

# MINNESOTA SENATE NONDISCRIMINATION AND ANTI-HARASSMENT POLICY

As approved by the Senate Committee on Rules  
and Administration on March 22, 2021

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## What to Do if You Believe You Have Experienced Discrimination or Harassment

If you believe you have experienced discrimination or harassment, you have several options for dealing with that experience. Depending on your situation and personal preferences, you should feel free to pursue one or more of these options.

**Contact the Employee Assistance Program.** If you are an employee of the Minnesota Senate and do not want to initiate a complaint under the Senate's Nondiscrimination and Anti-Harassment Policy or you would like confidential counseling regarding whether what you experienced was discrimination or harassment, you may contact the Employee Assistance Program (EAP). EAP services are part of your employee benefit plan, and are provided to you at no additional cost. Our EAP is managed by the State Employee Group Insurance Program (SEGIP) within Minnesota Management and Budget (MMB). The EAP services are provided by LifeMatters, which is the EAP vendor. The EAP offers support and counseling to help you with your questions or concerns about harassment or discrimination. The EAP will not initiate a report and is prohibited from disclosing what you tell them without your permission unless what you tell them indicates there is a concern about the immediate safety of an individual from very serious harm. Your EAP counselor will explain the confidentiality policy to you during your first contact with them. (See Appendix B for more information.) You may contact an EAP consultant at (651)2593840. If you prefer to work with a LifeMatters consultant outside of MMB/SEGIP call 1800-657-3719.

**Make a complaint to a contact person.** If you decide that you want to make a complaint of discrimination or harassment you may initiate your complaint with any contact person (as defined on page 1 of the policy). You should provide as much detail as necessary to conduct the complaint resolution process successfully. Once the contact person has received your complaint, they are required to report the complaint to the Director of Human Resources promptly. Please understand that the name of the person making the complaint will be provided to the subject of the complaint as part of this process. **Any report will lead to either an investigation or a hearing conducted by a retired judge pursuant to this policy. All complaints against members of the Senate must be investigated and any conclusions of fact and discipline imposed pursuant to the investigation may be appealed to the Senate subcommittee on ethical conduct.** An investigation will be handled as discretely as possible, but there is no guarantee that the information will be completely confidential. Any hearings must be private unless the parties agree they will be open. Reporting discrimination and harassment is encouraged. The working environment in the Minnesota Senate will be improved if acts of discrimination and harassment are dealt with appropriately.

**Tell the individual.** If you feel comfortable doing so, you may tell the person who engaged in the behavior that you believe violated this policy to stop. If the behavior does not stop after you have expressed your concerns, you should pursue other options listed here.

**Seek legal advice.** In addition to or instead of initiating the complaint procedure under the Senate's policy, you may file a charge of discrimination with the Minnesota Department of Human Rights (MDHR) or consult with an outside attorney. You may contact MDHR at (651)539-1100.

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## **Nondiscrimination and Anti-Harassment Policy of the Minnesota Senate**

Adopted by the Senate Committee on Rules and Administration  
March 25, 2019

### **A. NONDISCRIMINATION AND ANTI- HARASSMENT POLICY OF THE MINNESOTA SENATE**

It is the policy of the Minnesota Senate to create and maintain a work environment in which all members of the Minnesota Senate, employees, and third parties are treated with dignity and respect. Members, employees, and third parties have the right to a workplace that is free from discrimination and harassment, both subtle and overt. Therefore, the Minnesota Senate will strive to eliminate discriminatory and harassing behavior in the workplace based on race; color; national origin; sex, including pregnancy; marital status; religion; creed; familial status; sexual orientation; age; disability; status with regard to public assistance; and membership or activity in a human rights commission.

### **B. APPLICABILITY**

1. This policy applies to each member and employee of the Minnesota Senate and to third parties as described in Section C, Part 1.f of this policy and applies to any interaction of these individuals in any place or activity that may affect the legislative working environment. This policy does not apply to the interaction of third parties that does not involve any complaint of harassment or discrimination by or against a member or employee.

