

Harassment, Discrimination, Retaliation, Violence & Bullying Policy

Introduction

The Assembly is committed to assuring that it operates in an environment that is free from harassment, discrimination and retaliation based upon race, color, creed, sex, religion, national origin or ancestry, age (40 or older), disability, marital status, sexual orientation, gender identity, arrest or conviction record, military service, use or nonuse of lawful products, genetic information or any other applicable protected classification as specified by state and federal law, except as permitted under applicable law. The Assembly also prohibits violence and bullying in the workplace, as defined below. In addition, this policy contains illustrative examples of prohibited behaviors; however, the Assembly has the right to determine what constitutes inappropriate behavior under this policy, and take any level of corrective action (including termination) it deems appropriate.

For these reasons, the Assembly will not tolerate harassment, discrimination, retaliation, bullying or violence, as defined below, or any other behaviors that are considered inappropriate/unacceptable in the Legislature. The Assembly is committed to preventing or stopping such actions/behaviors whenever it may occur. The policy presented here applies directly to the Assembly (legislators and staff); however, every feasible action necessary will also be taken to protect Assembly employees from harassment and discrimination from external sources as well, including but not limited to: lobbyists, the public, and employees working for other branches of government/the private sector.

In addition, it is important for legislators and employees to understand that concerns and/or complaints related to harassment, discrimination, retaliation, bullying, violence, or any other behaviors that are deemed inappropriate/unacceptable in the Legislature, *may* cover conduct that occurred outside of the work location and outside of work hours, and is not solely limited to conduct that occurred at the work location and/or on work hours.

Harassment, Discrimination and Retaliation Defined

The Assembly prohibits discrimination. **Discrimination** can include disparate treatment directed toward an individual or group of individuals based upon race, color, creed, sex (including pregnancy), religion, national origin or ancestry, age (40 or older), disability, marital status, sexual orientation, gender identity, arrest or conviction record, military service, use or nonuse of lawful products, genetic information or any other applicable protected classification as specified by state and federal law.

The Assembly also prohibits harassment. **Harassment** is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990 (ADA), or the Wisconsin Fair Employment Act (WFEA). Harassment is unwelcome conduct that is based on race, color, creed, sex (including pregnancy),

religion, national origin or ancestry, age (40 or older), disability, marital status, sexual orientation, gender identity arrest or conviction record, military service, use or nonuse of lawful products, genetic information or any other applicable protected classification as specified by state and federal law.

Harassment exists whenever:

- Submission to harassing conduct is made, either explicitly or implicitly, a term or condition of one or more individuals' employment, internship, partnership or services;
- Submission to or rejection of such conduct by an individual or group is used as the basis for decisions about employment, internship, partnership or services affecting such individual; and/or,
- The conduct has the purpose or effect of substantially interfering with an individual's or group's work performance or of creating an intimidating, hostile or offensive work or service delivery environment. (A Hostile Work Environment exists when the conduct is such that a reasonable person, under the same circumstances as the employee, would consider the conduct sufficiently severe or pervasive to interfere substantially with the person's work performance or to create an intimidating, hostile or offensive work environment.)

In addition, the Assembly also prohibits retaliation against employees. **Retaliation** is a materially adverse action against an employee by an employer for engaging in legally protected activity, such as bringing forward a concern or making a complaint, participating in workplace investigations (as a complainant, witness, etc.), or requesting/receiving a Family or Medical Leave (FMLA) or reasonable accommodation. Retaliation can include any negative job action, such as demotion, discipline, firing, or salary reduction.

It is our goal to prevent the occurrence of harassing, discriminatory and retaliatory activity and to promptly stop such conduct when we become aware of potential violations. In that respect, it is imperative that all instances of potential harassment, discrimination and/or retaliation be reported to the appropriate supervisor or the Legislative Human Resources Office (LHRO) immediately. While based on state and federal law, this policy may cover behaviors which may not meet the legal definition of harassment, discrimination or retaliation but are considered unacceptable in the Legislature. This policy will be interpreted so as to avoid infringement upon First Amendment rights of free speech.

1. Sexual Harassment

Sexual harassment includes unwelcomed sexual advances, requests to engage in sexual conduct, and other physical and expressive behavior of a sexual nature where:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;

(b) Submission to or rejection of such conduct by an individual is used, or threatened or suggested to be used, as the basis for employment decisions affecting the individual (Quid Pro Quo);

(c) Such conduct substantially interferes with an individual's performance or creating an intimidating, hostile, or demeaning work environment.

Determination as to whether the alleged conduct constitutes sexual harassment should take into consideration the totality of the circumstances, including the context in which the alleged incidents occurred.

Under this policy, sexual harassment can be verbal, visual, or physical. It can be overt, as in the suggestion that a person could get a raise in salary or promotion by submitting to sexual advances. The suggestion or the advance need not be direct or explicit--it can be implied from the conduct, circumstances, and relationships of the persons involved.

