

Richard J. Codey
Senate President



Joseph J. Roberts
Speaker

New Jersey Legislature
P.O. Box 099
Trenton, New Jersey 08625-0099

TO: Members of the Legislature
Partisan Staff
District Office Employees
Secretary of the Senate
Clerk of the General Assembly

FROM: Senate President Richard J. Codey
Speaker Joseph J. Roberts

DATE: February 9, 2009

RE: Anti-Discrimination and Anti-Harassment Policy

The attached is a comprehensive policy for the New Jersey Legislature with regard to the assurance of an anti-discrimination and anti-harassment workplace environment. It is virtually identical to a policy that was adopted for the Office of Legislative Services by the Legislative Services Commission on December 15, 2008.

The scope of this policy includes members of the Legislature, partisan staff, district office employees and all personnel in the Offices of the Senate Secretary and Assembly Clerk.

The policy shall take effect 20 days following the date of this letter, which shall constitute the adoption of the policy and have the effect of joint rules.

The policy shall be distributed to all personnel to whom it applies and receipt shall be acknowledged by each.

Handwritten signature of Richard J. Codey in black ink.

Richard J. Codey
Senate President

Handwritten signature of Joseph J. Roberts in black ink.

Joseph J. Roberts
Assembly Speaker

New Jersey Legislature Anti-Discrimination and Anti-Harassment Policy

The New Jersey Legislature is committed to providing every employee with a work environment free from all forms of discrimination or harassment. Under this policy, forms of discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability (“protected categories”).

To achieve the goal of maintaining a work environment free from discrimination and harassment, the New Jersey Legislature strictly prohibits the conduct that is described in this policy. The Legislature reserves the right to take either disciplinary action, up to and including immediate termination, or other corrective action, to address any unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment.

Acts of discrimination/harassment undermine the integrity of the employment relationship, compromise equal employment opportunity, debilitate morale and interfere with work productivity. Thus, this policy applies to all employees in the New Jersey Legislature. The Legislature will not tolerate harassment or discrimination by anyone in the workplace including supervisors, coworkers, or Members of the Legislature.

It is a violation of this policy to engage in any employment practice or procedure that treats an individual less favorably based upon the protected categories. This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, demotion, discipline, compensation, fringe benefits, working conditions and career development. It is also a violation of this policy to use derogatory or demeaning references regarding any of the protected categories.

This policy applies to all employees, including supervisors and managers, in the Office of Legislative Services (“OLS”), partisan staff offices, district offices, Office of the Clerk of the General Assembly, Office of the Secretary of the Senate and Members of the Legislature. This policy shall take effect on the 20th day following the date of adoption and shall apply to all complaints made on or after that date.

All personnel must comply with this policy and the law against unlawful harassment, and take appropriate measures to ensure that prohibited conduct does not occur. Any employee engaging in such harassment is subject to disciplinary action.

Complaints

Employees have the right and are encouraged to immediately report suspected workplace related violations of the policy to the appropriate intake officer. If an employee believes that he or she has been the subject of unlawful discrimination or harassment, the employee should immediately report the matter to the attention of the Human Resources Director or his/her designee ("hereinafter "HRD"). Complaints should be reported promptly to ensure proper investigation and remediation of the prohibited conduct.

After filing of a complaint, the HRD shall conduct a prompt, fair and thorough investigation, or work with outside counsel to conduct an investigation, unless the matter is resolved prior to the institution of an investigation. In the event that a complaint involves the HRD, the OLS Executive Director shall designate an appropriate intake person to handle the complaint. The HRD shall also serve as the intake officer for legislative committees and commissions.

Investigations

Upon receipt of a complaint by the HRD, the HRD shall acknowledge receipt to the complainant and, if appropriate, notify the person(s) against whom the complaint has been made. Upon review of a complaint, the HRD shall determine if interim corrective measures are necessary to prevent continued prohibited conduct in the workplace and communicate interim recommendations to the appropriate Executive Director or Member.

Anyone against whom a complaint has been made shall not: (1) have any role, in investigating or adjudicating the complaint; or (2) have any supervisory or advisory role in conjunction with the complaint process over those persons charged with that responsibility. If any responsibility under this policy falls on a person against whom a complaint has been made, that responsibility shall be assigned to another appropriate person. Notwithstanding any provision or procedure contained in this policy to the contrary, if a complaint is made against the President of the Senate or Speaker of the General Assembly, the complaint shall be referred to outside counsel and the duties and responsibilities conferred upon the President of the Senate or the Speaker of the General Assembly contained in this policy with respect to such complaint shall be conferred upon outside counsel.

Additionally, the HRD may utilize the assistance of outside counsel to perform the investigation. The terms, engagement and cost of outside counsel shall be determined by the Senate, General Assembly or OLS depending upon the entity employing the individual alleged to have committed the discrimination. Joint legislative committees and commissions shall be required to pay the cost of outside counsel's investigation if a joint legislative committee or commission employee is alleged to have committed the discrimination. In the event the joint legislative committee or commission does not have the funds to pay outside counsel, the cost shall be shared equally by the Senate, General Assembly and OLS.

