



**Illinois House of Representatives, Office of the Speaker:  
Investigations, Analysis & Recommendations  
Regarding Workplace Culture**

Margaret A. Hickey | Schiff Hardin LLP | August 2019

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## Executive Summary

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The Illinois House of Representatives (House) is one half of the bicameral legislature of Illinois and the legislative body established to be most responsive to Illinois voters. Representatives reflect the differing and passionate opinions of people across the state and attempt to work together to identify and address many of the most pressing issues facing Illinois residents.

The Speaker of the House (Speaker) is the House's chief administrative officer. To fulfill the responsibilities of that position, the Speaker oversees the Speaker's Office, which often has more than 200 workers.<sup>1</sup>

In June 2018, after consultation with members of the House Democratic Women's Caucus, the Speaker's Office hired Schiff Hardin LLP and Maggie Hickey, a partner at Schiff Hardin, to investigate three specific sets of allegations:

- Representative Kelly Cassidy's allegations that then-Chief of Staff and Clerk of the House Timothy Mapes, Representative Robert Rita, and Speaker Michael Madigan retaliated against her for speaking out against how the Speaker's Office handled sexual discrimination and harassment claims;
- Activist Maryann Loncar's allegations that, years ago, then-Representative Lou Lang made unwanted sexual advances toward her and bullied her after she rebuffed his sexual advances and disagreed with legislative changes he proposed;<sup>2</sup> and
- Then-Speaker's Office worker Sherri Garrett's allegation that, among other things, Mr. Mapes made inappropriate sexual comments to her over the course of several years.

The Speaker also asked Ms. Hickey to investigate and assess the overall culture of the Speaker's Office and review the Speaker's Office's procedures for handling sexual harassment complaints.

This was an independent investigation. While we received cooperation from the Speaker's Office, Ms. Hickey and her investigative team chose how to investigate the allegations and the Speaker's Office's culture. We summarize our findings in the *Specific Allegations* and *Workplace Culture* subsections below.

<sup>1</sup> This report uses the term "worker" rather than "employee," because, as explained further in [Attachment 1](#), "employee" has a unique meaning in state and federal employment law, which reflects certain relevant protections.

<sup>2</sup> While he is no longer a representative, we refer to Lou Lang as "Representative Lang" throughout this report, because he was a representative during the relevant periods.

### *Specific Allegations*

As the three specific sets of allegations demonstrate, the Speaker's Office interacts with a variety of workers and members of the public, including representatives, lobbyists, and others working in Illinois politics. Throughout this report we refer to this larger setting as the "Capitol workplace."

Various personnel codes govern the different categories of workers in the Capitol workplace. The Speaker's Office's Personnel Rules and Regulations (Speaker's Policies), for example, require its workers to "discharge [their] duties in a courteous and efficient manner." Likewise, Illinois House Rule 89 prohibits representatives from committing "disorderly behavior,"<sup>3</sup> and the Illinois Governmental Ethics Act prohibits representatives from engaging in conduct "which is unbecoming to a legislator or which constitutes a breach of public trust."<sup>4</sup> We investigated the three specific sets of allegations based on the applicable codes of conduct, which are broader and often clearer than the minimum standards established by state and federal law.<sup>5</sup>

Applying these rules to the three sets of allegations and the evidence we discovered during our investigation, we reached the following conclusions:

- We did not find sufficient evidence to conclude that Mr. Mapes, Representative Rita, or Speaker Madigan "retaliated" against Representative Cassidy in response to her public criticisms of how the Speaker's Office handled sexual harassment and discrimination complaints. While "retaliation" may be construed as a legal term that typically involves employment relationships that do not apply here, we considered whether Mr. Mapes's, Representative Rita's, or Speaker Madigan's alleged conduct toward Representative Cassidy violated applicable codes of conduct. We did not find sufficient evidence to conclude that Mr. Mapes violated the Speaker's Policies by calling Representative Cassidy's then-outside employer—the Cook County Sheriff's Office—regarding her employment status; that Representative Rita violated the Illinois Governmental

<sup>3</sup> The Illinois House Rules are available online. *See, e.g., House Rules for the 100th General Assembly* (2017), available at [http://www.ilga.gov/house/100th\\_House\\_Rules.pdf](http://www.ilga.gov/house/100th_House_Rules.pdf), and *House Rules for the 101st General Assembly* (2019), available at <http://www.ilga.gov/legislation/101/HR/PDF/10100HR0059lv.pdf>.

<sup>4</sup> 5 ILCS 420/3-107.

<sup>5</sup> While certain substantive federal and Illinois laws apply to workers, representatives, lobbyists, and other members of the Capitol workplace, these laws apply differently to these groups. *See Attachment 1* for more details. We applied standards that are distinct from those that a judge would likely apply in a lawsuit or administrative proceeding. We do not, for example, limit our analysis based on the statute of limitations, and we do not limit our recommendations based on whether conduct was sufficiently severe to warrant penalties. As a result, any finding of wrongdoing in this report does not reflect an opinion that someone can sue, should sue, or would prevail in a lawsuit or administrative proceeding.

Ethics Act by making comments about Representative Cassidy’s outside employment or her position on related legislation; or that Speaker Madigan violated the Illinois Governmental Ethics Act by declining to meet with Representative Cassidy or by sending a public letter that some people interpreted as threatening Representative Cassidy’s committee positions.

- We did not find sufficient evidence to conclude that then-Representative Lou Lang made unwanted sexual advances toward Activist Maryann Loncar or that Representative Lang bullied Ms. Loncar.
- We found sufficient evidence to conclude that Mr. Mapes did not “discharge [his] duties” as the Chief of Staff and Clerk of the House “in a courteous and efficient manner” when he made several inappropriate comments to or around Ms. Garrett. While Mr. Mapes’s comments were of varying levels of inappropriateness, and some comments were open to interpretation, Mr. Mapes unequivocally violated the Speaker’s Policies when he dismissed and mocked Ms. Garrett for coming forward with her serious concerns about potential sexual harassment. Mr. Mapes’s comment also undermined the efficient performance of his duties, because it meant that Ms. Garrett no longer felt comfortable voicing her concerns about workplace harassment to him or others. This allowed Mr. Mapes’s behavior to continue unchecked until Ms. Garrett’s press conference, which led to the quick and unplanned resignation of Mr. Mapes.

In addition to investigating these allegations, we also felt compelled to investigate the tacit claims that Representative Cassidy, Ms. Loncar, and Ms. Garrett knowingly made false allegations. During interviews, some witnesses expressed doubt regarding Representative Cassidy’s, Ms. Loncar’s, and Ms. Garrett’s claims and attributed various ulterior motives to their public statements. If Representative Cassidy, Ms. Loncar, and Ms. Garrett are to suffer reputational harms for purportedly making knowingly false allegations, then they deserve to know what, if any, evidence exists that they did so. Everyone deserves due process, including complainants who are accused of making knowingly false allegations.<sup>6</sup>

While we did not find sufficient evidence to substantiate Representative Cassidy’s or Ms. Loncar’s allegations, we also did not find sufficient evidence to conclude that either Representative Cassidy or Ms. Loncar knowingly made false allegations. Further, we did find sufficient evidence to support Ms. Garrett’s claim that Mr.

<sup>6</sup> In this report, we use the term “complainant,” rather than “victim” or “alleged victim,” because complaints do not always come from the victim or alleged victim. Complainants may not be directly affected by the conduct, or they may make a complaint on someone else’s behalf.

Mapes acted inappropriately toward her, and we did not find sufficient evidence to conclude that Ms. Garrett knowingly made false allegations.

These conclusions are important. One of the major disincentives to whistleblowing—especially making public allegations regarding sexual misconduct—is that the whistleblower’s reputation may be irreparably damaged based on what others decide to do: whether someone investigates the claims, whether the evidence supports the claims, and even how the public feels about their claims, regardless of merit.

The Speaker’s Office’s response to complainants will either encourage or discourage others from raising concerns. If the Speaker’s Office responds appropriately, it will be better able to identify and resolve existing or future problems. While it is important to guard against intentional assertions of false claims, the Speaker’s Office must not punish people who make genuine complaints—even if those complaints end up not supported by sufficient evidence.

The fact that an investigator does not find sufficient evidence to support a claim does not mean that something did not happen, nor does it mean that the complainant did not genuinely believe that something happened. As a result, there may be situations when there is insufficient evidence to justify punishing the accused *and* insufficient evidence to believe the complainant intentionally misstated what happened. Recognizing this fact is imperative to ensure the fair and respectful treatment of specific complainants, other workers in the Capitol workplace, and by extension, workers throughout Illinois.

Further, by coming forward, Ms. Garrett, Representative Cassidy, and Ms. Loncar triggered various improvements in the Speaker’s Office, including staffing changes and this investigation, which identified issues that can and should be addressed. Moreover, the many other people who cooperated with this investigation helped identify what the Speaker’s Office has done well for years and specific areas that can be improved.

### *Workplace Culture*

During this investigation, Ms. Hickey interviewed more than 100 people, including current and former Speaker’s Office workers, legislators, and others involved in Illinois politics and the Capitol workplace. Specifically, Ms. Hickey interviewed more than 80 current or former members of the Speaker’s Office—including workers on the Speaker’s Staff and in the Office of the Clerk of the House (“Clerk’s Office”)—and more than 12 representatives from the Democratic Caucus. Ms. Hickey and the Schiff Hardin team also reviewed thousands of documents, including personnel files, emails, text messages, and legislative transcripts and journals.



Our investigation revealed the following information. People from across the Capitol workplace reported that they had witnessed or personally experienced what they described as inappropriate sexual conduct in the Capitol workplace. They described conduct that included inappropriate sexual comments and unwelcome sexual advances.

The current and former workers in the Speaker's Office that we interviewed, however, gave varying feedback regarding inappropriate sexual conduct in the Speaker's Office. Female workers, for example, were more likely to describe personal experiences hearing inappropriate sexual comments. More workers, however, said that they had witnessed or personally experienced what they considered to be bullying. In fact, most workers across the Speaker's Office and across genders and positions said that they were more concerned with bullying than with inappropriate sexual conduct.

What is more, the vast majority said that they would not have reported misconduct under the previous Chief of Staff Timothy Mapes, for various reasons detailed in this report. In addition to serving as Chief of Staff since 1992, Mr. Mapes was also the Clerk of the House since 2011 and the Executive Director of the Democratic Party of Illinois since 1998. For this reason, workers were concerned that Mr. Mapes had discretion to affect their positions, opportunities, and benefits. In some cases, people believed that they were more replaceable than the subjects of their potential complaints. People were also concerned that making complaints would reflect negatively on them. Even though we identified only a few instances when the Speaker's Office terminated a worker's employment, workers commonly perceived that they could lose their jobs at any time and for any or no reason.

In fact, most of the people interviewed—regardless of their views of Mr. Mapes—agreed that Mr. Mapes commonly threatened people's jobs or reminded them that they were dispensable. People believed that Mr. Mapes attempted to motivate workers through fear and that a few other supervisors throughout the years emulated this practice. Some people also raised the additional concern that, given Mr. Mapes's political ties, he could make or break their careers outside of the Speaker's Office as well.

Most people who expressed concerns about Mr. Mapes's leadership believed that the workplace culture has improved since he left the Speaker's Office. Others, however, remained skeptical and believed that any improvements to the Speaker's Office are superficial. A small group believed that long-lasting improvement in the Speaker's Office is impossible. Finally, many believed that the three specific sets of allegations the Speaker's Office hired Ms. Hickey to investigate would not have been addressed the same way or as thoroughly if the complainants had not taken their allegations public.

Speaker Madigan expressed the same sentiment:

[T]hese young women did not feel there was anyone willing to listen or take action to alleviate their concerns.

What became clear is that I didn't do enough, and that we, collectively, have failed in the Capitol to ensure everyone can reliably, confidentially and safely report harassment. I thought the pathways were there, but they weren't.

...

Our office is taking immediate steps to improve. We have established a new process to bring complaints so that [the new Chief of Staff Jessica] Basham knows of any future allegations and reports them to me. We will enforce in-person sexual harassment training. Directors and supervisors will receive continuing training on how to better handle workplace behavior. I am accountable for my office and will ensure that any issues are dealt with quickly and appropriately.<sup>7</sup>

As described throughout this report, the Speaker's Office is a unique workplace and has a distinct workforce. As with any workplace, personnel problems are inevitable. The question is how the Speaker's Office will handle these problems in a political environment that requires accountability. Depending on the status of the accused, the complainant, and the election cycle, this political environment may sometimes encourage an over- or under-reaction to complaints. In the past, the structure of the Speaker's Office left important decisions—whether to respond, how to respond, and whether to notify the Speaker—to the discretion of one person, the Chief of Staff. This system is not, on its face, unreasonable, but many witnesses told us that they have lost their faith in it. And our investigation showed that, under Mr. Mapes, it failed.

Since this investigation began, the Speaker's Office has taken several steps to educate workers regarding the various external avenues to report misconduct for those who do not feel comfortable reporting internally. The General Assembly has also taken legislative action to strengthen those external avenues, including

<sup>7</sup> Michael Madigan, *Commentary: Michael Madigan on sexual harassment in Springfield: I wish I had acted sooner*, CHICAGO TRIBUNE (September 19, 2018), available at <https://www.chicagotribune.com/news/opinion/commentary/ct-perspec-michael-madigan-sexual-harassment-metoo-0920-20180919-story.html>.

amending statutes regarding the Legislative Inspector General and the Inspector General for the Secretary of State.<sup>8</sup>

Nonetheless, it is important for the Speaker's Office (and all workplaces) to have internal policies and procedures that workers trust to resolve workplace issues. For these avenues to work, people must trust them and believe that they will lead to just outcomes by respecting due process and observing the necessary confidentiality. And, in addition to having reporting mechanisms, the Speaker's Office must remain diligent to foster a workplace culture that stifles bad behavior like harassment, discrimination, and bullying in the first place. As we explain in [Attachment 1](#), legal protections and remedies can be difficult to navigate—especially for workers in state legislatures. While people may also take complaints public—which today may be more likely to be taken seriously than ever before—doing so can come with high costs to the complainant, to the accused, and to the workplace.

Fortunately, the Speaker's Office has also taken several key steps toward improving its internal policies, procedures, reporting mechanisms, and its workplace culture.<sup>9</sup> The Speaker's Office has, among other things, reached out to all of its workers to address concerns, provided additional anti-sexual harassment training not required by law, and provided its workers with updated contact information for how to report discrimination and harassment. The Speaker's Office has also addressed concerns regarding general workplace culture by hiring an Equal Employment Opportunity Officer, creating a human resources department, and providing all workers with performance evaluations. Moreover, the Speaker's Office now has different people in the leadership positions that were previously held by one person, Mr. Mapes.

In this report, we provide additional recommendations regarding how the Speaker's Office can continue toward achieving and maintaining a healthy workplace culture. We summarize these recommendations on page 9, below.

Many people believe that the Speaker's Office has substantial power and influence over the Capitol workplace. Some people believe that, historically, this power has

<sup>8</sup> For example, the 101st General Assembly recently passed Senate Bill 75, which among other things, adds notification rights for people who have been identified as victims in complaints, expands relevant harassment definitions to cover more workers, and creates additional training requirements regarding other forms of harassment and discrimination. Governor J.B. Pritzker signed Senate Bill 75 into law on August 9, 2019. See Pub. Act 101-0221 (S.B. 0075) (August 9, 2019), *available at* <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=75&GAID=15&DocTypeID=SB&LegID=115041&SessionID=108&GA=101>. See also Public Act 100-00588 (H.B. 0138) (2018) (amending, among other things, the process for selecting a Legislative Inspector General to avoid long vacancies), *available at* <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=138&GAID=14&DocTypeID=HB&SessionID=91&GA=100>.

<sup>9</sup> Section 5, subsection IV (Recent Changes by the Speaker's Office) contains a more detailed list of the steps the Speaker's Office has taken to improve its workplace culture.

been used to silence opposition and that the Speaker's Office's reputation has discouraged some people from coming forward. But many people that we interviewed focused, instead, on how the Speaker's Office can use its power to eliminate harassment and discrimination from the Capitol workplace by being transparent, accountable, and a model for other workplaces and legislatures. We agree.

## Key Recommendations<sup>10</sup>

### Strengthen Leadership

- Divide Responsibilities across Separate Leadership Positions
  - Establish a more pronounced role for the Speaker in office management
  - Have the general counsel and director of human resources report directly to the Speaker
  - Separate the general counsel and ethics officer positions
  - Clearly delineate reporting structures for all positions
- Reinforce the Importance of Respect in the Workplace

### Invest in the Workplace & Encourage Buy-In

- Bolster the Human Resources Department to
  - Create and maintain personnel files
  - Create accurate and comprehensive job descriptions
  - Identify appropriate job qualifications
  - Facilitate recurring performance evaluations
  - Identify needs for updates to policies and procedures
  - Assist with training and provide information regarding resources
  - Assist with interviewing and onboarding new workers
  - Assist with staffing needs and transfer procedures
  - Provide traditional human resources functions
  - Engage with the workforce regarding morale and culture
- Increase and Improve Training
- Conduct Recurring 360° Reviews (Up, Down & Across the Reporting Line)

### Address and Prevent Harassment

- Create and Protect a Culture of Respect by Addressing Inappropriate Conduct
- Increase Reporting Mechanisms
- Make the Human Resources Department Responsible for Internal Complaints
  - Develop informal resolution procedures
  - Target deadlines for completing investigations
  - Ensure confidentiality, as appropriate
  - Follow clear conflict-of-interest policies
  - Maintain records of complaints, investigations, and resolutions
  - Determine level of discipline consistent with other cases
- Address Risk Factors Caused by the Speaker's Office's Unique Workplace, by Following the EEOC Task Force's Recommendations:
  - Apply workplace rules uniformly across all levels
  - Conduct early and recurring trainings regarding reporting mechanisms and appropriate workplace conduct
  - Target particularly at-risk workers, such as young workers and supervisors, with training

- Monitor workplace relationships with significant disparities
  - Be wary of the mentality that third-parties (i.e., the public) are always right
  - Proactively and intentionally create a culture of civility and respect, involving the highest levels of leadership
  - Proactively identify current events that are likely to be discussed in the workplace and remind the workforce of the types of unacceptable workplace conduct
  - Train coworkers to intervene when they observe alcohol-induced misconduct
  - Remind managers about their responsibilities if they witness harassment at events
  - Restructure job duties and workloads and monitor the relationships among positions that are most likely to be monotonous or low intensity
  - Ensure that isolated workers understand complaint procedures
  - Create opportunities for isolated workers to connect
  - Ensure training reaches all levels of the organization
  - Develop systems for geographically diverse locations to connect
  - Increase diversity in all levels of the workplace
- Consider Fraternalization Policies
  - Clarify Whether Workers Are "Employees"
  - Update Policies and Procedures
    - Incorporate the role of the human resources department
    - Clearly state that sexual harassment policies will be enforced against workers at all levels and against supervisory and managerial personnel who knowingly allow such behavior to continue
    - Provide a more detailed and robust definition of sexual harassment and retaliation, including examples of prohibited conduct specific to the Speaker's Office
    - Include the Speaker's Office's complaint procedures and contact information
    - Inform workers of state and federal rights and remedies for victims of sexual harassment across positions in the Speaker's Office
    - Clarify the confidentiality policy and provide appeal procedures
  - Guard Against Discrimination

### External Partnerships and Cross-Party Solutions

- Encourage Consistent Policies and Procedures Across State and Campaign Work
- Facilitate Cross-Party and Bi-Cameral Solutions
- Consider Legislative Solutions (e.g., changes to the Legislative Inspector General process)

<sup>10</sup> Ms. Hickey believes that these recommendations will improve the Speaker's Office's workplace culture. These recommendations are based on best practices, as cited throughout this report, and extensive experience investigating workplace misconduct and managing workplaces. We explain these recommendations in [Section 5](#).

## Roadmap

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The Speaker’s Office hired Maggie Hickey and Schiff Hardin to investigate three specific sets of allegations and give an overview of the Speaker’s Office’s procedures and workplace culture. After providing key factual and legal background in Section 1, we address each issue in a separate section. Since this report is lengthy, we have written it so that each section can be read independently.

Section 1 presents background on the scope of the investigation, the complexities of the structure of the Speaker’s Office, and applicable laws, rules, and best practices regarding sexual harassment and discrimination. Section 2 presents the results of our investigation of Representative Kelly Cassidy’s allegations regarding then-Chief of Staff and Clerk of the House Timothy Mapes, Representative Robert Rita, and Speaker Michael Madigan. Section 3 presents the results of our investigation of Maryann Loncar’s allegations regarding then-Representative Lou Lang. Section 4 presents the results of our investigation of Sherri Garrett’s allegations regarding Timothy Mapes. Because Garrett’s allegations overlap with many of the issues we heard regarding the Speaker’s Office’s culture, we discuss those allegations last. Section 5 presents the results of our investigation into the Speaker’s Office’s culture and our corresponding recommendations. Finally, we end the report with our conclusion, summarizing our investigation, findings, and recommendations.

The sections begin on the following pages:

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## Section 1. Background

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This section provides background information for the entire report. First, we summarize the scope of this investigation. Second, we describe the Speaker's Office, its organizational chart, and its job positions. Third, we provide a brief description of the political side of the Capitol workplace. Finally, we introduce the various rules that apply to the Speaker's Office and the surrounding Capitol workplace.

### **I. Scope of the Investigation**

In June 2018, the Speaker's Office announced that Ms. Hickey would investigate Representative Cassidy's, Ms. Loncar's, and Ms. Garrett's allegations. The Speaker's Office also hired Ms. Hickey to identify systemic failures and recommend reforms and new policies that would help create a better culture throughout the operations of the Speaker's Office.

That month, the newly appointed Chief of Staff, Jessica Basham, sent emails to all Speaker's Office workers and representatives in the Democratic Caucus, providing Ms. Hickey's contact information and encouraging their cooperation with Ms. Hickey's investigation.

Ms. Hickey joined Schiff Hardin in April 2018 as a partner and practice group leader for the White Collar Defense and Government Investigations Group. Before she joined Schiff Hardin, Ms. Hickey had a distinguished career in public service, as the Illinois Executive Inspector General for the Agencies of the Illinois Governor and, earlier in her career, as the Executive Assistant U.S. Attorney for the Northern District of Illinois. Other Schiff Hardin lawyers and staff assisted Ms. Hickey with her investigation and this report.

Most of the interviews were completed in the summer and fall of 2018. However, some key witnesses wished to be interviewed regarding specific allegations after other investigations were completed, so these interviews were not completed until spring 2019.

### **II. The Speaker's Office of the Illinois House of Representatives**

Because issues of harassment and workplace cultures are inextricably linked to workplace conditions—such as job descriptions, hierarchies, opportunities for advancement, and job security—this section describes the Speaker's Office organization and job positions in detail. This is particularly important because the organization is complicated. In fact, some interviewees who have worked in the Speaker's Office for decades were still unclear on the structure of the office.

The Speaker's Office operates in a political environment. The House and the Illinois State Senate make up the Illinois General Assembly, which typically convenes for "session"—when the legislature meets to create and amend laws, approve budgets, confirm appointments, and perform other legislative acts—from January through May of each year.<sup>11</sup> The Speaker's Office exists largely to assist the majority party of the House, the Democratic Caucus of Illinois, but also has duties to the entire House.<sup>12</sup> Districts elect representatives every two years, and the House, in turn, elects the Speaker every two years.

As a result, jobs in the Speaker's Office, like many other government positions, are not guaranteed and depend on election results, at least indirectly. In fact, some of the people who hold the highest positions are elected by the House, including the Speaker, the Clerk of the House, the Assistant Chief Clerk, and the Doorkeeper. In addition to these elected positions, the Speaker's Office includes a combination of full-time workers; part-time workers; temporary, contract, and seasonal workers; and interns.

Still, many positions in the Speaker's Office have been filled by the same people for many years. A number of them work in the Capitol Building, but most work in the adjacent Stratton Building, which houses the representatives' offices. Many workers have relatively low salaries compared to the elected officials, supervisors, and lobbyists they work with daily.

Full-time workers are paid by Illinois as state workers with corresponding state benefits, such as health insurance, retirement benefits, and benefit time, including sick, vacation, and compensatory time. Part-time and contract workers, while paid, might not receive any additional benefits, such as healthcare, vacation time, or retirement benefits. Interns might not be paid at all, but in some circumstances, may receive course credit. The Speaker's Office hires all workers in "at will" positions.<sup>13</sup>

As reflected in the chart below, the Speaker's Office is divided between the "Speaker's Staff" (outlined in bold lines) and the Office of the Clerk of the House

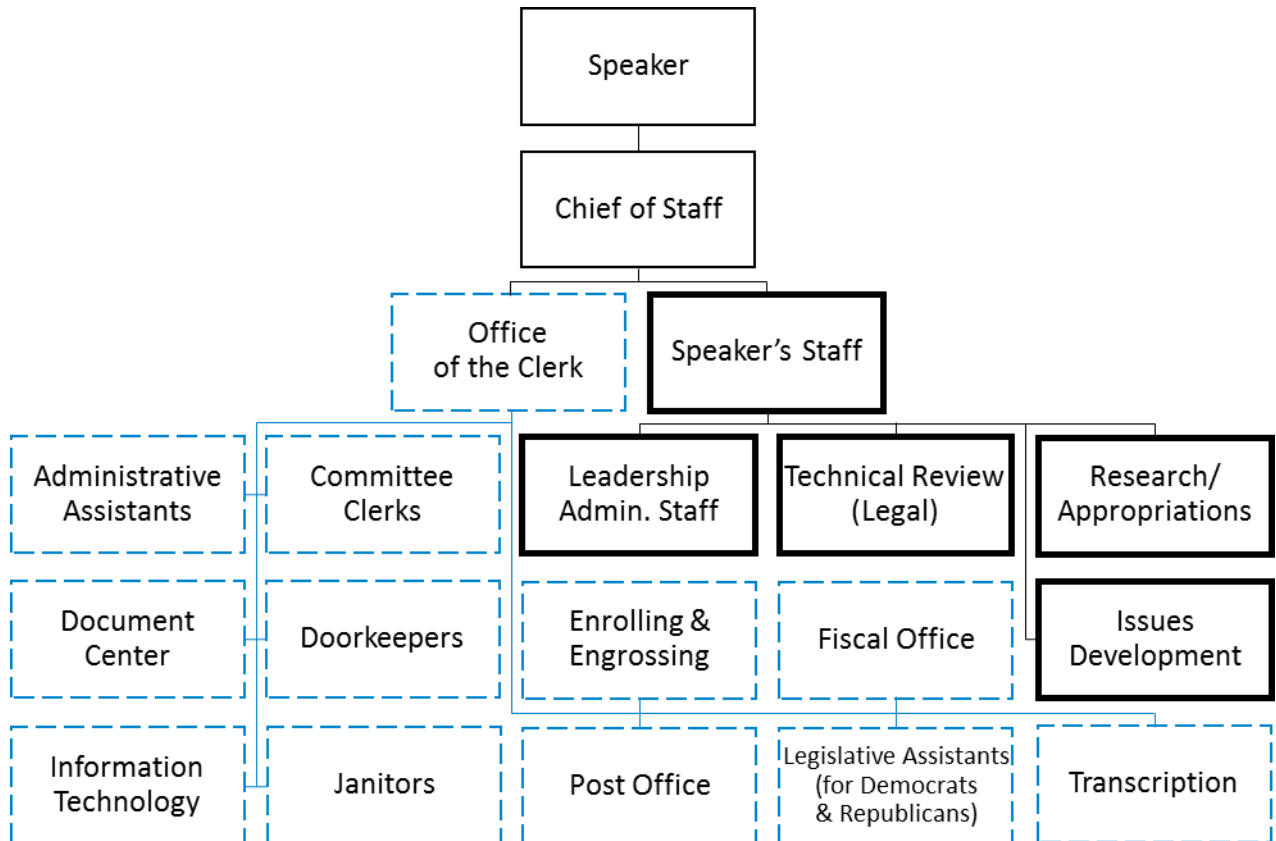
<sup>11</sup> Illinois General Assembly, *House Schedules*, available at <http://www.ilga.gov/house/schedules/default.asp> (last visited July 6, 2019).

<sup>12</sup> See, e.g., the Illinois General Assembly Staff Assistants Act, 25 ILCS 160/*et seq.*, and the General Assembly Compensation Act, 25 ILCS 115/*et seq.*

<sup>13</sup> Workers who are at-will may have their employment terminated with or without cause. Employers may not, however, terminate an at-will worker's employment for unlawful reasons, such as discrimination based on a protected class. See [Attachment 1](#) for more details. According to the Illinois Personnel Code, state employees have additional job protections, but officers and employees of the General Assembly are specifically exempt. See 20 ILCS 415/4c(4). "Exempt" state employees may be terminated for political affiliation. See, e.g., *Shakman v. Democratic Org. of Cook Cty.*, 1:69-CV-02145, (N.D. Ill. 1969), ECF No. 4798. These positions are commonly referred to as "Rutan-exempt."



(“Clerk’s Office”) (outlined in dotted lines). In most cases, job duties are cleanly divided between the two categories, but there are exceptions. For example, some workers have moved from one category to the other, while keeping some of their previous responsibilities. Other workers have an even more unique reporting structure. Legislative assistants, for example, work directly for representatives but technically report to the Clerk, who reports to the Chief of Staff and the Speaker.<sup>14</sup> At the same time, legislative assistants who work for Republican representatives report to a supervisor who reports to House Republican Leadership, but as above, these legislative assistants ultimately report to the Clerk.



The Speaker’s Office’s “workplace” is spread throughout the state, from the Capitol to many districts throughout Illinois. Workers have set hours, but many workers are required to work longer hours during session.

<sup>14</sup> See, e.g., *the Speaker’s Office Personnel Rules and Regulations* (effective December 11, 2017) (Attachment 2) at Article 14 (legislative assistants “must have their time off request approved in advance by their assigned Representatives as well as the secretarial supervisor for the caucus”) and Article 32 (“The chain of command is the supervisor, the Chief Clerk, the Chief of Staff, and the Speaker of the House.”). Legislative assistants’ job duties can vary drastically. But most of the legislative assistants whom we interviewed described having secretarial duties—rather than duties typically associated with “legislative assistants,” such as reviewing, drafting, and advising on legislation.

The Speaker's Office also frequently interacts with various members of the Capitol, including lawmakers (members of the House and Senate), lobbyists, advocates, and the public. In fact, some members of the Speaker's Office frequently work more closely with people who do not work for the Speaker's Office.

The following is a more detailed description of these positions by category, including location, seasonal activity, job duties, and locations. Because the Speaker's Office did not have formal job descriptions for all positions, the following summary is based on information we received from the workers regarding their own positions and from their subordinates, if applicable.<sup>15</sup>

#### A. Office of the Clerk for the Illinois House of Representatives

The Clerk's Office can include over 100 workers during session, who are mostly support staff for the House. Many of these positions are year-round, full-time workers or contract workers, including information technology workers, administrative assistants, document center workers, fiscal office workers, journal room workers, enrolling and engrossing workers, transcription workers, Democratic and Republican legislative assistants, post office workers, and janitors. Other positions, such as doorkeepers, pages, and committee clerks, are staffed by contract workers who work only during legislative sessions.

The Clerk's Office is bipartisan and serves the entire House, including the Democratic and Republican caucuses. The House elects the Clerk, who is typically a member of the majority party, and the Assistant Chief Clerk, who must be from a different party than the Clerk. While the Clerk and the Speaker's Office must ultimately sign off on hiring decisions, both parties participate in hiring workers in the Clerk's Office, and each party accounts for roughly half of the workers in the Clerk's Office. Legislative assistants, however, are typically hired in consultation with the representatives they work with.

Timothy Mapes was the Clerk of the House from 2011 until he resigned in June 2018. The former "Reading Clerk," John Hollman, replaced Mr. Mapes as the Clerk. Brad Bolin has been the Assistant Chief Clerk since 1997.

#### B. Speaker's Staff

Although the number fluctuates depending on whether the legislature is in session, the Speaker's Staff can include over 100 workers at one time. Workers on the Speaker's Staff work throughout Illinois, with some in the Speaker's Chicago office,

<sup>15</sup> The Speaker's Office is currently creating job descriptions for all positions. See Section 5, subsection 4 (Recent Changes by the Speaker's Office).

some in the Springfield office, and others in various district offices throughout the state working for representatives in the Illinois House Democratic Caucus.

The Speaker's Staff has three distinct units: Issues Development, Research/Appropriations, and Technical Review Units. The Speaker's Staff also has other workers that do not fall into these units. For the purposes of this report, we refer to this fourth "unit" as the Leadership Administration Unit. We provide more details regarding these workers in the following subsections.

Overall, each unit has different levels of supervision, who all ultimately report to the Chief of Staff. Michael Madigan's Chief of Staff from 1992 to 2018 was Timothy Mapes. The Chief of Staff is now Jessica Basham (the former Research/Appropriations Unit Director).

#### *Leadership Administration Unit*

The Leadership Administration Unit includes administrative support positions and, separately, the new human resources department. Many of these people work in Room 300 of the Capitol Building.

The administrative support positions include the Chief of Staff, receptionists, information systems workers, an account technician, legislative assistants, and pages. Most of these workers are full-time, but some are part-time or seasonal contract workers. Soon after becoming Chief of Staff, Ms. Basham promoted the Speaker's assistant, Mika Baugher, to Office Manager, overseeing pages and legislative assistants for House Democratic Leadership. Before this change, the Chief of Staff had direct supervision of these workers.

The current human resources department includes Equal Employment Opportunity Officer Pamela Lassiter, who started in November 2018, and fiscal office personnel.

#### *Issues Development Unit*

The Issues Development Unit consists of various workers, including photographers, messengers, office managers, administrative clerks, computer graphic artists, constituent services workers, and interns. Most workers in the Issues Development Unit are "program specialists." Program specialists tend to be in their 20s and recent college graduates. They also tend to stay in these positions for only a few years. Many, for example, make two-year commitments and leave at the end of those two years.

Many, if not most, of these workers regularly "go on leave" from state employment to volunteer or work for political organizations, including the Democratic Party of

Illinois. Specifically, workers usually go on leave to assist with general or primary elections.

The Director of the Issues Development Unit is Craig Willert.

#### *Research/Appropriations Unit*

The Research/Appropriations Unit consists of various workers, including analysts and administrative staff. These workers analyze bills and legislation for leadership, representatives, and committees. As with the Issues Development Unit, workers in the Research/Appropriations Unit tend to be in their 20s and recent college graduates. They also tend to stay in these positions for only a few years.

The Director of the Research/Appropriations Unit is Mark Jarmer, who replaced Jessica Basham when she became the Chief of Staff.

#### *Technical Review Unit (Legal Team)*

Despite its name, the Technical Review Unit consists mostly of attorneys, including the Chief Legal Counsel. The Technical Review Unit also has various other workers, including staff attorneys, administrative clerks, and office managers. Most workers in the Unit, however, are contractual “staff attorneys,” who work on six-month contracts.

The Director of the Technical Review Unit is General Counsel Justin Cox, who is also the ethics officer for the Speaker’s Office and the parliamentarian for the House.<sup>16</sup> Mr. Cox replaced Heather Weir Vaught in these positions in 2016.

### **III. Political Organizations and the Democratic Party of Illinois**

As described above, the Speaker’s Office operates in a political environment. While this report is not about political organizations or activities, the reality of the Capitol workplace is that political activities can affect state government. Many people, for example, spend part of their year working or volunteering on campaigns or other political activities and the other part of the year working in government. Sometimes people will have the same coworkers while working for both organizations. This is true across parties and government branches.

Historically, this has also been the case for the Speaker’s Office. Many people who work in the Speaker’s Office volunteer or work for political organizations in their free time or while on leave from state work. One of these political organizations is

<sup>16</sup> The parliamentarian and the Technical Review Unit assist the House with following the requisite rules and procedures during session, including on the House floor and in committee meetings.

the Democratic Party of Illinois, which is commonly referred to as “DPI.”<sup>17</sup> DPI represents the U.S. Democratic Party in Illinois, and its purpose is to win elections for select Democratic candidates.

Notably for the purposes of this report, Michael Madigan and Timothy Mapes have held prominent positions in both the Speaker’s Office and in DPI for decades, as reflected in the chart below. Specifically, Michael Madigan has been the Chair of DPI since 1998. Before he resigned in June 2018, Timothy Mapes was the Executive Director for DPI.<sup>18</sup> Members of DPI include state central committee persons, county parties, Illinois representatives and senators, U.S. representatives and senators, and Illinois constitutional officers, including the current governor, lieutenant governor, attorney general, secretary of state, state comptroller, and state treasurer.

	Michael Madigan	Timothy Mapes
Speaker’s Office	Speaker of the House (1983 – 1995; 1997 – Present)	Chief of Staff (1992 – 1995; 1997 – 2018)  Clerk of the House (2011 – 2018)
Democratic Party of Illinois	Chair (1998 – Present)	Executive Director (1998 – 2018)

#### IV. The Rules: Federal Law, State Law & Policies

During their interviews, many Capitol workers were unaware of their responsibilities regarding harassment and their protections from harassment. To some extent, their confusion was and is justified. The laws in these areas are frequently misunderstood, and the complexity of these laws is compounded in unique legislative

<sup>17</sup> See *Our Party*, IL DEMS, available at <http://democraticpartyofillinois.com/your-party/>.

<sup>18</sup> Then-Representative Christian Mitchell replaced Mr. Mapes as interim executive director in July 2018. Mr. Mitchell resigned from the House in January 2019 to become Deputy Governor of Illinois. In February 2019, Mary Morrissey became the Executive Director. See *Democratic Party of Illinois announces new Executive Director*, DEMS, available at <http://democraticpartyofillinois.com/2019/03/06/democratic-party-of-illinois-announces-new-executive-director/> (last visited July 7, 2019).

workplaces like the Speaker’s Office.<sup>19</sup> Because of this complexity, this subsection only introduces these rules but does not discuss them thoroughly.<sup>20</sup>

A variety of state and federal rules protect people against discrimination in the workplace, each providing different administrative procedures, penalties, and recompense. The harassment rules and the entities that administer those rules are as follows:

- The U.S. Equal Employment Opportunity Commission (EEOC) administers the relevant federal laws under Title VII of the Civil Rights Act of 1964, as amended (Title VII), and the Government Employee Rights Act of 1991 (GERA);<sup>21</sup>

<sup>19</sup> See, e.g., *Davis v. Passman*, 442 U.S. 228, 249–50 (1979) (Burger, J., dissenting) (“The vulnerability of employment on congressional staffs derives not only from the hazards of elections but also from the imperative need for loyalty, confidentiality, and political compatibility—not simply to a political party, an institution, or an administration, but to the individual Member. A Member of Congress has a right to expect that every person on his or her staff will give total loyalty to the political positions of the Member, total confidentiality, and total support. This may, on occasion, lead a Member to employ a particular person on a racial, ethnic, religious, or gender basis thought to be acceptable to the constituency represented, even though in other branches of Government—or in the private sector—such selection factors might be prohibited. This might lead a Member to decide that a particular staff position should be filled by a Catholic or a Presbyterian or a Mormon, a Mexican-American or an Oriental-American—or a woman rather than a man.”).

<sup>20</sup> Given the complexity of these statutes and questions regarding whether and how they apply to particular workers, the Illinois Department of Human Rights established a Sexual Harassment & Discrimination Helpline (1.877.236.7703) to connect complainants with resources and applicable agencies. See *Illinois Sexual Harassment & Discrimination Helpline*, ILLINOIS.GOV, available at <https://www2.illinois.gov/sites/sexualharassment/Pages/default.aspx> (last visited July 7, 2019). See also the Illinois Human Rights Act, 775 ILCS 5/2-101. [Attachment 1](#) provides key definitions for frequently misunderstood terms and clarifies how key federal and Illinois laws apply—or do not apply—to the Capitol workplace.

<sup>21</sup> See 42 U.S.C. § 2000e *et seq.* While the EEOC handles the complaint process and has the authority to sue private employers for violations of Title VII, the U.S. Department of Justice’s Civil Rights Division has the authority to sue state and local government employers for violating Title VII. See *Memorandum of Understanding Between The U.S. Equal Employment Opportunity Commission and The U.S. Department of Justice - Civil Rights Division Regarding Title VII Employment Discrimination Charges Against State and Local Governments* (December 21, 2018) (This agreement aims “to maximize effort, promote efficiency, and eliminate duplication and inconsistency in the enforcement in federal employment discrimination laws.”), available at <https://www.justice.gov/opa/press-release/file/1122816/download>. See also *Justice Department and EEOC Sign Memorandum of Understanding to Prevent and Address Harassment of Employees in State and Local Governments*, US DOJ, Press Release 18-1687 (December 21, 2018), available at <https://www.justice.gov/opa/pr/justice-department-and-eeoc-sign-memorandum-understanding-prevent-and-address-harassment>.

- The Legislative Inspector General, the Legislative Ethics Commission, five independent executive inspectors general, and the Executive Ethics Commission administer the Illinois State Officials and Employees Ethics Act;<sup>22</sup>
- The Illinois Department of Human Rights and the Illinois Human Rights Commission administer the Illinois Human Rights Act;<sup>23</sup> and
- The Speaker’s Office administers its own Personnel Rules and Regulations.

These rules, however, do not apply to the members of the Capitol workplace equally or, in some cases, at all. Many laws regarding workplace harassment continue to evolve through case law and legislation.<sup>24</sup> For this reason, we have included [Attachment 1](#), which summarizes the rules and how they relate to the Capitol workplace and the Speaker’s Office.

Because of the evolving legal landscape and the general lack of clarity regarding precisely whether and how certain laws apply to the Capitol workforce, the Speaker’s Office’s Personnel Rules and Regulations (Speaker’s Policies) take on added significance. On the one hand, the Speaker’s Policies use the same definition of sexual harassment as the Illinois State Officials and Employees Ethics Act, and the Speaker’s Policies’ prohibition on discrimination tracks similar language from the Illinois Human Rights Act. On the other hand, the Speaker’s Policies do not provide specific examples for how these policies apply to the Speaker’s Office. This may make it difficult for workers to interpret the ambiguities and complexities of statutory language. The Speaker’s Policies, however, go further than these other laws and prohibit, among other things, “discourteous and inefficient” conduct,

<sup>22</sup> See 5 ILCS 430/*et seq.* In June 2018, Illinois further amended the Illinois State Officials and Employees Ethics Act to, among other things, allow the Legislative Inspector General to investigate sexual-harassment complaints without pre-approval from the Legislative Ethics Commission. See 5 ILCS 430/25-105. The Commission must also fill vacancies for the Legislative Inspector General within 45 days, and if the position remains vacant for six months, the Auditor General is automatically appointed as the Acting Legislative Inspector General. See 5 ILCS 430/25-10(b-5). See also *Office of the Legislative Inspector General*, ILL. GEN. ASSEMBLY, <http://www.ilga.gov/commission/lig/> (last visited June 3, 2019) (“The Office of the Legislative Inspector General receives and investigates complaints of violations of any law, rule, or regulation or abuse of authority or other forms of misconduct by members of the General Assembly and all state employees whose ultimate jurisdictional authority is a legislative leader, the Senate Operations Commission or the Joint Committee on Legislative Support Services.”).

<sup>23</sup> See 775 ILCS 5/*et seq.* The Illinois Human Rights Commission determines whether there are violations of the Illinois Human Rights Act. *Id.*

<sup>24</sup> Most recently, on August 9, 2019, for example, Governor J.B. Pritzker signed Senate Bill 75 (now Public Act 101-0221), which amended several statutes to, among other things, create additional protections and rights for state and public workers. While many of these changes do not go into effect until January 1, 2020, we have highlighted many of the key changes throughout this report. See also [Attachment 1](#).

which is much broader and clearer than the minimum standards set by state and federal laws.

Workers cannot be expected to be sophisticated labor and employment attorneys. Instead, workers should be familiar with comprehensive workplace policies and feel comfortable raising any issues regarding conduct that they believe affects the workplace—regardless of whether the conduct qualifies as harassment under the law.

Many Speaker’s Office workers are required to regularly interact with (1) coworkers, including supervisors and peers; (2) legislators; (3) lobbyists; and (4) other third parties, including constituents and the public. The Speaker’s Office should—and to some extent, *must*—take reasonable steps to prevent and address harassment against workers from all categories.<sup>25</sup> While the actions the Speaker’s Office can take for each category will, of course, vary, examples of the steps the Speaker’s Office can take are reflected in the chart on the following page.

<sup>25</sup> As detailed in [Attachment 1](#), workplace harassment laws may require employers to take steps to prevent and address harassment from any source, including supervisors, coworkers, and third-parties. *See, e.g., Dunn v. Washington Cty. Hosp.*, 429 F.3d 689, 691 (7th Cir. 2005) (explaining that employers have an obligation to prevent and redress workplace harassment under Title VII even if the “harasser” is not human: “[I]t makes no difference whether the person whose acts are complained of is an employee, an independent contractor, or for that matter a customer. Ability to ‘control’ the actor plays no role. Employees are not puppets on strings; employers have an arsenal of incentives and sanctions (including discharge) that can be applied to affect conduct. It is the use (or failure to use) these options that makes an employer responsible . . . . Indeed, it makes no difference whether the actor is human. Suppose a patient kept a macaw in his room, that the bird bit and scratched women but not men, and that the Hospital did nothing. The Hospital would be responsible for the decision to expose women to the working conditions affected by the macaw, even though the bird (a) was not an employee, and (b) could not be controlled by reasoning or sanctions. It would be the Hospital’s responsibility to protect its female employees by excluding the offending bird from its premises. . . . The employer’s responsibility is to provide its employees with nondiscriminatory working conditions. The genesis of inequality matters not; what *does* matter is how the employer handles the problem.”) (citing Restatement (2d) of Agency § 213(d)).



## The Speaker's Office's Potential Steps to Protect Workers from Harassment

Potential Response	When Harassment Comes From			
	Coworkers	Lobbyists	Elected Officials	The Public
Filing a Complaint (e.g., law enforcement or inspector general)	✓	✓	✓	✓
Separating the Accused and the Complainant	✓	✓	✓	✓
Direct Discipline (e.g., reprimand, demotion, termination)	✓			

### A. Policies and Training

Various Illinois laws also require anti-sexual harassment policies and corresponding training.<sup>26</sup> The State Officials and Employees Ethics Act, for example, requires each constitutional officer; Illinois legislator; appointee; elected commissioner, trustee, director, or board member; and full-time, part-time, and contract worker to complete anti-harassment training.<sup>27</sup> The Speaker's Office's Personnel Rules and Regulations (Speaker's Policies) have expressly prohibited sexual discrimination and harassment since *at least* the early 1990s. The Speaker's Policies also impose a higher standard of behavior on workers than the relevant laws do. The Speaker's

<sup>26</sup> See, e.g., the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4); the State Officials and Employees Ethics Act, 5 ILCS 430/1-5 and 5-10.5; and the General Assembly Operations Act, 25 ILCS 10/5(b). See also the Chicago Human Rights Ordinance 2-160-000, and the Springfield, Illinois Code of Ordinances § 36.63. See also Pub. Act 101-0221 (S.B. 0075) (August 9, 2019) (amending various statutes to, among other things, create additional training requirements regarding other forms of harassment and discrimination).

<sup>27</sup> See 5 ILCS 430/1-5, 5-10.5 (before 2020), and 5-10.5(a-5) ("Beginning in 2020, . . . the training shall include, at a minimum, the following: (i) the definition and a description of sexual harassment, unlawful discrimination, and harassment, including examples of each; (ii) details on how an individual can report an allegation of sexual harassment, unlawful discrimination, or harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Department of Human Rights; (iii) the definition and description of retaliation for reporting sexual harassment, unlawful discrimination, or harassment allegations utilizing examples, including availability of whistleblower protections under this Act, the Whistleblower Act, and the Illinois Human Rights Act; and (iv) the consequences of a violation of the prohibition on sexual harassment, unlawful discrimination, and harassment and the consequences for knowingly making a false report. Proof of completion must be submitted to the applicable ethics officer. Harassment and discrimination training programs shall be overseen by the appropriate Ethics Commission and Inspector General appointed under this Act.").

