

D R A F T

SUMMARY

Modifies obligation to make conduct reports under rule. Directs Legislative Equity Officer or, at officer's request, investigator to perform facial review on conduct reports and conduct complaints prior to investigation being undertaken. Provides exception. Provides that committee on conduct is to make recommendations on remedial measures to be imposed on partisan staff only if independent investigator has determined that rule violation has occurred. Extends time period committees on conduct have to conduct hearings, and to recommend and impose remedial measures on partisan staff. Expands numbers of alternates who serve on committees on conduct. Directs that complainants and identified impacted parties in matter be recused from service on committees on conduct when committee considers matter.

Sunset December 31, 2025.

CONCURRENT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

That Legislative Branch Personnel Rule 27, as amended and in effect on June 29, 2019, is further amended, and Legislative Branch Personnel Rule 27-A is adopted, as follows:

Legislative Branch Personnel Rule 27: Safe, Respectful and Inclusive Workplace.

(1) Policy.

(a) The Legislative Branch is committed to promoting a respectful and inclusive environment in the State Capitol and in any setting in which conduct has the ability to create a Capitol environment that is intimidating, hostile or offensive, or may constitute conduct that amounts to retaliation for the making of a good-faith complaint under this rule or for participation

1 in an investigation under this rule.

2 (b) The Legislative Branch is committed to providing a safe and respectful
3 workplace and to taking proactive steps to improve its culture so that be-
4 havior from any source that has a negative impact on the workplace may be
5 effectively reported and promptly addressed and resolved.

6 (c) The Legislative Branch is equally committed to protecting freedom of
7 speech and expression, as guaranteed to all persons through the free ex-
8 pression protections of Article I, section 8, of the Oregon Constitution, and
9 through the First Amendment to the United States Constitution, and the
10 Legislative Branch recognizes that the constitutional protections guarantee-
11 ing freedom of speech and expression must be taken into account in deter-
12 mining the rights afforded to individuals in the State Capitol under this rule.

13 (d) The Legislative Branch emphasizes the importance of fostering an
14 environment where all viewpoints are welcomed and respected, as disagree-
15 ment does not equal harassment.

16 (e) Members of the Legislative Assembly and all Legislative Branch em-
17 ployees are expected to conduct themselves in a manner that is free of
18 harassment and to discourage all harassment in the workplace and at pro-
19 fessional meetings, seminars or at any event at which legislative business is
20 conducted.

21 (f) This rule is designed to provide options to those who are experiencing
22 or observing harassing behavior, discriminatory behavior or other behavior
23 prohibited by subsection (7) of this rule to seek information, report behaviors
24 or file complaints to address and resolve concerns, while also:

25 (A) Enhancing options available to victims who seek to remain anyony-
26 mous; and

27 (B) Ensuring that fundamental freedoms of speech and expression are
28 protected as core values in the Legislative Branch.

29 (g) This rule is designed to provide options to those who are experiencing
30 or observing harassing behavior, discriminatory behavior, retaliation or
31 other behavior prohibited by subsection (8) of this rule to seek information,

1 report behaviors or file complaints to address and resolve concerns, while
2 also enhancing options available to victims who seek to remain anonymous.

3 (h) The Legislative Assembly intends the mandatory reporting obligations
4 established under this rule to be a means by which the Legislative Branch
5 will take action to address conduct prohibited by this rule, in the absence
6 of a specific complaint about the conduct.

7 (2) Application.

8 (a) Any individual who experiences behavior prohibited by this rule or
9 observes behavior inconsistent with this rule may use the reporting options
10 described in subsections (10) to (12) of this rule.

11 (b) An appointing authority or a nonpartisan staff supervisor, including
12 any member of the Legislative Assembly, shall report behavior prohibited by
13 this rule by the means described in subsection (11) of this rule. If the ap-
14 pointing authority or supervisor is making a report because an individual
15 has disclosed to the appointing authority or supervisor that the individual
16 may be experiencing conduct prohibited by this rule, the appointing author-
17 ity or supervisor, as soon as practicable after receiving the disclosure, shall
18 provide a copy of the materials described in Legislative Branch Personnel
19 Rule 32 (4)(a)(B) to (D) to the individual making the disclosure.

20 (c) Any individual over whom the Legislative Branch may impose a rem-
21 edy is an individual subject to the requirements of this rule, including but
22 not limited to:

23 (A) Members of the Legislative Assembly;

24 (B) Legislative staff, interns, externs and volunteers;

25 (C) Lobbyists required to register under ORS 171.740;

26 (D) Contractors or employees of contractors who engage in business with
27 the Legislative Branch;

28 (E) Employees of the State of Oregon who are not employees of the Leg-
29 islative Branch; and

30 (F) Members of the public who are present in the State Capitol.

31 (3) Definitions.

1 (a) “Agency head” means the Legislative Administrator, the Legislative
2 Counsel, the Legislative Equity Officer, the Legislative Fiscal Officer, the
3 Legislative Policy and Research Director, the Legislative Revenue Officer
4 and the Executive Director of the Commission on Indian Services.

5 (b) “Appointing authority” means the person who has authority in the
6 interest of the employer to hire, transfer, suspend, lay off, promote, terminate
7 or discipline an employee.

8 (c) “Caucus leader” means the Democratic or Republican leader of the
9 Senate or the Democratic or Republican leader of the House of Represen-
10 tatives.

11 (d) “Caucus office” means the office of the Democratic or Republican
12 leader of the Senate or the office of the Democratic or Republican leader of
13 the House of Representatives.

14 (e) “Chamber” means the Senate or the House of Representatives.

15 (f) **“Complainant” means a person who has filed a conduct com-
16 plaint under subsection (12) of this rule.**

17 [(f)] (g) “Employee” means an employee who is performing services on
18 behalf of the Legislative Branch. “Employee” includes any intern, extern or
19 volunteer who is affiliated with a Legislative Branch office.

20 [(g)] (h) “Employee Services” means the division of Legislative Adminis-
21 tration charged with employment and human resources administration for
22 the Legislative Branch.

23 [(h)] (i) “Human Resources Director” means the manager of Employee
24 Services.

25 (j) **“Impacted party” means a person who is described in a conduct
26 report made under subsection (11) of this rule as one who has experi-
27 enced behavior prohibited by this rule.**

28 [(i)] (k) “Independent investigator” or “investigator” means an investi-
29 gator under contract pursuant to [section 6, chapter _____, Oregon Laws 2019
30 (Enrolled House Bill 3377) (as amended by HB 3377-9 amendments)] **ORS**
31 **173.912**, who is available to perform or is performing an investigation under

1 this rule.

