Evolving Workplace Harassment Policies

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RESOLUTION OF THE LEGISLATIVE COUNCIL URGING THE ADOPTION
OF A SEXUAL HARASSMENT POLICY FOR THE SENATE AND
HOUSE OF REPRESENTATIVES.

WHEREAS, the Alabama Legislature is committed to creating
and maintaining a work environment in which all members and
employees are treated with respect and are free from sexual
harassment; now therefore,

BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF ALABAMA, That
the following policy and procedure shall be adopted by the
members of the Legislative Council from the House of
Representatives for the House of Representatives and the elected
Senate members of the Legislative Council for the Senate as the
sexual harassment policy of the Alabama House of Representatives
and Senate, respectively:

1. The [House of Representatives] [Senate] as part of its
affirmative action efforts for the legislative branch of
government and pursuant to the guidelines on sex discrimination
issued by the Equal Employment Opportunity Commission, fully
supports the protection and safeguarding of the rights and
opportunities of all people to seek, obtain, and hold employment
without subjection to sexual harassment of any kind in the work
place.

2. The [House of Representatives] [Senate] acknowledges
that the question of whether a particular action or incident is
of a purely personal or social nature, without a discriminatory
employment affect, requires an extensive determination based on
all facts in each case. The [House of Representatives] [Senate]
recognizes that false accusations of sexual harassment can have
serious effects on innocent individuals. It is also recognized
that there are other options available to a complainant and
courses of action that he or she may pursue.

3. The [House of Representatives] [Senate] trusts that all
persons involved in the business of the [House of
Representatives] [Senate], whether a member, officer,
supervisor, manager, or employee of the [House of
Representatives] [Senate], lobbyist, or other person involved in
the work of the [House of Representatives] [Senate], will act
responsibly to establish and maintain a pleasant working
environment for all.

4. Sexual harassment is a violation of Title VII of the
Civil Rights Act of 1964 and it is against the policy of the
(a) Making unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature as a condition of employment or continued employment.

(b) Making submissions to or rejections of the conduct the basis for administrative decisions affecting employment.

(c) Creating an intimidating, hostile, or offensive working environment by the conduct.

5. As used in this policy, sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that fails to respect the rights of others, that lowers morale, and that, therefore, interferes with work effectiveness. Sexual harassment may be overt or subtle. Some behavior that is appropriate in a social setting may not be appropriate in the workplace. Whatever form it takes, verbal, non-verbal, or physical, sexual harassment can be insulting and demeaning to the recipient and will not be tolerated in the workplace.

6. One specific form of harassment is the demand for sexual favors. Other forms may include, but are limited to, the following:

(a) Verbal. Sexual innuendoes, suggestive comments, and jokes of a sexual nature and demeaning references.

(b) Non-verbal. Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, and obscene gestures.

(c) Physical. Touching a person's body, hair, or clothing or standing too close to, brushing up against, or cornering a person.

7. All persons involved in the business of the [House of Representatives] [Senate], whether a member, officer, or employee of the [House of Representatives] [Senate], lobbyist, or other person involved in the work of the [House of Representatives] [Senate] are expected to comply with this policy and take appropriate measures to ensure that the prohibited conduct does not occur.
8. Any person involved in the business of the [House of Representatives] [Senate], whether a member, officer, or employee of the [House of Representatives] [Senate], lobbyist, or other person involved in the work of the [House of Representatives] [Senate] who believes that he or she has been the subject of sexual harassment or has observed or heard sexual harassment should report the alleged act immediately to his or her supervisor or to the [Clerk of the House or the Human Resources Manager] [Secretary of the Senate]. [A complaint against the Clerk of the House shall be filed with the Speaker of the House.] [A complaint against the Secretary of the Senate shall be filed with the elected Senate members of the Legislative Council.]

9. All complaints shall be handled in a timely and confidential manner. In no event shall information concerning a complaint be released to anyone who is not involved with the investigation. No person involved shall discuss the subject outside the investigation. The purpose of this provision is to protect the confidentiality of the person who files a complaint, to encourage the reporting of any incidents of sexual harassment, and to protect the reputation of any person wrongfully charged with sexual harassment.

