categories: Ethics and Workplace Culture, Accountability and Monitoring, Education and Awareness, and Victim Resources.^{xlix} Some suggestions included: (1) the creation of a non-fraternization policy for Student Interns, legislative staff, elected officials, and lobbyists; (2) review of sexual harassment

policies and procedures on an annual basis; (3) the establishment of a Capitol Student Intern Ombudsperson; and (4) provide independent, outside legal counsel to investigate sexual harassment investigations.

Next-Generation Approaches in Universities

Universities have also responded to national scandals and negative climate-survey results by exploring new approaches, particularly to training. Many have implemented online training modules. Harvard University, for example, launched an online presentation with images, videos, and text that attempts to inform students of the resources available for gender-based harassment and sexual assault, and to educate undergraduates about Harvard's policies.¹ Harvard officials clarified that the module was not meant to be an all-inclusive training, but rather, is one component of a longer-term plan of policy and training rollouts. Many other universities including Indiana University, University of Wisconsin, Princeton University, and Michigan State University have created similar modules. Some require students to do the module and pass a post-training exam, while others follow-up with students for separate training if they do not complete such online. These trainings are frequently products of companies like Everfi.

Additional responses include revving up bystander training, which intends to put the responsibility of creating a healthier campus culture on *all* university community members. Universities have turned to this approach in order to stimulate change. Many of these bystander-training programs are accompanied by university campaigns. For example, Project Unspoken, Walk a Mile in Her Shoes, and The Hands Project expose sexual harassment and assault survivors' stories, while also encouraging a myriad of stakeholders, most importantly men, to stand up against the issue.

Finally, universities are grappling with whether to adopt mandatory reporting (MR) policies. Schools, such as the University of Virginia, that have already implemented MR, consider staff and faculty “responsible employees,” meaning they must report when they come in contact with someone who reveals sexual harassment, assault, or discrimination. Failure to disclose allegations could result in fines, termination, or criminal sanctions. This title does not apply to confidential resources like school psychologists, psychiatrists, and professional counselors. Mandatory reporting, however, remains fairly controversial. Some believe it will have negative consequences that undermine the policy’s intentions, for students could be deterred from reporting if they are aware that faculty must report the incident.^{li} Proponents of the policy believe that MR can allow students to maintain their autonomy while also ensuring institutions of higher education can get individuals the resources and support they need. Although universities with mandatory reporting may be required to share all known information, including names, with law enforcement, alleged victims who do not want to talk to or move forward with enforcement are not required to do so.^{lii} In addition, many universities encourage students to report incidents through an online portal system. Students can report anonymously, but are informed that doing so may limit the extent to which a university can utilize the submitted information.

SECTION 5.

Detailed List of Identified Problems and Opportunities

Culture must be the General Assembly's first and most important focus for improvement

- 90% plus of the people in the Legislative Workplace feel comfortable and safe. Nearly that percentage feel respected in the workplace. This is a solid place of positivity from which to start looking at how you collaboratively set norms to transform to a Next-Generation legislative workplace.
- These positive numbers are not the end of the analysis and should not be interpreted as a signal that the culture is good enough. Almost 30% of the people we surveyed and interviewed have seen or experienced harassment. This presents a serious workplace dysfunction that must not be trivialized.
- Harassment does not occur in a vacuum. The experiences of victims, painfully lived out in the public media setting over the past few months, are evidence of problems in the culture. For decades, as reported to us, service in the Legislative Workplace came with an unspoken rule that it was “career suicide” to report harassment by an elected official or person in a position of power. It simply was not done.
- This historic moment presents the opportunity for the General Assembly to change its culture to create one in which all persons feel safe to come forward, and that is built around civility, trust and respect.
- By seeking this information and engaging in this process, Leadership has already expressed its commitment to transforming its culture and doing what is necessary to create a healthier workplace. It is commendable that leadership has set the bar high, and this is an important first step in changing the culture. Culture starts at the top.
- Building a positive and respectful culture does not, however, stop at the top. Every Member of the Legislative Workplace has a shared responsibility to create a safe and respectful culture. As it stands, this obligation is not a part of any stated policy expectation, and there are no formal proactive measures to train and develop people with this expectation and skill set.
- Proactive measures to improve culture have not yet been employed.
- Culture change is not easy, fast or without effort. It requires a series of proactive measures to begin to reframe behavior norms, outreach to increase diversity and inclusion, better preventative measures to intercept behavior before it becomes harassment and to offer

informal processes for resolution at an early stage, and better policies to react when a situation is more serious. None of these measures has yet been employed.