2 [(j)] (L) “Legislative Branch” means members and employees of the Leg-
3 islative Assembly, the parliamentary offices, Legislative Administration, the
4 Legislative Counsel Office, the Legislative Equity Office, the Legislative
5 Fiscal Office, the Legislative Policy and Research Office, the Legislative
6 Revenue Office and the Commission on Indian Services.

7 [(k)] (m) “Legislative Equity Officer” means the Legislative Equity Offi-
8 cer appointed under [section 1, chapter_____, Oregon Laws 2019 (Enrolled
9 House Bill 3377) (as amended by HB 3377-9 amendments)] **ORS 173.900** or an
10 acting equity officer serving under **ORS 173.906** [section 3 or 4, chapter
11 _____, Oregon Laws 2019 (Enrolled House Bill 3377) (as amended by HB
12 3377-9 amendments)].

13 [(L)] (n) “Member of the Legislative Assembly” or “member” means a
14 Senator or a Representative.

15 [(m)] (o) “Nonpartisan staff” means an employee of the parliamentary of-
16 fices, Legislative Administration, the Legislative Counsel Office, the Legis-
17 lative Equity Office, the Legislative Fiscal Office, the Legislative Policy and
18 Research Office, the Legislative Revenue Office or the Commission on Indian
19 Services.

20 [(n)] (p) “Offsite process counselor” means a person unaffiliated with the
21 Legislative Branch who has entered into a contract with the Legislative
22 Equity Officer under [section 14, chapter _____, Oregon Laws 2019 (Enrolled
23 House Bill 3377) (as amended by HB 3377-9 amendments),] **ORS 173.930** to
24 provide services described in subsection (10) of this rule.

25 [(o)] (q) “Parliamentarian” means the Secretary of the Senate or the Chief
26 Clerk of the House of Representatives.

27 [(p)] (r) “Parliamentary office” means the Office of the Secretary of the
28 Senate or the Office of the Chief Clerk of the House of Representatives.

29 [(q)] (s) “Partisan staff” means an employee working directly for a mem-
30 ber of the Legislative Assembly, an employee of a caucus office or an em-
31 ployee of the office of the Senate President or the office of the Speaker of

1 the House of Representatives.

2 [(r)] (t) “Protected class” means a classification established by law that
3 offers protections to members of the classification, including but not limited
4 to:

5 (A) Sex;

6 (B) Race;

7 (C) Ethnicity;

8 (D) National origin;

9 (E) Age;

10 (F) Religion;

11 (G) Marital status;

12 (H) Sexual orientation;

13 (I) Gender identity or expression;

14 (J) Engaging in whistleblowing activity;

15 (K) Opposing an employer’s actions when the employee reasonably be-
16 lieves the actions to be unlawful;

17 (L) Taking leave from work for purposes protected by law, including but
18 not limited to leave under the Oregon Family Leave Act, the federal Family
19 and Medical Leave Act or disability-related leave;

20 (M) Injured worker status;

21 (N) Disability; or

22 (O) Veteran status.

23 [(s)] (u) “Respondent” means a person named in a conduct complaint made
24 under subsection (12) of this rule as engaging in behavior that is prohibited
25 by this rule or a person who is the subject of an investigation under sub-
26 section (14) of this rule to determine whether the person engaged in behavior
27 that is prohibited by this rule.

28 [(t)] (v) “Supervisor” means an employee of the Legislative Branch who
29 manages or directs the work of another employee of the Legislative Branch.

30 (4) Harassment and hostile work environment.

31 (a) An individual engages in harassment by engaging in verbal or physical

1 conduct, including making a visual display or causing a visual display to be
2 shown, that denigrates or shows hostility toward [*a protected class or toward*
3 *an individual because of the individual's status as a member of a protected*
4 *class*] **an individual or group of individuals**. Examples of harassment may
5 include, but are not limited to:

6 (A) Name-calling, slurs or stereotyping;

7 (B) Threatening, intimidating or hostile acts that relate to a protected
8 class;

9 (C) Belittling, demeaning or humiliating a person or group of persons
10 because of a protected class; or

11 (D) Displaying written or graphic material that is described in subpara-
12 graphs (A) to (C) of this paragraph.

13 (b) Harassment does not include every minor annoyance or disappoint-
14 ment that an employee may encounter in the course of performing the
15 employee's job.

16 (c) An individual creates a hostile work environment by engaging in be-
17 havior that is unwelcome and is so severe or pervasive that it either affects
18 a person's ability to function in the workplace or denies a person the benefits
19 of the workplace.

20 (5) Sexual harassment.

21 (a) An individual engages in sexual harassment when the individual en-
22 gages in unwelcome conduct of a sexual nature, including but not limited to
23 sexual advances, requests for sexual favors, sexual comment, unwanted or
24 offensive touching or physical contact, unwanted closeness, impeding or
25 blocking movement, sexual gesture, sexual innuendo, sexual joke, sexually
26 charged language, intimate inquiry, persistent unwanted courting, sexist in-
27 sult, gender stereotype, or other verbal or physical conduct of a sexual na-
28 ture, if:

29 (A) Submission to the conduct is made either explicitly or implicitly a
30 term or condition of a person's employment;

31 (B) A person expressly or by implication conveys that declining to submit

1 to the conduct will affect an individual's job, leave request, benefits, business
2 before the Legislative Assembly, influence or opportunity of the individual
3 to engage professionally with the Legislative Assembly, its members or staff;
4 or

5 (C) The unwelcome conduct has the purpose or effect of unreasonably
6 interfering with a person's job performance, or creates a work environment
7 that a reasonable person would find intimidating, hostile or offensive. For
8 purposes of this rule, "unwelcome conduct" means conduct that an individual
9 does not [*incite or*] solicit and that the individual regards as undesirable or
10 offensive. An individual may withdraw consent to conduct that was previ-
11 ously welcomed, though a withdrawal of consent must be communicated to
12 the person for whom consent is being withdrawn.

13 (b) Sexual harassment includes but is not limited to:

14 (A) Unwanted sexual advances, flirtations or propositions.

15 (B) Demands for sexual favors in exchange for favorable treatment or
16 continued employment.

17 (C) Sexual jokes.

18 (D) Verbal abuse of a sexual nature.

19 (E) Verbal commentary about the body, sexual prowess or sexual defi-
20 ciency of an individual.

21 (F) Leering, whistling, touching or physical assault.

22 (G) Using sexually suggestive, insulting or obscene comments or gestures.

23 (H) Displaying sexually suggestive objects or pictures.

24 (I) Sending or forwarding electronic mail or other communications of an
25 offensive or graphic sexual nature.

26 (J) Discriminatory treatment based on sex.

27 (c) Sexual harassment includes any conduct described in subsection (4)
28 of this rule that is based on sex.

29 (6) Retaliation.

