LATEST EVOLUTIONS IN STATE LEGISLATIVE SEXUAL HARASSMENT POLICIES

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Sexual harassment is a high priority in state legislatures

NCSL provides legislators, legislative staff and human resources administrators information on legislation tracking, policy research and training programs on sexual harassment in state legislatures

State surveys provide state-specific information
When was your sexual harassment policy last updated or adopted?
A policy that applies to legislators and staff, as well as nonemployees, such as lobbyists and outside vendors

A diversity of contacts within the legislature to whom sexual harassment can be reported, allowing the complainant to bypass reporting to his or her direct supervisor

A clear statement prohibiting retaliation for the filing of any claim

A statement providing for confidentiality, to the extent possible, for all parties involved

Specific examples of potential discipline, if warranted

The possibility of involving parties outside the legislature to assist in the investigation, if it is warranted or requested

An appeal procedure

A statement informing the complainant that she or he can also file a complaint to the Equal Employment Opportunity Commission and/or the state’s Human Rights Commission
CLEAR THEMES IN POLICY CHANGES 2018-2019

- Minor changes to existing policies
- Clarify definitions and procedures
- Increase sexual harassment training requirements for legislators and staff
- Expand coverage to third parties
- Expand reporting structure
IN THE 2019 SURVEY, WE FOUND THAT MOST RESPONDENTS DO HAVE A TRAINING REQUIREMENT INCLUDED IN THEIR POLICY
IN THE 2019 SURVEY, WE FOUND THAT MANY RESPONDENTS HAVE SEPARATE TRAINING FOR LEGISLATORS AND LEGISLATIVE STAFF

- Separate Trainings for Legislators: 64%
- Do Not Have Separate Trainings for Legislators: 36%
EXAMPLES OF TRAINING REQUIREMENTS

New Mexico Legislature

- Policy reviewed at least once every two years
- All legislators and employees must be trained for a minimum of four hours every two years by an individual or entity that specializes in sexual harassment prevention

Virginia Legislature

- All full-time employees in legislative branch must complete sexual harassment training once every two years
- Training is webinar accessible 24 hours per day, seven days per week
SEXUAL HARASSMENT TRAINING VIDEO
POLICY APPLIES TO THIRD PARTIES BEYOND MEMBERS AND LEGISLATIVE STAFF
EXAMPLES OF COVERAGE EXTENDED TO THIRD PARTIES

North Dakota Legislative Assembly

- Includes members of the media, lobbyists and any other individuals involved in the legislative process

Connecticut General Assembly

- Media personnel, lobbyists, state employees who are not legislative employees, contractual employees or vendors of the General Assembly, or members of the general public having business at or visiting the Capitol complex
ALMOST ALL POLICIES CONTAIN A REPORTING STRUCTURE FOR REPORTING A SEXUAL HARASSMENT COMPLAINT

- 37 of 39 respondents have a policy with a reporting structure in place for complaints
- Reporting structures allow complainants to bypass reporting to direct supervisors
- Expanded list of contact persons or mandated reporters
- Separate reporting procedures for staff or legislator; claimant and management in most states
- Managers who witness or know of harassment must report to HR Manager in some states
- Provides clear and direct authority for HR Director to work with Senate or House Counsel and entities to handle investigation
EXAMPLES OF REPORTING STRUCTURES

Texas Senate
- Any person who believes they have been the victim of sexual harassment may report to supervisor or chief of staff
- OR
- Submit internal complaint to Director of Senate Human Resources or Secretary of the Senate

Minnesota Senate
- May discuss confidentially with a counselor provided through Employee Assistance Program
- May report your complaint directly to a designated contact person
  - Director of HR
  - Majority Leader of Senate
  - Minority Leader of Senate
  - Secretary of Senate
  - Chief of Staff for each Senate caucus
- May consult with a private attorney or file a charge of discrimination with the Minnesota Department of Human Rights
35 of 39 policies from the 2019 survey include language on the confidentiality of the complainant

34 of the 35 policies do not mention how long the report must be kept confidential

Few policies state that complaints are confidential until investigation is complete

Other policies state complaint is confidential for no longer than 75 days after complaint is made

Disclosure limited to “need to know parties”

Many policies inform all people interviewed or involved with investigation informed of confidentiality policy
ALASKA LEGISLATURE – POLICY COMPARISON 2000 TO 2019

2000
- Right to harassment free workplace
- No retaliation permitted
- Report may be written or oral to supervisor, director, leg EEO officer, or designated staff in chamber
- Complaints investigated

2019
- Goal to maintain workplace free of illegal discrimination; similar to 2000 language
- Lists examples of harassment and retaliation
- May be single incident; may be of same gender; may occur outside of work if affects workplace
- May also report to manager, supervisor, Leg Affairs Agency HR Manager, or designated staff
- Investigation procedures more specific
- Training required by statute covering legislative ethics
2003

- Provide work environment free of harassment
- Applies to legislators, employers, employees, lobbyist or member of the public
- Reported to party leader in either house or presiding officer if offender is party leader
- Reporting procedures based on offended party

2019

- Separate policies for members, employees and third parties
- Covers behavior of members away from the legislative complex and provides examples
- Disciplinary action different in each policy
- Employee policy contains agency and personal liability clauses
- Mandatory training for legislators, permanent staff (not session) – including pages and interns
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