

HCR 28-2  
(LC 3675)  
5/28/21 (DJ/ps)

At the request of the Joint Committee on Conduct

**PROPOSED AMENDMENTS TO  
HOUSE CONCURRENT RESOLUTION 28**

1 On page 1 of the printed concurrent resolution, delete lines 6 through 31  
2 and delete pages 2 through 17 and insert:

3 **“Legislative Branch Personnel Rule 27: Safe, Respectful and Inclu-**  
4 **sive Workplace.**

5 **“(1) Policy.**

6 **“(a) The Legislative Branch is committed to promoting a respectful and**  
7 **inclusive environment in the State Capitol and in any setting in which con-**  
8 **duct has the ability to create a Capitol environment that is intimidating,**  
9 **hostile or offensive, or may constitute conduct that amounts to retaliation**  
10 **for the making of a good-faith complaint under this rule or for participation**  
11 **in an investigation under this rule.**

12 **“(b) The Legislative Branch is committed to providing a safe and**  
13 **respectful workplace and to taking proactive steps to improve its culture so**  
14 **that behavior from any source that has a negative impact on the workplace**  
15 **may be effectively reported and promptly addressed and resolved.**

16 **“(c) The Legislative Branch is equally committed to protecting freedom**  
17 **of speech and expression, as guaranteed to all persons through the free ex-**  
18 **pression protections of Article I, section 8, of the Oregon Constitution, and**  
19 **through the First Amendment to the United States Constitution, and the**  
20 **Legislative Branch recognizes that the constitutional protections guarantee-**  
21 **ing freedom of speech and expression must be taken into account in deter-**

1 mining the rights afforded to individuals in the State Capitol under this rule.

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

5 “(e) Members of the Legislative Assembly and all Legislative Branch em-  
6 ployees are expected to conduct themselves in a manner that is free of  
7 harassment and to discourage all harassment in the workplace and at pro-  
8 fessional meetings, seminars or at any event at which legislative business is  
9 conducted.

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

14 “(A) Enhancing options available to victims who seek to remain any-  
15 mous; and

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

18 “(g) This rule is designed to provide options to those who are experienc-  
19 ing or observing harassing behavior, discriminatory behavior, retaliation or  
20 other behavior prohibited by subsection (8) of this rule to seek information,  
21 report behaviors or file complaints to address and resolve concerns, while  
22 also enhancing options available to victims who seek to remain anonymous.

23 **This rule provides options that are in addition to and not in lieu of**  
24 **any other remedy afforded by state or federal law, including remedies**  
25 **to address discrimination that is prohibited by ORS 659A.030 (including**  
26 **sexual assault) and ORS 659A.082 and 659A.112, all of which have a**  
27 **statute of limitations of five years.**

28 “(h) The Legislative Assembly intends the mandatory reporting obli-  
29 gations established under this rule to be a means by which the Legislative  
30 Branch will take action to address conduct prohibited by this rule, in the

1 absence of a specific complaint about the conduct.

2 “(2) Application.

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

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

15 “(c) Any individual over whom the Legislative Branch may impose a  
16 remedy is an individual subject to the requirements of this rule, including  
17 but not limited to:

18 “(A) Members of the Legislative Assembly;

19 “(B) Legislative staff, interns, externs and volunteers;

20 “(C) Lobbyists required to register under ORS 171.740;

21 “(D) Contractors or employees of contractors who engage in business with  
22 the Legislative Branch;

23 “(E) Employees of the State of Oregon who are not employees of the  
24 Legislative Branch; and

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

26 “(3) Definitions.

27 “(a) ‘Agency head’ means the Legislative Administrator, the Legislative  
28 Counsel, the Legislative Equity Officer, the Legislative Fiscal Officer, the  
29 Legislative Policy and Research Director, the Legislative Revenue Officer  
30 and the Executive Director of the Commission on Indian Services.

1 “(b) ‘Appointing authority’ means the person who has authority in the  
2 interest of the employer to hire, transfer, suspend, lay off, promote, terminate  
3 or discipline an employee.

4 “(c) ‘Caucus leader’ means the Democratic or Republican leader of the  
5 Senate or the Democratic or Republican leader of the House of Represen-  
6 tatives.

7 “(d) ‘Caucus office’ means the office of the Democratic or Republican  
8 leader of the Senate or the office of the Democratic or Republican leader of  
9 the House of Representatives.

10 “(e) ‘Chamber’ means the Senate or the House of Representatives.

11 “(f) ‘Complainant’ means a person who has filed a conduct complaint un-  
12 der subsection (12) of this rule.

13 “(g) ‘Employee’ means an employee who is performing services on behalf  
14 of the Legislative Branch. ‘Employee’ includes any intern, extern or volun-  
15 teer who is affiliated with a Legislative Branch office.

16 “(h) ‘Employee Services’ means the division of Legislative Administration  
17 charged with employment and human resources administration for the Leg-  
18 islative Branch.

19 “(i) ‘Human Resources Director’ means the manager of Employee Services.

20 “(j) ‘Impacted party’ means a person who is described in a conduct report  
21 made under subsection (11) of this rule as one who has experienced behavior  
22 prohibited by this rule.

23 “(k) ‘Independent investigator’ [*or ‘investigator’*] means an investigator  
24 under contract pursuant to ORS 173.912, who is available to perform or is  
25 performing an investigation under this rule.

26 “**(L) ‘Investigator’ means either an independent investigator or an**  
27 **investigator employed by the Legislative Equity Officer under ORS**  
28 **173.909 (2) for the purpose of conducting investigations.**

29 “[*L*] **(m)** ‘Legislative Branch’ means members and employees of the  
30 Legislative Assembly, the parliamentary offices, Legislative Administration,

1 the Legislative Counsel Office, the Legislative Equity Office, the Legislative  
2 Fiscal Office, the Legislative Policy and Research Office, the Legislative  
3 Revenue Office and the Commission on Indian Services.

4 “[*m*] (n) ‘Legislative Equity Officer’ means the Legislative Equity Offi-  
5 cer appointed under ORS 173.900 or an acting equity officer serving under  
6 ORS 173.906.

7 “[*n*] (o) ‘Member of the Legislative Assembly’ or ‘member’ means a  
8 Senator or a Representative.