10. Investigation of a complaint normally includes conferring with the parties involved and any named or apparent witnesses. Each person has a right to an impartial and fair hearing. All persons shall be protected from coercion, intimidation, retaliation, interference, or discrimination for filing a complaint or assisting in an investigation.

11. If the investigation reveals that the complaint is valid, prompt attention and disciplinary action designed to immediately stop the harassment and to prevent its recurrence shall be taken. If a valid complaint involves the conduct of a member of the Legislature, the [Clerk of the House] [Secretary of the Senate] shall refer the matter to the [members of the Legislative Council from the House of Representatives] [elected Senate members of the Legislative Council].

12. The form of disciplinary action for officers or employees of the [House of Representatives] [Senate] shall be considered and decided by the appropriate authority. Based on the seriousness of the offense, the action may include, but is not limited to, verbal or written reprimand, suspension, demotion, or termination.
13. The form of any disciplinary action for a member of the Legislature or any other person involved in the business of the [House of Representatives] [Senate] shall be determined in accordance with Section 53 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

14. The [Clerk of the House of Representatives] [Secretary of the Senate] shall adopt procedures to implement and publicize this policy.

Adopted by the Legislative Council ____________, 2019

Othni J. Lathram, Secretary
8. **Professional Conduct**

LSA employees are privileged to serve in one of the most integral roles of public service to the people of Alabama, and they represent the integrity of state government and the Legislature. Therefore, LSA employees are expected to act in a manner consistent with generally recognized professional conduct and to abide by and reflect the highest levels of ethical and moral standards.

**Confidentiality**

Confidentiality of information is of paramount importance in the Legislative Services Agency. To a great extent, the information obtained, created, or utilized by LSA is protected by confidentiality laws that govern the agency and that are set forth in Section 29-6-7.1, Code of Alabama 1975, which is attached to this Employee Manual as Appendix B. LSA employees should read this code section carefully. Employees shall adhere to the code section at all times and shall also abide by any designation of confidentiality made by the LSA Director. Unauthorized accessing or disclosure of confidential information by any employee is prohibited. If an employee has any questions or concerns regarding the confidential or proprietary nature of any information, including any permissible use thereof, the employee should seek advice from the employee’s supervisor or Deputy Director of his or her division, as applicable, or from the LSA General Counsel or LSA Director.

*Extreme caution should be exercised by LSA employees in all work-related communications with media or news personnel.* Due to the proprietary and confidential nature of the information available to and work performed by LSA employees, employees are expected to, and should refrain from, commenting on or responding to requests for information from news reporters, journalists, writers, or other members of the media regarding legislative or work-related matters, and should instead defer questions, requests, or communications of that type or nature to the employee’s Deputy Director or supervisor, the LSA Director, or the LSA General Counsel.

**Code of Ethics**

Alabama’s ethics laws for public officials and employees are set forth in Chapter 25 of Title 36 of Alabama’s Code, beginning with Section 36-25-1, Code of Alabama 1975. LSA employees are required to be knowledgeable of and abide by all applicable ethics laws and rules and to understand how to appropriately conduct themselves as public employees. A complete transcript of the Code of Ethics is available online at the Alabama Ethics Commission website: [www.ethics.alabama.gov](http://www.ethics.alabama.gov). In accordance with the law, all public employees, including LSA employees, are required to watch an ethics training video created by the Alabama Ethics Commission and located online at [http://ethics.alabama.gov/training/intro](http://ethics.alabama.gov/training/intro) within 90 days of the employee’s hire date. Any LSA employee with questions about the applicability of or compliance with the state’s ethics laws should consult with his or her Deputy Director or supervisor, as applicable, or with the LSA General Counsel or LSA Director.

**Attire and Personal Appearance**

LSA employees are required to maintain a high level of professionalism and a professional appearance during the performance of their duties. All LSA employees are required to abide by LSA’s attire and personal appearance policies, and all LSA employees must be familiar with the House and Senate rules of attire and dress accordingly any day in which the Legislature is in session, including committee days.
These policies are contained in the LSA Dress Code, which is attached to this Employee Manual as Appendix C.

LSA’s attire and personal appearance policies may be updated and changed periodically. Any updates or changes will be provided to employees in the form of a memorandum from the LSA Director or his or her designee.

