



Democratic Party of Hawai'i
Policy Against Sexual Violence, Harassment and Bullying

Approved by the State Central Committee on September 4, 2021

I. Objective

The objective of this policy is to define sexual violence, harassment and bullying and other relevant terms and to outline procedures for filing complaints, investigating claims of sexual violence, harassment and bullying and issuing appropriate disciplinary measures when necessary. The DPH is committed to providing an environment that is free from sexual violence, harassment and bullying and will take prompt and corrective action when the Party determines that an allegation is credible.

II. Definitions

The Democratic Party of Hawai'i is committed to providing an environment that is free from sexual violence, harassment and bullying. Engaging in this behavior during Party activities is not only against the law, it is antithetical to who we are as a Party, and as such will not be tolerated. Sexual violence is often criminal and can be prosecuted under Hawai'i Law. Sexual violence can also lead to appropriate corrective action up to and including expulsion from the Party.

Sexual violence is a broad term that covers many actions. Sexual violence can include many types of sexual harm including (but not limited to) sexual contact, sexual harassment, sexual exposure, or sexual assault (whether facilitated by drugs or alcohol). They are defined, for purposes of this policy, below.

Sexual violence can also refer to the use of sexual actions and words that are unwanted by and/or harmful to another person. Some experiences of sexual violence are hurtful violations of personal boundaries but may not rise to the level of a crime. Nevertheless, that does not diminish the harmed person's experience of being harmed. All sexual violence is wrong and harmful.

1. Sexual Contact:

- Any non-consensual or unwanted touching, other than acts of "sexual penetration", of the sexual or other intimate parts of another or whether directly or through the clothing or other material intended to cover the sexual or other intimate parts.

2. Sexual Harassment includes, but is not limited to:

- Unwanted sexual actions or words. It can be single or repeated conduct. It can occur in person or online and can include sexual exposure.
- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment. Examples include:
 - An employment or volunteer assignment decision affecting that individual is made because the individual submitted to or rejected the unwelcome conduct; or
 - The unwelcome conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or abusive work environment. Certain behaviors, such as conditioning promotions, awards, training or other rewards or benefits upon acceptance of unwelcome actions of a sexual nature, are always wrong.
- Unwelcome sexual actions such as the following are inappropriate, and depending on the circumstances, may constitute prohibited sexual harassment:
- Sexual pranks, or repeated sexual teasing, jokes, or innuendo, in person or via electronic communication or social media;
- Verbal abuse of a sexual nature;
- Touching or grabbing of a sexual nature;
- Repeatedly standing too close to or brushing up against a person;
- Repeatedly asking a person to socialize during off-duty hours when the person has said no or has indicated they are not interested (supervisors and Party leaders in particular should be careful not to pressure employees or volunteers to socialize outside Party events and activities);
- Giving gifts or leaving objects that are sexually suggestive;
- Repeatedly making sexually suggestive gestures;
- Making or posting sexually demeaning or offensive pictures, cartoons or other materials in the workplace or at Party events; and/or
- Off-duty, unwelcome conduct of a sexual nature that affects the work environment or functions of the Party.

Other examples include but are not limited to: cat calling, touching, or slapping of buttocks or other private parts, spreading of sexual rumors, sexual gestures, pressuring someone for sexual favors, and/or leering, etc.

3. Sexual Exposure:

- The unwanted viewing or recording of someone in a state of undress or engaged in sexual activity, or the showing of a person's private parts. It can occur in person or online. Sexual exposure is a form of sexual harassment and depending on the nature of the exposure can amount to a sexual assault/offense.
- Examples include but are not limited to: leering, staring at someone's private parts, exposing of the person's private parts to another person, whether in-person or through electronic means, using a cell phone to view or record someone using the bathroom, taking a shower or getting undressed, peeping into someone's dressing room, tricking or forcing someone to view pornography, taking or sending someone, sexual images without their permission.

4. Sexual Assault:

- Sexual touching can constitute sexual assault and is defined as the touching of a person's private parts without the person's permission even if no sexual penetration occurs.
- Sexual penetration is vaginal intercourse, anal intercourse, fellatio, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person's body; it occurs upon any penetration, however slight, but emission is not required. As used in this definition, "genital opening" includes the anterior surface of the vulva or labia majora; or cunnilingus or anilingus, whether actual penetration has occurred.

Examples include: Touching someone's private parts over or under the clothing, having sexual intercourse, or oral sex with someone who is asleep, passed out, unconscious or too intoxicated or impaired to consent.

