



Colorado Legislative Council Staff

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MEMORANDUM

December 20, 2017

TO: Interested Persons

FROM: Legislative Council Staff, (303) 866-3521

SUBJECT: Requests for Proposals to Analyze and Evaluate the Existing Legislative Culture of the State as it Relates to Workplace Harassment and Comprehensively Review the Existing Workplace Harassment Rules, Policies, and Procedures of the Colorado General Assembly

1. Background Information

The Colorado General Assembly (General Assembly) is the state legislature of Colorado and includes two chambers: The Senate, which consists of thirty-five Senators, and the House of Representatives, which consists of sixty-five Representatives. The bicameral and bipartisan six-legislator Executive Committee of the Legislative Council of the Colorado General Assembly (Executive Committee) consists of the leadership of the General Assembly, specifically the President of the Senate, the Speaker of the House of Representatives, and the Majority and Minority Leaders of both chambers. The leadership of each chamber of the General Assembly manages the chamber and exercises some authority over the members of the chamber, but each Representative and Senator is independently elected by and ultimately accountable to the constituents of a district.

In addition to the legislators themselves, the General Assembly is supported by partisan and nonpartisan House and Senate staff, legislative aides and unpaid interns, and four nonpartisan legislative staff agencies: (1) Legislative Council Staff (LCS); (2) the Office of Legislative Legal Services (OLLS); (3) Joint Budget Committee Staff (JBC); and (4) the Office of the State Auditor (OSA). The four nonpartisan legislative staff agencies consist mainly of full-time year-round employees. Both Senators and Representatives, however, use part-time seasonal legislative aides and unpaid interns to staff their offices, and some House and Senate staff work on a part-time basis only when the General Assembly is preparing to convene, in session, or wrapping up after adjournment. In total, the legislative branch has approximately 475 full and part-time employees, which includes the elected Senators and Representatives and the unpaid interns.

The Senate, the House of Representatives, and most committee hearing rooms are located in the Colorado State Capitol; the offices of all legislators and legislative staff are located in the Capitol, the Legislative Services Building located just to the south of the Capitol (which is where the remaining committee hearing rooms are also located), or the state services building located just to the north of the Capitol (collectively, the "Legislative Workplace"). Other persons who regularly interact in the Legislative Workplace include lobbyists, members of the media, executive branch state employees, volunteers, and individuals who are interested in particular pieces of legislation, including the general public.

The General Assembly is in regular session for 120 consecutive days from the second Wednesday in January through the second Wednesday of May of each year and also occasionally convenes for special sessions. During a regular or special session, the Senators and Representatives spend much of their working time in the Legislative Workplace engaging in the formal legislative process of introducing, considering, amending, and voting on legislation. Especially when the General Assembly is in session, but also when it is not, they also regularly conduct legislative business with lobbyists, constituents, and other individuals interested in the legislative process or state politics both in the Legislative Workplace and in their districts or in other places outside of the Legislative Workplace. When the General Assembly is not in session, the Senators and Representatives often work in their districts, but some work, including formal interim committee work, occurs in the Legislative Workplace.

In recent months, several allegations of sexual harassment have been made against members of the General Assembly, and some media reports have suggested that the existing culture is not conducive to keeping the Legislative Workplace harassment-free. The Executive Committee is concerned that: (1) the existing culture in the Legislative Workplace and in other places where legislative business is regularly discussed or conducted may encourage, normalize, or fail to deter workplace harassment (harassment); and (2) that the General Assembly's existing rules, policies, and procedures regarding harassment may not be adequate to prevent harassment, including sexual harassment, before it occurs; protect victims of harassment; encourage reporting of harassment after it occurs; or effectively investigate, resolve, and adequately redress claims of harassment once they are made. Accordingly, the Executive Committee is undertaking an analysis and evaluation of the existing culture and a comprehensive review of the harassment rules, policies, and procedures of the General Assembly in order to ensure that going forward the best possible rules, policies, and procedures are adopted and implemented so that: (1) the Legislative Workplace is a harassment-free environment in which all legislators; legislative staff, aides, and interns; lobbyists; members of the media; executive branch state employees; volunteers; and members of the general public feel comfortable, safe, and protected; and (2) to the extent feasible, other places where legislative business is regularly discussed or conducted are similarly safe and harassment-free. The Executive Committee seeks professional assistance with the review.