Sexual harassment can also consist of persistent, unwelcome attempts to change a professional relationship to a personal one.

It can range from unwelcome sexual flirtations and inappropriate demeaning of individual persons or classes of people to physical contact/abuses such as sexual assault.

Examples could include, but are not limited to: unwelcome sexual advances; repeated and unwelcome sexually-oriented bullying, teasing, joking, or flirting; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; derogatory or demeaning comments about women or men in general, whether sexual or not; leering, touching, pinching, or brushing against another's body; or displaying objects or pictures, including electronic images, which are sexual in nature and which create a hostile or offensive work environment.

The interpretation of sexual harassment in the law and the Assembly's policy provides that:

- Sexual harassment generally carries a component of power differential between individuals and can occur between men and women or between members of the same sex.
- An employee does not have to suffer economically before harassment can be found.
- A person who, on the surface, consents to sexual advances might still be subjected to harassment.
- Whether conduct is welcome or unwelcome depends on the "eye of the beholder" and a "reasonable person" test.
- Offenders can be legislators, co-workers, or non-employees (including but not limited to: lobbyists, the public, and employees working for other branches of government/the private sector).
- A third person can be offended by harassing behavior among willing participants.
- Harassment does not necessarily have to be reported soon after it occurs to be addressed.

- A single incident or a few incidents *may* not be illegal harassment; however, a single incident of unwanted touching of a person's intimate body part could be sexual harassment.
- Non-sexual but abusive, hostile, rude, or harsh treatment of members of one gender may also constitute harassment.

2. Consensual Relationships (Supervisor/Subordinate)

Sexual, romantic, or intimate relationships between persons in a supervisor/subordinate relationship that appear to be voluntary and welcome may nonetheless constitute sexual harassment under this definition. Relationships between a supervisor and those employees whom he or she supervises may give rise to legal and ethical concerns or a conflict between personal and professional interests. Although such a relationship may be viewed by the parties involved as consensual, that fact alone does not mean that no sexual harassment exists.

Relationships between supervisors and subordinates are not allowed in the Assembly. Supervisors involved in such relationships have the obligation to remove themselves from the consensual relationship.

3. Racial Harassment

Harassment that is directed at a person or group of persons because of race, color, creed, national origin or ancestry is covered under this policy. Even if actions are not directed at specific persons, a hostile environment can be created when the conduct is sufficiently severe or pervasive and objectively offensive so as to substantially interfere with the person's work or employment experience.

4. Harassment Based on Religion, Disability, Sex (including Pregnancy), Age (40 and older), Marital Status, Sexual Orientation, Gender Identity, Arrest or Conviction Record, Military Service, Use or Nonuse of Lawful Products, Genetic Information or Other Protected Status

Harassment that is directed at a person or group of persons because of any characteristic protected by this policy or local, state or federal law is also covered under this policy.

5. Retaliation

Retaliation against an individual for bringing forward a concern or making a complaint (even if they are not the victim), for resisting discrimination or harassment, or for assisting in the investigation of a complaint (such as witnesses) is a violation of Assembly policy action and will not be tolerated.

6. Violence and Bullying Prohibited

Most incidents of workplace violence are not lethal, yet have devastating physical and emotional consequences for vulnerable victims. In addition, they diminish the work place dynamic and create an unacceptable workplace environment. Examples of prohibited violence and bullying include, but are not limited to:

- Teasing and practical jokes that cause anger and/or humiliation

- Intimidation
- Bullying
- Angry outbursts
- Verbal abuse, name calling, biting sarcasm or obscene language
- Threats (verbal, written or gesticulated)
- Harassment (general and sexual)
- Theft, vandalism and sabotage
- Throwing or breaking objects
- Hitting, pushing, poking, slapping, grabbing, and other forms of physical battery
- Romantic obsessions and stalking
- Sexual assault and rape

Concern/Complaint Resolution

In an effort to prevent or stop discriminatory, harassing, retaliatory, or other inappropriate behavior, the Assembly has adopted specific avenues through which an individual can bring his or her concern or complaint forward to be resolved. With issues of discrimination, harassment, retaliation, violence or bullying, it is important to identify and remedy the situation as soon as possible. For this reason, we have established two different resolution methods that employees may use to raise discrimination, harassment, retaliation, violence, bullying or other inappropriate behavior concerns—an *Informal Concern Resolution* and a *Formal Complaint Resolution* Process. Employees have the right to choose which process they would like to pursue (there is no requirement to engage in one process before another). In addition, employees who engage in the Informal Concern Resolution process first, may decide later to pursue the Formal Complaint Resolution process. Each process is discussed more in depth below. Questions related to each process should be addressed with the Legislative Human Resources Office (LHRO).

To best remedy a situation, complainants or witnesses (which includes legislators/staff who witness or are made aware of inappropriate behavior) are urged to promptly share concerns or complaints rather than risking their well-being or negatively affecting the Assembly's ability to look into such concerns/complaints, due to the passage of time and potential departure of witnesses.