A person harmed by sexual harassment can be of any gender identity. The harmed person can be of the same gender identity as the alleged harasser. The harasser may be a supervisor, Party member, or a non-employee who has a business relationship with the Party.

Sexual violence and harassment may be physical and/or psychological in nature. An aggregation of incidents can constitute sexual harassment even if one of the incidents considered on its own might not amount to harassment.

5. Bullying:

Bullying is the use of force, coercion, hurtful teasing, or threat, to abuse, aggressively dominate or intimidate. Bullying can be nonverbal, verbal, cyber and/or physical behavior.

6. Other Prohibited Forms of Harassment:

This policy also prohibits hostile work environment harassment and quid pro quo harassment.

- **Hostile Work Environment Harassment:** Any unwelcome behavior that has the purpose or effect of unreasonably interfering with a member, volunteer, or employee’s work performance/experience or of creating an intimidating, hostile, or offensive work environment. Normally, performance feedback, constructive criticism, coaching/counseling, issuance of discipline, and similar interactions, even if “unwelcome” to an individual, do not fall within the definition of “hostile work environment harassment,” as long as the interactions are conducted in a professional manner.
- **Quid Pro Quo Harassment:** Conditioning of member, volunteer, or employment actions or benefits on the submission to or rejection of sexual or religious demands.

7. Responsible Party Officials:

The DPH Chair, Vice Chair, County Chairs and the Secretary or the Chair of the Anti-Sexual Violence and Bullying Special Committee are designated as Responsible Party Officials for purposes of this policy.

8. Censure:

Censure is any official Party statement reprimanding or condemning an individual or an individual’s conduct.

9. Suspension:

Suspension is any period whereby an individual found to have violated this policy is barred from participating in Party events or from serving in their elected or appointed capacity with the party. Any suspended member who violates the terms of their suspension may face removal from their position or expulsion from the DPH.

10. Removal:

Removal is the permanent dismissal of an individual from their position within the Party or from DPH membership. Any Party leader or member may be removed by the Executive Committee if found in serious violation of this policy. Any individual removed from office may be prevented from holding any Party office for a period of up to five (5) years. Removal of any State Central Committee Officer shall be governed by DPH Rules.

11. Third Party Anti-Harassment Policy:

Please see ‘Attachment 1’ to this policy. It is included for informational purposes and does not affect, supersede, or diminish any provision of this policy.

III. Scope

This Policy is independent of the disciplinary section of the DPH Bylaws (Article I, Section 8) and covers all employees, DPH members, contractors, attendees to DPH functions, or interns of the DPH. Violations of this policy will be subject to discipline, up to and including expulsion from the DPH. Employees, DPH members, contractors, attendees to DPH functions, or interns are prohibited from harassing others on DPH premises and at DPH events.

A person filing a complaint under this Policy is not precluded from filing a complaint as laid out under the disciplinary section of the DPH Bylaws.

All complaints of sexual violence, harassment and bullying will be promptly and thoroughly investigated. Confidentiality shall be maintained, to the degree practicable, throughout the process.

Anyone found to have committed actions of sexual violence, harassment or bullying shall be subject to appropriate disciplinary action. Such action may include censure, suspension, or removal from DPH position or office or expulsion from the DPH.

Notwithstanding the provisions of this Policy, any county party of the DPH may establish rules or policies for meetings that regulate the conduct of those members in attendance.

IV. Procedure for Reporting, Investigation, and Resolution of Complaints

Upon receipt or notice of an allegation of sexual violence, harassment, or bullying, the DPH will take the necessary steps to ensure that all such allegations are promptly investigated and addressed. The DPH will take immediate and effective measures to end any unwelcome behavior. The DPH is committed to taking appropriate action upon learning of possible sexual violence, harassment, or bullying.

1. Reporting

Anyone within the scope of this policy who experiences or observes conduct in violation of this policy may informally speak directly to the offender about their concerns if comfortable doing so. If not, the affected person is encouraged to immediately inform their immediate supervisor/senior Party Official unless the supervisor is the individual committing the alleged misconduct. If the immediate supervisor/senior Party Official is the alleged violator, such

conduct should be reported to a Responsible Party Official. The terms survivor, harmed person, and complainant are used interchangeably in this policy although not all survivors or harmed persons will make complaints.