9 **“(p) ‘Nondisclosure agreement’ means an agreement by which one  
10 or more parties subject to this rule agree not to discuss or disclose  
11 information regarding a complaint of harassment, discrimination or  
12 sexual assault.**

13 **“(q) ‘Nondisparagement agreement’ means an agreement by which  
14 one or more parties subject to this rule agree not to discredit or make  
15 negative or disparaging written or oral statements about any other  
16 party subject to this rule, the Legislative Assembly or any office of the  
17 Legislative Branch.**

18 “[*o*] (r) ‘Nonpartisan staff’ means an employee of the parliamentary of-  
19 fices, Legislative Administration, the Legislative Counsel Office, the Legis-  
20 lative Equity Office, the Legislative Fiscal Office, the Legislative Policy and  
21 Research Office, the Legislative Revenue Office or the Commission on Indian  
22 Services.

23 “[*p*] (s) ‘Offsite process counselor’ means a person unaffiliated with the  
24 Legislative Branch who has entered into a contract with the Legislative  
25 Equity Officer under ORS 173.930 to provide services described in subsection  
26 (10) of this rule.

27 “[*q*] (t) ‘Parliamentarian’ means the Secretary of the Senate or the Chief  
28 Clerk of the House of Representatives.

29 “[*r*] (u) ‘Parliamentary office’ means the Office of the Secretary of the  
30 Senate or the Office of the Chief Clerk of the House of Representatives.

1        “[*s*] (v) ‘Partisan staff’ means an employee working directly for a mem-  
2 ber of the Legislative Assembly, an employee of a caucus office or an em-  
3 ployee of the office of the Senate President or the office of the Speaker of  
4 the House of Representatives.

5        “[*t*] (w) ‘Protected class’ means a classification established by law that  
6 offers protections to members of the classification, including but not limited  
7 to:

8        “(A) Sex;

9        “(B) Race;

10       “(C) Ethnicity;

11       “(D) National origin;

12       “(E) Age;

13       “(F) Religion;

14       “(G) Marital status;

15       “(H) Sexual orientation;

16       “(I) Gender identity or expression;

17       “(J) Engaging in whistleblowing activity;

18       “(K) Opposing an employer’s actions when the employee reasonably be-  
19 lieves the actions to be unlawful;

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

23       “(M) Injured worker status;

24       “(N) Disability; or

25       “(O) Veteran status.

26       “[*u*] (x) ‘Respondent’ means a person named in a conduct complaint  
27 made under subsection (12) of this rule as engaging in behavior that is pro-  
28 hibited by this rule or a person who is the subject of an investigation under  
29 subsection (14) of this rule to determine whether the person engaged in be-  
30 havior that is prohibited by this rule.

1       “(y) **‘Sexual assault’ means unwanted conduct of a sexual nature**  
2 **that is inflicted upon a person or compelled through the use of phys-**  
3 **ical force, manipulation, threat or intimidation.**

4       “[(v)] (z) ‘Supervisor’ means an employee of the Legislative Branch who  
5 manages or directs the work of another employee of the Legislative Branch.

6       “(4) Harassment and hostile work environment.

7       “(a) An individual engages in harassment by engaging in verbal or phys-  
8 ical conduct, including making a visual display or causing a visual display  
9 to be shown, that denigrates or shows hostility toward an individual or  
10 group of individuals. Examples of harassment may include, but are not lim-  
11 ited to:

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

13       “(B) Threatening, intimidating or hostile acts that relate to a protected  
14 class;

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

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

19       “[(b) *Harassment does not include every minor annoyance or disappointment*  
20 *that an employee may encounter in the course of performing the employee’s*  
21 *job.*]

22       “[(c)] (b) An individual creates a hostile work environment by engaging  
23 in behavior that is unwelcome and is so severe or pervasive that it either  
24 affects a person’s ability to function in the workplace or denies a person the  
25 benefits of the workplace.

26       “(c) **Conduct that is inconsistent with a safe, respectful and inclu-**  
27 **sive workplace but that does not rise to the level of creating a hostile**  
28 **work environment under this rule may be addressed under the Legis-**  
29 **lative Branch respectful workplace policy referenced in subsection (18)**  
30 **of this rule.**

1       “(5) Sexual harassment.

2       “(a) An individual engages in sexual harassment when the individual en-  
3 gages in unwelcome conduct of a sexual nature, including but not limited to  
4 sexual advances, requests for sexual favors, sexual comment, unwanted or  
5 offensive touching or physical contact, unwanted closeness, impeding or  
6 blocking movement, sexual gesture, sexual innuendo, sexual joke, sexually  
7 charged language, intimate inquiry, persistent unwanted courting, sexist in-  
8 sult, gender stereotype, or other verbal or physical conduct of a sexual na-  
9 ture, if:

10       “(A) Submission to the conduct is made either explicitly or implicitly a  
11 term or condition of a person’s employment;

12       “(B) A person expressly or by implication conveys that declining to sub-  
13 mit to the conduct will affect an individual’s job, leave request, benefits,  
14 business before the Legislative Assembly, influence or opportunity of the  
15 individual to engage professionally with the Legislative Assembly, its mem-  
16 bers or staff; or

17       “(C) The unwelcome conduct has the purpose or effect of unreasonably  
18 interfering with a person’s job performance, or creates a work environment  
19 that a reasonable person would find intimidating, hostile or offensive. For  
20 purposes of this rule, ‘unwelcome conduct’ means conduct that an individual  
21 does not solicit and that the individual regards as undesirable or offensive.  
22 An individual may withdraw consent to conduct that was previously wel-  
23 comed, though a withdrawal of consent must be communicated to the person  
24 for whom consent is being withdrawn.

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

26       “(A) Unwanted sexual advances, flirtations or propositions.

27       “(B) Demands for sexual favors in exchange for favorable treatment or  
28 continued employment.

29       “(C) Sexual jokes.

30       “(D) Verbal abuse of a sexual nature.



1 “(E) Verbal commentary about the body, sexual prowess or sexual defi-  
2 ciency of an individual.

3 “(F) Leering, whistling, touching or physical assault.

4 “(G) Using sexually suggestive, insulting or obscene comments or ges-  
5 tures.

6 “(H) Displaying sexually suggestive objects or pictures.

7 “(I) Sending or forwarding electronic mail or other communications of an  
8 offensive or graphic sexual nature.

9 “(J) Discriminatory treatment based on sex.

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

12 “(d) **Sexual harassment includes any conduct that constitutes sex-  
13 ual assault.**

14 “(6) Retaliation.

15 “(a) A person engages in retaliation if the person treats another individ-  
16 ual less favorably because the individual made a good-faith complaint about  
17 conduct prohibited by this rule or participated in an investigation about  
18 conduct that is prohibited by this rule.

