

Effective January 18, 2018

1.49 Workplace Harassment Prohibited

The Senate is committed to providing a safe, professional environment for conducting the legislative business of the citizens of Florida. The Senate does not tolerate harassment toward any individual based on race, color, religion, sex, national origin, age, disability, or marital status. The Senate takes all allegations of harassment seriously and will take appropriate action to eliminate prohibited harassment.

Each Senator and employee has a responsibility to ensure harassment based on race, color, religion, sex, national origin, age, disability, or marital status does not occur in the workplace and must avoid conduct, both subtle and overt, that could be seen as prohibited harassment.

To achieve the Senate goal of providing a workplace free from unlawful harassment, the prohibited conduct described in this policy will not be tolerated, and there will be a prompt response to complaints of such harassment consistent with this policy or the Senate Rules, as applicable. The personal identifying information of an alleged victim of sexual harassment will be kept confidential and exempt from public records requirements pursuant to section 119.071(2)(n), Florida Statutes, to the fullest extent allowed by law.

Applicability

This policy is applicable to all Senate employees, Senators, lobbyists, and third parties. All agreements with agents, contractors, and vendors shall also contain provisions prohibiting harassment consistent with this policy.

For the purpose of this policy, the term:

- (1) “Employee” means an individual employed by the Senate and includes an intern, Senate Page, volunteer, or other temporary or unpaid staff.
- (2) “Lobbyist” means an individual registered to lobby both houses of the Florida Legislature or the Florida Senate pursuant to section 11.045, Florida Statutes.
- (3) “Senator” means a current Florida State Senator.
- (4) “Third party” means a member of the general public, member of the media, other legislative employee, or visitor to the Senate offices or committees.

Definition of Workplace Harassment

“Workplace harassment” means any:

- (1) Harassment based on race, color, religion, sex, national origin, age, disability, or marital status, including verbal or physical behavior or conduct that denigrates or shows hostility or aversion toward an individual because of that individual’s race, color, religion, sex, national origin, age, disability, or marital status;
- (2) Harassment based on an individual’s association with an individual because of that individual’s race, color, religion, sex, national origin, age, disability, or marital status;

- (3) Harassment that has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment; or
- (4) Sexual harassment. While workplace harassment includes sexual harassment, sexual harassment raises issues that are unique in comparison to other types of workplace harassment. Therefore, sexual harassment warrants separate emphasis. "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when:
 - (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - (b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of Workplace Harassment

The following examples are illustrative of conduct or communications that may constitute workplace harassment:

- Unwanted jokes or slurs with a sexual, racial, religious, ethnic, or similar content.
- Mimicking or imitating the characteristics of an individual based on race, religion, sex, national origin, age, disability, or marital status.
- Unwelcome remarks about an individual's sexual anatomy, sexual capabilities, ethnic characteristics, religion, age, physical disabilities, or marital status.
- Unwanted physical contact.
- Hazing based on race, color, religion, sex, national origin, age, disability, or marital status.

The following examples are illustrative of conduct or communication, if unwelcome, which may constitute sexual harassment:

Verbal

- Sexual comments or innuendos about one's clothing, body, appearance, or sexual activity.
- Discussing sexual topics in the workplace, such as sexual practices or preferences or telling sexual jokes or stories.
- Using sexual words or phrases or words or phrases that can or should reasonably be taken as having sexual connotations.
- Implying that certain individuals must attend meetings or provide briefings when it is understood or should be understood the preference is not based on the substantive knowledge or experience of the individual.
- Making unwelcome calls or other communications to discuss matters of a personal nature outside of those required by professional conduct.

- Requesting or demanding sexual favors or suggesting that there is any connection between sexual behavior and any term or condition of employment or the outcome of any issue or matter, whether that connection be positive or negative.

Nonverbal

- Displaying sexually explicit pictures, cartoons, messages, or objects in the work area.
- Giving personal gifts of a sexual nature.
- Making sexually suggestive gestures.
- Making unwelcome visits outside the workplace.
- Sending emails, text messages, instant messages, or notes of any kind containing sexual images, cartoons, jokes, words, phrases, or content of a sexual nature.