If the survivor does not wish to communicate directly with the alleged violator or immediate supervisor/senior Party Official, or if such communication has been ineffective, the survivor is encouraged to report the alleged misconduct to a Responsible Party Official. The Chair of the Anti-Sexual Violence and Bullying Special Committee may assist the complainant in completing a written statement or, in the event a complainant declines to provide information in writing, the Chair of the Special Committee will make a written record of the verbal notice.

Any alleged breach of this policy should be reported in writing to the Chair of the Democratic Party of Hawai'i as soon as possible. The DPH Chair will refer the complaint to the Chair of the Anti-Sexual Violence and Bullying Special Committee. Any allegation made against the DPH Chair shall be referred directly to the Chair of the Anti-Sexual Violence and Bullying Special Committee for investigation.

In addition to reporting sexual violence, harassment or bullying concerns to a Responsible Party Official, the harmed person may elect to pursue resolution in several ways, including:

- **Mediation:** Mediation is an informal way to resolve problems using a mutually agreed upon neutral third-party mediator who facilitates communication between the parties to the dispute. If a survivor chooses to attempt resolution through mediation, management is obligated by DPH policy to send a representative to the table. If a resolution is not reached, the parties may continue to pursue their rights in any other appropriate forum.
- **Complaint:** Filing a complaint with the DPH seeking resolution through the process described herein. A complaint made under this policy does not require the additional signatories as on other DPH complaint processes. Upon receipt of the complaint the SCC Exec Committee will assign a committee and follow the timetable laid out in the Rules for processing a complaint.

A report of alleged misconduct may be presented in writing and delivered to 627 South St. Honolulu, HI 96813 or P.O. Box 2041 Honolulu, HI 96805-2041 or Tyler@hawaiidemocrats.org in person, by mail, or by email and marked as "CONFIDENTIAL". Verbal reports, voicemails, text messages, or any other means of message delivery shall be considered valid reporting methods for purposes of this policy.

To ensure the prompt and thorough investigation of any complaint, the complaint should include the following:

1. The name, position in the DPH and the person or persons allegedly committing the misconduct.
2. A description of the incident(s), including the date(s), location(s) and the presence of any witnesses.
3. The effect of the incident(s) on the complainant's ability to perform their job, or on other terms or conditions of their working for the Party.
4. The names of other individuals who might have been subject to the same or similar misconduct.
5. What, if any, steps the complainant has taken to address the misconduct.
6. Any other information the complainant believes to be relevant.

Any report of improper behavior should include as much detail as may be useful. If possible, specific citations from this policy may be included to help determine the scope and focus of an investigation.

2. Duty to Investigate and Role of Chair of the Anti-Sexual Violence and Bullying Special Committee

The DPH shall act expeditiously and fairly when it has knowledge of allegations of prohibited conduct whether there has been a written or complaint. The DPH shall:

- Take all complaints or concerns of alleged or possible harassment seriously no matter how comparatively minor they may seem or who is involved.
- Appoint a committee to conduct a prompt and thorough investigation.
- Take appropriate action to prevent retaliation or prohibited conduct from occurring during and after any investigations or complaints.

Any candidate, campaign staff, employee, volunteer, contractor or intern who knowingly allows or tolerates sexual violence, harassment, bullying or retaliation, or who fails to immediately report such misconduct to DPH, may be in violation of this policy and may be subject to discipline.

The Chair of the Anti-Sexual Violence and Bullying Special Committee is responsible to:

- Ensure that both the individual filing the complaint (complainant) and the accused individual (respondent) are aware of the seriousness of a sexual harassment complaint.
- Explain DPH's sexual harassment policy and investigation procedures to all parties involved.
- Explore informal means of resolving sexual harassment complaints.
- Notify the police if criminal activities are alleged.

- Arrange for an investigation of the alleged harassment and the preparation of a written report.
- Submit a written report summarizing the results of the investigation and making recommendations to the SCC Executive Committee.
- Notify the complainant and the respondent of the corrective actions to be taken, if any, and to administer those actions.
- If a complaint is filed by a witness the survivor is to be contacted to see if they wish for the complaint to move forward. The survivor's wishes are to be followed.

3. Time Limitation

Complaints of sexual violence or sexual assault shall not be subject to any time limitation. When an allegation of felony sexual assault has been made to law enforcement, a member shall immediately be suspended pending the resolution of that complaint. Upon resolution of the criminal complaint, the Executive Committee shall determine whether the suspension shall be maintained and what, if any, further corrective action should be taken.

