

D R A F T

SUMMARY

Establishes standards of conduct applicable to Legislative Branch and other persons present in State Capitol. Establishes procedures for persons to make confidential disclosures, nonconfidential reports or formal complaints concerning prohibited conduct. Provides authority for interim safety measures to be imposed. Establishes procedures under which investigations of potential violations of rules are performed and remedial measures are imposed. Establishes standards of confidentiality and transparency pertaining to investigations. Establishes Senate and House Committees on Conduct.

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That Legislative Branch Personnel Rule 27, as amended and in effect for the Eightieth Legislative Assembly, is repealed and the following Legislative Branch Rule 27 is adopted in lieu thereof as a rule of proceeding of the Senate and the House of Representatives and a joint rule of proceeding applicable to the Legislative Branch:

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, including electronic media, in which conduct has the ability to create a workplace environment that is intimidating, hostile or offensive.

(b) The Legislative Branch is committed to providing a safe and respectful workplace and to taking proactive steps to improve its cul-

1 **ture so that behavior from any source that has a negative impact on**
2 **the workplace may be effectively reported and promptly addressed and**
3 **resolved.**

4 **(c) This rule is designed to provide options to those who are experi-**
5 **encing or observing harassing behavior, discriminatory behavior or**
6 **other behavior prohibited by subsection (7) of this rule to seek infor-**
7 **mation, report behaviors or file complaints to address and resolve**
8 **concerns, while also enhancing options available to victims who seek**
9 **to remain anonymous.**

10 **(2) Application.**

11 **(a) Any person who experiences behavior prohibited by this rule or**
12 **observes behavior inconsistent with this rule may use the reporting**
13 **options described in subsections (9) to (11) of this rule.**

14 **(b) An appointing authority or a supervisor, including any member**
15 **of the Legislative Assembly, shall report behavior prohibited by this**
16 **rule by the means described in subsection (10) of this rule.**

17 **(c) Any individual over whom the Legislative Branch may impose**
18 **a remedy is an individual subject to the requirements of this rule, in-**
19 **cluding but not limited to:**

20 **(A) Members of the Legislative Assembly;**

21 **(B) Legislative staff, interns, externs and volunteers;**

22 **(C) Lobbyists required to register under ORS 171.740;**

23 **(D) Contractors or employees of contractors who engage in business**
24 **with the Legislative Branch;**

25 **(E) Employees of the State of Oregon who are not employees of the**
26 **Legislative Branch; and**

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

28 **(3) Definitions.**

29 **(a) “Agency head” means the Legislative Administrator, the Legis-**
30 **lative Counsel, the principal officers of the Legislative Equity Office,**
31 **the Legislative Fiscal Officer, the Legislative Policy and Research Di-**

1 rector, the Legislative Revenue Officer and the Executive Director of
2 the Commission on Indian Services.

3 (b) "Appointing authority" means the person who has authority in
4 the interest of the employer to hire, transfer, suspend, lay off, pro-
5 mote, terminate or discipline an employee.

6 (c) "Caucus leader" means the Democratic or Republican leader of
7 the Senate or the Democratic or Republican leader of the House of
8 Representatives.

9 (d) "Caucus office" means the office of the Democratic or Republi-
10 can leader of the Senate or the office of the Democratic or Republican
11 leader of the House of Representatives.

12 (e) "Chamber" means the Senate or the House of Representatives.

13 (f) "Employee" means an employee who is performing services on
14 behalf of the Legislative Branch. "Employee" includes any intern, ex-
15 tern or volunteer who is affiliated with a Legislative Branch office.

16 (g) "Employee Services" means the division of Legislative Admin-
17 istration charged with employment and human resources adminis-
18 tration for the Legislative Branch.

19 (h) "Human Resources Director" means the manager of Employee
20 Services.

21 (i) "Leadership chief of staff" means the Chief of Staff of the Office
22 of the Senate President and the Chief of Staff of the Office of the
23 Speaker of the House of Representatives.

24 (j) "Legislative Branch" means members and employees of the
25 Legislative Assembly, the parliamentary offices, Legislative Adminis-
26 tration, the Legislative Counsel Office, the Legislative Equity Office,
27 the Legislative Fiscal Office, the Legislative Policy and Research Of-
28 fice, the Legislative Revenue Office and the Commission on the Indian
29 Services.

