

# New Jersey Legislature Anti-Discrimination and Anti-Harassment Policy

## **Article 1: Policy Statement**

The New Jersey Legislature is a place of civility and mutual respect. The New Jersey Legislature is committed to providing its Members, employees and third parties 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 (the “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.

## **Article 2: Applicability**

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 Members and employees of the New Jersey Legislature and third parties. Employees include all partisan staff members, district office staff members, staff members in the Office of the Assembly Clerk, staff members in the Office of the Senate Secretary, and employees of the Office of Legislative Services (“OLS”). Third parties may include interns, lobbyists, newsmen, and members of the general public who have business at the state capitol or who are doing business with the New Jersey Legislature.

### **Article 3: Prohibited Conduct**

3.1 It is a violation of this policy to engage in any employment practice of procedure that treats an individual less favorably based upon their being a member of a Protected Category. 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.

3.2 It is a violation of this policy to use derogatory or demeaning references regarding any of the Protected Categories. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.

Examples of Prohibited Conduct include, but are not limited to:

- Discriminating against an individual with regard to terms and conditions of employment because of being in one or more of the Protected Categories referred to in this policy;
- Treating an individual differently because of the individual's membership in a Protected Category, or because an individual has or is believed to have the physical, cultural or linguistic characteristics of a member of a Protected Category;
- Treating an individual differently because of marriage to, civil union to, domestic partnership with, or association with persons of a Protected Category; or due to the individual's membership in or association with an organization identified with the interests of a certain Protected Category; or because an individual's name, domestic partner's name, or spouse's name is associated with a certain Protected Category;
- Using slurs, epithets or calling an individual by an unwanted nickname that refers to one of more of the Protected Categories in this policy, or telling jokes or engaging in pranks pertaining to one of more Protected Categories;
- Using derogatory references with regard to any of the Protected Categories in any communication;
- Engaging in threatening, intimidating, or hostile acts toward another individual in the workplace because that individual belongs to, or is associated with a Protected Category;
- Displaying or distributing material (including electronic communications) in the workplace that contain derogatory or demeaning language or images pertaining to any of the Protected Categories.

## **Article 4: Sexual Harassment**

Sexual harassment is a form of sex discrimination. It is a violation of this policy to engage in sexual harassment of any kind, including hostile work environment harassment, quid pro quo harassment, and same-sex harassment. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Examples of sexual harassment include but are not limited to:

- Unwanted physical contact including but not limited to intentional touching, massaging, grabbing, pinching, groping, brushing up against another's body or impeding or blocking movement or sexual assault;
- Explicit or implicit suggestions of sexual favors by a supervisor or manager in return for a favorable employment action such as hiring, compensation, evaluation, advancement or promotion, assigned duties or shifts, continued employment or retention;
- Denying a condition of employment because of refusal to submit to sexual advances;
- Using sexually vulgar or explicit language or making overly familiar remarks including sexual jokes, gender-based comments, inappropriate comments about a person's clothing or appearance, inappropriate comments about a person's sexual orientation, or calling a person a sexualized name;
- Repeatedly asking a person to socialize on or off duty when that person has indicated a lack of interest;
- Visual contact, such as leering or staring at another's body; gesturing; displaying sexually suggestive objects, cartoons, posters, magazines, pictures or other visual matter;
- Verbal, written, or electronically sexually suggestive or obscene comments, jokes or propositions including letters, notes, facsimiles, emails, photos, text messages, tweets or other social media or internet postings, invitations, or gestures;
- Retaliation of any kind for having filed or supported a complaint of sexual harassment or participating in an investigation;
- Off-duty conduct occurring at events such as business trips, business meetings or conferences, and business or non-business social events which falls within the above examples and affect the work environment.

## **Article 5: Complaints**

5.1 All persons have the right and are encouraged to immediately report suspected workplace related violations of the policy to the appropriate intake officer. If anyone believes that he or she has been the subject of discrimination or harassment that may violate this policy, the violation should be immediately reported to the attention of any one of the following intake officers:

- Human Resources Director of the Office of Legislative Services
- Executive Director of the Office of Legislative Services
- Executive Director of the partisan staff office employing the reporting employee
- Secretary of the Senate
- Clerk of the General Assembly
- Senate President
- Speaker of the General Assembly
- A third party designee selected by the Senate President
- A third party designee selected by the Speaker of the General Assembly

5.2 If a manager or supervisor is notified of a complaint, they should immediately report the complaint to an intake officer. Complaints should be reported promptly to ensure proper investigation and remediation of the prohibited conduct. Delays in reporting prohibited conduct can complicate investigations and make fact-finding more difficult.