4. Investigation Procedures

The DPH Chair or Chair of the Anti-Sexual Violence and Bullying Special Committee should, within 48 hours of receipt of a complaint, determine whether the alleged misconduct, if true, would amount to a violation of this Policy. Within 72 hours, if it is determined that the allegation conforms to the reporting guidelines, the DPH Chair shall appoint a five-person investigative committee to investigate the allegations, determine if a violation of this policy has occurred, and to make a recommendation for corrective action. Where allegations are made against the DPH Chair, the Chair of the Anti-Sexual Violence and Bullying Special Committee shall appoint the committee. Failure to meet these time frames shall not be grounds for dismissal of any complaint.

The Chair of the Anti-Sexual Violence and Bullying Special Committee shall determine if an in-house investigation will be conducted or if a third party will be contracted to complete the investigation. All complaints where the alleged misconduct was committed by the DPH Chair or any member of the O'ahu, Maui, Kaua'i and Hawai'i County Committees, any member of the State Central Committee, or any member serving in an elected county, state, or federal positions shall be investigated by an external third party.

If an internal investigation is to be conducted, a five-person committee shall be formed and composed of members who shall have been members of the DPH for at least 90 days prior to appointment. To ensure diverse and impartial representation, the committee will be comprised of one member from each of the following DPH Caucuses:

- Hawaiian Affairs;

- Stonewall; and
- Women's;

As well as one representative from each of the following SCC Committees:

- Affirmative Action; and
- Rules.

The investigative committee shall also be authorized to acquire any legal assistance as required to advise on any aspect of the investigation.

The investigative committee shall investigate and decide, within 28 days of appointment, whether a violation of this policy has occurred. If that deadline falls on a weekend or federal or state holiday, the committee shall have until the close of the next business day to complete its investigation. Failure to meet these time frames shall not be grounds for dismissal of any complaint.

During the investigation, the Chair of the Anti-Sexual Violence and Bullying Special Committee together with legal counsel (if necessary) and the members of the investigative committee, will interview the complainant, the respondent, and any witnesses to determine whether a violation of this policy occurred.

The investigative committee shall have the authority to make use of DPH staff and facilities as necessary. They may meet in person or via teleconference.

5. Complaint Resolution

- Upon concluding its investigation, the investigative committee shall submit a written report of their findings to the DPH Chair and/or Chair of the Anti-Sexual Violence and Bullying Special Committee. If it is determined that a violation of this policy has occurred, the investigative committee shall recommend appropriate disciplinary or other corrective action. The recommended action shall depend on the following factors and must be arrived at via consensus:
 - the severity, frequency and pervasiveness of the conduct;
 - prior complaints made by the complainant;
 - prior complaints made against the respondent; and
 - the quality of the evidence (e.g., firsthand knowledge, credible corroboration).
- Following receipt of the investigative committee's report, the DPH Chair and/or Chair of the Anti-Sexual Violence and Bullying Special Committee shall transmit the report, together with any recommendations, to the SCC Executive Committee.

- The SCC Executive Committee will review the investigative report and any statements submitted by the complainant or respondent, discuss results of the investigation with the Chair of the Anti-Sexual Violence and Bullying Special Committee or any other members of the investigative committee as appropriate, and decide what action, if any, whether or not disciplinary in nature, will be taken.
- If the investigation is inconclusive or if it is determined that there has been no violation of policy, but potentially problematic conduct may have occurred, the investigative committee may make recommendations intended to prevent further problematic conduct from occurring.
- If an investigation results in a finding that this policy has been violated, the mandatory minimum discipline to be imposed shall be a written reprimand. The discipline for very serious or repeat violations may include termination of employment or expulsion from the DPH.
- Any report recommending corrective action, including censure, suspension, or removal must be approved by the SCC Executive Committee by a majority vote of those members present. Any report recommending dismissal of the complaint shall be effective upon issuance of the committee's report.
- Once a final decision is made by the SCC Executive Committee, the Chair of the Anti-Sexual Violence and Bullying Special Committee will meet with the complainant and the respondent separately and notify them of the findings of the investigation. If disciplinary action is recommended, the respondent will be informed of the nature of the discipline and how it is to be imposed.

6. Appeal Process

An appeal by either Party may be made in writing to the Chair of the Anti-Sexual Violence and Bullying Special Committee within five (5) calendar days after such Party has received the decision. An appeal must state the grounds on which the appeal is made. Grounds for appeal are limited to:

1. Procedural irregularity that affected the outcome of the matter; or
2. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter; or
3. A member of the investigative committee had a conflict of interest or bias for or against complainants or respondents generally or the individual complaint or respondent that affected the outcome of the matter.