30 (a) A person engages in retaliation if the person treats another individual
31 less favorably because the individual made a good-faith complaint about

1 conduct prohibited by this rule or participated in an investigation about
2 conduct that is prohibited by this rule.

3 (b) A person engages in retaliation if the person treats another individual
4 less favorably because that individual engaged in a process described in this
5 rule or implemented one or more provisions of this rule.

6 (c) A person engages in retaliation if the person treats another individual
7 less favorably because the individual made a good-faith complaint or took
8 other action to address conduct prohibited in any respectful workplace policy
9 adopted by the Joint Committee on Conduct under [*section 1, chapter*
10 *———, Oregon Laws 2019 (Enrolled House Bill 3377) (as amended by HB*
11 *3377-9 amendments)*] **ORS 173.900**, or this rule.

12 (7) Examples.

13 (a) The Legislative Equity Officer shall develop and propose to the Joint
14 Committee on Conduct examples of what constitutes harassment, a hostile
15 work environment, sexual harassment and retaliation under this rule. The
16 committee shall approve, modify or reject proposed examples presented to the
17 committee.

18 (b) The Legislative Equity Officer shall maintain and publish examples
19 of what constitutes harassment, a hostile work environment, sexual
20 harassment and retaliation that have been approved by the committee under
21 this subsection.

22 (8) Prohibitions.

23 The Legislative Branch prohibits conduct that:

24 (a) Constitutes harassment and creates a hostile work environment;

25 (b) Constitutes sexual harassment and creates a hostile work environ-
26 ment;

27 (c) Constitutes an unlawful practice that aids or abets discrimination in
28 a place of public accommodation under the laws of the state; or

29 (d) Is retaliation.

30 (9) Reporting options and follow-up.

31 (a) In order to encourage participation and effectiveness, this rule estab-

1 lishes three options for reporting behavior prohibited by this rule:

2 (A) A confidential disclosure process described in subsection (10) of this
3 rule;

4 (B) A conduct reporting process described in subsection (11) of this rule;
5 and

6 (C) A conduct complaint process described in subsection (12) of this rule.

7 (b) In each case of a disclosure, report or complaint made under this rule,
8 the Legislative Equity Officer or the independent investigator, whichever is
9 appropriate, shall follow up with the individual who experienced, or believes
10 they experienced, conduct prohibited by this rule, at least once every three
11 months for the year following the disclosure, report or complaint, to deter-
12 mine whether the alleged prohibited conduct has stopped and to determine
13 whether the individual has experienced retaliation. The officer or investi-
14 gator shall give the individual written notice at the outset of the follow-up
15 period that follow-up described in this paragraph will occur unless the indi-
16 vidual requests in writing that the officer or investigator not follow up.

17 (10) Confidential disclosure process.

18 (a) Any individual who experiences behavior prohibited by this rule or
19 observes behavior that is inconsistent with this rule may make a confidential
20 disclosure reporting the behavior to the Legislative Equity Officer or an
21 offsite process counselor.

22 (b) Information reported to the Legislative Equity Officer or offsite pro-
23 cess counselor, records created by the officer or counselor and the identity
24 of the individual making a disclosure under this subsection are confidential
25 and may not be disclosed by the officer or counselor, except that the officer
26 or counselor:

27 (A) May disclose information if the officer or counselor reasonably con-
28 cludes that a threat of immediate physical harm or other harm described in
29 ORS 40.252 would exist if the disclosure were not made;

30 (B) Shall disclose information if required by law;

31 (C) May disclose nonpersonally identifiable data to facilitate the Legis-

1 lative Branch's identification of training and coaching needs; and

2 (D) May disclose nonpersonally identifiable information to an individual
3 who has made a confidential disclosure under this subsection for the purpose
4 of encouraging the individual to make a conduct report under subsection (11)
5 of this rule or a conduct complaint under subsection (12) of this rule.

6 (c) Notwithstanding paragraph (b) of this subsection:

7 (A) The Legislative Equity Officer may disclose nonpersonally identifiable
8 information in the course of performing corrective coaching for an individual
9 subject to the requirements of this rule.

10 (B) The Legislative Equity Officer or offsite process counselor may not
11 disclose information or records to an independent investigator, except that
12 nonpersonally identifiable information may be disclosed to facilitate the
13 taking of any action that is consistent with this rule and with the principles
14 of the Due Process Clause of the United States Constitution.

15 (d) As an initial matter when an individual seeks to make a confidential
16 disclosure under this subsection, the Legislative Equity Officer or offsite
17 process counselor shall:

18 (A) Explain the availability or lack of availability of any privilege that
19 would permit the individual seeking to make a confidential disclosure under
20 this subsection to refuse to disclose, and to prevent any other person from
21 disclosing, confidential communications and records; and

22 (B) Ask whether the individual making a confidential disclosure under
23 this subsection needs one or more safety measures described in subsection
24 (13) of this rule put in place.

25 (e) When an individual makes a confidential disclosure under this sub-
26 section, the Legislative Equity Officer or offsite process counselor:

27 (A) Shall advise the individual making the disclosure of other options
28 that are available to address the conduct, including conduct reports under
29 subsection (11) of this rule, conduct complaints under subsection (12) of this
30 rule, interim safety measures under subsection (13) of this rule, state and
31 federal administrative options with the Bureau of Labor and Industries and

1 the Equal Employment Opportunity Commission of the United States, law
2 enforcement or the civil judicial process;

3 (B) In the case of an individual making the disclosure being affiliated
4 with an institution that is subject to Title IX of the Education Amendments
5 Act of 1972, 20 U.S.C. 1681 to 1688, as amended, shall advise the individual
6 of the Title IX reporting process and provide applicable institution contact
7 information and information on the resources available at the institution;

8 (C) Shall explain the availability of employee assistance program coun-
9 selors and other available service providers and may refer the individual
10 making a disclosure under this subsection to a counselor or other provider,
11 as appropriate; and

12 (D) Shall explain the actions that the officer or counselor may take fol-
13 lowing a disclosure made under this subsection and due process and other
14 rights that limit the scope of actions that may be taken following a disclo-
15 sure under this subsection, including possible limitations on the availability
16 of safety measures.

17 (f) If requested by an individual making a disclosure under this sub-
18 section, the Legislative Equity Officer or offsite process counselor shall re-
19 frain from making a confidential record of the identity of the individual
20 making the disclosure. The officer or counselor shall explain the availability
21 of this option to any individual making a disclosure under this subsection.

22 (g)(A) The Legislative Equity Officer, on or before July 1, 2020, shall es-
23 tablish a means for individuals to make disclosures under this subsection
24 that are entirely anonymous, so that the Legislative Equity Officer or offsite
25 process counselor cannot determine the identity of the individual making a
26 disclosure using means described in this paragraph.