30 (k) "Legislative Equity Office" means the Legislative Equity Office
31 established under section 1, chapter _____, Oregon Laws 2019 (Enrolled

1 **Senate Bill 744).**

2 **(L) “Member of the Legislative Assembly” or “member” means a**
3 **Senator or a Representative.**

4 **(m) “Nonpartisan staff” means an employee of the parliamentary**
5 **offices, Legislative Administration, the Legislative Counsel Office, the**
6 **Legislative Equity Office, the Legislative Fiscal Office, the Legislative**
7 **Policy and Research Office, the Legislative Revenue Office or the**
8 **Commission on Indian Services.**

9 **(n) “Parliamentarian” means the Secretary of the Senate or the**
10 **Chief Clerk of the House of Representatives.**

11 **(o) “Parliamentary office” means the Office of the Secretary of the**
12 **Senate or the Office of the Chief Clerk of the House of Represen-**
13 **tatives.**

14 **(p) “Partisan staff” means an employee working directly for a**
15 **member of the Legislative Assembly, an employee of a caucus office**
16 **or an employee of the office of the Senate President or the office of**
17 **the Speaker of the House of Representatives.**

18 **(q) “Pervasive” means a series of more than one incident, any one**
19 **incident of which is unlikely to create a hostile work environment, but**
20 **when taken together, creates a hostile work environment.**

21 **(r) “Principal investigator” means the principal investigator of the**
22 **Legislative Equity Office who is appointed under section 1, chapter**
23 **_____, Oregon Laws 2019 (Enrolled Senate Bill 744).**

24 **(s) “Principal outreach officer” means the principal outreach officer**
25 **of the Legislative Equity Office who is appointed under section 1,**
26 **chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744).**

27 **(t) “Respondent” means a person named in a formal complaint made**
28 **under subsection (11) of this rule as engaging in behavior that is pro-**
29 **hibited by this rule or a person who is the subject of an investigation**
30 **under subsection (13) of this rule to determine whether the person**
31 **engaged in behavior that is prohibited by this rule.**

1 (u) "Severe" means that one incident by itself is sufficient to create
2 a hostile work environment.

3 (v) "Supervisor" means an employee of the Legislative Branch who
4 manages or directs the work of another employee of the Legislative
5 Branch.

6 (4) Harassment and hostile work environment.

7 (a) An individual engages in harassment by engaging in verbal or
8 physical conduct, including making a visual display or causing a visual
9 display to be shown, that denigrates or shows hostility toward a pro-
10 tected class or a member of a protected class. Examples of
11 harassment include, but are not limited to:

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

13 (B) Threatening, intimidating or hostile acts that relate to a pro-
14 tected class;

15 (C) Belittling, demeaning or humiliating a person because of a
16 protected class; or

17 (D) Generating or displaying written or graphic material that deni-
18 grates or shows hostility or aversion toward an individual or group
19 because of a protected class.

20 (b) An individual creates a hostile work environment by engaging
21 in behavior that is unwelcome and is so severe or pervasive that it
22 either affects a person's ability to function in the workplace or denies
23 someone the benefits of the workplace.

24 (5) Sexual harassment.

25 (a) An individual engages in sexual harassment when the individual
26 engages in unwelcome conduct of a sexual nature, including but not
27 limited to sexual advances, requests for sexual favors, sexual com-
28 ment, unwanted or offensive touching or physical contact, unwanted
29 closeness, impeding or blocking movement, sexual gesture, sexual in-
30 nuendo, sexual joke, sexually charged language, intimate inquiry,
31 persistent unwanted courting, sexist insult, gender stereotype, or

1 **other verbal or physical conduct of a sexual nature, if:**

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

4 **(B) A person expressly or by implication conveys that declining to**
5 **submit to the conduct will affect an individual's job, leave request,**
6 **benefits, business before the Legislative Assembly, influence or op-**
7 **portunity of the individual to engage professionally with the Legisla-**
8 **tive Assembly, its members or staff; or**

9 **(C) The unwelcome conduct has the purpose or effect of unreason-**
10 **ably interfering with a person's job performance, or creates a work**
11 **environment that a reasonable person would find intimidating, hostile**
12 **or offensive. For purposes of this rule, "unwelcome conduct" means**
13 **conduct that an individual does not incite or solicit and that the in-**
14 **dividual regards as undesirable or offensive. An individual may with-**
15 **draw consent to conduct that was previously welcomed, though a**
16 **withdrawal of consent must be communicated to the person for whom**
17 **consent is being withdrawn.**