### **C. DEFINITIONS**

1. As used in this policy:
  - a. "Contact person" means a person required to make a report of discrimination or harassment upon receiving a complaint of discrimination or harassment and includes:
    - I. The Director of Human Resources;
    - II. The Majority Leader of the Senate;
    - III. The Minority Leader of the Senate;
    - IV. The Secretary of the Senate;
    - V. The respective Chief of Staff for each Senate caucus;

VI. Supervisors of staff. For purposes of this definition, “supervisor” means a member of the Senate or a Senate employee who is required to attend nondiscrimination and anti-harassment training for supervisors provided under this policy; or

VII. Members of the Minnesota Senate.

- b. “Discrimination” means to treat a person differently based upon a person’s protected characteristic, with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment, except when based on a bona fide occupational qualification.
- c. "Employee" means an employee of the Minnesota Senate. For purposes of this policy only, "employee" includes fulltime, part-time, temporary employees, voluntary interns, or any other employee of the Minnesota Senate.
- d. "Member" means a member of the Minnesota Senate.
- e. “Protected characteristic” means characteristics covered by Title VII of the Civil Rights Act of 1964 or the Minnesota Human Rights Act, or both, including: race; color; national origin; sex, including pregnancy; marital status; religion; creed; familial status; sexual orientation; age; disability; status with regard to public assistance; and membership or activity in a human rights commission.
- f. "Third party" means a member of the media, lobbyist, vendor, visitor, constituent, other state employees, and any other member of the general public who has business with or at the Minnesota Senate.
- g. “Harassment” means any unwelcome conduct that is based on a person’s protected characteristic that: (1) interferes with an individual's work performance; (2) creates an intimidating, hostile, or offensive work environment; or (3) becomes a condition of continued employment. Harassment is a form of discrimination based on a person’s protected characteristic and is a violation of Title VII of the federal Civil Rights Act or Minnesota Statutes, Chapter 363A, or both. (See Appendix A for the definition of “sexual harassment” provided in Minn. Stat. 363A.03.) Examples of harassment are described in section D. of this policy. While harassment includes sexual harassment, sexual harassment raises issues that are to some extent unique in comparison to other types of workplace harassment. Therefore, sexual harassment warrants separate emphasis and is further described in section E. of this Policy.

#### D. EXAMPLES OF HARASSMENT

1. Offensive and unwelcome conduct constituting harassment may include, but is not limited to the following conduct, if based on a protected characteristic: offensive jokes,

slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- a. The harasser can be a supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- b. Harassment may occur when a person is affected by offensive conduct regardless of whether the person was the target of the offensive conduct.
- c. Harassment may occur without economic injury to, or discharge of, a person affected by harassment.

#### E. EXAMPLES OF SEXUAL HARASSMENT

1. The following are some examples of sexual conduct or communication that may constitute sexual harassment or sexually offensive behavior:
  - a. VERBAL:
    - I. Sexual comments, compliments, innuendos, or suggestions about one's clothing, body, or sexual activity.
    - II. Discussing sexual topics in the workplace, such as sexual practices or preferences or telling sexual jokes or stories.
    - III. Requesting or demanding sexual favors or suggesting that there is any connection between sexual behavior and any term or condition of employment, whether that connection be positive or negative.
    - IV. Using sexual words or phrases.
  - b. NONVERBAL:
    - I. Displaying sexually explicit pictures or objects in the work area.
    - II. Giving personal gifts of a sexual nature.
    - III. Making sexually suggestive facial expressions or gestures.
    - IV. Making unwelcome visits to a member's, employee's, or third-party's home or hotel room.
    - V. Displaying cartoons or sending e-mails, text messages, instant messages, or notes, any of which contain sexual pictures, words, or phrases.

- c. PHYSICAL:
  - I. Kissing, touching, patting, pinching, or intentionally brushing against a member's, employee's, or third-party's body.
  - II. Sexual contact, intercourse, or assault.
- 2. The examples in paragraph 1 are illustrative of the communications and conduct that may constitute sexual harassment if unwelcome and depending upon the totality of the circumstances. In that regard, the following should be kept in mind:
  - a. A single incident may or may not constitute sexual harassment.
  - b. Whether a particular action is sexual harassment will depend on the facts, and determinations will be made on a case-by-case basis.
  - c. Conduct or communications that might be welcome to one person may be unwelcome to another person. Conduct or communications that might have been welcome between two individuals at one time may become unwelcome at a later time.
  - d. Other conduct or a communication not expressly described in the examples, but which is substantially similar to the examples, may violate this policy.

