

- Sexual Harassment -

General Policy

The Texas Senate and the Office of the Lieutenant Governor are committed to maintaining a work environment where every person is treated with respect and dignity. Sexual harassment is unacceptable and will not be tolerated. All senators, Senate employees, the general public, and the Office of the Lieutenant Governor are responsible for maintaining a workplace free of harassment and discrimination. For purposes of this policy, the term "employee" includes interns, either paid or unpaid, and the term "general public" includes any individual whose work requires them to visit the Capitol on a regular basis.

This policy applies to all senators, Senate employees, the general public, and the Office of the Lieutenant Governor. Sexual harassment constitutes a violation of this policy and may also be a violation of Title VII of the federal Civil Rights Act of 1964, as amended, of Chapter 21 of the Texas Labor Code (Employment Discrimination), or of Chapter 39 of the Texas Penal Code (Abuse of Office), including Section 39.03, relating to official misconduct. An individual who engages in sexual harassment may face a variety of adverse employment actions, including suspension, termination, investigation by civil and criminal authorities, and any other appropriate form of disciplinary action.

Sexual harassment may also constitute sexual assault. Sexual assault is a crime. Any person who has been sexually assaulted should contact law enforcement immediately.

What Constitutes Sexual Harassment?

"Sexual harassment" is defined by Equal Employment Opportunity Commission and Texas Workforce 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 a 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 working environment.

Conditioning promotions, awards, raises, and benefits on the acceptance of unwelcome sexual actions or advances is always illegal and always constitutes a violation of this policy.

Sexual harassment may occur in a variety of employment situations. The harasser may be the victim's supervisor or coworker or someone who is not an employee of the victim's employer. Sexual harassment may be overt or subtle.

Both victim and harasser may be either a male or a female, and the victim and harasser may be of the same sex.

Restrictions on behavior that would violate the prohibition of sexual harassment may apply outside the workplace as well.

An employer may commit an unlawful employment practice if sexual harassment occurs against an employee, including an intern, and the employer or the employer's agents or supervisors:

1. know or should have known that the conduct constituting sexual harassment was occurring; and
2. fail to take immediate and appropriate corrective action.

Examples of Sexual Harassment

Examples of sexual harassment may include:

1. sexually oriented comments, jokes, or gestures;
2. sexually insulting or suggestive comments about another person's body or clothing;
3. discussing sexual practices or preferences;
4. commentary about an individual's sexual prowess or sexual deficiencies;
5. written, recorded, or electronically stored or transmitted messages that are sexually suggestive, or in any manner demeaning, intimidating, or insulting;
6. unwelcome physical contact;
7. touching or grabbing of a sexual nature;
8. intentionally standing too close to another person;
9. intentionally brushing up against a person;
10. displaying or sharing sexually suggestive photos, literature, or other materials;
11. offering sexually suggestive gifts;

12. sexually oriented pranks, repeated teasing, or innuendo;
13. verbal abuse of a sexual nature;
14. repeatedly asking a person to socialize during off-duty hours when the person has said no or has indicated that he or she is not interested;
15. making unwelcome visits to a person's home or hotel room;
16. off-duty, unwelcome conduct of a sexual nature that affects the work environment; and
17. other physical, verbal, nonverbal, or visual conduct of a sexual nature.

Training

To help ensure a positive work environment, all Senate employees, interns, senators, and officials and employees of the Office of the Lieutenant Governor must complete the Senate's sexual harassment prevention training. The training is designed to provide the information needed to recognize and document sexual harassment and effectively handle a sexual harassment complaint, and it includes procedures for reporting sexual harassment.

Sexual harassment prevention training is available immediately to all new employees online and must be taken within the first 30 days after beginning work. Every two years, in-person training will be offered. If a Senate employee, intern, senator, or official or employee of the Office of the Lieutenant Governor has not attended the Senate's in-person training, then that person must attend the in-person training at the first available offering. Each Senate employee, intern, senator, or official or employee of the Office of the Lieutenant Governor must attend in-person or online training every two years thereafter. Senate Human Resources shall keep accurate records of those who attend the sexual harassment prevention training. On completion of the training, the employee or official will receive a certificate of completion for their personnel file, and this record will be available to the public.