- This effort will also require regular monitoring of the health of the culture, which does not occur today. Such measures can test the effectiveness of proactive measures, and help the General Assembly track the effectiveness of its role modeling, outreach and education efforts. Today there is no obligation to do annual surveys, listening sessions or other measures to gauge the ongoing health of the workplace.

Reactive measures should be improved

- Every respectful and safe workplace needs effective reactive mechanisms to handle complaints, if they do arise, in such a way that people have faith that they will be treated fairly and there will be consistent consequences for wrongdoing.
- As it stands now, there is a sense that legislators can get away with misconduct that others in the workplace cannot, and that there is a double system of justice that dissuades people from coming forward with complaints against legislators. Taking some parts of the process outside, and away from partisan pressures, can help correct this.
- The entire process, from reporting to investigation to the imposition of consequences, is seen as driven by politics and not by concepts of fairness, impartiality and a diligent and professional search for the truth. The complaint and resolution process is politicized more than it needs to be because of its structure, some of the policies and the confusion around lines of authority, the reach of confidentiality and other factors. The best practice for these processes require impartiality, confidentiality and expertise in the personnel involved, in order to be done right.
- There is very little trust in the complaint and resolution process within the legislative bodies and the staff that support them. This distrust is not shared by employees and staff in the nonpartisan agencies, who trust their management and the complaint and resolution process within their teams.
- The policy and procedures has a one-size-fits-all process, that in and of itself can dissuade people from coming forward and making their complaint known. Including an informal resolution process, together with the formal process, would give the General Assembly a powerful tool to intervene confidentially with positive measures to try and stop and correct misbehavior before it becomes harassment.
- Reactive measures should be balanced with positive outreach and proactive measures, to enhance and preserve the collegiality that results in not the General Assembly's overall effectiveness, and the positive experiences that many members of the workplace report.

The role of alcohol and its presence in the workplace, both in socializing and networking, should be examined. It is important to ensure that legislative work is not done while under the influence. It is also important that social interactions between legislators and employees (or Student Interns), with little to no job security, do not become unprofessional or harassing when judgment is impaired or appropriate boundaries are impacted by the consumption of alcohol. The power differential should always be a consideration for a Legislator in matters of socializing with alcohol.

Human Resources investments are beginning, which is wonderful

- Hiring a qualified and experienced Legislative Human Resources Administrator is a great first step at creating the necessary infrastructure to build a transformational workplace.
- However, while this is a great first step, it is unlikely that one person will be enough to handle the full range of HR services needed.
- Additional staffing is required to bring the General Assembly in line with modern best practices for HR staffing in an organization of its size and complexity. This staffing could be a mix of full-time, part-time and trusted third-party advisors to meet the competing considerations of budgetary constraints and the need for expertise.
- A robust, resourced and professional HR Department will:
 - Professionalize processes;
 - Standardize processes;
 - Provide internal expertise and resources currently unavailable;
 - Allow for an information resolution process, which can resolve and correct problems before they become unlawful harassment;
 - Allow for complaint tracking and pattern monitoring; and
 - Provide positive resources for transformational culture building and engagement.
- The General Assembly has a community comprised of bright, energized, hard-working dedicated and primarily well-intentioned members, many of whom simply do not know what to do or how to act in the present environment. The community needs more guidance, clearer policies and procedures, and more investment in their awareness and professional development.

Policy Definitions

- Update the definitions to track changes in the law.
- Examples of behavior that could be harassing are good but could be better with examples specifically tailored for this workplace.

- Sets the bar at unlawful harassment, which is too low a standard in a forward-thinking workplace, particularly one that serves a public mission such as the Colorado General Assembly.

Having only one process, and that being a formal complaint process, means missed opportunities to catch and correct behavior before it becomes unlawful harassment

- Adding an informal process and higher behavior expectations is appropriate, timely and an example of Next-Generation transformational leadership and policy making.