27 (B) In the event of an anonymous disclosure made under this paragraph,
28 paragraphs (d), (e) and (f) of this subsection do not apply.

29 (h) If the Legislative Equity Officer or offsite process counselor receives
30 information concerning conduct that is inconsistent with a respectful
31 workplace policy adopted by the Joint Committee on Conduct but that does

1 not rise to the level of creating a hostile work environment or violating
2 public accommodation law, the officer shall refer the reporter to the Human
3 Resources Director.

4 (11) Conduct reports.

5 (a) Any individual who experiences behavior prohibited by this rule or
6 observes behavior that is inconsistent with this rule may make a nonconfi-
7 dential report of the behavior under this subsection within five years of the
8 date the behavior occurred. A report made under this subsection shall be
9 referred to as a conduct report.

10 (b) An appointing authority, including any member of the Legislative
11 Assembly, shall promptly make a conduct report under this subsection if they
12 have received information that they reasonably believe describes behavior
13 that may be prohibited by this rule, have observed behavior that they rea-
14 sonably believe may be prohibited by this rule or in any way have knowledge
15 of behavior that they reasonably believe may be prohibited by this rule.

16 (c) A nonpartisan staff supervisor shall promptly make a conduct report
17 under this subsection if they have received information that they reasonably
18 believe describes behavior that may be prohibited by this rule, have observed
19 behavior that they reasonably believe may be prohibited by this rule or in
20 any way have knowledge of behavior that they reasonably believe may be
21 prohibited by this rule.

22 (d) A Legislative Branch contractor, or an employee of a contractor, that
23 is contractually obligated to do so, shall promptly make a conduct report
24 under this subsection if they have information that they received a report
25 of conduct prohibited by this rule, have observed behavior prohibited by this
26 rule or in any way have knowledge of behavior prohibited by this rule.

27 (e) Notwithstanding paragraphs (a) to (d) of this subsection[,]:

28 **(A)** If a reporter is required to make a conduct report under this sub-
29 section but is also the person experiencing behavior prohibited by this rule,
30 the person may make a confidential disclosure under subsection (10) of this
31 rule that satisfies the requirements of reporting under this subsection.

1 **(B) An individual is not required to make a conduct report under**
2 **this subsection if the individual would be the subject of the report.**

3 (f) A conduct report made under this subsection shall be made to:

4 (A) An independent investigator;

5 (B) The Legislative Equity Officer;

6 (C) The Human Resources Director; or

7 (D) Staff of Employee Services who have been designated by the Human
8 Resources Director to receive conduct reports made under this subsection.

9 (g) A reporter may make a conduct report in any form and using any
10 means. However, the Joint Committee on Conduct established under [*section*
11 *1, chapter _____, Oregon Laws 2019 (Enrolled House Bill 3377) (as amended*
12 *by HB 3377-9 amendments),*] **ORS 173.900** shall establish uniform
13 recordkeeping processes applicable to the Legislative Equity Officer and
14 Employee Services to ensure that conduct reports made under this subsection
15 are adequately documented.

16 (h) A conduct report made under this subsection that is received by [*the*
17 *Legislative Equity Officer*] **an independent investigator**, Employee Services
18 or the Human Resources Director shall be forwarded to [*the independent in-*
19 *vestigator*] **the Legislative Equity Officer**.

20 (i)(A) The [*independent investigator*] **Legislative Equity Officer** shall
21 review all conduct reports [*that the investigator receives*] **received** under this
22 subsection to determine whether the reported conduct, when taken on its
23 face, could be prohibited by this rule. **The officer may, in the officer's**
24 **discretion, ask an independent investigator to determine whether the**
25 **reported conduct, when taken on its face, could be prohibited by this**
26 **rule.** If the **officer or** investigator determines that an investigation is war-
27 ranted, **the officer shall confer with each impacted party, provide an**
28 **explanation of the investigation process and inform the impacted party**
29 **that they may opt out of proceeding with an investigation.**

30 **(B) If the impacted party does not opt out of proceeding with the**
31 **investigation,** an investigation as described in subsection (14) of this rule

1 shall be undertaken.

2 **(C) If the impacted party opts out of proceeding with an investi-**
3 **gation, the Legislative Equity Officer shall maintain confidential re-**
4 **ords of the report to be used for determining if there is a pattern of**
5 **conduct that violates this rule or applicable respectful workplace pol-**
6 **icies. The officer shall provide the impacted party** [*and the investigator*
7 *or the Legislative Equity Officer shall provide the person who is reported to*
8 *be experiencing the conduct*] with information on available resources, in-
9 cluding resources described in subsection (10)(e)(B) and (C) of this rule.

10 **(D) If the Legislative Equity Officer or** investigator determines that the
11 reported conduct, on its face, is not conduct prohibited by this rule, the
12 [*investigator*] **officer** may:

13 [(A)] **(i)** Engage in specific coaching of individuals to eliminate any un-
14 certainty over appropriate workplace behavior;

15 [(B)] **(ii)** Confer with and [*recommend that the Legislative Equity Officer*
16 *provide additional training*] **make recommendations to the appropriate**
17 **appointing authority or legislative leader to facilitate training or**
18 **guidance being given** to address reported circumstances; **or**

19 [(C)] *Confer with and make recommendations to the appropriate appointing*
20 *authority or legislative leader to facilitate training or guidance being given to*
21 *address reported circumstances; or*]

22 [(D)] **(iii)** Take any other action that is warranted to achieve the policies
23 established under these rules.

24 (12) Conduct complaints.

25 (a) Any person who experiences behavior prohibited by this rule or ob-
26 serves behavior that is inconsistent with this rule may make a complaint
27 under this subsection within five years after the date the behavior occurred.
28 A complaint made under this subsection shall be referred to as a conduct
29 complaint.

30 (b) A conduct complaint must:

31 (A) Be in writing;

1 (B) Identify the complainant and the person being accused of engaging in
2 conduct prohibited by this rule;

3 (C) Set forth the facts and circumstances that the complainant believes
4 describe conduct that is prohibited by this rule; and

5 (D) Be made in a declaration under penalty of perjury that is satisfied
6 when the declarant signs the complaint immediately under a sentence that
7 states, "I hereby declare that the above statement is true to the best of my
8 knowledge and belief, and that I understand it is made for use as evidence
9 in proceedings under Legislative Branch Personnel Rule 27 and is subject to
10 penalty for perjury."

