

From: Sen. John Marty
Sent: Friday, July 1, 2022 2:24 PM
To: Cmte_Rules_Group

Subject: Yesterday's Rules Committee Hearing

Dear Rules Committee Colleagues:

I am writing to express my deep disappointment with the Rules Committee decision to adopt the draft modifications to the Senate Nondiscrimination and Anti-Harassment Policy.

The Senate paid a consultant to review the Senate policy in response to the mishandling of sexual harassment of a former Senate employee. After the report was completed, an internal decision was made to keep the report confidential to the point that *even the six members of the Senate charged with making changes in the policy* were not given the opportunity to see the report, even though they were supposed to propose changes in response to that report.

If nothing else, it is a waste of public money to hire a professional to investigate and prepare a report and then hide that report even from those responsible for rewriting the policy.

Apparently, a draft of the proposed changes considered by the workgroup included the investigator's recommendation to eliminate the formal hearing process. However, at the next meeting, the hearing process had been reinstated in the draft without any vote, though some members expressed disapproval.

At the last meeting of the work group members agreed to forward the entire report to the Rules Committee because of the deadline, though some workgroup members made it clear that they did not support the decision to reinstate the formal hearing process since that would go against the recommendation of the consultant.

The workgroup was told that the investigator's reasoning behind the recommendation to eliminate the hearing process is that it "***would be intimidating and present a significant barrier to those who may otherwise report workplace concerns.***" The investigator said she has worked on numerous discrimination and harassment policies, but that this "*is the only one that gives parties the right to a hearing in lieu of an investigation.*"

Although the Senate is different from other types of employers, every employer is different, yet sexual harassment has the same serious effect on victims regardless of the employer. It should raise red flags for Senate employees when the Senate is planning to go against the recommendation of the expert and the policies of other employers.

The investigator's reasoning behind the recommendation further stated that: "*Hearings are also costly, time consuming, and **an adversarial process tending to create more pain than healing.** Investigations can better achieve the same degree of impartial fact-finding and appropriate resolution.*"

Yesterday, before the Rules Committee meeting, we received a letter from Senators Port and Kunesh, two of the workgroup members, saying that they “strongly dissent” from the decision to go against the investigator’s recommendations. Their letter pointed out “that the workgroup's hands were tied by our inability to get additional information from the independent investigator on the basis for the recommendations.”

There was no reason for the Rules Committee to rush to adopt the incomplete policy yesterday, especially when there were provisions to which there was strong dissent. At a minimum, the Rules Committee should have insisted that the investigator be allowed to meet with the members of the workgroup to discuss whether the proposed changes would address the concerns spelled out in a report which they were not allowed to see.

In the confusion of the multiple motions, I was expecting a rollcall on both halves of the divided motion, and accidentally voted in favor of motion to adopt the draft policy.

To be clear, I strongly oppose adopting the report when it contains the provision that the consultant said would be “intimidating and present a significant barrier” to a victim of sexual assault or harassment.

The Senate’s former policy obviously failed to properly address a previous situation. This new policy – as distinct from all the other nondiscrimination and anti-harassment policies that the investigator has worked on – may well fail again.

I appreciate that the Rules Committee is allowing the Working Group to resume its work. I hope they will fine-tune the language *and*, regardless of the lack of support from the Rules Committee, attempt to meet with the investigator to discuss her report and recommendations and whether the new policy changes bring the Senate nondiscrimination and anti-harassment policy up to the standards that Senate employees deserve.

Respectfully,

John Marty