Office updated the Speaker’s Policies most recently in December 2017, which are attached to this report as [Attachment 2](#).

Additional codes of conduct apply to representatives and even members of the public who visit the legislature. The Illinois Governmental Ethics Act, for example, provides guidance for various public officials, including members of the General Assembly.<sup>28</sup> While the Illinois Governmental Ethics Act does not specifically prohibit harassment, the Act provides the following guidance: “No legislator may engage in other conduct which is unbecoming to a legislator or which constitutes a breach of public trust.”<sup>29</sup> The Illinois House Rules also give the Speaker authority to preserve “order and decorum” during active session on the House floor and in committees.<sup>30</sup> Rule 89 of the Rules of the House of Representatives governs “disorderly behavior.” On May 31, 2018, the House of Representatives amended the Rules of the House of Representatives of the 100th General Assembly to include Rule 89.5, which “strongly” encourages representatives to report conduct that they “reasonably believe[] to be sexual harassment, discrimination, or other unethical conduct to the Speaker, the Minority Leader, an Ethics Officer, or the Legislative Inspector General.”<sup>31</sup>

Similar requirements also extend to political work. In June 2018, Illinois amended the Election Code to require established political parties to maintain a policy that prohibits discrimination and harassment, detailing how to report an allegation of discrimination and harassment, prohibiting retaliation for reporting discrimination or harassment allegations, and providing consequences for discrimination, harassment, and knowingly making a false report.<sup>32</sup>

The Illinois Lobbyist Registration Act (Lobbyist Act) prohibits lobbyists from sexually harassing anyone, regardless of any employment relationship, and requires a written anti-harassment policy and annual anti-harassment training.<sup>33</sup> The Illinois Secretary of State’s Office of Inspector General and the Executive Ethics Commission administer this prohibition.<sup>34</sup> Perpetrators may be fined up to \$5,000 for each finding of sexual harassment and may be prohibited from lobbying for up to three years.<sup>35</sup>

<sup>28</sup> See 5 ILCS 420/et seq.

<sup>29</sup> 5 ILCS 420/3-107.

<sup>30</sup> See, e.g., *House Rules for the 100th General Assembly* (2017), and *House Rules for the 101st General Assembly* (2019).

<sup>31</sup> See *id.*

<sup>32</sup> See 10 ILCS 5/7-8.03.

<sup>33</sup> See 25 ILCS 170/4.7(b) (before 2020) and (b-5) (after 2020, including training on a broad set of issues—“harassment and discrimination prevention training”).

<sup>34</sup> See 25 ILCS 170/7 and 10(a-5).

<sup>35</sup> See 25 ILCS 170/10(a-5) and (b).

## B. Beyond the Rules: Best Practices & Why Workplace Culture Matters

The rules set the minimum requirements for compliance. This report, however, goes further and identifies best practices for the Speaker's Office and its workers to thrive. Even if rules did not require employers to prevent and address workplace harassment, it is the right thing to do. This subsection explains two additional reasons why the Speaker's Office should prevent and address workplace harassment: workplace efficiency and political accountability.

### *Workplace Efficiency*

In 2016, the EEOC released a report by the then-Co-Chairs of its Select Task Force on the Study of Harassment in the Workplace, Chai Feldblum and former Acting Chair of the EEOC Victoria Lipnic (EEOC Task Force), which emphasized that it is in employers' best interest to prevent harassment in the workplace:

**There Is a Compelling Business Case for Stopping and Preventing Harassment.** When employers consider the costs of workplace harassment, they often focus on legal costs, and with good reason. Last year, EEOC alone recovered \$164.5 million for workers alleging harassment – and these direct costs are just the tip of the iceberg. Workplace harassment first and foremost comes at a steep cost to those who suffer it, as they experience mental, physical, and economic harm. Beyond that, workplace harassment affects all workers, and its true cost includes decreased productivity, increased turnover, and reputational harm. All of this is a drag on performance – and the bottom-line.<sup>36</sup>

In other words, even if laws, customs, and morality did not press organizations to stop and prevent harassment—which they increasingly do—it would still be in organizations' interests to stop and prevent harassment. This is just as true for the Speaker's Office even though it is a unique legislative organization.

<sup>36</sup> Chai R. Feldblum and Victoria A. Lipnic, *Select Task Force on the Study of Harassment in the Workplace – Report of Co-Chairs* (June 2016) at v, available at [https://www.eeoc.gov/eeoc/task\\_force/harassment/upload/report.pdf](https://www.eeoc.gov/eeoc/task_force/harassment/upload/report.pdf). See also Pub. Act 101-0221 (S.B. 0075) (August 9, 2019) (amending the Illinois Human Rights Act to include the following: “The General Assembly finds that the organizational tolerance of sexual harassment has a detrimental influence in workplaces by creating a hostile environment for employees, *reducing productivity*, and increasing legal liability. It is the General Assembly's intent to encourage employers to adopt and actively implement policies to ensure their workplaces are safe for employees to report concerns about sexual harassment without fear of retaliation, loss of status, or loss of promotional opportunities.” 775 ILCS 5/2-109 (emphasis added)).

If harassment were not so capable of doing serious emotional, physical, and life-long harm—which can vary based on relative vulnerabilities, strengths, personalities, and cultures—it would be enough for organizations to stop that conduct because it unnecessarily interrupts workplace productivity. People tend to view harassment accusations as non-work-related. And many victims report that they do not want to come forward because they do not want to be known for, stand out because of, or be judged on something other than their work performance. They do not want the complaint of harassment to distract from their work product, their career, or the mission of the organization. But the harassment is the distraction.

A worker who makes a good-faith complaint is directly acting in the interest of the organization to achieve its mission. The worker is not only reporting personal issues and potential personal harms, but is also identifying potential inefficiencies in the workplace.<sup>37</sup> The fact that laws and customs continue to evolve and increase the cost of harassment to organizations only adds to the existing incentive to prevent and address harassment. And this increased cost is substantial.<sup>38</sup>

In fact, workers who complain when they believe they are victims of harassment or who cooperate in an investigation of such conduct are *going above and beyond* their job for the organization. This is because, across various workplaces, the benefit to the organization and workplace environment from reporting is likely greater than the benefit to the victim, who might unfortunately suffer harm from the disclosure. According to the EEOC Task Force, it may be rational for someone not to come forward, because studies have shown that complaints are often met with retaliation, hostility, or indifference.<sup>39</sup> But even putting aside the risk of inaction or retaliation, obtaining sufficient evidence to punish a perpetrator frequently requires the cooperation of the victim, which can have a substantial personal cost.

To improve workplace environments and encourage victims to do *more than their part* by speaking up about genuine concerns and cooperating with investigations, complainants and alleged victims should be treated not only with the respect that they deserve as human beings who are potentially in crisis, but also as the pro-organization, loyal, whistleblowers that they are.<sup>40</sup> In practice, that means the or-

<sup>37</sup> See *id.*

<sup>38</sup> See *id.* See also Press Release: EEOC Releases Preliminary FY 2018 Sexual Harassment Data (October 4, 2018), available at <https://www.eeoc.gov/eeoc/newsroom/release/10-4-18.cfm>.

<sup>39</sup> See Feldblum and Lipnic, *Report of Co-Chairs* (June 2016) at 16–17 (citing *Written Testimony of Mindy E. Bergman* (June 15, 2015)).

<sup>40</sup> See, e.g., Stephen Stubben, and Kyle Welch, *Evidence on the Use and Efficacy of Internal Whistleblowing Systems* (April 29, 2019) (“Further, we find that more active use of internal [whistleblowing] systems is associated with fewer material lawsuits being filed against the firm and smaller settlement amounts. These findings are consistent with internal [whistleblowing] re-

ganization should take allegations seriously and offer immediate support and appropriate resources for the potential victim—regardless of whether the accused is guilty or should be punished.

What is more, organizations should treat supporting complainants and punishing perpetrators separately. The belief that the accused is either a predator *or* the complainant is a liar is a false choice. A common misperception is to see only two options: a complainant knows the facts and is either being honest or is being dishonest. In fact, there is a spectrum of possibilities, including unintentional falsehoods and tragic misunderstandings. Organizations cannot always determine the underlying truth of all allegations, but every claim requires careful, case-by-case consideration. Not all facts will be discoverable, and unless there is sufficient *proof* that the complaint was made in bad faith, organizations should have the humility to support potential victims, even when withholding punishment against the accused.

This is also not to say that people never make knowingly false, bad-faith accusations, nor that those complainants should go unpunished. False accusations can do significant harm to the accused, including to their reputations and employment. Someone who is accused is entitled to due process and sufficient evidence against them before they are slandered and punished. This is just as true when someone is accused of knowingly making a false complaint. It is not enough that the complaint turns out to be false, and it is definitely not enough that there is insufficient evidence to determine whether the accused is guilty. Too often victims or potential victims fear coming forward because they believe they will be marked as liars if they cannot personally prove their claims.

Of course, overcorrection is possible. For that reason, reporting should not be overly incentivized. Not every instance where someone takes offense needs to be reported, and people should not necessarily be encouraged to report conduct that does not offend them. As the U.S. Equal Employment Opportunity Commission put it, “Workplaces need not become battlegrounds where every minor, unwelcome remark based on race, sex, or another protected category triggers a complaint and investigation.”<sup>41</sup> The goal is to create a culture where workers feel comfortable to work issues out among themselves, knowing that they have a supportive, reliable, and fair recourse when they cannot.

ports being a resource that helps management identify and address concerns before they become more costly to the firm.”), *available at* [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3273589](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3273589).

<sup>41</sup> EEOC, *Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors*, Number 915.002 (June 18, 1999), *available at* <https://www.eeoc.gov/policy/docs/harassment.html>.

### *Public Opinion and Political Accountability*

The Capitol workplace and the Speaker's Office, like any legislative entity, operate within the public spotlight. That attention comes with unique accountability. To keep their positions, politicians must win and keep the approval of their constituents during every election. As a result, politicians associated with unpopular conduct—even if it is legal or within policy—may still suffer political consequences. This incentive can encourage organizations to support secrecy, which does not work in the long run. But political accountability can and should also encourage representatives to conduct themselves and manage their offices in a manner that is above reproach.

## Section 2.

### Representative Kelly Cassidy's Allegations against Then-Chief of Staff Timothy Mapes, Speaker Michael Madigan, and Representative Robert Rita

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On May 21, 2018, Representative Kelly Cassidy spoke to the media regarding allegations of retaliation against her by then-Chief of Staff and Clerk of the House Timothy Mapes, Representative Robert Rita, and Speaker Michael Madigan.<sup>42</sup> Specifically, Representative Cassidy alleged that the following occurred in response to her public criticisms of how the Speaker's Office handled sexual harassment claims:

- Mr. Mapes attempted to intimidate Representative Cassidy by contacting her outside employer and asking if she still worked there;
- Representative Rita sponsored a bill that was supported by Representative Cassidy's outside employer, and he promoted the fact that Representative Cassidy did not support the bill with the intent to affect her outside employment; and
- Speaker Madigan rejected a meeting with Representative Cassidy and later appeared to threaten her committee positions.

Notably, during her interview, Representative Cassidy did not allege that Mr. Mapes, Representative Rita, and Speaker Madigan conspired to retaliate against her. Instead, Representative Cassidy alleged that the culture is one in which everyone independently knows to retaliate against anyone for publicly criticizing Speaker Madigan.

As a representative, Representative Cassidy did not have the same protections against retaliation as an employee would have. Still, even if she did have these protections, we do not find sufficient evidence to conclude that there was an effort—coordinated or otherwise—to punish or silence Representative Cassidy.

Nonetheless, we went further and investigated whether Mr. Mapes, Representative Rita, or Speaker Madigan violated applicable policies. We conclude that there is insufficient evidence that Mr. Mapes violated the Speaker's Office's Personnel Rules and Regulations (Speaker's Policies) by calling Representative Cassidy's outside employer and asking about her employment status. We also conclude that there is insufficient evidence that Representative Rita violated the Illinois Governmental Ethics Act by commenting on Representative Cassidy's position on a bill. Finally, we conclude that there was insufficient evidence that Speaker Madigan

<sup>42</sup> See Representative Cassidy, *Cassidy Statement on Retaliation by Speaker Madigan's Operation* (May 22, 2018), available at <https://www.repcassidy.com/press-releases/2018/5/23/rep-cassidy-statement-on-retaliation>.

violated the Illinois Governmental Ethics Act by declining a meeting with Representative Cassidy or by sending a public letter that some people interpreted as threatening her committee positions.

On the other hand, we credit that Representative Cassidy genuinely believed that Mr. Mapes and Representative Rita were defending Speaker Madigan after her public criticisms and that she needed to speak out to stop that perceived conduct. Similarly situated representatives said that they would have felt the same in her position.

## I. Background

### A. Standards of Conduct: The Speaker's Office's Personnel Rules and Regulations, the Illinois House Rules, and the Illinois Governmental Ethics Act

As detailed in Section 1 above and [Attachment 1](#) below, we chose to evaluate the allegations under the standards of conduct, which are broader and often clearer than the minimum standards established by state and federal law. Moreover, these codes of conduct are what would be used by the Speaker's Office in a standard workplace investigation.<sup>43</sup>

When Representative Cassidy made her allegations, then-Chief of Staff Mr. Mapes worked in the Speaker's Office and was subject to the Speaker's Policies. As representatives, Speaker Madigan, Representative Cassidy, and Representative Rita were subject to the Illinois Governmental Ethics Act and the Illinois House Rules.

We note, however, that retaliation claims typically relate to employment relationships. The Illinois State Officials and Employees Ethics Act, for example, defines "retaliatory action" as retaliation "for a *State employee's* involvement in protected activity."<sup>44</sup> Representative Cassidy is not a State employee, and she does not have an employee/employer relationship with Speaker Madigan, Mr. Mapes, or Representative Rita. While the Illinois Human Rights Act's prohibition on retaliation does not require an employment relationship, we are not aware of any instances of the

<sup>43</sup> Mr. Mapes, Speaker Madigan, Representative Rita, and Representative Cassidy were also subject to the Illinois State Officials and Employees Ethics Act, which prohibits sexual harassment and retaliation against those who allege sexual harassment. See 5 ILCS 430/5-65 and 15-10. Speaker Madigan referred Representative Cassidy's allegations to the Legislative Inspector General. Because the Legislative Inspector General is responsible for investigating violations of the Illinois State Officials and Employees Ethics Act, we did not investigate Representative Cassidy's allegations under that act. See 5 ILCS 430/25-10(c).

<sup>44</sup> 5 ILCS 430/15-5, 15-10 ("An officer, a member, a State employee, or a State agency shall not take any retaliatory action *against a State employee because the State employee['s]* involvement in protected activity). See also the Whistleblower Act, 740 ILCS 174/15-20.2 (prohibiting employers from retaliating against employees for engaging in certain protected activities).



Illinois Human Rights Act prohibition on retaliation applying to elected representatives and their statements to the press.<sup>45</sup>

Nonetheless, under the Speaker's Policies, Mr. Mapes was required to treat Representative Cassidy in a "courteous and efficient manner." Illinois House Rule 89 prohibits representatives from engaging in "disorderly behavior,"<sup>46</sup> and the Illinois Governmental Ethics Act prohibits representatives from engaging in conduct "which is unbecoming to a legislator or which constitutes a breach of public trust."<sup>47</sup>

The Illinois Governmental Ethics Act also provides guidance for representatives who take official action on a legislative matter when they have "a conflict situation created by a personal, family, or client legislative interest."<sup>48</sup> The Illinois Governmental Ethics Act says, for example, that representatives "need not abstain" when taking action that is "contrary to the economic interest which creates the conflict situation."<sup>49</sup> And if a representative chooses to take official action "despite the existence of a conflict situation," the representative "should serve the public interest."<sup>50</sup>

Finally, we note that we are applying standards that are distinct from those that a judge would likely apply in a lawsuit or administrative proceeding. We do not, for example, limit our analysis based on the statute of limitations, and we do not limit our recommendations based on whether conduct was sufficiently severe to warrant penalties. As a result, any finding of wrongdoing in this report does not reflect an opinion that someone can sue, should sue, or would prevail in a lawsuit or administrative proceeding.

## B. Representative Kelly Cassidy

Representative Cassidy is a member of the Democratic Caucus and has represented the 14th District since April 2011. In late 2014 or early 2015, Representative Cassidy began working part-time in the Sheriff's Justice Institute for the Cook

<sup>45</sup> See 775 ILCS 5/6-101(A). See also *Henry v. Mel Foster Co. Inc. of Illinois*, IHRS, ALS No. 14-0573 (November 21, 2018), available at <https://www2.illinois.gov/sites/ihrc/Decisions/14-0573%20Dennis%20Henry%20v.%20Mel%20Foster%20Co.%20Inc.%20Of%20Illinois.pdf>.

<sup>46</sup> See, e.g., *House Rules for the 100th General Assembly* (2017), and *House Rules for the 101st General Assembly* (2019).

<sup>47</sup> 5 ILCS 420/3-107.

<sup>48</sup> 5 ILCS 420/3-202.

<sup>49</sup> *Id.*

<sup>50</sup> 5 ILCS 420/3-203.

County Sheriff's Office as an "Administrative Coordinator."<sup>51</sup> Representative Cassidy reported to then-Chief Policy Officer Cara Smith. Representative Cassidy resigned from the Sheriff's Office around May 17, 2018.

Representative Cassidy sits on various committees, including as the Vice Chair of the Judiciary - Criminal Committee and the Chair of the Appropriations - Public Safety Committee.

C. Speaker Michael Madigan

Michael Madigan has worked in Illinois politics for decades. He became a representative for the 22nd District in January 1971, and the House elected Madigan as Speaker in 1983. Speaker Madigan has held that position ever since—except for two years, 1995 to 1997. Speaker Madigan has also been the Chair of the Democratic Party of Illinois (DPI) since 1998.

D. Timothy Mapes

Mr. Mapes had worked for the Speaker's Office and DPI for decades. He became the Chief of Staff in 1992 and the Clerk of the House in 2011. Mr. Mapes became the Executive Director of DPI in 1998. Mr. Mapes resigned from these positions on June 6, 2018.

E. Representative Robert Rita

Representative Rita won his seat in 2003, representing the 28th District, which includes part of the City of Chicago, Blue Island, Oak Forest, Tinley Park, and other south suburbs of Chicago.

At the time of the allegations, Representatives Rita's and Cassidy's Springfield offices were next to each other in the Stratton Building.

F. The Cook County Sheriff's Office

The Sheriff's Office administers various law enforcement responsibilities throughout Cook County, Illinois, such as running the Cook County Jail. The Sheriff's Office also proposes bills to the Illinois General Assembly.

<sup>51</sup> Kelly Cassidy's Cook County Statement of Economic Interests (filed March 26, 2018), available at <https://ethics.cookcountyclerk.com/SEI/SubmissionConfirmation.aspx?FilingId=281072> (last visited July 9, 2019).

Thomas Dart has been the Cook County Sheriff since 2007, and he oversees the Cook County Sheriff's Office. Sheriff Dart was a Democratic representative of the Illinois House from 1993 to 2003. He was succeeded by Representative Robert Rita.

#### G. Senate Bill 3104 Regarding Public Indecency in a Penal Institution

Senate Bill 3104 aimed to increase penalties for indecent exposure by detainees, including a loss of custody credit and a requirement for a person to register as a sex offender after being convicted for the second time of indecent exposure in a penal institution.<sup>52</sup> In January 2018, Cara Smith, then-Chief Policy Officer for the Sheriff's Office, led the Sheriff's Office's efforts to support Senate Bill 3104, which was the Sheriff's Office's second attempt to support legislation to increase penalties for detainees who expose themselves or masturbate in front of others while detained. According to the Cook County Sheriff's Office, there were more than 620 incidents of indecent exposure and lewd conduct by jail detainees between January 1, 2017, and April 25, 2018.<sup>53</sup>

Senate Bill 3104 was introduced in the Senate in February 2018, passed the Senate, and arrived in the House on April 25, 2018. Representative Robert Rita picked up the bill as the Chief House Sponsor on April 26, 2018. The bill was assigned to the Judiciary - Criminal Committee on May 7, 2018, near the end of session. The Judiciary - Criminal Committee never called the bill, and it returned to the Rules Committee on May 18, 2018. No further action has been taken on the bill since then.

#### H. Judiciary - Criminal Committee

The Judiciary - Criminal Committee is a standing committee of the House. During the relevant period of the 100th General Assembly, Representative Art Turner was its Chair and Representative Cassidy was its Vice Chair.

As with the chairs of other committees, the chair of the Judiciary - Criminal Committee can decide whether to call a bill. If a bill does not get called in time, the bill

<sup>52</sup> See Bill Status for Senate Bill 3104, 100th General Assembly (2018), available at <http://www.ilga.gov/legislation/BillStatus.asp?DocTypeID=SB&DocNum=3104&GAID=14&SessionID=91&LegID=110688> (last visited July 9, 2019).

<sup>53</sup> See Sheriff's Office, *Press Release: Bill Seeking Heavy Sanctions for Indecent Exposure by Cook County Jail Detainees Passes Illinois Senate Committee* (April 25, 2018) ("In less than 12 hours prior to the bill being called for a committee vote, more than 750 Cook County deputy correctional officers and supervisors signed petitions urging the bill's passage. The bill now moves to the Senate floor for a vote."), available at <https://www.cookcountysheriff.org/bill-seeking-heavy-sanctions-for-indecent-exposure-by-cook-county-jail-detainees-passes-illinois-senate-committee/>.

will not receive a vote, and will return to the Rules Committee, unless the bill's sponsors request and receive an extension.<sup>54</sup>

#### I. Representative Kelly Cassidy's Public Statements

In February 2018, Representative Cassidy made several public appearances, criticizing Speaker Madigan's handling of sexual harassment allegations. For example, in a press release on February 20, 2018, Representative Cassidy called for an independent investigation into Speaker Madigan's government and political operations regarding sexual harassment allegations: "The slow and steady drip of accusations and dismissals has turned into an endless cycle of lather, rinse, repeat, highlighting the culture of harassment in the legislature and political campaigns."<sup>55</sup>

On May 21, 2018, Representative Cassidy spoke to the press, alleging that Mr. Mapes, Speaker Madigan, and Representative Rita were retaliating against her because she called for an independent investigation. Specifically, Representative Cassidy alleged that Mr. Mapes called then-Chief Policy Officer Cara Smith a few days after the February 20, 2018 press release. When Ms. Smith told Representative Cassidy about that call, Representative Cassidy said it "felt like a warning, it was a little chilling."<sup>56</sup> Later, Speaker Madigan declined a meeting with Representative Cassidy. Representative Cassidy said she felt like she needed to come forward after she felt forced to resign her part-time job with the Sheriff's Office.

Specifically, Representative Cassidy said that Representative Rita made several comments about her opposition to a bill that Sheriff Dart supported, Senate Bill 3104. Specifically, Representative Cassidy said that, on May 15, 2018, Representative Rita told Ms. Smith something to the effect of, "when I worked for a politician, when I opposed him, I expect[ed] to be fired."<sup>57</sup> The following day, Representative Rita told Representative Cassidy, "I really just can't get over the fact that you're opposed to your boss's bill."<sup>58</sup>

<sup>54</sup> See *House Rules for the 100th General Assembly* (2017) at Rule 19 ("Re-Referrals to the Rules Committee").

<sup>55</sup> See Greg Bishop, *Calls for investigations, new leadership, rock Democratic Party of Illinois following harassment scandal*, THE CENTER SQUARE (February 20, 2018), available at [https://www.thecentersquare.com/illinois/calls-for-investigations-new-leadership-rock-democratic-party-of-illinois/article\\_163eaa2d-ef8e-5dd8-8288-56f8c298eff1.html](https://www.thecentersquare.com/illinois/calls-for-investigations-new-leadership-rock-democratic-party-of-illinois/article_163eaa2d-ef8e-5dd8-8288-56f8c298eff1.html).

<sup>56</sup> See Mary Ann Ahern, *State Rep. Says She's Facing Retaliation for Speaking Out Against Madigan*, NBC 5 CHICAGO (May 21, 2018), available at <https://www.nbcchicago.com/blogs/ward-room/kelly-cassidy-mike-madigan-483237651.html>.

<sup>57</sup> See *id.*

<sup>58</sup> See *id.*

Representative Cassidy told the press: “This is retribution, there is zero doubt in my mind . . . This is about me having the gall to speak out.”<sup>59</sup> She added, “The message is very clear: speak out against the Speaker and people loyal to him will come after you.”<sup>60</sup>

Representative Cassidy resigned from the Sheriff’s Office on May 17, 2018, to avoid putting Sheriff Dart “in the position of being dragged into this petty nonsense.”<sup>61</sup> Representative Cassidy did not consider Sheriff Dart to be part of the retaliation against her. Instead, Representative Cassidy said that, after Mr. Mapes’s call and Representative Rita’s comments, she wanted to take away the option that anyone could use her outside employment against her:

What I realized is that those two events combined were very clear to me that this was the point of leverage, this was the weapon they had against me for having the audacity to speak out, and, um—so, I took the weapon away. I offered my resignation in an effort to allow the Sheriff to do the great work that he does.<sup>62</sup>

#### J. The Acting Legislative Inspector General’s Investigation

On May 22, 2018, the day after Representative Cassidy spoke to the media regarding her issues, Speaker Madigan requested that the Acting Legislative Inspector General Julie Porter investigate Representative Cassidy’s complaint.

### II. Investigation

To investigate Representative Cassidy’s allegations, Ms. Hickey and her investigative team reviewed, among other things, emails, text messages, letters, and various public statements. Ms. Hickey interviewed over 100 people who work or have worked in the Capitol workplace, including Representative Cassidy, Ms. Smith, Sheriff Dart, Representative Rita, and Speaker Madigan.

Ms. Hickey contacted Mr. Mapes’s attorney for an interview regarding Representative Cassidy’s allegations, but Mr. Mapes declined the interview.

<sup>59</sup> See *id.*

<sup>60</sup> See Greg Bishop, *Madigan calls for investigation after fresh accusations of retaliation from Chicago Democrat*, THE CENTER SQUARE (May 22, 2018), available at [https://www.the-centersquare.com/illinois/madigan-calls-for-investigation-after-fresh-accusations-of-retaliation-from/article\\_b7d008ec-4e51-5372-a753-84e790715ce9.html](https://www.the-centersquare.com/illinois/madigan-calls-for-investigation-after-fresh-accusations-of-retaliation-from/article_b7d008ec-4e51-5372-a753-84e790715ce9.html).

<sup>61</sup> See Ahern, *State Rep. Says She’s Facing Retaliation for Speaking Out Against Madigan*, NBC 5 CHICAGO (May 21, 2018).

<sup>62</sup> See Bishop, *Madigan calls for investigation after fresh accusations of retaliation from Chicago Democrat*, THE CENTER SQUARE (May 22, 2018).

Representative Cassidy agreed to cooperate with this investigation from the beginning. She did initially requested to delay her interview until after then-Acting Legislative Inspector General, Julie Porter, finished her corresponding investigation, but then agreed to an interview regarding these allegations in February 2019.<sup>63</sup>

### III. Analysis

#### A. Allegation #1: Timothy Mapes Called the Sheriff's Office to Threaten Representative Kelly Cassidy's Job

Representative Cassidy alleged that Mr. Mapes called the Cook County Sheriff's Office and inquired about her job status to intimidate Representative Cassidy. Representative Cassidy did not think that she would be fired from the Sheriff's Office based on Mr. Mapes's call. Representative Cassidy also did not believe that Mr. Mapes—or the Speaker—had actual influence over her job at the Sheriff's Office.

Instead, Representative Cassidy believes that Mr. Mapes called to intimidate her because of her February 20, 2018 comments. We reviewed Representative Cassidy's public appearances regarding Speaker Madigan and his responses to sexual misconduct allegations made in February 2018. Representative Cassidy was vocal about the Speaker's Staff throughout the month. Representative Cassidy began these critiques on Twitter on February 13, 2018, the same day as a press conference by Alaina Hampton, a former worker in the Speaker's Office who alleged sexual harassment.<sup>64</sup> Representative Cassidy was subsequently in the news for her comments on February 20, 21, 22, and 28, at a minimum.<sup>65</sup> Representative Cassidy

<sup>63</sup> Given the confidentiality of the Legislative Inspector General process, we do not know whether the Legislative Inspector General's investigation is completed or, if so, how it concluded.

<sup>64</sup> On February 13, 2018, for example, Representative Cassidy tweeted about Alaina Hampton: "She did everything she was 'supposed' to do. She sought help through her chain of command. And it still took a year. And we ask why women don't come forward? #twill." Representative Cassidy (@RepKellyCassidy) (February 13, 2018, 7:51 AM), available at <https://twitter.com/RepKellyCassidy/status/963440580528402432> (last visited July 7, 2019).

<sup>65</sup> See Bishop, *Calls for investigations, new leadership, rock Democratic Party of Illinois following harassment scandal*, THE CENTER SQUARE (February 20, 2018); Tina Sfondeles, *'Velvet Hammer' Mike Madigan getting nailed – by more and more fellow Democrats*, CHICAGO SUN-TIMES (February 20, 2018), available at <https://chicago.suntimes.com/politics/dem-seeks-independent-probe-of-madigan-organizations-culture-of-harassment/>; Rick Pearson and Monique Garcia, *Madigan's leadership become Democratic primary litmus test amid handling of harassment complaints*, CHICAGO TRIBUNE (February 21, 2018), available at <https://www.chicagotribune.com/news/local/politics/ct-met-speaker-madigan-harassment-democratic-primary-20180220-story.html>; Erica Gunderson, *Madigan Under Fire for Handling of Harassment Claims*, WTTW (February 22, 2018), available at <https://news.wttw.com/2018/02/22/madigan-under-fire-handling-harassment-claims>. See also Mary Ann Ahern, *Some Democrats Call for New Investigation as Madigan's Counsel Claims Independence*, NBC 5 CHICAGO (February 22,

told Ms. Hickey that she gave Speaker Madigan advance notice that she was going to make public statements.

Representative Cassidy recalled Ms. Smith telling her about Mr. Mapes's call, which she thought was ominous and intended to be ominous. Although they discussed it, Representative Cassidy decided not to confront Mr. Mapes about the call, because she did not want to show him that he had gotten under her skin. Representative Cassidy did not elevate her concern about Mr. Mapes's call to anyone.

Ms. Smith, however, provided a different interpretation of events. Ms. Smith said that she occasionally spoke with Mr. Mapes regarding the Sheriff's Office's various legislative efforts and that she continued to speak to Mr. Mapes after February 2018. During her interview, Ms. Smith said that Mr. Mapes texted her on February 26, 2018, the day before the Speaker's Office released a list of nine incidents.<sup>66</sup> After the Speaker's Office released the list, Mr. Mapes called Ms. Smith. During the call, they discussed the list, and Mr. Mapes also asked if Representative Cassidy worked at the Sheriff's Office. Ms. Smith told Ms. Hickey that she did not believe Mr. Mapes's question about Representative Cassidy's employment status had a specific meaning. Mr. Mapes did not tell Ms. Smith to share the conversation with Representative Cassidy, but she did.

As referenced above, Mr. Mapes declined Ms. Hickey's interview request and therefore did not explain the reasons for his call to Ms. Smith.

In Speaker Madigan's interview, however, Speaker Madigan explained that he told Mr. Mapes to contact the Sheriff's Office to find out if Representative Cassidy worked there. Speaker Madigan said that, shortly before Mr. Mapes called Ms. Smith, Speaker Madigan had heard that Representative Cassidy worked for Sheriff Dart, and he asked Mr. Mapes to confirm whether Representative Cassidy still worked there. After Mr. Mapes called Ms. Smith, Mr. Mapes reported back to Speaker Madigan that Representative Cassidy still worked there. Speaker Madigan said that he did not have a particular reason to have Mr. Mapes confirm Representative Cassidy's employment, and it was "just a matter of curiosity."

Speaker Madigan added that it is easy to prove that he and Mr. Mapes did not intend to intimidate Representative Cassidy with the call, because Sheriff Dart

2018), available at <https://www.nbcchicago.com/blogs/ward-room/kelly-smith-haley-madigan-harassment-independent-counsel-474868703.html>; Monique Garcia, Ray Long, and Christy Gutowski, *Madigan releases list of 9 misconduct complaints, but number could be higher*, CHICAGO TRIBUNE (February 28, 2018), available at <https://www.chicagotribune.com/news/local/politics/ct-met-speaker-madigan-illinois-house-sexual-harassment-complaints-20180227-story.html>.

<sup>66</sup> Ms. Smith said that she received this text message the day before the Speaker's Office publicly released a list of nine incidents, which was on February 27, 2018.

would not be interested in Speaker Madigan's opinions about whom he employs. Speaker Madigan also stated that, considering his long contentious relationship with Sheriff Dart, he did not believe that this call would be interpreted as an attempt to intimidate. In fact, Speaker Madigan did not contemplate Representative Cassidy's interpretation, and he did not believe that anyone would think that Sheriff Dart would do any favors for Speaker Madigan.

During his interview, Sheriff Dart confirmed that it is common knowledge that he and Speaker Madigan have had a tense relationship, which goes back to differences of opinion when Sheriff Dart was a representative in the 1990s. Sheriff Dart said that it was "preposterous" to think that Speaker Madigan would ask him to terminate someone's employment for him or that Sheriff Dart would terminate someone on Speaker Madigan's behalf.

Representative Cassidy also told Ms. Hickey that Sheriff Dart and Speaker Madigan did not get along, but she believed that Speaker Madigan knew she worked for Sheriff Dart. In fact, Representative Cassidy said that, several months to a year before this incident, she spoke to Speaker Madigan about his issues with Sheriff Dart and a different bill (Senate Bill 0695). Representative Cassidy believed that this conversation occurred only because Speaker Madigan knew that she worked at the Sheriff's Office. Speaker Madigan said that he did not recall having this conversation with Representative Cassidy regarding Senate Bill 0695 and that, at the time he asked Mr. Mapes to check Representative Cassidy's employment status, he did not know that she worked for Sheriff Dart.

### **Allegation #1 - Conclusion**

Based on our investigation, we did not find sufficient evidence to conclude that Mr. Mapes was discourteous toward Representative Cassidy by contacting Ms. Smith. Representative Cassidy alleged that Mr. Mapes's call was an attempt to intimidate Representative Cassidy based on her public criticisms of Speaker Madigan's handling of sexual harassment and discrimination issues. During her interview, Representative Cassidy said that she based her allegation on the proximity of the call to Representative Cassidy's public criticisms of Speaker Madigan, her belief that no legitimate purpose existed for Mr. Mapes to make the call, and her experience in how the Capitol works. Ultimately, the question turns on whether Mr. Mapes had a legitimate reason to make the call.

Because Representative Cassidy had been a vocal critic of the Speaker's handling of sexual harassment allegations since February 13, 2018, the exact late-February date when Mr. Mapes contacted Ms. Smith is immaterial. Mr. Mapes did appear to contact Ms. Smith about Representative Cassidy's outside employment close in time to her public criticisms, but Representative Cassidy made her criticisms over a large timespan. While it is not clear exactly when Mr. Mapes texted or called Ms. Smith, any unwarranted contact from Mr. Mapes around late February would have



looked like “a warning.” Representative Cassidy and Ms. Smith gave different estimates of when those contacts occurred. Representative Cassidy said that the call was within a day or two of her “lather, rinse, repeat” statement, which was on February 20, 2018. Ms. Smith, however, said that Mr. Mapes did not text her until six days later, on February 26, 2018. Nonetheless, Representative Cassidy continued to be in the news regarding her criticisms of Speaker Madigan through the end of February.

Representative Cassidy did not believe that a legitimate purpose existed for Mr. Mapes to ask Ms. Smith whether she worked for the Sheriff’s Office. Representative Cassidy said that she did not hide the fact that she worked at the Sheriff’s Office, as evidenced by her annual statement of economic interests; the Speaker’s Office’s general counsel advising her that the position at the Cook County Sheriff’s Office would not create any conflicts;<sup>67</sup> and her conversation with Speaker Madigan regarding Sheriff Dart and Senate Bill 0695.

These events would not, however, have proven that Representative Cassidy still worked at the Sheriff’s Office when Mr. Mapes contacted Ms. Smith. According to the Illinois Secretary of State’s website, Representative Cassidy has included “Cook County” as her outside employer on her Illinois Economic Interest Statement since 2015.<sup>68</sup> And, according to the Cook County Clerk’s Office’s website, Representative Cassidy has been listed as an “Administrative Coordinator” for the Sheriff’s Office since 2015.<sup>69</sup> When Mr. Mapes contacted Ms. Smith, however, Representative Cassidy had not filed a statement in over 11 months. It is plausible for someone’s job status to change during that amount of time.

Likewise, Representative Cassidy said that around the time she started with the Sheriff’s Office, she checked with the Speaker’s Office’s general counsel about potential conflicts of interest. Representative Cassidy told Ms. Hickey that the general counsel advised Representative Cassidy that her employment with the Sheriff’s Office would not present any conflicts of interest. While Representative Cassidy said that she could not find these communications, we take her at her word that she spoke to the Speaker’s Office’s general counsel about her outside employment

<sup>67</sup> The Speaker’s Office’s then-General Counsel told us that the General Counsel would not have given a blanket statement about conflicts, because conflict checks are on a case-by-case basis with the legislation being considered. On the other hand, the General Counsel may have told Representative Cassidy, consistent with the advice to other representatives, that representatives are not prohibited from having outside employment.

<sup>68</sup> See Office of the Illinois Secretary of State, Statement of Economic Interest Search, *available at* <https://www.ilsos.gov/economicinterest/> (last visited July 7, 2019).

<sup>69</sup> Compare Kelly Cassidy’s Cook County Statement of Economic Interests (filed March 26, 2018), *available at* <https://ethics.cookcountyclerk.com/SEI/SubmissionConfirmation.aspx?FilingId=281072>, with the same (filed March 27, 2017), *available at* <https://ethics.cookcountyclerk.com/SEI/SubmissionConfirmation.aspx?FilingId=252175>.

at the Sheriff's Office.<sup>70</sup> But the fact that someone takes a job does not mean that they continue to work there years later.

Finally, we credit Representative Cassidy's statement that, about a few months to a year before this incident, she spoke with Speaker Madigan about Sheriff Dart. It is also plausible that, if their conversation was about Sheriff Dart, Representative Cassidy's employment in the Sheriff's Office would have come up during that conversation, explicitly or implicitly. As we noted above, however, this conversation would not establish that Representative Cassidy continued to work for Sheriff Dart.

Speaker Madigan said that he did not recall this conversation, which we also credit, because he could have still asked Mr. Mapes to confirm Representative Cassidy's employment if he did recall that conversation and because Mr. Mapes's confirmation of her employment was not a sensible method to intimidate her.

For the same reasons, we believe that Mr. Mapes called Ms. Smith to confirm Representative Cassidy's employment with the Sheriff's Office to satisfy Speaker Madigan's curiosity. The alternative—that Mr. Mapes was trying to influence employment decisions in the Sheriff's Office—is less plausible. According to Ms. Smith, Sheriff Dart, Speaker Madigan, and Representative Cassidy, the Speaker and Sheriff Dart have had a strained relationship, and the Speaker's Office was not able to influence employment decisions in the Sheriff's Office. If Mr. Mapes wanted to use pretext to intimidate Representative Cassidy, he could have, for example, called her directly, rather than relying on the chance that Ms. Smith would pass along the fact of Mr. Mapes's call without being directed to do so. Instead, Ms. Smith did not think anything of Mr. Mapes's question, she did not interpret it as a signal to terminate Representative Cassidy's employment, and he did not ask her to tell Representative Cassidy about the call.

As a result, we believe there is insufficient evidence that Mr. Mapes's question, while unusual, was discourteous.

<sup>70</sup> As referenced in a footnote above, the Speaker's Office's then-General Counsel told us that the General Counsel would not have given a blanket statement about conflicts. On the other hand, the General Counsel may have told Representative Cassidy, consistent with the advice to other representatives, that representatives are not prohibited from having outside employment.

B. Allegation #2: Representative Robert Rita Threatened Representative Kelly Cassidy's Outside Employment

Representative Cassidy alleged that Representative Rita became the chief sponsor of Senate Bill 3104 to use it as a weapon against her.<sup>71</sup> While different interpretations of events exist among the many people interviewed, in general, most agreed with the following timeline of events:

- In February 2018, Senate Bill 3104 introduced to the Illinois Senate.
- On April 25, 2018, Senate Bill 3104 passed the Senate and arrived in the House without a chief sponsor.
- On April 26, 2018, without speaking with the Sheriff's Office, Representative Rita picked up Senate Bill 3104 as the chief sponsor.
- Between April 26 and May 10, 2018, Ms. Smith had been unable to reach Representative Rita regarding the bill.
- On May 11, 2018, Representative Rita had a staff member contact Ms. Smith and tell her that the Judiciary - Criminal Committee was going to call the bill on May 15, 2018, and that Ms. Smith would need to meet Representative Rita to answer a series of questions about the bill. Representative Rita also had a staff member send a list of questions to Ms. Smith, which—then unbeknownst to Ms. Smith—Representative Rita had received from an opponent of Senate Bill 3104.
- On May 15, 2018, Representative Cassidy told Ms. Smith that Senate Bill 3104 would need to be amended to be called for a vote at the Judiciary - Criminal Committee and that Representative Rita, as the chief sponsor, would need to request an extension. Ms. Smith did not want to amend the bill, and Representative Rita did not ask for an extension. The Judiciary - Criminal Committee did not call the bill, which was re-referred to the Rules Committee on May 17.
- On May 17, 2018, Representative Cassidy called Ms. Smith, said she would resign from the Sheriff's Office, and sent a resignation letter.
- On May 21, 2018, Representative Cassidy goes public with her concerns.

<sup>71</sup> See Paris Schutz, *Speaker Madigan Denies Retaliation Claims, Calls for Investigation*, WTTW (May 22, 2018) ("Bobby Rita picked up this bill to use it as a weapon against me. He doesn't care about the sheriff. He doesn't care about the bill. This is not a subject area he does work in. And when he picked up the bill, Cara and I had a conversation about it, wondering why he had picked it up and what he was up to. Um, we now know."), available at <https://news.wttw.com/2018/05/22/speaker-madigan-denies-retaliation-claims-calls-investigation>.

According to Representative Cassidy and several other Speaker's Office workers who staff the Judiciary - Criminal Committee, Senate Bill 3104 was unlikely to get called for a vote because, for several years, there has been a "moratorium" on bills with penalty enhancements, including additions to the sex-offender registry, both of which Senate Bill 3104 had. Representative Rita and Ms. Smith said that they learned of the moratorium as they tried to guide Senate Bill 3104 through the House legislative process.

The day of the committee hearing, May 15, 2018, is the key date when Ms. Smith, Representative Rita, and Representative Cassidy had several, separate conversations. The following is a chronological order of events, noting key discrepancies as applicable:

- According to Ms. Smith, before meeting with Representative Rita, Ms. Smith spoke with Representative Cassidy. Representative Cassidy told Ms. Smith that Representative Cassidy thought the bill was on the "no call list"—referring to bills that would not be called during the committee due to the moratorium on penalty enhancements. Representative Cassidy asked Ms. Smith if she would be willing to ask that the bill be amended, which Ms. Smith did not want to do.
- According to Representative Rita, before meeting with Ms. Smith, Representative Rita spoke to a Speaker's Office Staff Attorney for the Judiciary - Criminal Committee. The Staff Attorney told Representative Rita that Senate Bill 3104 was on the "no call list." The Staff Attorney corroborated Representative Rita's account. The Staff Attorney said that Representative Rita was upset that Senate Bill 3104 would not get called.
- According to Representative Rita and Ms. Smith, they met, for the first time, to discuss the bill and his questions about it. Both Representative Rita and Ms. Smith acknowledged that this conversation was somewhat confrontational given Representative Rita's questions about the bill. Representative Rita maintains that he needed answers to the questions because he would have to defend the bill to the committee. Ms. Smith told Representative Rita that the bill might not even get called. Representative Rita asked Ms. Smith where she had heard that, and Ms. Smith told him that she heard it from Representative Cassidy, who worked for the Sheriff's Office. Representative Rita asked what position Representative Cassidy had on the bill, and Ms. Smith stated her belief that Representative Cassidy opposed the bill. Representative Rita told Ms. Smith that Representative Cassidy was on the Judiciary - Criminal Committee and that it would be a problem if Representative Cassidy was a 'no' vote on the bill. Representative Rita told Ms. Smith to talk to Representative Cassidy again.
- According to Ms. Smith, she called Representative Cassidy, who reiterated her question about amending the bill, and Ms. Smith did not want to request that the bill be amended.

- Ms. Smith spoke again to Representative Rita. Ms. Smith recalled that Representative Rita said that he could not believe Representative Cassidy would not support the bill, adding that he worked for elected officials and that if he had opposed their bills, he would not have had a job. Ms. Smith did not interpret his comments as telling Ms. Smith to fire Representative Cassidy.
- Representatives Cassidy and Rita spoke about the bill outside of their adjacent offices.<sup>72</sup> Representatives Rita and Cassidy gave very different accounts of this conversation. Representative Cassidy said that Representative Rita did not want to discuss the substance of the bill and kept repeating how much he could not believe she was opposing her “boss’s bill.” Representative Cassidy said that the conversation was clearly confrontational, and two people who saw the conversation from a distance asked her afterwards if she was okay.

By contrast, Representative Rita said that the conversation was cordial, and resembled other conversations Representative Rita has had with Representative Cassidy and other representatives about ongoing legislation. Representative Rita admits telling Representative Cassidy that he was surprised she opposed the bill, and he is still surprised she opposed the bill since it helped protect women where she worked. Representative Rita did not recall saying that his boss would have fired him for opposing his boss’s bill.

Ms. Hickey interviewed several people who might have overheard this conversation, and one bystander who recalled overhearing the conversation. The bystander recalled the conversation including Representative Cassidy’s opposition to the bill, but that they both wanted the bill to move, so they talked about getting Representative Art Turner’s support. Representative Rita suggested that Representative Cassidy call Ms. Smith and tell her to reach out to Representative Turner. The bystander did not recall Representative Cassidy’s employment at the Sheriff’s Office coming up during the conversation, and the bystander believes the first the bystander heard that Representative Cassidy worked there was about a week later when Representative Cassidy announced that she had resigned. The bystander said that the conversation took place right behind the bystander and that the bystander thought it sounded cordial.

- Representative Cassidy said that she immediately contacted Ms. Smith regarding their conversation. Representative Cassidy recalled that Ms. Smith told her that Ms. Smith’s entire meeting with Representative Rita was about Representative Cassidy’s opposition, rather than the bill or the questions he sent her.

<sup>72</sup> Representative Rita recalled having a more in-depth conversation near the House floor about potentially amending the bill. Representative Cassidy only recalled speaking to Representative Rita outside of their offices, and she did not recall them ever discussing the substance of Senate Bill 3104.

Representative Rita said that he never threatened Representative Cassidy's job or insinuated to anyone that she should be fired.

- Representative Rita recalled a more substantive, one-on-one conversation with Representative Cassidy near the House floor within the same hour about potential amendments to the bill. Representative Cassidy did not remember this conversation.
- Representative Rita told Ms. Smith that Representative Cassidy asked Representative Rita to hold the bill pending an amendment, but Ms. Smith did not want the bill to be amended.

Two workers from the Speaker's Office, who staffed the Judiciary - Criminal Committee at the time, said that they had brief separate conversations with Representative Cassidy about Senate Bill 3104. It is unclear when these purported conversations occurred in relation to the above timeline, but one conversation was the day before the committee meeting, Monday, May 14, and the other was the day of the meeting. Both workers said that Representative Cassidy asked about the likelihood of the bill moving out of the Judiciary - Criminal Committee, and they responded that it was unlikely based on the substance of the bill. They did not discuss the bill with Representative Rita. Representative Cassidy said that she did not recall speaking to those workers about the bill.