**Family Members in the Workplace**
Out of respect for co-workers and the efficient functioning of the agency, LSA employees are expected to be conscientious of the amount of time that his or her family members are present in the workplace, and to keep the amount of time to reasonably minimal periods of time. If the amount of time in which a family member is expected to remain in the workplace is beyond a reasonably brief period of time, such as a quick drop by, then the employee should obtain permission from his or her Deputy Director or supervisor, as applicable, or the LSA Director. LSA employees will be held responsible for any improper accessing of or use of LSA equipment, supplies, or confidential or proprietary information, or for any damage or loss incurred to any agency equipment or supplies.

**LSA Policy Against Sexual Harassment**
The Legislative Services Agency is committed to creating and maintaining a work environment in which all employees are treated with respect and are free from sexual harassment. LSA, as part of its affirmative action efforts and pursuant to the guidelines on sex discrimination issued by the Equal Employment Opportunity Commission (EEOC), fully supports the protection and safeguarding of the rights and opportunities of all people to seek, obtain, and hold employment without subjection to sexual harassment of any kind in the workplace. Further details regarding prohibited conduct and the reporting of problems are included below.

**Prohibited Conduct**
Sexual harassment in any form by or against LSA employees, personnel, or applicants for employment will not be tolerated. LSA trusts that all persons involved in the business of the agency or the Legislature will act responsibly to establish and maintain a pleasant and professional working environment for all. Sexual harassment under this policy does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that fails to respect the rights of others, that lowers morale, and that, therefore, interferes with work effectiveness and the rights of all persons involved in the business of LSA and the Legislature.

It is against LSA policy for any employee or personnel to sexually harass another person involved in the business of LSA or the Legislature by doing any of the following:

- Making unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature as a condition of employment or continued employment.
- Making submissions to or rejections of the conduct the basis for administrative decisions affecting employment.
- Creating an intimidating, hostile, or offensive working environment by the conduct.

No supervisor or other employee shall threaten or insinuate, either explicitly or implicitly, that another employee's or applicant's refusal to submit to sexual advances will adversely affect that person's employment, work status, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment or career development. Similarly, no
employee shall promise, imply, or grant any preferential treatment, or threaten with any negative treatment, in connection with another employee or applicant engaging in sexual conduct.

Sexual harassment also includes, but is not limited to, any of the following:

Demands for sexual favors; unwelcome sexual flirtations, advances, or propositions; verbal behavior or abuse of a sexual nature, such as sexual innuendoes, suggestive comments, and sexually explicit or offensive jokes of a sexual nature, or graphic verbal commentaries about an individual’s body or sexually degrading words used to describe an individual; non-verbal behavior or abuse such as sexually suggestive or insulting sounds, whistling, leering, or obscene gestures; subtle pressure or requests for sexual activities; preferential or derogatory treatment based on gender; unnecessary touching of an individual, including the person’s body, hair, or clothing; items or displays in the workplace of sexually suggestive objects or pictures; or physical assault of a sexual nature.

Any questions about LSA’s policy against sexual harassment should be brought to the attention of the LSA Director, a Deputy Director, or the LSA General Counsel.

Reporting Problems
Any employee, applicant, or other LSA personnel who believes that he or she has been subjected to sexual harassment, including, but not limited to, any of the sexually inappropriate conduct described herein, by any other LSA employee, personnel, or applicant, or any other individual involved in the business of LSA or the Legislature, should immediately report the matter to his or her Deputy Director or supervisor, as applicable. Any LSA employee, applicant, or other agency personnel who is uncomfortable for any reason in bringing such a matter to the attention of his or her supervisor or Deputy Director, or who is not satisfied after bringing the matter to the attention of the same, should report the matter to the LSA Director. Further, any complaint against a supervisor or Deputy Director shall be reported directly to the LSA Director. Additionally, any individual involved in the business of LSA or the Legislature who believes that he or she has been subjected to sexual harassment as described herein by any LSA employee, personnel, or applicant, should report such matter directly to the LSA Director. A complaint against the LSA Director should be reported to the LSA General Counsel, who will promptly notify the Chair or Vice Chair of the Legislative Council of such claim or report.