11 (c) A conduct complaint shall be delivered to the Legislative Equity
12 Officer[, *who shall convey the complaint to*] **or** an independent investigator[,
13 *except that a conduct complaint may be delivered by the complainant directly*
14 *to the independent investigator*]. **If the complaint is delivered to an inde-**
15 **pendent investigator, the investigator shall deliver a copy of the com-**
16 **plaint to the officer.**

17 (d) The [*independent investigator*] **Legislative Equity Officer** shall
18 promptly examine the conduct complaint and determine if the complaint
19 meets the requirements of paragraph (b) of this subsection. If the complaint
20 does not meet the requirements of paragraph (b) of this subsection, the in-
21 vestigator shall request the complainant to supplement the complaint. A
22 complaint that does not meet the requirements of paragraph (b) of this sub-
23 section may not be the subject of an investigation under subsection (14) of
24 this rule.

25 (e) **The Legislative Equity Officer shall review all conduct com-**
26 **plaints received under this subsection to determine whether the re-**
27 **ported conduct, when taken on its face, could be prohibited by this**
28 **rule. If the officer determines that an investigation is warranted, an**
29 **investigation as described in subsection (14) of this rule shall be**
30 **undertaken. The officer may, in the officer's discretion, ask the inde-**
31 **pendent investigator to determine whether the reported conduct, when**

1 **taken on its face, could be prohibited by this rule. The officer shall**
2 **provide the complainant with information on available resources, in-**
3 **cluding resources described in subsection (10)(e)(B) and (C) of this**
4 **rule. If the officer or investigator determines that the reported con-**
5 **duct, on its face, is not conduct prohibited by this rule, the officer**
6 **may:**

7 **(A) Engage in specific coaching of individuals to eliminate any un-**
8 **certainty over appropriate workplace behavior;**

9 **(B) Confer with and make recommendations to the appropriate ap-**
10 **pointing authority or legislative leader to facilitate training or guid-**
11 **ance being given to address reported circumstances; or**

12 **(C) Take any other action that is warranted to achieve the policies**
13 **established under these rules.**

14 **[(e)] (f) After a determination under paragraphs (d) and (e) of this**
15 **subsection that an investigation is warranted, the independent investi-**
16 **gator shall promptly:**

17 **(A) Deliver a copy of the conduct complaint to the person accused of en-**
18 **gaging in behavior prohibited by this rule, who shall thereafter be the re-**
19 **spondent; and**

20 **(B) If the respondent:**

21 **(i) Is a member of the Legislative Assembly, deliver a copy of the com-**
22 **plaint to the caucus leader of the caucus in which the member serves;**

23 **(ii) Is a caucus leader, deliver a copy of the complaint to the presiding**
24 **officer of the chamber in which the caucus leader serves and to a member**
25 **who is in an elected leadership position of the caucus in which the caucus**
26 **leader serves;**

27 **(iii) Is a Legislative Branch employee in either a partisan or nonpartisan**
28 **staff position, deliver a copy of the complaint to the appointing authority for**
29 **the respondent;**

30 **(iv) Is an agency head, deliver a copy of the complaint to the presiding**
31 **officers;**

1 (v) Is a parliamentarian, deliver a copy of the complaint to the presiding
2 officer of the chamber in which the parliamentarian serves; and

3 (vi) Is a registered lobbyist, executive or judicial branch employee, em-
4 ployee of a contractor or a member of the public, deliver a copy of the
5 complaint to the Legislative Administrator.

6 [(f)] (g) The [*independent investigator shall promptly provide, or shall en-*
7 *sure that the*] Legislative Equity Officer [*provides,*] **shall provide** the
8 complainant with information on available resources, including resources
9 described in subsection (10)(e)(B) and (C) of this rule.

10 [(g)] (h) Upon delivery of the conduct complaint **as prescribed in para-**
11 **graph (f) of this subsection**, the independent investigator shall promptly
12 begin the investigation described in subsection (14) of this rule and recom-
13 mend any necessary interim safety measures as described in subsection (13)
14 of this rule.

15 (13) Interim safety measures.

16 (a) Upon receipt of a conduct report made under subsection (11) of this
17 rule or a conduct complaint made under subsection (12) of this rule, or at
18 any time during the course of an investigation, the independent investigator
19 may determine that an interim safety measure needs to be implemented to
20 ensure the safety of the complainant or any other individual who has experi-
21 enced behavior that is prohibited by this rule or who may reasonably be
22 foreseen as at risk of being subjected to behavior that is prohibited by this
23 rule. The Legislative Equity Officer or an offsite process counselor may also
24 recommend an interim safety measure if interim safety measures are sought
25 by an individual making a confidential disclosure under subsection (10) of
26 this rule. The investigator, officer or counselor may recommend any interim
27 safety measure that they determine is appropriate to the situation, including
28 but not limited to:

29 (A) Temporary reassignment of the respondent;

30 (B) Alternative work location for the respondent, including being duty-
31 stationed at home;

1 (C) Establishing a no contact order;

2 (D) Placing the respondent on paid or unpaid leave and prohibiting the
3 respondent from being present in the workplace or the State Capitol;

4 (E) Directing the respondent to be absent from the State Capitol until the
5 investigation is complete; or

6 (F) In severe situations, involving law enforcement.

7 (b) Any interim safety measure that is recommended or that is imple-
8 mented may not prejudice a complainant or put a complainant in a worse
9 position than the complainant was in before the complaint was made.

10 (c)(A) Any interim safety measure that is imposed may not unlawfully
11 impair any lawful rights an accused person may exercise.

12 (B) Any interim safety measure that is imposed on a member of the Leg-
13 islative Assembly must be narrowly tailored to minimize limitations on the
14 member's ability to perform core legislative functions and to address imme-
15 diate safety concerns, and an interim safety measure may not be imposed
16 until after the member is given notice of the proposed interim safety measure
17 and an opportunity to be heard by the applicable chamber committee on
18 conduct.

19 (d) If the respondent is a member of the Legislative Assembly:

20 (A) The committee on conduct of the chamber in which the respondent
21 serves is authorized to impose an interim safety measure on the respondent
22 that lasts no longer than until the complaint is resolved;

23 (B) The independent investigator shall report the investigator's interim
24 safety recommendation and the reasons for the recommendation to the re-
25 spondent, to the committee and to the presiding officer of the chamber; and

26 (C) The committee shall promptly deliberate on the recommendation and
27 shall adopt such interim safety measures that the committee determines are
28 appropriate. For purposes of conducting a hearing to deliberate on interim
29 safety measures under this paragraph, the committee hearing need only
30 comply with one-hour notice requirements.

31 (e) If the respondent is not a member of the Legislative Assembly, the

1 independent investigator shall make the investigator's interim safety recom-
2 mendation:

3 (A) In the case of a respondent who is a Legislative Branch employee in
4 either a partisan or nonpartisan staff position, to the employee's appointing
5 authority.

6 (B) In the case of a respondent who is a State of Oregon employee but
7 not a Legislative Branch employee, to the employee's agency director and the
8 Legislative Administrator.