19 “(b) A person engages in retaliation if the person treats another individ-  
20 ual less favorably because that individual engaged in a process described in  
21 this rule or implemented one or more provisions of this rule.

22 “(c) A person engages in retaliation if the person treats another individ-  
23 ual less favorably because the individual made a good-faith complaint or took  
24 other action to address conduct prohibited in any respectful workplace policy  
25 adopted by the Joint Committee on Conduct under ORS 173.900, or this rule.

26 “(7) Examples.

27 “(a) The Legislative Equity Officer shall develop and propose to the Joint  
28 Committee on Conduct examples of what constitutes harassment, a hostile  
29 work environment, sexual harassment and retaliation under this rule. The  
30 committee shall approve, modify or reject proposed examples presented to the

1 committee.

2 “(b) The Legislative Equity Officer shall maintain and publish examples  
3 of what constitutes harassment, a hostile work environment, sexual  
4 harassment and retaliation that have been approved by the committee under  
5 this subsection.

6 “(8) Prohibitions.

7 “The Legislative Branch prohibits conduct that:

8 “(a) Constitutes harassment and creates a hostile work environment;

9 “(b) Constitutes sexual harassment and creates a hostile work environ-  
10 ment;

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

13 “(d) Is retaliation.

14 “(9) Reporting options, [and] follow-up and documentation.

15 “(a) In order to encourage participation and effectiveness, this rule es-  
16 tablishes three options for reporting behavior prohibited by this rule:

17 “(A) A confidential disclosure process described in subsection (10) of this  
18 rule;

19 “(B) A conduct reporting process described in subsection (11) of this rule;  
20 and

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

22 “(b) In each case of a disclosure, report or complaint made under this  
23 rule, the Legislative Equity Officer, **offsite process counselor** or [*the in-*  
24 *dependent*] investigator, whichever is appropriate, shall:

25 “(A) **Provide a copy of this rule to each impacted party or**  
26 **complainant at the time a disclosure, report or complaint is made; and**

27 “(B) Follow up with the individual who experienced, or believes they ex-  
28 perience, conduct prohibited by this rule, at least once every three months  
29 for the year following the disclosure, report or complaint, to determine  
30 whether the alleged prohibited conduct has stopped and to determine

1 whether the individual has experienced retaliation. The officer or investi-  
2 gator shall give the individual written notice at the outset of the follow-up  
3 period that follow-up described in this [*paragraph*] **subparagraph** will occur  
4 unless the individual requests in writing that the officer or investigator not  
5 follow up.

6 **“(c) Every appointing authority, member of the Legislative Assem-**  
7 **ibly, or employee of the Legislative Branch, is advised to document any**  
8 **incident involving conduct that is prohibited by ORS 659A.030 (includ-**  
9 **ing sexual assault) or ORS 659A.082 or 659A.112 or this rule.**

10 “(10) Confidential disclosure process.

11 **“(a) Any individual who experiences behavior prohibited by this rule or**  
12 **observes behavior that is inconsistent with this rule may make a confidential**  
13 **disclosure reporting the behavior to the Legislative Equity Officer or an**  
14 **offsite process counselor.**

15 **“(b) Information reported to the Legislative Equity Officer or offsite pro-**  
16 **cess counselor, records created by the officer or counselor and the identity**  
17 **of the individual making a disclosure under this subsection are confidential**  
18 **and may not be disclosed by the officer or counselor, except that the officer**  
19 **or counselor:**

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

23 **“(B) Shall disclose information if required by law;**

24 **“(C) May disclose nonpersonally identifiable data to facilitate the Legis-**  
25 **lative Branch’s identification of training and coaching needs; and**

26 **“(D) May disclose nonpersonally identifiable information to an individual**  
27 **who has made a confidential disclosure under this subsection for the purpose**  
28 **of encouraging the individual to make a conduct report under subsection (11)**  
29 **of this rule or a conduct complaint under subsection (12) of this rule.**

30 **“(c) Notwithstanding paragraph (b) of this subsection:**

1 “(A) The Legislative Equity Officer may disclose nonpersonally identifi-  
2 able information in the course of performing corrective coaching for an in-  
3 dividual subject to the requirements of this rule.

4 “(B) The Legislative Equity Officer or offsite process counselor may not  
5 disclose information or records to an [*independent*] investigator, except that  
6 nonpersonally identifiable information may be disclosed to facilitate the  
7 taking of any action that is consistent with this rule and with the principles  
8 of the Due Process Clause of the United States Constitution.

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

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

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

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

21 “(A) Shall advise the individual making the disclosure of other options  
22 that are available to address the conduct, including conduct reports under  
23 subsection (11) of this rule, conduct complaints under subsection (12) of this  
24 rule, interim safety measures under subsection (13) of this rule, state and  
25 federal administrative options with the Bureau of Labor and Industries and  
26 the Equal Employment Opportunity Commission of the United States, law  
27 enforcement or the civil judicial process;

28 “(B) In the case of an individual making the disclosure being affiliated  
29 with an institution that is subject to Title IX of the Education Amendments  
30 Act of 1972, 20 U.S.C. 1681 to 1688, as amended, shall advise the individual

1 of the Title IX reporting process and provide applicable institution contact  
2 information and information on the resources available at the institution;

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

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

12 “(f) If requested by an individual making a disclosure under this sub-  
13 section, the Legislative Equity Officer or offsite process counselor shall re-  
14 frain from making a confidential record of the identity of the individual  
15 making the disclosure. The officer or counselor shall explain the availability  
16 of this option to any individual making a disclosure under this subsection.

17 “(g)(A) The Legislative Equity Officer[, *on or before July 1, 2020,*] shall  
18 establish **and maintain** a means for individuals to make disclosures under  
19 this subsection that are entirely anonymous, so that the Legislative Equity  
20 Officer or offsite process counselor cannot determine the identity of the in-  
21 dividual making a disclosure using means described in this paragraph.

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

24 “(h) If the Legislative Equity Officer or offsite process counselor receives  
25 information concerning conduct that is inconsistent with a respectful  
26 workplace policy adopted by the Joint Committee on Conduct but that does  
27 not rise to the level of creating a hostile work environment or violating  
28 public accommodation law, the officer **or counselor** shall refer the reporter  
29 to the Human Resources Director.

30 “(11) Conduct reports.

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

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

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

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

23       “(e) Notwithstanding paragraphs (a) to (d) of this subsection:

24       “(A) If a reporter is required to make a conduct report under this sub-  
25 section but is also the person experiencing behavior prohibited by this rule,  
26 the person may make a confidential disclosure under subsection (10) of this  
27 rule that satisfies the requirements of reporting under this subsection.

