

## HCR 206 -3 STAFF MEASURE SUMMARY

### Joint Committee On Conduct

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**Prepared By:** Jan Nordlund, LPRO Analyst

**Meeting Dates:** 2/26, 3/4

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#### **WHAT THE MEASURE DOES:**

##### Conduct Reports

Provides that an individual is not required to make a conduct report if they would be the subject of the report.

Requires all conduct reports made to independent investigator, Employee Services, or HR Director to be forwarded to Legislative Equity Officer (LEO).

Shifts responsibility for facial review of all conduct reports from independent investigator to LEO. Allows LEO to ask independent investigator to perform facial review of conduct report.

##### Conduct Complaints

Requires independent investigator who directly receives conduct complaint to deliver copy of complaint to LEO.

Shifts responsibility for reviewing completeness of submitted conduct complaint from independent investigator to LEO. Requires LEO to perform facial review of conduct complaint. Allows LEO to ask independent investigator to perform facial review of conduct complaint.

Requires investigation be undertaken if, following a facial review, LEO determines an investigation is warranted. When investigation is not warranted, authorizes LEO to engage in coaching, confer and make recommendations with appropriate parties regarding training or guidance, or take other actions warranted to achieve policies established in Rule 27.

Shifts all responsibility for counseling complainant to LEO.

##### Investigations

Requires independent investigator to deliver final report to LEO.

Clarifies that conduct committee must make recommendation for remedial measures to be imposed when a partisan staff person is the respondent only when the investigator determines that a Rule 27 violation has occurred.

##### Conduct Committees

Extends from 14 to 21 the number of days in which conduct committee must conduct a hearing after receiving final report when legislator is the respondent. Extends from 7 to 14 the number of days in which conduct committee must meet after receiving final report in which investigator determined partisan staff person violated Rule 27.

Recuses conduct committee member from participating in a matter in which they are either the complainant or impacted party.

Increases number of alternates appointed to a conduct committee to three per party. Requires alternates to be selected to participate in conduct committee business in order in which they were appointed and so as to preserve balance of committee membership between majority and minority parties.

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### Other

Directs LEO to engage in final process counseling with impacted party after final determination is made that no violation occurred or after remedies are imposed.

Defines "impacted party" and "complainant."

### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

##### -3 Prohibited Conduct

Expands meaning of harassment by removing requirement that conduct be directed toward a protected class.

Modifies definition of "unwelcome conduct" in the context of sexual harassment.

##### Conduct Report

Requires LEO to confer with impacted party when investigation of conduct report is warranted and allows impacted party to stop investigation from proceeding. If impacted party opts out of proceeding with investigation, requires LEO to maintain confidential records of the report to be used for determining if there is a pattern of conduct that violates Rule 27 or respectful workplace policies.

##### Investigations

Requires independent investigator to consider and report whether conduct constitutes discrimination toward a protected class.

Clarifies that investigator's final report regarding investigation of partisan staff person is sent to Conduct Committee only if investigator determined that Rule 27 was violated.

##### Remedies

Allows conduct committee to impose remedy that includes removal of member from committee on conduct and Joint Committee on Conduct.

Requires those charged with imposing a remedial measure to consider and weigh presence or absence of discrimination toward a protected class. Provides that enhanced severity of remedy is justified when discrimination was present.

##### Conduct Committees

Clarifies that conduct committee member shall be recused from service on conduct committee and Joint Committee on Conduct when named as a respondent, until matter is resolved.

##### Applicability

Amendments to Rule 27 by this concurrent resolution apply to conduct reports and conduct complaints made on or after the date the concurrent resolution is adopted, and to investigations of those reports and complaints.

### **BACKGROUND:**

In 2019, the Legislative Assembly adopted House Concurrent Resolution 20 to make numerous changes to Legislative Branch Personnel Rule 27 (Safe, Respectful and Inclusive Workplace). House Concurrent Resolution 206 makes further changes to Rule 27.