9 (C) In the case of a respondent who is a lobbyist, employee of a contractor
10 or member of the public, to the Legislative Administrator.

11 (f) The person who receives the independent investigator's interim safety
12 recommendation made under paragraph (e) of this subsection shall act
13 promptly on the recommendation.

14 (g) The Legislative Equity Officer or an offsite process counselor that has
15 received a confidential disclosure under subsection (10) of this rule may re-
16 commend interim safety measures under this subsection if requested by the
17 individual making a disclosure under subsection (10) of this rule, except that
18 the interim safety measure may not:

19 (A) Identify the individual making the confidential disclosure without the
20 consent of the individual; or

21 (B) Penalize or place the person who is the subject of the disclosure in
22 a worse position than before the disclosure was made.

23 (14) Investigations.

24 (a) As soon as is practicable after [*adoption of this rule and chapter*
25 *———, Oregon Laws 2019 (Enrolled House Bill 3377) (as amended by HB*
26 *3377-9 amendments)*] **July 23, 2019**, the Joint Committee on Conduct shall:

27 (A) Adopt standards and criteria for the selection of an independent in-
28 vestigator unaffiliated with the Legislative Branch, and the Legislative Eq-
29 uity Officer shall maintain a list of potential independent investigators who
30 meet the standards and criteria established by the committee; and

31 (B) Direct the Legislative Equity Officer to enter into one or more con-

1 tracts with individuals who meet the standards and criteria established by
2 the committee, to serve as an independent investigator under this rule.

3 (b) An investigation that is to be conducted under this subsection shall
4 be conducted promptly and shall be completed as soon as is practicable. The
5 investigation must be completed within 84 days from the date the complaint
6 is made, except that the Legislative Equity Officer may extend the time by
7 which the investigation must be completed if the independent investigator
8 provides advance notice to the complainant and the respondent of the ex-
9 tension and an explanation justifying the extension.

10 (c) The independent investigator shall keep the complainant and the re-
11 spondent apprised of the investigation timeline and the status of the inves-
12 tigation at the outset of an investigation, on a regular basis thereafter and
13 upon request of the complainant or respondent.

14 (d)(A) The independent investigator shall use best practices in conducting
15 the investigation and shall make findings of fact relevant to the allegations.
16 The investigator shall prepare draft written findings of fact at least eight
17 days before the investigation must be concluded under paragraph (b) of this
18 subsection and shall provide the draft written findings to the complainant
19 and the respondent.

20 (B) If the respondent is someone other than a member of the Legislative
21 Assembly, the draft written findings shall also contain a proposed finding
22 of whether one or more violations of this rule occurred.

23 **(C) In all investigations, the independent investigator shall consider**
24 **whether the conduct that is the subject of the investigation consti-**
25 **tutes discrimination by denigrating or showing hostility toward a**
26 **protected class or toward an individual because of the individual's**
27 **status as a member of a protected class. The investigator shall report**
28 **the investigator's considerations under this subparagraph in the**
29 **investigator's draft written findings. If the investigator determines**
30 **that the conduct constitutes discrimination by denigrating or showing**
31 **hostility toward an individual because of the individual's status as a**

1 **member of a protected class, the investigator may not specify in the**
2 **investigator's draft written findings the protected class to which the**
3 **individual belongs.**

4 [(C)] (D) The complainant and the respondent may give responses to the
5 draft written findings to the investigator within seven days of receiving the
6 draft.

7 [(D)] (E) The independent investigator shall consider responses supplied
8 under subparagraph [(C)] (D) of this paragraph and shall prepare a final re-
9 port that sets forth the investigator's findings of fact **and considerations**
10 **regarding the presence or absence of discrimination described in sub-**
11 **paragraph (C) of this paragraph.** If the respondent is someone other than
12 a member of the Legislative Assembly, the final report should also include
13 a determination by the investigator of whether the facts constitute a vio-
14 lation of this rule.

15 (e)(A) If a member of the Legislative Assembly is the respondent, the in-
16 dependent investigator shall deliver the final report to the complainant, the
17 respondent, **the Legislative Equity Officer** and the committee on conduct
18 for the chamber in which the respondent serves on or before the date estab-
19 lished under paragraph (b) of this subsection for the completion of the in-
20 vestigation.

21 (B) The complainant and the respondent may each submit to the appro-
22 priate committee on conduct a written challenge to the factual findings set
23 forth in the final report within seven days of receipt of the report. A chal-
24 lenge must identify the factual findings that are the subject of the challenge
25 and articulate the reason those findings are in error.

26 (C) The committee on conduct shall conduct a hearing on the allegations
27 made in the complaint and the investigator's final report within [14] **21** days
28 of receiving the report from the investigator. The committee shall permit the
29 complainant and the respondent to appear, present documents and physical
30 evidence and suggest witnesses. The committee may determine to hear wit-
31 nesses, but only committee members may question witnesses.

1 (D) At the hearing or a subsequent hearing, the committee on conduct
2 shall deliberate and:

3 (i) Make a final determination of facts;

4 (ii) Make a final determination of whether the facts constitute a violation
5 of this rule; and

6 (iii) If the determination is that a violation of this rule occurred, pre-
7 scribe or recommend remedies as described in subsection (15) of this rule.

8 (f) If a member of the Legislative Assembly is the respondent and
9 irrevocably resigns the member's office at any time after the conduct com-
10 plaint is made, the investigation described in this subsection and the com-
11 mittee on conduct hearing and final committee determinations described in
12 paragraph (e) of this subsection shall nevertheless take place.

13 (g)(A) If someone other than a member of the Legislative Assembly is the
14 respondent, the independent investigator shall deliver the final report, in-
15 cluding proposed findings of violations, to the complainant, the respondent
16 and:

17 (i) In the case of a respondent who is a Legislative Branch employee in
18 a nonpartisan staff position, to the respondent's appointing authority.

19 (ii) In the case of a respondent who is a Legislative Branch employee in
20 a partisan staff position, to the respondent's appointing authority and, **if the**
21 **investigator determined that a violation of the rule had occurred**, to
22 the committee on conduct of the chamber with which the employee is affil-
23 iated.

24 (iii) In the case of a respondent who is a State of Oregon employee but
25 not a Legislative Branch employee, to the Legislative Administrator and the
26 respondent's agency director.

27 (iv) In the case of a respondent who is a lobbyist, employee of a con-
28 tractor or member of the public, to the Legislative Administrator.

29 **(v) In all instances, to the Legislative Equity Officer.**

30 (B) A nonpartisan staff appointing authority who receives the independ-
31 ent investigator's final report under subparagraph (A)(i) of this paragraph,

1 or the Legislative Administrator upon receiving the independent
2 investigator's final report under subparagraph (A)(iii) or (iv) of this para-
3 graph, shall determine remedial measures described in subsection (15) of this
4 rule within 14 days of receiving the investigator's final report.