Investigatory Reports

An investigatory report will be prepared by the HRD, or outside counsel and submitted to the HRD, upon conclusion of the investigation. The report should include a summary of the complaint, the parties' positions, the facts developed through the investigation and the concluding analysis and recommendations.

The investigatory report will be submitted to the following individuals:

(1) the President of the Senate, or his/her designee, for complaints involving a Senate Member or a Senate partisan office Executive Director. If the complaint involves a Senate Member or partisan office Executive Director of the minority party, the Senate Minority Leader, or his/her designee, shall also receive a copy;

(2) the Speaker of the General Assembly, or his/her designee, for complaints involving an Assembly Member or an Assembly partisan office Executive Director. If the complaint involves an Assembly Member or partisan office Executive Director of the minority party, the Assembly Minority Leader, or his/her designee, shall also receive a copy;

(3) the Senate or Assembly Member, for complaints involving their respective district office employees. A copy of complaints and investigatory reports involving district office employees of the majority party shall also be copied to the Presiding Officer. A copy of complaints and investigatory reports involving district office employees of the minority party shall also be copied to the Minority Leader;

(4) the partisan office Executive Director, for complaints involving partisan office employees; and

(5) the Executive Director of OLS, for complaints involving an OLS employee, or an employee/member of a joint legislative committee or commission. If the complaint is against an employee of the Office of the State Auditor, the State Auditor shall also receive a copy.

The HRD shall promptly use the same notifications to communicate a decision not to investigate the complaint.

Letter of Final Determination

Upon receipt and review of the investigatory report from the HRD, in accordance with the investigatory report procedure, the Senate President, Speaker of the General Assembly, Member, partisan office Executive Director or Executive Director of OLS, respectively, shall prepare a final letter of determination to the parties accepting or rejecting the recommendation of the HRD. Any finding against the President of the Senate, the Speaker of the General Assembly or any other Member shall be referred to its respective House for adjudication consistent with House Rules.

The final letter of determination shall be issued no later than 120 calendar days after the date of the acknowledgement letter to the complainant from the HRD. In the event that the HRD completed the Discrimination Complaint Form and received subsequent corrections from the complainant, the date of receipt of the latest corrections by the HRD shall be deemed the completion date.

The time for completion of the investigation and issuance of the final letter of determination may be extended at the discretion of the Senate President, Speaker of the General Assembly, Member, partisan office Executive Director or Executive Director of OLS, respectively, for up to an additional 60 days in exceptional situations. The officer granting the extension shall advise the parties of the extension in writing.

Confidentiality

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. All persons interviewed, including witnesses, shall be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in disciplinary action, including termination.

The complaint, together with all supporting documentation, in whatever form it is submitted, the investigatory report, together with all supporting documentation, the final letter of determination, together with all supporting documentation, and appeals pursuant to subsection 3.o., together with all supporting documentation, shall not be government records under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Retaliation

Retaliation is any job-related adverse action taken against an individual because of the filing of a good-faith complaint or the participation in the investigation of a discrimination complaint. Retaliation is prohibited and not tolerated. A complaint of retaliation shall be reported to the appropriate intake officer. The retaliation complaint shall be subject to the same procedure as is followed with a discrimination or harassment complaint. A finding of retaliation may be grounds for disciplinary action, including termination, for employees and referral to the appropriate House for Members.

False Accusations

An employee or Member who knowingly makes a false accusation of prohibited discrimination or knowingly provides false information in the course of an investigation of a discrimination complaint, may be subjected to disciplinary action, including termination, for

employees and referral to the appropriate House for Members. Complaints made in good faith, even if found to be unsubstantiated, shall not be considered a false accusation.

Notice and Distribution

Copies of this policy shall be distributed to all legislative staff and made available through the Secretary of the Senate, Clerk of the General Assembly and HRD as appropriate.

Agency Review

Nothing in this policy shall prevent an employee or Member from filing a complaint directly with external agencies that investigate discrimination charges instead of or in addition to utilizing this procedure. Complaints may be filed with the -

- (1) New Jersey Division of Civil Rights;
- (2) New Jersey Department of Law and Public Safety; and
- (3) United States Equal Employment Opportunity Commission.

These agencies should be contacted promptly by the complainant since there are statutes of limitations for filing these actions. The complainant has the burden of confirming these limitation periods and complying with them.

Indemnification

The Legislature shall indemnify any employee or Member acting pursuant to this policy as may be appropriate and as permitted by law.

Adopted: 2/9/09
Effective: 3/1/09

Acknowledgment of Receipt

In accordance with the Anti-Discrimination and Anti-Harassment Policy adopted by the legislative leaders on March 1, 2009, this will acknowledge that I have been provided with a copy of the policy.

Further, I acknowledge that I have read the document and understand my rights and obligations under the respective provisions.

I understand that a signed copy of this acknowledgment will be retained in my personnel file.

Signature

Date

Please return this form no later than March 1, 2009 to: Carmen Benitez