

SCR 208 -1, -2 STAFF MEASURE SUMMARY

Joint Committee On Conduct

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Meeting Dates: 2/12

WHAT THE MEASURE DOES:

The measure modifies Legislative Branch Personnel Rule 27: Safe, Respectful and Inclusive Workplace, applicable to conduct reports and complaint statements made on or after the date of the adoption of the concurrent resolution, and to the investigations of those reports and statements.

Detailed Summary

- Adds definitions for:
 - legislative business;
 - workplace;
 - complaint statement;
 - investigative report;
 - participating impacted party; and
 - unwelcome conduct
- Updates the definition of "protected class"
- Combines the conduct report and conduct complaint processes into a single process
- Aligns language concerning sexual harassment with that of harassment
- Removes the standard of "severe or pervasive" when determining whether a hostile work environment was created
- Adds language to further define what constitutes engaging in retaliation
- Adds the failure to report specific behavior to the types of conduct that are prohibited
- Creates a single process for how the Legislative Equity Officer (LEO) handles reports, regardless of how the report was filed or how a complaint was received
- Allows the LEO to continue an investigation, even without the participation of any impacted party, if evidence supports continuing the investigation
- Allows impacted parties to withdraw allegations, under certain circumstances
- Requires the LEO to provide copies of the complaint statement with the respondent, on or before the date the investigation begins, regardless of who the respondent is
- Establishes that the investigator may disclose the facts of the investigation with specific parties, only if the investigator determines that there is a legitimate need to do so
- Allows the investigator and LEO to redact an investigative report, in order to protect impacted parties or to promote the policies of Rule 27
- Makes the role of the investigator the same, regardless of who the impacted parties or respondents are
- Allows impacted parties to withdraw their complaint and seek specific, and voluntary, alternative dispute resolutions
- Specifies that the final investigative report is disclosable:
 - after it has been delivered to the appropriate conduct committee, when the respondent is a legislative member; and
 - after remedial measures or discipline have been decided, when the respondent is not a legislative member
- Specifies that when the respondent a legislative member, a settlement agreement, or a written summary of a resolution of an investigation, can be disclosed, but information about anyone who is not a legislative member will be redacted

Fiscal impact: A statement has not yet been issued.

Revenue impact: (A statement has not yet been issued.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

- 1 The amendment clarifies that the definition of "hostile work environment" applies to harassment and sexual harassment. It removes the failure to report harassment, sexual harassment, and discrimination, from the list of prohibited conduct. It also specifies that an investigation may proceed without the participation of the impacted party, only in certain circumstances.
- 2 The amendment adds certain content produced on a social media site at which content is controlled by a member or legislative staff, to the definition of "legislative business."

BACKGROUND:

In 2019, the Legislative Assembly adopted House Concurrent Resolution (HCR) 20 to make numerous changes to Legislative Branch Personnel Rule 27 (LBPR 27): Safe, Respectful and Inclusive Workplace. Following discussions of a work group comprised of the four co-chairs of the Joint Committee on Conduct, partisan staff, and nonpartisan staff, the Legislative Assembly adopted HCR 221 during the 2020 Second Special Session, which revised LBPR 27 to address prohibited conduct, conduct reports, conduct complaints, investigations, remedies, and process. Changes to LBPR 27 by HCR 221 applied to conduct reports and conduct complaints, and the investigations of those reports and complaints, made on or after August 10, 2020.

In the 2021 session, HCR 28 updated LBPR 27 to conform with ORS 659A.375; allow the Legislative Equity Officer to hire an investigator as an employee of the Legislative Equity Office; allow voluntary interim safety measures; and clarify co-chairperson appointment and replacement procedures. The current version of LBPR 27 has been in effect since June 24, 2021.