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

19 **(A) Unwanted sexual advances, flirtations or propositions.**

20 **(B) Demands for sexual favors in exchange for favorable treatment**
21 **or continued employment.**

22 **(C) Sexual jokes.**

23 **(D) Verbal abuse of a sexual nature.**

24 **(E) Verbal commentary about the body, sexual prowess or sexual**
25 **deficiency of an individual.**

26 **(F) Leering, whistling, touching or physical assault.**

27 **(G) Using sexually suggestive, insulting or obscene comments or**
28 **gestures.**

29 **(H) Displaying sexually suggestive objects or pictures.**

30 **(I) Sending or forwarding electronic mail or other communications**
31 **of an offensive or graphic sexual nature.**

1 **(J) Discriminatory treatment based on sex.**

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

4 **(6) Retaliation.**

5 **(a) A person engages in retaliation if the person treats another in-**
6 **dividual less favorably because the person exercised a legal right, made**
7 **a good-faith complaint about conduct prohibited by this rule or that**
8 **is otherwise unlawful, or participated in an investigation about con-**
9 **duct that is prohibited by this rule or that is otherwise unlawful.**

10 **(b) A person engages in retaliation if the person treats another in-**
11 **dividual less favorably because that individual engaged in a process**
12 **described in this rule or implemented one or more provisions of this**
13 **rule.**

14 **(7) Prohibitions.**

15 **(a) The Legislative Branch prohibits conduct that:**

16 **(A) Constitutes harassment;**

17 **(B) Creates a hostile work environment;**

18 **(C) Constitutes sexual harassment; or**

19 **(D) Is retaliation.**

20 **(b) The Legislative Branch prohibits all forms of harassing behav-**
21 **ior, even if the behavior does not rise to the level of creating a hostile**
22 **work environment.**

23 **(c) The Legislative Branch prohibits all retaliatory behavior, even**
24 **if the retaliatory behavior does not rise to the level of unlawful retal-**
25 **iation.**

26 **(8) Reporting options. In order to encourage participation and ef-**
27 **fectiveness, this rule establishes three options for reporting behavior**
28 **prohibited by this rule:**

29 **(a) A confidential disclosure process described in subsection (9) of**
30 **this rule;**

31 **(b) A nonconfidential reporting process described in subsection (10)**

1 of this rule; and

2 (c) A formal complaint process described in subsection (11) of this
3 rule.

4 (9) Confidential disclosure process.

5 (a) Any individual who experiences behavior prohibited by this rule
6 or observes behavior that is inconsistent with this rule may make a
7 confidential disclosure reporting the behavior to the principal outreach
8 officer of the Legislative Equity Office established under section 1,
9 chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744).

10 (b) Information reported to the principal outreach officer and re-
11 cords created by the officer and the identity of the person making a
12 disclosure under this subsection are confidential and may not be dis-
13 closed by the officer, except that the officer:

14 (A) May disclose information if the officer reasonably concludes
15 that a threat of immediate physical harm or other harm described in
16 ORS 40.252 would exist if the disclosure were not made;

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

18 (C) May disclose aggregate, nonpersonally identifiable data to fa-
19 cilitate the Legislative Branch's identification of specific training and
20 coaching needs;

21 (D) May disclose nonpersonally identifiable information to an indi-
22 vidual who previously made a confidential disclosure under this sub-
23 section for the purpose of encouraging the individual to make a
24 nonconfidential report under subsection (10) of this rule or a formal
25 complaint under subsection (11) of this rule; and

26 (E) May disclose nonpersonally identifiable information in the
27 course of performing corrective coaching for an individual subject to
28 the requirements of this rule.

29 (c) Except as provided in paragraph (b)(C) of this subsection, the
30 principal outreach officer may not disclose information or records to
31 the Legislative Equity Office principal investigator.

1 (d) When an individual makes a confidential disclosure under this
2 subsection, the principal outreach officer:

3 (A) Shall advise the person making the disclosure of other options
4 that are available to address the conduct, including nonconfidential
5 reports under subsection (10) of this rule, formal complaints under
6 subsection (11) of this rule, state and federal administrative options
7 with the Bureau of Labor and Industries and the Equal Employment
8 Opportunity Commission of the United States, law enforcement or the
9 civil judicial process;

10 (B) Shall explain the actions that the officer may take following a
11 disclosure made under this subsection and due process and other
12 rights that limit the scope of actions that may be taken following a
13 disclosure under this subsection; and

14 (C) If requested by a person making a disclosure under this sub-
15 section, may opine on whether particular facts and circumstances
16 constitute conduct that is prohibited by subsection (7) of this rule,
17 except that an opinion offered by the officer is advisory and does not
18 bear on any determination made in an investigation undertaken under
19 subsection (13) of this rule.