#### F. DUTIES AND RESPONSIBILITIES

- 1. Every member and employee of the Minnesota Senate is responsible for contributing to a respectful workplace. This includes being sensitive to inappropriate behavior, monitoring their own individual behavior and attitudes, and encouraging respect and dignity for everyone at all times.
- 2. In addition to any other duties and responsibilities that apply to all employees, the **Secretary of the Senate** has a responsibility to:
  - a. publish and post conspicuously on the Senate's internal and external Web sites the Senate's nondiscrimination and anti-harassment policy and procedures,
  - b. provide training for all staff and members to inform them about and reinforce the Senate's nondiscrimination and anti-harassment policy and procedures,
  - c. make training available annually for lobbyists and other third parties,
  - d. distribute an electronic copy of the Senate's nondiscrimination and anti-harassment policy to all staff and members at least once annually,
  - e. ensure that training is provided for supervisors on their roles and responsibilities in dealing with discrimination and harassment,
  - f. promote fair and efficient handling of all complaints.

3. In addition to any other duties and responsibilities that apply to all employees, **supervisors** have a responsibility to:
  - a. promote a departmental working environment free from discrimination and harassment and deal with discrimination and harassment when it is observed or reported,
  - b. respect the privacy as much as possible of all parties involved in a discrimination or harassment concern or complaint,
  - c. promptly report discrimination and harassment to the Senate Director of Human Resources, and
  - d. participate in mandatory nondiscrimination and anti-harassment training for supervisors at least once every two years. Supervisors are not required to attend the nondiscrimination and anti-harassment training provided for employees who are not supervisors.

4. **Members and employees** have a responsibility to:
  - a. promptly report concerns or complaints to a contact person,
  - b. participate in mandatory nondiscrimination and anti-harassment training at least once every two years, and
  - c. cooperate with requests for information and data necessary for the Director of Human Resources to carry out the Director's responsibilities under this policy.

#### G. COMPLAINTS REGARDING DISCRIMINATION OR HARASSMENT

1. If you believe you may have experienced or witnessed any type of discrimination or harassment, you have several options:
  - a. you may discuss your concern confidentially with a counselor provided through the Employee Assistance Program (see Appendix B in this policy);
  - b. you may report your complaint directly to a contact person designated in section C, paragraph 1.a. of this policy; or
  - c. you may consult with a private attorney or file a charge of discrimination with the Minnesota Department of Human Rights.
2. If you decide to report your complaint to a contact person, you should first let the contact person know that you would like to have a confidential discussion with them about your working environment. The contact person must then promptly inform you that if you provide the contact person with any specific information that may involve discrimination or harassment, the contact person will be required to report to the Director of Human Resources about what you tell them. This policy requires the Director of Human Resources

to treat this information as a complaint of discrimination or harassment. Although the complaint must be handled discreetly, the contact person cannot guarantee that the information can be kept completely confidential. The contact person must also inform you that either the person reporting the complaint (you) or the person accused in the complaint will have the right to request a hearing under section I of this policy to resolve the complaint. In addition, you must be informed that if the person accused of discrimination or harassment is a member of the Senate, the member may appeal any conclusions of fact and discipline imposed pursuant to an investigation to the Senate Subcommittee on Ethical Conduct. The contact person must also inform you that you may contact the Employee Assistance Program for support and counseling regarding what you have experienced or witnessed. You may contact the Employee Assistance Program without initiating the complaint process, and any information you provide to a counselor must be kept confidential as provided in Appendix B.

3. If you decide that you want to provide a detailed complaint to the contact person, the complaint must specifically describe the incident or incidents. The contact person who receives the complaint shall keep a record of the initial complaint and report it promptly to the Director of Human Resources, who in turn must contact the person accused in the complaint and inform that person of their right to proceed to a hearing under section I of this policy or to proceed with an investigation as provided in section H. This procedure also applies to complaints made by third parties. At the time the Director contacts the person accused the Director must provide the person accused with the name of the person making the complaint.
4. The Director shall inform both parties of the right to elect a hearing on the day the decision becomes available. Within three business days after the Director of Human Resources has contacted the person accused in the complaint, either the complainant or the person accused in the complaint may decide to proceed with a hearing as provided in section I. If neither person has elected to proceed with a hearing under section I within three days after the person accused in the complaint has been contacted, the complaint shall be resolved under the procedures provided in section H.
5. In addition to or instead of this complaint procedure, a complainant has the right to file a charge of discrimination with the Minnesota Department of Human Rights or to consult with an attorney.