2. Objective of Consultancy.

The Executive Committee seeks an independent consultant or team of consultants (Consultant) that has the demonstrated knowledge, experience, and professional capacity to:

- Conduct a comprehensive review of the existing harassment rules, policies, and procedures of the General Assembly;
- Determine the extent to which those rules, policies, and procedures align with best practices for the prevention of harassment, the protection of victims of harassment, and the resolution and redress of harassment claims;
- After soliciting information from a wide range of sources, analyze and evaluate the existing culture within the Legislative Workplace and other places where legislative business is regularly discussed or conducted to determine: (1) whether and to what extent that culture has encouraged, normalized, or failed to deter harassment; (2) and the extent to which the existing harassment rules, policies, and procedures of the General Assembly reflect or affect the existing culture; and

- If appropriate, recommend changes and additions to the rules, policies, and procedures that will best ensure that: (1) the Legislative Workplace will be a harassment-free environment in which all persons are free from harassment and can feel comfortable, safe, and respected; and (2) to the extent feasible, other places where legislative business is regularly discussed or conducted are similarly safe and harassment-free.

3. Scope of Work.

The Consultant shall analyze and evaluate the existing culture within the Legislative Workplace and other places where legislative business is regularly discussed or conducted and conduct a comprehensive review of the harassment rules, policies, and procedures of the General Assembly, including specifically: (1) Rule 38 of the Joint Rules of the Senate and the House entitled "Workplace Harassment Policy" (attached as Appendix A); and (2) the "Workplace Harassment Policy of the General Assembly" (attached as Appendix B). As part of the analysis and evaluation and the comprehensive review, the Consultant shall conduct a survey that gives all Senators, Representatives, partisan and non-partisan legislative staff (including aides and interns), lobbyists, and other individuals who work in the Legislative Workplace an opportunity to confidentially express their opinions regarding the existing culture and the rules, policies, and procedures and shall also provide an alternative process by which individuals may express their opinions confidentially without responding to survey questions. The comprehensive review must also include, at a minimum: (1) an examination of the language of the rules, policies, and procedures; and (2) an assessment of the actual and perceived efficacy of the rules, policies, and procedures in preventing harassment, protecting victims of harassment, and redressing harassment when it occurs.

After completing the analysis and evaluation and the comprehensive review, the Consultant shall prepare a written report and present the report to the Executive Committee that both summarizes and details its findings concerning the existing culture and the rules, policies, and procedures and, to the extent necessary or advisable, recommends specific changes and additions to the rules, policies, and procedures and the manner in which they are taught, presented, publicized, and implemented.

Specifically, in conducting the analysis and evaluation and the comprehensive review, the Consultant shall:

- Take into account the unique structure of the legislative branch when compared to private sector organizations, specifically considering that the legislative branch includes, among others: (1) 100 elected Senators and Representatives who, while subject to limited oversight by their leadership, are ultimately accountable to their constituents outside the Legislative Workplace; (2) Employees of legislative staff agencies, each of which is headed by a single director (or in one case by the State Auditor), is overseen by a legislative oversight committee, and is more typical in its organizational structure than the Senate or the House of Representatives; and (3) legislative aides and interns who are directly supervised by individual Senators and Representatives.
- Compare the harassment rules, policies, and procedures of the General Assembly to the workplace harassment rules, policies, and procedures of other governmental entities (including other state legislatures) and private sector employers; determine best practices; and assess the extent to which the harassment rules, policies, and procedures of the General Assembly align with best practices;