20 (e) If requested by a person making a disclosure under this sub-
21 section, the principal outreach officer shall refrain from making a
22 confidential record of the identity of the person making the disclosure.
23 The officer shall explain the availability of this option to any person
24 making a disclosure under this subsection.

25 (f) The Legislative Equity Office, on or before January 1, 2020, shall
26 establish a means for persons to make disclosures under this sub-
27 section that are entirely anonymous, so that the principal outreach
28 officer cannot determine the identity of the person making a disclo-
29 sure using means described in this paragraph.

30 (10) Nonconfidential reports.

31 (a) Any individual who experiences behavior prohibited by this rule

1 or observes behavior that is inconsistent with this rule may make a
2 nonconfidential report of the behavior under this subsection.

3 (b) An appointing authority or a supervisor, including any member
4 of the Legislative Assembly, shall make a report under this subsection
5 if they have received information that they reasonably believe de-
6 scribes behavior that may be prohibited by this rule, have observed
7 behavior that they reasonably believe may be prohibited by this rule
8 or in any way have knowledge, including unsubstantiated knowledge,
9 of behavior that they reasonably believe may be prohibited by this
10 rule.

11 (c) A Legislative Branch contractor, or an employee of a contractor,
12 that is contractually obligated to do so, shall make a report under this
13 subsection if they have information that they received a report of
14 conduct prohibited by this rule, have observed behavior prohibited by
15 this rule or in any way have knowledge, including unsubstantiated
16 knowledge, of behavior prohibited by this rule.

17 (d) A report made under this subsection shall be made to:

18 (A) The Legislative Equity Office principal investigator;

19 (B) The Human Resources Director; or

20 (C) Staff of Employee Services who have been designated by the
21 Human Resources Director to receive reports made under this sub-
22 section.

23 (e) A reporter may make a report in any form and using any means.
24 However, the Joint Committee on Conduct established under section
25 1, chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 744), shall
26 establish uniform recordkeeping processes applicable to the Legislative
27 Equity Office and Employee Services to ensure that reports made un-
28 der this subsection are adequately documented.

29 (f) A report made under this subsection that is received by Em-
30 ployee Services shall be reviewed by the Human Resources Director,
31 and, if the director determines that the report describes conduct that

1 is reasonably likely to be prohibited by this rule, the director shall
2 forward the report to the principal investigator.

3 (g) The principal investigator shall review all reports made under
4 this subsection to determine whether an investigation is needed to
5 ascertain whether behavior described in a report is conduct prohibited
6 by this rule. If the investigator determines that an investigation is
7 warranted, an investigation as described in subsection (13) of this rule
8 shall be undertaken. If the investigator determines that a report does
9 not unambiguously describe conduct prohibited by this rule and that
10 an investigation is not warranted, the investigator may:

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

13 (B) Confer with and recommend that the Legislative Equity Office
14 principal outreach officer provide additional training to address re-
15 ported circumstances;

16 (C) Confer with and make recommendations to the appropriate ap-
17 pointing authority or legislative leader to facilitate training or guid-
18 ance being given to address reported circumstances; or

19 (D) Take any other action that is warranted to achieve the policies
20 established under this rule.

21 (11) Formal complaints.

22 (a) Any person who experiences behavior prohibited by this rule or
23 observes behavior that is inconsistent with this rule may make a
24 formal complaint under this subsection.

