

## **Anti-Harassment and Anti-Discrimination Model Policy**

### *A. Statement of The Office's Commitment to Equal Employment Opportunity*

- The Office of \_\_\_\_\_ is firmly committed to ensuring that all employees, interns, detailees, and fellows work in an environment free from discrimination, harassment, or intimidation on the basis of race, color, religion, sex, pregnancy, gender stereotyping, gender identity, sexual orientation, national origin, age (40 or over), disability, military status, genetic information, or any basis prohibited by the Congressional Accountability Act or House Rules.
- This commitment applies to all material aspects of an employee's relationship with the Office under applicable law, including actions relating to hiring, discharge, promotion, pay, benefits, reassignment, discipline, termination, and other personnel actions affecting the terms, conditions, and/or privileges of employment.
- This commitment further extends to making reasonable accommodations required by law to enable qualified individuals with disabilities to perform the essential functions of their jobs. A qualified individual with a disability is a person who meets the requisite skill, experience, education, and other job-related requirements, and who, with or without reasonable accommodation, can perform the essential functions of such position.

### *B. General Standards*

- For purposes of this Anti-Harassment and Anti-Discrimination Policy, the term "employee" includes interns (whether paid or unpaid), detailees, and fellows.
- All employees are to be treated, and are to treat each other, fairly, with respect, and in a manner that strives to uphold the behavior and conduct worthy of individuals working in a Congressional office. It is the responsibility of each House employer and each House employee to ensure that the working environment is free of unlawful harassment and discrimination. This means that employees will not subject anyone with whom they come in contact (whether they work for the office or not) to unlawful discrimination or harassment of

any kind, or otherwise act in a manner inconsistent with House Rules, including the House's Code of Official Conduct (House Rule XXIII). This standard applies to interactions with Members of Congress, employees, and third parties with whom employees interact as part of their job duties. This standard also applies to Members.

- Consistent with House Rule XXIII, this Policy applies not only to actions and conduct at the workplace itself, but also applies outside of the Office when an employee or Member is performing work for the Office (such as when the employee is engaged in work-related travel, attending work-related events, etc.).
- Nothing in this Policy shall be interpreted to alter the legal standards applicable to any Congressional Accountability Act ("CAA") claim an employee may bring and/or create legal rights or responsibilities other than those mandated by the CAA and House Rules.

### *C. Conduct Prohibited Under this Policy*

The Office will not tolerate:

- any manager or supervisor of the Office (including the Member) making any unlawful employment decision or taking any employment action on the basis of race, color, religion, sex, pregnancy, gender stereotyping, gender identity, sexual orientation, national origin, age (40 or older), disability, military status, genetic information, or any basis prohibited by the Congressional Accountability Act or House Rules; and/or
- any employee, manager or supervisor of the Office (including the Member) acting in a way that unlawfully creates a hostile, offensive, intimidating or demeaning working environment for any employee on the basis of race, color, religion, sex, pregnancy, gender stereotyping, gender identity, sexual orientation, national origin, age (40 or older), disability, military status, genetic information, or any basis prohibited by the Congressional Accountability Act or House Rules.

Employees and Members must be aware that, consistent with House Rule XXIII, their comments and behavior should always reflect creditably on the House when observed by the public, constituents, and non-employees. One way an employee/Member can evaluate this standard is to consider how the

comments, behavior, text/email/social media posts would be viewed if published on the front page of a newspaper. If the employee/Member would be embarrassed or ashamed by such media attention, then he/she should not engage in the behavior.

*D. Definition of What Constitutes Prohibited Discrimination and Harassment Under This Policy*

*1. Prohibited Discrimination*

Discrimination on the basis of race, color, religion, sex, pregnancy, gender stereotyping, gender identity, sexual orientation, national origin, age (40 or older), disability, military status, or genetic information is prohibited. Discrimination may occur when an Office takes an employment action (such a hiring, promotion, salary adjustment, termination, etc.) on the basis of one or more of these factors.

*2. Prohibited Harassment*

Harassment is a specific form of discrimination and is also prohibited when it is based on race, color, religion, sex, pregnancy, gender stereotyping, gender identity, sexual orientation, national origin, age (40 or older), disability, military status, or genetic information. Verbal or physical conduct relating to any of these characteristics can constitute harassment and may be unlawful if it creates an intimidating, hostile, or offensive work environment; or if it unreasonably interferes with an individual's work performance. The types of conduct that may constitute harassment include, but are not limited to:

- jokes or insults relating to a person's protected class status;
- unwelcome comments relating to a person's protected class status;
- any other offensive words, actions or physical conduct relating to a person's protected class status;
- pictures or gestures which negatively depict a protected class; or
- other expressions of stereotypes or prejudicial attitudes about protected class members.