1. Informal Concern Resolution Process

Under the Informal Concern Resolution Process, an employee can bring his/her concern, *either verbally or in writing, to a supervisor with authority over the person against whom the concern is directed, to the employee's supervisor, or the Legislative Human Resources Office (LHRO)*. The employee's concern will be addressed/resolved in an appropriate manner. If an employee would like his/her concern addressed through a formal investigation, the employee should utilize the Formal Complaint Resolution Process below.

Supervisors who receive employee concerns should either: 1) Refer the employee's concern to the LHRO to resolve, if the supervisor does not have the ability to resolve the concern or would prefer for the LHRO to resolve the concern; or, 2) Meet with the employee to discuss the concern and

attempt to resolve the employee's concerns as soon as possible, but consistent with the severity and complexity of the matter. Resolution of such concerns may include, but is not limited to: speaking with appropriate parties and making sure any inappropriate behavior stops (and following up at a later date to make sure the behavior has not resumed); when appropriate, working with the LHRO to provide mediation for employees; when appropriate, working with the LHRO to provide remedial training for an employee/employees; disciplinary action; termination, etc. (if discipline or termination is pursued as a result of an informal concern, please consult with the LHRO prior to discipline/termination, when possible). Supervisors should document the concern/resolution of the concern.

Supervisors and the LHRO will take prompt and effective action on any concern received. In addition, supervisors and the LHRO will maintain confidentiality to the extent possible. Lastly, retaliation for bringing forward a concern or aiding with a concern will not be tolerated and should be immediately reported to the LHRO.

2. Formal Complaint Resolution Process

Under the Formal Complaint Resolution Process, an employee can bring a complaint *in writing, detailing the individual(s) involved, violations/behavior, locations, dates/times, witnesses, how the complainant would like his/her complaint resolved, and any other information relevant to the complaint, to the Assembly Chief Clerk or the Legislative Human Resources Office (LHRO)*. The employee's complaint will be reviewed, and if appropriate, formally investigated. If an investigation finds inappropriate behavior on the part of an individual involved, the inappropriate behavior will be addressed/resolved in an appropriate manner. If an employee does not wish to pursue a formal investigation into his/her complaint/concern, the employee should utilize the Informal Concern Resolution Process above.

Once a complaint is received from an employee, the LHRO or other designated entity will: 1) Meet with the employee to discuss the employee's complaint, determine if the complaint meets the standards of investigation, and if so begin the complaint investigation (if the employee's complaint does not meet the standards of investigation, he/she may instead utilize the Informal Concern Resolution Process above); 2) Interview pertinent witnesses; 3) Interview the subject(s) of the complaint; 4) Come to an investigatory conclusion; 5) Share the investigatory conclusion with appropriate leadership/legislator(s); and, 6) Work with appropriate leadership/legislator(s) to address any inappropriate behavior in an appropriate manner.

The Assembly will take prompt and effective action on any complaint received. In addition, the Assembly will maintain confidentiality to the extent possible. Lastly, retaliation for bringing forward a complaint or aiding with a complaint will not be tolerated and should be immediately reported to the LHRO.

**Please note that this policy does not create any legally enforceable rights, contract, time frames or protections beyond those of the State or Federal Equal Employment Opportunity laws, even if the Assembly prohibits conduct which is less than the legally defined standards for harassment/discrimination/retaliation or other actionable conduct under these laws.*

Employee Assistance Program (EAP)

The FEI Workforce Resilience Employee Assistance Program is a free service to all Assembly employees and their dependents. This program offers a wide variety of counseling, referrals, and reference services, all designed to make your family healthier, happier, and provide for a more balanced work and home life. These services fall under HIPAA confidentiality rules. Some legal and financial counseling may have associated fees. Please visit the following website for more information:

https://www.feieap.com/?s_username=SOWI

Password: SOWI

Confidentiality

Persons seeking general information or guidance about bringing forward a concern or complaint may be concerned about whether the information they share will be confidential. While the Assembly strives to maintain an environment in which individuals feel comfortable bringing forward concerns and complaints, legal obligations may require us to take some action once information is brought forward indicating that harassment, discrimination, retaliation, violence, bullying or any other inappropriate behavior is occurring. Because of their positions of authority, certain personnel are obligated to take action when they receive such concerns or complaints. Although the confidentiality of the information received and the privacy of the individuals involved cannot be guaranteed, they will be protected to as great an extent as is legally possible. The expressed wishes of the employee regarding confidentiality will be considered in the context of our legal obligations to the extent possible.

Sanctions

Employees found to have engaged in harassment, discrimination, retaliation, violence, bullying or any other behaviors that are deemed inappropriate/unacceptable in the Legislature are subject to appropriate disciplinary action, up to and including termination of employment.