Upon receipt of an appeal, the Chair of the Anti-Sexual Violence and Bullying Special Committee shall forward the appeal to the other Party. The non-appealing Party will have five (5) calendar days to submit a written statement in support of or against the appeal to the Chair of the Anti-Sexual Violence and Bullying Special Committee.

Supportive measures, if applicable, will continue to remain in place during the appeal process. However, no Corrective or Preventive Measures will be implemented prior to the appeal process ending.

The Chair of the Anti-Sexual Violence and Bullying Special Committee will issue a written decision regarding the appeal and the rationale for appeal decision within ten (10) business days from the end of the five (5) calendar day period for the non-appealing Party's statement deadline. This decision will be provided to both Parties simultaneously and will be a final determination regarding the initial complaint and cannot be further appealed.

7. Confidentiality

All complaints and investigations shall be kept confidential to the extent possible and information shall be disclosed strictly on a need-to-know basis. The identity of the complainant shall be revealed to the parties involved during the investigation and the Chair of the Anti-Sexual Violence and Bullying Special Committee will take adequate steps to ensure that the complainant is protected from retaliation before, during, and after the investigation. All information pertaining to a sexual violence, harassment or bullying complaint or investigation shall be maintained in secure files within DPH headquarters.

8. Non-Exclusivity of Remedies

The procedures available under this policy do not preempt or supersede any legal procedures or remedies otherwise available to a survivor of sexual violence, harassment or bullying under local, state, or federal law.

ATTACHMENT #1

Third Party includes vendors, consultants, contractors, and other state parties.

Third Party Anti-Harassment Policy Agreement

Democratic Party of Hawai'i ("Party") believes every employee of the Party has the right to work in an environment free from discrimination and harassment. The Party has written policies prohibiting harassment and discrimination based on race, religion, sex, national origin, disability, sexual orientation, gender identity, gender expression, genetic information, and any other characteristic protected by law.

These anti-harassment/anti-discrimination policies apply not only within the Party itself, but serve to protect a Party employee from harassment or discrimination when an employee is interacting by virtue of their employment, with any third-party organization, vendor, committee, or other organized or formal group, including but not limited to the Democratic Parties of other states ("Third Party").

This Policy, and the guidelines below, are not intended to supersede or override the Party's or any Third Party's own harassment and discrimination policies or any applicable law, but is intended to explain the Party's expectations in its dealings with Third Parties.

Guidelines:

Third Parties are expected to:

- Understand the nature of harassment and discrimination, and understand that even where harassing and discriminatory conduct may not rise to the level of a legal violation, such conduct is contrary to the values of the Party;
- Understand that bullying conduct is not appropriate;
- Maintain professionalism at all times;
- Pursue equity and inclusivity in all interactions with the Party; and
- Act with respect and empathy, including understanding unconscious bias.

Requirements:

Each Third Party with whom a Party employee is interacting on Party business by virtue of or in the course of their employment with the Party, is expected to:

- 1) Have written anti-harassment and anti-discrimination policies at least as stringent as those required by applicable law prohibiting discrimination and harassment;
- 2) Make such policies available to the Party for review upon request;

- 3) Ensure that all individuals acting with or on behalf of the Third Party are aware of the Third Party's anti-harassment policies;
- 4) Ensure that all individuals acting with or on behalf of the Third Party will abide by those anti-discrimination and anti-harassment obligations at all times, including when interacting with the Party;
- 5) Ensure that all individuals acting with or on behalf of the Third Party are aware that discrimination, harassment, and other inappropriate conduct directed against the Party's employees will not be tolerated by the Party;
- 6) Review the guidelines below and ensure that all individuals acting with or on behalf of the Third Party will abide by the guidelines at all times when interacting with Party employees;
- 7) Understand that this Policy and the guidelines above are meant as a framework only and are not intended to replace or supersede specific anti-harassment policies;
- 8) Acknowledge that Party may investigate allegations of harassment and discrimination and, where appropriate, intervene in order to protect Party employees; and
- 9) Agree to cooperate to the extent reasonable with any Party investigation and to hold any Third Party employees, personnel, staff, and agents accountable for violations of this Policy.

Failure by Third Parties to abide by this Policy may result in the modification or cessation of the relationship between the Third Party and the Party, including in the prohibition of further interactions with the Party and its personnel.