According to Representative Cassidy, Representative Rita does not usually sponsor these types of bills. Soon after he sponsored the bill, Representative Cassidy and Ms. Smith spoke about why he might have done so. Representative Cassidy explained to Ms. Smith how she might request a new sponsor. Ms. Smith said that she wanted to speak to Representative Rita first. After the bill did not get called, Ms. Smith accused Representative Rita of being a hostile sponsor of the bill. Representative Rita, however, maintained that he was not a hostile sponsor, and he continued to sponsor the bill for the 100th General Assembly.

Representative Cassidy said that, on the night of the committee meeting, she spoke to Ms. Smith. Representative Cassidy said that it became clear to her that she needed to resign, because the conflict with Representative Rita was distracting from the substance of the bill. Representative Cassidy said that Ms. Smith did not threaten to fire her and that she would not have put Ms. Smith in a position to fire her.

A week later, Representative Cassidy went public with her accusations. In response, Ms. Smith publicly alluded to Representative Cassidy's opposition to the

bill.<sup>73</sup> Sheriff Dart echoed this as well: “Based on this philosophical difference, she submitted her resignation which we accepted.”<sup>74</sup>

### **Allegation #2 - Conclusion**

Based on our investigation, we do not have sufficient evidence to conclude that Representative Rita violated the Illinois Governmental Ethics Act or the Illinois House Rules by commenting on Representative Cassidy’s opposition to Senate Bill 3104. Representatives Cassidy and Rita gave different accounts of Representative Rita’s comments. On their face, Representative Cassidy’s allegations against Representative Rita do not amount to misconduct.

Even assuming Representative Cassidy’s account of events was accurate, we do not believe that she described conduct that was “unbecoming to a legislator” or “disorderly.” Representative Cassidy believes that once Representative Rita discovered that she opposed the bill, that was all he wanted to speak about, rather than the substance of the bill. In fact, in hindsight, Representative Cassidy believes that Representative Rita became the chief sponsor of Senate Bill 3104 to use it against her. In comparison, during his interview, Representative Rita said that, when he became the chief sponsor of Senate Bill 3104, he did not know Representative Cassidy’s position on the bill—although he was surprised she was opposed to it when he found out—or that there was a moratorium on bills with penalty enhancements. To be clear, Representative Cassidy openly acknowledges that she opposed Senate Bill 3104, and she does not believe that the bill would have passed the committee even if she had supported it—which Representative Rita and Ms. Smith appeared to agree was the case.

According to Representative Cassidy, Representative Rita made repeated comments about Representative Cassidy’s opposition to legislation supported by her outside employer, the Sheriff’s Office. Representative Cassidy said that this created an uncomfortable position for her and the Sheriff’s Office, which led Representative Cassidy to believe that she needed to resign.

The standards for representative conduct during session are vague. But it would likely do significant harm to the legislative process if conduct “unbecoming to a

<sup>73</sup> Ms. Smith told WTTW: “The Sheriff’s office proposed legislation (SB3104) this session designed to strengthen our response to detainees who expose themselves and engage in sexual misconduct towards staff . . . Representative Kelly Cassidy, who worked part-time for our office and who co-chairs the committee the bill was assigned to, opposed the bill and the legislative solution our office was seeking to protect the over 1,000 female staff that work in the Cook County Jail. Last Thursday she chose to submit her resignation, which we accepted.” See Schutz, *Speaker Madigan Denies Retaliation Claims, Calls for Investigation*, WTTW (May 22, 2018).

<sup>74</sup> Ahern, *State Rep. Says She’s Facing Retaliation for Speaking Out Against Madigan*, NBC 5 CHICAGO (May 21, 2018).

legislator” and “disorderly” conduct were defined as prohibiting legislators from commenting on *or criticizing* other representatives’ opposition to their bills.<sup>75</sup>

Representative Cassidy believes that Representative Rita used the opportunity to make things difficult for her and the Sheriff’s Office. But, based on Representative Cassidy’s account of events, it is unclear how Representative Rita’s comments would have made things worse for the Sheriff’s Office and its support of Senate Bill 3104. Representative Cassidy believes that the bill was not going to pass Committee as written because of a longstanding moratorium on bills with penalty enhancements. As a result, Representative Rita’s purpose in sponsoring the bill was equally immaterial to this point.

Representative Cassidy said that Representative Rita killed the bill by not amending it. But it was certainly within Representative Rita’s legislative discretion to follow the Sheriff’s Office’s preference to keep the bill as written. Moreover, the purpose of the bill was to add penalty enhancements, and it is unclear whether an amended bill that could have passed the Judiciary - Criminal Committee would resemble Senate Bill 3104. The appropriateness of Representative Rita’s conduct does not depend on his willingness to amend legislation to the liking of Representative Cassidy or the Judiciary – Criminal Committee. Representative Rita’s obligation, as a state legislator, is to the “public interest.”<sup>76</sup>

Representative Cassidy believes, however, that Representative Rita was not serving the public interest. Instead, she believes that he was attempting to support the Speaker by making things difficult for her. Representative Cassidy does not allege that a concerted effort against her existed or that Representative Rita, Mr. Mapes, or the Speaker discussed retaliating against her. Instead, she believes that Mr. Mapes’s call and Representative Rita’s comments were the way that members of the Democratic Caucus and the Speaker’s Office would retaliate against people who criticize the Speaker. As a result, Representative Cassidy did not allege that Speaker Madigan, Mr. Mapes, or anyone needed to coordinate Representative Rita’s comments.

We did not find sufficient evidence, however, that Representative Rita made his comments to Representative Cassidy in bad faith. In fact, even assuming that Representative Rita attempted to draw attention to Representative Cassidy’s opposition to Senate Bill 3104, it is equally possible that he would have done so to change Representative Cassidy’s position on the bill, and thus obtain another vote in favor of Senate Bill 3104. Even if this would not have allowed Senate Bill 3104 to pass

<sup>75</sup> See, e.g., *Tenney v. Brandhove*, 341 U.S. 367, 372 (1951) (noting that it is “not consonant with our scheme of government for a court to inquire into the motives of legislators.”). See [Attachment 1](#) for more details regarding legislative immunity.

<sup>76</sup> See 5 ILCS 420/3-203.



the Judiciary - Criminal Committee on its own, it would have added support for the bill.

Courts typically refuse to try to decipher the motivations of representatives, because they represent their voters and constituents. The idea is that it is between Representative Rita and his voters whether he sponsored Senate Bill 3104 to pass it, to stop it from passing, or for leverage for some other bill.

This is not to say that Representative Cassidy was not harmed by Representative Rita's comments, either emotionally or financially. But if the Sheriff's Office forced Representative Cassidy to resign in lieu of terminating her employment—which it denies—her issue would be with the Sheriff's Office. Representative Cassidy has repeatedly said, however, that she does not blame the Sheriff's Office and that it felt like they were in this bad situation together. The exact cause of Representative Cassidy's resignation is unclear. Representative Cassidy has said, for example, that she felt forced to resign. On the other hand, she has also said that, after Mr. Mapes's and Representative Rita's conduct, she learned that her job at the Sheriff's Office was a "point of leverage [and] the weapon they had against" her, so she "took the weapon away." Rather than being forced to resign, Representative Cassidy said that she chose to resign to prevent people from raising the issue in the future. Perhaps Representative Cassidy would have preferred that people not raise the issue, but that would be an inappropriate rule to enforce by anyone other than Illinois voters at the ballot box. Representative Cassidy put this issue to voters when she went public, and both she and Representative Rita were reelected.

C. Allegation #3: Speaker Michael Madigan Declined a Meeting with Representative Kelly Cassidy and Threatened Her Committee Positions

During her interview, Representative Cassidy claimed that Speaker Madigan, in response to her criticisms against him, rejected a meeting with her and appeared to threaten her committee positions. To be clear, Representative Cassidy did not specifically allege that Speaker Madigan's conduct—declining a meeting and sending a letter that people interpreted as a threat—constituted retaliation. Nonetheless, to ensure that we address all her concerns, we investigated whether Speaker Madigan violated the Illinois Governmental Ethics Act or the Illinois House Rules.

First, Representative Cassidy alleged that, around April or May of 2018, after her public criticisms of Speaker Madigan, she requested a meeting to discuss pending legislation with him, and he rejected the meeting. According to Representative

Cassidy, Speaker Madigan had never done that with her or anyone else: “anyone who asks to speak to him gets in to speak to him.”<sup>77</sup>

During his interview, Speaker Madigan said that he declined the meeting with Representative Cassidy. When asked why he declined the meeting, Speaker Madigan said that he did not have a specific reason. Instead, he said that he has “reactions” just like everyone else—referring to Representative Cassidy’s public criticisms of him. Speaker Madigan said that he has declined meetings with Democratic Caucus members before, but that it is rare. He added that in those cases he eventually meets with the representative, as he did with Representative Cassidy. Speaker Madigan said that he did not believe that Representative Cassidy asked for another meeting until much later.

Second, Representative Cassidy alleged that Speaker Madigan threatened her committee positions in a public letter to her. Specifically, on May 22, 2018, the day after Representative Cassidy spoke to the media regarding her issues, Speaker Madigan sent her a letter, which was made public. Representative Cassidy said that she believed—along with many others in the Capitol—that the last line of Speaker Madigan’s letter was a threat:

I have read the media report where Cara Smith of the Cook County Sheriff’s Office states that “Based on philosophical differences, she submitted her resignation, which we accepted.”]

I have never taken any action to interfere with your outside employment, and I have never directed anyone else to do so. I have no idea why you feel that I am somehow retaliating against you as a result of your criticisms, particularly given that I agreed to your requests for an outside counsel and an independent review.

As for Representative Rita’s bill, no one in my office had discussed this specific bill with him, so I cannot comment on his concerns about your opposition to the legislation.

As you know from your experience with me, I encourage differences of opinion within our House Democratic Caucus, and then work to ameliorate those differences, working towards a unified House Democratic Caucus.

<sup>77</sup> Ahern, *State Rep. Says She’s Facing Retaliation for Speaking Out Against Madigan*, NBC 5 Chicago (May 21, 2018).

*Thank you for your continued service as the Chair of the Appropriations-Public Safety committee and as a member of our House Budget Negotiation Team. (Emphasis added).*

During her interview, Representative Cassidy clarified that it made sense for Speaker Madigan to mention those committees, since, at the time, they were in the middle of budget work. On the other hand, she believed that it is common knowledge that this is how Speaker Madigan operates.

During his interview, Speaker Madigan said that he did not intend the last line of his letter to be a veiled threat. Instead, Speaker Madigan said that he intended to send the message that they should be working together, even with differences of opinion described in the previous paragraph. He added that this letter was simply a public exchange between members of the legislature. Speaker Madigan admitted, however, that it would have been reasonable for Representative Cassidy to interpret the statement that way, and in hindsight, he would not have included that last sentence.

Likewise, on the same day he sent his letter, May 22, 2018, Speaker Madigan wrote to the then-Acting Legislative Inspector General, Julie Porter, asking her to investigate Representative Cassidy's allegations. In that letter, he added, "Myself and my staff will cooperate with any investigation into this matter."

The same day Representative Cassidy released a statement, saying she was "encouraged to see the call for an investigation by the Legislative Inspector General," but because of "the widely reported concerns about the ability of the [Legislative Inspector General] to operate with true independence," she stood by her "original call for a truly independent and outside investigation into this culture that appears to pervade the organizations led by Speaker Madigan."<sup>78</sup>

During their interviews, Representative Cassidy and Speaker Madigan said that they met in the winter of 2018 to discuss the then-upcoming legislative session. Representative Cassidy voted for Michael Madigan as the Speaker, and he was re-elected by the House in January 2019. Representative Cassidy also kept her committee positions. Representative Cassidy and Speaker Madigan both expressed that they hope their relationship has improved.

### **Allegation #3 - Conclusion**

Based on our investigation, we do not have sufficient evidence to conclude that Speaker Madigan violated the Illinois Governmental Ethics Act, the Illinois House Rules, or the State Officials and Employees Ethics Act by declining a meeting with

<sup>78</sup> Representative Cassidy, *Cassidy Statement on Retaliation by Speaker Madigan's Operation* (May 22, 2018).

Representative Cassidy or by sending a letter to her. In short, declining a meeting is not “unbecoming to a legislator.” Likewise, Speaker Madigan sent a letter that, on its face, expressed a desire to work together. While it may have been reasonable for Representative Cassidy to interpret this letter as a veiled threat that she would lose her committee positions, we cannot conclude that it was a threat when taken in context. Specifically, Representative Cassidy did not make a formal allegation against Speaker Madigan, and his threat could not have been interpreted as attempting to dissuade her from doing so when he asked the Legislative Inspector General to investigate Representative Cassidy’s allegations the same day as his letter. Moreover, Representative Cassidy did not lose her committee positions.

First, Speaker Madigan admitted that he declined a meeting invitation with Representative Cassidy. Nonetheless, declining a meeting does not constitute conduct that is “unbecoming to a legislator.” The fact that Speaker Madigan is diligent about taking meetings with representatives does not mean that it is now “unbecoming to a legislator” for him to decline a meeting. The alternative would punish him for his diligence. On the other hand, Speaker Madigan indicated that he declined the meeting because he had an emotional reaction to Representative Cassidy’s criticisms. This breakdown in communication helped push Representative Cassidy to take her concerns regarding her own experiences public, which in turn led to the public exchange that added to the confusion.

Second, Speaker Madigan responded to Representative Cassidy’s public allegations in a public letter. In that letter, Speaker Madigan denied Representative Cassidy’s allegations that he retaliated against her, asked to work together despite their differences of opinion, and thanked Representative Cassidy for her work on two of her committees. Speaker Madigan said that he did not intend to threaten Representative Cassidy. He admitted, however, that it was reasonable for Representative Cassidy to think that he was threatening her committee positions, and that, in hindsight, he would not have included the last sentence. It is important to note, however, that if Speaker Madigan did not reference Representative Cassidy’s committee positions, people could have still thought that Speaker Madigan would use his discretion to take away Representative Cassidy’s committee positions.

Third, Representative Cassidy kept her committee positions. It is important to note that a threat can be made and have a negative chilling effect even if the threat is not carried out. Nonetheless, the fact that Representative Cassidy kept her committee positions is, at least, relevant to the question of whether Speaker Madigan intended to threaten her committee positions.

Finally, and most importantly, any harm that would have been caused by interpreting this statement as a threat would have been mitigated by the fact that, on the same day, Speaker Madigan requested that the Legislative Inspector General investigate Representative Cassidy’s allegations, noting that the investigation would

have the Speaker's Office's full cooperation.<sup>79</sup> As a result, we do not believe that Speaker Madigan's conduct violated policy.

D. Whether Representative Cassidy Knowingly Made False Allegations Regarding Timothy Mapes, Representative Robert Rita, or Speaker Michael Madigan

Various members of the Capitol workforce suggested that Representative Cassidy made false allegations for self-serving, political purposes—with some even suggesting that they believed she was using the opportunity to become the Speaker. In this subsection, we address this concern directly, because of the direct impact it can have on discouraging genuine complaints. On the one hand, intentionally false allegations—particularly made through the media—could have a chilling effect on genuine allegations, because people may be less likely to take genuine allegations seriously or that complainants may be less likely to believe that they will be taken seriously. Alternatively, however, a workplace that reflexively categorizes complainants as disingenuous can also deter people with genuine allegations from coming forward.

#### **False Allegation - Conclusion**

Even though we did not find sufficient evidence to support Representative Cassidy's interpretation of Mr. Mapes's, Representative Rita's, and Speaker Madigan's conduct to find wrongdoing, we also did not find sufficient evidence to conclude that Representative Cassidy made knowingly false allegations. In fact, we believe there was sufficient evidence for Representative Cassidy to reasonably believe that people would attempt to defend Speaker Madigan against her public criticisms.

While the previous sections referred to the evidence we obtained from our investigation from all sources, Representative Cassidy did not have that luxury of having all of this information when she came forward. Instead, Representative Cassidy had the following limited information:

- She publicly criticized Speaker Madigan's handling of sexual harassment allegations in February 2018;
- Shortly after her public criticisms, Mr. Mapes—the Speaker's Office's Chief of Staff, the Clerk of the House, and Executive Director of the Democratic Party of Illinois (DPI)—asked her supervisor at the Sheriff's Office about her employment status, without warning or explanation;

<sup>79</sup> Given the confidentiality of the Legislative Inspector General process, we do not know whether the Legislative Inspector General's investigation is completed or, if so, how it concluded.

- Speaker Madigan declined to meet with Representative Cassidy, a meeting that could have provided her with information regarding Mr. Mapes’s call, the opportunity to address their differences of opinion, and assurances against reprisals;
- Representative Rita, a member of the Executive Committee, sponsored a bill promoted by Representative Cassidy’s employer that he would not usually sponsor, discovered her opposition to her employer’s bill, and then told her supervisor that he would be fired if he opposed his employer’s bill as she did; and someone told Representative Cassidy that Representative Rita was bragging about making things difficult for Representative Cassidy.

We heard from many representatives that they would have also interpreted Mr. Mapes’s phone call to be a threat or, at least, to be unusual and warranting an explanation. Likewise, we heard from many people who worked closely with Mr. Mapes who would consider that type of threatening behavior to be in line with his typical management style.

#### **IV. Section 2 Conclusion**

While we did not find sufficient evidence to support Representative Cassidy’s allegations, we believe that Representative Cassidy went public with genuine concerns about her workplace. Since then, she believes that her workplace and relationship with Speaker Madigan have improved.

Representative Cassidy said that she is in the fortunate position that her district constituents demand that she speaks her mind. As a result, she supports the Speaker when she believes he is correct and opposes him when she disagrees. According to Representative Cassidy, she gained this reputation before her public criticisms of Speaker Madigan’s handling of sexual harassment allegations. In February 2018, Representative Cassidy began criticizing Speaker Madigan and calling for an independent investigation.

Soon after, Representative Cassidy learned that then-Chief of Staff of the Speaker’s Office and Executive Director of DPI, Mr. Mapes, had called her outside employer regarding her employment status without warning or explanation. Then, Speaker Madigan declined a meeting with Representative Cassidy regarding legislation—the first time he had done so with her in the roughly seven years she had been a representative. The following month, Representative Rita—a member of the Executive Committee—made several comments about her outside employment.

Representative Cassidy believed the actions of Mr. Mapes, Representative Rita, and Speaker Madigan were in response to her public criticisms. During their interviews, several other representatives said that they would expect similar treatment

for speaking out against the Speaker. Some specifically mentioned how they would have been uncomfortable with Mr. Mapes calling their outside employer.

So, Representative Cassidy went public with her goal to stop what she perceived to be retaliation: “My goal in coming forward *was honestly to make it stop*, and you know being out in public is a bit of protection from that.”<sup>80</sup>

Nonetheless, we did not find sufficient evidence to conclude that Mr. Mapes violated the Speaker’s Policies or that Representative Rita or Speaker Madigan violated the Illinois Governmental Ethics Act. We also note that, while our focus was on relevant codes of conduct, we do not believe that their conduct would constitute “retaliation.” As referenced above, retaliation claims typically involve an employment relationship, but the Illinois Human Rights Act’s prohibition on retaliation does not require an employment relationship.<sup>81</sup> On the other hand, for a person to establish “retaliation” under the Illinois Human Rights Act, the person must have (1) engaged in “protected activity,” (2) suffered an “adverse action,” and (3) that there is a “causal nexus between the protected activity and the adverse action.”<sup>82</sup> Even assuming that Representative Cassidy’s public statements qualified as a “protected activity” and that Representative Cassidy’s resignation was an “adverse action,” we did not find a “causal nexus” between the two. In fact, Representative Cassidy said that she does not believe the Speaker’s Office was able to influence employment decisions at the Sheriff’s Office.

If Representative Cassidy’s goal was to stop the behavior she thought was a problem, she was successful. Since then, Representative Cassidy has not made any further allegations regarding purported mistreatment by Mr. Mapes, Representative Rita, or Speaker Madigan—although Mr. Mapes resigned a few weeks after her allegations. Representative Cassidy and Speaker Madigan are also working together again—with Representative Cassidy voting for Speaker Madigan as Speaker in January 2019. According to Representative Cassidy the Speaker’s Office is no longer the same office she criticized: “Things were definitely different in the House this year.”<sup>83</sup>

<sup>80</sup> See Schutz, *Speaker Madigan Denies Retaliation Claims, Calls for Investigation*, WTTW (May 22, 2018) (emphasis added).

<sup>81</sup> See 775 ILCS 5/6-101(A). See also *Henry v. Mel Foster Co. Inc. of Illinois*, IHRS, ALS No. 14-0573 (November 21, 2018).

<sup>82</sup> *Carter Coal Co. v. Human Rights Commission*, 261 Ill. App. 3d 1 (5th Dist. 1994).

<sup>83</sup> Tina Sfondeles, *Kelly Cassidy – ‘in the game’ to win*, CHICAGO SUN-TIMES (July 2, 2019), available at <https://chicago.suntimes.com/2019/7/2/18760363/kelly-cassidy-springfield-profile-marijuana-meetoo-abortion-pritzker-harassment>.

### Section 3.

## Activist Maryann Loncar’s Allegations against Then-Representative Lou Lang

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At a press conference on May 31, 2018, Activist Maryann Loncar made several public allegations against then-Representative Lou Lang.<sup>84</sup> We note, from the outset, that Ms. Loncar did not return our calls or agree to an interview to explain, support, or expand on her allegations. As a result, we investigated based on the strongest interpretation of Ms. Loncar’s public accusations against Representative Lang, which included the following:

- Representative Lang sexually harassed Ms. Loncar when they worked on cannabis legislation over five years ago, and<sup>85</sup>
- Representative Lang bullied Ms. Loncar after she disagreed with changes to the cannabis legislation and became aware of an alleged attempted bribe of around \$170 million.<sup>86</sup>

Because Ms. Loncar’s bribery allegation is outside the scope of the purpose of our investigation—workplace discrimination and harassment—we did not investigate those claims.<sup>87</sup>

<sup>84</sup> Most of the press conference can be viewed online. See *Lang: ‘From beginning to end the allegations are absurd’*, WAND (May 31, 2018), available at [https://www.wandtv.com/news/lang-from-beginning-to-end-the-allegations-are-absurd/article\\_023e280c-f4cc-59ec-97de-7139b8388388.html](https://www.wandtv.com/news/lang-from-beginning-to-end-the-allegations-are-absurd/article_023e280c-f4cc-59ec-97de-7139b8388388.html).

<sup>85</sup> Ms. Loncar also alleged that Representative Lang sexually harassed an unnamed representative, who was too fearful to come forward. As of the date of this report, no other woman has come forward publicly with allegations of sexual harassment involving Representative Lang. Ms. Hickey invited all members of the Democratic Caucus to be interviewed. No one brought a complaint against Representative Lang for Ms. Hickey to investigate. During his interview, Representative Lang denied these allegations.

<sup>86</sup> Ms. Loncar also alleged that Representative Lang called and swore at Activist Michael “Mike” Graham. Mr. Graham, however, did not want to interview with Ms. Hickey. During Representative Lang’s interview, he said that Mr. Graham turned against the medical-cannabis bill when Ms. Loncar did so, but Representative Lang did not recall the same animosity between Representative Lang and Mr. Graham.

<sup>87</sup> It is worth noting, however, that Ms. Loncar said that fellow medical-cannabis activist Michael Graham was at the meeting when this alleged bribery offer occurred. While Mr. Graham refused to speak to Ms. Hickey, Capitol Fax’s Rich Miller reported that Mr. Graham told him that Ms. Loncar “misspoke” and “was just overwhelmed by the enormity of the situation,” that the word “bribe” was not an accurate description, that Representative Lang was never offered anything, that Representative Lang never demanded anything, and that the \$170 million was offered as a payment for all of the dispensary licenses and was rejected. Rich Miller, *More on Loncar’s bribery allegations*, CAPITOL FAX (May 31, 2018), available at <https://capitolfax.com/2018/05/31/more-on-loncars-bribery-allegations/>.



We conclude that there is insufficient evidence to support Ms. Loncar’s sexual harassment and bullying allegations. Admittedly, our investigation into these allegations was limited because several witnesses, including Ms. Loncar, chose not to cooperate with us. Nonetheless, Representative Lang cooperated with the investigation and denied Ms. Loncar’s allegations. Ms. Hickey also conducted over 100 interviews with people connected to the Capitol workforce, including people who worked with or around Representative Lang and Ms. Loncar during the relevant periods. While many of these interviews did not focus solely on Ms. Loncar’s allegations, Ms. Hickey asked each person if they had any firsthand knowledge of Ms. Loncar’s allegations. No one corroborated Ms. Loncar’s allegations.

We also conclude that there is insufficient evidence that Ms. Loncar made these allegations knowing them to be false. Representative Lang did not allege that Ms. Loncar knowingly lied about her allegations; rather, he said that the allegations were “absurd.” Because of the implication that Ms. Loncar was knowingly making false claims against Representative Lang, we investigated whether Ms. Loncar did so. We concluded that Ms. Loncar made improbable claims—such as an unsubstantiated \$170 million bribe attempt—that affect her credibility. During her press conference, Ms. Loncar acknowledged that she was a neophyte in the political system, and many of her claims reflect that inexperience. Ultimately, we did not find sufficient evidence to conclude that Ms. Loncar knowingly lied about her claims. Instead, we believe that it is more likely that she was wrong about her claims. While it is difficult to make this assessment without speaking to Ms. Loncar, Ms. Loncar had a right not to cooperate with the investigation, and her exercise of that right is not evidence that she lied.

## **I. Background**

### **A. Standard of Conduct: The Illinois Governmental Ethics Act and the Illinois House Rules**

As detailed in Section 1 above and [Attachment 1](#) below, we chose to evaluate the allegations under the standards of conduct, which are broader and often clearer than the minimum standards established by state and federal law. This Section applies the minimum standards for Representative Lang’s conduct as a legislator at the time of the allegations: the Illinois Governmental Ethics Act and the Illinois House Rules.<sup>88</sup>

<sup>88</sup> 5 ILCS 420/*et seq*; and *House Rules for the 100th General Assembly* (2017). We do not apply the Illinois State Officials and Employees Ethics Act, because, as described further below, the Acting Legislative Inspector General—who was responsible for investigating violations of the Illinois State Officials and Employees Ethics Act—also investigated Ms. Loncar’s allegations. See 5 ILCS 430/25-10(c).

The Illinois Governmental Ethics Act did not permit Representative Lang to “engage in other conduct which is unbecoming to a legislator or which constitutes a breach of public trust.”<sup>89</sup> The Act does not define “unbecoming” conduct. As then-Acting Legislative Inspector General Julie Porter has described, “It is in the eye of the beholder.”<sup>90</sup>

As in the previous section, we note that we are applying standards that are distinct from those that a judge would likely apply in a lawsuit or administrative proceeding. We do not, for example, limit our analysis based on the statute of limitations, and we do not limit our recommendations based on whether conduct was sufficiently severe to warrant penalties. As a result, any finding of wrongdoing in this report does not reflect an opinion that someone can sue, should sue, or would prevail in a lawsuit or administrative proceeding.

#### B. Maryann Loncar

Ms. Loncar is a citizen of Plainview, Illinois. In 2008 and 2009, Ms. Loncar was a political activist for medical cannabis in Illinois.<sup>91</sup> At the time, Ms. Loncar was President of Mother Earth Holistic Health and Chief Executive Officer of Patient’s Health Center.

#### C. Lou Lang

Representative Lang represented the 16th District from 1987 until he resigned in January 2019. Representative Lang was the Assistant Majority Leader from 1997 to 2009, when he became the Deputy Majority Leader. He served in that role until 2018. When Ms. Loncar made her allegations, Representative Lang also had several committee and appointed positions, including on the Legislative Ethics Commission.

#### D. Medical Cannabis Legislation

According to their public statements, Ms. Loncar and Representative Lang agree on the following:

<sup>89</sup> 5 ILCS 420/3-107.

<sup>90</sup> See Acting Legislative Inspector General Julie Porter, *Summary Report, Case Number 16-008* (January 19, 2018) at 24, available at <http://ilga.gov/commission/lig/CasesDocuments/LIG-CaseNo16-008.pdf>.

<sup>91</sup> Here, “activist” refers to a member of the public who advocates for or against legislation. Ms. Loncar was not and is not a registered lobbyist.

- They met during their work on the medical-cannabis legislation around 2008 or 2009;<sup>92</sup>
- Their relationship soured after Representative Lang supported changing the non-profit dispensaries, under HB0030, into for-profit dispensaries, under HB0001 in January 2013;<sup>93</sup>
- Ms. Loncar sought, unsuccessfully, for her company, Patient Health Center, to receive a license to become a medical-cannabis dispensary; and
- Ms. Loncar believes that Representative Lang had some role in the fact that Ms. Loncar’s company did not receive a license.

#### E. Maryann Loncar’s and Lou Lang’s Public Statements on May 31, 2018

On May 31, 2018—the last day of session for the 100th General Assembly—Ms. Loncar appeared anonymously on the radio show “Chicago’s Morning Answer with Dan Proft and Amy Jacobson.”<sup>94</sup> On the show, Ms. Loncar alluded to her allegations against a Democratic representative in leadership and the fact that she would be having a press conference later that day.<sup>95</sup> At the press conference, in the blue room of the Capitol building, Ms. Loncar named then-Representative Lang and clarified her allegations.<sup>96</sup> Ms. Loncar added that she had documents to support her allegations.

<sup>92</sup> See, e.g., Bill Status for HB2514, 96th General Assembly (2009) (a medical cannabis bill filed by Representative Lang in February 2009), available at <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=2514&GAID=10&DocTypeID=HB&LegID=44766&SessionID=76&GA=96> (last visited July 10, 2019). See also Bill Status of SB1381, 96th General Assembly (2009) (medical cannabis, sponsored by Representative Lang in May 2009), available at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=1381&GAID=10&GA=96&DocTypeID=SB&LegID=42617&SessionID=76> (last visited July 10, 2019).

<sup>93</sup> Representative Lang filed HB0030, a medical cannabis bill with non-profit dispensaries, in December 2010. See Bill Status for HB0030, 97th General Assembly (2010), available at <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=0030&GAID=11&DocTypeID=HB&LegID=&SessionID=84&SpecSess=&Session=&GA=97> (last visited July 10, 2019). Representative Lang filed HB0001, a medical cannabis bill with for-profit dispensaries, on January 6, 2013. See Bill Status for HB0001, 98th General Assembly (2013), available at <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=1&GAID=12&DocTypeID=HB&SessionID=85&GA=98> (last visited July 10, 2019).

<sup>94</sup> See Dan Proft and Amy Jacobson, “Chicago’s Morning Answer – May 31, 2018” (May 31, 2018), available at <https://www.youtube.com/watch?v=WOOatmOzfeg> at about 2:35:00.

<sup>95</sup> See *id.*

<sup>96</sup> We note that many people we interviewed believed that Ms. Loncar was politically motivated, as evidenced by her appearance on Mr. Proft’s show (Mr. Proft ran for governor as a Republican in 2010), and the fact that she was accompanied at the press conference by Republican Representatives Jeanne Ives and Margo McDermed and Activist Denise Rotheimer, who ran for the

At the press conference, members of the press also received a one-page document, which included the following statements:

Maryann Loncar says Representative Lou Lang committed terrible acts against her while she advocated for a bill that he sponsored. Most of the inappropriate and abusive behaviors occurred at Lincoln Lounge and Globe Room.

1. Threat to ex-husband “I can help you bury her if you want.”
2. Hand on lower back below underwear line and said, “Does your husband know how lucky he is to have a wife like you?”
3. 8 pm phone call “I would have dinner with you if you weren’t with your husband.”
4. Isolated, discredited, blackballed from Springfield. “You aren’t allowed back here.”<sup>97</sup>

During Ms. Loncar’s press conference, Representative Lang held his own press conference, denying Ms. Loncar’s “absurd” allegations. Representative Lang requested that then-Acting Legislative Inspector General Julie Porter investigate Ms. Loncar’s allegations. Representative Lang also announced that he was stepping down from his leadership position and other appointed positions, including the Legislative Ethics Commission. Representative Lang said that he took these actions, after consultation with Speaker Michael Madigan, to “maintain the integrity” of the committees and “to avoid distraction from the agenda of the House Democratic Caucus.”

#### F. The Acting Legislative Inspector General’s Investigation

On September 5, 2018, the then-Acting Legislative Inspector General, Julie Porter, sent a letter to Representative Lang, notifying him that she had closed her investi-

Illinois House as a Republican. Without more, it seems just as likely that Ms. Loncar believed that Representative Lang’s opposition party would be more likely to support her making allegations against Democratic leadership. More importantly, Ms. Loncar’s political motivations—if she had any—are irrelevant to the purposes of our investigation: the truth or falsity of her claims. For these reasons, we did not consider the political parties of any of her associates.

<sup>97</sup> It is not clear who authored this document, which refers to Ms. Loncar in the third person. The document has Denise Rotheimer’s contact information as the “Press Contact.” Nonetheless, Ms. Loncar referenced the document knowingly during the press conference. *See Lang: ‘From beginning to end the allegations are absurd’*, WAND (May 31, 2018). Ms. Loncar clarified, for example, that the references to “Lincoln Lounge” and the “Globe Room” refer to the Globe Tavern restaurant in the Abraham Lincoln Presidential Hotel in Springfield, Illinois. *Id.*

gation. In the letter, Ms. Porter said that Ms. Loncar did not respond to her attempts to communicate. Based on several interviews, including an interview of Representative Lang, Ms. Porter concluded that “a preponderance of evidence does not support [Ms.] Loncar’s allegations that [Representative Lang] engaged in misconduct.”

The following day, Ms. Loncar released a statement, which included the following remarks:

Earlier this year I made it known that State Rep. Lou Lang was inappropriate in his actions and dealings with me . . . . While I had not originally planned to go public with my issue, it became increasingly clear to me that Illinois offers little if any resources for those who feel that they have been harassed or witnessed improper conduct by an elected official of the Illinois Legislature.<sup>98</sup> . . .

With no disrespect to Legislative Inspector General Julia Porter [sic], it is ridiculous to think that any person who feels victimized by a member of the House or Senate would be consoled to reveal their plight to a hand-picked I.G. appointed by the Speaker of House.<sup>99</sup> . . .

I originally stated that I did not trust the system in place to investigate my allegations. . . . There is not coordination of efforts in Illinois legislature when it comes to victims of harassment. . . . I am holding in my hand a letter that I received from Special Legislative Inspector General [sic] Margaret Hickey inviting me to come to her office.<sup>100</sup> . . . There are two Inspector Generals being paid tax dollars and neither of them seem aware of each other’s existence. What I have seen played out since my press conference confirms everything I assumed about having a Legislative Inspector General appointed by the Speaker of the House: it is a joke. The joke is on the victims. The joke is on the Illinois taxpayers. . . . My allegations deserve a proper look. I am confident in my decision to not partake

<sup>98</sup> The bipartisan Legislative Ethics Commission appointed Julie Porter as Acting Legislative Inspector General.

<sup>99</sup> As above referenced in the footnote above, Speaker Madigan did not appoint Julie Porter as Acting Legislative Inspector General.

<sup>100</sup> To be clear, Ms. Hickey was not an inspector general in this investigation. She is an independent counsel hired by the Speaker’s Office to conduct an independent investigation. Ms. Hickey was the Executive Inspector General for the Agencies of the Illinois Governor from 2015 to 2018.

in the ruse of the two I.G.'s. I have no further comment to make as this is an ongoing investigation.<sup>101</sup>

## **II. Investigation**

To investigate Ms. Loncar's allegations, Ms. Hickey and her investigative team reviewed, among other things, Ms. Loncar's appearance on the "Chicago's Morning Answer" radio show, her press conference, and Representative Lang's press conference. Like her decision not to cooperate with the Acting Legislative Inspector General's investigation, Ms. Loncar did not respond to Ms. Hickey's calls or letter. Likewise, Ms. Loncar did not provide us with any of the documents she alluded to in her press conference.

The investigative team also reached out to people whom Ms. Loncar said witnessed Representative Lang's alleged conduct, including fellow medical-cannabis activist Michael Graham and Ms. Loncar's ex-husband. Mr. Graham said that he did not want to speak with Ms. Hickey, and Ms. Loncar's ex-husband did not return our calls. Mr. Graham and Ms. Loncar's ex-husband have both made public statements contradicting parts of Ms. Loncar's allegations.

Ms. Hickey did, however, interview Representative Lang. Ms. Hickey also interviewed over 100 people who work or have worked in the Capitol workplace. Ms. Hickey asked these witnesses if they had any knowledge of Ms. Loncar's claims.

## **III. Analysis**

### **A. Allegation that Then-Representative Lou Lang Sexually Harassed Maryann Loncar**

Ms. Loncar alleged that Representative Lang made inappropriate sexual advances when they first began working together to push medical-cannabis legislation forward. Since Ms. Loncar did not agree to an interview, we must consider her allegations based on her public statements. Unfortunately, Ms. Loncar's public statements were not entirely clear regarding the timeline of these events or the events themselves.

Based on Ms. Loncar's public statements, Representative Lang's alleged misconduct would have taken place around 2008 or 2009—around ten years before Ms. Loncar's press conference—or at the latest, before January 2013—over five years

<sup>101</sup> Ms. Loncar's full statement is available online. See Jonah Meadows, *Harassment Allegations Against Rep. Lou Lang Dismissed*, PATCH (September 6, 2018), available at <https://patch.com/illinois/skokie/harassment-allegations-against-rep-lou-lang-dismissed>.

before Ms. Loncar’s press conference. Specifically, Ms. Loncar said that this conduct began around when they first met, which would have been when they began working together for the cannabis legislation around 2008 or 2009. Ms. Loncar said that she stopped Representative Lang’s “flirty” behavior “very quickly.” Ms. Loncar also said that their relationship became contentious after Representative Lang began sponsoring HB0001, which was officially introduced in January 2013.

It is unclear what sexual misconduct Ms. Loncar alleged Representative Lang committed. At times, Ms. Loncar’s claims appeared contradictory. In fact, Ms. Loncar’s alleged different conduct on the “Chicago’s Morning Answer” radio show and later at her press conference. She also made inconsistent allegations during her press conference. On the radio show, Ms. Loncar alleged that Representative Lang—at that point unnamed—was not going to allow her to get what she wanted as an activist unless she played ball sexually. During her press conference later that day, Ms. Loncar was asked to clarify whether Representative Lang ever said that she was not going to get what she wanted unless she played ball sexually. Ms. Loncar responded: “Not sexually, no, but the fact that if I don’t play ball and I don’t get on the team and work the bill the way he wanted me to work it.” Ms. Loncar also said that Representative Lang never threatened her with sexual abuse.<sup>102</sup> If Ms. Loncar had agreed to an interview, she might have further explained her allegations.

Nonetheless, by the end of her press conference, Ms. Loncar had alleged that Representative Lang had made several flirty, unwelcome comments early in their relationship, which Ms. Loncar stopped.<sup>103</sup> Ms. Loncar specified two instances:

- At one event, Representative Lang approached Ms. Loncar, put his hand on her lower back, below her underwear line, and said, “Does your husband know how lucky he is to have a woman like you?” In response, Ms. Loncar did not smile and said, “No, no man knows how lucky they are to have a woman in their life.”<sup>104</sup>
- Representative Lang called Ms. Loncar around 8:00 PM and tried to give her “insider information” about Speaker Madigan’s position regarding the medical-cannabis bill. Ms. Loncar explained that she was at dinner with her husband, and Representative Lang replied, “Oh, if I knew you weren’t by yourself, I wouldn’t have called you.” Representative Lang indicated that if Ms. Loncar had been alone, he would have come to meet her at the restaurant.

<sup>102</sup> See Lang: ‘From beginning to end the allegations are absurd’, WAND (May 31, 2018) at about 49:30.

<sup>103</sup> Ms. Loncar said, “I cut those cute little comments off.” *Id.* at about 39:36.

<sup>104</sup> During her press conference, Ms. Loncar indicated that Representative Lang placed his hand on an area between her lower back and below her underwear line. See *id.* at about 49:40.

First, Ms. Loncar did not identify the event between 2008 and 2013 where Representative Lang allegedly touched her lower back. Since we were unable to determine which event Ms. Loncar was referring to, we were unable to determine who attended the event and who might have seen Representative Lang's alleged conduct. Nonetheless, Ms. Hickey interviewed several people who frequently attended events with Representative Lang during that time, including a former coworker, Witness A. No one whom Ms. Hickey interviewed, including Witness A, said that they had witnessed Representative Lang place his hand on Ms. Loncar's lower back or hear Representative Lang make the alleged comment.

During his interview, Representative Lang denied Ms. Loncar's allegations without reservation. Representative Lang said that he did not flirt with Ms. Loncar, that he did not put his hand on her lower back, that he did not tell her that her husband was lucky to have a woman like her, and that he did not say that he would not have called her if he knew she weren't alone. Representative Lang said that he does not recall putting his hand on her back at all, but if he did, it was only in the non-sexual way that people normally do to get people's attention or direct them into a conversation.

Second, we did not obtain any evidence corroborating Representative Lang's alleged 8:00 PM phone call to Ms. Loncar. Ms. Loncar's ex-husband did not return our calls. As a result, we were unable to ask him whether he recalls Representative Lang's 8:00 PM call to Ms. Loncar. In contrast, Representative Lang said that he did not remember calling Ms. Loncar while she was with her husband. Although Representative Lang acknowledged that he occasionally spoke to Ms. Loncar on the phone around that time, he said that those calls were about his campaign or legislation and not related to an attempt to have a personal relationship with her. As above, Representative Lang said that he did not flirt with Ms. Loncar, and he did not tell her that he would not have called her if he knew she was not alone.

### **Sexual Harassment Allegations - Conclusion**

Based on our necessarily limited investigation, we do not have sufficient evidence to conclude that Representative Lang violated the Illinois Governmental Ethics Act or the Illinois House Rules by flirting with Ms. Loncar or touching her inappropriately. As described above, the Illinois Governmental Ethics Act does not define conduct that is "unbecoming," and the Illinois House Rules do not define "disorderly behavior." Representative Lang did not dispute that what Ms. Loncar described would have been inappropriate; he said that the events did not happen. Because we were unable to speak with Ms. Loncar for clarifications of the timeline, witnesses, and specific conduct alleged, we have no evidence to disprove Representative Lang's otherwise consistent denials.

Except for Ms. Loncar's allegation that Representative Lang placed his hand on her lower back and below her underwear line, Ms. Loncar's allegations are open to



interpretation and misinterpretation. A statement to the effect of, “If I knew you weren’t alone, I wouldn’t have called you,” for example, could be meant or interpreted as an apology for interrupting a dinner. If Representative Lang touched Ms. Loncar inappropriately, it would be reasonable to interpret his other alleged conduct as a pattern of inappropriate conduct. If he did not, it would be reasonable to interpret his other alleged conduct as part of a pattern of appropriate conduct.

Ultimately, the question is whether Representative Lang touched Ms. Loncar inappropriately. Representative Lang denied touching Ms. Loncar. Ms. Loncar said that it occurred publicly, but she did not provide the names of any witnesses to that specific conduct, and no one whom Ms. Hickey interviewed said that they had witnessed Representative Lang touch Ms. Loncar. Without speaking with Ms. Loncar, we cannot substantiate her claims.

#### B. Allegation that Then-Representative Lou Lang Bullied Maryann Loncar

During her press conference, Ms. Loncar also alleged that, after she refused to cooperate with HB0001 and prevented a \$170-million bribery scheme, Representative Lang was abusive toward her in the following ways:

- When Ms. Loncar refused to advocate for HB0001, which involved for-profit medical-cannabis dispensaries, Representative Lang yelled profanities at her;
- In May 2017, Representative Lang called Ms. Loncar’s ex-husband and offered to “bury” her, which Ms. Loncar stated that her ex-husband conveyed to her; and
- Representative Lang told a senator not to work with Ms. Loncar on a hemp bill and that “If Maryann is working that bill, I am going to bury it in House rules.”

The one-page document that corresponded with her press release also included the allegation that Representative Lang “blackballed” Ms. Loncar from Springfield, and he told her, “You aren’t allowed back here.” During her press conference, Ms. Loncar added, “This is serious. I fear for my life. This is not a joke. This is not a woman thing.” Ms. Loncar said that she had a press conference because there was nowhere for her to go, because she did not feel comfortable going to the police, the state prosecutor, leadership, or the Inspector General’s Office.<sup>105</sup>

We address the evidence for and against each of these allegations separately.

<sup>105</sup> See Lang: ‘From beginning to end the allegations are absurd’, WAND (May 31, 2018).

### *Whether Representative Lang yelled profanities at Ms. Loncar*

Ms. Loncar said that Representative Lang yelled profanities at her after she refused to advocate for HB0001. Ms. Hickey interviewed several people who frequently attended events with Representative Lang during that time, including his former coworker, Witness A, who sat outside of Representative Lang's office. No one whom Ms. Hickey interviewed said that they had overheard Representative Lang yelling at or saying profanities to Ms. Loncar.

During his interview, Representative Lang admitted that there was animosity between him and Ms. Loncar. Representative Lang asserted, however, that his issue with Ms. Loncar was less about their disagreement over the medical-cannabis bill than about her personal attacks against him. According to Representative Lang, Ms. Loncar originally supported Representative Lang and his legislative efforts in favor of medical cannabis—she even helped him with petitions for his campaign. Representative Lang said that he could not get the necessary votes to pass the medical-cannabis bill without having for-profit dispensaries, and Ms. Loncar did not agree with that compromise. Representative Lang said that Ms. Loncar then started spreading rumors in the Capitol about Representative Lang accepting a bribe and tweeting negatively about him from her company's Twitter handle (“@MotherEarthHH”).<sup>106</sup> Representative Lang believes that Ms. Loncar also blamed him for not getting a license for a dispensary, even though he had no say in who received licenses and the act required blind-grading.

Representative Lang denied using vulgar language with Ms. Loncar. Representative Lang admitted, however, that he may have gotten upset and raised his voice with her regarding the medical-cannabis bill after his relationship with her started becoming more tense.

<sup>106</sup> Various posts by @MotherEarthHH present themselves as coming from Ms. Loncar. Several posts, for example, show pictures of Ms. Loncar and other people with descriptions like “[person's name] & I.” See, e.g., @MotherEarthHH (May 9, 2013, 2:10 PM) (“Patient Mike Graham & I . . .”), available at <https://twitter.com/MotherEarthHH/status/332603522753372161> (last visited July 7, 2019). We did not receive confirmation from Ms. Loncar that “@MotherEarthHH” is her twitter account. Regardless, @MotherEarthHH was prolific and often posted about cannabis-related issues. Representative Lang has appeared in many of its posts from 2012 into 2019. These posts were generally positive toward Representative Lang and his medical-cannabis efforts until around February 2013, when they become mostly negative. As Representative Lang mentioned, at least one post refers to an article about Representative Lang and his daughter. Specifically, on May 29, 2016, @MotherEarthHH posted the following: “@GovRauner This #Illinois top Dem lawmaker asked Rauner for a job for his kid.” @MotherEarthHH (May 29, 2016, 7:01 AM) (linking to Greg Hinz, “This top Dem lawmaker asked Rauner for a job for his kid,” *CRAIN'S CHICAGO BUSINESS* (August 5, 2015)), available at <https://twitter.com/MotherEarthHH/status/736920490367913984> (last visited July 7, 2019).

*Whether Representative Lang threatened to “bury” Ms. Loncar*

Ms. Loncar alleged that her ex-husband told her that, in May 2017, Representative Lang called her ex-husband and offered to “bury” Ms. Loncar. While Ms. Loncar’s ex-husband did not return our calls for an interview, he denied this allegation elsewhere. Specifically, according to Ms. Porter’s letter to Representative Lang, Ms. Loncar’s ex-husband told Ms. Porter that he did not receive this call from Representative Lang. Likewise, the Chicago Tribune reported that Ms. Loncar’s “ex-husband adamantly denied that Lang made a threat against her.”<sup>107</sup> Representative Lang, in turn, told us that he did not call Ms. Loncar’s ex-husband and that he did not make this threat against her.