Reporting

- There is insufficient awareness of the reporting contact persons and process throughout the Legislative Workplace. An awareness campaign can help with this.
- Contact persons are a good idea to give people a person in their workplace whom they know and trust, with some additional steps built in to ensure consistency, impartiality and centralization.
- Contact persons are diligent and conscientious about their responsibilities, but lack training, expertise and support in necessary aspects of their role. This includes taking complaints and (under the current policy) investigations, reaching findings of fact, credibility determinations, determining policy violations and recommending appropriate discipline or other action. The policy promises them training, but this has not been provided.
- The lack of training and expertise of contact persons poses serious problems across the process.
- Contact persons are siloed: they cannot speak with each other to ensure consistency, or to determine patterns of behavior by single Respondents, or to ensure they are following the same protocols.
- Contact persons interpret the language of the policy differently, resulting in different processes for different contact persons. Contact persons do not have easy access to employment law experts available to advise them, which is necessary given their broad role under the current policy.
- Contact persons should not include elected officials, in light of the reality of partisan political pressures which may make it difficult for these contact persons to be wholly impartial.

- The spectrum of persons to whom complaints can be raised should be widened beyond contact persons to include supervisors and managers, to track the law and to ensure that Members of the Legislative Workplace have a variety of places to go to report concerns. Employees of the newly created Office of Legislative Culture should also be included as contact persons. All complaint contact persons should be appropriately trained.
- Trauma informed interviewing and data assessment should be part of the training afforded to a number of contact persons, to ensure that this skill set is available if and when needed.
- There is no confidential resource person in this system, and this is an option that should be considered. Victim's advocates and other experts opine that having a confidential person to whom a complainant can go for information about what the complaint process will entail, without triggering any process, is an important step in giving complainants more agency in deciding when and how to move forward with a formal complaint. The revised system we propose contemplates providing confidential counseling and resources to a person who just wants to understand their options and not trigger a formal response. There would have to be some training and expectations set for the internal or external person responsible for providing these resources. This process would occur in a confidential setting that would not trigger the complaint response processes, unless and until the complainant decided to move forward.
- While broadening the pool of persons to whom a person can report is important, it is equally important to provide a central person to whom all complaints are directed. This enables the General Assembly to standardize the treatment of complaints, track trends and patterns of behavior, and accurately report on statistics to voters.
- There should be an additional mechanism whereby people can raise complaints anonymously.

Investigations

- Insufficiently standardized and professional investigation process.
- Allowing contact persons to investigate is unwise. Contact persons whom we interviewed are well meaning and conscientious about their responsibilities, and diligent in performing them. However, they are untrained and lack requisite experience and resources.
- Spreading investigation responsibility among a group of 16 untrained people means inconsistencies are inevitable.
- Investigation process as it stands is subject to partisan politics because it is, in certain highly visible occasions, an internal process conducted by people who could be subject to political

pressures. Having a process that routinely sends high profile matters to outside experts for complaint handling and resolution would create protections from political pressures.

- Having one person take the complaint, investigate, reach factual findings, determine policy violations, decide upon discipline and implement it is not a best practice. To gain the benefit of a thorough impartial investigation and deliberated findings, best practice suggests dividing up these responsibilities.
- Guidance as to how to properly conduct investigations in the policy is a helpful start but it could be made better and more germane to this workplace if more detailed, specific and robust.
- Rights and responsibilities of complaining and responding parties in investigations is not clearly spelled out, which could result in a party getting an insufficient opportunity to defend him or herself from allegations or counter-allegations. This part of the investigation process is critically important and should be more clearly defined.
- There is no guidance on what is appropriate to include in an investigation report. Such guidance would help in the creation of standardized records and in demonstrating both the impartiality of the process, and the evidence the investigator relied up on in reaching his or her findings.
- Having the ability to outsource investigations to professional investigators is a good option. A list of professional and qualified vendors should be provided to allow for choice to find best investigator for a particular complaint among a group of qualified investigators.
- No timelines are in the policy. Prompt investigations are essential in a workplace with media presence and interest and high-profile individuals exist. A reasonable timeline for investigations should be part of the process.
- Allowing people to opt out of participation in the investigation is not a best practice. Employees can be required to participate, and legislative bodies can pass their own rules requiring legislators to participate in harassment investigations. With Third Parties whose business requires registration, participation could be required in exchange for granting registered access.