28       “(B) An individual is not required to make a conduct report under this  
29 subsection if the individual would be the subject of the report.

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

1 “(A) An [*independent*] investigator;  
2 “(B) The Legislative Equity Officer;  
3 “(C) The Human Resources Director; or  
4 “(D) Staff of Employee Services who have been designated by the Human  
5 Resources Director to receive conduct reports made under this subsection.

6 “(g) A reporter may make a conduct report in any form and using any  
7 means. However, the Joint Committee on Conduct established under ORS  
8 173.900 shall establish uniform recordkeeping processes applicable to the  
9 Legislative Equity Officer and Employee Services to ensure that conduct re-  
10 ports made under this subsection are adequately documented.

11 “(h) A conduct report made under this subsection that is received by an  
12 [*independent*] investigator, Employee Services or the Human Resources Di-  
13 rector shall be forwarded to the Legislative Equity Officer.

14 “(i)(A) The Legislative Equity Officer shall review all conduct reports  
15 received under this subsection to determine whether the reported conduct,  
16 when taken on its face, could be prohibited by this rule. The officer may, in  
17 the officer’s discretion, ask an independent investigator to determine whether  
18 the reported conduct, when taken on its face, could be prohibited by this  
19 rule. If the officer or **independent** investigator determines that an investi-  
20 gation is warranted, the officer shall confer with each impacted party, pro-  
21 vide an explanation of the investigation process and inform the impacted  
22 party that they may opt out of proceeding with an investigation.

23 “(B) If the impacted party does not opt out of proceeding with the inves-  
24 tigation, an investigation as described in subsection (14) of this rule shall  
25 be undertaken.

26 “(C) If the impacted party opts out of proceeding with an investigation,  
27 the Legislative Equity Officer shall maintain confidential records of the re-  
28 port to be used for determining if there is a pattern of conduct that violates  
29 this rule or applicable respectful workplace policies. The officer shall provide  
30 the impacted party with information on available resources, including re-

1 sources described in subsection (10)(e)(B) and (C) of this rule.

2 “(D) If the Legislative Equity Officer or **independent** investigator deter-  
3 mines that the reported conduct, on its face, is not conduct prohibited by this  
4 rule, the officer may:

5 “(i) Engage in specific coaching of individuals to eliminate any uncer-  
6 tainty over appropriate workplace behavior;

7 “(ii) Confer with and make recommendations to the appropriate appoint-  
8 ing authority or legislative leader to facilitate training or guidance being  
9 given to address reported circumstances; or

10 “(iii) Take any other action that is warranted to achieve the policies es-  
11 tablished under these rules.

12 “(12) Conduct complaints.

13 “(a) Any person who experiences behavior prohibited by this rule or ob-  
14 serves behavior that is inconsistent with this rule may make a complaint  
15 under this subsection within five years after the date the behavior occurred.  
16 A complaint made under this subsection shall be referred to as a conduct  
17 complaint.

18 “(b) A conduct complaint must:

19 “(A) Be in writing;

20 “(B) Identify the complainant and the person being accused of engaging  
21 in conduct prohibited by this rule;

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

24 “(D) Be made in a declaration under penalty of perjury that is satisfied  
25 when the declarant signs the complaint immediately under a sentence that  
26 states, ‘I hereby declare that the above statement is true to the best of my  
27 knowledge and belief, and that I understand it is made for use as evidence  
28 in proceedings under Legislative Branch Personnel Rule 27 and is subject to  
29 penalty for perjury.’

30 “(c) A conduct complaint shall be delivered to the Legislative Equity Of-



1 ficer. If the complaint is delivered to an [*independent*] investigator, the in-  
2 vestigator shall deliver a copy of the complaint to the officer.

3 “(d) The Legislative Equity Officer shall promptly examine the conduct  
4 complaint and determine if the complaint meets the requirements of para-  
5 graph (b) of this subsection. If the complaint does not meet the requirements  
6 of paragraph (b) of this subsection, the [*investigator*] **officer** shall request the  
7 complainant to supplement the complaint. A complaint that does not meet  
8 the requirements of paragraph (b) of this subsection may not be the subject  
9 of an investigation under subsection (14) of this rule.

10 “(e) The Legislative Equity Officer shall review all conduct complaints  
11 received under this subsection to determine whether the reported conduct,  
12 when taken on its face, could be prohibited by this rule. If the officer de-  
13 termines that an investigation is warranted, an investigation as described in  
14 subsection (14) of this rule shall be undertaken. The officer may, in the  
15 officer’s discretion, ask [*the*] **an** independent investigator to determine  
16 whether the reported conduct, when taken on its face, could be prohibited  
17 by this rule. The officer shall provide the complainant with information on  
18 available resources, including resources described in subsection (10)(e)(B)  
19 and (C) of this rule. If the officer or **independent** investigator determines  
20 that the reported conduct, on its face, is not conduct prohibited by this rule,  
21 the officer may:

22 “(A) Engage in specific coaching of individuals to eliminate any uncer-  
23 tainty over appropriate workplace behavior;

24 “(B) Confer with and make recommendations to the appropriate appoint-  
25 ing authority or legislative leader to facilitate training or guidance being  
26 given to address reported circumstances; or

27 “(C) Take any other action that is warranted to achieve the policies es-  
28 tablished under these rules.

29 “(f) After a determination under paragraphs (d) and (e) of this subsection  
30 that an investigation is warranted, the [*independent*] investigator **assigned**

1 **to the matter under subsection (14)(c) of this rule** shall promptly:

2 “(A) Deliver a copy of the conduct complaint to the person accused of  
3 engaging in behavior prohibited by this rule, who shall thereafter be the  
4 respondent; and

5 “(B) If the respondent:

6 “(i) Is a member of the Legislative Assembly, deliver a copy of the com-  
7 plaint to the caucus leader of the caucus in which the member serves;

8 “(ii) Is a caucus leader, deliver a copy of the complaint to the presiding  
9 officer of the chamber in which the caucus leader serves and to a member  
10 who is in an elected leadership position of the caucus in which the caucus  
11 leader serves;

12 “(iii) Is a Legislative Branch employee in either a partisan or nonpartisan  
13 staff position, deliver a copy of the complaint to the appointing authority for  
14 the respondent;

15 “(iv) Is an agency head, deliver a copy of the complaint to the presiding  
16 officers;

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

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

22 “(g) The Legislative Equity Officer shall provide the complainant with  
23 information on available resources, including resources described in sub-  
24 section (10)(e)(B) and (C) of this rule.