Engaging in such conduct by originating, forwarding or accessing electronic communications via email, internet (including social media posts), or electronic/text message is specifically prohibited.

a. *Sexual Harassment*

Although all forms of unlawful harassment and discrimination are prohibited by this Policy, there are unique issues that sometimes accompany sexual harassment, including the fact that sexual harassment can take two basic forms under applicable law: *quid pro quo* and *hostile work environment*.

Prohibited *quid pro quo sexual harassment* may occur when a supervisor or manager (including the Member) threatens or insinuates, expressly or implicitly, that a subordinate is required to submit to sexual advances or to provide sexual favors as a condition of employment, continued employment, or in exchange for any term, condition, or benefit of employment. *Quid pro quo* sexual harassment also occurs when a subordinate's refusal to submit to sexual advances, or to provide sexual favors, will adversely affect the subordinate's employment, continued employment, or any term, condition, or benefit of employment.

Prohibited *hostile work environment sexual harassment* occurs when unwelcome sexual conduct has the purpose or effect of interfering unreasonably with another employee's work performance or creates an intimidating, hostile, or offensive work environment. There is a subjective and an objective component to this form of harassment. The employee must show that he/she believed the conduct was hostile, abusive, or offensive and that a reasonable person in the employee's position would objectively believe the conduct was hostile, abusive, or offensive.

The types of conduct that, if unwelcomed, may constitute sexual harassment include, but are not limited to:

- sexual bantering, off-color language/jokes, or verbal conduct of a sexual nature;
- displaying, circulating, or commenting on sexually suggestive material in the workplace;
- flirtation, advances, touching, propositions, or requests for dates or sexual favors;
- sexually-degrading words used to describe an individual;
- gender-stereotyping comments;
- comments or inquiries about one's own or someone else's sexual activities or romantic life;
- verbal commentaries or gestures about an individual's body;
- use of sexual or degrading gestures or other non-verbal communications;
- other offensive words or actions of a sexual or gender-related nature.

Engaging in such conduct by originating, forwarding, or accessing electronic communications via email, internet (including social media posts), or electronic/text message is specifically prohibited.

Sexual harassment can occur regardless of the sex, gender, or sexual orientation of the individuals involved. Accordingly, sexual harassment can occur between members of the same sex or between members of the opposite sex.

*b. Individuals' Responsibility Regarding their Conduct*

In order to constitute prohibited harassment under the law and under this Policy, the behavior at issue must (among other things) be unwelcome. It is important to recognize that personal behavior and language that are “acceptable” to one individual may be “offensive” to another. All employees and Members must recognize that the focus of this prohibition is on the effect of one’s action, not the intent. Even an employee or Member who believes he or she is “just kidding” or “didn’t mean any harm” may act in ways that have the effect of unlawfully intimidating or demeaning another employee, and thereby violating this Policy. Additionally, employees and Members should not assume that comments or behaviors relating to a protected characteristic are welcome simply because the recipient does not visibly or verbally object.

Even if an individual’s comments or behavior are welcomed by the recipient, it is possible that others who hear, overhear, or observe such conduct may find it unwelcome. Therefore, employees and Members must avoid engaging in behavior towards any person that constitutes unlawful harassment with respect to any other employee, Member, or third-party bystander – not just the intended recipient of the comment or behavior.

*E. Compliance Requirements*

The Office has established an Internal Compliance Coordinator. This position is responsible for (1) maintaining the most updated copy of this Policy; (2) providing copies of this Policy to all employees (at the beginning of employment, when the Policy is updated, and at the request of an employee); (3) maintaining copies of certifications for each Office employee attesting that the employee has received, read, and understands this Policy; (4) reminding employees and Members of their obligation to timely complete relevant/mandatory training; and (5) maintaining and regularly updating records showing that

all employees have completed mandatory training. The Office's Internal Compliance Coordinator is \_\_\_\_\_ [insert name or title].

*F. Obligation of All Employees to Report Violations of this Policy*

It is the intention of the Office to stop harassment and discrimination before it rises to the level of a violation of law. Any employee who in good faith believes that he/she has been subjected to or witnessed actions that may violate this Policy is strongly encouraged to promptly notify management to allow management to immediately investigate and take corrective action where appropriate. The employee must not wait until the actions become severe or pervasive but is encouraged to report such activity immediately. In addition, an employee should not assume that management is aware of a situation or behavior that may violate this Policy.