- Determine whether the General Assembly should permanently hire one or more additional human resources employees to be a single point of contact for individuals making harassment complaints and, if so, whether such employees should also investigate, resolve, and address harassment complaints or have other additional duties;
- Determine whether the General Assembly should use any existing or newly created independent entity or third-party organization to investigate, resolve, and redress harassment complaints, and, if the determination is affirmative, determine whether such an entity or organization should also serve, in lieu of legislative branch employees, as a single point of contact for harassment complaints and identify appropriate models of such entities or organizations;
- Determine whether the General Assembly's current harassment complaint procedures reflect best practices, and, if the determination is negative, identify better methods for making complaints, including anonymous and online reporting options;
- Identify best practices for protecting victims of harassment and make recommendations as to the best ways of promptly and effectively implementing those best practices;
- Make recommendations with respect to confidentiality during the complaint investigation, resolution, and redress process;
- While respecting the need for individual confidentiality, make recommendations as to how maximum transparency can be provided to the public regarding, in the aggregate, the incidence and severity of harassment and the resolution of harassment claims in the Legislative Workplace;
- Identify and recommend suitable remedies when harassment is established;
- Identify and recommend appropriate recordkeeping and retention procedures;
- Identify effective means of protecting individuals who make, support, investigate, or resolve harassment claims from retribution;
- Identify and recommend systems and procedures that will ensure that the General Assembly can clearly detect and quickly and effectively respond to patterns of harassment;
- Identify and recommend best practices to train members of the General Assembly, legislative staff, and, to the extent feasible, other persons who regularly interact in the Legislative Workplace regarding: (1) what constitutes harassment; (2) what the procedures for filing harassment complaints are; and (3) bystander intervention techniques and other means of preventing harassment.
- Solicit from a wide range of sources (including members of the General Assembly, legislative staff, aides, interns, and volunteers, state executive branch employees, lobbyists, members of the media, and other individuals who regularly interact in the Legislative Workplace), through both a confidential survey and any alternative process that the Consultant deems appropriate that allows individuals to express their opinions confidentially without responding to survey questions, pertinent information about the working environment and culture in the Legislative Workplace and in other places where legislative business is regularly discussed or conducted and the perceived efficacy of the General Assembly's harassment rules, policies, and procedures; and
- Summarize and report the information received.

The Consultant shall complete the analysis and evaluation of the existing culture and the comprehensive review of and present its report to the Executive Committee no later than March 14, 2018. It is necessary to present the report to the Executive Committee early enough during the 2018 legislative session so that: (1) the Executive Committee, as well as other interested Senators and Representatives, have sufficient time to consider the report; (2) the Office of Legislative Legal Services can prepare a Joint Resolution to make any desired amendments

to Joint Rule 38; (3) Both chambers of the General Assembly can hear, amend, and adopt, or choose not to adopt, the Joint Resolution; and (4) the Executive Committee can also consider whether changes to the "Workplace Harassment Policy of the General Assembly" are necessary and adopt any desired changes.

4. Proposal Requirements and Procedures.

4.1. Proposal Deadline and Submission Instructions.

Proposals must be submitted no later than 5:00 p.m. on January 3, 2018, to:

Mike Mauer, Director of Research
Colorado Legislative Council
200 E. Colfax Ave., Rm 029
Denver, CO 80203-1716

4.2. Required Information.

An applicant must include, at a minimum, the following information in its proposal:

- A statement of the applicant's qualifications that includes the applicant's educational background, relevant experience, and professional references. If the applicant intends to use a team to conduct the comprehensive review, the applicant shall provide this information for each member of the team.
- A description of any external knowledge network or other informational resources that the applicant expects to rely on to assist the applicant in competing the comprehensive review;
- A detailed description, including identification and definition of methods to be used, of the applicant's plan for completing the analysis and evaluation and the comprehensive review and presenting the required report; and
- The total price of the applicant's proposal.

4.3. Consultant Selection.

The Executive Committee will select the Consultant by a majority vote of its members based on its assessment of which applicant offers the best value based on the Consultant's qualifications, plan, and proposal price. The Executive Committee may delegate the initial review of proposals to an ad hoc subcommittee of its members, the Director of Research of the Colorado Legislative Council, or other members of the General Assembly or legislative staff. Applicants will be notified of the selection of a Consultant by e-mail.