25 “(h) Upon delivery of the conduct complaint as prescribed in paragraph  
26 (f) of this subsection, the [*independent*] investigator shall promptly begin the  
27 investigation described in subsection (14) of this rule and recommend any  
28 necessary interim safety measures as described in subsection (13) of this rule.

29 “(13) Interim safety measures.

30 “(a) Upon receipt of a conduct report made under subsection (11) of this

1 rule or a conduct complaint made under subsection (12) of this rule, or at  
2 any time during the course of an investigation, the [*independent*] investigator  
3 **assigned to this matter under subsection (14)(c) of this rule** may deter-  
4 mine that an interim safety measure needs to be implemented to ensure the  
5 safety of the complainant or any other individual who has experienced be-  
6 havior that is prohibited by this rule or who may reasonably be foreseen as  
7 at risk of being subjected to behavior that is prohibited by this rule. The  
8 Legislative Equity Officer or an offsite process counselor may also recom-  
9 mend an interim safety measure if interim safety measures are sought by an  
10 individual making a confidential disclosure under subsection (10) of this rule.  
11 The investigator, officer or counselor may recommend any interim safety  
12 measure that they determine is appropriate to the situation, including but  
13 not limited to:

14 “(A) Temporary reassignment [*of the respondent*];

15 “(B) Alternative work location [*for the respondent*], including being duty-  
16 stationed at home;

17 “(C) Establishing a no contact order;

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

20 “(E) Directing the respondent to be absent from the State Capitol until  
21 the investigation is complete; or

22 “(F) In severe situations, involving law enforcement.

23 “(b) **An interim safety measure, whether described in paragraph (a)**  
24 **of this subsection or otherwise, may be applied to a complainant, im-**  
25 **acted party or respondent, except that an** [*Any*] interim safety measure  
26 that is recommended or that is implemented may not prejudice a complainant  
27 **or impacted party** or put a complainant **or impacted party** in a worse  
28 position than the complainant **or impacted party** was in before the com-  
29 plaint was made.

30 “(c)(A) Any interim safety measure that is imposed may not unlawfully

1 impair any lawful rights an accused person may exercise.

2 “(B) Any interim safety measure that is imposed on a member of the  
3 Legislative Assembly must be narrowly tailored to minimize limitations on  
4 the member’s ability to perform core legislative functions and to address  
5 immediate safety concerns, and an interim safety measure may not be im-  
6 posed until after the member is given notice of the proposed interim safety  
7 measure and an opportunity to be heard by the applicable chamber committee  
8 on conduct.

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

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

13 “(B) The [*independent*] investigator shall report the investigator’s interim  
14 safety recommendation and the reasons for the recommendation to the re-  
15 spondent, to the committee and to the presiding officer of the chamber; and

16 “(C) The committee shall promptly deliberate on the recommendation and  
17 shall adopt such interim safety measures that the committee determines are  
18 appropriate. For purposes of conducting a hearing to deliberate on interim  
19 safety measures under this paragraph, the committee hearing need only  
20 comply with one-hour notice requirements.

21 “(e) If the respondent is not a member of the Legislative Assembly, the  
22 [*independent*] investigator shall make the investigator’s interim safety rec-  
23 ommendation:

24 “(A) In the case of a respondent who is a Legislative Branch employee in  
25 either a partisan or nonpartisan staff position, to the employee’s appointing  
26 authority.

27 “(B) In the case of a respondent who is a State of Oregon employee but  
28 not a Legislative Branch employee, to the employee’s agency director and the  
29 Legislative Administrator.

30 “(C) In the case of a respondent who is a lobbyist, employee of a con-

1 tractor or member of the public, to the Legislative Administrator.

2 “(f) The person who receives the [*independent*] investigator’s interim  
3 safety recommendation made under paragraph (e) of this subsection shall act  
4 promptly on the recommendation.

5 “(g) The Legislative Equity Officer or an offsite process counselor that  
6 has received a confidential disclosure under subsection (10) of this rule may  
7 recommend interim safety measures under this subsection if requested by the  
8 individual making a disclosure under subsection (10) of this rule, except that  
9 the interim safety measure may not:

10 “(A) Identify the individual making the confidential disclosure without  
11 the consent of the individual; or

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

14 **“(h)(A) If a complainant, impacted party or respondent is a member  
15 of the Legislative Assembly, the member may voluntarily agree to  
16 comply with an interim safety measure that conforms with paragraphs  
17 (a), (b) and (c) of this subsection, if the interim safety measure is also  
18 approved by the cochairpersons of the appropriate committee on con-  
19 duct.**

20 **“(B) An interim safety measure that is voluntarily agreed to under  
21 this paragraph carries the full weight and effect of an interim safety  
22 measure imposed under this subsection.**

23 **“(C) If a respondent or other party subject to a voluntary interim  
24 safety measure under this paragraph fails to comply with the interim  
25 safety measure, the agreement is revocable by the cochairpersons of  
26 the appropriate committee on conduct.**

27 **“(D) If a voluntary agreement is revoked under subparagraph (C)  
28 of this paragraph, an interim safety measure may be imposed as pre-  
29 scribed in paragraphs (a) to (d) of this subsection and the revocation  
30 may be taken into account in determining any remedial measure re-**

1 **commended or imposed under subsection (15) of this rule.**

2 “(14) Investigations.

3 “(a) As soon as is practicable after July 23, 2019, the Joint Committee on  
4 Conduct shall:

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

9 “(B) Direct the Legislative Equity Officer to enter into one or more con-  
10 tracts with individuals who meet the standards and criteria established by  
11 the committee, to serve as an independent investigator under this rule.

12 “(b) **Pursuant to ORS 173.909, the Legislative Equity Officer may**  
13 **determine to hire an investigator as an employee of the Legislative**  
14 **Equity Office. A Legislative Equity Office employee hired as an in-**  
15 **vestigator must meet all applicable standards and criteria adopted by**  
16 **the committee under paragraph (a) of this subsection.**

17 “(c) **At the time that a facial review of a conduct report or conduct**  
18 **complaint is undertaken, the Legislative Equity Officer shall deter-**  
19 **mine whether the investigation is to be performed by an independent**  
20 **investigator or by an investigator who is an employee of the Legisla-**  
21 **tive Equity Office, except that if the facial review is being performed**  
22 **by an independent investigator, any investigation that follows facial**  
23 **review must be performed by an independent investigator.**

24 “[*b*] (d) An investigation that is to be conducted under this subsection  
25 shall be conducted promptly and shall be completed as soon as is practicable.  
26 The investigation must be completed within 84 days from the date the com-  
27 plaint is made, except that the Legislative Equity Officer may extend the  
28 time by which the investigation must be completed if the [*independent*] in-  
29 vestigator provides advance notice to the complainant and the respondent  
30 of the extension and an explanation justifying the extension.