Policy does not separate out Findings of Fact, Determinations on Policy Violation, Recommendations for Discipline and Imposition of Discipline as separate steps

- The policy appears to merge these four concepts into one step where the contact person may “resolve the complaint” and/or “determine[] that this Policy has been violated.” Good complaint resolution practice requires these four distinct steps, and clear authority, standards and definitions for each step.

- Having the same person responsible for all four steps in this process is not best practice.
- Separating out these four functions and clearly delineating who is responsible for them will enhance clarity, provide better impartiality and will protect the process from politicization to a much greater extent than the current policy does.

Findings of Fact

- Findings of fact are not mentioned in the policy. There is no requirement for there to be findings of fact, and the policy implies that the contact person does this. It is unclear how the person is to reach findings of fact, what the appropriate standard for doing so is, and how the findings of fact shall be used. Findings of fact should be reached in every investigation and are an essential part of the process.
- As it stands, findings of fact are combined with determinations of policy violations. These are two separate functions and should be explicitly split up.
- Best practices suggest that impartial investigators should be reaching findings of fact, including credibility assessments, as they are in the best position to analyze the data they have gathered and assess the witnesses they have interviewed.
- As it stands there is no requirement that findings of fact be final and not subject to re-investigation. Including this language would be a best practice.

Determinations of policy violation

- This is not described as a step in the process, except where it states that a contact person may “determine[] that this Policy has been violated.” There is no guidance as to how this decision should be made or the appropriate standard to be used.
- The same person appears to be responsible for findings of fact and determinations of policy violations, which detracts from achieving a high degree of impartiality in the investigation process and provides insufficient separation of functions to meet best practices.
- Best practices suggest that investigation and findings of fact should be handled by the impartial investigator, and determinations of policy violation should be made by legally trained and experienced internal personnel with expertise in harassment. Typically, this function is served by an outside lawyer in the private employer context.

Recommendations for discipline or other action

- This should be a separate step in the process and not merged with findings of fact and determinations on policy violations.

- Having 16 people empowered to recommend discipline, with no ability to discuss standards or consistency with each other, leads to inevitable inconsistencies.
- Better practice is having a central person or body responsible for recommending disciplinary or other action.
- Having the same person or body recommend and carry out discipline creates opportunities for people to object that the process is not impartial.
- Separating out those functions, so that recommendations come from a non-partisan, non-involved (or outside) person (or persons), would enhance the impartiality, consistency and fairness in the disciplinary part of the process.

Imposition of discipline

- The policy places responsibility for effecting discipline in matters involving employees in the hands of the contact person. That might be appropriate but may not be so in every case.
- If the contact person is the director of the involved agency, he or she likely is the correct person to decide upon discipline or other action. However, the appropriateness of this role is compromised where the director him or herself was the fact finder. Separating out these functions is a best practice.
- The policy places responsibility for effecting discipline in matters involving legislators in the hands of the requisite legislative body. This is appropriate and necessary. However, the lines of authority could be more clearly defined and could be made less subject to political pressure, with some slight redesign.
- Vesting the decision on discipline in legislative “leadership” opens the process up to more politicization than need be. Referring the decision, instead, to a Legislative Culture Committee, which shall be a Committee of Reference, created in each chamber as a standing committee and ideally comprised of equal representation across partisan lines, could provide more impartiality in the decision on appropriate consequences.
- No guidance exists as to ranges of appropriate consequences for certain kinds of substantiated misconduct, which can create inconsistent or disproportionate disciplinary actions. It can also dissuade some persons from coming forward where they are worried that their complaint could get someone fired, when the desired outcome is just to get the behavior to stop.

Insufficient confidentiality protections are not well understood are inconsistently applied

- Requiring full disclosure of a complaint in writing to Respondent before his or her investigative interview is not a best practice. This hampers, and in some cases has the potential to completely thwart, the investigator's ability to conduct a thorough and impartial investigation. It magnifies the opportunities for retaliation, for parties to do their own parallel investigations and for witness intimidation. None of this serves the goal of an impartial and thorough investigation that is fair to all parties.
- Allowing the disclosure of the investigator's full file and report to a Respondent or a complainant is not a best practice. Requiring full disclosure of these materials creates opportunities for retaliation, and dissuades witnesses from being fully forthcoming (or participating at all) in interviews, particularly in a political environment.
- Allowing a Respondent to make the entire file public to defend him or herself against an allegation that they believe to be false vitiates protections for complainants and parties and could prove to be an obstacle to the General Assembly in conducting thorough and impartial investigations of misconduct. This is a serious flaw in the policy that could be construed as not only increasing the chance of retaliation but encouraging it to take place. Changing this provision may require a change in existing open records laws, as set forth in our recommendations section.
- These holes in confidentiality create serious and unique opportunities for retaliation in a political workplace, and do not adequately protect complainants and witnesses.
- These holes likewise dissuade people from coming forward with their complaints or agreeing to participate as witnesses.
- This partial confidentiality system does not track best practices in investigations.