*Whether Representative Lang told a Senator to not work with Ms. Loncar and that he was going to “bury” a bill if Ms. Loncar was working on it*

Ms. Loncar alleged that Representative Lang called an Illinois senator and told him not to work with Ms. Loncar on a different hemp bill, adding, “If Maryann is working that bill, I am going to bury it in House rules.” Representative Lang admitted that, in 2016 or 2017, he warned Senator Toi Hutchinson—the Senate sponsor for the Industrial Hemp Act—about working with Ms. Loncar because, in his experience, she did not understand the term “compromise.”<sup>108</sup> Representative Lang denied threatening to bury the hemp bill in the Rules Committee, adding that he did not have that authority.

Ms. Loncar also alleged that Representative Lang “buried” this hemp bill because Ms. Loncar was advocating for it.<sup>109</sup> According to Ms. Porter’s investigation and

<sup>107</sup> See Monique Garcia, Ray Long, and Kim Geiger, *Lawmaker resigns from Madigan’s leadership team following allegations of retaliation, verbal abuse*, CHICAGO TRIBUNE (May 31, 2018) (“He never called me. What she said had never taken place.”), available at <https://www.chicagotribune.com/news/local/politics/ct-met-lou-lang-retaliation-abuse-allegation-20180531-story.html>.

<sup>108</sup> According to Chicago Tribune, Senator Toi Hutchinson told the Chicago Tribune that Representative Lang told Senator Hutchinson, regarding Ms. Loncar: “I know you can’t keep people out of the building, but those people are crazy and I don’t want to see that they are involved in any way.” *Id.*

<sup>109</sup> See Bill Status for Senate Bill 1294, 100th General Assembly (2017), available at <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=1294&GAID=14&DocTypeID=SB&SessionID=91&GA=100> (last visited July 10, 2019).

various other sources close to the legislation, however, the bill stalled for other reasons.<sup>110</sup> The Industrial Hemp Act ultimately became law in a different format.<sup>111</sup>

*Whether Representative Lang “isolated,” “discredited,” and “blackballed” Ms. Loncar from Springfield*

The one-page document that accompanied Ms. Loncar’s press conference alleged that Representative Lang “Isolated, discredited, [and] blackballed [Ms. Loncar] from Springfield” and told her, “You aren’t allowed back here.” It is not clear what setting or circumstances existed when Representative Lang allegedly made this comment or whether “back here” refers to Springfield, the Capitol building, his office area, his office, or somewhere else.

Representative Lang said that he may have banned Ms. Loncar from his office, but he did not—and could not—ban her from the Capitol. During his interview, Representative Lang said that he had not spoken to Ms. Loncar since 2012 or 2013, which is consistent with Ms. Loncar’s public statements. If Representative Lang made this comment, and if Ms. Loncar interpreted Representative Lang’s comment as meaning that she was not permitted in Springfield, then she did not believe it to be true. According to Ms. Loncar, she continued to advocate for legislation in Springfield after 2013.

### **Bullying Allegations - Conclusion**

Based on our investigation, we do not have sufficient evidence to conclude that Representative Lang violated the Illinois Governmental Ethics Act or the Illinois House Rules by bullying Ms. Loncar. While the Illinois Governmental Ethics Act prohibited Representative Lang from committing “unbecoming” conduct, it does not prohibit Representative Lang from pursuing legislation that certain activists may disagree with, defending his reputation, warning fellow legislators about his experiences with others, or denying people access to his office. As with Ms. Loncar’s claims regarding alleged unwanted sexual advances, discussed above, we could not disprove Representative Lang’s otherwise consistent denials because we were unable to speak with Ms. Loncar for clarifications to the timeline, witnesses, and specific conduct.

Representative Lang’s alleged bullying behavior is also open to interpretation. Ms. Loncar claims that Representative Lang was bullying her for not advocating for his medical-cannabis bill and after finding out about an alleged bribery scheme. In

<sup>110</sup> See, e.g., Garcia, Long, Geiger, *Lawmaker resigns from Madigan’s leadership team following allegations of retaliation, verbal abuse*, CHICAGO TRIBUNE (May 31, 2018).

<sup>111</sup> See Bill Status for Senate Bill 2298, 100th General Assembly (2018), available at <http://ilga.gov/legislation/billstatus.asp?DocNum=2298&GAID=14&GA=100&DocTypeID=SB&LegID=108613&SessionID=91> (last visited July 10, 2019).

Representative Lang’s opinion, Ms. Loncar did not want to compromise on the medical-cannabis legislation, she spread rumors about Representative Lang taking a ridiculous bribe, and she spread negativity about him online. Either interpretation explains that the relationship soured: even a genuine disagreement between associates about whether one of them attempted to take a \$170-million bribe would likely strain any relationship.

Representative Lang denied yelling profanities at Ms. Loncar, threatening to “bury” her, threatening to bury legislation she was advocating for, or excluding her from the Capitol. No one whom Ms. Hickey interviewed corroborated Ms. Loncar’s allegations. Although he did not speak with Ms. Hickey, Ms. Loncar’s ex-husband has publicly denied that Representative Lang told him that Representative Lang would help “bury” Ms. Loncar. Representative Lang admitted that he may have raised his voice with Ms. Loncar and that he warned Senator Hutchinson against working with Ms. Loncar. While we do not recommend that representatives raise their voices to activists, we cannot say that Representative Lang’s conduct was “unbecoming” given the mutual animosity between himself and Ms. Loncar.

C. Whether Maryann Loncar Knowingly Made a False Allegation against Then-Representative Lou Lang

As with other complainants, various members of the Capitol workforce suggested that Ms. Loncar made false allegations for self-serving, political purposes. In this subsection, we address this concern directly.

**False Allegation - Conclusion**

We did not find sufficient evidence either to overcome Representative Lang’s denials of Ms. Loncar’s allegations or to conclude that Ms. Loncar knowingly made false allegations. While no one explicitly accused Ms. Loncar of making knowingly false allegations, people frequently suffer unfair reputational harms if their allegations are not substantiated. To avoid such an unjust result, we explicitly considered whether Ms. Loncar knowingly made false allegations against Representative Lang.

Many of the events alleged by Ms. Loncar occurred about 10 years ago. Different interpretations of the same event can result in different memories *immediately* after an event, and even more so *10 years* after an event. If Ms. Loncar wrongly believed, for example, that Representative Lang made sexual advances toward her, then it would not be surprising for Ms. Loncar to remember those interactions while Representative Lang—who says he did not intend to make sexual advances—would have no recollection of those interactions. If that were the case, we cannot say whether Ms. Loncar was unreasonable to interpret Representative Lang’s conduct as abusive, hostile, or offensive.

On the other hand, there are reasons to question Ms. Loncar's credibility. We did not discover evidence to corroborate either the events she alleges or whether those events, if they occurred, would have constituted misconduct. She has been given repeated opportunities to present the evidence she says she has that substantiates her claims, but she has chosen not to do so. Moreover, Ms. Loncar was unclear and, at times, contradictory during her public statements. If Representative Lang had given equally unclear or contradictory denials of her claims, it is possible that we would have discredited his statements and believed the allegations against him.

Nonetheless, it is not fair to hold Ms. Loncar to the same standard as a public official giving a public press conference. Ms. Loncar said that she did not want to come forward, which was consistent with her demeanor. She was visibly shaken during her press conference, which could have been because of the difficulty of speaking about what she believed were true allegations in a public setting. While Ms. Loncar did choose to have a press conference, she was reasonable in believing that going public was the most effective way of addressing her concerns—for the reasons we discussed in the Background section (Section 1), above.

Without speaking with Ms. Loncar, we cannot say whether she knowingly made false allegations. It would be pure speculation to say that she did so. As a result, Ms. Loncar should not suffer official *or unofficial* repercussions for coming forward.

#### **IV. Section 3 Conclusion**

We believe there is insufficient evidence to conclude that Representative Lang engaged in wrongdoing. Ms. Loncar has reiterated the seriousness of her allegations and how she feared for her safety. We did not take her allegations lightly, but after interviewing over 100 members of the Capitol workplace, we were unable to find corroborating evidence. Instead, we found Representative Lang's denials to be credible and consistent. Our investigation was limited by the refusal of various people, including Ms. Loncar, to cooperate with us. It is possible that Ms. Loncar would have been able to provide this evidence, but she chose not to cooperate. Thus, it is not fair to hold Representative Lang accountable for a mere possibility.

We also determined, however, that there is insufficient evidence to conclude that Ms. Loncar deliberately made false allegations. Moreover, the circumstances of her allegations provided room for genuine miscommunication and interpretation. Ms. Loncar could have interpreted Representative Lang to be making advances toward her, found them inappropriate, and gained the courage to speak out against Representative Lang after the Me Too movement. Without more, we could not conclude that Ms. Loncar knowingly made false statements. We cannot perpetuate the idea that people should not come forward unless they believe that their

claims can be substantiated. Instead, the culture should encourage *genuine* complaints, regardless of proof problems. If the culture punishes complainants whenever their allegations cannot be proven—or even if they are disproven but the complainants reasonably believed them to be true—we incentivize people to suffer in silence.

Representative Lang and Ms. Loncar will likely find this result unsatisfactory, but a different conclusion based on this evidence would be improper. Representative Lang told us that he has suffered reputational harms that are likely irreparable. We believe him. Ms. Loncar, in comparison, has likely suffered some reputational harm by simply making public allegations. But despite these harms, there is not sufficient evidence to discipline either Representative Lang or Ms. Loncar. To the extent their reputations may have been harmed from this public process, we recommend that the Speaker's Office guard against reprisals to Ms. Loncar (who may continue to be an activist in the Capitol) and Representative Lang (who is now a registered Illinois lobbyist).<sup>112</sup> While neither Representative Lang nor Ms. Loncar works in the Speaker's Office, they are still members of the Capitol workplace. The Speaker's Office should, to the extent it can, ensure that complainants and the accused are treated with due respect in the Capitol workplace, which will help develop the overall culture of respect and transparency in the Capitol.

Despite the fact that our investigation did not support Ms. Loncar's claims against Representative Lang, Ms. Loncar's claim that the Capitol had insufficient avenues for redress at the time were substantiated by our interviews of many people who worked in the Capitol workplace for the last decade.<sup>113</sup> This is not to say that people did not have avenues for redress in the Capitol workplace. There was, for example, a Legislative Inspector General at the time. But that office had less authority than it does today. For example, the Ethics Act did not explicitly cover sexual harassment until 2017, and even if the Legislative Inspector General wanted to investigate a sexual harassment complaint, it would have required pre-approval from the Legislative Ethics Commission until mid-2018. Based on interviews of people who worked in the Capitol workplace at the time, Ms. Loncar was not alone. Many people said that they did not know how to make such reports or, if they did, did not trust the reporting mechanisms.

To some extent, both Ms. Loncar and Representative Lang are victims of these circumstances. By the time Ms. Loncar came forward with her allegations—arguably at the most socially acceptable time to do so in American history—it had been

<sup>112</sup> As a lobbyist, Representative Lang is prohibited from engaging in sexual harassment under the Illinois Lobbyist Registration Act and the jurisdiction of the Inspector General for the Illinois Secretary of State. See 25 ILCS 170/4.7 and 10(a-5) (referencing penalties in the Illinois State Officials and Employees Ethics Act).

<sup>113</sup> See [Section 5](#) (Workplace Culture in the Speaker's Office & Recommendations), below.

years since the alleged misconduct. Old allegations with vague timelines rarely result in certainty, unless the accused confesses to the conduct or the complainant confesses to a fabrication. But someone who committed misconduct ten years ago may not remember that event correctly, and someone who genuinely believes conduct from ten years ago was misconduct may be incorrect.

Ms. Loncar's allegations are based on events that allegedly took place nearly a decade ago. Since then, the General Assembly has taken steps to provide recourse by, among other things, changing the Ethics Act to include sexual harassment, permitting the Legislative Inspector General to investigate sexual-harassment allegations without pre-approval from the Legislative Ethics Commission, and providing certain notification rights for people who have been identified as victims in complaints. The Speaker's Office also took deliberate steps since Ms. Loncar's press conference, including hiring Ms. Hickey to conduct this independent investigation.

Unfortunately, Ms. Loncar did not believe in the Acting Legislative Inspector General's or Ms. Hickey's independence. Even if Ms. Loncar is reasonable to be wary of new investigations, it would be unreasonable and unjust to remove the presumption that the accused acted innocently. Ms. Loncar had a right not to cooperate with this investigation, but she does not have a right to have her interpretation of the truth be accepted without sufficient evidence—just as she has a right not to be called a liar without sufficient evidence.

By going public, Ms. Loncar highlighted the importance—for the accused, the complainant, and the workplace overall—of having a reliable and trustworthy option for challenging sexual harassment in the Capitol workplace. Until members of the Capitol workplace feel comfortable using such avenues, people will continue to speak out publicly—even if the results are unsatisfying. If nothing else, hopefully this unsatisfactory result will help encourage complainants to come forward with genuine complaints earlier, to cooperate with investigations, and to not fear reprisals if the findings are unfavorable.



## Section 4.

### Then-Speaker's Office Worker Sherri Garrett's Allegations against Then-Chief of Staff Timothy Mapes

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At a press conference in Chicago, on June 6, 2018, Account Technician Sherri Garrett made several allegations against Timothy Mapes, who was the Chief of Staff for the Speaker's Office, Clerk of the House, and Executive Director of the Democratic Party of Illinois (DPI):

Over the course of the last several years, I have endured and have personally witnessed bullying and repeated harassment that was often sexual and sexist in nature in my workplace. . . .

Tim Mapes, Chief of Staff to Speaker Madigan, has made repeated inappropriate comments to me and around me, both in the office and on the House floor. . . .

I am speaking out because victims of harassment like me, men and women alike, just want to go to work, we want to do our jobs with dignity, and we want to go home at the end of our day, but instead, we have a culture of sexism, harassment, and bullying that creates an incredibly difficult work environment.<sup>114</sup>

The same day, Speaker Michael Madigan announced that, at his direction, Mr. Mapes had resigned from all of his positions.

Based on our investigation, we conclude that Mr. Mapes violated the Speaker's Office's Personnel Rules and Regulations with his treatment of Ms. Garrett. While we could not substantiate each one of Ms. Garrett's interpretations of events, we found Ms. Garrett to be credible. We found that Mr. Mapes was not "courteous and efficient" with Ms. Garrett, among other workers. Most notably, Mr. Mapes discouraged Ms. Garrett from coming forward with a concern about potential sexual harassment by insinuating that Ms. Garrett was raising the issue only because she was jealous of the attention.

<sup>114</sup> See Ashlee Rezin, *Longtime staffer claims Madigan chief of staff Tim Mapes harassed, bullied her*, CHICAGO SUN-TIMES (published May 17, 2019), available at <https://www.youtube.com/watch?v=IQ3AsWKF-hI>.

## I. Background

### A. Standard of Conduct: The Speaker's Office's Personnel Rules and Regulations

As detailed in Section 1 above and [Attachment 1](#) below, we chose to evaluate the allegations based on the standards of conduct, which are broader and often clearer than the minimum standards established by state and federal law. Moreover, the Speaker's Office itself would likely use these codes of conduct in a standard workplace investigation.<sup>115</sup>

The Speaker's Office's Personnel Rules and Regulations (Speaker's Policies) define the appropriate code of conduct for Speaker's Office workers. The Speaker's Policies apply to all workers on the Speaker's Staff and in the Clerk's Office. For decades, the Speaker's Office has required workers to discharge their duties in a "courteous and efficient manner."

As we mentioned in the previous sections, we note that we are applying standards that are distinct from those that a judge would likely apply in a lawsuit or administrative proceeding. We do not, for example, limit our analysis based on any applicable statute of limitations, and we do not limit our recommendations based on whether conduct was sufficiently severe to warrant penalties. As a result, any finding of wrongdoing in this report does not reflect an opinion that someone can sue, should sue, or would prevail in a lawsuit or administrative proceeding.

### B. Sherri Garrett

Ms. Garrett worked in the Speaker's Office for decades. Ms. Garrett worked on the Issues Development staff in the 1980s. Throughout the relevant periods of this investigation, Ms. Garrett was an account technician. Ms. Garrett retired at the end of December 2018.

Ms. Garrett is married to Jim Garrett, who does not work in the Speaker's Office.

<sup>115</sup> During this investigation, we learned that, Ms. Garrett's allegations were referred to the Legislative Inspector General. Because Legislative Inspector General is responsible for investigating violations of the Illinois State Officials and Employees Ethics Act, we did not investigate Ms. Garrett's allegations under that act. See 5 ILCS 430/25-10(c). As of this report, we do not know the result of the Legislative Inspector General's investigation or whether it has concluded.

### C. Timothy Mapes

Mr. Mapes worked for the Speaker's Office for decades. He became the Chief of Staff in 1992 and the Clerk of the House in 2011.

As the Chief of Staff, Mr. Mapes technically oversaw all Speaker's Office workers, including workers on the Speaker's Staff and in the Clerk's Office. Mr. Mapes interacted with a handful of workers daily, including workers in Room 300 and those who worked with him on the House floor. While Mr. Mapes was Clerk of the House, "Reading Clerk" John Hollman, who replaced Mr. Mapes as Clerk of the House, fulfilled many of the Clerk of the House's daily responsibilities.

## II. Investigation

To investigate Ms. Garrett's allegations, Ms. Hickey and her investigative team reviewed emails, among other things. Ms. Hickey also interviewed over 100 people who work or have worked in the Capitol workplace, including Ms. Garrett. Many people had direct knowledge of Ms. Garrett's claims, and others reported having similar experiences with Mr. Mapes.

Ms. Hickey contacted Mr. Mapes's attorney for an interview regarding Ms. Garrett's allegations, but Mr. Mapes declined the interview. Several other people declined an interview with Ms. Hickey, including some who may have been able to corroborate or deny the allegations.

## III. Analysis

During this investigation, Ms. Hickey met with Ms. Garrett three separate times. During these interviews, Ms. Garrett expanded and clarified her allegations. Ms. Garrett made the following allegations—presented here in the chronological order of when the events allegedly occurred:

- Around ten years ago, Mr. Mapes approached Ms. Garrett about a coworker and asked whether Ms. Garrett had had any issues with the coworker. Ms. Garrett feared that the coworker had complained about her and that she might lose her job. Many years later, Ms. Garrett found out that someone had made allegations of misconduct against this coworker and not against her.
- In May 2013, then-Representative Kenneth Dunkin<sup>116</sup> made inappropriate sexual comments to Ms. Garrett and another female staffer (whose name Ms. Garrett did not want to disclose because Ms. Garrett said that this woman

<sup>116</sup> While he is no longer a representative, we refer to Kenneth Dunkin as "Representative Dunkin" throughout this report, because he was a representative during the relevant periods.

feared retaliation). Mr. Mapes later approached Ms. Garrett and told her that it would not happen again.

- During a conversation with several people present regarding Judge Alan J. Greiman’s role in the 2017 inauguration ceremony for 100th General Assembly, Mr. Mapes told Ms. Garrett something like: “One thing for sure, I hope you won’t be showing your pink bra to the judge on inauguration.” Ms. Garrett asked Mr. Mapes, “Why would you say that to me?” And Mr. Mapes replied, “Well you know how girls dress on the second floor.” Ms. Garrett worked on the second floor of the Stratton building at the time, but she believed that Mr. Mapes was referring to the legislative assistants.<sup>117</sup>
- Sometime after August 2015, a former legislative assistant approached Ms. Garrett and expressed concern about potential sexual advances from a representative. Ms. Garrett spoke to Mr. Mapes about the former legislative assistant’s concerns. Mr. Mapes said, “I can’t do anything. It’s not our employee.” Ms. Garrett responded, “But it’s our rep, and now you know.” Mr. Mapes responded, “Are you really just making this complaint because he’s not paying attention to you?” Ms. Garrett does not recall how she responded, but Mr. Mapes walked away, and they did not discuss the issue again.

The statement described above was the one that most bothered Ms. Garrett, who categorized Mr. Mapes’s other statements as “just inappropriate.”

- In January 2018, at the State of the State address, many people wore black to show solidarity with the “Time’s Up” Movement. Mr. Mapes wore navy blue instead of black. Someone asked Mr. Mapes why he wore blue, and Mr. Mapes responded loudly: “There is not a woman in the chamber that would let me tell them what to wear, so they won’t tell me what to wear.”
- In early March 2018, Ms. Garrett confided in a representative, Representative A, about her issues with Mr. Mapes. Ms. Garrett believes that, without consulting Ms. Garrett, Representative A told Speaker Madigan about the issue, revealing her name. Ms. Garrett feared for her job.
- In April 2018, in Ms. Garrett’s presence, Mr. Mapes asked Witness 1 and another Republican staffer whether they were going to “sex training.”
- In May 2018, Mr. Mapes approached Ms. Garrett while making unusual, menacing eye contact. Another person, Witness 1, was also present. Mr. Mapes

<sup>117</sup> During her press conference, Ms. Garrett added, “As anyone can tell you, I never dress provocatively, but even if I did, this would have been a completely inappropriate comment.” See Rezin, *Longtime staffer claims Madigan chief of staff Tim Mapes harassed, bullied her*, CHICAGO SUN-TIMES (published May 17, 2019) at about 1:18.

said something like: “Just had someone in my office, and the person said that they were married. Well we know that does not matter around here, does it Sherri? Well, not that I’m implying that you’re running around on Jim.” Witness 1 said something to defuse the situation, and Mr. Mapes replied, “So [Witness 1], are *you* implying that she’s running around on her husband?” Mr. Mapes stared at Ms. Garrett during the entire exchange.

The following subsections break down Ms. Garrett’s allegations into three topics: (1) context regarding Mr. Mapes’s authority and his leadership style, (2) the allegation that Mr. Mapes mishandled complaints, and (3) the allegation that Mr. Mapes made inappropriate sexual comments in the workplace.

#### A. Context: Timothy Mapes’s Authority and His Leadership Style

Ms. Garrett alleged that Mr. Mapes had “an inordinate amount of power in the State” and had too much authority over harassment complaints. We begin this section by explaining the extent of Mr. Mapes’s authority and leadership style, because it provides context to Mr. Mapes’s reputation in the Speaker’s Office and his power—actual or perceived—over Ms. Garrett and Speaker’s Office workers.

As Chief of Staff, Mr. Mapes had discretion over all of the Speaker’s Office workers, and he purportedly did not delegate much of that authority to others. For example, Mr. Mapes had discretion over all salaries and raises. Likewise, Mr. Mapes had discretion regarding how much time off people would receive as compensation for the overtime they worked—commonly referred to as “compensation time.” Workers told us that they were never told how compensation time was calculated or accrued. In fact, no one whom Ms. Hickey interviewed—including the fiscal directors—could explain the formula that Mr. Mapes used to determine compensation time.<sup>118</sup>

Several witnesses expressed concern that Mr. Mapes could affect their employment status and opportunities quickly and unilaterally. Different categories of workers expressed this concern in different ways. Many workers in the Speaker’s Staff, for example, believed that they were obligated to volunteer for political or-

<sup>118</sup> We reviewed compensation-time records for 2017 and 2018. While there appeared to be general consistency between the amount of overtime worked and the amount of compensation time received, some workers received different compensation time than their coworkers did for the same amount of overtime worked. There may have been other factors leading to this result besides hours worked, such as worker responsibilities and when the hours occurred. Without interviewing Mr. Mapes, however, we could not determine the methodology he used to award compensation time. As referenced in Section 5, subsection IV (Recent Changes by the Speaker’s Office), below, the Speaker’s Office provided workers with a summary regarding how compensation time was awarded uniformly across the workforce in mid-2019.

ganizations, such as DPI, or else suffer retaliation by not having their contracts renewed, by not getting good assignments, or by having their prospects diminished.<sup>119</sup> Many Clerk's Office workers, for example, believed that Mr. Mapes would terminate their employment without notice or cause.

Even though Mr. Mapes did not terminate many workers, many workers told Ms. Hickey that they felt dispensable. According to many workers, Mr. Mapes was at least partially responsible for this belief. During all-staff meetings, Mr. Mapes purportedly told workers on multiple occasions: "I just remind you all that you are all at-will employees." While it is accurate that Speaker's Office workers are at-will, many workers believed that Mr. Mapes used this frequent reminder as a threat.

Many more witnesses said that Mr. Mapes frequently yelled at male and female workers and threatened their jobs whenever they made a mistake. Many witnesses provided their own personal stories of Mr. Mapes threatening their jobs or reminding them that they could easily be replaced. Some of the witnesses who did not have this experience said that they were told by coworkers that it was only a matter of time until they did.

Some, although a minority of witnesses, also believed that Mr. Mapes would not allow them to obtain other employment without his permission. These workers believed that, if they got on Mr. Mapes's bad side, he would actively call prospective employers and discourage the employers from hiring them. These workers also believed that they would need Mr. Mapes's blessing to receive any position with the state or with a state contractor.

Some representatives also reported concerns about Mr. Mapes's demeanor toward them. Representatives told us that Mr. Mapes appeared to have some authority over representatives, particularly regarding funding by DPI. Multiple representatives said that Mr. Mapes spoke just as irreverently to elected officials as he did to his staff. In fact, we heard multiple examples of Mr. Mapes using derogatory terms toward representatives.

Based on our investigation, we found sufficient evidence to conclude that Mr. Mapes had a habit of being discourteous to workers and representatives. The number of independently verified instances of Mr. Mapes's derogatory behavior was overwhelming. Mr. Mapes had a reputation for denigrating workers and threatening their jobs. While several people who worked closest to Mr. Mapes said

<sup>119</sup> Mr. Mapes also became the Executive Director of DPI in 1998. As the Executive Director, Mr. Mapes oversaw most Issues Development workers while they were on leave from state employment and working for DPI. He also oversaw other Speaker's Office workers who volunteered for DPI.

that his reputation was undeserved, most people agreed that Mr. Mapes had this reputation for years.

Most people believed that Mr. Mapes was efficient at getting things done. This appearance of efficiency was, at least in part, a product of the fear he engendered. But this fear was ultimately inefficient. Workers described that they were unable to raise concerns under Mr. Mapes's leadership. Unless workers felt comfortable talking to Mr. Mapes directly, they would not raise concerns. Many workers said that there was no point in raising concerns to their supervisors, because they believed that their supervisors had no authority and would be required to elevate issues to Mr. Mapes. Thus, many people believed that they could neither express concerns to Mr. Mapes directly nor raise concerns with their supervisors because they believed that Mr. Mapes would ultimately not take those concerns seriously.

B. Allegation #1: Timothy Mapes Mishandled Complaints

*Timothy Mapes's response to allegations against Sherri Garrett's coworker*

Ms. Garrett alleged that, about ten years before her press conference, Mr. Mapes had approached Ms. Garrett about her coworker and asked whether Ms. Garrett had had any issues with her coworker. Ms. Garrett feared that someone had complained about her and that she might lose her job. Many years later, Ms. Garrett found out that the allegations were against her coworker and not against her.

We spoke to several witnesses who clarified the allegations against Ms. Garrett's coworker. According to these interviews, Ms. Garrett's coworker was accused of attempting to entice another coworker into a sexual relationship using a fictional online account.<sup>120</sup>

Ms. Garrett later heard about these allegations and wished that someone had checked whether she was all right, rather than leaving the impression that she had done something wrong.

**Allegation #1 - Conclusion Part 1**

Based on our investigation, we do not believe that Mr. Mapes violated the Speaker's Policies by asking Ms. Garrett about her experiences with her coworker, who had been accused of sexual harassment. While we did not interview Mr. Mapes, we have no reason to disbelieve Ms. Garrett's account that Mr. Mapes spoke to Ms. Garrett about her coworker. Due to the nature of the complaints

<sup>120</sup> We spoke to the complainant. The complainant said that the complaint was addressed, and the complainant did not have any further issues with the accused.

against the coworker, it was sensible for Mr. Mapes to make his inquiry to Ms. Garrett without divulging the details of the allegations involving Ms. Garrett's coworker. Ms. Garrett thought it would have been appropriate for Mr. Mapes to check to see if she was okay, and this seems to be exactly what Mr. Mapes did.

On the other hand, Ms. Garrett said that she was afraid that her coworker had complained about her and that she might lose her job without knowing what the complaint was. These fears are consistent with what we heard throughout many interviews of Speaker's Office workers: that they feared losing their jobs for any or no reason.

Since 2018, the Speaker's Office has taken several actions to address this fear. For example, the Speaker's Office provided and continues to provide workers with a one-page handout, which provides contact information for reporting discrimination and harassment and workers' corresponding rights. This handout specifies that the Speaker's Office is "committed to providing all employees with due and fair process": "If a complaint is filed against you, you will have an opportunity to respond." In Section 5 (Workplace Culture in the Speaker's Office & Recommendations) below, we identify other actions the Speaker's Office has taken to address this and similar fears and include additional recommendations.

*Timothy Mapes's response to then-Representative Kenneth Dunkin's alleged statements*

Ms. Garrett alleged that, in the late evening near the end of session in spring 2013, then-Representative Kenneth Dunkin made an unwanted sexual comment to Ms. Garrett and another female worker on the House Floor. Specifically, Ms. Garrett alleged that Representative Dunkin told Ms. Garrett and the other woman something like: "I want to take you both home and see which one of you would be the naughtiest."<sup>121</sup> Ms. Garrett was very upset, but was very busy and continued working. Later that night, Ms. Garrett told then-Reading Clerk John Hollman about the incident to voice her frustration with Representative Dunkin and to say that she would not let it happen again. Ms. Garrett did not tell Mr. Hollman because she expected him to do something about it, and she did not think Mr. Hollman could do anything about it. Ms. Garrett did not think that filing a complaint would accomplish anything.

<sup>121</sup> During their interviews, several witnesses said that Ms. Garrett told them about Representative Dunkin's comment close in time to when it allegedly occurred. Because Representative Dunkin is no longer a representative and because we were investigating Representative Mapes's response—rather than the underlying facts involving Representative Dunkin—we did not investigate whether Representative Dunkin made these comments.



When Ms. Garrett got home that night, she told her husband about Representative Dunkin's alleged comment. Ms. Garrett said that she found out, years later, that her husband had called the Speaker's Office the following day, demanding that the office address the issue. Shortly after the incident, Ms. Garrett said that a worker told her that Mr. Mapes found out about the incident, did not want to do anything about it, and thought it would "blow over." Ms. Garrett said that the worker told her that, after the worker insisted that Mr. Mapes do something, Mr. Mapes finally took steps to resolve the issue and notified Ms. Garrett that it would not happen again. Ms. Garrett says that she recalls Mr. Mapes coming to her and telling her that she would not have any more problems with Representative Dunkin. Representative Dunkin did not apologize to Ms. Garrett, but she had no other problems with him. Ms. Garrett's problem with this incident—outside of Representative Dunkin's purported comments—was that she believes that Mr. Mapes would not have done anything if her husband had not called and pressed Mr. Mapes to act.

During his interview, Mr. Hollman recalled Ms. Garrett telling him about her concerns regarding Representative Dunkin's comments. At the time, Mr. Hollman thought Ms. Garrett was only venting her concerns, not asking him to do anything. The following morning, Ms. Garrett's husband called Mr. Hollman and demanded that the Speaker's Office respond to Representative Dunkin's conduct. That morning, Mr. Hollman emailed Mr. Mapes and then-General Counsel Heather Wier Vaught regarding the issue and then followed up with Ms. Garrett. Ms. Garrett confirmed that she was not seeking to file a formal complaint and did not want Mr. Hollman to do anything about the issue. Mr. Hollman said that he also spoke to Mr. Mapes.

Mr. Hollman forwarded emails to the Schiff Hardin team that corroborated his account. According to these emails, Ms. Garrett brought her concern to Mr. Hollman on May 29, 2013.

Mr. Hollman said that, from that point on, he tried to intervene whenever Representative Dunkin was talking to Ms. Garrett or the other woman who had been involved in the conversation. Mr. Hollman does not think he relayed that plan to Ms. Garrett or the other woman. In fact, Mr. Hollman does not believe that anyone ever spoke to the other woman about the issue.

Ms. Hickey interviewed Ms. Wier Vaught, who said that she had a brief conversation with Representative Dunkin shortly after the incident, and she told him not to talk to staff without her pre-approval. Later, Ms. Wier Vaught met with Representative Dunkin in her office regarding his alleged comment to Ms. Garrett and the other worker. Ms. Wier Vaught said that she told Representative Dunkin the comment was inappropriate and unacceptable, but Representative Dunkin said that he did not recall making the statement.

Ms. Wier Vaught said that this incident probably did not get elevated to Speaker Madigan. Mr. Mapes and Ms. Wier Vaught tried to limit Representative Dunkin's contact with female workers. Ms. Wier Vaught believes that she also spoke to Ms. Garrett about the incident and how the Speaker's Office handled it, but Ms. Garrett did not recall that conversation.

### **Allegation #1 - Conclusion Part 2**

Based on our investigation, we do not believe that Mr. Mapes violated the Speaker's Policies in his response or failure to respond to Ms. Garrett's allegations. Representative Dunkin likely said something to upset Ms. Garrett, and we believe that, after she reported the incident to Mr. Hollman, Representative Dunkin did not approach Ms. Garrett again. It is possible that Mr. Hollman would not have elevated the incident to Mr. Mapes if Ms. Garrett's husband had not called and demanded a response. This would have been a failure on Mr. Hollman's part, however, not on Mr. Mapes's part. Moreover, Ms. Garrett did not expect or want Mr. Hollman to elevate the issue.

We do not know what the Speaker's Office's response would have been if Ms. Garrett's husband had not called the Speaker's Office so quickly. Ms. Garrett shared a concern with her supervisor, Mr. Hollman, late one night, and early the next morning, Ms. Garrett's husband demanded that Mr. Hollman respond to the complaint, which he did by forwarding the complaint to Mr. Mapes and the general counsel before 9:00 AM that day. Mr. Hollman then tried to prevent Representative Dunkin from communicating with Ms. Garrett and the other worker. Mr. Mapes also spoke to Ms. Garrett, assuring her that she would not have an issue with Representative Dunkin again, which she did not. Taken in isolation, this is an example of the Speaker's Office listening to and responding to a worker's concerns about sexual harassment. While the response was not perfect—the other woman's concerns, if she had any, appear to have been disregarded—Mr. Mapes was not discourteous toward Ms. Garrett in this instance.

#### *Timothy Mapes's response to Sherri Garrett's concerns regarding potential sexual harassment by a representative*

Sometime after August 2015, a then-former legislative assistant approached Ms. Garrett expressing her concern about a representative's potential unwanted sexual advances toward her. Specifically, the former legislative assistant told Ms. Garrett that the representative invited her to a fundraiser that seemed unlikely to be real because its location did not seem to match the representative's district. The former legislative assistant and Ms. Garrett were concerned that the representative was just trying to get her alone. When the woman had been a legislative assistant in the Speaker's Office, this representative had also made the worker feel

uncomfortable by frequently coming by her desk, saying, “It’s shoe time,” and asking her to show him her shoes. The representative also got her phone number even though she was not his legislative assistant. Ms. Garrett wanted to speak with then-General Counsel Heather Wier Vaught, but she was out of town, so Ms. Garrett asked a worker, Witness 2—who would typically have access to that information—whether it was a real fundraiser.

According to Ms. Garrett, Witness 2 did not see the fundraiser on the calendar, but Mr. Mapes happened to walk by during their conversation. Witness 2 told Mr. Mapes that Ms. Garrett needed to talk to him. Mr. Mapes responded that Ms. Garrett should tell him the issue at Witness 2’s desk. Ms. Garrett told us that she thought that was odd, but since she trusts Witness 2, Ms. Garrett explained the situation. After hearing Ms. Garrett’s concerns, Mr. Mapes said something like, “I can’t do anything. It’s not our employee.” Ms. Garrett said that she responded, “But it’s our rep, and now you know.” Ms. Garrett said that Mr. Mapes told Ms. Garrett, “Are you really just making this complaint because he’s not paying attention to you?” Witness 2 recalled Mr. Mapes saying, “Are you jealous because he didn’t ask you to go to the party?” Ms. Garrett and Witness 2 both said that they were appalled by Mr. Mapes’s statement. Ms. Garrett does not recall how she responded, but Mr. Mapes walked away, and they did not discuss the issue again.

This was the statement that most bothered Ms. Garrett, who categorized her other allegations as “just inappropriate.” Ms. Garrett did not believe that she could elevate her concerns to Speaker Madigan, because she thought that Speaker Madigan would regard Mr. Mapes as more valuable to him than she was.

Mr. Mapes did not follow up with Ms. Garrett, and neither Ms. Garrett nor Witness 2 know if he did anything regarding Ms. Garrett’s concerns. Ms. Wier Vaught—who was the general counsel to the Speaker from late 2011 through December 2016—said that she did not recall hearing about Ms. Garrett’s concerns regarding this former legislative assistant. Ms. Wier Vaught did say, however, that these types of concerns were not always brought to Speaker Madigan. Instead, Ms. Wier Vaught would raise issues with Mr. Mapes, and they would address the issues. Mr. Mapes would decide whether to elevate issues to Speaker Madigan. Ms. Wier Vaught believes, based in part on Ms. Garrett’s public allegations, that Mr. Mapes did not bring all concerns to Ms. Wier Vaught’s attention.

During their interviews, several witnesses said that Ms. Garrett had told them about Mr. Mapes’s comment close in time to when it allegedly occurred.

### **Allegation #1 - Conclusion Part 3**

Based on our investigation, we believe there is sufficient evidence to conclude that Mr. Mapes violated the Speaker’s Policies by dismissing Ms. Garrett’s concerns regarding the representative and then attacking her character. We found Ms. Garrett

and Witness 2 to be credible, and we credit their uncontested, independent accounts of this incident.

Ms. Garrett believed that this incident was the most egregious and informed the other issues and incidents Ms. Garrett reported experiencing with Mr. Mapes. Based on our investigation, we agree. Of Ms. Garrett's allegations, this is the most concerning. Mr. Mapes had discretion over employment decisions and could override everyone but Speaker Madigan. As a worker, Ms. Garrett did what any employer would want her to do: voice concerns regarding potential sexual harassment by someone in the workplace. In response, Mr. Mapes refused her privacy and belittled her claim by saying that there was nothing he could do about it. When Ms. Garrett pointed out that the issue was his concern, Mr. Mapes questioned Ms. Garrett's motivations for bringing the complaint and insinuated that she was jealous of the former legislative assistant's unwanted sexual attention from a representative.

While Ms. Garrett's concern involved a former worker, Mr. Mapes could have addressed Ms. Garrett's concerns in private and, with full information, determined whether Ms. Garrett's concerns had the potential to affect the Speaker's Office, its workers, or its workplace. If Mr. Mapes did not think it was appropriate for the Speaker's Office to attempt to address her concerns, he could have referred Ms. Garrett to external reporting mechanisms, including the Legislative Inspector General or law enforcement. Instead, Mr. Mapes was dismissive of Ms. Garrett's concerns, and when she insisted that there was an issue, Mr. Mapes insulted her.

While several people we interviewed attributed some of Mr. Mapes's other comments to a unique sense of humor, an awkward personality, or a busy schedule, there is no justification for this incident. What is more, rather than apologizing for his statement, Mr. Mapes walked away and never addressed the topic with Ms. Garrett—or Witness 2—again. Ms. Garrett did not believe that she was in the position to raise the issue again with Mr. Mapes or to elevate it to Speaker Madigan.

#### C. Allegation #2: Timothy Mapes Made Inappropriate Sexual Comments in the Workplace

Ms. Garrett alleged that Mr. Mapes made several inappropriate comments to or around her in the workplace. Ms. Garrett does not think that Mr. Mapes was, in this or any instance, making sexual advances toward her. Instead, Ms. Garrett believes that Mr. Mapes made these comments to purposefully upset her after the Representative Dunkin situation, discussed above, and after seeing how sensitive she was to those types of comments.

### *Mr. Mapes's Alleged "Pink Bra" Comment*

In 2017, Mr. Mapes and Ms. Garrett were having a conversation with several people regarding Ms. Garrett helping Judge Alan J. Greiman prepare for the inauguration ceremony for the Illinois General Assembly. Ms. Garrett alleged that Mr. Mapes told her something like, "One thing for sure, I hope you won't be showing your pink bra to the judge on inauguration." Ms. Garrett asked Mr. Mapes, "Why would you say that to me?" And Mr. Mapes replied, "Well you know how girls dress on the second floor." Ms. Garrett believed that Mr. Mapes was referring to the legislative assistants.

Ms. Garrett recalled that three other people, in addition to her and Mr. Mapes, were present for this comment. Ms. Garrett could not recall the name of one of the witnesses, and we were unable to interview another witness. The remaining witness did not recall hearing Mr. Mapes make this comment. Several witnesses told us that they recall Ms. Garrett telling them about this comment close in time to when Mr. Mapes allegedly made it.

Two workers recalled hearing Mr. Mapes make a comment about a "pink bra" in Ms. Garrett's presence. Neither witness, however, thought that Mr. Mapes was referring to Ms. Garrett. Instead, they believed that Mr. Mapes was talking about legislative assistants generally.

The fact that Mr. Mapes may have made a similar comment on multiple occasions is consistent with what many other witnesses told us: Mr. Mapes frequently spoke about how he believed legislative assistants dressed inappropriately.

### *Time's Up Movement Comment*

Ms. Garrett alleged that, in January 2018, many people wore black at the State of the State address to show solidarity with the "Time's Up" Movement. Mr. Mapes wore navy blue instead of black. Someone asked Mr. Mapes why he wore blue, and Mr. Mapes responded, loudly: "There is not a woman in the chamber that would let me tell them what to wear, so they won't tell me what to wear." One worker, who worked at the podium with Mr. Mapes, told Ms. Hickey that this worker overheard Mr. Mapes make this statement.

### *Referring to Anti-Sexual Harassment Training as "Sex Training"*

Ms. Garrett alleged that, in April 2018, Mr. Mapes asked two Republican workers whether they were going to "sex training." Several witnesses heard Mr. Mapes jokingly refer to anti-sexual harassment training as "sex training," in different contexts. In fact, several workers told us that Mr. Mapes repeatedly made this statement as a joke.

Several of these witnesses interpreted Mr. Mapes’s “sex training” comment to be a joke about the fact that he had to attend the training multiple times, because the same training was given separately for different groups of workers.

*Mr. Mapes’s Alleged Comment about Extramarital Affairs*

Ms. Garrett alleged that Mr. Mapes had a bizarre interaction with her in May 2018, involving comments about her cheating on her husband.<sup>122</sup> Specifically, Mr. Mapes approached Ms. Garrett on the House floor while making unusual and menacing eye contact with her. Mr. Mapes said something like:

Just had someone in my office, and the person said that they were married. Well we know that does not matter around here, does it Sherri? Well, not that I’m implying that you’re running around on Jim.

A bystander, Witness 1, said something to defuse the situation, and Mr. Mapes replied, “So [Witness 1], are you implying that she’s running around on her husband?” Mr. Mapes kept staring at Ms. Garrett during the entire exchange and then walked away. Witness 1 then told Ms. Garrett something like, “That was the most awkward conversation.”

Witness 1 declined to interview with Ms. Hickey. A second witness, Witness 2, however, told us that Witness 2 overheard this comment, but Witness 2 did not believe that it was about Ms. Garrett specifically. Witness 2 did not think much of the comment, because Mr. Mapes made those types of comments constantly.

Other witnesses also told Ms. Hickey that they heard Mr. Mapes make similar comments about how often people have extramarital affairs in Springfield. Another witness, for example, said that the witness heard Mr. Mapes make similar comments on the House floor around this time, but this witness also did not interpret the comments to be about Ms. Garrett.

Several witnesses told us that they recall Ms. Garrett telling them about this comment close in time to when Mr. Mapes allegedly made it. In fact, Ms. Garrett decided to come forward publicly after this comment. Ms. Garrett told us that she was already planning to resign because of Mr. Mapes’s behavior, but after this event, she decided that she needed to go public.<sup>123</sup>

<sup>122</sup> Ms. Garrett was unsure of whether this incident occurred in April or May of 2018. One witness, however, verified the exact date, which was in May 2018.

<sup>123</sup> Extra context is helpful to understanding this point. As explained further in the next section, in March 2018, Ms. Garrett reached out to Representative A in March 2018 about her concerns regarding Mr. Mapes. Although Representative A and Speaker Madigan provided a different

### *Other Witnesses' Examples*

Many witnesses told Ms. Hickey that Mr. Mapes liked making inappropriate comments to throw people off. Likewise, many witnesses said that Mr. Mapes would find out what pushed people's buttons and then push those buttons. For example, one witness, who is gay, said that, on more than one occasion, Mr. Mapes would loudly ask this witness awkward questions about the LGBTQ+ community when they were around other people.

Many witnesses provided recent examples of the types of comments Mr. Mapes was known for making. Before one of the anti-sexual-harassment presentations, several workers, including Mr. Mapes and current Chief of Staff Jessica Basham, met in Room 100 to review the reporting structure for sexual-harassment complaints. After people discussed this reporting structure, the conversation became more informal and one of the workers spoke about his teenage daughter's upcoming vacation trip. Mr. Mapes made a joke about his daughter working in the "red-light district" in Amsterdam, referring to prostitution. Some people laughed, and some did not.

It is worth noting that the worker whose daughter was going on vacation said that he did not hear the joke, but he contended that even if he had heard the joke, he would not have been offended by it given his strong relationship with Mr. Mapes. In fact, Mr. Mapes had hired his son and daughter at DPI, and he would not have thought that Mr. Mapes was mocking him or any member of his family.

More importantly, however, Ms. Basham and other workers in attendance who had overheard the comment discussed their disbelief that Mr. Mapes would make that joke as they waited to attend the anti-sexual harassment training. During her interview, Ms. Basham said that, before the recent efforts to increase awareness after updating policies in December 2017, she would not have known whom to go to if she had a complaint against Mr. Mapes either.

### **Allegation #2 - Conclusion**

Based on our investigation, we believe that Mr. Mapes violated the Speaker's Policies by making discourteous and inappropriate comments to or around Ms. Garrett. There was a breakdown of communication after Mr. Mapes criticized Ms. Gar-

version of events, as explained further in the next section, Ms. Garrett believes that Representative A went to Speaker Madigan with Ms. Garrett's concerns without Ms. Garrett's permission. Ms. Garrett believed that the complaint would get back to Mr. Mapes and that it would be obvious that Ms. Garrett was the source of the complaint. Ms. Garrett believed that she would be fired. Both Representative A and Speaker Madigan told Ms. Hickey that the representative went to Speaker Madigan, relaying general concerns, but did not identify Ms. Garrett.

rett for coming forward with a complaint. Ms. Garrett felt she could not raise concerns to Mr. Mapes and be taken seriously. To be clear, Mr. Mapes's comments, while sometimes sexual in nature, were not sexual advances. Instead, Mr. Mapes was exerting power over Ms. Garrett by making inappropriate statements toward or around her that he knew or should have known would make her uncomfortable. Our interviews revealed that Mr. Mapes's discourteous and inappropriate comments extended beyond his interactions with or in front of Ms. Garrett, as discussed further below in Section 5 (Workplace Culture in the Speaker's Office & Recommendations).

#### D. Whether Sherri Garrett Knowingly Made False Allegations against Timothy Mapes

In April 2018, Mr. Mapes demoted a worker, Witness 3, after several workers complained about Witness 3. We raise this issue here because, during their interviews, several workers implied or explicitly said that they believed Ms. Garrett had a press conference to retaliate against Mr. Mapes for disciplining her friend, Witness 3. The vast majority of these workers did not think that Ms. Garrett's underlying claims against Mr. Mapes were false. Instead, they believed that Ms. Garrett went public to punish Mr. Mapes for punishing her friend.

