

CHECKLIST FOR INTAKE AND INVESTIGATIONS UNDER THE NORTH DAKOTA LEGISLATIVE ASSEMBLY POLICY AGAINST WORKPLACE HARASSMENT

INTRODUCTION

Pursuant to the [North Dakota Legislative Assembly Policy Against Workplace Harassment](#) ("policy"), an individual covered by the policy who believes he or she has been subjected to workplace harassment may report the conduct to a contact person identified in the policy. The policy requires the contact person to ensure there is a written record of the complaint and to refer the matter to a review panel selected by the Majority Leader and Minority Leader of each house, unless the complaint is regarding the Majority Leader or Minority Leader, in which case the review panel must be selected by the Speaker of the House of Representatives or the President Pro Tempore of the Senate. The review panel shall investigate the matter or forward the complaint to an independent investigator. This memorandum provides a checklist of steps the complaint intake and investigation must include.

CHECKLIST OF INTAKE REQUIREMENTS

A contact person who receives a complaint from an individual who believes he or she was subjected to workplace harassment shall:

- Document the date and time of the complaint and the name of the individual making the complaint;
- If the complaint is verbal, create a written record describing the circumstances comprising the conduct being reported;
- Determine whether there is immediate risk of harm to the individual making the complaint and, if so, notify the review panel members (the panel must meet immediately to determine how to address the risk);
- If there is no immediate risk of harm to the individual making the complaint, schedule a meeting of the review panel to occur within 48 hours of receipt of the complaint and ensure the review panel members are notified of the meeting;
- Inform the individual making the complaint of the next steps in the process of investigating the complaint, what to do if he or she is contacted by the individual accused of harassment, and, if he or she is a state employee, the contact information for the employee assistance program;
- Create a file for records arising from or related to the intake and ensure access to the file is protected in accordance with the confidentiality provisions of the policy;
- Submit a copy of the written records arising from or related to the intake to the review panel members before the meeting; and
- Document whether all checklist requirements were fulfilled.

CHECKLIST OF INVESTIGATION REQUIREMENTS

When the review panel receives a complaint of alleged workplace harassment from a contact person, the review panel may investigate the matter or refer the matter to an independent investigator unaffiliated with the legislative branch who has experience in conducting workplace harassment investigations. The review panel or the investigator shall take the following steps as promptly and confidentially as practicable:

- Document the date and time of receipt of the complaint;
- Notify the Risk Management Division of the Office of Management and Budget;
- Create a file for records arising from or related to the investigation and ensure access to the file is protected in accordance with the confidentiality provisions of the policy;
- Develop an investigation plan including:
 - An interview of the individual who made the complaint, including addressing procedures to protect the individual from any additional threatening actions or retaliation;
 - An interview of the individual accused of workplace harassment after informing that individual the individual does not have to provide information or records involuntarily or sign any document involuntarily and informing the individual of necessary boundaries during the investigation;
 - Interviews of any witnesses of the alleged workplace harassment;
 - Interviews of coworkers or others reasonably believed to have relevant information;

- Consideration of the circumstances surrounding the complaint;
- Consideration of any written statements provided by witnesses, the individual accused of workplace harassment, or others with information the investigator deems relevant; and
- Consideration of any other records or circumstances the investigator deems relevant.
- Carry out the investigation plan, amending the plan as required by circumstances, and document each interview and other action taken under the plan;
- Determine whether referral to a law enforcement agency is warranted;
- Determine whether the policy was violated based on the evidentiary standards set forth in the policy;
- Prepare findings of fact and recommendations for resolution, provide copies of the findings and recommendations to the individual who reported the alleged workplace harassment and the individual accused of the alleged workplace harassment, and have the individuals sign a document acknowledging receipt of the findings of fact and recommendations for resolution;
- Inform the individual who reported the alleged workplace harassment and the individual accused of the alleged workplace harassment that each has an opportunity to submit written responses, and place any written responses received in the investigation file;
- If the policy was violated, inform the employer of the individual who violated the policy and notify the employer of the recommendations for resolutions, or, if the individual is a legislator, notify the Majority Leader and Minority Leader of the chamber in which the legislator serves, unless the individual who violated the policy is the Majority Leader or Minority Leader, in which case the Speaker of the House of Representatives or the President Pro Tempore of the Senate must be notified;
- Place documentation of any disciplinary action taken by an employer or other entity as a result of the investigation in the investigation file;
- Document whether all checklist requirements were fulfilled; and
- If the investigator is an independent investigator, provide the review panel the investigation file and a summary of the investigation, including the findings of fact and recommendations for resolution.