#### H. INVESTIGATION OF A COMPLAINT

1. If neither the complainant nor the person accused in a complaint presented to the Director of Human Resources under section G, paragraph 3, elects to proceed with a hearing under section I, the Director shall initiate an investigation as provided in this section. The Director of Human Resources, in consultation with Senate Counsel, as needed, will investigate the complaint as promptly and confidentially as possible. The Director of Human Resources and any other individual assisting the Director as provided in this section may gather the following in an investigation from the complainant, the person accused, and any witnesses or coworkers:

- a. **From the complainant:**
    - I. A description of the incident or incidents, including where and when the incident or incidents took place.
    - II. Whether a similar incident or incidents has or have happened before.
    - III. An explanation of how the incident or incidents affected the complainant's work.
    - IV. A statement as to how the situation should be resolved.
    - V. A description of the complainant's reaction to the incident or incidents.
    - VI. Whether there were any witnesses to the facts surrounding the incident or incidents or any other evidence of its occurrence.
  - b. **From the person accused:**
    - I. An explanation of the circumstances surrounding the complainant's allegations and a request for a response.
    - II. Any reason why the complainant may have misunderstood the actions of the person accused by the complainant, and any explanation of possible motives for the complaint.
    - III. Whether there were any witnesses to the incident or incidents or any other evidence surrounding the complaint.
    - IV. Any instances of similar conduct involving the complainant or the person accused.
    - V. A potential resolution to the complaint.
  - c. **From witnesses or co-workers:**
    - I. What they observed.
    - II. How they reacted to the circumstances surrounding the incident.
    - III. What the complainant or the person accused of discrimination or harassment told them, and when the conversation occurred.
2. All complaints will be investigated promptly, thoroughly, and fairly. A contact person who has received a complaint should convey the complaint to the Director of Human Resources as promptly as possible following initial notification of the complaint. The Director shall

complete the investigation of the complaint as promptly as possible after receiving the complaint. The investigation and recommendations must be completed within 30 days unless the Director is granted an extension of time to investigate a complaint by designated employment law counsel from the Office of Senate Counsel, Research, and Fiscal Analysis.

3. Under some circumstances, an outside individual or entity may be used to investigate the complaint and to make recommendations. The Director of Human Resources, in consultation with Senate Counsel, may recommend the use of an outside individual or entity. In such circumstances, the Director of Human Resources may provide information related to the complaint to the outside individual or entity conducting the investigation.
4. Following the investigation, and after any appropriate consultation, the Director of Human Resources shall inform both the complainant and the person accused of the outcome of the investigation. Resolution may include disciplinary action when appropriate.

### I. HEARING PROCEDURE

1. This section applies to complaints where the person accused in the complaint is not a member of the Senate and either the complainant or the person accused has elected to request a hearing to resolve the complaint.
2. Within ten days after the Director of Human Resources has been notified of the decision to request a hearing under this section, the Director must work together with Senate Counsel to select a retired judge to conduct a hearing and resolve the complaint in accordance with the contested case procedure provided under Minnesota Statutes, sections 14.57 to 14.62, as modified by this policy. The retired judge shall have the authority to provide a schedule for the hearing. For the purposes of hearings held under this policy, the provisions of Minnesota Statutes, section 14.57, paragraph (b), are inapplicable.
3. For the purposes of hearings held under this section, the Director of Human Resources shall perform the recordkeeping and other functions assigned to the Office of Administrative Hearings under Minnesota Statutes, sections 14.57 to 14.62.
4. The attorney fees and other expenses provisions of Minnesota Statutes, section 14.62, subdivision 3, do not apply to hearings held under this policy. The senate shall be responsible for the cost of retaining a retired judge and for other costs related to the conduct of the hearings with the exception of any expert retainer fees.
5. All hearings under this section are closed to nonparticipants, unless the parties agree they will be open. Except as provided in section O, the records kept in the course of conducting a private hearing under this section may be made available only to the parties and to Senate employees and members for the purpose of administering this policy.
6. The report of the judge selected to resolve the complaint constitutes the final resolution of the complaint, and is not subject to appeal under this policy. A copy of the report must be provided to the parties and to the Director of Human Resources. The report must include a

determination of the appropriate discipline, if any, necessary to resolve the complaint. The Director of Human Resources shall retain a copy of the report.