We note, however, that Ms. Garrett attempted to seek guidance from Representative A about how to address her issues with Mr. Mapes in early March 2018—before the complaints against Witness 3 or Witness 3's discipline. According to Representative A and Speaker Madigan, Representative A told Speaker Madigan—without divulging Ms. Garrett's name—that workers had concerns about Mr. Mapes and wanted to know where to go to address those concerns.<sup>124</sup> Speaker Madigan told Representative A that workers could go to the Legislative Inspector General, and Representative A relayed that message to Ms. Garrett. Ms. Garrett told us, however, that she did not want Representative A to talk to the Speaker, that she feared that her identity would become known, and that she would suffer retaliation. Ms. Garrett did not trust the Legislative Ethics Commission that oversees the Legislative Inspector General. She chose to not bring her allegations to the Legislative Inspector General.<sup>125</sup> As a result, Ms. Garrett did not speak up or do anything until she felt she could no longer keep silent after Mr. Mapes's misconduct toward her continued.

<sup>124</sup> Representative A told us that Ms. Garrett gave Representative A permission to talk to Speaker Madigan about Ms. Garrett's concerns without giving Ms. Garrett's identity.

<sup>125</sup> As referenced above, during this investigation, we learned that, Ms. Garrett's allegations were referred to the Legislative Inspector General. We do not know the result of the Legislative Inspector General's investigation or whether it has concluded.



During her interview, Ms. Garrett admitted that Witness 3 is a longtime friend and Witness 3's discipline was a factor in Ms. Garrett's decision to come forward. Ms. Garrett had no complaints, however, about the fact that the Speaker's Office disciplined Witness 3. Instead, Ms. Garrett was troubled by her view that it was Mr. Mapes who disciplined Witness 3, despite his behavior in the workplace. Ms. Garrett was also troubled that Witness 3 was trained under Mr. Mapes's leadership. Ms. Garrett believed this was an example of how disposable workers are in the Speaker's Office.

Based on our interviews of management, however, Mr. Mapes did not make the unilateral decision to demote Witness 3. An attorney in the Speaker's Office investigated the allegations against Witness 3 and ultimately recommended discipline. Moreover, a former attorney in the Speaker's Office told us that, years earlier, that attorney recommended to Mr. Mapes that he discipline Witness 3 for similar issues that led to Witness 3's demotion. Finally, during Speaker Madigan's interview, he said that the ultimate decision to discipline Witness 3 was his.

#### **False Allegation - Conclusion**

Based on our investigation, Ms. Garrett did not knowingly make false complaints against Mr. Mapes because he disciplined her friend, Witness 3. Instead, Mr. Mapes's demotion of Witness 3 was a factor in Ms. Garrett's decision to come forward with genuine allegations. From Ms. Garrett's perspective, although she did not agree with Witness 3's workplace conduct, Ms. Garrett believed that Mr. Mapes was hypocritical because he disciplined Witness 3 when he had similar issues and because Witness 3's behavioral issues were a reflection of Mr. Mapes's leadership. During her press conference, Ms. Garrett raised several concerns, which were shared even by the people who questioned her motivations. And we have substantiated most of her claims.

#### **IV. Section 4 Conclusion**

Overall, we found Ms. Garrett to be credible, and most of her factual claims were corroborated by other witnesses. Although there were some differences of interpretation, witnesses who were present during the events corroborated her accounts of Mr. Mapes's behavior. Mr. Mapes chose not to interview with Ms. Hickey, and thus, he did not contest or clarify the interpretation of events we received.

Despite the focus of this section, the feedback regarding Mr. Mapes was far from being all negative. We could not summarize someone's personality and conduct during their decades-long career during this investigation, and we did not attempt to do so. Many people expressed their appreciation for Mr. Mapes's intelligence, efficiency, and work ethic. Several people detailed how Mr. Mapes was a key mentor in their career and, at times, could be very congenial and caring. We also heard about various instances when Mr. Mapes went above and beyond for his workers,

defending them against representatives, being genuinely concerned for their health and wellbeing, and even visiting people in the hospital or attending a funeral for a worker's relative.

Our purpose, however, was to investigate whether Ms. Garrett's claims against Mr. Mapes were true. Some of the people Ms. Hickey interviewed expressed concerns that Mr. Mapes did not get a fair process, because people who know him would know that he did not intend to offend Ms. Garrett, that he would have stopped making similar remarks if Ms. Garrett had told him she was offended, and that he did not get that opportunity. While some clear lines about appropriate conduct exist, sensitivities vary across cultures, people, and workplaces. As a result, the only workable standard is to have people who are offended express their offense to the person who offended them or, if they are not comfortable doing so, to someone who can appropriately address the offender's conduct.

Ms. Garrett brought a concern about sexual harassment to Mr. Mapes, and he dismissed her concern and then ridiculed her for raising it. Regardless of Mr. Mapes's impressive career, work ethic, and the long list of people who would speak to his credibility, this was a failure of leadership. This failure negatively affected Ms. Garrett's ability to voice her concerns for years and likely had a similar effect on anyone who heard about how Mr. Mapes responded to a complaint. Ideally, Mr. Mapes would have addressed this incident and mitigated the harm caused to Ms. Garrett. He did not.

Mr. Mapes held substantial actual and perceived authority over the lives of the people in the Speaker's Office, the Democratic Caucus, and the Capitol workplace overall. Mr. Mapes used fear to motivate. Whether he intended it or not, many workers said that Mr. Mapes caused them to believe that they were easily replaceable, and therefore, they made sure not to make waves, even if they would have had workplace harassment concerns that they believed warranted attention. Only a handful of people whom we interviewed felt comfortable speaking to Mr. Mapes about workplace concerns, and practically no one felt comfortable going to the Speaker with issues regarding Mr. Mapes.

Since Mr. Mapes has resigned from all his positions connected to the Speaker's Office and DPI, we do not need to make any recommendations regarding his employment. Nonetheless, several workers said that they continue to fear that Mr. Mapes will return to the Speaker's Office—even if not as an official worker—and have influence over their workplace. Some workers pointed to the fact that other workers have been removed from the Speaker's Office but have continued to work in the Capitol, often working closely with Speaker's Office workers and spending time in their workspace.

While the Speaker's Office has limited control over non-workers, we recommend that the Speaker's Office monitor these concerns. Ultimately, the best way for the

Speaker's Office to mitigate these concerns is to keep, gain, or regain the trust of its workers in its management, its reporting mechanisms, and its overall workplace. Because Mr. Mapes had a profound impact on the Speaker's Office for decades, many of our recommendations regarding the Speaker's Office's workplace culture apply here. We explain these recommendations at the end of the next section.

## Section 5.

### Workplace Culture in the Speaker's Office & Recommendations

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As part of this investigation, Ms. Hickey sought to learn about the Speaker's Office's workplace culture, identify any issues, and recommend ways to address any issues. This section provides our assessment of the workplace culture in the Speaker's Office. Among other things, we identified what the Speaker's Office already does well and whether the Speaker's Office can or should expand on those activities.

To provide this assessment, Ms. Hickey interviewed over 100 members of the Capitol workplace, including more than 80 current or former members of the Speaker's Office—including workers on the Speaker's Staff and in the Clerk's Office—and more than 12 representatives from the Democratic Caucus. The investigative team also reviewed thousands of pages of documents—including memoranda, personnel files, emails, social-media websites, the Speaker's Office's policies and procedures, and relevant Illinois law. In addition, we researched and evaluated best practices and the policies, procedures, and practices of other state legislatures.

Overall, most people spoke positively of their experiences working in the Speaker's Office and in the Capitol workplace. But many also conceded that the workplace culture has unique challenges and struggles. In the Speaker's Staff, for example, high turnover yields inexperienced workers and a continuous need for training. Specifically, in the Clerk's Office, many workers expressed that they felt undervalued.

Some of these concerns were attributable to the needs of the workplace, including its sometimes-demanding pace and work hours, or the fact that there are limited opportunities for advancement. Many workers, however, pointed to upper management as exacerbating this problem. Specifically, many people criticized former-Chief of Staff Timothy Mapes for, in their view, purposefully creating an environment that used fear to motivate people: fear of being publicly ridiculed, fear of losing their job, and fear of losing future job opportunities.

#### **I. Notes on Methodology**

To understand the workplace culture of the Speaker's Office and the surrounding Capitol workplace, we needed to receive the workers' candid opinions. Ms. Hickey interviewed the vast majority of people in person to encourage candor. We did not require people to make statements under oath to further encourage full disclosure.

To make sure that everyone who wanted to speak with Ms. Hickey had an opportunity to do so, Ms. Hickey reached out to every member of the Democratic Caucus and the Speaker's Office (including the Clerk's Office) on multiple occasions to ensure that everyone had the opportunity to speak with her.<sup>126</sup>

Ms. Hickey interviewed everyone who requested to do so and interviewed select people based on other interviews. To avoid relying only on feedback from people who reached out to us, Ms. Hickey also reached out and requested interviews with a random sample of workers from across all units, positions, and levels of authority within the Speaker's Office. Some people refused to sit for an interview or reply to our requests for an interview. Others requested that we delay their interview for various reasons and lengths of time, but ultimately agreed to an interview. Most people who interviewed with Ms. Hickey did not reach out to Ms. Hickey for an interview. Instead, Ms. Hickey affirmatively contacted most of the people who interviewed with her.

The vast majority of people we interviewed sought to remain anonymous. Some personnel feared that they would be easily identifiable, even if we disclosed only their position within the Speaker's Office. This worry was particularly common for people in offices with few workers. People felt that remaining anonymous allowed them to tell the truth without fear of retaliation. We note, though, that anonymity can provide people with a greater opportunity to lie or embellish, because their statements are less likely to be challenged. People may also misremember statements that they would more accurately recall if they were challenged. To mitigate the effects of any misstatements in this section, we have addressed only issues that appeared genuine to us during the corresponding interviews *and* were either corroborated by multiple accounts or evidence. Unfortunately, the Speaker's Office did not have comprehensive disciplinary files or written performance evaluations to contrast and compare to the information we received.

If we identified any issues that needed to be immediately addressed by the Speaker's Office, with the interviewee's permission, Ms. Hickey connected the interviewee with the appropriate channels to resolve the issue. Some people, however, were adamant that they did not want to open or reopen old issues, and instead, wanted to share their experiences to help us identify what might be done better in the future.

We have attempted to provide an accurate representation of the witness feedback. We stress that we do not include information to assert the underlying truth of any claim. In fact, some witnesses provided what they believed to be true, but was verifiably false, and some witnesses directly contradicted each other. For our

<sup>126</sup> Specifically, Ms. Hickey sent a letter to the Democratic Caucus on July 20, 2018, and sent a follow-up email to the Democratic Caucus and to all workers in the Speaker's Office.

overall assessment of the workplace culture, the underlying truth of any statement was often less important than the fact that many people believed certain statements to be true. For example, whether one long-gone supervisor may have discouraged a complaint a decade ago may be less important than the fact that current workers do not complain because they believe that it happened. If people perceive that one incident to be true—even if it is not true—then that belief may negatively affect workplace culture.

Finally, to avoid inadvertently identifying anyone, we have grouped interviewees into combinations of the following three groups: (1) Representatives and lobbyists, (2) the Speaker’s Staff, and (3) the Clerk’s Office. When indicated below, we have combined the feedback that we heard from all groups—collectively, as people in the Capitol workplace—when we heard similar information from multiple groups or when breaking up the groups would risk identifying people.

## **II. Context for this Investigation**

This investigation did not start in a vacuum. Several public events preceded it and were fresh in the minds of many of the people whom we interviewed. This section summarizes those events.

On October 31, 2017, Activist Denise Rotheimer publicly accused Senator Ira Silverstein of sexual harassment after her complaint to the vacant Legislative Inspector General position went unanswered for over a year.<sup>127</sup> Four days later, after a vacancy that lasted over three years, the Legislative Ethics Commission appointed Julie Porter as the Acting Legislative Inspector General.<sup>128</sup> In January 2018, the Acting Legislative Inspector General concluded that Ira Silverstein engaged in “conduct unbecoming of a legislator” when he engaged in “teasing and flirtatious communications with [an advocate whom] he knew was depending on him to advance legislation.”<sup>129</sup> Two months later, Senator Silverstein lost his reelection bid.<sup>130</sup>

On February 12, 2018, Speaker Madigan announced that campaign aide and Speaker’s Office worker Kevin Quinn had been let go after a woman made the Speaker aware that Mr. Quinn had made unwanted sexual advances toward her

<sup>127</sup> See *Julie Porter Appointed As Legislative Inspector General*, CBS CHICAGO (November 5, 2017), available at <https://chicago.cbslocal.com/2017/11/05/julie-porter-inspector-general/>.

<sup>128</sup> See *id.*

<sup>129</sup> See Acting Legislative Inspector General Julie Porter, *Summary Report, Case Number 16-008* (January 19, 2018) at 24.

<sup>130</sup> See Jonah Meadows, *Ram Villavalam Romps Incumbent State Sen. Ira Silverstein*, PATCH (March 20, 2018), available at <https://patch.com/illinois/skokie/illinois-8th-district-senate-primary-follow-election-results>.

and sent her inappropriate text messages.<sup>131</sup> The same week, former campaign staffer and Speaker's Office worker Alaina Hampton revealed that she was the woman who had come forward.<sup>132</sup> Ms. Hampton further alleged that it took the Democratic Party of Illinois (DPI) too long to respond to her allegations.<sup>133</sup> The following month, Ms. Hampton filed a federal lawsuit against DPI, the Friends of Michael J. Madigan, 13th Ward Democratic Organization, and the Democratic Majority, arguing that they retaliated against her for "asserting her rights to be free from unlawful harassment and a sexually hostile work environment by failing to hire her to work as a political consultant for the 2018 campaign cycle."<sup>134</sup>

That same week in February 2018, Speaker Madigan announced that a campaign volunteer—ultimately identified as Shaw Decremer—was being removed for "inappropriate behavior . . . toward a candidate and staff" during a 2016 campaign.<sup>135</sup>

On Friday, February 16, 2018, Speaker Madigan announced that DPI had retained an independent counsel, Kelly Smith-Haley of Fox Swibel Levin & Carroll, LLP, to review the allegations referenced above, conduct investigations, and provide recommendations for updating policies and procedures.<sup>136</sup>

The following day, Speaker Madigan created a panel "to develop a plan for elevating the status of women in the party and a strategy for making the party and campaigns more inclusive."<sup>137</sup> In 2018, this panel, the Illinois Anti-Harassment, Equality and Access (AHEA) Panel—composed of State Senator Melinda Bush, Illinois State

<sup>131</sup> See Associated Press, Fox Illinois News Team, *Speaker Madigan's aide fired after sexual harassment allegation*, FOX ILLINOIS (February 12, 2018), available at <https://foxillinois.com/news/local/speaker-madigans-aide-fired-after-sexual-harassment-allegation>.

<sup>132</sup> See Associated Press, *Ex-Staffer: Madigan, top Democrats too slow to probe sex harassment claim*, DAILY HERALD (last updated February 14, 2018), available at <https://www.dailyherald.com/news/20180213/ex-staffer-madigan-top-democrats-too-slow-to-probe-sex-harassment-claim>.

<sup>133</sup> See *id.*

<sup>134</sup> See Ray Long, Stacy St. Clair, and Christy Gutowski, *Ex-campaign worker sues Madigan fund, Democratic Party, says reporting sexual harassment hurt her career*, CHICAGO TRIBUNE (March 22, 2018), available at <https://www.chicagotribune.com/news/local/politics/ct-met-madigan-law-suit-sexual-harassment-20180321-story.html>.

<sup>135</sup> See Ray Long and Monique Garcia, *Madigan parts ways with second operative after female lawmaker alleges 'abuse of power'*, CHICAGO TRIBUNE (February 20, 2018), available at <https://www.chicagotribune.com/news/local/politics/ct-met-speaker-madigan-shaw-decremer-misconduct-20180219-story.html>.

<sup>136</sup> See Mary Ann Ahern, *Questions Surface About Madigan's 'Independent' Investigation Into Sexual Harassment Allegations*, NBC 5 CHICAGO (February 20, 2018), available at <https://www.nbc-chicago.com/news/local/questions-surface-about-madigans-independent-investigation-into-sexual-harassment-allegations-474642713.html>.

<sup>137</sup> See Tina Sfondeles, *Madigan taps trio of women, including Bustos, to change 'culture of politics'*, CHICAGO SUN-TIMES (February 18, 2018) available at <https://chicago.suntimes.com/2018/2/18/18329539/madigan-taps-trio-of-women-including-bustos-to-change-culture-of-politics>.

Comptroller Susana Mendoza, and State Representative Carol Ammons—released a report with “a series of recommendations that could serve as a roadmap for all political parties, operations, and campaigns to address a decades-long culture that’s allowed sexual harassment to pervade this system.”<sup>138</sup>

On February 20, 2018, Representative Kelly Cassidy issued a press release, asserting that there is a “culture of harassment in the legislature and political campaigns” and “calling for an independent investigation into this culture that appears to pervade the organizations led by Speaker Madigan.” On February 22, 2018, she added, “Do a thorough review of the policies. Do a thorough review of how we’ve responded in the past. Do a thorough review of the opinions of current and former staffers about what they think we need.”<sup>139</sup>

On February 27, 2018, the Speaker’s Office released the complaints concerning discrimination, harassment, sexual harassment, or retaliation that people had made within the previous five years.

In mid-May 2018, Representative Kelly Cassidy spoke out about what she believed were intimidation tactics from those close to Speaker Madigan based on her criticisms of how he handled sexual-harassment issues.<sup>140</sup> Specifically, Representative Cassidy believed that in February 2018, then-Chief of Staff Timothy Mapes called her secondary employer, the Cook County Sheriff’s Office, asking whether she still worked there in an attempt to threaten her position. Representative Cassidy believed that Representative Robert Rita contributed to this intimidation by commenting about her purported opposition to one of the Sheriff’s Office’s bills. Representative Cassidy said that she felt pressured to resign from the Sheriff’s Office. In response, Speaker Madigan asked the then-Acting Legislative Inspector General, Julie Porter, to investigate Representative Cassidy’s claims.<sup>141</sup>

Later that same month, on May 21, 2018, at a press conference, Activist Maryann Loncar made several allegations against then-Representative Lou Lang. The same day, Representative Lang, while denying the allegations, stepped down as deputy majority leader and resigned from his Legislative Ethics position. Representative

<sup>138</sup> More information regarding the AHEA Panel, their report, and their findings is available on their website: [www.aheapanel.org](http://www.aheapanel.org).

<sup>139</sup> See Ahern, *Some Democrats Call for New Investigation as Madigan’s Counsel Claims Independence*, NBC 5 CHICAGO (February 22, 2018) at 1:29. The same day Representative Kelly Cassidy said: “Ultimately, I don’t think we need to become a tea-and-crumpets society, but I do think we need to professionalize, and treat each other with respect regardless of gender, regardless of sexual orientation, regardless of age.” See Gunderson, *Madigan Under Fire for Handling of Harassment Claims*, WTTW (February 22, 2018) at 10:25.

<sup>140</sup> See Bishop, *Madigan calls for investigation after fresh accusations of retaliation from Chicago Democrat*, THE CENTER SQUARE (May 22, 2018).

<sup>141</sup> See *id.*



Lang also sent a request to the then-Acting Legislative Inspector General, Julie Porter, asking her to investigate the allegation. (In September 2018, Ms. Porter sent a letter to Representative Lang with her finding that there was insufficient evidence to conclude that Representative Lang had sexually harassed Ms. Loncar.)

On June 6, 2018, at a press conference in Chicago, Speaker's Office worker Sherri Garrett made several allegations against then-Chief of Staff Timothy Mapes. The same day, Mr. Mapes resigned from his positions as the Chief of Staff, as the Clerk of the House, and as the Executive Director of DPI.

### **III. Feedback from Workers in the Speaker's Office and Capitol Workforce**

While we devote much of this section to summarizing the issues people reported facing in the workplace, many people also shared positive feedback regarding their experiences in the Speaker's Office. And many people were thankful for the opportunities that the Speaker's Office has provided them. For some, working in the Speaker's Office was their first job, and for others, working in the Speaker's Office provided them with exciting and fulfilling work opportunities that they had not experienced in their previous work experiences. Many others have spent their entire career in the Speaker's Office.

In fact, there were some people—men and women—who appreciated the anonymity of their interviews to share *positive* feedback. Some of these people expressed being afraid of voicing their positive opinions because they did not want to be viewed as contradicting or challenging the experiences of others. Some also did not want to be viewed as not believing people who reported being victims. Some people said that they did not have any problems working in the Speaker's Office.

As part of our assessment, we also reviewed dozens of letters to the Speaker from over a decade, including letters from Republican representatives. Most of these letters thanked the Speaker for providing them the opportunity to work with or for him.

We must also emphasize the complexity of the Speaker's Office and the various positions in the office, which differ from each other. The Speaker's Office includes administrative staff, attorneys, information technology personnel, photographers, janitors, researchers, seasonal workers, security personnel, and interns. While this section summarizes the feedback we heard, we note that some of these issues vary depending on whether workers are based in Chicago, in district offices throughout Illinois, or in Springfield—either in the Stratton Building or on the different floors of the Capitol building.

## A. Feedback Regarding Leadership of the Speaker's Office

To assess workplace culture, we start at the top. As the EEOC recognized, the "importance of leadership cannot be overstated."<sup>142</sup> Leadership, from the top of the organization, that demonstrates a "commitment to a diverse, inclusive, and respectful workplace in which harassment is simply not acceptable is paramount."<sup>143</sup>

As referenced above, Michael Madigan has led the Speaker's Office since 1983, except for two years in the 1990s. Timothy Mapes was the Chief of Staff from 1992 until 2018 (except for the same years) and the Clerk of the House from 2011 to 2018.

### *Speaker Michael Madigan*

Many workers across the Capitol workplace spoke highly of Speaker Madigan, and many workers across the Speaker's Office expressed pride working in his office. According to most people we interviewed, however, very few workers in the Speaker's Office have or have had interactions with Speaker Michael Madigan. In fact, many workers reported that they have never interacted with Speaker Madigan directly. They said that most of their interactions with top leadership would end at Timothy Mapes. Many people believed that Mr. Mapes was the only person who had direct access to Speaker Madigan. Certain directors and supervisors, however, described having regular interactions with Speaker Madigan.

### *Timothy Mapes*

Most workers said that Mr. Mapes had enormous influence on the Speaker's Office. Some people reported that they thrived under his leadership. Even people who did not agree with his management style often said that he encouraged them to work hard.

While people who worked closest to Mr. Mapes had very divergent opinions of his leadership style, there were some consistencies. Most people described Mr. Mapes as an extremely hard worker who had a lot of responsibilities and a high-stress job. Some, however, believed that Mr. Mapes unnecessarily added to his stress by micromanaging representatives, Speaker's Staff, and all levels of Clerk's Office workers. Mr. Mapes purportedly had sole discretion over many of the critical factors governing work lives for workers in the Speaker's Office:

- Salaries;
- Raises;

<sup>142</sup> Feldblum and Lipnic, *Report of Co-Chairs* (June 2016) at v.

<sup>143</sup> *Id.* at 31.

- Compensation time; and
- Use of time off, such as sick or vacation time.

Mr. Mapes also purportedly had unwritten policies, which they said he appeared to make up on the spot and apply inconsistently. Some of these purported policies included not allowing people to use genuine sick days on Mondays and Fridays and not allowing days off during the legislative session, even for legitimate reasons.<sup>144</sup>

Most people who worked closely with Mr. Mapes agreed that he had a unique sense of humor, which was not always appreciated by those around him. Most people also agreed that he would frequently make explicit or indirect threats regarding people's jobs. Many people said that he intentionally created an intimidating persona and even encouraged other supervisors to use fear as a management tactic. It was particularly common for people to say that Mr. Mapes either yelled at them or threatened their jobs. Many of the people who said that Mr. Mapes did not yell at them or threaten their jobs said that they were told by their coworkers that it was only a matter of time before they had their "Tim moment."

A recurring complaint was that Mr. Mapes, as Clerk of the House, Chief of Staff, and Executive Director, made arbitrary decisions based on his mood or whether he liked someone. Allegations of inappropriate behavior included the following:

- That he regularly threatened people's jobs;
- That he yelled and cursed at various workers;
- That there were rumors that Mr. Mapes would call prospective employers proactively and prevent people from getting new employment (which caused some workers to think that they needed to get his permission before they could leave);
- That he created arbitrary rules on the spot or enforced rules inconsistently based on his mood, such as not permitting pictures on the House floor;
- That he reluctantly would give someone a promotion but withhold the new job title without reason;
- That he threw a pencil at a worker for forgetting to bring one to a meeting;

<sup>144</sup> We must note, however, that the Speaker's Office's Personnel Rules and Regulations (Speaker's Policies) include similar language. See [Attachment 2](#). Article 14 ("Requests for Time Off"), for example, provides that "No time off shall be taken during periods when the House is in session without prior approval of the unit director." Likewise, Article 17 ("Sick Leave") provides that the "Use of sick time on a Monday or Friday to extend a weekend or holiday is prohibited."

- That he angrily grabbed a staffer because he thought—mistakenly—that the staffer was in the wrong place; and
- That he assigned people to watch other people as they work—such as typing or answering calls—to ensure the other person did not make a mistake.

Despite these allegations, many of the same people also expressed that Mr. Mapes had personally helped advance their careers.

Either way, most people who did not work closely with Mr. Mapes were intimidated by his reputation or the limited interactions they had with him. Many people said that they would never have reported workplace harassment to him. Others said that they would not have reported workplace harassment at all, because they knew it would eventually make its way to him.

Most people—including people with authority—said that they would not have reported issues they had with Mr. Mapes, either because he would be the one who would need to address the issue or because they believed that the Speaker would side with Mr. Mapes over a lower-level staffer. In fact, even some representatives expressed a frustration regarding Mr. Mapes’s continued inappropriate demeanor toward them. Many people said that they feel more comfortable reporting issues now that Mr. Mapes is gone.

Most people agreed that the overall workplace culture has improved since Mr. Mapes’s departure. A handful of workers, however, disagreed. A few expressed general pessimism and said that things were and will remain bad, because nothing in Springfield changes.

### *Other Leadership*

In addition to Mr. Mapes, the Speaker’s Office has various other managers between the Speaker’s Staff and Clerk’s Office. The Speaker’s Staff is led by several directors, including the general counsel, who has traditionally also been the director of the Technical Review Unit and the ethics officer; the director of the Research/Appropriations Unit; and the director of the Issues Development Unit. The Clerk’s Office is currently led by the Clerk of the House John Hollman. The vast majority of feedback regarding the current leadership was positive, including the Chief of Staff Jessica Basham and the corresponding directors, Justin Cox, Mark Jarmer, and Craig Willert. The only reservations people expressed about these workers were that they were trained or at least mentored by Mr. Mapes.

### *Other Supervisors*

Many workers expressed their uncertainty about who they and others reported to and when. For many, the unclear hierarchy and reporting structure was caused by several factors, including high turnover; a lack of training; people going on leave to work or volunteer at political organizations; and workers' reluctance to say "no" to powerful people, like lobbyists and representatives. In fact, we heard from some people that former Speaker's Office workers, lobbyists, and bosses on the campaign side would continue to act like bosses toward workers who were performing government functions, even though they did not work for the Speaker's Office or the state.

Various supervisors also expressed their own concerns about possible overcorrection. Some supervisors, for example, expressed concern that any job-related discipline could be interpreted as retaliation.

#### B. Feedback Regarding Overall Workplace Culture

People who have spent many years—even decades—in the Speaker's Office and the Capitol workplace report that the workplace culture in the Speaker's Office has improved over the years. The feedback we received was not unanimous, and many workers gave conflicting accounts of their experiences working in the Capitol workplace and the Speaker's Office and differing criticisms. This subsection summarizes some of this feedback—both positive feedback or critical based on how they were characterized by the person who voiced the opinion.

Some people, for example, felt that the Speaker's Office has actually improved faster than surrounding workplaces, and others thought the entire Capitol workplace lagged behind the private sector. Others believed that the Speaker's Office still did not provide a good workplace environment.

Many people expressed that the Capitol workplace is unique and that behaviors that may seem abnormal or even problematic in other workplaces may be common in the Capitol. For example, many people said that their jobs often require working long days with a small group of people. In that setting, people going to dinner often with their boss may not be unusual or viewed as unprofessional or inappropriate.

Likewise, many people expressed that their major workplace issues involved interacting not with workers in the Speaker's Office but with angry or otherwise intimidating members of the public, either through correspondence, phone calls, meetings, or during campaigns while on leave. Many people described specific accounts of incidents with members of the public, and some of these incidents included vulgar comments or even threats regarding the workers' gender or race.

### *Whether Workers Feel Valued*

Many workers told us that they were honored and proud to work in the Speaker's Office. Some workers emphasized that they feel valued in the Speaker's Office, often comparing their experiences in other workplaces. But the most frequent concern we heard from workers—across all levels—is that they believe they are expendable. While few people pointed to anyone being terminated—let alone terminated without just cause—many people emphasized that their employment was at-will, repeating the emphasis placed on this fact by their former Chief of Staff, Mr. Mapes.

In addition to identifying the job threats described above, many current or former workers within the Speaker's Office pointed to the following reasons why they did not feel valued by the Speaker's Office:

- **Did not invest in workforce.** Many workers expressed that they did not believe that the Speaker's Office invested in its workforce. Some of these workers—who had been working for the Speaker's Office for many years or intended to do so—did not believe that the Speaker's Office invested in them as long-term workers. Some of them pointed to the fact that they did not have job descriptions and believed that they had received little to no training. And, until recently, for example, the Speaker's Office never had a human resources department.
- **No written evaluations.** Workers did not believe that they received consistent feedback regarding their performance. Instead, if they underperformed, opportunities would simply disappear. Workers did not receive evaluations on a consistent basis or at all, and as a result, they could not identify whether raises were tied to performance. Because of this lack of clarity, people often viewed the instances when workers were rewarded as unfair. Some workers thought that the Speaker's Office provided people with opportunities to succeed based on favoritism or connections, rather than on performance. Opportunities are not posted internally, and upward mobility is limited.
- **Ambiguous duties and reporting structures.** Without job descriptions or a clear organization, people believed they received assignments that were inappropriate—and sometimes, from people who were not clearly their supervisors. Likewise, work titles were often inaccurate, and people with lower titles often did the same work that people with higher titles did. Some workers believed that people were given low titles to purposefully remind them that they were replaceable. Many workers in the Clerk's Office, for example, believed Mr. Mapes—and in turn, the Speaker's Office—saw them as fungible, and they felt that they were always at risk of being moved to a different unit.

- **Unwritten policies.** Workers described a set of unwritten rules—typically enforced by Mr. Mapes—that made them uncomfortable about doing something wrong, even if they followed written policies. Some workers said, for example, that they were made to feel guilty for following procedures for sick days. Some people believed that there were different day-to-day policies for people who worked in the Speaker’s Staff and the Clerk’s Office, such as dress codes, flex-time options, and compensation, including the benefit time received for the overtime worked—commonly referred to as “compensation time.”
- **Inconsistent discipline.** If a worker violated a written (or unwritten) policy, there were no clear discipline steps or process, so people feared that any infraction could lead to termination. Some workers said that politically connected people felt like they could say whatever they wanted without repercussions.
- **General lack of transparency regarding decisions.** Some contract workers feared that their contracts would not be renewed and believed that the contract renewal was not a transparent process. In fact, some contract workers said that they were typically given very short notice regarding whether their contract would be renewed. As a result, some workers described inefficiencies, such as workers being offered a new contract when they had already found another job. Some workers described being strung along for promotions, raises, or permanent positions that would never come.
- **General lack of respect.** Many workers said that they believed that there was a general lack of respect for staff, as reflected in the long hours, amount of uncompensated time, and demeaning tasks or interactions with management. Many people whom we interviewed expressed particular concern about how legislative assistants were treated. These people believed that legislative assistants were drastically underpaid. Some people also said that some representatives picked and traded legislative assistants as if they were inanimate objects, like offices and parking spaces.
- **Favoritism.** Some workers believed that people received special treatment based on political connection, nepotism, race, age, or sex. Some workers expressed their belief that work performance at political organizations, such as DPI, translated to privileges at the Speaker’s Office, leaving people who did not work or volunteer for political organizations at a disadvantage.<sup>145</sup>

<sup>145</sup> It is important to note that the Speaker’s Office has and has had many workers who do not work or volunteer for political organizations or campaigns and are still promoted to high-level positions.

### *Feedback regarding Bullying*

By far the most consistent criticism from Speaker's Office workers was bullying. Some people expressed that bullying issues were inevitable given the long hours and sometimes tense environment that exists in a legislature. Others said that many issues arise from people becoming overly familiar after working closely for long hours and that conduct unlikely to happen during a normal working day can sometimes occur after a much longer workday.

Interviewees expressed concerns about bullying in situations that outsiders might not anticipate or understand. Some representatives, for example, said that the Speaker's Staff could be militant. Some representatives said that the Speaker's Staff would yell at representatives during certain votes on the House floor or while on leave during campaigns.<sup>146</sup> Some representatives said that they believed they were sometimes punished—such as by being given unfavorable committee assignments—during session for not following instructions during campaigns, even though they ultimately won.

While the description of bullying varied from Speaker's Staff and Clerk's Office workers, male and female workers from both units described the following similar experiences:

- **Intimidated by Perceived Superiors.** Multiple workers described having been physically intimidated by perceived superiors.<sup>147</sup> These situations varied from a perceived superior yelling in someone's face to grabbing or pushing someone. Workers also described more subtle intimidation by their perceived superiors, including condescending comments or reminders of stark power imbalances in salary or political influence.
- **Intimidated by Members of the Public.** Many workers described their positions as being the first line of contact for the public for the House. In fact, if—or when—there is a high-profile issue or incident involving the House, workers considered themselves the first line of defense, fielding calls, questions, and aggravations. Legislative assistants, for example, frequently field calls and correspondence for representatives. Various workers described incidents when members of the public berated them, called them derogatory names based on sex, or threatened them physically.

<sup>146</sup> Some representatives said that representatives are more likely to feel bullied by staff or pressured to vote if they are in "target" districts, where representatives have closer elections.

<sup>147</sup> None of the identified perceived superiors worked in the Speaker's Office at the time of the interviews.



Multiple workers from the Speaker's Staff identified the following issues:

- **Hazing-Like Experience.** Many workers in the Speaker's Staff said that they must go through a hazing-like experience when they first start working, including long hours, unclear guidance, and being made to feel guilty for taking any sick days. Some even described unwanted and inappropriate roughhousing. Working in the Speaker's Staff is often a worker's first job. Many young workers felt like people in the Capitol workplace took advantage of their inexperience, their excitement about working in the Capitol, their fear of confrontation, and their general fear of saying "no."
- **Unclear Hierarchy.** Many of the Speaker's Staff take leave from the Speaker's Office to work on political campaigns or for political organizations, including DPI. To be clear, workers that we interviewed unanimously understood that they were prohibited from engaging in political activity while working for the Speaker's Office. Nonetheless, workers said that the lines between the political and state sides can blur because their bosses are sometimes the same on both sides, and other times their supervisors at DPI, for example, are lobbyists or other people who do not work for the Speaker's Office. Some workers said that people who do not work for the Speaker's Office will sometimes continue to direct them as if the Speaker's Office workers were still subordinates.
- **Pressure to Volunteer.**<sup>148</sup> Some workers described an unspoken pressure on them to volunteer, which, in their opinion, was a form of bullying. While some workers recounted rumors that people had been told that they needed to volunteer, no one reported hearing someone say that anyone needed to volunteer. Moreover, other workers said that they did not feel pressured to volunteer. In fact, some workers said that they preferred to work campaigns and joined the Speaker's Office because they enjoyed politics and wanted those opportunities. Nonetheless, some workers expressed a fear that if they did not volunteer, then they would get bad assignments, lose opportunities, or lose their job. Interns and contract workers, in particular, felt this pressure, because they believed that they would not be offered a full-time position if they did not volunteer. No one provided specific examples to support these beliefs, although some workers said that they would not be able to show a connection between their lack of volunteering and, for example, losing opportunities.<sup>149</sup>

<sup>148</sup> The workers defined volunteering as being willing to go work on the political side. They acknowledged that they were often paid for their time on the political side if it was full-time.

<sup>149</sup> According to the Speaker's Office, approximately 15 to 20% of their workforce go on leave for political or campaign work.

Multiple workers from the Clerk's Office identified the following issues:

- **Favoritism.** Some workers in the Clerk's Office described incidents with coworkers that they felt went unaddressed. Some workers believed that there were select coworkers who were never held accountable for their behavior. In general, those workers failed to do their jobs, requiring others to pick up the work, but on occasion, could be more aggressive, yelling at, insulting, or even pushing coworkers. Workers provided various theories why some workers appeared to be given special allowances based on such things as political connection, nepotism, race, age, or sex.
- **Demeaning Assignments.** Many workers in the Clerk's Office described having to do assignments that were demeaning, unrelated to the administration of the House, or even dangerous. Many people said this occurs frequently for legislative assistants. Workers said that representatives had asked legislative assistants to do things like vacuum their apartments, help sell their houses, check on members of their family, drive them around, and run other errands. Others described representatives who subtly suggested that workers volunteer on their campaigns.

#### C. Feedback Regarding Reporting Workplace Issues

Some people, particularly people who had worked in the Speaker's Office for only a few years, described feeling comfortable reporting workplace issues, even if they had never felt the need to report.

Others described circumstances when they reported issues and were happy with how things were handled. Some of these cases involved people reaching out to representatives they trusted for guidance. But other people told us that they reported issues or knew people who reported issues that were not addressed properly or at all. Some of these people said that, as a result, they would not report issues again.

Many people, however, said that they would not have felt comfortable reporting issues in the past, internally or externally. Current or former workers expressed the following reasons most consistently:

- They did not know whom they could report to;
- The situation was too political for the process to be fair;
- They did not want to distract from the mission and success of the Speaker's Office and the Democratic Caucus;
- They did not want to distract from their work or careers;

- They believed that reporting would not make a difference;
- They felt that workers were not valued enough to expect change or a fair process; and
- They did not want to risk retaliation.

We explain these reasons more thoroughly below.

*People did not know who they could report to*

Some people said they would not have reported issues, because they did not know who they would report to. Many of these people said that they had never been trained—until very recently—about where and to whom they could report issues. Many people also said that they did not know what the policies were regarding appropriate workplace conduct and that there had never been any training on those policies before 2018.<sup>150</sup>

*The Capitol workplace is too political to expect a fair process*

Many people told us that they would not complain—and they did not think that other people would complain—about issues because the workplace is too political. Specifically, people thought that information and loyalty were the highest commodities in the Speaker’s Office and in the Capitol workplace. As a result, people either hold onto information until it benefits them or they hold on to information that could hurt the party or its members. Either way, according to these people, the nature of the Capitol workplace encourages people to withhold information.

Some people would not report because they did not want to make the Speaker or the Democratic Caucus look bad. They feared that if they reported issues, then political opponents or opportunists would use a complaint to hurt the party, possibly taking issues out of context.

People also feared that they would be the victim of political loyalty. Some people believed that people would defend and side with the accused because of their loyalties. Some people went further with this concern and said that they would not complain about issues in the workplace because they believed that political

<sup>150</sup> It is worth noting, however, that the Speaker’s Office’s Personnel Rules and Regulations (Speaker’s Policies) prohibit, among other things, sexual harassment and discrimination, and provide an internal reporting structure. The Speaker’s Office required new workers to sign acknowledgment forms that they received and read the Speaker’s Policies. The Speaker’s Office also required workers to sign these acknowledgment forms when the Speaker’s Office updated the Speaker’s Policies in December 2017.

motivations would eclipse the underlying issue and those involved. These people feared being scapegoated. They believed that goals like confidentiality, the pursuit of the truth, and just outcomes were less important than loyalty to the Speaker and the Democratic Caucus. Instead, they were concerned that complaints would be viewed through a political lens and pre-judged.

*People do not want to distract from the mission and success of the Speaker's Office and the Democratic Caucus*

Some people said that they would not complain about workplace issues because they did not want to distract from the mission and the success of the Speaker's Office and the Democratic Caucus. Specifically, some people said that they joined the Speaker's Office because they admire the Speaker's Office and believe in its causes, and they would not want to put their own interests above successful campaigns or legislation.

*People do not want to distract from their careers*

Some people said that they would not complain about workplace issues because they did not want to distract from their work or careers. Specifically, they did not want to be viewed as needing special treatment or being a liability.

*Reporting would not make a difference*

Some people said that they would not report issues, because they did not think it would make a difference. People expressed the following reasons for why they did not think it would make a difference. Some people said that they would not report issues involving well-connected people, some noted that they believed that they would have to report the issue to the person they would have been complaining about, and others noted that they did not believe management would take them seriously.

Workers gave various reasons for not wanting to report internally, including the following:

- Management was too busy or too intimidating to approach.
- They had complaints against people who appeared to be too powerful or well connected, either by political connection, nepotism, or special treatment based on race, age, or sex.
- If they had complaints against powerful people outside of the Speaker's Office—like powerful representatives or lobbyists—then management either could not or would not do anything about the complaint.

People also gave various reasons for not reporting externally, including the following:

- They did not understand who they could complain to or how that process works.
- They did not believe that the external processes were unbiased or less political.
- They did not believe that the external processes would be kept confidential.

Unfortunately, a few people said that they would *still* not report issues—if they had any—even with the new management.

*Workers are not valued enough to expect change or a fair process*

The most common reason people gave to explain why they would not report issues was that they did not believe they were sufficiently valued by the Speaker's Office. They feared that responses to their issues would not be taken seriously or handled correctly. They believed that it would be easier to fire people, rather than addressing the issues, and sometimes, the person complaining would get fired. Some of these people also reported that some people in management were intimidating and did not appear receptive to reporting workplace issues. As at-will workers, they believed that it would be easier to put up with any issues than risk losing their income and benefits. Workers who did not believe that they had many job opportunities outside of the Speaker's Office expressed this concern more than others.

We also heard this concern from people who feared that they would be accused of something and disciplined without having the opportunity to defend themselves or even know what they were accused of. In fact, some people said that they had been accused and reprimanded without being informed about the allegation.

*Did not want to risk retaliation*

As referenced above, the vast majority of people spoke to Ms. Hickey on the condition that their comments remain anonymous. Many people gave the same reason for this request: fear of retaliation—either from the Speaker's Office, the Democratic Caucus, or their peers. For many workers, their fear of retaliation was fueled by or even caused by their belief that they were expendable.

There were a few workers who pointed to what they believed to be examples of retaliation. These instances, however, occurred many years ago, and many people admitted that they did not have all the details. Nonetheless, some workers believed, for example, that, because of an after-hours sexual encounter between workers, a worker was transferred to a different position. People who told us about

this incident did not want to open the nearly decade-old issue for investigation and many people believed that there may have been additional relevant details that they did not know about. No one told us that the Speaker was notified of this incident. Nonetheless, many people told us this same story as an example of why they would not risk putting themselves in a position to be retaliated against and that people who complain or even those who are identified as having *cause to complain* were at risk of being punished.

Most people who were afraid of retaliation from the Speaker's Office did not or could not point to specific instances when people were retaliated against for raising concerns. Most of these people believed that if they were retaliated against, the retaliation would not be overt. Instead, they believed that retaliation would consist of things like getting fewer opportunities and worse assignments, which might interfere with their advancement or cause their contract not to be renewed. They did not believe that they would be able to show a clear connection between speaking out and being punished.

Some people believed that even if the risk of retaliation was slight, the amount of damage the Speaker's Office could do to their career was too high to take even that small risk. This concern came from workers with various levels of experience, from people working in their first job to people who had spent many years in the Speaker's Office.

This was coming from people regardless of whether they wanted to remain working in politics or in the Capitol workplace. Many of the people who wanted to spend the rest of their careers in politics believed that the world of politics was relatively small and that their reputation could be easily harmed by getting on the wrong side of the Speaker's Office. Many of the people who might consider leaving politics believed that the Speaker's Office had a large influence over the hiring decisions across all Illinois government positions and private industries that do business with Illinois. As result, even many former workers insisted that they remain anonymous because they feared reprisal from their current employer.

This latter concern was particularly common for workers who wanted or needed to live in central, southern, or rural Illinois. These workers believed that there were fewer employment opportunities and that most would be tied to Illinois government.

In fact, many people particularly wanted to remain anonymous because of their fear of former Chief of Staff Timothy Mapes, even though he resigned from his positions in June 2018. Many people believed that he would return to the Speaker's Office, and even if he did not return, that he maintained influence throughout the state.

## D. Feedback Regarding Harassment

### *The Speaker's Office's Unique Workplace*

The Speaker's Office is a unique workplace, and as a result, faces unique challenges regarding workplace harassment. In 2016, the EEOC's Co-Chairs of the Select Task Force on the Study of Harassment in the Workplace (EEOC Task Force), released a report.<sup>151</sup> That report, among other things, identified 12 risk factors—"organizational factors or conditions that may increase the likelihood of harassment."<sup>152</sup> The report further acknowledged that "most if not every workplace will contain at least some of the risk factors."<sup>153</sup> While the existence of risk factors in a workplace does not mean that harassment has occurred, is occurring, or will occur, "the presence of one or more risk factors suggests that there may be fertile ground for harassment to occur, and that an employer may wish to pay extra attention in these situations, or at the very least be cognizant that certain risk factors may exist."<sup>154</sup>

Based on our investigation, we believe that 11 out of the 12 risk factors likely apply to the Speaker's Office.<sup>155</sup> Specifically, we believe the following factors apply, in order of degree, from most to least prominent:

- ▶ Workplaces with "High Value" Employees;
- ▶ Workforces with Many Young Workers;
- ▶ Workplaces with Significant Power Disparities;
- ▶ Workplaces that Rely on Customer Service or Client Satisfaction;
- ▶ Coarsened Social Discourse Outside the Workplace;
- ▶ Workplace Cultures that Tolerate or Encourage Alcohol Consumption;
- ▶ Workplaces Where Work is Monotonous or Consists of Low-Intensity Tasks;
- ▶ Isolated Workspaces;

<sup>151</sup> See Feldblum and Lipnic, *Report of Co-Chairs* (June 2016).

<sup>152</sup> See *id.* at 25–30.

<sup>153</sup> See *id.* at 25.

<sup>154</sup> See *id.*

<sup>155</sup> The only risk factor that we do not believe applies to the Speaker's Office is the "Cultural and Language Differences in the Workplace" factor. *Id.* at 26–27. As identified by the EEOC Task Force, this risk factor exists in workplaces that are "extremely diverse," particularly when there has been a recent influx of people with different cultures or nationalities. This risk factor also applies to language barriers. The people we interviewed did not identify these issues as a problem. The bigger concern was the somewhat opposite risk factor: the "homogenous workforce."

- ▶ Decentralized Workplaces;
- ▶ Homogenous Workforce; and
- ▶ Workplaces Where Some Employees Do Not Conform to Workplace Norms.

Many of these factors apply to all workers in the Speaker’s Office—as they do workers in many workplaces. The following subsections describe how each risk factor applies to the Speaker’s Office based on our interviews:

- ▶ **Workplaces with “High Value” Employees.** The EEOC Task Force report points out that “management may be reluctant to challenge the behavior of their high value employees, and the high value employees, themselves, may believe that the general rules of the workplace do not apply to them. In addition, the behavior of such individuals may go on outside the view of anyone with the authority to stop it.”<sup>156</sup>

*Applied to the Speaker’s Office:* The Capitol workplace, like all legislative workplaces, has high-value workers: elected officials. In the Speaker’s Office, however, there are also other high-value workers, including those in the relatively few supervisor positions. There is also an unusually large disparity in experience, salary, and perceived job security between people in those positions and others. As explained in subsection II, workers did not receive consistent evaluations, and many interviewees expressed the perception that some opportunities and positions are based on political favoritism, general favoritism, or nepotism. People who are viewed—fairly or unfairly—as having these strong connections may also be viewed as not being held to the same standards or mechanisms for accountability.