25 (b) A formal complaint must:

26 (A) Be in writing;

27 (B) Identify the complainant and the person being accused of en-
28 gaging in conduct prohibited by this rule;

29 (C) Set forth the facts and circumstances that the complainant be-
30 lieves describe conduct that is prohibited by this rule; and

31 (D) Be made in a declaration under penalty of perjury that is sat-

1 **ified when the declarant signs the complaint immediately under a**
2 **sentence that states, “I hereby declare that the above statement is**
3 **true to the best of my knowledge and belief, and that I understand it**
4 **is made for use as evidence in proceedings under Legislative Branch**
5 **Personnel Rule 27 and is subject to penalty for perjury.”**

6 **(c) A formal complaint shall be delivered to the Legislative Equity**
7 **Office principal investigator unless the complaint is about the princi-**
8 **pal investigator, in which case the complaint shall be delivered to the**
9 **Legislative Equity Office principal outreach officer who shall serve as**
10 **the principal investigator until the matter described in the complaint**
11 **is resolved.**

12 **(d) The principal investigator shall promptly examine the complaint**
13 **and determine if the complaint meets the requirements of paragraph**
14 **(b) of this subsection. If the complaint does not meet the requirements**
15 **of paragraph (b) of this subsection, the investigator shall request the**
16 **complainant to supplement the complaint. A complaint that does not**
17 **meet the requirements of paragraph (b) of this subsection may not be**
18 **the subject of an investigation under subsection (13) of this rule.**

19 **(e) The principal investigator shall promptly:**

20 **(A) Deliver a copy of the complaint to the person accused of en-**
21 **gaging in behavior prohibited by this rule, who shall thereafter be the**
22 **respondent; and**

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

24 **(i) Is a member of the Legislative Assembly, deliver a copy of the**
25 **complaint to the caucus leader of the caucus in which the member**
26 **serves;**

27 **(ii) Is a caucus leader, deliver a copy of the complaint to the pre-**
28 **siding officer of the chamber in which the caucus leader serves;**

29 **(iii) Is a Legislative Branch employee in either a partisan or non-**
30 **partisan staff position, to the appointing authority for the respondent;**

31 **or**

1 (iv) Is a registered lobbyist, executive or judicial branch employee
2 or a member of the public, to the Legislative Administrator.

3 (f) Upon delivery of the complaint, the principal investigator shall
4 promptly begin the preliminary investigation described in subsection
5 (13)(a) of this rule, unless the principal investigator determines that
6 there is a need for interim safety measures to be implemented as de-
7 scribed in subsection (12) of this rule.

8 (12) Interim safety measures.

9 (a) Upon receipt of a nonconfidential report made under subsection
10 (10) of this rule or a formal complaint made under subsection (11) of
11 this rule, or at any time during the course of an investigation, the
12 Legislative Equity Office principal investigator or other person who is
13 conducting the investigation may determine that an interim safety
14 measure needs to be implemented to ensure the safety of the
15 complainant or any other individual who has experienced behavior
16 that is prohibited by this rule or who may reasonably be foreseen as
17 at risk of being subjected to behavior that is prohibited by this rule.
18 The investigator may recommend any interim safety measure that the
19 investigator determines is appropriate to the situation, including but
20 not limited to:

21 (A) Temporary reassignment;

22 (B) Alternative work location, including being duty-stationed at
23 home;

24 (C) Establishing a no contact order;

25 (D) Placing the respondent on paid or unpaid leave and prohibiting
26 the respondent from being present in the workplace or the State Cap-
27 itol;

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

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

31 (b) Any interim safety measure that the investigator may recom-

1 **mend or that is implemented may not prejudice a complainant or put**
2 **a complainant in a worse position than the complainant was in before**
3 **the complaint was made.**

4 **(c)(A) Any interim safety measure that is imposed may not unlaw-**
5 **fully impair any lawful rights an accused person may exercise.**

6 **(B) Any interim safety measure that is imposed on a member of the**
7 **Legislative Assembly must be narrowly tailored to minimize limita-**
8 **tions on the member's ability to perform core legislative functions and**
9 **to address immediate safety concerns, and an interim safety measure**
10 **may not be imposed until after the member is given notice of the**
11 **proposed interim safety measure and an opportunity to be heard by the**
12 **applicable chamber committee on conduct.**

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

14 **(A) The committee on conduct of the chamber in which the re-**
15 **spondent serves is authorized to impose an interim safety measure on**
16 **the respondent that lasts no longer than until the complaint is re-**
17 **solved;**

18 **(B) The investigator shall report the investigator's interim safety**
19 **recommendation and the reasons for the recommendation to the re-**
20 **spondent and to the committee; and**

21 **(C) The committee shall promptly deliberate on the recommen-**
22 **dation and shall adopt such interim safety measures that the com-**
23 **mittee determines are appropriate.**

24 **(e) If the respondent is not a member of the Legislative Assembly,**
25 **the investigator shall make the investigator's interim safety recom-**
26 **mendation:**

27 **(A) In the case of an respondent who is a Legislative Branch em-**
28 **ployee in either a partisan or nonpartisan staff position, to the**
29 **employee's appointing authority.**

30 **(B) In the case of a respondent who is a State of Oregon employee**
31 **but not a Legislative Branch employee, to the employee's supervisor**

1 and to the employee's agency director.