Insufficient focus on anti-retaliation

- There is no clear acknowledgement of the real potential for retaliation in a political workplace, and there is an insufficient focus in the policy on preventing and punishing retaliation.
- Retaliation as a policy violation is insufficiently emphasized. One paragraph at the end of the policy is insufficient to convey the seriousness of the offense and the General Assembly's commitment to preventing retaliation to the greatest degree possible and addressing retaliation if it does, in fact, occur.
- The policy does not currently make clear whether, if at all, a complaint of retaliation would be handled under the policy's procedures.

- There is no proactive focus on preventing retaliation in the policy. This is a Next-Generation best practice.

False Complaints provision

- We think this provision should be removed.
- It is unclear how a finding is made that a complaint is intentionally or recklessly dishonest or malicious. For example, an investigative finding that behavior is not substantiated does not mean that a person has lied or brought a complaint maliciously, so such a finding alone is not enough.
- This suggests that an investigator will have to do an additional set of investigatory steps to assess the good faith nature of the complaint. Such an inquiry would likely delay the investigation and, more importantly, could be a retaliatory step.
- There is no clear statement of what happens if a complaint is found to be intentionally or recklessly dishonest or malicious. The “will not be tolerated” language does not state that there is any punishment or violation of the policy for such conduct.
- Other remedies could be created to address the concern, short of this provision, that would reflect policy best practices. This kind of provision is a throwback to an era when victims of harassment were routinely disbelieved and punished for bringing forward complaints of harassment. For instance, providing for strong confidentiality and thorough investigations is likely sufficient to address this risk.

Recordkeeping is not centralized, standardized or regularly done

- There is no requirement for all records to be kept in a central location under central supervision, and so there is no ability to track patterns.
- There is insufficient guidance as to how to keep records standardized, so there are inconsistent practices in record-keeping as a result.
- There are no requirements for reporting statistics or data to voters, which is a Next-Generation best practice to achieve the necessary transparency while balancing the privacy rights of parties.

Training requirements are insufficient to achieve effective awareness

- Legal risk avoidance training, alone, while important in a holistic culture and system, has not been shown to change behaviors, create good culture or transform workplaces.

- The Next-Generation best practices in training emphasize civility training, bystander awareness training and other modules, together with harassment and policy awareness, to achieve effectiveness.
- The training requirement as it stands does not require training to be in person, interactive and in small groups. These elements are identified as important in creating effective training.
- Until this session, training was not consistently done after initial onboarding training. Regular refreshers are important to achieving awareness of harassment issues.
- Effective training obligations for persons responsible for policy implementation has not occurred and none of the contact persons we met with had received training on their role.
- Training for others in the Legislative Workplace, like Student Interns, lobbyists, and members of the media is a missed opportunity.