Physical

- Kissing or hugging, unless welcome or clearly not objected to, when made in connection with a greeting or parting, such as a peck on the cheek.
- Patting, pinching, or intentionally brushing against an individual's body.
- Unwelcome sexual contact of any kind.

Whether conduct or communications constitute workplace harassment depends upon the totality of the circumstances. In that regard, the following should be kept in mind:

- (1) A single incident may or may not constitute workplace harassment.
- (2) Whether a particular action is workplace harassment will depend on the facts and determinations made on a case-by-case basis.
- (3) Conduct or communications that might be welcome to one individual may be unwelcome to another individual. Conduct or communications that might have been welcome between two individuals at one time may become unwelcome at any time.
- (4) The examples are not exhaustive. Other conduct or a communication not expressly described in the examples may violate this policy.

Complaint Contacts

Any individual who experiences prohibited workplace harassment in the Senate may report the complaint to any of the following individuals:

- (1) the Senate President;
- (2) the Senate Chief of Staff;
- (3) the Secretary of the Senate;
- (4) the Senate Sergeant at Arms;
- (5) the Human Resources Director of the Office of Legislative Services (Human Resources Director);
- (6) an employee's immediate supervisor;

- (7) a designee of opposite gender provided by any of the aforementioned contacts when practical. A list of opposite gender designees, if any, will be provided with annual training materials.

Complaint Procedure

Complaints reported to a complaint contact must be promptly communicated to the Human Resources Director for a complete investigation. Once notified, the Human Resources Director will promptly notify the Office of the Senate President, or the Senate President Pro Tempore with a copy to the Secretary of the Senate if the complaint is against the Senate President, of the complaint and attempt to resolve the issue informally. This will include discussing the issues with the individuals involved in the complaint and may include interviewing other personnel, as deemed appropriate. Supervisors, Human Resources staff, or the Senate General Counsel may be requested to assist the Human Resources Director with the facilitation of the informal resolution.

If no informal resolution is possible, or if the complainant or the Human Resources Director determines an informal resolution is not appropriate given the seriousness or severity of the allegation, the complainant will be requested to submit a formal, written complaint to the Human Resources Director. The written complaint must set forth the basis of the complaint, the reasons the complainant believes prohibited workplace harassment has occurred, the specific dates of the alleged harassment, identification of any witnesses to the harassment and any action the complainant believes would resolve the complaint.

Upon receipt of the written complaint, or when deemed appropriate by the Senate President or the Human Resources Director, the Human Resources Director may contact an independent, professional service provider who will conduct a further investigation into the allegations set forth in the complaint.

After appropriate investigation, a written report summarizing the issues raised in the complaint, as well as evidence collected during the investigation, will be prepared by the Human Resources Director or the service provider and submitted to the Office of the Senate President.

A copy of a formal complaint or a description of an informal complaint shall be retained by the Human Resources Director with a summary of how the complaint was resolved.

If the complaint is against the Senate President, the Human Resources Director will notify the Senate President Pro Tempore with a copy to the Secretary of the Senate.

In every case, the Human Resources Director shall provide the complainant with available resources for victims of workplace harassment and follow-up with the complainant, when appropriate, to ensure the complainant was able to access available resources.

Resolution

The Human Resources Director, upon completion of an investigation of a complaint, will provide a summary of any findings, and disciplinary recommendations when a violation by an employee is identified, to the Senate President and the Senate Chief of Staff.

The Senate President and the Senate Chief of Staff, in consultation with the Senate General Counsel, will promptly make a determination and take appropriate disciplinary and corrective action, if any, based on all of the evidence gathered during the investigation.

An employee who is found to have violated this policy is subject to discipline up to and including immediate termination from employment.

The Senate President will take appropriate action if the complaint involves any violations by a Senator or a third party in accordance with the Senate Rules. Appropriate action may include, with the consent and participation of the complainant, the filing of the complaint with the Chair of the Committee on Rules in accordance with the Senate Rules.

If the complaint is against the Senate President, the Senate President Pro Tempore, with the consent and participation of the complainant, will file a written complaint with the Chair of the Committee on Rules in accordance with the Senate Rules.

Confidentiality

Information regarding complaints should be limited to individuals who need to know in order to carry out the procedures in this policy. A complaint and related investigation will be kept as confidential as practicable; however, absolute confidentiality cannot be guaranteed as reporting to law enforcement, attorneys, the Commission on Ethics, or others responsible for taking action may be required.