2 (C) In the case of an respondent who is a lobbyist, contractor em-
3 ployee or member of the public, to the Legislative Administrator.

4 (f) The person who receives the investigator's interim safety rec-
5 ommendation made under paragraph (e) of this subsection shall act
6 promptly on the recommendation.

7 **(13) Investigations.**

8 (a)(A) In all instances in which a formal complaint has been made
9 under subsection (11) of this rule against a member of the Legislative
10 Assembly, a leadership chief of staff, a caucus office chief of staff, a
11 parliamentarian, an agency head or the Human Resources Director,
12 the Legislative Equity Office principal investigator shall promptly ap-
13 point an outside investigator from among investigators on a list
14 maintained under subparagraph (B) of this paragraph.

15 (B) The Joint Committee on Conduct, on or before January 1, 2020,
16 shall adopt standards and criteria for the selection of an outside in-
17 vestigator and the Legislative Equity Office shall maintain a list of
18 potential outside investigators who meet the standards and criteria
19 established by the committee.

20 (C) In all formal complaints made under subsection (11) of this rule
21 other than those described in subparagraph (A) of this paragraph, the
22 principal investigator, taking the allegations stated in the complaint
23 in the light most favorable toward to the complainant, shall make an
24 initial determination of whether the complaint describes conduct that
25 reasonably could constitute a violation of this rule. If the principal
26 investigator determines that, based on the complaint, there is a rea-
27 sonable possibility of a rule violation, the principal investigator shall
28 conduct an investigation as described in paragraph (b) of this sub-
29 section. If the principal investigator determines that facts and cir-
30 cumstances warrant an outside investigator conducting the
31 investigation, the principal investigator shall select an investigator

1 from the list maintained under subparagraph (B) of this paragraph.

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

10 (c) At the outset of the investigation and on a regular basis there-
11 after, the investigator shall keep the complainant and the respondent
12 apprised of the investigation timeline and the status of the investi-
13 gation.

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

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

23 (C) The complainant and the respondent may give responses to the
24 draft written findings to the investigator within seven days of receiv-
25 ing the draft.

26 (D) The investigator shall consider responses supplied under sub-
27 paragraph (C) of this paragraph and shall prepare a final report that
28 sets forth the investigator's findings of fact. If the respondent is
29 someone other than a member of the Legislative Assembly, the final
30 report should also include a determination by the investigator of
31 whether the facts constitute a violation of this rule.

1 (e)(A) If a member of the Legislative Assembly is the respondent,
2 the investigator shall deliver the final report to the complainant, the
3 respondent and the committee on conduct for the chamber in which
4 the respondent serves on or before the date established under para-
5 graph (b) of this subsection for the completion of the investigation.

6 (B) The complainant and the respondent may each submit to the
7 appropriate committee on conduct a written challenge to the factual
8 findings set forth in the final report within seven days of receipt of the
9 report. A challenge must identify the factual findings that are the
10 subject of the challenge and articulate the reason those findings are
11 in error.

12 (C) The committee on conduct shall conduct a hearing on the
13 allegations made in the complaint and the investigator's final report
14 within 28 days of receiving the report from the investigator. The
15 committee shall permit the complainant and the respondent to appear,
16 present documents and physical evidence and suggest witnesses. The
17 committee may determine to hear witnesses, but only committee
18 members may question witnesses.

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

21 (i) Make a final determination of facts;

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

24 (iii) If the determination is that a violation of this rule occurred,
25 prescribe or recommend remedies as described in subsection (14) of
26 this rule.