The employee may notify his or her direct supervisor, the next level supervisor, the Member, or any other management official with whom the employee feels comfortable discussing such issues. If the employee's direct supervisor is involved in the harassment or discrimination, the employee need not report it to the direct supervisor, but should instead report it to a higher-level supervisor, or the Member.

Nothing in these reporting procedures should be read to prohibit an employee from speaking directly with the individual engaging in the behavior that the employee finds inappropriate. But the employee should never feel obligated to do so before addressing the concern with a supervisor or other management official.

Managerial employees who become aware of alleged harassment or discrimination, and/or who receive reports of alleged harassment or discrimination under this Policy, have an obligation to ensure that senior management of the Office is notified promptly. Failure of a managerial employee to notify senior management of a harassment or discrimination allegation is grounds for termination of the managerial employee's employment.

G. The Office Will Investigate and Correct Conduct that Constitutes Harassment and Discrimination Under This Policy

When the Office becomes aware of and/or is notified of alleged harassment or discrimination under this Policy, it will seek to conduct a fair, timely, and thorough investigation. The Office will endeavor to be fair to all employees with respect to the scope and manner of the investigation, including to the individual bringing the complaint and to the individual alleged to have engaged in behavior that violates this Policy. Therefore, the Office will seek to speak to all individuals involved and will endeavor to give all parties an opportunity to be heard, to provide relevant documents or evidence, and to identify other possible witnesses who may have knowledge of the circumstances.

An effective investigation generally requires sharing information with those who have a “need to know.” Therefore, although the Office will endeavor to be discreet and limit the number of individuals who are aware of the allegations, absolute confidentiality cannot be assured. Any documents created or obtained concerning the investigation will be treated as confidential to the extent reasonably practicable and in keeping with applicable law and House Rules. To ensure that the Office can conduct a full and fair investigation, it will expect its employees to comply with reasonable requests by the Office for information that may be relevant to the investigation (*e.g.*, identifying witnesses who may have observed the alleged harassment or discrimination). The scope of the investigation will vary depending on the nature of the allegations, in keeping with the goal of providing the Office with sufficient information to adequately address the issue.

At the end of its investigation, the Office will consider all of the information, statements, and evidence it has obtained and, based on this information, the Office will assess whether there has been a violation of this Policy. The Office will convey its determination to the person reporting the alleged violation and to the person alleged to have violated this Policy and will advise them that the matter has been closed by the Office. The Office will take prompt corrective action if deemed appropriate, which will depend on the results of the investigation, the conclusions reached, and the nature of the conduct. The Office will also advise the person reporting the alleged violation of this Policy to inform the Office if that individual believes there are additional violations of this Policy and/or that retaliation is occurring. These allegations will also be promptly investigated, and corrective action taken if deemed appropriate.

Any employee who violates this Policy will face appropriate disciplinary action, up to and including termination.

*H. Good Faith; Retaliation Strictly Prohibited*

Any employee who makes a good-faith report of harassment under this Policy and/or participates in good faith in an investigation (e.g., as a witness) is protected from discipline or retaliation based on the employee's good-faith conduct in making the report or participating in the investigation.

Retaliation against anyone who in good-faith reports an alleged violation of this Policy or participates in or aids in an investigation is strictly prohibited. If an employee feels that he or she has been retaliated against for making a good-faith complaint or participating in an investigation, the alleged violation should be reported to a management employee.

Any employee who violates this aspect of this Policy will face appropriate disciplinary action, up to and including termination.

*I. Office of Employee Advocacy*

It is the Office's intent to prevent harassment and discrimination and to take appropriate corrective action should they occur. To that end, employees are strongly encouraged to utilize the processes and procedures set forth in Section F, G, and H of this Policy, as this will give the Office an opportunity to address issues at the earliest possible time and resolve them before they potentially become more serious. However, in addition to the procedures described above, an employee is free to also contact the Office of Employee Advocacy hotline at 202 225 8800 for confidential consultation regarding any concerns related to harassment or discrimination or send an email to Employee.Advocacy@mail.house.gov (**to maintain confidentiality, employees should send matters using their personal, non-House email accounts**).

**Employee Acknowledgment**

I, \_\_\_\_\_, have received, read, and understand the Office of \_\_\_\_\_'s Anti-Harassment and Anti-Discrimination Policy and agree to its terms.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date