Reporting and Investigation: What to Do if You Have Been Sexually Harassed

If you believe you have been subjected to or witnessed sexual harassment, you may explain to the offender that his or her offensive behavior disturbs you and ask him or her to stop. While this interaction may be awkward, communicating with the offender will place the offender on notice and may help stop the offensive behavior. However, you are not required to confront the offender, and should not if you do not feel safe in doing so. If you do not want to confront the offender directly, or if you have spoken with the offender and the behavior has not stopped, or if you believe

your complaint has resulted in retaliation, you may pursue a sexual harassment complaint as described below.

Internal Reporting Process

Any person who believes they have been a victim of sexual harassment should report the conduct as soon as possible. Any person who observes or has knowledge of sexual harassment should promptly report that information.

You may report the conduct to your supervisor or chief of staff for assistance in resolving the issue. If you do not feel safe in making this report, or if your supervisor or chief of staff is the person engaging in the offensive behavior, you may pursue a sexual harassment complaint as described below.

A person may submit an internal complaint to:

1. the Director of Senate Human Resources; or
2. the Secretary of the Senate.

The Senate will initiate an immediate investigation of any sexual harassment complaint. The complaint may be reported verbally or in writing. However, a complainant or alleged harasser may be required to provide a written statement during the course of the investigation. The alleged harasser will be interviewed and given an opportunity to refute the complaint.

The investigation will be conducted by the Director of Senate Human Resources and impartial attorneys with experience and training in employment law. The Senate may engage outside attorneys or investigators to conduct the investigation. No senator will be involved in investigating another senator. The alleged harasser may not direct, control, or otherwise interfere with the investigation.

During the investigation, measures may be taken to ensure that the alleged behavior does not continue, including a temporary reassignment of duties or granting of administrative leave.

The complaint and resolution will be treated as discreetly and confidentially as possible. The identities of the victim and witnesses of the alleged harassment, and their statements, will be protected from disclosure to the greatest extent allowed by law. Each individual subject to this policy who learns the identity of a victim or witness or the details of a complaint during the course of an investigation is expected

to maintain the confidentiality of this information, and the release of such information may violate the law and constitute a separate violation of this policy.

The results of an investigation conducted under this policy will be reported to the Secretary of the Senate. If it is determined that sexual harassment has occurred, the Senate or the appropriate supervisor will take the appropriate action to resolve the problem. Remedial actions will be proportional to the seriousness of the offense and may include a written reprimand, demotion, transfer, suspension without pay, termination, or any other appropriate action.

While an employee or senator is not required to utilize this internal complaint process, doing so may allow problems to be addressed more quickly, before they become more serious.

External Resources for Complaints

You are not required to file a complaint using the Senate's internal processes. You have the right to file a complaint with the Civil Rights Division of the Texas Workforce Commission (512-463-2642 or 1-888-452-4778) or the federal Equal Employment Opportunity Commission (EEOC) (1-800-669-4000). Please note that in order to pursue certain legal actions against offending parties, there is a requirement for filing a complaint with either the Civil Rights Division or the EEOC. There are strict timelines for filing these complaints, and utilizing the Senate's internal complaint process does not prevent those deadlines from running.

Additionally, an employee assistance program is available to employees of the Senate. This program, administered by Alliance Work Partners (512-328-1144 or 1-800-343-3822), provides, among other benefits, counseling for victims of sexual harassment.

Please note that federal laws may not apply to unpaid interns. However, unpaid interns are protected by this policy and state law. Additionally, unpaid student interns may be protected by federal law under Title IX of the Education Amendments of 1972. Student interns should contact their internship programs for more information.

Retaliation

The Senate does not tolerate retaliation against a person who reports sexual harassment or participates in an ensuing investigation. Retaliation can include any

negative action that would affect a person's position or future position for opposing a discriminatory practice, filing a complaint, making or filing a charge, or testifying, assisting, or otherwise participating in any way in the process of investigating a claim. Retaliation can be either actual or threatened, and any act of intimidation to obstruct the reporting, investigation, or adjudication of a complaint may be considered a separate violation of Senate policy. Such actions may also be a violation of federal or state law, including Chapter 21 of the Texas Labor Code. An individual who reports sexual harassment in good faith will be protected from retaliation even if the investigation reveals that no sexual harassment occurred. In addition to these protections, whistleblower protections under Chapter 554 of the Texas Government Code may be available, depending on the facts, to a person who reports sexual harassment in good faith to an appropriate law enforcement authority.

NO EMPLOYEE OR SENATOR SHOULD ENGAGE IN SEXUAL HARASSMENT. For more information, contact Senate Human Resources at 512-463-0400 or, if hearing impaired, dial 711 for Relay Calls.