1 “[~~(c)~~] (e) The [*independent*] investigator shall keep the complainant and  
2 the respondent apprised of the investigation timeline and the status of the  
3 investigation at the outset of an investigation, on a regular basis thereafter  
4 and upon request of the complainant or respondent.

5 “[~~(d)~~(A)] (f)(A) The [*independent*] investigator shall use best practices in  
6 conducting the investigation and shall make findings of fact relevant to the  
7 allegations. The investigator shall prepare draft written findings of fact at  
8 least eight days before the investigation must be concluded under paragraph  
9 [~~(b)~~] (d) of this subsection and shall provide the draft written findings to the  
10 complainant and the respondent.

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

14 “(C) In all investigations, the [*independent*] investigator shall consider  
15 whether the conduct that is the subject of the investigation constitutes dis-  
16 crimination by denigrating or showing hostility toward a protected class or  
17 toward an individual because of the individual’s status as a member of a  
18 protected class. The investigator shall report the investigator’s consider-  
19 ations under this subparagraph in the investigator’s draft written findings.  
20 If the investigator determines that the conduct constitutes discrimination by  
21 denigrating or showing hostility toward an individual because of the  
22 individual’s status as a member of a protected class, the investigator may  
23 not specify in the investigator’s draft written findings the protected class to  
24 which the individual belongs.

25 “(D) The complainant and the respondent may give responses to the draft  
26 written findings to the investigator within seven days of receiving the draft.

27 “(E) The [*independent*] investigator shall consider responses supplied un-  
28 der subparagraph (D) of this paragraph and shall prepare a final report that  
29 sets forth the investigator’s findings of fact and considerations regarding the  
30 presence or absence of discrimination described in subparagraph (C) of this

1 paragraph. If the respondent is someone other than a member of the Legis-  
2 lative Assembly, the final report should also include a determination by the  
3 investigator of whether the facts constitute a violation of this rule.

4 “[*(e)(A)*] **(g)(A)** If a member of the Legislative Assembly is the respondent,  
5 the [*independent*] investigator shall deliver the final report to the  
6 complainant, the respondent, **the Legislative Equity Officer** and the com-  
7 mittee on conduct for the chamber in which the respondent serves on or be-  
8 fore the date established under paragraph [*(b)*] **(d)** of this subsection for the  
9 completion of the investigation.

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

15 “(C) The committee on conduct shall conduct a hearing on the allegations  
16 made in the complaint and the investigator’s final report within **21** days of  
17 receiving the report from the investigator. The committee shall permit the  
18 complainant and the respondent to appear, present documents and physical  
19 evidence and suggest witnesses. The committee may determine to hear wit-  
20 nesses, but only committee members may question witnesses.

21 “(D) At the hearing or a subsequent hearing, the committee on conduct  
22 shall deliberate and:

23 “(i) Make a final determination of facts;

24 “(ii) Make a final determination of whether the facts constitute a vio-  
25 lation of this rule; and

26 “(iii) If the determination is that a violation of this rule occurred, pre-  
27 scribe or recommend [*remedies*] **remedial measures** as described in sub-  
28 section (15) of this rule.

29 “[*(f)*] **(h)** If a member of the Legislative Assembly is the respondent and  
30 irrevocably resigns the member’s office at any time after the conduct com-



1    plaint is made, the investigation described in this subsection and the com-  
2    mittee on conduct hearing and final committee determinations described in  
3    paragraph [(e)] (g) of this subsection shall nevertheless take place.

4        “[(g)(A)] (i)(A) If someone other than a member of the Legislative As-  
5    sembly is the respondent, the [*independent*] investigator shall deliver the  
6    final report, including proposed findings of violations, to the complainant,  
7    the respondent and:

8        “(i) In the case of a respondent who is a Legislative Branch employee in  
9    a nonpartisan staff position, to the respondent’s appointing authority.

10       “(ii) In the case of a respondent who is a Legislative Branch employee in  
11   a partisan staff position, to the respondent’s appointing authority and, if the  
12   investigator determined that a violation of the rule had occurred, to the  
13   committee on conduct of the chamber with which the employee is affiliated.

14       “(iii) In the case of a respondent who is a State of Oregon employee but  
15   not a Legislative Branch employee, to the Legislative Administrator and the  
16   respondent’s agency director.

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

19       “(v) In all instances, to the Legislative Equity Officer.

20       “(B) A nonpartisan staff appointing authority who receives the [*inde-*  
21   *pendent*] investigator’s final report under subparagraph (A)(i) of this para-  
22   graph, or the Legislative Administrator upon receiving the [*independent*]  
23   investigator’s final report under subparagraph (A)(iii) or (iv) of this para-  
24   graph, shall determine remedial measures described in subsection (15) of this  
25   rule within 14 days of receiving the investigator’s final report.

26       “(C) The appropriate committee on conduct that receives the  
27   [*independent*] investigator’s final report under subparagraph (A)(ii) of this  
28   paragraph shall, if the investigator determined that a violation of the rule  
29   had occurred, make a recommendation on remedial measures described in  
30   subsection (15) of this rule to the supervising member of the Legislative As-

1 ssembly within 14 days of receiving the investigator’s final report. The  
2 supervising member of the Legislative Assembly shall consider the recom-  
3 mendations and make a final determination on the remedial measures within  
4 21 days of receiving the investigator’s final report.

5 “(15) Remedial measures.

6 “(a) In a case where the respondent is a member of the Legislative As-  
7 ssembly and the appropriate committee on conduct has made a determination  
8 under subsection [(14)(e)] (14)(g) of this rule that a violation of this rule has  
9 occurred, the committee shall impose any [remedy] **remedial measure** that  
10 is sufficient to reprimand the member and deter future conduct that violates  
11 the rule, including but not limited to a reprimand, monetary fine or other  
12 remedy that the committee determines is appropriate under the circum-  
13 stances:

14 “(A) Except that, if the committee recommendation is to expel the mem-  
15 ber, the committee shall report that recommendation to the full chamber,  
16 which shall act on that recommendation at its earliest opportunity;

17 “(B) Except that, if the committee recommendation is to remove the  
18 member from one or more committees to which the member is assigned, un-  
19 less subparagraph (C) of this paragraph applies, the committee shall report  
20 that recommendation to the presiding officer of that chamber; and

21 “(C) Including the removal of the member from the committee on conduct.  
22 If a member is removed from the committee on conduct under this subsection,  
23 the member also is removed from the Joint Committee on Conduct.