#### J. RETALIATION PROHIBITED

1. The Minnesota Senate will not tolerate retaliation, whether verbal, nonverbal, or physical, as a consequence of engaging in protected conduct as defined in this section. Retaliation constitutes harassment under this policy. Any person found to have engaged in retaliation is subject to disciplinary action consistent with this policy.
2. Retaliation is any materially adverse action against a member, employee, or third-party that is intended to punish protected conduct. For the purposes of this section, “protected conduct” includes:
  - a. opposing discrimination or harassment in the workplace;
  - b. complaining of or reporting an incident of discrimination or harassment;
  - c. participating in any investigation;
  - d. testifying in any proceeding relating to a discrimination, harassment, or retaliation complaint; or
  - e. associating with a person or group of persons who are disabled or who are of different race, color, creed, religion, sexual orientation, or national origin.
3. Materially adverse actions can be job-related or not specifically job-related. Some examples of materially adverse actions include, but are not limited to, denial of a promotion, a demotion, non-hire, denial of job benefits, suspension, discharge, or other actions that can be challenged directly as employment discrimination. Materially adverse action can also include any adverse action that could dissuade a reasonable member, employee, or third party from engaging in protected conduct.
4. If you believe you have experienced retaliation under this policy, you should report your concerns to any contact person.

#### K. RESOLUTION OF A DISCRIMINATION OR HARASSMENT COMPLAINT SUBJECT TO INVESTIGATION

1. **Complaints involving employees.** For resolution of a complaint involving an employee and investigated under section H of this policy, the Director of Human Resources shall consult with and advise the supervisor of the accused and, as needed, Senate Counsel to determine the appropriate disciplinary action. The Director of Human Resources shall be present when the supervisor communicates the disciplinary action to the employee. If the supervisor of the employee is a Senator, and the action taken by the Senator differs from the advice provided by the Director, the Senator may provide a written explanation of the reasons for the difference to the Director. This explanation must be included with the records kept pursuant to this paragraph. The resolution of the complaint shall be documented in the employee’s personnel file. Remedies shall be assessed in proportion to the seriousness of the violation. For employees, this may include an apology, direction to stop the offensive conduct,

counseling or training, oral warning, written warning, transfer to another department, suspension with or without pay, or termination.

**2. Complaints involving members of the Senate.**

- a. For resolution of a complaint involving a member of the Senate, the Director of Human Resources may consult with Senate Counsel and an outside entity for assistance with an investigation. If the Director determines after completion of the investigation that a member of the Senate has violated this policy, the Director shall inform the Majority Leader and Minority Leader. The leader of the caucus that includes the member shall consult with the leader of the other caucus to determine the appropriate disciplinary action. Appropriate disciplinary action may include, but is not limited to, an apology, direction to stop the offensive conduct, counseling or training, an oral or written warning, suspension or removal from a leadership position within a caucus, or further proceedings under Senate Rule 55 necessary for the Senate to impose discipline.
  - b. Disciplinary action may not be imposed under this paragraph until the member who is determined to have violated this policy has been given five days, excluding Saturdays, Sundays, and legal holidays, to decide whether to appeal the determination to the Senate Subcommittee on Ethical Conduct. If the member chooses to appeal, discipline may not be imposed unless it is pursuant to proceedings before the Senate Subcommittee on Ethical Conduct and any subsequent action by the Committee on Rules and Administration or the Senate.
  - c. A leader administering discipline under this paragraph shall promptly inform the other leader of the terms of the discipline after it is imposed. If the other leader believes further discipline is necessary, the other leader may file a complaint under Senate Rule 55.5, paragraph (b).
  - d. If the majority leader, minority leader, or the Director of Human Resources is named in the investigation, that individual must withdraw from any further involvement under this section. If a leader withdraws, the authority provided in this section shall be exercised by a member of the Senate designated by that leader to serve in this capacity no later than January 1 of each odd-numbered year. If the Director is required to withdraw, the Secretary of the Senate or a designee shall perform the duties required of the director under this policy for the investigation involving the director. The Director of Human Resources shall keep a record of the designations required under this section.
3. If the offensive behavior does not stop or reoccurs after a complaint is resolved, an additional complaint may be brought to the Director of Human Resources.

#### L. FALSE COMPLAINTS

1. Complaints of discrimination or harassment that are knowingly false or that are made in reckless disregard of whether they are false will not be tolerated. Any person making a complaint of this nature is subject to disciplinary action consistent with this policy.