- ▶ **Workforces with Many Young Workers.** According to the EEOC Task Force report, workplaces “with many teenagers and young adults may raise the risk for harassment[, because workers] in their first or second jobs may be less aware of laws[,] workplace norms [and] what is and is not appropriate behavior.”<sup>157</sup> Young workers “may lack the maturity to understand or care about consequences” of harassment, “may lack the self-confidence to resist unwelcome overtures or challenge conduct that makes them uncomfortable,” and “may be more susceptible to being taken advantage of by coworkers or superiors.”<sup>158</sup>

<sup>156</sup> *Id.* at 27 (citations omitted).

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*



*Applied to the Speaker's Office:* The Speaker's Office has many young workers, and the Speaker's Staff consists predominately of young workers. In fact, for many, the Speaker's Office is their first job after college or at all.

- ▶ **Workplaces with Significant Power Disparities.** The EEOC Task Force report points out that, while most workplaces have significant power disparities between different groups of workers, “such significant power disparities can be a risk factor.”<sup>159</sup> High-status workers “may feel emboldened to exploit” low-status workers, who may also “be less likely to understand internal complaint channels” and may be “particularly concerned about the ramifications of reporting harassment (*e.g.*, retaliation or job loss).”<sup>160</sup> Furthermore, “research shows that when workplace power disparities are gendered (*e.g.*, most of the support staff are women and most of the executives are men), more harassment may occur.”<sup>161</sup>

*Applied to the Speaker's Office:* As described above, many workers in the Speaker's Office are young, in age and experience. Many more have relatively low incomes and power compared to their superiors, coworkers, and lobbyists, and most interact or work directly with some of the most powerful and influential people in the state: the elected officials.

Some workers expressed that they believed there was a double standard regarding acceptable behavior for some political caucuses and interest groups, which was tolerated because of their political influence.

- ▶ **Workplaces that Rely on Customer Service or Client Satisfaction.** According to the EEOC Task Force report, “workplaces where an employee's compensation may be directly tied to customer satisfaction or client service . . . may feel compelled to tolerate inappropriate and harassing behavior rather than suffer the financial loss[, and] . . . management may, consciously or subconsciously, tolerate harassing behavior rather than intervene.”<sup>162</sup>

*Applied to the Speaker's Office:* While workers in the Speaker's Office do not receive tips, many people in the Speaker's Office reported that their positions are directly tied to the satisfaction of third-parties, such as representatives or constituents. Legislative assistants and Issue Development Unit workers particularly noted this concern.

<sup>159</sup> *Id.* at 28.

<sup>160</sup> *Id.*

<sup>161</sup> *Id.* (citing Meg A. Bond, *Prevention of Sexism*, ENCYCLOPEDIA OF PRIMARY PREVENTION AND HEALTH PROMOTION (2014)).

<sup>162</sup> *Id.*

- ▶ **Coarsened Social Discourse Outside the Workplace.** According to the EEOC Task Force report, “events and coarse discourse that happen outside the workplace may make harassment inside a workplace more likely or perceived as more acceptable.”<sup>163</sup>

*Applied to the Speaker’s Office:* The Speaker’s Office operates, to a large extent, in a political environment. In fact, the Office of the Clerk has positions that are designated for both Democrats and Republicans. On the one hand, the fact that the Speaker’s Office has so many politically affiliated positions likely eases some of the workplace tensions regarding social discourse on current events. On the other hand, viewpoints are not and cannot be unanimous on all issues—which is likely a good thing in many circumstances—and tensions continue to exist. In some ways, the fact that the politics of the office are usually aligned can create tension when they are not. Our investigation proves this point. Initially, many interviewees personally viewed or expressed that their coworkers viewed our investigation as a political attack. Many others expressed the fact that it is crucial for the Speaker’s Office to address systemic harassment, but that it should do so internally and quietly, and the people who are doing so publicly may be hurting the Speaker’s Office, the caucus, and the political goals that help the people of Illinois.

- ▶ **Workplace Cultures that Tolerate or Encourage Alcohol Consumption.** The EEOC Task Force report points out that, since alcohol “reduces social inhibitions and impairs judgment,” then “workplace cultures that tolerate alcohol consumption during and around work hours provide a greater opportunity for harassment.” The reports adds that this may be a more recurring issue for workplaces where “social interaction or client entertainment is a central component of the job . . . , [because] alcohol use may be more ritualized and thus present more of a potential risk factor.”<sup>164</sup>

*Applied to the Speaker’s Office:* Alcohol has and continues to be prominent in many industries, including the legal industry<sup>165</sup> The Capitol has its own reputation for alcohol consumption.<sup>166</sup> Many interviewees shared their own stories

<sup>163</sup> *Id.* at 27 (“For example, after the 9/11 attacks, there was a noted increase in workplace harassment based on religion and national origin. Thus, events outside a workplace may pose a risk factor that employers need to consider and proactively address, as appropriate.”).

<sup>164</sup> *Id.* at 29 (citations omitted).

<sup>165</sup> See, e.g., Patrick Krill, *The Legal Profession’s Drinking Problem*, CNN (February 6, 2016) (citing Patrick Krill, Ryan Johnson, and Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, JOURNAL OF ADDICTION MEDICINE, Vol. 10 (2016)), available at <https://www.cnn.com/2016/02/06/opinions/lawyers-problem-drinkers-krill/>.

<sup>166</sup> See, e.g., Kerry Lester, *No, My Place: Reflections on Sexual Harassment in Illinois Government and Politics* (January 2018) (highlighting various experiences with unwelcome conduct, including those that occurred in social settings with alcohol).

of unwelcome conduct—of varying degrees—during social events and after-work drinks.

- ▶ **Workplaces Where Work is Monotonous or Consists of Low-Intensity Tasks.** According to the EEOC Task Force report, “harassing or bullying behavior may become a way to vent frustration or avoid boredom” in “jobs where workers are not actively engaged or have ‘time on their hands.’”<sup>167</sup>

*Applied to the Speaker’s Office:* The Speaker’s Office—and the Capitol, generally—is fast paced during session with long hours and, in stark contrast, uniquely slow paced outside of session. Many legislative assistants, for example, reported that they can be overworked during session but can have little to nothing to do outside of session, which can lead to more issues between coworkers.

- ▶ **Isolated Workspaces.** According to the EEOC Task Force report, harassment is “more likely to occur in isolated workspaces . . . [, because harassers] have easy access to such individuals, and there generally are no witnesses.”<sup>168</sup>

*Applied to the Speaker’s Office:* The Speaker’s Office workers work around the clock and around the state, in varying degrees of isolation. While this is particularly true during session and for in-district staff, it is also true for a variety of workers, such as late-night janitors. While the Speaker’s Office may be able to mitigate these issues on the margins, some isolated work environments and schedules are likely unavoidable given limited resources and the demands of the General Assembly. The Speaker’s Office has, however, made progress in ensuring that staff understand the complaint procedures, in connecting with isolated staff members more regularly—especially for Issue Development Staff. It has also created mentor programs to mitigate some of this risk.

- ▶ **Decentralized Workplaces.** According to the EEOC Task Force report, decentralized workspaces “may foster a climate in which harassment may go unchecked[, because] . . . some managers may feel (or may actually be) unaccountable for their behavior[, some managers] . . . may simply be unaware of how to address workplace harassment issues, [and some managers] may choose not to ‘call headquarters’ for direction.”<sup>169</sup>

*Applied to the Speaker’s Office:* The Speaker’s Office itself is decentralized (with workers located around the state), and this decentralization is made even more complicated by the fact that many workers also work for political organizations, such as the Democratic Party of Illinois (DPI). This situation creates a

<sup>167</sup> Feldblum and Lipnic, *Report of Co-Chairs* (June 2016) at 28 (citations omitted).

<sup>168</sup> *Id.* at 29.

<sup>169</sup> *Id.*

logistical issue for political organizations to ensure that canvassing volunteers, for example, have the avenues and knowhow to report unwelcome conduct. Still, the Speaker's Office must ensure that its workers have the avenues and knowhow to report campaign issues that may follow them back to the Speaker's Office.

- ▶ **Homogenous Workforce.** The EEOC Task Force report points out that “sexual harassment of women is more likely to occur in workplaces that have primarily male employees, and racial/ethnic harassment is more likely to occur where one race or ethnicity is predominant.”<sup>170</sup> This risk factor is particularly present where there has been a historic lack of diversity in the workplace or when there is only one minority member in the work group.<sup>171</sup>

*Applied to the Speaker's Office:* Overall, the Speaker's Office employs both men and women. Some areas of the office, however, are predominantly male or predominantly female. Most legislative assistants, for example, are women.<sup>172</sup> While this circumstance was not reflected in the EEOC Task Force report, many legislative assistants expressed that they experienced unwelcome conduct from their female coworkers, including judgment about their clothing or fabricated rumors about relationships with their representatives. Moreover, historically, we heard that many supervisor positions have been filled predominantly by men. Women with varying degrees of authority expressed that they had received implicit or explicit resistance from coworkers, representatives, and public regarding their competence because of their gender. While some expressed the possibility that they were misinterpreting this resistance based on their own sensitivity or normal, human insecurities, much of the resistance they described was unambiguous, including constituents telling them that women do not belong in the workplace or a representative saying that women do not belong in positions of authority. We also heard various issues regarding race and culture. Although demographics vary between units, most workers in the Speaker's Office are white, and many interviewees expressed various concerns about the lack of racial diversity.<sup>173</sup> Some workers expressed concern, for example, that racial minorities receive special treatment, while others expressed concern that racial minorities receive unfair scrutiny.

- ▶ **Workplaces Where Some Employees Do Not Conform to Workplace Norms.** The EEOC Task Force report also points out that harassment “is more likely to

<sup>170</sup> *Id.* at 26.

<sup>171</sup> *Id.* at 84.

<sup>172</sup> While the Speaker's Office's workforce has fluctuated during and after session, the total Speaker's Office workers have fluctuated between 54 and 55% female.

<sup>173</sup> As above, while the Speaker's Office's workforce has fluctuated during and after session, about 82% of workers are white/Caucasian.

occur where a minority of workers does not conform to workplace norms based on societal stereotypes.”<sup>174</sup>

*Applied to the Speaker’s Office:* We heard from many workers that politically powerful or connected people in the Capitol could—or at least have thought that they could—conduct themselves with impunity.

### *Feedback Regarding Sexual Discrimination*

Given the high-profile accusations regarding sexual discrimination and harassment, many people focused their feedback on their opinions and experiences regarding this aspect of the Capitol workplace culture.

Many people pointed to what they believed was evidence that the Speaker’s Office has successfully prevented and addressed sexual discrimination and harassment. Many people said that they believed that the number of male and female workers was relatively equal and that there were more women in positions of power than in many other offices and workplaces. Many people said that the Speaker’s Office has more opportunities for women than other workplaces or political parties.<sup>175</sup>

These opinions are supported by some evidence. In September 2018, the AHEA Panel recommended gender parity in the General Assembly.<sup>176</sup> At the start of the 101st General Assembly, 47.6% of the members of the House Democratic Caucus were women—one seat away from parity.

Other people provided contradicting opinions. Some workers said that there were still disproportionate numbers of men in positions of power. While they could not or did not point to specific instances, some people said that they believe qualified women have been passed over for promotions. Some female professionals said that they are frequently mistaken for non-professionals.

<sup>174</sup> *Id.* at 26 (“Such workers might include, for example, a ‘feminine’ acting man in a predominantly male work environment that includes crude language and sexual banter, or a woman who challenges gender norms by being ‘tough enough’ to do a job in a traditionally male-dominated environment. Similarly, a worker with a manifest disability may engender harassment or ridicule for being perceived as ‘different,’ as might a worker in a ‘rough and tumble’ environment who for any number of reasons chooses not to participate in ‘raunchy’ banter.”).

<sup>175</sup> As with many other parts of this section, we include this claim as a reflection of repeated comments from the people we interviewed to reflect their opinions of their workplace, not assert the underlying truth of the claim.

<sup>176</sup> *AHEA’s Report On Advancing Women In Politics And Addressing Sexual Harassment In Political Campaigns* (September 26, 2018) at 26, available at <https://static1.squarespace.com/static/5b1ac0062971146aa33a72d9/t/5bab43e0e2c4833a6f80dec9/1537950731631/AHEA+Panel+Report.pdf>.

Workers also said that gender bias can be difficult to identify in the Capitol workplace because it is highly competitive environment in general. Nonetheless, workers expressed concern that sexual discrimination has affected some of the most powerful women in the Capitol, the representatives. Specifically, some workers believed that sexual discrimination can impact how the Speaker's Office administers the Democratic Caucus and session:

- The opportunities to fill in for the Speaker in the Chair during session were unnecessarily limited to a few representatives, who have been mostly men, which gave the impression that only male representatives were qualified.<sup>177</sup>
- There are not enough women in Democratic Leadership roles.<sup>178</sup>
- Women are given lesser roles on committees, and there have been only a few women on the Executive Committee or the Revenue Committee.<sup>179</sup>

Some female representatives expressed a frustration that female representatives are expected to address issues that are informally designated as “women’s issues,” such as child and family issues. These female representatives said that it can be difficult to be heard on other topics.

#### *Feedback Regarding Sexual Harassment*

Many workers said that for us to understand the state of sexual discrimination and harassment in the Capitol workplace, we needed to understand the types of consensual workplace relationships that are common.

Most workers said that romantic relationships tend to exist between peers, rather than between supervisors and subordinates. Some workers explained that these types of relationships were common since the Speaker's Office tends to attract people who are passionate about the same issues, have similar interests, and work long hours within a relatively small community—often seeing their coworkers more than friends or family. We even heard from people who try to avoid dating in the workplace, but nonetheless run into issues, even involving online dating ap-

<sup>177</sup> Some people said that the opportunities to sit in the Speaker's Chair were limited to few people, because there was a lack of interest and because of the opportunity cost of doing other work on the House floor. Sitting in the Chair also requires sufficient training regarding the House Rules, which representatives may not want to do. In the 101st General Assembly, most leaders, male and female, sat in the Chair.

<sup>178</sup> By the end of the 2019 legislative session, 45% of members of the House Democratic Caucus in leadership were women—one seat away from a majority.

<sup>179</sup> In the 101st General Assembly, three out of eight Democratic Caucus members on the Executive Committee are women.

plications given the relatively small Springfield community. As a result, some relationship issues affect the workplace, and we heard specific comments about workplace relationships.

We also heard many rumors—of various levels of specificity and credibility—regarding consensual relationships across hierarchies. Many people expressed a general opinion that extramarital affairs are common among people who work in the Capitol workplace.

These relationships were generally described as consensual, but some people expressed concern that powerful people could be taking advantage of their positions. To be clear, most of the feedback referred to men in positions of power making advances toward women in positions with less power. People differentiated positions of power using various factors, such as age, seniority, salary, title, and political influence. Thus, some power dynamics, such as a representative with their legislative assistant, were clearer to outside observers than others were, such as a representative and a representative in a leadership position.

Many people, however, said that they never saw anyone use political power or influence to coerce another person into establishing a relationship. Some of these people pointed out that they heard an unfair rumor that women need to “sleep their way up the ladder,” which they asserted is not the case. We did hear, however, that some women felt like they needed to put up with inappropriate sexual comments and advances, not to advance up the ladder, but to keep their jobs.

Several female workers said that, when they started, they were warned about particular people in the Capitol workplace to avoid, either because of their inappropriate comments, crude humor, or “creepy” behavior. Some female workers said that, when they started working in the Speaker’s Office, they were warned by female coworkers to take steps to avoid sexual harassment, such as not drinking alcohol with representatives, not looking “too available,” and wearing a fake wedding ring. Some female workers said that they also warn new female workers about some people to avoid or give general advice to avoid being put in uncomfortable positions, including not going to after-work events.

Multiple female workers reported hearing rumors that women used their sexuality for special treatment—or being accused of doing the same. In fact, some female workers told us during their interviews that some women in the workplace dress inappropriately during session to get attention. Other female workers—sometimes the same female workers—said that female workers in the office can be more judgmental and harmful to other women in the office than male workers by spreading gossip and rumors about what women wear, who they are spending time with outside of work, and whether they are using their sexuality to get ahead.

There were genuine disagreements among workers—regardless of gender—regarding the extent of this problem. Some people described this as a culture that condones sexual harassment and discrimination. Others did not believe that there was a culture of harassment or discrimination. Others went further and said that the Capitol workplace did not deserve some of the harsher criticisms, because the Capitol workplace does not have a culture that encourages or condones sexual harassment. These people believed that the culture may be “irreverent” at times, but that people are not in physical danger as some have alleged. Some people said that they had recently heard people say that women should not start careers in the Capitol because it is not safe, which they believed was inaccurate and counterproductive, risking unduly discouraging women from entering the Capitol workplace.

Some women workers told us that they feel safer working in the Speaker’s Office than they have in other workplaces or than they do in other public spaces when they are not working. Others went further and said that they have never experienced or witnessed unwelcome sexual conduct or harassment in the Capitol. Some people, however, acknowledged that there may be differences of opinion regarding appropriate conduct in the workplace. Many people said that the workplace is professional and that most of the complaints involving sexual harassment occur outside of the workplace, involving alcohol.

Very few male workers expressed having experienced any issues regarding sexual harassment. Some male workers said that they hear unwelcome sexual comments between male coworkers, including derogatory comments based on sexual orientation.

In comparison, female workers—across levels of experience, units, and positions—shared various purported experiences in the workplace over the course of many years, which included the following:

- Hearing sexual comments, jokes, and insults from male and female coworkers;
- Seeing sexually explicit images in the workplace from male and female coworkers;
- Receiving or witnessing unwanted sexual advances from male coworkers, supervisors, representatives, lobbyists, and members of the public, including unwanted touching, comments about appearances, and text messages; and
- Hearing or being the subject of sex-based rumors, such as having romantic affairs with coworkers, supervisors, or representatives.

Many of these female workers felt like people in the Capitol workplace do not take sexual harassment seriously. In fact, some workers—male and female—said that



many people in the Speaker's Office did not take the Illinois Department of Human Rights' anti-sexual harassment training seriously in 2018, making inappropriate jokes during the training. Some workers felt like the training seemed targeted to legal compliance and noted that many of the examples in the training did not apply to the realities of the Capitol workplace.

Some of the most egregious incidents we heard involved allegations regarding men who made sexual advances toward female workers in the workplace. After being rejected by coworkers or subordinates, some responded by trying to negatively impact the female workers in the workplace, including by not giving them necessary information to do assignments, moving them to a different position, assigning impossible tasks and then reprimanding them for failing to complete them, or otherwise treating women rudely or aggressively. The women who recounted these incidents said that the men they identified no longer work in the Speaker's Office, and they did not want to reopen those issues.

Some female workers pointed out that they believe that female workers in the Speaker's Office who have relatively low incomes and are raising children are the most vulnerable to sexual harassment. Some female workers believed that some men in the Capitol workplace will intentionally target those women.

Female workers—across levels of experience, units, and positions—also shared various experiences regarding sexual harassment outside of the workplace involving others in the Capitol workplace, which included the following:

- Hearing sexual comments, jokes, and insults from men;
- Receiving or witnessing unwanted sexual advances from men;
- Hearing or being the subject of sex-based rumors, such as having romantic affairs with coworkers, supervisors, or representatives; and
- Being exposed to uninvited male nudity.

Unlike their views about the issues in the workplace, more people believed that these situations were more common and aggressive, and often occurred under the influence of alcohol.

#### *Feedback Regarding Other Forms of Discrimination and Harassment*

As with their beliefs about other issues, many workers believed that the Speaker's Office makes a unique effort—compared to other workplaces and parties—to prevent or address issues regarding discrimination or harassment regarding other

classes, such as race. Nonetheless, some workers expressed a desire to see additional improvement, such as hiring more racial minorities. Some people said that there are only a few racial minorities in the workforce and that this may cause workers who are racial minorities to feel like they need to compete with each other for those positions.

Some workers said that they believed that, in an effort to retain their employment, the Speaker's Office gives special treatment to workers who are racial minorities. Some workers expressed frustration with the appearance that non-minority workers are held to a higher standard for job performance or attendance.

Some workers provided their experiences with race-based harassment in the workplace. The most egregious allegations we heard included the use of racial slurs in the workplace. Some workers said that minority workers are sometimes treated condescendingly and in some occasions visitors to the office will be surprised that they work there or about their responsibilities. In some instances, workers believed that comments occurred too often to be unintentional.

Finally, some workers expressed a desire for the Speaker's Office to have a more family friendly schedule, in general. A few workers believed that the Speaker's Office could do a better job recognizing religious holidays—although they were not specific regarding which holidays.

#### *False Complaints and Overcorrection*

Some workers pointed to incidents when complainants made knowingly false harassment complaints against workers—male and female. These incidents included some when the complainant admitted that the complaint was false. Some people expressed frustration that once a rumor or false allegation spread, the reputational harm never goes away, yet there are no repercussions for false complaints. Some workers—male and female—believed that the culture is swinging too far by leading people to automatically believe allegations, and they believe that some people will take advantage of that fact.

Some workers expressed their belief that the culture in the Capitol workplace has, in some ways, changed for the worse.

Some workers said that the workplace used to be fun and full of humor, but now there is less joy in the office. Instead, workers said that people are tense and afraid to speak to each other. Some workers said that this fear is warranted, because there is less room for mistakes, misunderstandings, or nuance. These workers pointed to recent terminations and resignations as evidence that people do not have an opportunity to defend themselves or improve.

Some workers pointed to generational or cultural differences between what they view as appropriate conduct. Some workers said that there have been instances when other people state that they are offended on their behalf, when they were not offended. Some workers said that people now limit what they say outside of work too.

Some female workers said that some male workers are afraid to talk to women or show signs of affection or friendship. Some female workers said that this can lead to different workplace friendships and mentor relationships.

#### **IV. Recent Changes by the Speaker's Office**

In the last few years, the Speaker's Office has made several changes regarding workplace harassment, discrimination, and the overall culture. For example, the Speaker's Office updated its personnel policies in December 2017. The Speaker and members of the Democratic Caucus also sponsored various legislation, including adding sexual harassment to the Illinois Ethics Act.

Since February 2018, the Speaker's Office has focused on these issues and taken several actions to improve them. In addition to the resources to comply with this investigation, the Speaker's Office and its workers have dedicated substantial resources to improving its workplace. The following list provides a summary of steps that the Speaker's Office and its workers have taken since February 2018.

- In February 2018, the Speaker required all Unit Directors and the Reading Clerk to have one-on-one meetings with their subordinates to receive feedback and ensure that workers understand their reporting options. Unit Directors and the Reading Clerk informed workers that they may make anonymous complaints to their director, the deputy general counsel, the general counsel, the Legislative Inspector General, the Illinois Department of Human Rights, or the EEOC.
- Also in February 2018, the Speaker's Office released a list of nine complaints to promote transparency with the public.
- In early 2018, the Women's Caucus hosted five "listening sessions" for lobbyists and current and former female workers. Speaker Michael Madigan attended four of the listening sessions. For many workers, this was their first interaction with Speaker Madigan. Chief of Staff Jessica Basham says that the Speaker's Office intends to continue this dialogue with staff to receive feedback on their view of the workplace and to receive recommendations.

- In early 2018, the Speaker advised the House Democratic Caucus representatives to keep their relationships with workers “strictly professional.”<sup>180</sup>
- In early 2018 and 2019, the Speaker’s Office reminded various people who frequent the Speaker’s Office not to disrupt workers in the Speaker’s Office. The Speaker’s Office also takes the position that it will ban people from the Speaker’s Office who disrupt the workplace.
- In 2018 and 2019, the Speaker’s Office hosted an anti-sexual harassment training from the Illinois Department of Human Rights for workers and members of the Democratic Caucus.
- In 2018, the Speaker’s Office provided workers with a one-page handout, which encourages workers to report discrimination or harassment, provides guidance and contact information for reporting internally, to the Legislative Inspector General, to the U.S. Equal Employment Opportunity Commission, and to the Inspector General for the Secretary of State, for complaints involving lobbyists. The handout also provides guidance regarding “Rights Under the Law and Personnel Rules,” including the prohibition on retaliation, the right to make a confidential report, the right to ask questions regarding any investigation regarding an allegation, and the opportunity to respond to a complaint. The Speaker’s Office has also updated the contact information and redistributed the handout to workers. Likewise, the Speaker now has the Chief of Staff keep him informed regarding issues of sexual harassment and discrimination.
- In October 2018, the Speaker’s Office provided legislative assistants with a Legislative Assistant Handbook, which provides additional guidance for their positions.
- In November 2018, the Speaker’s Office hired an Equal Employment Opportunity Officer, and created a human resources department. The Speaker’s Office plans to expand the human resources department.
- In 2018, the Speaker’s Office hired Lincoln Land Community College to hold management training sessions, which were held in October and December

<sup>180</sup> Specifically, Speaker Madigan statement included the following: “I want to be crystal clear - it is inappropriate for members to make sexual comments or sexual advances to, or engage in sexual relationships with, staff, whether that person is employed directly by you, the Office of the Speaker, or another caucus. This applies to both male and female legislators. It is clear from my discussions that staff view you as their superiors or supervisors, and with that you are in positions of power over them. This dynamic is ripe for potential harassment. I expect each of you to treat staff with respect and keep your relationships strictly professional. If I become aware of any complaints against a member by staff, or another member, I will personally get involved to put an end to it.”

2018. Additionally, the Speaker's Office worked with the Women's Caucus to hire Catharsis Productions for additional harassment prevention training for representatives in 2019.<sup>181</sup> This training is intended to target the unique challenges of the Capitol workplace. The Speaker's Office intends to continue this training for representatives and extend similar training to the Speaker's Office's workforce.

- In early 2019, Chief of Staff Jessica Basham met with supervisors and provided written guidance regarding personnel policies, examples of inappropriate conduct in the workplace, guidance on how to handle personnel conflicts, subordinate roles, performance reviews, job descriptions, hiring, and training.
- Beginning in early 2019, the Speaker's Office provided written guidance to all supervisors on how to conduct performance evaluations and began implementing performance evaluations across its workforce. The Speaker's Office completed the evaluations in June 2019. The Speaker's Office intends to have regularly scheduled performance reviews and is working to have a 360° review for workers to also evaluate their supervisors.
- In mid-2019, the Speaker's Office notified workers of their compensation time and included a summary regarding how compensation time was awarded uniformly across the workforce.
- In 2019, the Speaker's Office took steps to increase workplace safety by looking into "panic buttons," heightened security measures, and training for district office staff on how deal with hostile or confrontational visitors.
- In 2019, the Speaker's Office is implementing new software for timekeeping, time-off requests, performance evaluations, and applicant tracking.
- In spring 2019, members of the House Democratic Caucus developed legislation, Senate Bill 75 (now Public Act 101-0221), which among other things, adds certain notification rights for people who have been identified as victims in complaints, expands relevant harassment definitions to cover more workers, and creates additional training requirements regarding other forms of harassment and discrimination.<sup>182</sup>
- In June 2019, the Speaker's Office directed supervisors to update all job descriptions.

<sup>181</sup> See CATHARSIS PRODUCTIONS, *available at* <http://www.catharsisproductions.com/programs/the-force-of-awesome-institute> (last visited July 8, 2019).

<sup>182</sup> Governor J.B. Pritzker signed Senate Bill 75 into law on August 9, 2019. See Pub. Act 101-0221 (S.B. 0075) (2019).

The Speaker's Office also updated its organizational chart and solicited feedback on new policies and procedures from all levels of the workplace. The Speaker's Office is reviewing and updating the organization and compensation structure of the Speaker's Office. The Speaker's Office is also investing more in skills training for workers and intends to create an internal process for anonymous complaints from workers.

The Speaker's Office also revised the "New Member" orientation for new representatives, which includes distributing the new member handbook.

## **V. Recommendations**

This section includes Ms. Hickey's recommendations to improve the workplace culture of the Speaker's Office. These recommendations are based on best practices, as cited, and extensive experience investigating workplace misconduct and managing workplaces.

Just as many of the workplace issues overlap, so do the corresponding recommendations. Efforts to incorporate one recommendation will also help incorporate other recommendations. For example, workers frequently expressed their view that they were undervalued by the Speaker's Office. If the Speaker's office provides workers with clear job descriptions and then evaluates their performance based on those job descriptions that will go a long way toward improvement. Workers who understand what is required of them can aim toward those benchmarks. Management can then provide workers with consistent feedback regarding their ability to meet those benchmarks during, at minimum, annual performance evaluations. These performance evaluations—done correctly—take time and effort that have previously been spent on other, important activities. This opportunity cost is a worthwhile investment in the workforce. Workers who receive this investment will be incentivized to improve their work product and raise any genuine concerns—including harassment issues—that can lead to improvements in the workplace.

## Recommendations: Strengthen Leadership

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*Leadership and accountability create an organization's culture.*

EEOC Task Force (June 2016)<sup>183</sup>

The Speaker's Office cannot address workers' fear of retaliation by changing a policy. Trust must be earned, and for workers who have lost trust, it will be hard to regain. Fortunately, many of the people who expressed fear of retaliation said that the workplace was headed in the right direction. Many of the people who believed that Mr. Mapes would retaliate against them felt better with Ms. Basham as Chief of Staff. We recommend that the Speaker's Office use the momentum it has created to continue building workers' trust in its leadership.

Notably, most people did not believe that Speaker Madigan would retaliate against them. Instead, the fear was that Speaker Madigan did not know who they were and, thus, would not know to defend them if they were punished or terminated. Initially, we were concerned that people spoke positively about Speaker Madigan because he had authority and they feared retaliation. It became clear to us, however, that many people who work in the Speaker's Office joined because of their respect and admiration for Speaker Madigan or the Illinois legislature overall. Moreover, many of the people we interviewed who no longer worked in the Speaker's Office at the time of their interview—and therefore did not have the same reason for concern—expressed the same sentiment. It is not surprising then that most workers believed in and trusted the Speaker.

We believe that this trust in the Speaker is a unique asset for the Speaker's Office, which can be used to address its unique challenges. Workers appeared to want to be seen and valued by Speaker Madigan. This was evidenced by the overall positive feedback we heard regarding the Speaker's listening sessions, which was the first time the Speaker made rounds to hear from all levels of the Speaker's Office.

### Divide Responsibilities across Separate Leadership Positions

Many of the challenges we learned about were caused by the fact that power was centralized in the former Chief of Staff, Clerk of the House, and Executive Director of DPI, Timothy Mapes. We recommend that Speaker Madigan not delegate such power in one person again. To some extent, the Chief of Staff position will always have great actual and perceived authority, and the person who fills that position will have a large influence on the entire office. The Speaker's Office has already

<sup>183</sup> Feldblum and Lipnic, *Report of Co-Chairs* (June 2016) at 31.

recognized the benefits of decentralizing this power by, for example, having a separate Chief of Staff and Clerk of the House.<sup>184</sup> This separation should remain in place.

The Speaker's Office could go further by spreading responsibilities across multiple positions and adjusting reporting structures to provide workers with options that guard against undue influence:

- The Speaker can have a more visible and pronounced role in the management of the Speaker's Office;
- The general counsel and director of human resources can report directly to the Speaker, rather than to the Chief of Staff (or have a dual reporting structure);
- The Speaker's Office can have a separate general counsel and ethics officer; and
- The Speaker's Office can clearly delineate reporting structures for all positions.

The Speaker must be more visible and accessible to all workers in the Speaker's Office. To have a more visible and pronounced role, the Speaker can, for example, continue to hold listening sessions throughout the year, open to all workers. We also suggest that these listening sessions occur shortly after legislative sessions. Since legislative sessions are stressful for all workers, we believe this could go a long way to show appreciation for workers and identify issues and solutions while they are still fresh in people's minds.

Likewise, having a separate ethics officer and general counsel may make people more comfortable approaching the ethics officer with questions or issues. As it is, workers may not feel as comfortable approaching the same person for confidential advice that is also the attorney for the Speaker. Separating these positions will also allow the ethics officer to act in a more ombudsman-like role.

### [Reinforce the Importance of Respect in the Workplace](#)

Workplace culture is set at the top. Many workers told us that they did not believe that Mr. Mapes took workplace harassment issues seriously, which in their view, reflected the entire office. We recommend that the Speaker's Office ensure that all levels of leadership present a united message regarding the importance of anti-harassment training, reporting, and having a respectful workplace, overall.

<sup>184</sup> Currently, the Chief of Staff and the Clerk of the House also do not hold positions at DPI, and the Executive Director of DPI does not hold a position in the Speaker's Office.



## Recommendations:

### Invest in the Workforce & Encourage Buy-In

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*I wish I would have had someone that I could have trusted and to whom I could have said: “Hey, this happened to me. Is this supposed to happen?” If there had been a true professional human resources team, they could have said, “No.” And perhaps we could have nipped it in the bud right then and there.*

Sherri Garrett (June 7, 2018)<sup>185</sup>

As described above, the most fundamental issue we heard from workers was that they feel undervalued and expendable. The Speaker’s Office can address these concerns by making a targeted investment in its workforce.

#### Bolster the Human Resources Department

Although there are no state or federal requirements for creating and staffing a human resources department, the Speaker’s Office has identified the need and begun building the department by hiring an EEO officer and attempting to hire a human resources director. The Speaker’s Office should not relent, and they must invest the time and resources to hire an experienced human resources director and required support staff.

A skilled human resources department will be instrumental in accomplishing the following key tasks:

- Creating and maintaining complete and comprehensive personnel files;
- Creating accurate and comprehensive job descriptions;
- Identifying appropriate job qualifications;
- Facilitating recurring performance evaluations;
- Identifying needs for updates to policies and procedures;
- Assisting with training and providing information to workers regarding available resources;

<sup>185</sup> See Greg Bishop, *Mapes’ accusers say fixing harassment culture under capitol dome requires more than just one resignation*, THE CENTER SQUARE (June 7, 2018) available at [https://www.the-centersquare.com/illinois/mapes-accusers-say-fixing-harassment-culture-under-capitol-dome-requires/article\\_4b8dc539-a451-58ef-b888-93450c8b8713.html](https://www.the-centersquare.com/illinois/mapes-accusers-say-fixing-harassment-culture-under-capitol-dome-requires/article_4b8dc539-a451-58ef-b888-93450c8b8713.html).

- Assisting with interviewing and onboarding new workers;
- Assisting with staffing needs and transfer procedures, including how legislative assistants are paired with representatives;
- Providing traditional human resources functions, such as consistent timekeeping and benefit time; and
- Engaging with the workforce regarding morale and workplace culture with reliable and consistent feedback loops (including possible surveys).

The human resources department does not need to begin from nothing. We consistently heard, for example, that the Technical Review Unit has done a particularly good job of providing clear job descriptions, consistent (albeit informal) performance evaluations, and training. The Speaker's Office can apply these methods and experience to the other units and positions.

#### Increase and Improve Training (Mandatory Training, Specific Anti-Harassment Training, Management Training, and Skills Training)

The Speaker's Office has taken steps to comply with the mandatory anti-harassment training for its workers.<sup>186</sup> The Speaker's Office has also identified a need to go further and has implemented or is working to implement management training, additional anti-harassment training (by Catharsis Productions), crisis-management training for workers who interact with the public, and skills training. We recommend that the Speaker's Office continue to do these or similar trainings on a recurring basis.

These trainings provide necessary information regarding appropriate conduct in the workplace, how to report misconduct, how to manage other workers, how to deal with crises and aggressive visitors, and how to increase productivity. But these trainings also signal an increased investment in the workforce and encourage workers to invest in the workplace and buy-in to its policies, procedures, and overall success.

We have confidence that the Speaker's Office will be able to successfully train workers regarding discrimination and harassment policies. For example, workers that we interviewed unanimously understood that they were prohibited from engaging in political activity while working for the Speaker's Office—even if they did not understand other aspects of the Speaker's Office's Personnel Rules and Regu-

<sup>186</sup> Many of these requirements were recently amended. See Pub. Act 101-0221 (S.B. 0075) (August 9, 2019) (amending various statutes to, among other things, create additional training requirements regarding other forms of harassment and discrimination).

lations (Speaker’s Policies). If the Speaker’s Office continues to provide these trainings with the same level of emphasis, we have confidence that trainings regarding discrimination and harassment will also become an ingrained part of the Speaker’s Office’s culture.

### Conduct Recurring 360° Reviews (Up, Down & Across the Reporting Line)

As described above, we believe that job descriptions and performance evaluations are a key step in improving the Speaker’s Office’s workplace culture. We heard from many workers that during their interviews that it was the first time they felt comfortable expressing their thoughts or concerns regarding their workplace. We also recommend providing workers with the recurring opportunity to provide feedback and evaluations of their supervisors (with the option to remain anonymous). The human resources department can administer an online survey, commonly known as a 360° review, which allows staff to conduct reviews of peers and supervisors.

## Recommendations: Address and Prevent Harassment

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*Organizational cultures that tolerate harassment have more of it, and workplaces that are not tolerant of harassment have less of it.*

EEOC Task Force (June 2016)<sup>187</sup>

The EEOC Task Force identified “five-core principles” to prevent and address harassment:

- committed and engaged leadership;
- consistent and demonstrated accountability;
- strong and comprehensive harassment policies,
- trusted and accessible complaint procedures; and
- regular, interactive training tailored to the audience and the organization.<sup>188</sup>

<sup>187</sup> Feldblum and Lipnic, *Report of Co-Chairs* (June 2016) at 32.

<sup>188</sup> See *id.* at 31–65. See also *Promising Practices for Preventing Harassment*, EEOC, available at <https://www.eeoc.gov/eeoc/publications/promising-practices.cfm> (last visited July 5, 2019).

We agree with these principles and expand on them below as they relate to the specific challenges of the Speaker's Office.

### Create and Protect a Culture of Respect by Addressing Inappropriate Conduct

*Imagine an employee who's being bothered by a coworker who leers at her or makes comments full of innuendo or double entendres, or who tells jokes that are simply inappropriate in a work setting. The time this employee spends worrying about the coworker, the time she spends confiding in her office mate about the latest off-color remark, the time she spends walking the long way to the photocopier to avoid passing his desk, is all time that sexual harassment steals from all of us who pay taxes.*

*Adding up those minutes and multiplying by weeks and months begins to paint a picture of how costly sexual harassment is. Increase this one individual's lost time by the thousands of cases like this in a year, and the waste begins to look enormous. And this may well be a case that doesn't even come close to being considered illegal discrimination by the courts. Whether or not they're illegal, these situations are expensive.*

U.S. Merit Systems Protection Board, *Sexual Harassment in the Federal Workplace* (1994).<sup>189</sup>

While people may use the term "harassment" to refer to all unwelcome conduct, unlawful workplace "harassment" refers only to unwelcome conduct that an employer *must* prevent and redress. In many circumstances, however, it is unclear whether conduct is unlawful workplace harassment until a judge or jury says so.<sup>190</sup> The most common issue we heard, for example, involved workplace bullying, such as yelling at staff and threatening jobs. This conduct does not necessarily rise to the level of workplace harassment, but should still be addressed.

For this reason, we recommend that the Speaker's Office focus on "inappropriate" conduct: conduct that an employer *should* prevent and address before it becomes

<sup>189</sup> U.S. Merit Systems Protection Board, *Sexual Harassment in the Federal Workplace: Trends, Progress, Continuing Challenges* (1994) at 26, available at <http://www.mspb.gov/netsearch/viewdocs.aspx?docnumber=253661&version=253948>. See also Feldblum and Lipnic, *Report of Co-Chairs* (June 2016) at 22 (quoting the same).

<sup>190</sup> See *id.* See also [Attachment 1](#) for a longer discussion regarding relevant case law.

a legally actionable claim. Identifying and addressing inappropriate conduct is necessary to prevent harassment.<sup>191</sup>

By going beyond the laws' minimum requirements, the Speaker's Office can provide supervisors and workers with notice of clear behavioral standards. This is not the "zero-tolerance" approach that the EEOC Task Force criticized in its 2016 Report.<sup>192</sup> It is a proportional-response approach.<sup>193</sup>

Some complaints will not be based on a protected class. A worker, for example, may find a negative performance review to be unwelcome—and may even think that the negative performance review is based on their membership in a protected class. This allegation should be treated seriously and investigated, but the conclusion may correctly be that the review was not harassment. Likewise, a "zero-tolerance" approach may make people believe that any off-color or even misinterpreted comment requires termination. This, in turn, may prevent dialogue and prevent people from voicing their concerns until they think termination is warranted—which is too late.

As we noted above, workers should not believe that they are so expendable that they will be terminated for any mistake or slight, even if unintended. Instead, workers should be encouraged to be respectful, do their best, and know that they have the room to learn from reasonable and genuine mistakes.

<sup>191</sup> See, e.g., Lisa Nagele-Piazza, *Treating the #MeToo Movement as an Opportunity to Create Better Workplaces*, SHRM (June 25, 2019) ("[I]f employers don't address workplace bullying, they're not fixing the gateway conduct that leads to harassment."), available at <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/me-too-movement-opportunity-to-create-better-workplaces.aspx>.

<sup>192</sup> See Feldblum and Lipnic, *Report of Co-Chairs* (June 2016) at 40 ("Finally, we have a caution to offer with regard to use of the phrase 'a 'zero tolerance' anti-harassment policy.' We heard from several witnesses that use of the term 'zero tolerance' is misleading and potentially counterproductive. Accountability requires that discipline for harassment be proportionate to the offensiveness of the conduct. For example, sexual assault or a demand for sexual favors in return for a promotion should presumably result in termination of an employee; the continued use of derogatory gender-based language after an initial warning might result in a suspension; and the first instance of telling a sexist joke may warrant a warning. Although not intended as such, the use of the term 'zero tolerance' may inappropriately convey a one-size-fits-all approach, in which every instance of harassment brings the same level of discipline. This, in turn, may contribute to employee under-reporting of harassment, particularly where they do not want a colleague or co-worker to lose their job over relatively minor harassing behavior – they simply want the harassment to stop. Thus, while it is important for employers to communicate that absolutely no harassment will be permitted in the workplace, we do not endorse the term 'zero tolerance' to convey that message.")

<sup>193</sup> See *id.*

## Increase Reporting Mechanisms

In 2018, the Speaker's Office provided its workers with a one-page reporting process for internal reporting and contact information for external reporting (*i.e.*, the Legislative Inspector General and the Illinois Human Rights Commission).

During this investigation we learned that before this investigation began, the Speaker's Office had been working to establish mentor relationships for new workers on the Speaker's Staff. In interviews, several workers said that they wished that they had a resource to discuss workplace concerns informally, so they can determine whether their concerns warrant addressing, reporting, changing their own behavior, or finding out that it was enough for them to just voice their concerns. Ideally, a robust human resources department or an independent ethics officer can field many of these conversations. But we also recommend that the Speaker's Office spread this mentor program throughout the Speaker's Office and thus broaden the pool of contacts for workplace issues and complaints and help mentors understand their responsibilities for how to field any concerns.

The Speaker's Office should also consider creating internal procedures for anonymous reporting. This can be achieved using a hotline, email address, or an "old school" comments box.

## Make the Human Resources Department Responsible for Internal Complaints

Many workers said that they would not make internal complaints because they do not trust the process. Once the Speaker's Office has a fully staffed human resources department, it can use the skills and expertise of those workers to handle complaints, standardize how complaints are responded to, and ensure accountability across all levels.

Human resources workers can then build legitimacy for the internal complaint procedures by taking the following actions:

- Developing informal resolution procedures to correct misbehavior at the early stage;
- Targeting deadlines for completing investigations, while maintaining flexibility for just outcomes;
- Ensuring confidentiality, as appropriate;
- Following clear conflict-of-interest policies to avoid the appearance of impropriety;

- Maintaining written records of all complaints, investigations, and resolutions (which can and should be reviewed to identify recurring issues); and
- Maintaining discretion to determine level of discipline, consistent with other cases.

It is important to note that as workers gain trust in internal reporting policies and procedures, the Speaker’s Office may initially receive more complaints. The Speaker’s Office should also guard against becoming discouraged by interpreting the rise in complaints as a rise in issues. More likely, the rise of complaints will mean that workers now feel more confident in the process and are bringing issues to light that have existed and gone unaddressed.

### Address Risk Factors Caused by the Speaker’s Office’s Unique Workplace

As described above, we believe that the Speaker’s Office has 11 out of the 12 risk factors identified by the 2016 EEOC Task Force “that *may* increase the likelihood of harassment.”<sup>194</sup> We recommend that the Speaker’s Office review and consider adopting the following applicable recommendations from the EEOC Task Force:

Risk Factors	EEOC Task Force Recommendations <sup>195</sup>
▶ Workplaces with “High Value” Employees	<ul style="list-style-type: none"> <li>• Apply workplace rules uniformly across all levels.</li> </ul>
▶ Workforces with Many Young Workers	<ul style="list-style-type: none"> <li>• Conduct early and recurring trainings regarding reporting mechanisms and appropriate workplace conduct (emphasizing the employer’s desire to hear about complaints of unwelcome conduct), using examples that apply to the unique areas of the Speaker’s Office.</li> </ul>
▶ Workplaces with Significant Power Disparities	<ul style="list-style-type: none"> <li>• Target particularly at-risk workers, such as young workers and supervisors, with training.</li> </ul>
▶ Workplaces that Rely on Customer Service or Client Satisfaction	<ul style="list-style-type: none"> <li>• Monitor workplace relationships with significant power disparities.</li> </ul>
▶ Workplaces Where Some Employees Do Not Conform to Workplace Norms	<ul style="list-style-type: none"> <li>• Be wary of the mentality that third-parties (i.e., the public) are always right, which may be at odds with maintaining a safe and respectful workplace.</li> </ul>
	<ul style="list-style-type: none"> <li>• Proactively and intentionally create a culture of civility and respect and involve the highest levels of leadership in that process.</li> </ul>

<sup>194</sup> Feldblum and Lipnic, *Report of Co-Chairs* (June 2016) at 25 (emphasis added).

<sup>195</sup> See *id.* at 25–30, 84–88.

Risk Factors	EEOC Task Force Recommendations <sup>195</sup>
▶ Coarsened Social Discourse Outside the Workplace	<ul style="list-style-type: none"> <li>Proactively identify current events that are likely to be discussed in the workplace and remind the workforce of the types of conduct that are unacceptable in the workplace.</li> </ul>
▶ Workplace Cultures that Tolerate or Encourage Alcohol Consumption	<ul style="list-style-type: none"> <li>Train coworkers to intervene when they observe alcohol-induced misconduct</li> <li>Remind managers about their responsibilities if they witness harassment at events, and intervening when people—including third-parties—begin acting inappropriately.<sup>196</sup></li> </ul>
▶ Workplaces Where Work is Monotonous or Consists of Low-Intensity Tasks	<ul style="list-style-type: none"> <li>Restructure job duties and workloads and monitor the relationships among positions that are most likely to be monotonous or low intensity.</li> </ul>
<ul style="list-style-type: none"> <li>▶ Isolated Workspaces</li> <li>▶ Decentralized Workplaces</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that workers in isolated work environments understand complaint procedures.</li> <li>Create opportunities for isolated workers to connect with each other to share concerns.</li> <li>Ensure training reaches all levels of the organization, ensuring managers are aware of their responsibilities over their areas.</li> <li>Develop systems for geographically diverse locations to connect and communicate.</li> </ul>
▶ Homogenous Workforce	<ul style="list-style-type: none"> <li>Increase diversity in all levels of the workplace, paying particular attention to areas with low diversity.</li> </ul>

Many of these recommendations will take long-term efforts. To accurately restructure job duties and workloads, for example, the Speaker’s Office will first need to finish creating and updating job descriptions. The Speaker’s Office began this overhaul this year, but it will likely need to continue to make incremental changes and improvements as performance evaluations become consistent and as needs change.

<sup>196</sup> *Id.* at 88. The Illinois Anti-Harassment, Equality and Access (AHEA) Panel also recommended that political campaigns monitor alcohol use and prohibit it “to the extent it interferes with a campaign worker’s ability to perform his or her job or exercise proper judgment.” *AHEA Panel’s Report On Advancing Women In Politics And Addressing Sexual Harassment In Political Campaigns* (September 26, 2018) at 23 (citing Google’s Code of Conduct).