24 “(b)(A) In a case where the respondent is a Legislative Branch employee  
25 in a nonpartisan staff position, the appointing authority, in consultation  
26 with the Human Resources Director, shall determine an appropriate remedy  
27 that is consistent with the [independent] investigator’s determination that  
28 the respondent violated the requirements of this rule.

29 “(B) The respondent may appeal the investigator’s final report or any re-  
30 medial measure imposed under this paragraph after the report has been de-

1 livered to the appointing authority but no later than seven days after the  
2 imposition of remedial measures under this subsection, except that any ap-  
3 peal must be based only on:

4 “(i) Newly discovered evidence that was not taken into account by the  
5 investigator;

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

7 “(iii) A claim that the investigator or the person or committee that im-  
8 posed a [*remedy*] **remedial measure** acted with bias.

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

10 “(c)(A) In a case where the respondent is a Legislative Branch employee  
11 in a partisan staff position, the committee on conduct of the chamber with  
12 which the employee is affiliated shall, if the investigator determined that a  
13 violation of the rule had occurred, make a recommendation on an appropriate  
14 remedy consistent with the [*independent*] investigator’s determination that  
15 the respondent violated the requirements of this rule. The committee’s rec-  
16 ommendation shall be made to the member of the Legislative Assembly for  
17 whom the respondent works.

18 “(B) The member shall determine the appropriate remedy within the time  
19 prescribed in subsection [(14)(g)(C)] **(14)(i)(C)** of this rule and shall notify  
20 the Legislative Equity Officer upon making the determination.

21 “(C) If the Legislative Equity Officer determines that no remedial meas-  
22 ures were imposed under subparagraph (B) of this paragraph or that the re-  
23 medial measures imposed were substantially different from the remedial  
24 measures recommended by the committee, the officer shall notify the com-  
25 mittee of the disparity. The committee may hold a hearing and may impose  
26 a [*remedy*] **remedial measure**.

27 “(D) The respondent may appeal the investigator’s final report or the re-  
28 medial measure imposed under this paragraph to the committee on conduct  
29 with which the respondent is associated within seven days after the remedial  
30 measure is imposed, except that any appeal must be based only on a claim

1 described in paragraph (b)(B) of this subsection.

2 “(d)(A) In a case where the respondent is a lobbyist, employee of a con-  
3 tractor or other person who is present in the State Capitol for professional  
4 or work reasons, or is a member of the public, and the [*independent*]  
5 investigator’s final report determines that a violation of this rule has oc-  
6 curred, the Legislative Administrator shall determine an appropriate remedy  
7 that is consistent with the investigator’s determination. The respondent may  
8 appeal the investigator’s final report or the remedy determined by the Leg-  
9 islative Administrator to the [*co-chairs*] **cochairpersons** of the Legislative  
10 Administration Committee within seven days of the Legislative  
11 Administrator’s determination, except that any appeal must be based only  
12 on a claim described in paragraph (b)(B) of this subsection.

13 “(B) If the respondent is a lobbyist, employee of a contractor or other  
14 person who is present in the State Capitol for professional or work reasons,  
15 the Legislative Administrator shall provide notice of the proposed remedy  
16 under this paragraph to the respondent and the respondent’s employer within  
17 14 days of receiving the final report from the investigator. If the respondent  
18 is a lobbyist who is a member of an association of professional lobbyists, the  
19 Legislative Administrator shall also provide notice of the proposed remedy  
20 to the association.

21 “(C) The Legislative Administrator may modify the proposed remedy at  
22 any time until 28 days after receipt of the investigator’s final report, but  
23 thereafter the proposed remedy is final.

24 “(e) Each officer or entity charged with imposing a remedial measure  
25 under this subsection shall consider and weigh the presence or absence of  
26 discrimination as described in subsection [(14)(d)(C)] **(14)(f)(C)** of this rule  
27 in the conduct found to be a violation of this rule. Because the Legislative  
28 Branch is committed to promoting a safe, respectful and inclusive workplace  
29 and environment in the State Capitol, a finding that discrimination was  
30 present in the conduct found to be a violation of this rule justifies enhancing

1 the severity of the [*remedy*] **remedial measure** to be imposed.

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

5 “(A) A determination is made under subsection (14) that no violation of  
6 this rule occurred; or

7 “(B) A final determination is made under this subsection concerning the  
8 imposition of [*remedies*] **remedial measures**.

9 “(g) **A committee on conduct or any other person or entity in the**  
10 **Legislative Branch may not require or coerce an employee to enter**  
11 **into a nondisclosure agreement or a nondisparagement agreement.**

12 “(h) **Notwithstanding paragraph (g) of this subsection, an impacted**  
13 **party may voluntarily request to enter into an agreement described in**  
14 **ORS 659A.370 (2), except that:**

15 “(A) **The employee has seven days after executing the agreement**  
16 **to revoke the agreement; and**

17 “(B) **An agreement with the Legislative Branch or any agency or**  
18 **office of the Legislative Branch may not require an expenditure of**  
19 **public funds that is contrary to law.**

20 “(16) Confidentiality and transparency.

21 “(a) The [*independent*] investigator undertaking an investigation under  
22 subsection (14) of this rule and the Legislative Equity Officer shall provide  
23 as much privacy as possible during the course of an investigation.

24 “(b) The [*independent*] investigator and the Legislative Equity Officer  
25 shall maintain all records and information about an investigation confiden-  
26 tially, except that:

27 “(A) The investigator may disclose the fact of the investigation and any  
28 relevant details of the investigation to the appointing authority of the  
29 complainant and the respondent and the Joint Committee on Conduct, if the  
30 investigator determines there is a legitimate need to disclose the informa-

1 tion; and

2 “(B) In the case of a respondent who is a member of the Legislative As-  
3 sembly, the investigator may disclose the fact of the investigation and any  
4 relevant details of the investigation to the person to whom the conduct  
5 complaint was delivered under subsection (12)(f)(B) of this rule.

6 “(c) A conduct complaint made under subsection (12) of this rule is  
7 disclosable upon being made under subsection (12) of this rule, but all re-  
8 cords relating to an ongoing investigation under subsection (14) of this rule  
9 shall be maintained in confidence.