4.4. Ownership of Proposals Received.

All materials submitted in response to this request for proposals are the property of the State of Colorado, except proprietary material. Any restriction on the use of information contained within a proposal must be clearly stated in the proposal. Any material that an applicant submits or plans to submit that it considers to be proprietary material must be clearly identified as such with a justification included for the designation. The Executive Committee shall make the final determination in advance of letting the contract as to whether information contained in the proposal or to be developed in the course of the project is proprietary.

4.5. Consultant Costs.

The State of Colorado is not liable for any costs incurred by an applicant as a result of submission of a proposal pursuant to this request for proposals.

5. Notice of Additional Contracting Requirements.

5.1. State Special Provisions.

The Executive Committee will include standard state Special Provisions that generally apply to all state contracts into any contract negotiated as a result of a proposal submitted in response to this request for proposals. The most recent version of the Special Provisions is available at:

<https://www.colorado.gov/pacific/osc/state-special-provisions>

5.2. Insurance.

The Consultant will be an independent contractor and may be required to submit certificates of insurance for the following types of coverage:

- Standard workers' compensation and employers' liability;
- Comprehensive general public liability and property damage;
- Comprehensive auto liability and property damage insurance; and
- Errors and omissions.

5.3. Governing Law.

This request for proposals and any contract awarded pursuant to this request for proposals shall be governed by the laws of the State of Colorado.

APPENDIX A

Rule 38 of the Joint Rules of the Senate and House of Representatives Rule 38. Workplace Harassment Policy

(a) Workplace harassment policy of the General Assembly. It is the General Assembly's policy to create and maintain a work environment in which all members, legislative employees, and third parties are treated with dignity and respect. Members, legislative employees, and third parties have the right to a workplace that is free from harassment, both subtle and overt. Therefore, the General Assembly strives to prevent and eliminate harassing behavior, and the recurrence of harassing behavior, based on disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry which members, legislative employees, and third parties may encounter in the course of their work.

(a.5) Workplace harassment — definition. "Workplace harassment" means any harassment based on disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry, including verbal or physical behavior or conduct, that denigrates or shows hostility or aversion toward an individual because of that individual's disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry or that has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. While "workplace harassment" includes sexual harassment, sexual harassment raises issues that are to some extent unique in comparison to other types of workplace harassment. Therefore, sexual harassment warrants separate emphasis and is further described in subsection (b) of this Joint Rule.

(b) Sexual harassment

- (1) For purposes of this Joint Rule, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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.
- (2) In the course of implementation of the General Assembly's workplace harassment policy, the description of sexual harassment contained in paragraph (1) of this subsection (b) and in the written statement prepared pursuant to subsection (c) (1) of this joint rule shall be subject to revision as necessary to conform with the most recent state or federal statutes or case law defining sexual harassment.

(c) Statement implementing the workplace harassment policy of the General Assembly.

- (1) The staff directors of the Legislative Council, the Office of Legislative Legal Services, and the Joint Budget Committee, the State Auditor, the secretary of the Senate, and the chief clerk of the House of Representatives jointly shall prepare a written statement implementing the workplace harassment policy of the General Assembly set forth in subsection (a) of this Joint Rule and containing the definition of workplace harassment in subsection (a.5) of this Joint Rule. Such statement must be in the form of an employment or personnel policy. Such statement must be applicable to all legislative employees of the agencies or house not subject to the state personnel system, each member of the General Assembly, and third parties. Such statement must be submitted for approval to the Executive Committee of the Legislative Council and, following such approval, must also be included in each agency's personnel manual or equivalent document.
- (2) Such statement must also include a specific description of sexual harassment and examples of written, verbal, visual, and physical conduct which may constitute sexual harassment, including but not limited to, examples of the kind of behavior that creates a hostile environment based on sexual harassment.
- (3) Such statement must provide that no person will be subject to retaliation for having complained of workplace harassment or for having assisted or participated in an investigation of alleged workplace harassment.

(d) Implementation of policy — complaint procedure.