LSA will address all allegations of sexual harassment in a timely and confidential manner and take appropriate corrective action. Other than circumstances wherein the reported action or incident is violative of this policy on its face or is grossly offensive regardless of context, the determination of whether a particular action or incident is of a purely personal or social nature, without a discriminatory employment effect, may in some cases require an extensive investigation into all the facts and circumstances in each case in order to best ensure just and fair decisions. This policy recognizes the utmost importance of protecting individuals from the negative and sometimes serious effects of sexual harassment, while at the same time recognizing that false or unfounded accusations of sexual harassment can have an extremely negative impact on innocent individuals. Thus, in no event shall information concerning a complaint be released to anyone who is not involved with the matter or investigation, and no individual involved shall discuss the subject outside the proper agency personnel handling the investigation. The purpose of these provisions related to sexual harassment complaints and investigations is to protect the confidentiality of the individual who files a complaint, to encourage the reporting of any incidents of sexual harassment, and to protect the reputation of any individual wrongfully or unreasonably accused of sexual harassment. All individuals will be protected from coercion, intimidation, retaliation, interference, or discrimination for filing a complaint or assisting in an investigation.
Any employee who is determined, after an investigation, to have engaged in sexual harassment in violation of this policy will be subject to appropriate disciplinary action, including possible termination. Any disciplinary action taken shall be designed to immediately stop any harassment and to prevent its recurrence. Additionally, any LSA employee who makes a sexual harassment accusation that is determined, after investigation, to be false and intentionally or grossly misleading, will also be subject to appropriate disciplinary action.

If a valid complaint involves the conduct of an individual involved in the business of LSA or the Legislature other than an employee, personnel, or applicant of the Legislative Services Agency, the LSA Director or LSA General Counsel shall refer the matter to the Legislative Council.

**Workplace Violence**

Any form of violence in the workplace is unacceptable and will not be tolerated. Employees and personnel should be protected as fully as possible from assaults, threats, intimidation, harassment, and coercion; thus, appropriate disciplinary actions will be taken when such incidents occur.

All LSA employees and personnel are to treat coworkers, members of the Legislature, and visitors responsibly and respectfully. Any individual who exhibits violent, threatening, or intimidating behavior or who retaliates against another employee or LSA personnel, member of the Legislature, or visitor for any reason will be subject to prompt investigation and corrective disciplinary action that may include dismissal, arrest, or prosecution.

Any individual who makes threats of violence, exhibits threatening behavior, or engages in violent acts within LSA’s jurisdiction will be removed from the premises as quickly as safety permits and will be prohibited from returning to the premises pending the outcome of an investigation.

LSA prohibits the possession of weapons by unauthorized personnel in the State House or on any other of its premises where LSA’s business is conducted.

**Substance Abuse**

The Legislative Services Agency is committed to providing a work environment free of illegal drugs and alcohol. The following practices are prohibited:

- The use, possession, or distribution of illegal drugs or the misuse or abuse of legal drugs (including prescription medications) in the workplace.

- The use, possession, storage or consumption of alcohol in the workplace.

- Reporting to work or performing work for LSA or the Legislature while under the influence of any substance that impairs the employee’s ability to perform his or her duties.

Violations of this policy will result in disciplinary action, including possible termination.
Political Activities & Public Expression
As a nonpartisan legislative agency that impartially serves all members of the Legislature regardless of political philosophy or affiliation, it is imperative that LSA employees avoid public political activities or public expressions that could undermine or compromise the integrity of LSA’s functions and operations.

Political Activities
LSA respects the individual rights and liberties of all its employees, and all LSA employees are encouraged to inform themselves and vote as they wish on all political issues. However, discretion should be used before participating in certain political activities or public expressions.

LSA employees may not participate or engage in any political activity or any overt political expression that substantially compromises the employee’s ability to discharge his or her duties and obligations to the Legislative Services Agency and the Legislature with neutrality, efficiency, and integrity. The primary responsibility for making this judgment rests with the LSA Director.

Any LSA employee who is in doubt about the appropriateness of a particular political activity or conduct should consult his or her Deputy Director or supervisor, as applicable, the LSA General Counsel or the LSA Director in advance of participation in such activity or conduct.