ENDNOTES

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- ⁱⁱ Colorado Department of Human Services, *Colorado Leads the Nation in Child Maltreatment and Prevention Strategy*, (April 27, 2017), available online at: <https://www.colorado.gov/pacific/cdhs/news/colorado-leads-nation-child-maltreatment-prevention-strategy>.
- ⁱⁱⁱ Tim Peters, *Colorado leads the nation in balancing responsible energy development with environmental protections*, (October 3, 2017) COLORADO POLITICS, available online at <https://coloradopolitics.com/sponsored-colorado-leads-nation-balancing-responsible-energy-development-environmental-protections>.
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- ^v Wikipedia, *Fourteener*, available online at: <https://en.wikipedia.org/wiki/Fourteener>.
- ^{vi} Zameena Mejia, *The 10 happiest and healthiest states in the US*, (February 23, 2018) CNBC, available online at: <https://www.cnbc.com/2018/02/23/the-top-10-happiest-and-healthiest-states-in-the-us.html>.
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- ^{ix} David Johnson, *These U.S. States Have the Most Winter Olympians Competing in PyeongChang*, (February 9, 2018), TIME, available online at: <http://time.com/5134741/2018-winter-olympics-pyeongchang-team-usa-athletes-states>.
- ^x Daniel Boniface, *How many Colorado athletes won medals at the Winter Olympics in PyeongChang?* (February 26, 2018), THE DENVER POST, available online at: <https://www.denverpost.com/2018/02/26/colorado-athletes-medals-winter-olympics-in-pyeongchang>.
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- ^{xii} Associated Press, *Colorado Astronaut Returns to Earth with Record-Breaking Peggy Whitson*, (September 4, 2017) CBS DENVER, available at: <http://denver.cbslocal.com/2017/09/04/jack-fischer-peggy-whitson-return>.
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- ^{xv} Pew Research Center, *Pew Research Center Political Survey- Final Topline Results* (2017), available online at <http://assets.pewresearch.org/wp-content/uploads/sites/5/2017/12/07170435/12-07-17-Political-topline-for-release.pdf>.
- ^{xvi} National Conference of State Legislatures, *Sexual Harassment Policies in State Legislatures* (2017), available online at <http://www.ncsl.org/research/about-state-legislatures/sexual-harassment-policies-in-state-legislatures.aspx>.
- ^{xvii} Heather McLaughlin, Christopher Uggen, & Amy Blackstone, *Sexual harassment, workplace authority and the paradox of power*, 77 AMERICAN SOCIOLOGICAL REVIEW 625-647 (2012), available online at <https://doi.org/10.1177/0003122412451728>.
- ^{xviii} Colorado State Legislature, *Workplace Harassment Policy of The General Assembly* (2013), available online at <https://leg.colorado.gov/sites/default/files/workplace-harassment-policy.pdf>.

^{xix} *Civility Policy*: Although U.S. law does not require employers to have a policy that outlines workplace civility, such a policy can help promote cultural change through detailed expectations. Merriam-Webster defines civility as “polite, reasonable and respectful behavior.” Many schools, of all levels, as well as private-sector companies have thus implemented civility statements, in order to establish general expected code of respectful conduct within the workplace perhaps not addressed through harassment policies. A joint report from FairVote and the Bipartisan Policy Center (2015) revealed that “strong, civil, and trusting relationships between co-speakers and co-presidents” contributed to the success of bipartisan cooperation in tied chambers. Therefore, a civility policy may hold the potential to address the larger, more abstract culture underpinnings in the legislative workplace. The Alaska State Legislature has even already initiated the consideration of a civility policy addendum. However, recently the National Labor Relations Board (NLRB) has ruled that some civility policy statements interfere with employee’s right to free speech as a part of concerted activity. While the NLRB has pointed out language that is not acceptable, it also released a 2015 memorandum that explains permissible written components (Smith, 2016). Any written civility policy or statement should be invented within the bounds of these specifications. See, Allen Smith, ‘*Civility Training*’ May Lead to Liability Under National Labor Relations Act (July 11, 2016), SOCIETY FOR HUMAN RESOURCE MANAGEMENT, available online at <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/civility-training-nlr-liability.aspx>

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^{xxi} Similar to its suggested policy elements, the NCSL also offers recommended training elements. The organization encourages that state legislatures have member and staff trainings that are: 1) Held in a classroom setting with a live trainer; 2) Mandatory; 3) Dynamic in content; 4) Separate from legislative staff and intern trainings. In addition, the NCSL encourages that trainings summarize national, state, and legislative-specific policies, that the legislative HR director is present, that leadership is engaged, and that attendees are provided an opportunity to provide feedback (NCSL, 2018). The research summarized in the main text echoes and supports many of the NCSL’s recommended elements of training in the legislative context. See, Jonathan Griffin, *Sexual Harassment Training in State Legislatures* (2018), NATIONAL CONFERENCE OF STATE LEGISLATURES, available online at: <http://www.ncsl.org/research/about-state-legislatures/legislative-sexual-harassment-training.aspx>.

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^{xxxix} A. Das, *Sexual harassment at work in the United States*, 38 ARCHIVES OF SEXUAL BEHAVIOR 909-921 (2009), available online at <https://link.springer.com/article/10.1007/s10508-008-9354-9>.