27 (f) If a member of the Legislative Assembly is the respondent and
28 irrevocably resigns the member's office at any time after the formal
29 complaint is made, the investigation described in this subsection and
30 the committee on conduct hearing and final committee determinations
31 described in paragraph (e) of this subsection shall nevertheless take

1 **place.**

2 **(g)(A) If someone other than a member of the Legislative Assembly**
3 **is the respondent, the investigator shall deliver the final report, in-**
4 **cluding proposed findings of violations, to the complainant, the re-**
5 **spondent and:**

6 **(i) In the case of a respondent who is a Legislative Branch employee**
7 **in a nonpartisan staff position, to the respondent's appointing au-**
8 **thority.**

9 **(ii) In the case of a respondent who is a Legislative Branch em-**
10 **ployee in a partisan staff position, to the respondent's appointing au-**
11 **thority and to the committee on conduct of the chamber with which**
12 **the employee is affiliated.**

13 **(iii) In the case of a respondent who is a State of Oregon employee**
14 **but not a Legislative Branch employee, to the respondent's supervisor**
15 **and to the respondent's agency director.**

16 **(iv) In the case of a respondent who is a lobbyist, contractor em-**
17 **ployee or member of the public, to the Legislative Administrator.**

18 **(B) A nonpartisan staff appointing authority who receives an**
19 **investigator's final report under subparagraph (A)(i) of this paragraph,**
20 **or the Legislative Administrator upon receiving an investigator's final**
21 **report under subparagraph (A)(iv) of this paragraph, shall make a de-**
22 **termination to accept or reject the findings of the investigator and**
23 **determine remedial measures described in subsection (14) of this rule**
24 **within 14 days of receiving the investigator's final report.**

25 **(C) The appropriate committee on conduct that receives an**
26 **investigator's final report under subparagraph (A)(ii) of this paragraph**
27 **shall make a recommendation on remedial measures described in**
28 **subsection (14) of this rule to the supervising member of the Legisla-**
29 **tive Assembly within seven days of receiving the investigator's final**
30 **report. The supervising member of the Legislative Assembly shall**
31 **consider the recommendations and make a final determination on the**

1 remedial measures within 14 days of receiving the investigator's final
2 report.

3 **(14) Remedial measures.**

4 (a) In a case where the respondent is a member of the Legislative
5 Assembly and the appropriate committee on conduct has made a de-
6 termination under subsection (13)(e) of this rule that a violation of
7 this rule has occurred, the committee shall impose any remedy that
8 is appropriate under the circumstances, including but not limited to
9 a reprimand, monetary fine or other remedy that the committee de-
10 termines is appropriate under the circumstances, except that:

11 (A) If the committee recommendation is to expel the member, the
12 committee shall report that recommendation to the full chamber,
13 which shall act on that recommendation at its earliest opportunity;
14 and

15 (B) If the committee recommendation is to remove the member
16 from one or more committees to which the member is assigned, the
17 committee shall report that recommendation to the presiding officer
18 of that chamber.

19 (b)(A) In a case where the respondent is a Legislative Branch em-
20 ployee in a nonpartisan staff position, the appointing authority shall
21 determine an appropriate remedy that is consistent with the
22 investigator's determination that the respondent violated the require-
23 ments of this rule.

24 (B) The respondent may appeal the investigator's final report or
25 any remedial measure imposed under this paragraph after the report
26 has been delivered to the appointing authority but no later than seven
27 days after the imposition of remedial measures under this subsection.
28 The appeal may be made to the Joint Committee on Conduct.

29 (c)(A) In a case where the respondent is a Legislative Branch em-
30 ployee in a partisan staff position, the committee on conduct of the
31 chamber with which the employee is affiliated shall make a recom-

1 **mentation on an appropriate remedy consistent with the investigator's**
2 **determination that the respondent violated the requirements of this**
3 **rule. The committee's recommendation shall be made to the member**
4 **of the Legislative Assembly for whom the respondent works.**

5 **(B) The member shall determine the appropriate remedy within 14**
6 **days of receiving the final report from the investigator and shall notify**
7 **the Legislative Equity Office upon making the determination.**

8 **(C) If the Legislative Equity Office determines that the remedial**
9 **measures imposed under subparagraph (B) of this paragraph are sub-**
10 **stantially different from the remedial measures recommended by the**
11 **committee, the office shall notify the committee and the complainant**
12 **of the disparity. The committee may hold a hearing to consider the**
13 **appropriateness of the remedy and may determine to modify the rem-**
14 **edy imposed.**

15 **(D) The respondent may appeal the investigator's final report or the**
16 **remedial measure imposed under this paragraph to the committee on**
17 **conduct with which the respondent is associated within 14 days after**
18 **the remedial measure is imposed.**