- (1) The statement implementing the workplace harassment policy of the General Assembly must provide for the resolution of workplace harassment complaints as follows:
 - (A) A legislative employee, member, or third party with a workplace harassment complaint may notify that person's contact person. The contact person shall investigate the complaint by interviewing the complainant, the person or persons accused, and any witnesses and by considering all of the circumstances surrounding the alleged incident or incidents which form the basis of the complaint. After this investigation and after appropriate consultation, if necessary, the contact person may resolve the complaint. Resolution may include disciplinary action when appropriate.
 - (B) Notwithstanding subparagraph (A) of this paragraph (1) , a legislative employee with a workplace harassment complaint may file a charge of discrimination with the United States Equal Employment Opportunity Commission or the Colorado Civil Rights Division as provided by law.

(e) Record-keeping. The statement implementing the workplace harassment policy of the General Assembly must include appropriate record-keeping requirements, including, but not limited to, a provision that complaints of workplace harassment will be investigated and information shared with those having a need to know and in accordance with the law.

(f) *Training.* Persons responsible for implementing the workplace harassment policy of the General Assembly shall receive sufficient training to discharge their duties. The General Assembly shall provide training opportunities for members. In addition, such training shall be provided in the course of orientation of newly elected members.

(g) *Definitions.* As used in this Joint Rule:

(1) "Legislative employee" means an employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, the Senate, or the House of Representatives, or any legislative aide to a member, legislative intern, or volunteer staff

(2) "Contact person" means:

(A) The director of Legislative Council, or the director's designee of the opposite gender, for legislative employees of that office;

(B) The director of the Office of Legislative Legal Services, or the director's designee of the opposite gender, for legislative employees of that office;

(C) The staff director of the Joint Budget Committee, or the staff director's designee of the opposite gender, for legislative employees of that office;

(D) The State Auditor, or the State Auditor's designee of the opposite gender, for legislative employees of that office that are not in the state personnel system;

(E) The secretary of the Senate, or the secretary's designee of the opposite gender, for legislative employees of the Senate;

(F) The chief clerk of the House of Representatives, or the chief clerk's designee of the opposite gender, for legislative employees of the House of Representatives; or

(G) Either the President of the Senate, or the President's designee of the opposite gender, or the Speaker of the House of Representatives, or the Speaker's designee of the opposite gender, for members, third parties, and any other person with a complaint.

(3) "Third parties" means newsmen, lobbyists, and members of the general public who have business at the state capitol or who are doing business with legislative service agencies, the Senate, or the House of Representatives.

APPENDIX B
Workplace Harassment Policy of The General Assembly

Prepared by the Office of Legislative Legal Services

A. WORKPLACE HARASSMENT POLICY STATEMENT

1. Pursuant to the workplace harassment policy contained in Joint Rule 3 8, it is the policy of the General Assembly to create and maintain a work environment in which all members of the General Assembly, legislative employees, and third parties are treated with dignity and respect. Members, legislative employees, and third parties have the right to a workplace that is free from harassment, both subtle and overt. Therefore, the General Assembly will strive to eliminate harassing behavior based on disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry which members, legislative employees, and third parties may encounter in the course of their work.

B. APPLICABILITY

1. This Policy is applicable to all legislative employees who are not subject to the state personnel system, each member of the General Assembly, and third parties.

C. DEFINITIONS

1. As used in this Policy:

- a. "Contact person" means:

- I. The director of Legislative Council, or the director's designee of the opposite gender, for legislative employees of that office;
- II. The director of the Office of Legislative Legal Services, or the director's designee of the opposite gender, for legislative employees of that office;
- III. The staff director of the Joint Budget Committee, or the staff director's designee of the opposite gender, for legislative employees of that office;
- IV. The State Auditor, or the State Auditor's designee of the opposite gender, for legislative employees of that office who are not in the state personnel system;
- V. The secretary of the Senate, or the secretary's designee of the opposite gender, for legislative employees of the Senate;
- VI. The chief clerk of the House of Representatives, or the chief clerk's designee of the opposite gender, for legislative employees of the House of Representatives;