^{xl} Melissa K. Preusser, Lynn K. Bartels, & Cynthia Nordstrom, *Sexual harassment training: Person versus machine*, 40 PUBLIC PERSONNEL MANAGEMENT 47-62 (2011), available online at <http://journals.sagepub.com/doi/abs/10.1177/009102601104000104>.

^{xli} K. Peterson & E. McCleery, *Evidence Brief: The Effectiveness of Mandatory Computer-Based Trainings on Government Ethics, Workplace Harassment, or Privacy and Information Security-Related Topics* (2014), available online at <https://www.ncbi.nlm.nih.gov/books/NBK384612>. There is growing discussion around eventual use of virtual reality (VR) experiences for sexual harassment training. Despite Pierce and Aguinis (1997) first exploring virtual reality technology in organizational behavior research two decades ago, many of these products are in the early stages of development. New applications, such as Vantage Point, offer comprehensive training that connects audiences who are less at risk of being victims of sexual harassment to the issue. Vantage Point in particular creates interactive 360 videos that are safe and simulated real life environments. The application uses a “build-engage-apply” framework, pre- and post- assessments to measure change in ideology and grasp of core learning concepts, and varying modules to cover different types of trainings. It offers modules on identifying sexual harassment, bystander intervention, individual response training, and identifying societal stigma (Vantage Point, 2018—Citation noted below). Little research on the costs and benefits of using VR for sexual harassment training currently exists. However, the tool has been found to be a low-cost option for training health care professionals, engineers, and technicians (Gupta, Anand, Brough, Schwartz, & Kavetsky, 2008—Citation noted below). VR holds the potential to provide a mechanism for fostering empathy through simulated experience. See, Vantage Point, *About Us* (2018), available online at <https://www.tryvantagepoint.com/our-program/> (last visited Jan. 2018). Satyandra Gupta, Davinder Anand, John Brough, Maxim Schwartz, & Robert Kavetsky, *Training in Virtual Environments: A Safe, Cost Effective, and Engaging Approach to Training* (2008), available at <https://drum.lib.umd.edu/bitstream/handle/1903/14553/Training%20in%20Virtual%20Environments.pdf?sequence=1>.

^{xlii} It is important to note that, while technology can be used to prevent sexual harassment, it can also facilitate sexual harassment as well. Protection behind a screen can lead individuals to feel emboldened in their communications, resulting in inappropriate and nonprofessional communication (Henry & Powell, 2015—Citation noted below). Many workplace sexual harassment policies do not mention guidelines for company or internal technology use. It may therefore be worthwhile to consider clarifying that the policy applies to email communications, online forums and social media. Also, discussions about methods for protecting private information can help to increase employee awareness about information sharing on technology platforms, as well as strategies for limiting their exposure – for example, Microsoft sets defaults on employee calendars to keep event titles and locations private. See, Nicola Henry & Anastasia Powell, *Beyond the ‘sext’: Technology-facilitated sexual violence and harassment against adult women*, 48 AUSTRALIAN & NEW ZEALAND JOURNAL OF CRIMINOLOGY 104-118 (2015), available online at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1017.3015&rep=rep1&type=pdf>.

^{xliiii} Frank, J., Eason, B., & Paul, J., *Sexual harassment cast a big cloud over Colorado lawmakers ambitions on the legislature's opening day* (January 10, 2018), DENVER POST, available online at <https://www.denverpost.com/2018/01/10/colorado-2018-legislative-session-begins/>.

^{xliiii} Fifield, J., *Sexual Harassment Training Lacking in Many Statehouses* (November 15, 2017), THE PEW CHARITABLE TRUSTS (2017), available online at <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2017/11/15/sexual-harassment-training-lacking-in-many-statehouses>.

^{xliiii} See <https://www.surveygizmo.com/resources/blog/survey-response-rates/> and <http://fluidsurveys.com/university/response-rate-statistics-online-surveys-aiming/>.