5 (C) The appropriate committee on conduct that receives the independent
6 investigator's final report under subparagraph (A)(ii) of this paragraph
7 shall, **if the investigator determined that a violation of the rule had**
8 **occurred**, make a recommendation on remedial measures described in sub-
9 section (15) of this rule to the supervising member of the Legislative As-
10 sembly within [*seven*] **14** days of receiving the investigator's final report. The
11 supervising member of the Legislative Assembly shall consider the recom-
12 mendations and make a final determination on the remedial measures within
13 [*14*] **21** days of receiving the investigator's final report.

14 (15) Remedial measures.

15 (a) In a case where the respondent is a member of the Legislative As-
16 sembly and the appropriate committee on conduct has made a determination
17 under subsection (14)(e) of this rule that a violation of this rule has oc-
18 curred, the committee shall impose any remedy that is sufficient to
19 reprimand the member and deter future conduct that violates the rule, in-
20 cluding but not limited to a reprimand, monetary fine or other remedy that
21 the committee determines is appropriate under the circumstances[, *except*
22 *that*]:

23 (A) **Except that**, if the committee recommendation is to expel the mem-
24 ber, the committee shall report that recommendation to the full chamber,
25 which shall act on that recommendation at its earliest opportunity; [*and*]

26 (B) **Except that**, if the committee recommendation is to remove the
27 member from one or more committees to which the member is assigned, **un-**
28 **less subparagraph (C) of this paragraph applies**, the committee shall re-
29 port that recommendation to the presiding officer of that chamber; **and**

30 (C) **Including the removal of the member from the committee on**
31 **conduct. If a member is removed from the committee on conduct un-**

1 **der this subsection, the member also is removed from the Joint Com-**
2 **mittee on Conduct.**

3 (b)(A) In a case where the respondent is a Legislative Branch employee
4 in a nonpartisan staff position, the appointing authority, in consultation
5 with the Human Resources Director, shall determine an appropriate remedy
6 that is consistent with the independent investigator's determination that the
7 respondent violated the requirements of this rule.

8 (B) The respondent may appeal the investigator's final report or any re-
9 medial measure imposed under this paragraph after the report has been de-
10 livered to the appointing authority but no later than seven days after the
11 imposition of remedial measures under this subsection, except that any ap-
12 peal must be based only on:

13 (i) Newly discovered evidence that was not taken into account by the in-
14 vestigator;

15 (ii) A claim of process error that is being asserted by the appellant; or

16 (iii) A claim that the investigator or the person or committee that im-
17 posed a remedy acted with bias.

18 (C) The appeal may be made to the Joint Committee on Conduct.

19 (c)(A) In a case where the respondent is a Legislative Branch employee
20 in a partisan staff position, the committee on conduct of the chamber with
21 which the employee is affiliated shall, **if the investigator determined that**
22 **a violation of the rule had occurred**, make a recommendation on an ap-
23 propriate remedy consistent with the independent investigator's determi-
24 nation that the respondent violated the requirements of this rule. The
25 committee's recommendation shall be made to the member of the Legislative
26 Assembly for whom the respondent works.

27 (B) The member shall determine the appropriate remedy within the time
28 prescribed in subsection (14)(g)(C) of this rule and shall notify the Legisla-
29 tive Equity Officer upon making the determination.

30 (C) If the Legislative Equity Officer determines that no remedial measures
31 were imposed under subparagraph (B) of this paragraph or that the remedial

1 measures imposed were substantially different from the remedial measures
2 recommended by the committee, the officer shall notify the committee of the
3 disparity. The committee may hold a hearing and may impose a remedy.

4 (D) The respondent may appeal the investigator's final report or the re-
5 medial measure imposed under this paragraph to the committee on conduct
6 with which the respondent is associated within seven days after the remedial
7 measure is imposed, except that any appeal must be based only on a claim
8 described in paragraph (b)(B) of this subsection.

9 (d)(A) In a case where the respondent is a lobbyist, employee of a con-
10 tractor or other person who is present in the State Capitol for professional
11 or work reasons, or is a member of the public, and the independent
12 investigator's final report determines that a violation of this rule has oc-
13 curred, the Legislative Administrator shall determine an appropriate remedy
14 that is consistent with the investigator's determination. The respondent may
15 appeal the investigator's final report or the remedy determined by the Leg-
16 islative Administrator to the co-chairs of the Legislative Administration
17 Committee within seven days of the Legislative Administrator's determi-
18 nation, except that any appeal must be based only on a claim described in
19 paragraph (b)(B) of this subsection.

20 (B) If the respondent is a lobbyist, employee of a contractor or other
21 person who is present in the State Capitol for professional or work reasons,
22 the Legislative Administrator shall provide notice of the proposed remedy
23 under this paragraph to the respondent and the respondent's employer within
24 14 days of receiving the final report from the investigator. If the respondent
25 is a lobbyist who is a member of an association of professional lobbyists, the
26 Legislative Administrator shall also provide notice of the proposed remedy
27 to the association.

28 (C) The Legislative Administrator may modify the proposed remedy at any
29 time until 28 days after receipt of the investigator's final report, but there-
30 after the proposed remedy is final.

31 **(e) Each officer or entity charged with imposing a remedial measure**

1 **under this subsection shall consider and weigh the presence or absence**
2 **of discrimination as described in subsection (14)(d)(C) of this rule in**
3 **the conduct found to be a violation of this rule. Because the Legisla-**
4 **tive Branch is committed to promoting a safe, respectful and inclusive**
5 **workplace and environment in the State Capitol, a finding that dis-**
6 **crimination was present in the conduct found to be a violation of this**
7 **rule justifies enhancing the severity of the remedy to be imposed.**

8 **(f) In addition to the follow-up described in subsection (9)(b) of this**
9 **rule, the Legislative Equity Officer shall engage in final process**
10 **counseling with an impacted party as soon as is practicable after:**

11 **(A) A determination is made under subsection (14) that no violation**
12 **of this rule occurred; or**

13 **(B) A final determination is made under this subsection concerning**
14 **the imposition of remedies.**

15 **(16) Confidentiality and transparency.**

16 **(a) The independent investigator undertaking an investigation under sub-**
17 **section (14) of this rule and the Legislative Equity Officer shall provide as**
18 **much privacy as possible during the course of an investigation.**

19 **(b) The independent investigator and the Legislative Equity Officer shall**
20 **maintain all records and information about an investigation confidentially,**
21 **except that:**

22 **(A) The investigator may disclose the fact of the investigation and any**
23 **relevant details of the investigation to the appointing authority of the**
24 **complainant and the respondent and the Joint Committee on Conduct, if the**
25 **investigator determines there is a legitimate need to disclose the informa-**
26 **tion; and**

27 **(B) In the case of a respondent who is a member of the Legislative As-**
28 **sembly, the investigator may disclose the fact of the investigation and any**
29 **relevant details of the investigation to the person to whom the conduct**
30 **complaint was delivered under subsection [(12)(e)(B)] (12)(f)(B) of this rule.**

31 **(c) A conduct complaint made under subsection (12) of this rule is**

1 disclosable upon being made under subsection (12) of this rule, but all re-
2 cords relating to an ongoing investigation under subsection (14) of this rule
3 shall be maintained in confidence.