In accordance with applicable law, no LSA employee may use any state funds, property, or time for any political activities, or to use or attempt to use his or her official position or authority for the purpose of influencing the vote or political action of any person. Additionally, LSA employees are prohibited from soliciting any type of political campaign contributions from any other subordinate employees, or coercing or attempting to coerce any subordinate employee to work in any capacity in any political campaign or cause.

Public Expression
LSA and its employees are an integral part of the Legislature and the legislative process, and therefore LSA has a strong imperative and interest in maintaining the confidence of the Legislature and the citizens of Alabama who depend on the Legislature for enactment of its laws and policies. Members of the Legislature, in turn, depend on LSA to provide fair, accurate, impartial, and unbiased information and services when called upon to do so. For these reasons, LSA employees are expected to refrain from making overt and public statements regarding political or legislative matters that would likely have the effect of hindering or compromising the agency’s or the employee’s ability to maintain that confidence and trust between LSA’s impartial functioning and the members of the Legislature and citizens of Alabama. LSA employees should be especially cautious when making statements on social media sites such as Facebook or Twitter, or in other such forums in which a statement could easily be observed or disseminated to many recipients.

Any LSA employee who is in doubt about the appropriateness of particular conduct or expression should consult his or her Deputy Director or supervisor, as applicable, the LSA General Counsel, or the LSA Director in advance of participation in such activity or conduct.

Employee Discipline
Subject to the discretion of the LSA Director, employee disciplinary options include, but are not limited to, the following: Counseling; written reprimand; suspension without pay; and termination. Written documentation of all disciplinary actions shall be placed in the employee’s personnel file. The LSA Director may discipline an employee for cause or may terminate at will.
The following is a non-exhaustive list of inappropriate employee behaviors or conduct that may lead to discipline and/or immediate termination as determined by the Director of Legislative Services:

- Continued or gross neglect of job duties and assignments.
- Sleeping on the job, inattention to the job.
- Absenteeism – repeated incidences of absenteeism, excessive absences.
- Tardiness – repeated incidences of tardiness, excessive tardiness.
- Job abandonment.
- Incompetence, unwillingness, or inability to perform satisfactorily on the job.
- Misuse or misappropriation of either state or LSA funds, property, or equipment.
- Stealing LSA or state property.
- Serious breach of professional conduct or disruptive conduct.
- Substance abuse while on duty or being under the influence of alcohol or drugs while on the job.
- Smoking in non-designated smoking areas.
- Possession of illegal materials, possession of weapons.
- Workplace violence including all forms of harassment, threats, and intimidation.
- Conviction of a felony or any crime involving moral turpitude.
- Material falsification of employment application or time records.
- Insubordination or failure to follow a direction from a Deputy Director, supervisor, the LSA Director, or other authority.
- Failure to follow LSA policies and procedures.
- Violations of safety rules which endanger life or property.
- Use of abusive or threatening language.

Conformance to Laws
LSA Employees must obey the laws of the United States and the State of Alabama. Any employee who is convicted of a crime relating to his or her employment shall be subject to disciplinary action, including possible termination.

Any employee who has been indicted or arrested for a crime that reasonably gives rise to legitimate fear for the safety of other employees, the property of LSA or the state, or jeopardizes the public trust in LSA employees or undermines trust in the integrity of the Legislature or the laws of Alabama, may also be subject to disciplinary action up to and including termination.
Model Code of Conduct for Legislative Staff
The Legislative Services Agency supports and adopts the general principles and ideals of the National Conference of State Legislatures’ Model Code of Conduct for Legislative Staff, as amended in January 2012. LSA employees and personnel are expected to review and familiarize themselves with the provisions of the Model Code of Conduct, which is attached to this Employee Manual as Appendix D.

LSA expects all of its employees and personnel to abide by the standards, principles, duties, and responsibilities called for by legislative staff as contained therein. Violations of such standards of conduct are considered violations of the principles and expectations of LSA’s policies, unless contradicted by LSA policies and procedures identified in this Employment Manual, or as otherwise provided by or clarified through the employee’s Deputy Director or supervisor, as applicable, or through the LSA General Counsel or LSA Director.