10 “(d) Records and information of the [*independent*] investigator and the  
11 Legislative Equity Officer shall be exempt from disclosure as prescribed un-  
12 der applicable law, except that, also as prescribed under applicable law:

13 “(A) A conduct complaint made under subsection (12) of this rule is  
14 disclosable when requested;

15 “(B) Records relating to a member of the Legislative Assembly following  
16 a conduct complaint being made concerning the member are subject to dis-  
17 closure after the fact-finding investigation has concluded, even if a legisla-  
18 tive committee has not yet met or deliberated on the investigation’s findings;  
19 and

20 “(C) Records relating to an investigation of allegations of conduct pro-  
21 hibited by legislative branch personnel rules and not described in subpara-  
22 graph (A) or (B) of this paragraph are subject to disclosure upon a  
23 determination being made that the person who was the subject of the inves-  
24 tigation is subject to remedial measures or discipline.

25 “(17) Establishment of committees on conduct.

26 “(a)(A) The Senate Committee on Conduct is established, consisting of  
27 four Senators and six alternates. Two Senators and three alternates must be  
28 from the majority party and two Senators and three alternates must be from  
29 the minority party. Each Senator must be approved by majority vote of the  
30 Senate to serve on the committee or to serve as an alternate, following being

1 nominated by any Senator. The majority and minority caucus leaders shall  
2 each nominate at least one Senator to serve as a committee member from  
3 their caucus.

4 **“(B) At the time the Senate determines membership of the com-  
5 mittee, the Senate shall appoint one of the committee members from  
6 the majority party and one of the committee members from the mi-  
7 nority party to be cochairpersons of the Senate Committee on Con-  
8 duct. If a cochairperson is unable to serve as cochairperson, the other  
9 member from the same party shall serve as acting cochairperson until  
10 the initial cochairperson is again able to serve as cochairperson or  
11 until the Senate approves the appointment of another cochairperson.**

12 ~~“(B)~~ (C) The Senate Committee on Conduct shall perform those func-  
13 tions assigned by this rule to carry out the purposes of Article IV, section  
14 15, of the Oregon Constitution, for the Senate.

15 ~~“(C)~~ (D) The Senate shall appoint members **and cochairpersons** of the  
16 Senate Committee on Conduct within 15 days after the date of the convening  
17 of an organizational session of the odd-numbered year regular session of the  
18 Legislative Assembly, as soon as practicable after a vacancy occurs or as  
19 soon as practicable after this rule takes effect.

20 (b)(A) The House Committee on Conduct is established, consisting of  
21 four Representatives and six alternates. Two Representatives and three al-  
22 ternates must be from the majority party and two Representatives and three  
23 alternates must be from the minority party. Each Representative must be  
24 appointed by majority vote of the House of Representatives to serve on the  
25 committee or to serve as an alternate, following being nominated by any  
26 Representative. The majority and minority caucus leaders shall each nomi-  
27 nate at least one Representative to serve as a committee member from their  
28 caucus.

29 **“(B) At the time the House of Representatives determines mem-  
30 bership of the committee, the House shall appoint one of the commit-**

1 **tee members from the majority party and one of the committee**  
2 **members from the minority party to be cochairpersons of the House**  
3 **Committee on Conduct. If a cochairperson is unable to serve as**  
4 **cochairperson, the other member from the same party shall serve as**  
5 **acting cochairperson until the initial cochairperson is again able to**  
6 **serve as cochairperson or until the House approves the appointment**  
7 **of another cochairperson.**

8 “[B] (C) The House Committee on Conduct shall perform those functions  
9 assigned by this rule to carry out the purposes of Article IV, section 15, of  
10 the Oregon Constitution, for the House of Representatives.

11 “[C] (D) The House of Representatives shall appoint members of the  
12 House Committee on Conduct within 15 days after the date of the convening  
13 of an organizational session of the odd-numbered year regular session of the  
14 Legislative Assembly, as soon as practicable after a vacancy occurs or as  
15 soon as practicable after this rule takes effect.

16 “(c) The members of the Senate Committee on Conduct and the members  
17 of the House Committee on Conduct shall together comprise the Joint Com-  
18 mittee on Conduct. The Joint Committee on Conduct shall perform the duties  
19 assigned to the joint committee under chapter 604, Oregon Laws 2019, or this  
20 rule.

21 “(d)(A) When a member of a committee on conduct is named as a re-  
22 spondent under this rule, the member shall be recused from service as a  
23 member of the committee or as a member of the joint committee until the  
24 matter is resolved.

25 “(B) When a member of a committee on conduct is a complainant or is  
26 identified as an impacted party in a final report in a matter that is pending  
27 before a committee on conduct, the member shall be recused from partic-  
28 ipating in the matter as a committee member.

29 “(e) If an alternate is required to serve as a member of a committee on  
30 conduct, the specific alternate shall be selected so as to preserve the balance



1 of committee membership between majority party and minority party mem-  
2 bers and thereafter in the order in which the alternate was appointed to be  
3 an alternate.

4 “(18) Respectful workplace policies.

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

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

14 “(c) For Legislative Branch employees, the policy shall also establish  
15 procedures for determining and imposing proportionate discipline when ap-  
16 propriate.

17 “(d) For members of the Legislative Assembly, the policy shall also es-  
18 tablish procedures for making recommendations to the appropriate committee  
19 on conduct established in subsection (17) of this rule for proportionate dis-  
20 cipline when appropriate.

21 “(e) The Human Resources Director shall administer the respectful  
22 workplace policy. The director may delegate specific tasks under the policy  
23 to other Employee Services employees.

24 “[(19) Recommendation.]

25 “[*The Joint Committee on Conduct shall on or before January 1, 2021, make*  
26 *a recommendation to the President of the Senate and the Speaker of the House*  
27 *of Representatives on whether investigation functions described in this rule*  
28 *shall continue to be performed by one or more independent investigators or*  
29 *shall be performed by Legislative Branch personnel affiliated with the Legis-*  
30 *lative Equity Office.*]

1        “[20] (19) Application.

2        “The five-year limitation in subsections (11)(a) and (12)(a) of this rule  
3 applies to conduct occurring before, on or after the effective date of this rule,  
4 but does not operate to revive a claim barred by a previous iteration of this  
5 rule.

6

7        **“Legislative Branch Personnel Rule 27-B:**

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

12        **“(2) This rule is repealed on December 31, 2025.”.**

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