4 (d) Records and information of the independent investigator and the Leg-
5 islative Equity Officer shall be exempt from disclosure as prescribed under
6 applicable law, except that, also as prescribed under applicable law:

7 (A) A conduct complaint made under subsection (12) of this rule is
8 disclosable when requested;

9 (B) Records relating to a member of the Legislative Assembly following
10 a conduct complaint being made concerning the member are subject to dis-
11 closure after the fact-finding investigation has concluded, even if a legisla-
12 tive committee has not yet met or deliberated on the investigation's findings;
13 and

14 (C) Records relating to an investigation of allegations of conduct prohib-
15 ited by legislative branch personnel rules and not described in subparagraph
16 (A) or (B) of this paragraph are subject to disclosure upon a determination
17 being made that the person who was the subject of the investigation is sub-
18 ject to remedial measures or discipline.

19 (17) Establishment of committees on conduct.

20 (a)(A) The Senate Committee on Conduct is established, consisting of four
21 Senators and *[two]* **six** alternates. Two Senators and *[one alternate]* **three**
22 **alternates** must be from the majority party and two Senators and *[one al-*
23 *ternate]* **three alternates** must be from the minority party. Each Senator
24 must be approved by majority vote of the Senate to serve on the committee
25 or to serve as an alternate, following being nominated by any Senator. The
26 majority and minority caucus leaders shall each nominate at least one Sen-
27 ator to serve as a committee member from their caucus.

28 (B) The Senate Committee on Conduct shall perform those functions as-
29 signed by this rule to carry out the purposes of Article IV, section 15, of the
30 Oregon Constitution, for the Senate.

31 (C) The Senate shall appoint members of the Senate Committee on Con-

1 duct within 15 days after the date of the convening of an organizational
2 session of the odd-numbered year regular session of the Legislative Assembly,
3 as soon as practicable after a vacancy occurs or as soon as practicable after
4 this rule takes effect.

5 (b)(A) The House Committee on Conduct is established, consisting of four
6 Representatives and [*two*] **six** alternates. Two Representatives and [*one al-*
7 *ternate*] **three alternates** must be from the majority party and two Repre-
8 sentatives and [*one alternate*] **three alternates** must be from the minority
9 party. Each Representative must be appointed by majority vote of the House
10 of Representatives to serve on the committee or to serve as an alternate,
11 following being nominated by any Representative. The majority and minority
12 caucus leaders shall each nominate at least one Representative to serve as
13 a committee member from their caucus.

14 (B) The House Committee on Conduct shall perform those functions as-
15 signed by this rule to carry out the purposes of Article IV, section 15, of the
16 Oregon Constitution, for the House of Representatives.

17 (C) The House of Representatives shall appoint members of the House
18 Committee on Conduct within 15 days after the date of the convening of an
19 organizational session of the odd-numbered year regular session of the Leg-
20 islative Assembly, as soon as practicable after a vacancy occurs or as soon
21 as practicable after this rule takes effect.

22 (c) The members of the Senate Committee on Conduct and the members
23 of the House Committee on Conduct shall together comprise the Joint Com-
24 mittee on Conduct. The Joint Committee on Conduct shall perform the duties
25 assigned to the joint committee under chapter [_____] **604**, Oregon Laws 2019
26 [*(Enrolled House Bill 3377) (as amended by HB 3377-9 amendments)*], or this
27 rule.

28 (d)(A) When a member of a committee on conduct is named as a re-
29 spondent under this rule, the member [*may not serve*] **shall be recused from**
30 **service** as a member of the committee or as a member of the joint committee
31 until the matter is resolved.

1 **(B) When a member of a committee on conduct is a complainant**
2 **or is identified as an impacted party in a final report in a matter that**
3 **is pending before a committee on conduct, the member shall be**
4 **recused from participating in the matter as a committee member.**

5 **(e) If an alternate is required to serve as a member of a committee**
6 **on conduct, the specific alternate shall be selected so as to preserve**
7 **the balance of committee membership between majority party and**
8 **minority party members and thereafter in the order in which the al-**
9 **ternate was appointed to be an alternate.**

10 (18) Respectful workplace policies.

11 (a) The Joint Committee on Conduct shall develop and maintain a
12 respectful workplace policy to address conduct that is inconsistent with the
13 policy direction established for the Legislative Branch as set forth in sub-
14 section (1) of this rule but that does not rise to the level of creating a hostile
15 work environment or violating public accommodation law.

16 (b) In addition to establishing standards of conduct and giving examples
17 of conduct that violates those standards, the policy shall establish proce-
18 dures for determining and imposing remedial measures, including but not
19 limited to training, coaching and counselling.

20 (c) For Legislative Branch employees, the policy shall also establish pro-
21 cedures for determining and imposing proportionate discipline when appro-
22 priate.

23 (d) For members of the Legislative Assembly, the policy shall also estab-
24 lish procedures for making recommendations to the appropriate committee
25 on conduct established in subsection (17) of this rule for proportionate dis-
26 cipline when appropriate.

27 (e) The Human Resources Director shall administer the respectful
28 workplace policy. The director may delegate specific tasks under the policy
29 to other Employee Services employees.

30 (19) Recommendation.

31 The Joint Committee on Conduct shall on or before January 1, 2021, make

1 a recommendation to the President of the Senate and the Speaker of the
2 House of Representatives on whether investigation functions described in
3 this rule shall continue to be performed by one or more independent inves-
4 tigators or shall be performed by Legislative Branch personnel affiliated with
5 the Legislative Equity Office.

6 (20) Application.

7 The five-year limitation in subsections (11)(a) and (12)(a) of this rule ap-
8 plies to conduct occurring before, on or after the effective date of this rule,
9 but does not operate to revive a claim barred by a previous iteration of this
10 rule.

11

12 **Legislative Branch Personnel Rule 27-A:**

13 **(1) The amendments to Legislative Branch Personnel Rule 27 by this**
14 **concurrent resolution apply to conduct reports and conduct com-**
15 **plaints that are made on or after the date this concurrent resolution**
16 **is adopted, and to investigations of those reports and complaints.**

17 **(2) This rule is repealed on December 31, 2025.**

18