19 **(d)(A) In a case where the respondent is a lobbyist, contractor em-**
20 **ployee, other person who is present in the State Capitol for profes-**
21 **sional or work reasons, or is a member of the public, and the**
22 **investigator's final report determines that a violation of this rule has**
23 **occurred, the Legislative Administrator shall determine an appropriate**
24 **remedy that is consistent with the investigator's determination, in-**
25 **cluding but not limited to:**

26 **(i) A monetary fine; or**

27 **(ii) Limiting access to the State Capitol.**

28 **(B) The Legislative Administrator shall provide notice of the pro-**
29 **posed remedy under this paragraph to the respondent and the**
30 **respondent's employer within 14 days of receiving the final report from**
31 **the investigator. If the respondent is a lobbyist who is a member of**

1 an association of professional lobbyists, the Legislative Administrator
2 shall also provide notice of the proposed remedy to the association.

3 (C) The Legislative Administrator may modify the proposed remedy
4 at any time until 28 days after receipt of the investigator's final report,
5 but thereafter the proposed remedy is final.

6 (15) Confidentiality and transparency.

7 (a) The investigator undertaking an investigation under subsection
8 (13) of this rule and the Legislative Equity Office shall provide as
9 much privacy as possible during the course of an investigation.

10 (b) The investigator and the Legislative Equity Office shall main-
11 tain all records and information about an investigation confidentially,
12 except that:

13 (A) The investigator may disclose the fact of the investigation and
14 any relevant details of the investigation to the appointing authority
15 of the complainant and the respondent and the Joint Committee on
16 Conduct, if the investigator determines there is a legitimate need to
17 disclose the information; and

18 (B) In the case of a respondent who is a member of the Legislative
19 Assembly, the investigator may disclose the fact of the investigation
20 and any relevant details of the investigation to the caucus leader of
21 the caucus in which the respondent is a member.

22 (c) A formal complaint made under subsection (11) of this rule is
23 disclosable upon being made under subsection (11) of this rule, but all
24 records relating to an ongoing investigation under subsection (13) of
25 this rule shall be maintained in confidence.

26 (d) The results of the investigation and the final report of the in-
27 vestigator shall be subject to disclosure following the determination
28 of remedial measures under subsection (14) of this rule or when the
29 investigation is concluded, whichever occurs earlier. The Joint Com-
30 mittee on Conduct may determine to disclose the final report of the
31 investigator and the investigative file following the conclusion of the

1 investigation but earlier than the determination of remedial measures.

2 (e) Reports made under subsection (10) of this rule that do not re-
3 sult in an investigation shall be maintained as confidential records of
4 the Legislative Equity Office.

5 (16) Establishment of committees on conduct.

6 (a)(A) The Senate Committee on Conduct is established, consisting
7 of two Senators appointed by the Senate Majority Leader and two
8 Senators appointed by the Senate Minority Leader. The President of
9 the Senate may designate a majority party alternate and a minority
10 party alternate for the Senate Committee on Conduct.

11 (B) The Senate Committee on Conduct shall perform those func-
12 tions assigned by this rule to carry out the purposes of Article IV,
13 section 15, of the Oregon Constitution, for the Senate.

14 (C) The appointing authorities shall appoint members of the Senate
15 Committee on Conduct within 15 days after the date of the convening
16 of an organizational session of the odd-numbered year regular session
17 of the Legislative Assembly.

18 (b)(A) The House Committee on Conduct is established, consisting
19 of two Representatives appointed by the House Majority Leader and
20 two Representatives appointed by the House Minority Leader. The
21 Speaker of the House of Representatives may designate a majority
22 party alternate and a minority party alternate for the House Com-
23 mittee on Conduct.

24 (B) The House Committee on Conduct shall perform those functions
25 assigned by this rule to carry out the purposes of Article IV, section
26 15, of the Oregon Constitution, for the House of Representatives.

27 (C) The appointing authorities shall appoint members of the House
28 Committee on Conduct within 15 days after the date of the convening
29 of an organizational session of the odd-numbered year regular session
30 of the Legislative Assembly.

31 (c) The members of the Senate Committee on Conduct and the

1 **members of the House Committee on Conduct shall together comprise**
2 **the Joint Committee on Conduct. The Joint Committee on Conduct**
3 **shall perform the duties assigned to the joint committee under chapter**
4 **_____, Oregon Laws 2019 (Enrolled Senate Bill 744).**

5 **(d) When a member of a committee on conduct is named as a re-**
6 **spondent under this rule, the member may not thereafter serve as a**
7 **member of the committee or as a member of the joint committee.**

8