## Consider Fraternization Policies

The Speaker's Office should consider a fraternization policy. To be clear, we are not recommending that the Speaker's Office ban all consensual relationships. But many workers expressed concern that there are inappropriate pressures for relationships between men in positions of authority and women. In fact, Speaker Madigan expressed a similar concern in early 2018.<sup>197</sup> For this reason, the Speaker's Office should consider policies that limit relationships between supervisors and subordinates and between representatives and workers—or at least require those relationships to be reported to monitor any potential impact on the workplace.

To be clear, fraternization policies may not be appropriate for the Speaker's Office and determining whether they are a good idea may require beta testing. There are legitimate reasons why the Speaker's Office, its human resources department, and its workforce would not want the Speaker's Office to enter the private lives of its workers. Moreover, fraternization policies are not likely to address, for example, extramarital affairs, which we heard—accurately or not—contribute to many relationship issues in the Capitol workplace. To the extent that these exist in the Capitol workplace—or any workplace—they are unlikely to be reported. Moreover, if those relationships do occur, fraternization policies should not be used to punish the worker with less authority, who may have felt pressured to enter the relationship.

## Clarify Whether Workers Are “Employees”

As referenced above, the Speaker's Office has uniquely complex relationships with its workers. Workers in the Speaker's Office interact with four categories of people in varying degrees and frequencies, depending on their positions: (1) legislators, (2) fellow staff, (3) lobbyists, and (4) the public. Harassment can occur across these groups and in all directions. The Speaker's Office is responsible for taking reasonable steps to prevent and redress this harassment, which may look differently for each group. For example, some people work full time, even outside of session; some split time between the Speaker's Office and political organizations; and some work directly with representatives—Democrats and Republicans—but are paid through the Clerk's Office. As a result, some workers may not have the same workplace protections under state or federal laws as their coworkers or even

<sup>197</sup> Specifically, Speaker Madigan told the 2018 House Democratic Caucus that: “It is clear from my discussions that staff view you as their superiors or supervisors, and with that you are in positions of power over them. This dynamic is ripe for potential harassment. I expect each of you to treat staff with respect and keep your relationships strictly professional.”

throughout different times of the year—even though their coworkers and supervisors remain the same.

Throughout this report we have addressed this ambiguity by referring to people as “workers” rather than “employees,” which provides additional federal and state protections. We recommend that the Speaker’s Office clarify its position regarding who qualifies as “employees” and, in either instance, what protections they have.<sup>198</sup>

To be clear, the Speaker’s Office may genuinely and correctly believe that workers do not qualify for various protections, but workers should not work with the false belief that they have more or less protections than they do.

Workplace harassment creates costs for the entire employer and workforce, including for the direct and indirect victims and for the loss of productivity. When employers pay for workplace harassment, then the entire workplace may share those costs—to the workplace budget and their reputations. These costs provide employers *and* workers with an explicit incentive to avoid, prevent, or report harassment. This incentive is undermined when workers do not understand the accountability mechanisms within their workplace.

### Update Policies and Procedures

The Speaker’s Office recently updated its Personnel Rules and Regulations (Speaker’s Policies) and required workers to sign forms, acknowledging that they received and read the updated policies and prohibition of sexual harassment. See [Attachment 2](#). We recommend that the Speaker’s Office further update the Speaker’s Policies to include the following:

- Incorporate the role of the human resources department;
- Clearly state that sexual harassment policies will be enforced against people at all levels and against supervisory and managerial personnel who knowingly allow such behavior to continue;
- Provide a more detailed and robust definition of sexual harassment, including examples of prohibited conduct specific to the Speaker’s Office, its workers, legislators, and other third parties;<sup>199</sup>

<sup>198</sup> Cf. 775 ILCS 5/2-102(A-10) and (D-5) (providing certain protections for “nonemployees” —who “directly perform[] services for the employer pursuant to a contract with that employer” —under the Illinois Human Rights Act as of January 1, 2020).

<sup>199</sup> See *Sexual Harassment Policies in State Legislatures*, NATIONAL CONFERENCE OF STATE LEGISLATURES (NCSL) (January 2, 2018) (identifying key elements of anti-sexual harassment policies in state

- Include the Speaker’s Office’s complaint procedures and contact information;
- Provide a more detailed and robust definition of retaliation, including examples of prohibited conduct specific to the Speaker’s Office;
- As above, inform workers of their state and federal rights and remedies for victims of sexual harassment across positions in the Speaker’s Office; and
- Clarify the confidentiality policy and provide appeal procedures.<sup>200</sup>

### Guard against Discrimination

During their interviews, some workers said that they believe people are now afraid to speak to each other. According to some workers, people do not want to put themselves in a position that risks having allegations made against them, because they do not trust that they will be able to defend themselves or have the opportunity to improve from a mistake. Some female workers specified that some male workers are afraid to talk to women and that this can lead to different workplace friendships and mentor relationships. Similar concerns have been raised in other workplaces.<sup>201</sup>

Unlawful discrimination is not a legitimate strategy to prevent harassment. But even if such discrimination was permitted—which it is not—it is unlikely to promote the collaboration and exchange of ideas that is required for the House to effectively address the issues facing the state. In other words, it is, at best, not productive.

As described by some of the workers, this problem is, at least in part, a result of people who do not trust the systems in place to work correctly. Some workers, for example, told us that they believe there is now less room for mistakes, misunderstandings, or nuance. These workers pointed to recent terminations and resignations as evidence that people do not have an opportunity to defend themselves or improve.

legislatures and citing examples from other states), *available at* <http://www.ncsl.org/research/about-state-legislatures/sexual-harassment-policies-in-state-legislatures.aspx>.

<sup>200</sup> See *id.* Senate Bill 75 also updates several policy requirements. See Pub. Act 101-0221 (S.B. 0075) (August 9, 2019).

<sup>201</sup> See, e.g., Gillian Tan and Katia Porzecanski, *Wall Street Rule for the #MeToo Era: Avoid Women at All Cost*, BLOOMBERG (updated December 3, 2018), *available at* <https://www.bloomberg.com/news/articles/2018-12-03/a-wall-street-rule-for-the-metoo-era-avoid-women-at-all-cost>. See also Katrin Bennhold, *Another Side of #MeToo: Male Managers Fearful of Mentoring Women*, (January 27, 2019) *available at* <https://www.nytimes.com/2019/01/27/world/europe/metoo-backlash-gender-equality-davos-men.html>.

As a result, the Speaker's Office will target the cause of this problem by following the other recommendations to improve its workplace culture and ability to address and prevent harassment fairly and effectively. The Speaker's Office can also take steps to ensure that all workers are given equal opportunities for mentorship and advancement.

## **Recommendation:**

### **External Partnerships and Cross-Party Solutions**

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*Let this serve as an opportunity to unite Democrats, Republicans, and all parties around building a better future for everyone who raises their hand to participate in our democracy.*

The Illinois Anti-Harassment, Equality and Access Panel (2018)<sup>202</sup>

This report focuses on the Speaker's Office, but workplace harassment issues can affect all workplaces. Many of the issues identified in this report are not partisan, and the same issues likely apply to many other workplaces in the Capitol.

#### **Encourage Consistent Policies and Procedures across State and Campaign Work**

The Speaker's Office has workers who also work for other political organizations, such as the Democratic Party of Illinois. To the extent that Speaker Madigan can, we recommend that he encourage proper policies and procedures regarding sexual harassment and discrimination across offices.

#### **Facilitate Cross-Party and Bi-Cameral Solutions**

The Speaker's Office has limited influence over other areas and people in the Capitol workplace, which many of its workers interact with frequently, such as representatives, senators, lobbyists, and other parties. We recommend that the Speaker's Office reach out across branches and party lines to identify common solutions to address common problems.<sup>203</sup>

#### **Consider Legislative Solutions**

The Speaker's Office should also continue to work with legislators to monitor discrimination and harassment laws to provide optimal protections for all citizens of

<sup>202</sup> AHEA Panel's Report On Advancing Women In Politics And Addressing Sexual Harassment In Political Campaigns (September 26, 2018) at 4.

<sup>203</sup> See generally *id.* (calling for cross-party solutions for campaign work).

Illinois.<sup>204</sup> The Speaker's Office should, for example, continue evaluating legislative changes to the structure and rules governing the Illinois Legislative Inspector General and the Legislative Ethics Commission to allow both entities to have the independence the public can trust.<sup>205</sup>

<sup>204</sup> The Illinois legislature made several relevant legislative changes during the 101st General Assembly. *See, e.g.*, Pub. Act 101-0221 (S.B. 0075) (August 9, 2019) (amending several acts regarding workplace harassment, including the Illinois Human Rights Act and the Illinois State Officials and Employees Ethics Act); and Pub. Act 101-0177 (H.B. 0834) (2019) (amending the Equal Pay Act), *available at* <http://www.ilga.gov/legislation/publicacts/101/PDF/101-0177.pdf>.

<sup>205</sup> Representative Cassidy, Ms. Loncar, and Ms. Garrett—and many other people we interviewed—expressed concerns regarding the independence of the process for Legislative Inspector General investigations and reports. *Cf.* Pub. Act 101-0221 (S.B. 0075) (August 9, 2019).

## Section 6. Conclusion

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We were able to complete our investigation and draft this report thanks to the many hours that current and former workers in the Speaker’s Office spent with us. Speaker Madigan, his leadership team, and his workers cooperated with this investigation fully. As a result of their cooperation and commitment to improving the Speaker’s Office, we were able to identify many issues that have silently affected workers in the Speaker’s Office, in the Capitol workplace, and in many other workplaces throughout the state and the country.

Workplace discrimination and harassment, particularly sexual harassment, have been at the forefront of national attention after countless high-profile allegations within the last several years. In 2016, the EEOC’s Co-Chairs of the Select Task Force on the Study of Harassment in the Workplace (EEOC Task Force), released a report.<sup>206</sup> This report identified, among other things, that harassment in the workplace remains common and that there are several reasons for that fact:

- **Workplace Harassment Remains a Persistent Problem:** “Almost fully one third of the approximately 90,000 charges received by EEOC in fiscal year 2015 included an allegation of workplace harassment.”<sup>207</sup>
- **Workplace Harassment Too Often Goes Unreported:** “Roughly *three out of four* individuals who experienced harassment never even talked to a supervisor, manager, or union representative about the harassing conduct. Workers who experience harassment fail to report the harassing behavior or to file a complaint because they fear disbelief of their claim, inaction on their claim, blame, or social or professional retaliation.”<sup>208</sup>
- **Fears of Disbelief, Inaction, and Professional and Social Retaliation Have Been Well Founded:** Studies found “that 75% of employees who spoke out against workplace mistreatment faced some form of retaliation . . . [and] that sexual harassment reporting is often followed by organizational indifference or trivialization of the harassment complaint as well as hostility and reprisals against the victim.”<sup>209</sup>

<sup>206</sup> See Feldblum and Lipnic, *Report of Co-Chairs* (June 2016).

<sup>207</sup> *Id.* at iv.

<sup>208</sup> *Id.* at v. See also *Corcoran v. Shoney’s Colonial, Inc.*, 24 F. Supp. 2d 601, 606 (W.D. Va. 1998) (“Though unwanted sexual remarks have no place in the work environment, it is far from uncommon for those subjected to such remarks to ignore them when they are first made.”).

<sup>209</sup> See Feldblum and Lipnic, *Report of Co-Chairs* (June 2016) at 16–17 (citing Lilia M. Cortina and Vicki J. Magley, *Raising Voice, Risking Retaliation: Events Following Interpersonal Mistreatment in the Workplace*, 8:4 J. OCCUPATIONAL HEALTH PSYCHOL. 247, 255 (2003); Mindy Bergman, Regina

The year after the EEOC Task Force report was issued, the “Me Too” and “Time’s Up” movements identified various industries and specific workplaces as having longstanding problems with sexual harassment and discrimination. And within one week in October 2017, nearly 300 people signed on to an “Illinois Say No More” letter, which listed the Illinois Capitol as a workplace rife with sexual harassment and discrimination and demanded accountability and change.<sup>210</sup>

The momentum continued when, in July 2018, Illinois reporter, journalist, and author Kerry Lester released her book *No, My Place: Reflections on Sexual Harassment in Illinois Government and Politics*, which chronicled the experiences of 18 women who worked in government, including herself. Ms. Lester reported on the universal frustration of women who experienced sexual harassment in Illinois government:

In more than two dozen interviews I conducted for this book, not a single woman who experienced harassment felt that there were appropriate mechanisms in place to report and address a problem. Sometimes, she told a superior and the problem was ignored. Other times, she tried to handle it herself and in retaliation, her bill would be killed or a promised check for services rendered withheld. Often, she just put up with it, hoping with time, the dynamics would change.<sup>211</sup>

Mses. Garrett, Loncar, and several other members of the Capitol workplace echoed these concerns. Speaker Madigan agreed with them as well and took responsibility:

[T]hese young women did not feel there was anyone willing to listen or take action to alleviate their concerns.

Langhout, Patrick Palmieri, Lilia Cortina, and Louise Fitzgerald, *The (Un)Reasonableness of Reporting: Antecedents and Consequences of Reporting Sexual Harassment*, 87(2) J.APPLIED PSYCHOLOGY 230 (2002)).

<sup>210</sup> Natalie Scruton Federle, #ILSayNoMore, WOMEN’S BAR ASSOCIATION OF ILLINOIS, available at <http://wbaillinois.org/ilsaynomore/> (last visited July 8, 2019). On November 7, 2017, many aspects of this letter were adopted by the Illinois House of Representatives for the 100th General in House Joint Resolution 0083, which resolved to, among other things, “do better and . . . work with . . . colleagues to change the culture,” “to find solutions and ways to change the culture of sexual harassment in Springfield and throughout politics in Illinois,” and to “say #NOMORE and commit to challenging every elected official, every candidate, every staffer, and every participant in our democratic process who is culpable to do better.” *House Joint Resolution, 2017 IL HJR 83 (November 7, 2017)*, available at [https://custom.statenet.com/public-resources.cgi?id=ID:bill:IL2017000HJR83&ciq=jongriffin93&client\\_md=5af0cce256f74cb8dda68a6aa7e39585&mode=current\\_text](https://custom.statenet.com/public-resources.cgi?id=ID:bill:IL2017000HJR83&ciq=jongriffin93&client_md=5af0cce256f74cb8dda68a6aa7e39585&mode=current_text).

<sup>211</sup> Lester, *No, My Place: Reflections on Sexual Harassment in Illinois Government and Politics* (July 2018) at 8.

What became clear is that I didn't do enough, and that we, collectively, have failed in the Capitol to ensure everyone can reliably, confidentially and safely report harassment. I thought the pathways were there, but they weren't. . . . I am accountable for my office and will ensure that any issues are dealt with quickly and appropriately.<sup>212</sup>

While our report focuses on the Speaker's Office and, by extension, the Democratic Caucus, harassment affects all workforces, regardless of political party or affiliation.<sup>213</sup> This is not a partisan issue. The Illinois Republican Party has had its own struggles with the issue.<sup>214</sup>

But we are mindful that the Capitol is political. Political opponents or critics of the Speaker and the Democratic Caucus may believe that this investigation did not go far enough. Others may believe that we went too far. Our role, however, was to perform an independent investigation that followed the truth, regardless of who

<sup>212</sup> Madigan, *Commentary: Michael Madigan on sexual harassment in Springfield: I wish I had acted sooner*, CHICAGO TRIBUNE (September 19, 2018).

<sup>213</sup> See, e.g., Kim Geiger, *Report: Former lawmaker fired from corrections job after harassing woman at party*, CHICAGO TRIBUNE (December 23, 2016) (reporting that the Illinois Department of Corrections terminated former Republican Representative John Anthony's employment after a female employee accused him of harassing her and touching her inappropriately during a Christmas party; the exchange was caught on surveillance cameras at the Wyndham Hotel in Springfield, Illinois), available at <https://www.chicagotribune.com/news/local/politics/ct-former-lawmaker-groping-christmas-party-met-20161223-story.html>.

<sup>214</sup> In August 2018, for example, Representative Nick Sauer—then member of the Illinois House Discrimination and Harassment Task Force—resigned after allegations that he sent nude photographs of an ex-girlfriend to other men without her permission. See Monique Garcia and Rick Pearson, *Republican state lawmaker resigns after ex-girlfriend's accusations; Rauner calls it 'right thing to do'*, CHICAGO TRIBUNE (August 2, 2018), available at <https://www.chicagotribune.com/news/local/politics/ct-met-illinois-house-representative-sauer-allegations-20180801-story.html>. Former Representative Sauer was indicted with 12 felony counts in January 2019. See also Emily Coleman, *Former state Rep. Nick Sauer indicted in posting of sexual photos of others without permission*, CHICAGO TRIBUNE (January 10, 2018), available at <https://www.chicagotribune.com/suburbs/lake-county-news-sun/news/ct-Ins-sauer-indictment-st-0110-story.html>. In September 2018, the Illinois House Republican Organization withdrew their support of then-Representative Jerry Long after verbal and physical harassment allegations. See Derek Barichello, *Long not backing down, says he will stay in office*, MY WEB TIMES (September 15, 2018), available at <https://www.mywebtimes.com/2018/09/14/long-not-backing-down-says-he-will-stay-in-office/atgl5ma/>. Representative Long filed a defamation suit against opponent Lance Yednock. See Tom Collins, *Long files defamation suit against Yednock*, NEWS TRIBUNE (October 25, 2018), available at [http://www.newstrib.com/free/long-files-defamation-suit-against-yednock/article\\_559436d4-d866-11e8-ad9f-bf8ef6bea567.html](http://www.newstrib.com/free/long-files-defamation-suit-against-yednock/article_559436d4-d866-11e8-ad9f-bf8ef6bea567.html). Representative Long lost his re-election campaign. See Tamara Abbey, *Yednock defeats Long for state Rep. seat*, NEWS TRIBUNE (November 7, 2018), available at [http://www.newstrib.com/free/yednock-defeats-long-for-state-rep-seat/article\\_cff7d08a-e24c-11e8-b7f3-4fbca0f0b7b4.html](http://www.newstrib.com/free/yednock-defeats-long-for-state-rep-seat/article_cff7d08a-e24c-11e8-b7f3-4fbca0f0b7b4.html).



it benefitted or harmed politically. We ask that you do not use this report out of context, because our findings are comprehensive and nuanced.

In Ms. Loncar's case, for example, she made several specific claims about unwanted advances that occurred about 10 years before she went public. We did not find sufficient evidence to support these claims. Further, Ms. Loncar chose not to interview with us to provide additional evidence, if she had any. While Representative Lang firmly denied these allegations, we cannot eliminate the possibility that Ms. Loncar and Representative Lang had a miscommunication about 10 years ago that one or both remember inaccurately. This unfortunate situation is less likely to occur when there is a trusted reporting mechanism in place that encourages timely complaints and investigations.

Likewise, we did not find sufficient evidence to support Representative Cassidy's allegations. But Representative Cassidy's allegations related to something different: a purported culture of negative treatment that faced people who were perceived to challenge Speaker Madigan on any issue. That culture is expressed in ways that people who are unfamiliar to the unique Capitol workplace may not be able to understand. We determined that the fear of retaliation that could arise in unforeseen and unprovable ways was a major—if not *the major*—concern from our survey of people in the Capitol workplace.

For workers in the Speaker's Office, this fear of retaliation meant a fear of losing their jobs, not having their contracts renewed, losing access to decision-making processes, having opportunities taken away, having their ideas ignored, having prospective employers receive negative calls, or losing positive references for outside employment. Representatives in the Democratic Caucus, in turn, feared losing campaign contributions, having their legislation stalled or stopped, or being removed from the caucus. For others, it meant a fear of losing access, employment, or legislative opportunities.

These concerns tied directly to Sherri Garrett's allegations against Mr. Mapes, the then-Chief of Staff, Clerk of the House, and Executive Director of DPI. Mr. Mapes chose not to interview with us, and we cannot use his silence to discount the credible interviews with Ms. Garrett, her witnesses, and the many workers who detailed similar experiences.

We believe that the Speaker's Office has already begun to take steps toward addressing these issues, but these issues cannot be addressed and then forgotten. The Speaker's Office will need to remain diligent to set the standard for its workplace, other workplaces throughout the state, and other legislatures.

**Attachment 1.**  
**The Rules: Federal Law, State Law & Speaker Policies**

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In this attachment, we provide a summary of these rules, and how they relate to the Capitol workplace, with a focus on workers in the Speaker’s Office. First, we discuss the definition of “harassment” and the direct responsibility for the harasser. Second, we discuss “workplace harassment” and the responsibility for the employer. Third, we provide additional considerations for the Speaker’s Office. Finally, we provide the more general codes of conduct that apply to various people in the Capitol workplace.

This attachment is not intended to be comprehensive. Instead, it is intended to demonstrate that there is much uncertainty in how and when laws apply to the Speaker’s Office, which is likely to challenge even the most legally sophisticated worker with the requisite notice of the rules for acceptable conduct.

We note, for example, that Governor J.B. Pritzker signed Senate Bill 75 into law on August 9, 2019, Public Act 101-0221, which amends several relevant statutes.<sup>215</sup> While many of these changes do not go into effect until January 1, 2020, we have highlighted many of the upcoming changes throughout this attachment.

#### A. Harassment and Harasser Responsibility

The focus of this report refers to workplace harassment and employer responsibility, but as discussed below, employer responsibility can be complex and hard to predict. In Illinois, people are always responsible for harassing others, regardless of an employment relationship and even if that harassment creates additional responsibility for others, such as a guardian, property owner, or employer.<sup>216</sup>

<sup>215</sup> See Pub. Act 101-0221 (S.B. 0075) (August 9, 2019).

<sup>216</sup> While this point may appear to be a truism, it is not. Some states remove certain harasser’s responsibilities if they are “preempted” by employer liability. *Cf. Maksimovic v. Tsogalis*, 177 Ill.2d 511, 517 (1997) (stating that whether a tort claim is precluded by the Illinois Human Rights Act depends on whether the claim is “inextricably linked to a civil rights violation such that there is no independent basis apart from the Act itself,” *i.e.* if “the Act furnished the legal duty that the defendant was alleged to have breached”).

In general, the common use of the word “harassment” refers to unwelcome conduct that fatigues, annoys, or creates an unpleasant environment.<sup>217</sup> This broad definition can refer to any unwelcome conduct and is often entirely *subjective*.<sup>218</sup>

Legal definitions of harassment tend to be narrower. Typically, this means that, to be harassment, the conduct must be *subjectively and objectively* offensive. Conduct that fits this legal definition of harassment may also describe other unlawful activity. Illinois prohibits various types of harassing conduct—such as assault, battery or stalking—through criminal laws, 720 ILCS 5/, and civil actions, 740 ILCS.<sup>219</sup> Civil actions may also include the following actions: invasion of privacy, intentional infliction of emotional distress, intentional interference with contractual relations, assault, battery, and false imprisonment.

Certain laws create additional responsibilities based on positions of power over others and the general opportunities for abuse. Some laws, for example, apply specifically to government workers and members of the Capitol workplace:

- Under 42 U.S.C. § 1983 (Section 1983), government actors are prohibited from harassing others under the color of state law;<sup>220</sup>

<sup>217</sup> According to the Merriam Webster dictionary, for example, to “harass” someone is to “fatigue,” “annoy persistently,” or “to create an unpleasant or hostile situation for especially by uninvited and unwelcome verbal or physical conduct.” *Harass*, MERRIAM WEBSTER, *available at* <https://www.merriam-webster.com/dictionary/harassment#other-words> (last visited July 8, 2019). Likewise, the Oxford Dictionary defines “harassment” as “aggressive pressure or intimidation.” *Harassment*, LEXICO, *available at* <https://en.oxforddictionaries.com/definition/harassment> (last visited July 8, 2019).

<sup>218</sup> During their interviews, many people in the Capitol workplace referred to “harassment” in the broader, subjective way. And there may be value in describing unwelcome conduct that creates an “unpleasant” situation as “harassment.” This may allow people to navigate what they consider to be appropriate and inappropriate conduct. Under this definition, disparaging remarks about rival sports teams can constitute “harassment.”

<sup>219</sup> See 720 ILCS 5/*et seq.* (Criminal Code of 2012); and 740 ILCS/*et seq.* (civil liabilities). See also *House Task Force Report* (January 30, 2019) at 9, n.7 (citing related civil actions for traditional torts and gender violence, including the Illinois Gender Violence Act, 740 ILCS 82/*et seq.*; the Civil No Contact Order, 740 ILCS 22/*et seq.*; Stalking No Contact Order, 740 ILCS 21/*et seq.*; and the Illinois Domestic Violence Act, 750 ILCS 60/*et seq.*, *available at* <http://ilga.gov/reports/ReportsSubmitted/251RSGAEmail562RSGAAttachHouse%20Sexual%20Discrimination%20and%20Harassment%20Task%20Force%20Report.pdf>).

<sup>220</sup> Several courts have found that sexual harassment in government employment can violate the Equal Protection Clause of the Fourteenth Amendment, which is actionable under 42 U.S.C. § 1983. Specifically, the Fourteenth Amendment prohibits (1) government actors (or people acting “under the color of state law”) from (2) *intentional* sex discrimination. An employer’s sexual harassment can rise to the level of sex discrimination under the Fourteenth Amendment directly or by a *conscious* failure to protect someone from the sexual harassment from others. See, e.g., *Volk v. Coler*, 845 F.2d 1422, 1431 (7th Cir. 1988); *Bohen v. City of E. Chicago, Ind.*, 799 F.2d 1180, 1185 (7th Cir. 1986). Not all “acts of an on-duty state employee are state action for purposes of section 1983. . . . Thus, the essence of section 1983’s color of law requirement is

- Under the Illinois State Officials and Employees Ethics Act (Ethics Act), Illinois workers and elected officials are prohibited from engaging in sexual harassment against anyone;<sup>221</sup>
- Under the Illinois Lobbyist Registration Act, lobbyists are prohibited from engaging in sexual harassment.<sup>222</sup>

The relationship between the victim and the harasser can also create additional responsibilities.

These laws apply directly to the perpetrator, and in some instances, can apply to a sufficiently negligent or reckless employer.<sup>223</sup>

Given the complexity of these statutes and questions regarding their applicability to particular workers, which can be confusing for complainants, there are various helplines to connect complainants with resources and the applicable agencies, such as the Illinois Department of Human Rights' Sexual Harassment & Discrimination Helpline (1.877.236.7703).<sup>224</sup>

## B. Workplace Harassment and Employer Responsibility

As described above, when harassment occurs in Illinois, the harasser is always deemed to be responsible. In some circumstances, people or entities besides the harasser may also be responsible. Specifically, this responsibility occurs when a person or entity has some authority to prevent or redress harassment and the law requires them to use that authority. Illinois and federal law create an obligation for

that the alleged offender, in committing the act complained of, abused a power or position granted by the state." *Bonenberger v. Plymouth Twp.*, 132 F.3d 20, 24 (3d Cir. 1997). While few courts have addressed the issue directly, courts have found that Title VII, and its amendments, are additional protections, and thus, do not preclude actions under § 1983. *See, e.g., Levin v. Madigan*, 41 F. Supp. 3d 701, 705–06 (N.D. Ill. 2014), *aff'd*, No. 14-2244, 2014 WL 6736999 (7th Cir. Sept. 30, 2014) (finding that the comprehensive remedial regime under GERA for age discrimination does not preclude claims under § 1983). Moreover, Section 1983 does not require harassers to be supervisors, and "in certain instances co-employees may exercise de facto authority over sexual harassment victims such that they act under color of law." *David v. City & Cty. of Denver*, 101 F.3d 1344, 1354 (10th Cir. 1996) (citation omitted). Employers may also be civilly liable in some instances for employee conduct under common law vicarious liability principles. *See Bohan*, 799 F.2d at 1188–89.

<sup>221</sup> See 5 ILCS 430/5-65.

<sup>222</sup> See 25 ILCS 170/4.7.

<sup>223</sup> *See, e.g., Bd. of Dirs., Green Hills Country Club v. Illinois Human Rights Comm'n*, 162 Ill. App. 3d 216 (5th Dist. 1987).

<sup>224</sup> *See Illinois Sexual Harassment & Discrimination Helpline*, ILLINOIS.GOV, available at <https://www2.illinois.gov/sites/sexualharassment/Pages/default.aspx> (last visited July 8, 2019).

employers to take reasonable actions to prevent and redress the harassment of its employees in the workplace.<sup>225</sup> For example, if a coworker assaults another coworker, the perpetrator is always responsible for the assault. The employer, however, *may not* be responsible if the employer took *reasonable* steps to prevent and redress the assault.<sup>226</sup> This section provides an overview of this responsibility.

Employer responsibilities to prevent and address harassment derive from various federal and state laws. Under federal law, workplace harassment protections for state government workers are in Title VII of the Civil Rights Act of 1964, as amended (Title VII); the Government Employee Rights Act of 1991 (GERA);<sup>227</sup> and 42 U.S.C. § 1983 (Section 1983) for violations of the Equal Protection Clause of the

<sup>225</sup> The Illinois Constitution also enumerates the right to be free from employment discrimination based on membership in a protected class: “All persons shall have the right to be free from discrimination on the basis of race, color, creed, national ancestry and sex in the hiring and promotion practices of any employer or in the sale or rental of property.” Ill. Const. Art. I, § 17.

<sup>226</sup> See *Vance v. Ball State Univ.*, 570 U.S. 421, 424 (2013).

<sup>227</sup> 42 U.S.C. § 2000e *et seq.* While the EEOC handles the complaint process, the U.S. Department of Justice’s Civil Rights Division has the authority to sue state and local government employers for violating Title VII. See *Memorandum of Understanding Between The U.S. Equal Employment Opportunity Commission and The U.S. Department of Justice - Civil Rights Division Regarding Title VII Employment Discrimination Charges Against State and Local Governments* (December 21, 2018) (This agreement aims “to maximize effort, promote efficiency, and eliminate duplication and inconsistency in the enforcement in federal employment discrimination laws.”), available at <https://www.justice.gov/opa/press-release/file/1122816/download>. See also *Justice Department and EEOC Sign Memorandum of Understanding to Prevent and Address Harassment of Employees in State and Local Governments*, US DOJ, Press Release 18-1687 (December 21, 2018), available at <https://www.justice.gov/opa/pr/justice-department-and-eec-sign-memorandum-understanding-prevent-and-address-harassment>.

Fourteenth Amendment.<sup>228</sup> The Illinois Human Rights Act and the Illinois State Officials and Employees Ethics Act<sup>229</sup> provide corresponding protections under state law.<sup>230</sup>

Although the applications can vary for each law and corresponding jurisdictions, employers are typically responsible only if the alleged misconduct (1) affects the “workplace,” (2) affects an “employee,” and (3) qualifies as “harassment.” Employers are also responsible for not “retaliating” against employees for filing a complaint or any other “protected activity.” These terms are explained in the subsections below.

<sup>228</sup> Title VII, GERA, and Section 1983 address harassment differently. This footnote only scratches the surface of these differences. See Title VII, Section 703(a)(1), 42 U.S.C. § 2000e-2(a)(1); 29 C.F.R. § 1604.11; 42 U.S.C. § 2000e-16(a-c). Typically, Title VII and GERA *do not* apply to the harasser—unless the harasser is the employer. See, e.g., *EEOC v. AIC Security Investigations, Ltd.*, 55 F.3d 1276, 1282 n.10 (7th Cir. 1995). Instead, Title VII and GERA make employers responsible for *taking reasonable steps* to prevent and redress harassment. See, e.g., *Williams v. Banning*, 72 F.3d 552, 555 (7th Cir. 1995) (holding that an employer’s prompt action “constitute[d] all the redress to which [the complainant] was entitled to under Title VII,” and under this rationale, the complainant “has already received considerable recompense, albeit not in monetary form.”). In other words, Title VII and GERA make employers responsible for their actions—or inaction—to prevent or redress harassment of their workers. See *Lapka v. Chertoff*, 517 F.3d 974, 982 (7th Cir. 2008) (citations omitted). Thus, Title VII and GERA incentivize employers to be sensitive and responsive to complaints, to act promptly, and to discourage harassment. See *Williams*, 72 F.3d at 555. Still, the EEOC enforces Title VII and GERA differently, and the protections differ. Under GERA, the EEOC investigates, and the complaint is heard by an administrative law judge at the EEOC. See 42 U.S.C. § 2000e-16b(a), and 29 C.F.R. § 1603.217. Cf. *Fort Bend Cty. v. Davis*, 139 S. Ct. 1843 (2019) (EEOC procedures); *Guy v. State of Ill.*, 958 F. Supp. 1300, 1306 (N.D. Ill. 1997) (GERA procedures). Likewise, district courts do not have jurisdiction to determine discrimination cases under GERA. *Id.* See 42 U.S.C. § 2000e-16c(b). Section 1983 actions, in comparison, can be filed in state or federal court. See, e.g., *Haywood v. Drown*, 556 U.S. 729, 734–35 (2009). But employers have limited responsibility under Section 1983: Section 1983 creates responsibility for the employer only if the discrimination is the employer’s “policy or custom” or if the employer is the harasser. See, e.g., *Bohen*, 799 F.2d at 1188–89. On the other hand, “state legislators are absolutely immune from suit under § 1983 for actions in the sphere of legitimate legislative activity.” *Lake Country Estates, Inc. v. Tahoe Reg’l Planning Agency*, 440 U.S. 391, 403 (1979) (internal citations and quotations omitted).

<sup>229</sup> See 5 ILCS 430/1, *et seq.* In June 2018, Illinois further amended the Illinois State Officials and Employees Ethics Act to, among other things, allow the Legislative Inspector General to investigate sexual-harassment complaints without pre-approval from the legislative Ethics Commission. See 5 ILCS 430/25-105. The Commission must also fill vacancies for the Legislative Inspector General within 45 days, and if the position remains vacant for six months, the Auditor General is automatically appointed as the Acting Legislative Inspector General. See 5 ILCS 430/25-10(b-5).

<sup>230</sup> See 775 ILCS 5/*et seq.* The Illinois Human Rights Commission determines whether there are violations of the Illinois Human Rights Act. See *id.*

In general, employers are responsible for discriminatory workplace conditions, regardless of the source of those conditions, such as supervisors, coworkers, or third-parties.<sup>231</sup> The specific remedies available to the victim can vary.<sup>232</sup>

We must note, however, that harassment of an employee does not automatically create responsibility for the employer. An employer is typically only responsible for the harassment of an employee if the employer had the power to prevent or redress the harassment and *unreasonably* failed to do so. In most cases, employers are not responsible for preventing all harassment of their employees from occurring or even recurring. If John Doe harasses Jane Doe, for example, then John Doe is responsible for the harassment. Jane Doe's employer *may be* responsible if the employer could have prevented or redressed the harassment and *unreasonably* did not do so.

There are, however, exceptions: sometimes employers are *automatically* responsible for the harassment of their employee, regardless of the reasonableness of their prevention methods, or they at least carry the burden to show why they are not responsible. Employers have heightened responsibility, for example, if their "supervisors" commit the harassment or discrimination.<sup>233</sup> But definitions for who qualifies as a "supervisor" vary between laws.<sup>234</sup>

#### *Who qualifies as an "employee"?*

Many laws regarding workplace harassment do not create employer responsibility for all workers.<sup>235</sup> If or when workplace harassment laws apply to Speaker's Office

<sup>231</sup> See, e.g., *Dunn v. Washington Cty. Hosp.*, 429 F.3d 689, 691 (7th Cir. 2005) (citing Restatement (2d) of Agency § 213(d)).

<sup>232</sup> Remedies for workplace harassment include injunctions, such as reinstatement, and compensatory damages, such as back pay and attorneys' fees.

<sup>233</sup> Title VII, for example, creates additional responsibility for employers to prevent harassment from "supervisors." See *Vance*, 570 U.S. at 431.

<sup>234</sup> Under Title VII, a "supervisor" is someone who can "take tangible employment actions against the victim, *i.e.*, to effect a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits." *Vance*, 570 U.S. at 431. The employer is strictly liable for the supervisor's harassment if it leads to a tangible employment action. If the supervisor's harassment does not lead to a tangible employment action, then the employer can avoid liability establishing that "(1) the employer exercised reasonable care to prevent and correct any harassing behavior and (2) that the [complainant] unreasonably failed to take advantage of the preventive or corrective opportunities that the employer provided." *Id.* at 424.

<sup>235</sup> The fact that a worker is not protected by one law does not mean that they are not protected at all. If an employer is not responsible for harassment under one law, the employer may still be responsible for the harassment under a different law. And, as identified above, even if the employer is not responsible for the harassment, the worker may still have legal recourse against the harasser.



workers depends on, among other things, whether a worker qualifies as an “employee.”<sup>236</sup> Under federal and state law, the term “employee” is narrower than common usage. Determining which workers qualify as “employees” can require a difficult case-by-case analysis.<sup>237</sup> Under certain laws, interns and contract workers, for example, may not qualify as “employees.”<sup>238</sup> Certain government workers are

<sup>236</sup> Specifically, under Title VII, “employee” means an individual “employed by an employer.” 42 U.S.C. § 2000e(f). See also the Americans with Disabilities Act, 42 U.S.C. § 12111(4), and the Age Discrimination in Employment Act, 29 U.S.C. § 630(f). This “circular” definition may not apply to people in certain positions, such as unpaid interns, who are not necessarily protected “as employees” under Title VII. See, e.g., *Clackamas Gastroenterology Assocs., PC v. Wells*, 538 U.S. 440, 444 (2003).

<sup>237</sup> See, e.g., *Riley v. Blagojevich*, 425 F.3d 357, 359–60 (7th Cir. 2005) (“Identifying those jobs is no mean feat. . . . Above the lowest levels of the civil service the question is not discretion or no discretion but less or more, and in such cases drawing a line is inescapably arbitrary.” (collecting cases)). Factors include whether the organization can hire or fire the person or set the rules and regulations of the person’s work; whether, and to what extent, the organization supervises the person’s work; whether the person reports to someone higher in the organization; whether, and to what extent, the person is able to influence the organization; whether the parties intended that the person be an employee, as expressed in written agreements or contracts; and whether the person shares in the profits, losses, and liabilities of the organization. See *Clackamas*, 538 U.S. at 449–50 (citing EEOC Compliance Manual § 605:0009). But realistic, non-manipulated, and reliable job descriptions can be dispositive. See *Riley*, 425 F.3d at 360 (“In general, employees who have merely ministerial duties — who really have very little discretion — and employees whose discretion is channeled by professional rather than political norms (a surgeon often exercises judgment, but it is professional rather than political judgment), are not within the exception for policymakers.”). But see *Clackamas*, 538 U.S. at 451 (holding that whether a worker qualifies as an “employee” under Title VII depends on “all of the incidents of the relationship . . . with no factor being decisive.”). See also *Bryson v. Middlefield Volunteer Fire Dep’t, Inc.*, 656 F.3d 348, 355 (6th Cir. 2011) (“We consider and weigh all incidents of the relationship no matter how the parties characterize the relationship.”).

<sup>238</sup> According to the EEOC, volunteers or interns *usually are not* protected “employees.” See EEOC, *Compliance Manual* (last updated August 2009), available at <https://www.eeoc.gov/policy/docs/threshold.html#2-III-A-1-c>. Volunteers or interns may qualify as “employees,” however, if they receive “significant remuneration”—even if the remuneration is nonpecuniary or from a third-party, if they are required to do the volunteer work for regular employment, or if their volunteer position regularly leads to employment with that employer—even if it isn’t a prerequisite. See *id.* (citations omitted) See also *Complainant v. Shinseki*, EEOC Decision No. 0120133242 (E.E.O.C.), 2014 WL 586747, at \*1–2 (Feb. 6, 2014). Under these definitions, many Speaker’s Office interns and volunteers would likely qualify for protections under Title VII as “employees.” Illinois Legislative Staff Intern Program (ILSIP) interns, for example, receive significant remuneration from the University of Illinois for their work with the Speaker’s Office and are often offered regular employment from the Speaker’s Office after their internship.

often specifically enumerated as *not being* “employees.”<sup>239</sup> But a more careful analysis may still be necessary even for these government workers.<sup>240</sup>

There are, however, circumstances when someone does not qualify as an “employee,” but still receives protections. Some statutes have sought to address this issue. GERA, for example, provides protection from discrimination for state workers who were previously not protected by Title VII.<sup>241</sup> Likewise, the Illinois State Officials and Employees Ethics Act (Ethics Act) has a broad definition of “employee,” which likely encompasses most people who work in the Speaker’s Office.<sup>242</sup>

<sup>239</sup> Specifically, Title VII *does not* consider the following workers “employees”: (1) elected officials, (2) the personal staff of an elected official, (3) policymaking appointees, and (4) immediate advisors regarding the exercise of constitutional or legal powers of the office. *See Opp v. Office of State’s Attorney of Cook County*, 630 F.3d 616, 619 (7th Cir. 2010) (referring to similar language in the Age Discrimination in Employment Act, 29 U.S.C. §§ 621–634). *See also Dintelmann v. Village of Freeburg*, 14-CV-855-SMY-DGW (S.D. Ill. Sept. 3, 2015) (noting that there is no “bright line” rule). *But see Juino v. Lingston Parish Fire District No. 5*, 717 F.3d 431, 438-39 (2013) (adopting the “threshold-remuneration test,” which requires direct remuneration). “Personal staff” is not defined. *See Leving v. City of Chicago*, 1988 WL 20046, at \*2 (N.D. Ill. Mar. 1, 1988). *See also Dintelmann v. Village of Freeburg*, 14-CV-855-SMY-DGW (S.D. Ill. Sept. 3, 2015) (noting that the Seventh Circuit has yet to address the meaning of “personal staff” and that some courts apply a six-factor test).

<sup>240</sup> In Illinois, government workers who can be hired or fired by their political affiliation—often referred to as “*Rutan*-exempt” positions—are not considered “employees” under Title VII. *See Parker v. Illinois Human Rights Comm’n*, 12-cv-8275 at \*11–12 (N.D. Ill. Mar. 14, 2015) (“Because the test for determining if someone is an ‘employee’ is essentially indistinguishable from that applied in the political firing context under *Elrod/Branti*, it follows that whether a position is *Rutan*-exempt dictates whether a person is an ‘employee’ under the Act.” (internal quotation and citation omitted)). *See also Americanos v. Carter*, 74 F.3d 138, 144 (7th Cir. 1996) (“[T]he reasons for exempting the office from the patronage ban apply with equal force to the requirements of the ADEA [and Title VII].”) (citations omitted)); *Branti v. Finkel*, 445 U.S. 507, 518 (1980) (“The ultimate inquiry is not whether the label ‘policymaker’ or ‘confidential’ fits a particular position; rather, the question is whether the hiring authority can demonstrate that party affiliation is an appropriate requirement for the effective performance of the public office involved.”). *Cf. Riley*, 425 F.3d at 359 (“The Supreme Court has held in the name of freedom of speech that a public official cannot be fired on the basis of his political affiliation unless the nature of his job makes political loyalty a valid qualification; this could be either because the job involves the making of policy and thus the exercise of political judgment or the provision of political advice to the elected superior, or because it is a job (such as speechwriting) that gives the holder access to his political superiors’ confidential, politically sensitive thoughts.”) (citing *Elrod v. Burns*, 427 U.S. 347, 367–68 (1976); *Branti*, 445 U.S. at 518).

<sup>241</sup> *See* 42 U.S.C. § 2000e-16(a), (c). Specifically, GERA protects government employees who are elected officials’ (1) personal staff, (2) policymakers, or (3) immediate advisors regarding the exercise of the constitutional or legal powers of the office. *See* 42 U.S.C. § 2000e-16(b) (cross-referencing 42 U.S.C. § 2000e-5(g), 2000e-5(k), and 2000e-16(e)). *See also Alaska v. EEOC*, 564 F.3d 1062, 1068 (9th Cir. 2009) (holding that GERA clearly abrogates state sovereign immunity).

<sup>242</sup> *See* 5 ILCS 430/1-5 (“‘Employee’ means (i) any person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of an

The Ethics Act has been recently amended to prohibit state officials—including elected officials, workers, and lobbyists—from committing sexual harassment against anyone—regardless of an employment relationship.<sup>243</sup>

Public Act 101-0221 (Senate Bill 75), referenced above, creates additional protections and rights for complainants. For example, the new law expands protections for non-employees—who “directly perform[] services for the employer pursuant to a contract with that employer”—under the Illinois Human Rights Act and requires notifications to people who have been identified as a victim in complaints filed with the Legislative Inspector General under the Ethics Act.<sup>244</sup> Many of the changes go into effect on January 1, 2020.<sup>245</sup>

### *What is the workplace?*

For an employer to be responsible for harassment, the harassment must involve the workplace. Workplaces, however, can and do vary drastically in size, scope, and location. As described in Section 1 (Background), the Capitol workplace is varied. The Capitol workplace goes beyond the House Floor, committee rooms, government buildings, and an eight-hour workday. What may look like a social gathering to an uninitiated eye, for example, can be an important lobbying effort involving major legislation.

Moreover, for preventing and responding to harassment, even if the Capitol workplace had clear physical and time boundaries—which, for many workers, it does not—conduct that occurs outside of the workplace can impact the workplace.<sup>246</sup>

employer with regard to the material details of how the work is to be performed or (ii) any appointed or elected commissioner, trustee, director, or board member of a board of a State agency, including any retirement system or investment board subject to the Illinois Pension Code or (iii) any other appointee.”). *See, e.g., Wynn v. Ill. Dep’t of Human Servs.*, 81 N.E.3d 28, 35 (Ill. App. Ct. 2017) (“It is . . . undisputed that contract employees are covered under the Ethics Act.”). The Illinois House Task Force examined whether to eliminate two specific exemptions from the definition of “employee,” expanding the scope of persons protected by the Illinois Human Rights Act to include (1) elected public officials or members of their immediate permanent staffs and (2) “principal administrative officers of the State or of any political subdivision, municipal corporation or other governmental unit or agency.” *See House Task Force Report* (January 30, 2019) at 26. The Task Force did not take a position on this change, noting there were “differences of opinion on the scope of these exemptions” and that the House Task Force had not been provided clear answers on the scope of these exemptions. *Id.*

<sup>243</sup> See 5 ILCS 430/5-65(a). Violators of sexual harassment under the Ethics Act are subject to a fine of up to \$5,000 *per offense*, discipline, and for workers, termination. See 5 ILCS 430/50.

<sup>244</sup> See Pub. Act 101-0221 (S.B. 0075) (August 9, 2019), available at <http://www.ilga.gov/legislation/publicacts/101/PDF/101-0221.pdf>.

<sup>245</sup> See *id.*

<sup>246</sup> See, e.g., *Lapka*, 517 F.3d at 983 (“But harassment does not have to take place within the physical confines of the workplace to be actionable; it need only have consequences in the workplace.”). Cf. *Doe v. Oberweis Dairy*, 456 F.3d 704, 715–16 (7th Cir. 2006) (“The sexual act need

If someone is harassing a coworker outside of the workplace—such as on social media—the victim may reasonably find it difficult to continue to work with that coworker.<sup>247</sup> In some instances, employers are required to prevent conduct that occurred outside of the workplace from reoccurring in the workplace and take steps to mitigate the effect that conduct could have on the workplace.