#### M. TRAINING REQUIREMENTS

1. Nondiscrimination and anti-harassment training is mandatory for all employees and members of the Senate. Attendance at trainings will be documented and attendance records will be maintained for employees and members by the Director of Human Resources. Failure to meet nondiscrimination and anti-harassment training requirements may result in disciplinary action.
2. Supervisors must attend nondiscrimination and anti-harassment training provided for supervisors at least once every two years.
3. Employees and members must attend nondiscrimination and anti-harassment training at least once every two years. New employees and newly elected members shall attend training when offered following their initial employment or election to the Senate.

#### N. CONFIDENTIALITY

1. Investigation and resolution of complaints of discrimination and harassment will be handled as confidentially as practical. For the investigation process to be done properly, however, complete confidentiality cannot be guaranteed. Information related to an investigation of a complaint will only be shared on a need to know basis as provided in this policy and in accordance with legal obligations applicable to the Senate, including Senate policies and Senate Rules.

#### O. RECORDKEEPING

1. Complaints of discrimination and harassment will be investigated and handled as information shared with those having a need to know and in accordance with the law. The contact person for a discrimination or harassment complaint shall retain all written documentation arising from the initial complaint. Except as otherwise provided in this policy, all notes and other records obtained through the investigation process shall be provided to and retained by the Director of Human Resources and not disclosed.
2. Records of discrimination and harassment complaints and reinvestigations under this policy are not public.
  - a. Disclosure of the investigative report to the complainant and the person accused is permissible.

- b. After the investigation or hearing provided under this policy has been completed, a complainant or a person accused of discrimination or harassment may make the investigative report or report resolving a hearing pursuant to this policy available for public inspection in order to support a contention that an allegation of discrimination or harassment is true or false.

#### P. REVIEW OF POLICY AND RECOMMENDATIONS

1. By September 1 of each even-numbered year, the Secretary of the Senate must consult with the Director of Human Resources and Senate Counsel to determine whether any changes to this policy should be recommended to the Senate. The recommendations, or a statement that no recommendations are needed, must be presented to the majority leader and the minority leader no later than October 1 of each even-numbered year.

#### Q. ANNUAL REPORT

1. By February 1 of each year, the Director of Human Resources shall compile information on the number of discrimination and harassment complaints filed, substantiated, and hearings and investigations completed within the previous calendar year, and the amount spent, if any, on retaining outside entities for investigation of claims. This information shall be reported to the Secretary of the Senate, the Majority Leader, and the Minority Leader. Information regarding specific complaints is confidential and will not be disclosed in the report or made available to the public unless specifically authorized under the terms of this policy. A copy of the report must be filed with the Legislative Reference Library on the same day it is delivered.

#### R. QUESTIONS

If you have any questions about this policy, see or call:

Annette Gratke, Director of Human Resources  
State Capitol, G-10  
(651) 296-9321

Carlton Doyle Fontaine, Senate Employment Law Counsel  
Senate Counsel, Research, and Fiscal Analysis  
Minnesota Senate Building, Suite 3300  
(651) 296-4395

## APPENDIX A

### MINNESOTA HUMAN RIGHTS ACT DEFINITION OF SEXUAL HARASSMENT

The Minnesota Human Rights Act defines sexual harassment as:

"Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature when:

- 1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;
- 2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or
- 3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment; and in the case of employment, the employer knows or should know the existence of the harassment and fails to take timely and appropriate action.

[Minnesota Statutes, Section 363A.03, subdivision 43]

## **APPENDIX B**

### **EMPLOYEE ASSISTANCE PROGRAM (EAP) SUPPORT FOR THOSE WHO HAVE OR MAY HAVE BEEN SEXUALLY HARASSED**

Your Employee Assistance Program (EAP) provides 24/7 personal, confidential counseling services as part of your employee benefit plan. EAP services are provided to you at no additional cost. EAP services are delivered by an independent contracted vendor. The EAP contract is managed by the State Employee Group Insurance Program at Minnesota Management and Budget.

Employees may use EAP as a resource to help them sort through their thoughts, feelings, and decisions regarding experiences of sexual harassment. EAP is available to help employees come to their own decisions about how to proceed.

Because it is a confidential service, EAP will not report harassment. The EAP will not share anything about anyone's situation without their permission except as required by law. Furthermore, employees may call EAP anonymously. Counselors explain EAP's confidentiality policy to every caller.

If an employee wants to report sexual harassment, the employee should follow the complaint process described in the Senate's Nondiscrimination and Anti-Harassment Policy. EAP is not part of any harassment reporting process and is not a replacement for the Senate's reporting procedures.