Statutes address certain information that is either confidential and exempt or exempt from public records requirements in specific situations and for certain time periods (e.g., sections 119.071(2)(g), 119.071(2)(k)1., and 119.071(2)(n), Florida Statutes).

Reporting Encouraged

The goal of the Senate is to provide a workplace free from harassment of any type. The Senate takes allegations of harassment seriously and will respond to such allegations promptly. Every individual is encouraged to report prohibited harassment so that inappropriate behavior can be addressed quickly and eliminated.

Supervisor Responsibility

Each Senator or employee supervising other employees is responsible for making subordinates aware of the prohibited harassment policy and the means for reporting a complaint.

A copy of this policy will be provided to each new employee and each employee must acknowledge receipt of the policy.

All Senators and employees, especially those supervising others, are responsible for assuring the workplace is free from harassment.

Supervisors and Senators in receipt of a complaint, whether formal or informal, must promptly communicate the complaint to the Human Resources Director.

Retaliation

The Senate does not tolerate retaliation against any individual for having complained of workplace harassment or for having assisted or participated in an investigation of alleged workplace harassment. Any individual who believes he or she may have been the subject of retaliation for having complained of workplace harassment or for having assisted or participated in an investigation related to an allegation of workplace harassment should report that information to any of the complaint contacts listed in this policy. Any individual found to have engaged in retaliation will be subject to discipline up to and including immediate termination or other appropriate action.

False Complaints

Complaints of workplace harassment found to be intentionally or recklessly dishonest or malicious will not be tolerated and shall be subject to discipline up to and including immediate termination or other appropriate action.

Training

Employees

Every employee shall receive a copy of this policy at the start of employment and shall return a signed acknowledgment prior to receiving access to Senate facilities or systems acknowledging the employee has read and understands the policy. Employees are encouraged to ask questions of their immediate supervisors if they do not understand the policy. Every employee shall receive a minimum of one (1) hour of training annually through online, classroom, or other appropriate training methods provided by the Senate on the topics of workplace harassment, sexual harassment, and sensitivity. Such training shall include verification through testing that the employee understands the concepts presented in the training and an opportunity for the employee to provide feedback.

Except as provided in this paragraph, volunteers, interns, and other temporary or unpaid staff of the Senate are required to receive the same training and provide the same acknowledgment of this policy as paid employees of the Senate. When requesting a volunteer, intern, or other temporary or unpaid staff, a Senator or the Senate Administration Director may request in writing that such individual receive as an alternative to the training described above, a copy of the Senate Workplace Harassment policy appropriate for the individual along with instructions on reporting any inappropriate behavior. For individuals who are minors, such as pages, the information shall be provided to the parent or guardian of the individual.

Supervisors and Complaint Contacts

Supervisors and complaint contacts shall receive additional training beyond the employee training to include instruction on handling workplace and sexual harassment complaints.

Senators

The annual training required of Senators pursuant to Senate Rule 1.40 shall include at least one (1) hour addressing workplace harassment, sexual harassment, undue influence, and sensitivity training. Senators shall acknowledge receipt of the training.

Lobbyists

Prior to lobbying in the Senate, every lobbyist shall receive a copy of this policy at the time of registration and shall sign an acknowledgment prior to completing registration that the lobbyist has read and understands the policy. For the 2018 Legislative Session, and until such time as the registration system is modified, such notification shall be accomplished by providing an electronic copy of this policy to every lobbyist registered on January 8, 2018, and every new lobbyist registering on or after that date, at the contact email address provided with the lobbyist's registration. The notification shall include current contact information for the complaint contacts listed in this policy available to lobbyists for making a complaint.

Third Parties

The Senate Workplace Harassment policy and a list of complaint contacts shall be available on the Senate website under a separate link for the general public to access.

Recordkeeping

The Human Resources Director is the official recordkeeper for all records related to reports, notifications, complaints, and investigations under this workplace harassment policy.

Annual Review

The Senate commitment to providing a safe, professional environment free of workplace harassment requires continuous improvement and constant engagement at all levels. To achieve the Senate goal, this policy, and the procedures, notifications, and training provided pursuant to it, shall be reviewed at least annually and updated as necessary.