^{xliiii} The 2016 EEOC task force report highlighted the Los Angeles Department of Water and Power's reforms in discussing this dynamic, and included the following at p. 56: “During the first three years after LADPW initiated its training program, the number of internal EEO complaints rose – perhaps because employees had a greater understanding of their rights and where to go to file complaints. **Since that time, however, complaints have decreased by 70%**, and the severity of the types of harassment complaints has decreased as well. According to Renette

Anderson, Director of LADPW's Equal Employment Opportunity Services, "Much of this is due to our tenacious and steadfast commitment to our training efforts." See also EEOC report at p. 36: "Perhaps counter-intuitively, rewards can also be given to managers when – at least initially – there is an increase in complaints in their division." An additional example can be seen regarding the Department of Defense: "More military service academy cadets and midshipmen this year reported instances of sexual assault and harassment, indicating growing trust in the reporting system, a Defense Department official said Jan. 7." <https://www.defense.gov/News/Article/Article/641951/more-sexual-assault-reports-show-growing-trust-in-system>. Additionally, Public Radio International's *The World* on March 22, 2018, discussed how the United Nations is trying to protect aid workers from sexual abuse and harassment. Heidi Layman from Many Nations said, "Agencies feel a lot of pressure where they equate zero tolerance and zero cases and that is seen as success, when actually what we know about violence against aid workers from other aid workers [is that] we should be seeing huge amounts of reporting and that in the short and medium term is a good thing because that means that there is something about your system that is working well enough that women have the confidence to use it." Available online at: <https://gpinvestigations.pri.org/women-in-the-global-aid-sector-are-saying-aidtoo-e10c42957eff>.

^{xlii} John Myer and Melanie Mason, *California Legislature releases a decade's worth of records on sexual harassment investigations*, (February 2, 2018), LOS ANGELES TIMES, available online at <http://www.latimes.com/politics/la-pol-ca-legislature-sexual-harassment-records-released-20180202-story.html>.

^{xliii} EEOC, *Charges Alleging Sex-Based Harassment (within EEOC) FY 2010-2017* (2017), available online at www.eeoc.gov/eeoc/statistics/enforcement/sexual_harassment_new.cfm.

^{xliv} Keyton, J., Ferguson, P., & Rhodes, S. C., *Cultural indicators of sexual harassment* (2001), SOUTHERN JOURNAL OF COMMUNICATION 67(1), 33-50, available online at https://www.researchgate.net/profile/Joann_Keyton/publication/233343380_Cultural_indicators_of_sexual_harassment/links/581fdf4f08ae12715af9277a/Cultural-indicators-of-sexual-harassment.pdf.

^{xlv} EEOC, *Select Task Force on the Study of Harassment in the Workplace* (2016), available online at https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf.

^{xlvi} Radnofsky, L., *Poll: 48% of Employed Women Say They Have Been Sexually Harassed at Work* (October 30, 2017) WALL STREET JOURNAL, available online at <https://www.wsj.com/articles/poll-48-of-employed-women-say-they-have-been-sexually-harassed-at-work-1509361201>.

^{xlvii} EEOC, *Facts About Retaliation* (2018), available online at <https://www.eeoc.gov/laws/types/retaliation.cfm>.

^{xlviii} Willness, C. R., Steel, P., & Lee, K., *A meta-analysis of the antecedents and consequences of workplace sexual harassment* (2007), PERSONNEL PSYCHOLOGY, 60(1), 127-162, available online at <https://pdfs.semanticscholar.org/a1f2/98b7c99f891d6f7162903f7bd02df140868c.pdf>.

^{xlix} *Sexual Harassment Recommendations Provided to the Kansas Legislature by the Women's Foundation* (2017), available online at <https://static1.squarespace.com/static/545815dce4b0d75692c341a8/t/5a4528d79140b74c01761c8b/1514481880809/Sexual+Harassment+Policy-Kansas+Legislature.pdf>.

^l Sabate, I., *College Launches Sexual Assault Online Training Module* (Sep. 15, 2016), THE HARVARD CRIMSON, available online at <http://www.thecrimson.com/article/2016/9/15/online-assault-training-launched/>.

^{li} McNeill, B., *College students overwhelmingly support mandatory reporting policies for campus sexual assault, VCU professor finds* (May 31, 2016), VCU NEWS, available online at https://news.vcu.edu/article/College_students_overwhelmingly_support_mandatory_reporting_policies.

^{lii} University of Virginia, *What Students Need to Know: Obtaining Information, Assistance and Support; Reporting Options* (July 22, 2016), available online at <https://eocr.virginia.edu/sites/eop.virginia.edu/files/Student%20Infographic.pdf>.