5.3 After the filing of a complaint, the intake officer shall refer the complaint to the Human Resources Director of the Office of Legislative Services or to a third party/outside counsel (the "Investigating Officer") to conduct an investigation, unless the matter is resolved prior to the commencement of an investigation.

## **Article 6: Investigations**

6.1 Upon receipt of a complaint by the intake officer, the intake officer 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 Investigating Officer 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, Member, Secretary of the Senate, Senate President, Clerk of the General Assembly or Speaker of the General Assembly.

6.2 Anyone against whom a complaint has been made shall not:

- have any role, in investigating or adjudicating the complaint; or
- have any supervisory or advisory role in conjunction with the complaint process over those persons charged with that responsibility.

6.3 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 Senate President or the Speaker of the General Assembly, the complaint shall be referred to outside counsel and the duties and responsibilities conferred upon the respective House, contained in this policy with respect to such complaint, shall be conferred upon outside counsel.

6.4 Additionally, the Investigating Officer may utilize the assistance of outside counsel to perform the investigation. The terms, engagement and cost of outside counsel shall be determined by the New Jersey Legislature depending upon the entity employing the individual alleged to have committed the prohibited conduct.

### **Article 7: Investigatory Reports**

7.1 An investigatory report will be prepared by the Investigating Officer. The report should include a summary of the complaint, the parties' positions, the facts developed through the investigation and the concluding analysis and recommendations.

7.2 The investigatory report will be submitted to the following individuals:

- (1) for complaints involving a Member of the Senate or an Executive Director of the majority party partisan office, the Senate President, or his/her designee;
- (2) for complaints involving a Member of General Assembly or an Executive Director of the majority party partisan office, the Speaker of the General Assembly, or his/her designee;
- (3) for complaints involving a Member of the Senate or the partisan office Executive Director of the minority party, the Senate Minority Leader, or his/her designee, and the Senate President, or his/her designee;
- (4) for complaints involving an Assembly Member or an Assembly partisan office Executive Director of the minority party, the Assembly Minority Leader, or his/her designee, and the Speaker of the General Assembly, or his/her designee;
- (5) for complaints involving their respective district office employees, the Legislator, the Executive Director of the respective partisan office, and the Presiding Officer, or his/her designee;
- (6) for complaints involving partisan office employees, the Executive Director of the employing partisan staff office, and the Presiding

Officer, or his/her designee;

- (7) for complaints involving employees of the Senate Secretary, the Senate Secretary and the Senate President, or his/her designee;
- (8) for complaints involving employees of the Clerk of the General Assembly, the Clerk of the General Assembly and the Speaker of the General Assembly, or his/her designee;
- (9) for complaints involving employees of the Office of Legislative Services, the Executive Director of the Office of Legislative Services, ; and
- (10) for complaints involving the Executive Director of the Office of Legislative Services, the Presiding Officers or their designee(s).

### **Article 8: Letter of Final Determination**

8.1 Upon receipt and review of the investigatory report, the Senate President, Speaker of the General Assembly, Senate Secretary, Clerk of the General Assembly, Member, partisan office Executive Director, or Executive Director of the Office of Legislative Services shall prepare a final letter of determination to the parties accepting or rejecting the recommendation of the report. Any finding against a Presiding Officer or any other Member shall be referred to the House for a determination of discipline consistent with House Rules.

8.2 The final letter of determination shall be issued no later than 60 calendar days after the date of the acknowledgement letter to the complainant from the intake officer.

8.3 The time for completion of the investigation and issuance of the final letter of determination may be extended at the discretion of the Presiding Officer, for up to an additional 60 days in exceptional situations. The Presiding Officer shall advise the parties of the extension in writing.