- VII. Either the President of the Senate, or the President's designee of the opposite gender, or the Speaker of the House of Representatives, or the Speaker's designee of the opposite gender, for members, third parties, and any other persons with a complaint; or
 - VIII. In addition to a designee described in subparagraphs I. through VII. of this paragraph a., a person of the same gender designated at the discretion of a legislative service agency director, the State Auditor, the secretary of the Senate, or the chief clerk of the House of Representatives for legislative employees of their respective offices or chamber, or at the discretion of the President of the Senate or the Speaker of the House of Representatives for members, third parties, and any other persons with a complaint.
- b. "Legislative employee" means an employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, the Senate, or the House of Representatives, including any legislative aide to a member. For purposes of this Policy, "legislative employee" also includes a legislative intern and volunteer staff
 - c. "Member" means a member of the General Assembly.
 - d. "Third party" means a newsperson, lobbyist, and member of the general public who has business at the state capitol or who is doing business with legislative service agencies, the Senate, or the House of Representatives.
 - e. "Workplace harassment" means any harassment based on disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry, including verbal or physical behavior or conduct, that denigrates or shows hostility or aversion toward an individual because of that individual's disability, race, creed, color, sex, sexual orientation, religion, age forty and older, national origin, military status, genetic information, or ancestry or that has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. While "workplace harassment" includes sexual harassment, sexual harassment raises issues that are to some extent unique in comparison to other types of workplace harassment. Therefore, sexual harassment warrants separate emphasis and is further described in sections D. and E. of this Policy.

D. SEXUAL HARASSMENT

- 1. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of 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.

E. EXAMPLES OF SEXUAL HARASSMENT

1. The following are examples of conduct or communication which may constitute sexual harassment:

a. VERBAL:

- I. Sexual comments or innuendos about one's clothing, body, or sexual activity.
- II. Discussing sexual topics in the workplace, such as sexual practices or preferences or telling sexual jokes or stories.
- III. Requesting or demanding sexual favors or suggesting that there is any connection between sexual behavior and any term or condition of employment, whether that connection be positive or negative.
- IV. Using sexual words or phrases.

b. NONVERBAL:

- I. Displaying sexually explicit pictures or objects in the work area.
- II. Giving personal gifts of a sexual nature.
- III. Making sexually suggestive gestures.
- IV. Making unwelcome visits to a member's, legislative employee's, or third party's home or hotel room.
- V. Displaying cartoons or sending e-mails, text messages, instant messages, or notes any of which contain sexual pictures, words, or phrases.

c. PHYSICAL:

- I. Kissing of a member, legislative employee, or third party, unless the kissing is a customary demonstration of affection, is clearly not objected to, and is made in connection with a greeting or parting, such as a "peck" on the cheek.
- II. Patting, pinching, or intentionally brushing against a member's, legislative employee's, or third party's body.
- III. Sexual contact, intercourse, or assault.

2. The examples in paragraph I. are illustrative of the communications and conduct that may constitute sexual harassment if unwelcome and depending upon the totality of the circumstances. In that regard, the following should be kept in mind:

- I. A single incident may or may not constitute sexual harassment.

- II. Whether a particular action is sexual harassment will depend on the facts and determinations will be made on a case-by-case basis.
- III. Conduct or communications that might be welcome to one person may be unwelcome to another person. Conduct or communications that might have been welcome between two individuals at one time may become unwelcome at a later time.
- IV. Other conduct or a communication not expressly described in the examples, but which is substantially similar to the examples, may be violative of this policy

F. COMPLAINTS REGARDING WORKPLACE HARASSMENT

- 1. A member, legislative employee, or third party who believes he or she is the subject of any type of workplace harassment in any manner from anyone, should submit a complaint directly to the appropriate contact person. The complainant may submit the complaint to either gender contact person. The complaint should specifically describe the incident or incidents. The contact person who receives the complaint shall investigate the complaint as promptly and confidentially as practicable by interviewing the complainant, the person accused, and any witnesses or co-workers, and by considering the circumstances surrounding the alleged incident or incidents which form the basis of the complaint.
- 2. The contact person may gather the following facts in such an investigation from the complainant, the person accused, and any witnesses or co-workers:

a. From the complainant:

- I. A description of the incident or incidents including where and when the incident or incidents took place.
- II. Whether a similar incident or incidents has or have happened before.
- III. An explanation of how the incident or incidents affected the complainant's work.
- IV. A description of the complainant's reaction to the incident or incidents.
- V. Whether there were any witnesses to the facts surrounding the incident or incidents or any other evidence of its occurrence.

b. From the person accused:

- I. An explanation of the facts surrounding the complainant's allegations and a request for a response.
- II. Any reason why the complainant might be fabricating the complaint.
- III. Whether there were any witnesses to the incident or incidents or any other evidence surrounding the complaint.

b. From witnesses or co-workers:

- I. What they observed.
 - II. How they reacted to the facts surrounding the incident.
 - III. What the complainant or the person accused of workplace harassment told them.
3. Nothing in paragraph b. of subsection 2. of this section F., or any other provision of this Policy, requires any person accused of workplace harassment to involuntarily provide, either orally or in writing, any facts, information, or evidence in response to an investigation of a complaint or to involuntarily sign a written statement or confession.
 4. Following the investigation and, after any appropriate consultation, the contact person may resolve the complaint pursuant to section I. of this Policy. The contact person shall make records of the complaint maintained by the contact person available to the person accused of workplace harassment. (See section H. of this Policy) The contact person shall inform both the complainant and the person accused of the outcome of the investigation. Resolution may include disciplinary action when appropriate.
 5. Under some circumstances, an outside individual or entity, such as the Mountain States Employers Council or other credible group, may be used to investigate the complaint and to make recommendations. In such circumstances, the contact person may provide information related to the complaint to the outside individual or entity conducting the investigation.

G. RETALIATION PROHIBITED

1. No person will be subject to retaliation for having complained of workplace harassment or for having assisted or participated in an investigation of alleged workplace harassment. Any person who believes that 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 the appropriate contact person.

H. RECORDKEEPING

1. Complaints of workplace harassment will be investigated and handled as information shared with those having a need to know and in accordance with the law as follows:
 - a. When a workplace harassment complaint is made, the contact person shall create a separate file under the complainant's name. The contact person shall place all written documentation arising from the complaint in the file including, but not limited to the following: The complaint, if it is in writing; the contact person's or other investigator's investigatory notes, information, and other writings; witness statements; and the disposition, if any, of the complaint. Except as otherwise specifically stated in this Policy, the contact person shall keep the records in the workplace harassment file confidential.

- b. Section 24-72-204 (3)(a)(X), C.R.S., applies to records maintained of sexual harassment complaints under this Policy. Specifically, it provides that:
- I. Any records of sexual harassment complaints and investigations maintained pursuant to Joint Rule 38 are not subject to public inspection.
 - II. Disclosure of the records of the complaint and the investigation to a "person in interest", which includes the complainant and the person accused, is permissible .
 - III A person accused of sexual harassment may make records kept pursuant to this Policy available for public inspection in order to support the contention that an allegation of sexual harassment against that person is false.

I. RESOLUTION OF A WORKPLACE HARASSMENT COMPLAINT

1. If the contact person determines that this Policy has been violated, appropriate disciplinary action will follow. As a general rule, remedies will be assessed proportionate to the seriousness of the violation. For legislative employees, this may include an apology, direction to stop the offensive conduct, counseling or training, oral warning, written warning, or termination. If the contact person determines that a member of the General Assembly has violated this Policy, the contact person shall inform leadership of the respective body which shall, in turn, handle the disciplinary action, if any, according to the rules of the appropriate house of the General Assembly.
2. The appropriate contact person will handle the resolution of complaints involving legislative employees. If a member is involved in a complaint situation, the contact person may discuss resolution directly with the member or take the matter to leadership of the respective body, depending on the circumstances; however, only leadership may handle any disciplinary action involving a member. If a third party is involved, the contact person shall handle the complaints and the resolution thereof.
3. If the workplace harassment recurs after a complaint is made, the complainant should immediately bring the matter to the attention of the appropriate contact person.

J. FALSE COMPLAINTS

1. Complaints of workplace harassment that are found to be intentionally or recklessly dishonest or malicious will not be tolerated.