### **Article 9: Disciplinary Action for Employees/Third Parties**

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 and reserves the right to take disciplinary action up to and including immediate termination to address any unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment. Disciplinary action may include referral for training, referral for counseling, written reprimand, suspension, reassignment, demotion, or termination of employment. Any employee found to have violated this policy will receive a minimum disciplinary action of a written reprimand. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.

## **Article 10: Disciplinary Action for Members**

Upon the issuance of a final letter of determination against any Legislator, the matter shall be referred to the appropriate House for a determination of any discipline consistent with House Rules. Discipline may include, but is not limited to, referral for training, referral for counseling, formal reprimand or censure, impeachment and/or expulsion.

## **Article 11: Confidentiality**

11.1 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 the confidentiality directive may result in disciplinary action, including termination.

11.2 Notwithstanding the provisions of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., the final letter of determination, may, with the consent of the complainant be made available upon the later of: (i) 30 days following the date of issuance of the final letter of determination; (ii) the conclusion of any legal challenges including appeals, as defined in Article 14; (iii) the conclusion of any proceedings instituted pursuant to Article 16, including any appeals, to the extent known; or (iv) the conclusion of any other legal proceeding based on the facts that formed the basis of the complaint, to the extent known.

11.3 The complaint, together with all supporting documentation, in whatever form it is submitted, the investigatory report, together with all supporting documentation, and the appeals, together with all supporting documentation, may, with the consent of the complainant and at the discretion of the Presiding Officer, or in the event the Presiding Officer is the subject of the complaint, at the discretion of the President Pro Tempore or Speaker Pro Tempore, be made available upon request, in full or in part, but under no circumstances shall be made available until the later of: (i) 30 days following the date of issuance of the final letter of determination; (ii) the conclusion of any legal challenges including appeals, as defined in Article 14; (iii) the conclusion of any proceedings instituted pursuant to Article 16, including any appeals, to the extent known; or (iv) the conclusion of any other legal proceeding based on the facts that formed the basis of the complaint, to the extent known.

## **Article 12: Retaliation**

12.1 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.

Examples of retaliation include, but are not limited to:

- Termination
- Demotion
- Denial of promotion
- Denial of training opportunities
- Negative performance appraisal
- Altering an employee's work assignment for reasons other than legitimate business reasons
- Imposing or threatening to impose disciplinary action on an employee for reasons other than legitimate business reasons
- Ostracizing an employee (for example, excluding an employee from an activity or privilege offered or provided to all other employees)

12.2 Retaliation is prohibited and will not be tolerated. A complaint of retaliation shall be reported to an intake officer. The retaliation complaint shall be subject to the same procedure as is followed with a discrimination or harassment complaint pursuant to this policy. For employees, a finding of retaliation may be grounds for disciplinary action, including termination. For Legislators, a finding of retaliation will result in referral to the appropriate House for discipline consistent with House Rules.

## **Article 13: False Accusations**

Any 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 or harassment complaint, may be subjected to disciplinary action, including termination for employees and referral to the House for Members. Complaints made in good faith, even if found to be unsubstantiated, shall not be considered a false accusation.

## **Article 14: Appeals**

If a party involved in the reported incident does not agree with its resolution, that party may appeal to the author of the final letter of determination (the Senate President, Speaker of the General Assembly, Member, Secretary of the Senate, Clerk of the General Assembly, partisan office Executive Director, Executive Director of the Office of Legislative Services, or their designee). The appealing party will have fourteen (14) days from the date of the final letter of determination to submit an appeal of the resolution. They must include a copy of the final letter of determination and written



summary outlining their appeal for review. A decision regarding the appeal must be rendered within thirty (30) days.

### **Article 15: Training**

The New Jersey Legislature shall provide all employees and Members with training on the policy and procedures set forth in this policy within a reasonable period of time after each new employee's or Member's appointment date. Refresher training shall be provided to all employees and Members, including supervisors, within a reasonable period of time, not to exceed every 2 years. All supervisors will be provided with training regarding their obligations and duties under this policy within a reasonable period of time not to exceed every 2 years.

### **Article 16: Other Options for Reporting Prohibited Conduct**

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;
- (3) United States Equal Employment Opportunity Commission; and
- (4) New Jersey Municipal Court, New Jersey County Courts, New Jersey Superior Courts, and New Jersey Supreme Court.

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.