While the application of laws can vary regarding the scope of the workplace, the Ethics Act specifies that the workplace (“working environment”) “is not limited to a physical location an employee is assigned to perform his or her duties and does not require an employment relationship.”<sup>248</sup> Public Act 101-0221 (Senate Bill 75) also amended the Illinois Human Rights Act to specify that the “‘working environment’ is not limited to a physical location an employee is assigned to perform his or her duties.”<sup>249</sup>

### *What constitutes workplace harassment under the law?*

Throughout our interviews of people in the Capitol workplace, we heard various interpretations of what constitutes workplace harassment. These differences of opinion are not unique to the Capitol workplace, and some polls reflect similar, if not more-polarized, differences.<sup>250</sup> This subsection provides some guidance for what constitutes workplace harassment.

not be committed in the workplace, however, to have consequences there. . . . But at the very least the harassment must, as in *Meritor*, be an episode in a relationship that began and grew in the workplace.”) (citing *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57, 60 (1986)). See also *Little v. Windermere Relocation, Inc.*, 301 F.3d 958, 966–67 (9th Cir. 2002) (finding that genuine issues of material fact exist to survive summary judgment when the complainant alleged that an employer continued to assign the complainant to an account after the complainant told the employer that a representative of the client raped the complainant at a business meeting, the complainant was discouraged by a coworker from making a complaint, and the president of the company decreased the complainant’s compensation and referred the complainant to corporate lawyers). Cf. *Duggins v. Steak’n Shake, Inc.*, 3 Fed. App’x 302, 310 (6th Cir. 2001) (“[G]enerally an employer is not liable for the harassment or other unlawful conduct perpetrated by a non-supervisory employee after work hours and away from a workplace setting.” (citations omitted)).

<sup>247</sup> See, e.g., *Lapka*, 517 F.3d at 984 (“The continued presence of a rapist in the victim’s workplace can render the workplace objectively hostile because the rapist’s presence exacerbates and reinforces the severe fear and anxiety suffered by the victim.” (citations omitted)).

<sup>248</sup> 5 ILCS 430/5-65.

<sup>249</sup> 775 ILCS 5/2-101(E) (definition of sexual harassment) and (E-1) (definition of harassment).

<sup>250</sup> See, e.g., Alexandre Tanzi and Katia Dmitrieva, *Men and Women See Sexual Harassment in the Workplace Differently*, BLOOMBERG (December 3, 2018) (showing the percentage of polled populations who thought that specific behavior “always” constitutes sexual harassment, including “asking to go for lunch,” “asking to go for a drink,” or “persisting in unwanted attention”), available at <https://www.bloomberg.com/news/articles/2018-12-03/sexual-harassment-in-workplace-is-seen-differently-by-men-women>.

While definitions may differ within various statutes, most derive from the decades of case law defining workplace “harassment” under Title VII. Employment discrimination laws have developed from decades of case law under Title VII and its progeny. Notably, Title VII uses the word “discrimination,” rather than “harassment.”<sup>251</sup> In 1986, the U.S. Supreme Court recognized that harassment can *rise to the level of discrimination*.<sup>252</sup> As a result, unwelcome conduct that does not *rise to the level of discrimination* is not considered harassment under Title VII. Moreover, even laws that enumerate harassment—without reference to discrimination—are often interpreted using Title VII precedent.

The US Equal Employment Opportunity Commission (EEOC), which enforces Title VII, provides a baseline definition for “harassment”: unwelcome conduct that is based on a protected class.<sup>253</sup> What qualifies as a protected class can vary throughout state and federal jurisdictions, but protected classes can include race, color, religion, sex—including pregnancy, gender identity, or sexual orientation—national origin, age (40 or older), disability, or genetic information.<sup>254</sup> To be clear, everyone is a member of various protected classes—such as national origin, race, or color. While there may be a disparate need for protection across populations, all classes are protected, including from conduct within classes.

Unwelcome conduct based on a protected class is lawful in the workplace *until* it (1) creates a hostile work environment or (2) is a condition of employment. Hostile-work-environment harassment, for example, must be sufficiently “severe or

<sup>251</sup> “Harassment” is not specifically referenced as a prohibition in Title VII, GERA, or the Fourteenth Amendment. Instead, these laws prohibit discrimination based on protected classes. Title VII, for example, makes it “an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.” 42 U.S.C. § 2000e–2(a).

<sup>252</sup> See *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986). Since then, courts continue to develop this area of the law. See, e.g., *Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 21 (1993) (“The phrase ‘terms, conditions, or privileges of employment’ evinces a congressional intent ‘to strike at the entire spectrum of disparate treatment of men and women’ in employment,” which includes requiring people to work in a discriminatorily hostile or abusive environment.” (citations omitted)).

<sup>253</sup> See “Harassment,” EEOC, available at <https://www.eeoc.gov/laws/types/harassment.cfm> (last visited January 15, 2019). The EEOC defines protected class as: race, color, religion, sex—including pregnancy, gender identity, or sexual orientation—national origin, age (40 or older), disability, or genetic information. *Id.*

<sup>254</sup> While not all circuits agree, the Seventh Circuit—which has jurisdiction over Illinois—recently held that “discrimination on the basis of sexual orientation is a form of sex discrimination.” *Hively v. Ivy Tech Community College of Indiana*, 853 F.3d 339 (7th Cir. 2017) (holding that “discrimination on the basis of sexual orientation is a form of sex discrimination” under Title VII). *Contra Evans v. Georgia Reg’l Hosp.*, 850 F.3d 1248, 1255–57 (11th Cir. 2017) (holding the opposite). The Supreme Court recently granted cert to address this issue. See *Altitude Express, Inc. v. Zarda*, 139 S. Ct. 1599 (2019).

pervasive” based on a subjective standard—*i.e.*, the complainant’s perspective—and on an “objective” standard—*i.e.*, a reasonable person’s perspective.<sup>255</sup> The Supreme Court has repeatedly emphasized that Title VII, for example, *is not* a “general civility code.”<sup>256</sup> Not all unwelcome conduct rises to the level of unlawful discrimination, even if it is based on a protected class.<sup>257</sup> The unwelcome “conduct must be *extreme* to amount to a change in the terms and conditions of employment.”<sup>258</sup> This “is not, and by its nature cannot be, a mathematically precise test.”<sup>259</sup>

Instead, “the objective severity of harassment should be judged from the perspective of a reasonable person in the [complainant’s] position, considering all the circumstances . . . [with] careful consideration of the social context in which particular behavior occurs and is experienced by its target.”<sup>260</sup> While no factor is required, courts typically consider the following:

- The frequency of the discriminatory conduct;
- The severity of the conduct;
- Whether it is physically threatening or humiliating, or a mere offensive utterance; and

<sup>255</sup> According to the Supreme Court, the “severe or pervasive” requirement ensures “that courts and juries do not mistake ordinary socializing in the workplace—such as male-on-male horseplay or intersexual flirtation—for discriminatory ‘conditions of employment.’” *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 81 (1998). Recently, some jurisdictions, such as California and New York, have recently removed the “severe or pervasive” requirement.

<sup>256</sup> *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1988) (citing *Oncale*, 523 U.S. at 81).

<sup>257</sup> “Title VII does not prohibit ‘genuine but innocuous differences in the ways men and women routinely interact with members of the same sex and of the opposite sex.’” *Faragher*, 524 U.S. at 788 (quoting *Oncale*, 523 U.S. at 81). Title VII “requires neither asexuality nor androgyny in the workplace; it forbids only behavior so objectively offensive as to alter the ‘conditions’ of the victim’s employment.” *Oncale, Inc.*, 523 U.S. at 81.

<sup>258</sup> *Faragher*, 524 U.S. at 788 (emphasis added). “In the Seventh Circuit, workplace conduct of a sexual nature that is upsetting to an employee is not automatically actionable.” *Park v. Pulsar-lube USA, Inc.*, 209 F. Supp. 3d 1034, 1041 (N.D. Ill. 2016). In fact, physical touching does not necessarily constitute harassment under Title VII. *Id.* (citing cases).

<sup>259</sup> *Harris*, 510 U.S. at 23.

<sup>260</sup> *Oncale*, 523 U.S. at 81 (internal quotations and citations omitted). “The real social impact of workplace behavior often depends on a constellation of surrounding circumstances, expectations, and relationships which are not fully captured by a simple recitation of the words used or the physical acts performed. Common sense, and an appropriate sensitivity to social context, will enable courts and juries to distinguish between simple teasing or roughhousing among members of the same sex, and conduct which a reasonable person in the plaintiff’s position would find severely hostile or abusive.” *Id.* 81–82 (noting that a “professional football player’s working environment is not severely or pervasively abusive, for example, if the coach smacks him on the buttocks as he heads onto the field—even if the same behavior would reasonably be experienced as abusive by the coach’s secretary (male or female) back at the office.”).

- Whether it unreasonably interferes with an employee’s work performance.<sup>261</sup>

Likewise, unwelcome conduct is more likely to be severe or pervasive if it comes from a supervisor rather than a coworker.<sup>262</sup>

Notably, this legal definition excludes conduct that might commonly be considered harassment in common uses of the word. Unwelcome comments or conduct about rival sports teams is not harassment under this definition.

In practice, an isolated unwelcome activity, if sufficiently *severe*, can constitute unlawful harassment.<sup>263</sup> Typically, unwelcome activity that is non-physical must be

<sup>261</sup> See *Harris*, 510 U.S. at 23 (adding that “no single factor is required”).

<sup>262</sup> Since the inception of the “severe or pervasive” standard in the 1980s, courts have repeatedly held that a single verbal comment is not sufficient to constitute harassment. See *Meritor*, 477 U.S. at 57 (citation omitted). See also *Johnson v. General Board of Pension & Health Benefits*, 733 F.3d 722, 729–30 (7th Cir. 2013) (“Although a single instance of behavior can give rise to liability if it is sufficiently severe, past cases finding liability for a single incident have involved facts much more severe than . . . [showing an employee] one video containing a momentary display of male nudity does not come close to reaching the required level of severity for a sexual harassment claim.”). The U.S. Seventh Circuit, for example, has “held that assaults within the workplace create an objectively hostile work environment for an employee even when they are isolated.” *Lapka*, 517 F.3d at 983–84 (collecting cases) (“It is well settled that even one act of harassment will suffice if it is egregious.” (internal citations omitted)), and *Hostetler v. Quality Dining, Inc.*, 218 F.3d 798, 808–09 (7th Cir. 2000) (holding that a non-consensual, violent kiss and attempted unfastening of plaintiff’s bra were acts that presented “overtones of an attempted sexual assault” and were sufficiently severe to create a hostile work environment). But see *Cowan v. Prudential Ins. Co. of America*, 141 F.3d 751, 757–58 (7th Cir. 1998) (holding that circulating a safe-sex cartoon and a photograph of a coworker with a stripper was not sufficiently severe). In 2017, however, the U.S. Court of Appeals for the Third Circuit found that a single use of a racial slur can constitute unlawful harassment. *Castleberry v. STI Group*, 863 F.3d 259, 264 (3rd Cir. 2017) (“Under the correct ‘severe or pervasive’ standard, the parties dispute whether the supervisor’s single use of the ‘n-word’ is adequately ‘severe’ and if one isolated incident is sufficient to state a claim under that standard. Although the resolution of that question is context-specific, it is clear that one such instance can suffice to state a claim.”). See also *Daniel v. T&M Protection Resources, LLC*, 15-560-cv (2nd Cir. April 25, 2017). *Contra Schwapp v. Town of Avon*, 118 F.3d 106, 110 (2d Cir. 1997) (“For racist comments, slurs, and jokes to constitute a hostile work environment . . . there must be a steady barrage of opprobrious racial comments.” (citations omitted)). Thus, whether a single incident is sufficiently “severe” to qualify as harassment, for example, may evolve with changing norms. See also *Rodgers v. W-S. Life Ins. Co.*, 12 F.3d 668, 675 (7th Cir. 1993) (denying summary judgment for the employer when the plaintiff testified that his direct supervisor “addressed him with the N-word twice” and once used racial language when threatening to write him up); *Gates v. Bd. of Educ. of the City of Chicago*, No. 17-3143, 2019 WL 698000, at \*15 (7th Cir. Feb. 20, 2019) (“When the harassment involves such appalling racist language in comments made directly to employees by their supervisors, we have not affirmed summary judgment for employers.”).

<sup>263</sup> See, e.g., *Worth v. Tyer*, 276 F.3d 249, 257, 268 (7th Cir. 2001) (finding that an allegation that an employee’s supervisor “came up alongside her and stroked her face, hair, and nose and . . . stuck his hand down her dress and placed it directly onto her breast . . . approximately

*pervasive* to constitute harassment.<sup>264</sup> “[S]imple teasing, . . . offhand comments, and isolated incidents (*unless extremely serious*) will not amount to discriminatory changes in the terms and conditions of employment.”<sup>265</sup>

The Illinois Human Rights Act is essentially Illinois’s version of Title VII.<sup>266</sup> In general, the Illinois Supreme Court regards the Illinois Human Rights Act “as remedial legislation” and construes it “liberally to achieve its purpose — the prevention of sexual harassment in employment for all individuals.”<sup>267</sup> The set of protected classes, for example, is explicitly larger than the protected classes under Title VII.<sup>268</sup>

one inch away from her nipple and kept it there for several seconds” was sufficient). Such unlawful harassment includes various types of unwelcome conduct, from indirect rumors to direct verbal and physical abuse. *See, e.g., Parker v. Reema Consulting Services, Inc.*, No. 18-1206 (4th Cir. Feb. 8, 2019) (finding that an employer’s participation in the spread of a sex-based rumor and sanctioning the employee based on that rumor can create employer responsibility under Title VII). As noted above, conduct that constitutes unlawful harassment can also constitute other forms of civil and criminal violations, such as intentional infliction of emotional distress or assault.

<sup>264</sup> *See Scruggs v. Garst Seed Co.*, 587 F.3d 832, 841 (7th Cir. 2009); *Patt v. Family Health Systems, Inc.*, 280 F.3d 749 (7th Cir. 2002) (finding that eight “isolated and sporadic” comments, including saying that “the only valuable thing to a woman is that she has breasts and a vagina,” did not qualify as “severe or pervasive harassment”); *Park*, 209 F. Supp. 3d at 1034 (finding that a coworker cursing in complainant’s presence, following the complainant with his gaze, overhearing her phone conversations, entering and exiting the building at the same time, occasional bodily contact in the course of performing work duties in a compact space, compliments on appearance, and “telling her that he would like to sleep with his arms around her in a corner” do “not rise to the level of severity required for actionable sexual harassment”).

<sup>265</sup> *Faragher*, 524 U.S. at 788 (emphasis added). According to the Seventh Circuit: “It is not enough that a supervisor or coworker fails to treat a female employee with sensitivity, tact, and delicacy, uses coarse language, or is a boor. Such failures are too commonplace in today’s America, regardless of the sex of the employee, to be classified as discriminatory.” *Minor v. Ivy Tech State Coll.*, 174 F.3d 855, 858 (7th Cir. 1999). *See also DeAngelis v. El Paso Mun. Police Officers’ Ass’n*, 51 F.3d 591, 597 (5th Cir. 1995) (“Title VII cannot remedy every tasteless joke or groundless rumor that confronts women in the workplace.”).

<sup>266</sup> *See also Polychroniou v. Frank*, No. 1-15-1177, 2015 WL 7429318, at \*7 (Ill. App. Ct. Nov. 20, 2015) (“The prohibition of sexual harassment found in the Illinois Human Rights Act ‘closely parallels’ Title VII of the Civil Rights Act . . . and, therefore, examination of federal Title VII law is appropriate.”); *Frey v. Hotel Coleman*, 141 F. Supp. 3d 873, 879 (N.D. Ill. 2015) (“[t]he requirements to make out a sexual harassment claim under the IHRA are substantially the same” as those under Title VII).

<sup>267</sup> *Sangamon Cty. Sheriff’s Dep’t v. Illinois Human Rights Comm’n*, 233 Ill.2d 125, 140 (2009) (citing *Board of Trustees of Community College District No. 508 v. Human Rights Comm’n*, 88 Ill.2d 22, 26 (1981)).

<sup>268</sup> *See* 775 ILCS 5/1-102(A) (“race, color, religion, sex, national origin, *ancestry*, age, *order of protection status*, *marital status*, *physical or mental disability*, *military status*, *sexual orientation*, *pregnancy*, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.”) (emphasis added). Sexual orientation is defined as “actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identify, whether or not traditionally associated with



Like Title VII, the Human Rights Act still requires the “severe or pervasive” standard.<sup>269</sup> The Human Rights Act, however, goes beyond Title VII by adding additional complainant-friendly provisions:

- Employers<sup>270</sup> are responsible for the harassment by “supervisors,” regardless of whether the employer knew or should have known about the harassment, whether the employer was at fault, or whether the employer took remedial actions after discovering the harassment occurred.<sup>271</sup> Unlike under Title VII, someone can be a “supervisor” regardless of whether they supervise the victim; the “supervisor” does not need to have authority to affect the terms and conditions of the complainant’s employment.<sup>272</sup>
- “Employee” includes remunerated positions, apprentices, applicants for apprenticeships, and unpaid interns, but does not include (1) elected public officials, (2) the members of elected officials’ immediate personal staffs, (3) principal administrative officers of the state or of any political subdivision, municipal corporation or other governmental unit or agency, or (4) a designated evaluatee, trainee, or work-activity client under federal law in a vocational rehabilitation facility.<sup>273</sup>
- Protection from “sexual harassment” is expressly enumerated.<sup>274</sup>

the person’s designated sex at birth.” 775 ILCS 5/1-103(O-1) (Sexual orientation “does not include a physical or sexual attraction to a minor by an adult.”).

<sup>269</sup> See *Trayling v. Board of Fire and Police Comm’rs*, 273 Ill. App. 3d 1, 11–12 (2nd Dist. 1995).

<sup>270</sup> While the Speaker’s Office qualifies as an “employer” under both laws, the Human Rights Act considers any person with an employee to be an “employer” for the purposes of its protections against unlawful discrimination “based upon his or her physical or mental disability unrelated to ability, pregnancy, or sexual harassment.” 775 ILCS 5/2-101(B)(1)(b).

<sup>271</sup> *Bd. of Directors v. Human Rights Comm’n*, 162 Ill. App. 3d 216, 220 (5th Dist. 1987) (“This statute clearly indicates that employers are liable for sexual harassment of their employees by supervisory personnel regardless of whether it is *quid pro quo* or ‘hostile environment type harassment and regardless of whether the employer knew of such conduct.”) (interpreting 775 ILCS 5/2-102(D)). *Cf.* Pub. Act 101-0221 (S.B. 0075) (August 9, 2019) (amending the Illinois Human Rights Act to include the following language: “An employer is responsible for harassment by the employer’s nonmanagerial and supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.” 775 ILCS 5/2-102(A)).

<sup>272</sup> See *Sangamon Cty. Sheriff’s Dep’t*, 233 Ill.2d at 195 (“A liberal reading of section 2-102(D) ensures that victims have full incentive to report harassment. . . . Supervisors are often better connected and have greater job security than the victims. An employee may fear that the supervisor is more likely to be believed, thus putting the employee’s job at risk.”).

<sup>273</sup> See 775 ILCS 5/2-101(A).

<sup>274</sup> See 775 ILCS 5/1-102(A) and (B), 5/2-102(D). As referenced above, Public Act 101-0221 (Senate Bill 75) amends various Illinois laws to, among other things, create additional harassment coverage for contractors and consultants, anti-harassment training requirements, and employer disclosure requirements for adverse judgments or rulings regarding sexual harassment or discrimination. See Pub. Act 101-0221 (S.B. 0075) (August 9, 2019).

### *What constitutes sexual harassment in the workplace?*

Sexual harassment is a form of workplace harassment: unwelcome conduct based on sex. Notably, to qualify as sexual harassment, unwelcome conduct does not need to be “sexual,” “can include offensive remarks about a person’s sex,” and the victim and the harasser can be the same sex.<sup>275</sup> As with harassment, sexual harassment in the workplace is not typically unlawful until it (1) creates a hostile work environment or (2) is a condition of employment.

First, as with the larger category of “harassment,” unwelcome sexual conduct can create a hostile work environment if it is sufficiently severe or pervasive.

Second, sexual harassment is unlawful if it is a condition of employment. Under this category, there is a unique form of sexual harassment called *quid pro quo* harassment—or “this for that” harassment. Under *quid pro quo* harassment, a person in a position of authority requires that a worker provide sexual favors to receive an employment benefit. This is considered unlawful sexual harassment without reference to severity or pervasiveness.

There are various circumstances when even consensual conduct between two parties can harm third parties, even though they may not commonly be considered victims or, at least, the most victimized. Here are a few examples:

- **Third-Party *Quid Pro Quo* Harassment:** John Doe willingly engages in sexual conduct with his supervisor in exchange for a promotion. Jane Doe, who is more qualified for the position, complains.
- **Bystander Harassment:** John Doe and Jane Doe frequently exchange jokes about protected classes. While not part of the conversation, Richard Roe overhears and complains.

Accordingly, sexual harassment refers to a broad category of conduct, from repeated sexual jokes to sexual assault. As a result, someone can sexually harass someone without sexual interest in the victim or anyone else. If someone is accused of sexual harassment, then, without more, that accusation could be describing someone who repeatedly told sexual jokes, committed sexual assault, or a combination of various unwelcome sexual conduct.

<sup>275</sup> EEOC, *Sexual Harassment*, EEOC, available at [https://www.eeoc.gov/laws/types/sexual\\_harassment.cfm](https://www.eeoc.gov/laws/types/sexual_harassment.cfm) (last visited July 15, 2019).

## Retaliation

In general, the word “retaliation” refers to responding in kind, especially for revenge.<sup>276</sup> In employment settings, “retaliation” refers to a negative employment action against someone for engaging in a protected activity, such as filing a discrimination complaint or participating in an investigation. Anti-workplace harassment laws frequently prohibit employers from retaliating against employees who file harassment complaints—regardless of the truth of the allegation.<sup>277</sup>

Under Title VII and GERA, employers cannot retaliate against a worker by taking an adverse employment action against them for complaining, testifying, assisting, or participating in an investigation, proceeding, or hearing under Title VII or GERA.<sup>278</sup>

As the U.S. Court of Appeals for the Seventh Circuit put it, “not everything that makes an employee unhappy is an actionable adverse action.”<sup>279</sup> Examples of prohibited adverse employment actions include “termination of employment, a demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits, significantly diminished material responsibilities, or other indices that might be unique to a particular situation.”<sup>280</sup> Moreover, “[a]n employer can effectively retaliate against an employee by taking actions not directly related to his [or her] employment or by causing him [or her] harm *outside* the workplace.”<sup>281</sup>

<sup>276</sup> See “Retaliate,” MERRIAM-WEBSTER, available at <https://www.merriam-webster.com/dictionary/retaliation> (last visited July 8, 2019).

<sup>277</sup> See, e.g., 42 U.S.C. § 2000e-3(a).

<sup>278</sup> See 42 U.S.C. § 2000e-3(a). A complainant can show retaliation by either direct method—demonstrating direct or circumstantial evidence that an adverse employment action casually connected to having made a complaint—or by the indirect method—demonstrating that the complainant suffered an adverse employment action that other employees, who did not complain, did not receive. See, e.g., *Collins v. American Red Cross*, 715 F.3d 994, 998 (7th Cir. 2013); *Stephens v. Erickson*, 569 F.3d 779, 786–87 (7th Cir. 2009). In comparison to Title VII, GERA does not specifically enumerate a prohibition on retaliation. The EEOC has interpreted GERA to incorporate Title VII’s prohibition on retaliation. See *Janssen v. Board of County Commissioners, County of Fremont, Colorado*, EEOC Decision No. 11980024 (June 29, 2001) (holding that GERA specifically incorporates 52 U.S.C. 20000e-5(f-k), which expressly incorporates a prohibition on retaliation in 2000e-3(a)) available at <https://www.eeoc.gov/decisions/11980024.txt>. See also *Bd. of Cty. Comm’rs, Fremont Cty., Colorado v. E.E.O.C.*, 405 F.3d 840 (10th Cir. 2005) (upholding this interpretation using *Chevron* deference and finding that it does not contravene the Tenth Amendment’s reservation of state powers); *Brazoria Cty. v. EEOC*, 391 F.3d 685 (5th Cir. 2004); and *Haddon v. Executive Residence at the White House*, 313 F.3d 1352, 1356–57 (Fed. Cir. 2002).

<sup>279</sup> *Smart v. Ball State Univ.*, 89 F.3d 437, 441 (7th Cir. 1996).

<sup>280</sup> *Lapka*, 517 F.3d at 986 (quoting *Crady v. Liberty Nat’l Bank & Trust Co. of Ind.*, 993 F.2d 132, 136 (7th Cir. 1993)).

<sup>281</sup> *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 63 (2006) (emphasis in original) (citations omitted).

Illinois laws also prohibit retaliation. For example, the Illinois Whistleblower Protection Act (Whistleblower Act) and the Ethics Act prohibit, among other things, “employers” from retaliating or threatening to retaliate against “employees” for disclosing information in a proceeding or to a government or law enforcement agency when the “employees” have “reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation.”<sup>282</sup> The Illinois Human Rights Act considers retaliation a civil rights violation, which does not necessarily require an employment relationship.<sup>283</sup>

*What are employers required to do to prevent or redress workplace harassment?*

Employers are responsible for taking reasonable steps to prevent or redress harassment. As with the previous section, the steps employers are required to take may vary depending on the laws and jurisdictions.

As referenced above, federal law can have different requirements for employers depending on whether the harasser is a supervisor.<sup>284</sup> Typically, employers are strictly liable for the supervisor’s harassment if it leads to a tangible employment action.<sup>285</sup> If the supervisor’s harassment does not lead to a tangible employment action, then the employer can avoid liability by establishing that “(1) the employer exercised reasonable care to prevent and correct any harassing behavior and (2) that the [complainant] unreasonably failed to take advantage of the preventive or corrective opportunities that the employer provided.”<sup>286</sup>

Otherwise, if the harasser is not a “supervisor,” then the employer is only responsible for its own negligence in controlling working conditions.<sup>287</sup> Specifically, for

<sup>282</sup> 740 ILCS 174/15. *See also* 5 ILCS 430/5-5. The Whistleblower Act defines “employer” and “employee” broadly, which likely encompasses the Speaker’s Office and its workers. *See* 740 ILCS 174/5. *See also* *Lewis v. Marmon Grp., LLC*, No. 11 C 1806, 2014 U.S. Dist. LEXIS 122389, at \*11 n.3 (N.D. Ill. Sept. 3, 2014) (noting that the definition of “employee” in 740 ILCS 174/5 likely includes independent contractors). Under the Whistleblower Act, retaliators are guilty of a Class A misdemeanor, and retaliators may be sued civilly for damages, court costs, and attorneys’ fees.

<sup>283</sup> 775 ILCS 5/6-101. *See also* *Henry v. Mel Foster Co. Inc. of Illinois*, IHRS, ALS No. 14-0573 (Nov. 21, 2018).

<sup>284</sup> Under Title VII, a “supervisor” is someone who can “take tangible employment actions against the victim, *i.e.*, to effect a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.” *Vance*, 570 U.S. at 431 (internal citations omitted).

<sup>285</sup> *Id.*

<sup>286</sup> *Id.* This is commonly referred to as the Faragher-Ellerth Defense, which was named after the two Supreme Court cases that created it. *See* *Faragher*, 524 U.S. at 775, and *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998).

<sup>287</sup> *Vance*, 570 U.S. at 431.

non-supervisors, employers are responsible for discovering or remedying harassment by coworkers only after the employer has “enough information to make a reasonable employer think that there was some probability that [the complainant] was being . . . harassed.”<sup>288</sup> For example, an employer may not be responsible “for co-employee sexual harassment when a mechanism to report the harassment exists, but the victim fails to utilize it.”<sup>289</sup>

Once an employer is sufficiently on notice of harassment, then the employer must take remedial steps “reasonably calculated to prevent further harassment under the particular facts and circumstances of the case at the time the allegations are made.”<sup>290</sup> “It is not availing to say that the employer ‘should have taken even more aggressive measures.’ . . . The measures taken by employers will often ‘not meet the plaintiff’s expectations.’ . . . Title VII requires only that the employer take steps *reasonably likely* to stop the harassment.”<sup>291</sup> “The emphasis is on the prevention of future harassment,”<sup>292</sup> which “does not necessarily include disciplining the employees responsible for past conduct.”<sup>293</sup> If an employer takes “effective steps to physically separate employees and limit contact between them,” then that “can make it ‘distinctly improbable’ that there will be further harassment.”<sup>294</sup>

As above, Title VII makes employers responsible for the actions or inactions of the employer, not the actions of the harasser. In 2008, the U.S. Seventh Circuit held, assuming facts most favorable to the complainant, that a woman who had been raped by a coworker did not have a claim against her employer under Title VII when the employer initiated the investigation promptly, obtained a police report,

<sup>288</sup> *Erickson v. Wisconsin Dep’t of Corrections*, 469 F.3d 600, 606 (7th Cir. 2006) (citation omitted). See also *Rhodes v. Illinois Dep’t of Transp.*, 359 F.3d 498 (7th Cir. 2004) (finding that one “isolated complaint” of finding a “pornographic picture taped to her locker” did not put supervisors on notice of “pervasive and obvious” harassment.)

<sup>289</sup> *Durkin v. City of Chicago*, 341 F.3d 606, 612–13 (7th Cir. 2003); see also *Montgomery v. American Airlines, Inc.*, 626 F.3d 382, 392 (7th Cir. 2010) (“An aggrieved employee must at least report—clearly and directly—nonobvious policy violations troubling him so that supervisors may intervene.”).

<sup>290</sup> *McKenzie v. Illinois Dep’t of Transp.*, 92 F.3d 473, 480–81 (7th Cir. 1996) (citations and quotations omitted).

<sup>291</sup> *Lapka*, 517 F.3d at 985 (emphasis added) (citations omitted). See also *Muhammad v. Caterpillar, Inc.*, 767 F.3d 694, 698–99 (7th Cir. 2014) (holding that the employer was not required to identify—or do more to identify—the employee or employees responsible for racial graffiti or to punish the employee or employees).

<sup>292</sup> *Lapka*, 517 F.3d at 984–85 (citations omitted). See also *Berry v. Chicago Transit Auth.*, 618 F.3d 688, 692 (7th Cir. 2010) (explaining that an employer cannot be liable if it “took prompt action that was reasonably likely to prevent a reoccurrence”).

<sup>293</sup> *Muhammad v. Caterpillar, Inc.*, 767 F.3d 694, 698–99 (7th Cir. 2014) (citing *Porter v. Erie Foods Int’l*, 576 F.3d 629, 637 (7th Cir. 2009) (“In assessing the corrective action, our focus is not whether the perpetrators were punished by the employer, but whether the employer took reasonable steps to prevent future harm.”)).

<sup>294</sup> *Lapka*, 517 F.3d at 984–85 (citations omitted).

and forwarded it to the appropriate internal investigative authorities.<sup>295</sup> However, the employer—like the police—ultimately “decided not to pursue the issue further . . . due to a lack of evidence.”<sup>296</sup> The Seventh Circuit concluded:

We regret any harm that may have come to [the complainant]. We certainly would not want to be taken for downplaying the serious nature of sexual assaults. But [the complainant] has not given us a sufficient reason to hold the [employer] liable for her injuries. . . . [The employer’s] response may not have been perfect in all respects, but it was adequate.<sup>297</sup>

In some cases, the reasonable actions by employers required by federal law do not and cannot sufficiently compensate a victim of harassment.<sup>298</sup> In these instances, it is important to consider the other avenues for relief, which are described throughout the following sections.

Some Illinois laws, in comparison, specify certain required preventative measures, including the following:

- The Ethics Act requires, among other things, the Speaker’s Office to have policies prohibiting discrimination and harassment, detailing how to report an allegation of discrimination and harassment, prohibiting retaliation for reporting discrimination or harassment allegations (and extending the protections available under the state Whistleblower Act<sup>299</sup>), and providing consequences for discrimination, harassment, and knowingly making a false report.<sup>300</sup>
- The Ethics Act also requires each constitutional officer; Illinois legislator; appointees; elected commissioner, trustee, director, or board member; and full-time, part-time, and contract worker to complete anti-harassment training.<sup>301</sup> Starting in 2020, each officer, member, and employee must annually complete

<sup>295</sup> See *id.* at 984.

<sup>296</sup> *Id.*

<sup>297</sup> *Id.* at 987.

<sup>298</sup> According to the Seventh Circuit, “If a victim of harassment suffers mental and emotional distress, embarrassment, and humiliation so severe that even an employer’s prompt action does not provide sufficient compensation, it is not unreasonable to assume that Congress intended the victim to turn to traditional tort remedies for redress.” *Williams*, 72 F.3d at 555.

<sup>299</sup> See 740 ILCS 174/1.

<sup>300</sup> See 5 ILCS 430/5-5.

<sup>301</sup> See 5 ILCS 430/1-5 and 5-10.5. See also the General Assembly Operations Act, 25 ILCS 10/5(b) (requiring the Speaker to adopt and implement the policies required by federal, state, and local laws); the Chicago Human Rights, 2-160-000; and the Springfield, Illinois Code of Ordinances § 36.63.

a broader “harassment and discrimination prevention training program,” overseen by the appropriate ethics commission and inspector general.<sup>302</sup>

- The Illinois Human Rights Act requires, among other things, that employers with public contracts must have a written sexual harassment policy.<sup>303</sup>
- The Election Code requires established political parties to maintain a policy that prohibits discrimination and harassment, details how to report an allegation of discrimination and harassment, prohibits retaliation for reporting discrimination or harassment allegations, and provides consequences for discrimination, harassment, and knowingly making a false report.<sup>304</sup>
- The Illinois Lobbyist Registration Act (Lobbyist Act), which prohibits lobbyists from committing sexual harassment against anyone, also requires a written anti-sexual harassment policy and annual anti-harassment training.<sup>305</sup> As above, starting in 2020, lobbyists must annually complete a broader “harassment and discrimination prevention training program,” provided by the Secretary of State.<sup>306</sup>

### C. Other Considerations for the Capitol Workplace

As indicated above, workplace harassment laws are often determined on a case-by-case basis regarding, for example, employment status, setting, severity, and pervasiveness. For the Capitol workplace, the Speaker’s Office, and similar employers, there are additional variables to consider, such as freedom of speech and legislative immunity.

#### *Freedom of Speech*

Public workers have speech rights under the First Amendment of the U.S. Constitution, which include protection from retaliation for exercising those speech rights.<sup>307</sup> This does not mean that workers have the right to say whatever they

<sup>302</sup> See Pub. Act. 1010-0221 (S.B. 0075) (August 9, 2019) (adding 430 ILCS 20/10.5(a-5)).

<sup>303</sup> See 775 ILCS 5/2-105(A)(4).

<sup>304</sup> See 10 ILCS 5/7-8.03.

<sup>305</sup> See 25 ILCS 170/4.7. The Illinois Secretary of State’s Office of Inspector General and the Executive Ethics Commission administer this prohibition. See 25 ILCS 170/7 and 10(a-5). The Lobbyist Act also gives the Legislative Inspector General the authority to update complainants and subjects of an investigation on the status of an investigation, including when an investigation is opened and closed. See 5 ILCS 430/25-90.

<sup>306</sup> See Pub. Act. 1010-0221 (S.B. 0075) (August 9, 2019) (adding 25 ILCS 170/4.7(b-5)).

<sup>307</sup> See U.S. Const. Amend. I. See also Ill. Const. Art. IV, § 4. “For a public employee’s speech to be protected under the First Amendment, the employee must show that (1) he made the speech as a private citizen, (2) the speech addressed a matter of public concern, and (3) his interest in

want. According to the U.S. Supreme Court, for example, “when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.”<sup>308</sup> But the U.S. Seventh Circuit has “acknowledge[d] . . . that there may be some tension between the rights that [complainants] enjoy[] under the First Amendment and Title VII and [employers’, supervisors’, and coworkers’] own First Amendment rights.”<sup>309</sup>

### *Legislative Immunity*

In addition to the speech rights above, Illinois legislators also have protection while engaging in “legislative acts” under common law and the Speech or Debate clauses of the U.S. Constitution and the Illinois Constitution.<sup>310</sup> As described in this section, legislative acts can expand beyond the House floor, and involve more people who

expressing that speech was not outweighed by the state’s interests as an employer in ‘promoting effective and efficient public service.’” *Swetlik v. Crawford*, 738 F.3d 818, 825 (7th Cir. 2013) (quoting *Houskins v. Sheahan*, 549 F.3d 480, 490 (7th Cir. 2008)). See also *Diadenko v. Folino*, 741 F.3d 751, 755 (7th Cir. 2013) (“The First Amendment, incorporated against the states through the Fourteenth Amendment, shields government employees from retaliation for engaging in protected speech.”).

<sup>308</sup> See *Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006). See also *Houskins*, 549 F.3d at 490 (“Determining the official duties of a public employee requires a practical inquiry into what duties the employee is expected to perform, and is not limited to the formal job description.” (citation omitted)).

<sup>309</sup> *Venters v. City of Delphi*, 123 F.3d 956, 977 (7th Cir. 1997) (ultimately holding that the plaintiff alleged more than offense with differing religious views of her supervisor and, instead, alleged that the supervisor used his public position to require his subordinate to conform to his religious views; noting that the supervisor’s First Amendment rights “did not grant him license to make *highly personal remarks* about the status of her soul when informed that these remarks were unwelcome.” (emphasis added)). See also *DeAngelis*, 51 F.3d at 596–97 (“Where pure expression is involved, Title VII steers into the territory of the First Amendment. It is no use to deny or minimize this problem because, when Title VII is applied to sexual harassment claims founded solely on verbal insults, pictorial or literary matter, the statute imposes content-based, viewpoint-discriminatory restrictions on speech.” (citations omitted)).

<sup>310</sup> See *Tenney v. Brandhove*, 341 U.S. 367, 372 (1951) (finding a common law privilege for state legislators “to be free from arrest or civil process for what they do or say in legislative proceedings”); Ill. Const. Art. IV, § 12 (“Except in cases of treason, felony or breach of peace, a member shall be privileged from arrest going to, during, and returning from sessions of the General Assembly. A member shall not be held to answer before any other tribunal for any speech or debate, written or oral, in either house. These immunities shall apply to committee and legislative commission proceedings.”). Cf. U.S. Const. art. 1, § 6, cl. 1 (Senators and Representatives “shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.”).



are not representatives. As a result, the protection for legislative acts can, in theory, be in conflict with certain laws regarding the workplace.

The Supreme Court has quoted founding father James Wilson—who was a member of the Committee of Detail responsible for the Speech or Debate Clause—for the purpose of the common law privilege for state legislators:

In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary, that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of every one, however powerful, to whom the exercise of that liberty may occasion offense.<sup>311</sup>

According to the U.S. Supreme Court, this is a “broad protection” that deliberately “creates a potential for abuse” in favor of an independent legislative process.<sup>312</sup>

In fact, legislative immunity extends to non-legislators who are performing legislative acts.<sup>313</sup> Legislative acts include “anything generally done in a session of the House by one of its members in relation to the business before it” and “conduct at legislative committee hearings.”<sup>314</sup> And protected legislative acts “have long been

<sup>311</sup> *Tenney*, 341 U.S. at 373 (citation and quotation omitted). See also *United States v. Helstoski*, 442 U.S. 477, 491 (1979) (noting that legislative immunity may only be waived “after explicit and unequivocal renunciation of the protection.”).

<sup>312</sup> *Eastland v. U. S. Servicemen’s Fund*, 421 U.S. 491, 510–11 (1975) (the “broad protection granted by the [Speech or Debate] Clause creates a potential for abuse . . . [and] that the risk of such abuse was ‘the conscious choice of the Framers’ buttressed and justified by history . . . to provide the independence” of the legislative process. (citations omitted)). Under federal common law, state legislators “are immune from deterrents to the uninhibited discharge of their legislative duty, not for their private indulgence but for the public good. One must not expect uncommon courage even in legislators. The privilege would be of little value if they could be subjected to the cost and inconvenience and distractions of a trial upon a conclusion of the pleader, or to the hazard of a judgment against them based upon a jury’s speculation as to motives.” *Tenney*, 341 U.S. at 372. Cf. *United States v. Gillock*, 445 U.S. 360, 372 n.10 (1980) (“Despite the frequent invocation of the federal Speech or Debate Clause in *Tenney*, the Court has made clear that the holding was grounded on its interpretation of federal common law, not on the Speech or Debate Clause.”).

<sup>313</sup> See *Gravel v. United States*, 408 U.S. 606, 616 (1972) (“[F]or the purpose of construing the privilege a Member and his aide are to be treated as one.” (internal quotation and citation omitted)). See also *Clinton v. Jones*, 520 U.S. 681, 695 (1997) (“As our opinions have made clear, immunities are grounded in ‘the nature of the function performed, not the identity of the actor who performed it.’” (citation omitted)).

<sup>314</sup> *Gravel*, 408 U.S. at 624 (internal citations omitted). See also *United States v. Brewster*, 408 U.S. 501, 516 (1972) (citing cases that refer to other legislative acts, such as voting for resolution, speech during legislative hearings, speeches on the House floor, subpoenaing records for a committee hearing, and voting for a resolution). In comparison, political activities—such as

held to extend beyond mere discussion or speechmaking on the legislative floor.”<sup>315</sup> This includes, for example, “staff analyses of bills,” “discretionary use of party resources,” “drafting assistance,” and “setting legislative priorities,” such as scheduling bills and how to ensure legislators are ready to vote on bills.<sup>316</sup> In fact, personnel decisions based on, or inseparable from, legislative acts may be immune from employment discrimination cases.<sup>317</sup>

“making . . . appointments with Government agencies, assistance in securing Government contracts, preparing so-called ‘news letters’ to constituents, news releases, and speeches delivered outside the Congress”—are not protected legislative acts. *See, e.g., Miller v. Transamerican Press, Inc.*, 709 F.2d 524, 530 (9th Cir. 1983) (gathering information); *Thillens, Inc. v. Community Currency Exchange Ass’n. of Illinois, Inc.*, 729 F.2d 1128 (7th Cir. 1984) (lobbying fellow legislators); and *Davis v. Passman*, 442 U.S. 228, 235 n.11, 246 (1979) (noting that a Congressman’s termination of an employee may have been shielded from a sex-discrimination suit under the Speech or Debate Clause). Likewise, administrative acts, such as “hiring or firing a particular employee,” are similarly unprotected. *McCann v. Brady*, 909 F.3d 193, 199 (7th Cir. 2018) (quoting *Bogan v. Scott-Harris*, 523 U.S. 44, 56 (1998)).

<sup>315</sup> *Reeder v. Madigan*, 780 F.3d 799, 802 (7th Cir. 2015) (citing *Kilbourn v. Thompson*, 103 U.S. 168, 204 (1880) (“It would be a narrow view of the constitutional provision to limit it to words spoken in debate.”) and *Gravel*, 408 U.S. at 625 (“The heart of the Clause is speech or debate in either House. Insofar as the Clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House. . . . [C]ourts have extended the privilege to matters beyond pure speech or debate in either House, but ‘only when necessary to prevent indirect impairment of such deliberations.’” (internal citations omitted))).

<sup>316</sup> *McCann v. Brady*, 909 F.3d 193, 197–98 (7th Cir. 2018) (“The Speech or Debate Clause, and the doctrine of legislative immunity on which it rests, essentially tells the courts to stay out of the internal workings of the legislative process.”). Recently, and notable for the purposes of this report, the Seventh Circuit held that an Illinois General Assembly leader’s decisions about who is included within their caucus and how to allocate their resources are legislative acts, protected by legislative immunity. *Id.* at 197 (where the Minority Leader, William Brady, removed Senator William McCann from the Minority Caucus and its corresponding resources). The Seventh Circuit held that “allocations of district office funds from the legislative appropriation . . . fit the description the *Bogan* Court used to describe a substantively legislative act: ‘a discretionary, policymaking decision implicating the budgetary priorities of the [House].’” *Id.* at 199 (quoting *Youngblood v. DeWeese*, 352 F.3d 836 (3d Cir. 2003) (holding that “state representatives enjoy legislative immunity from another representative’s claim that they unfairly allocated the legislature’s office-staffing appropriation in violation of her civil rights.”). *Cf. Bogan v. Scott-Harris*, 523 U.S. 44, 45 (1998) (“[T]he hallmarks of traditional legislation . . . reflect[] a discretionary, policymaking decision implicating . . . budgetary priorities and its services to constituents . . .”).

<sup>317</sup> *See, e.g., Fields v. Office of Eddie Bernice Johnson*, 459 F.3d 1, 16 (D.C. Cir. 2006) (noting that the employing office in an employment-discrimination case can avoid suit if the case requires inquiry into legislative activity). And relevant evidence in the sphere of legislative activity may still be privileged from discovery in employment discrimination cases that are not completely precluded. *See id.* at 14 (citations omitted).

Furthermore, courts will not question the motive behind a legislative act. According to the Supreme Court, “whether an act is legislative turns on the nature of the act, rather than on the motive or intent of the official performing it.”<sup>318</sup> It is “not consonant with our scheme of government for a court to inquire into the motives of legislators.”<sup>319</sup>

But legislative actions still have consequences. If civilians are accountable to the public for how they exercise their First Amendment rights, legislators are especially accountable to the public for their legislative acts. In fact, legislative actors are, perhaps, the most politically accountable branch of government.<sup>320</sup>

#### D. Codes of Conduct

As reflected in the previous sections, the legal landscape regarding workplace harassment is evolving, and there has been a general lack of clarity regarding the precise applicability of certain laws to the Capitol workforce. As a result, the codes of conduct—specifically the Speaker’s Policies—take on added significance. These codes provide the clearest, most easily understandable, and most widely applicable rules, and they do not require workers to conduct a complex legal analysis to understand the parameters of acceptable conduct.<sup>321</sup> For this reason, we chose to apply the corresponding codes of conduct for workers, representatives, and lobbyists in the body of this report.

This section provides additional details regarding the Illinois Governmental Ethics Act, the Illinois House Rules, and the Speaker’s Office’s Personnel Rules and Regulations.

<sup>318</sup> *Bogan*, 523 U.S. at 54–55 (“Furthermore, it simply is ‘not consonant with our scheme of government for a court to inquire into the motives of legislators.’” (quoting *Tenney*, 341 U.S. at 377)). See also *Brewster*, 408 U.S. at 512 (“In sum, the Speech or Debate Clause prohibits inquiry only into those things generally said or done in the House or the Senate in the performance of official duties and into the motivation for those acts.”).

<sup>319</sup> *Tenney*, 341 U.S. at 372. See also *Lake Country Estates, Inc.*, 440 U.S. at 405.

<sup>320</sup> *Tenney*, 341 U.S. at 378 (“In times of political passion, dishonest or vindictive motives are readily attributed to legislative conduct and as readily believed. Courts are not the place for such controversies. Self-discipline and the voters must be the ultimate reliance for discouraging or correcting such abuses.” (internal citations omitted)). See also *McCann*, 909 F.3d at 198 (“Allowing politics to play a role in politics does not violate the First Amendment.”).

<sup>321</sup> Senate Bill 75 also updates several policy requirements. See Pub. Act 101-0221 (S.B. 0075) (August 9, 2019).

### *The Illinois Governmental Ethics Act*

The Illinois Governmental Ethics Act provides guidance for various public officials, including members of the General Assembly.<sup>322</sup> While the Illinois Governmental Ethics Act does not specifically prohibit harassment, the Act provides the following guidance: “No legislator may engage in other conduct which is unbecoming to a legislator or which constitutes a breach of public trust.”<sup>323</sup>

### *Illinois House Rules*

As the name suggests, the Illinois House Rules provide various rules for the House, including the procedures to elect the Speaker and the Minority Leader, the appointment of committee members, and the general conduct of business.

For example, according to the Illinois House Rules, the Speaker is responsible for, among other things, preserving “order and decorum” during active session on the House floor and in committees.<sup>324</sup> House Rule 89 governs “disorderly behavior.” On May 31, 2018, the House added House Rule 89.5, which “strongly” encourages representatives to report conduct that he or she “reasonably believes to be sexual harassment, discrimination, or other unethical conduct to the Speaker, the Minority Leader, an Ethics Officer, or the Legislative Inspector General.”<sup>325</sup>

Specifically, the House may punish a representative for disorderly behavior and even expel a representative with two-thirds of the House.<sup>326</sup>

### *The Speaker’s Office’s Personnel Rules and Regulations*

The Speaker’s Office’s Personnel Rules and Regulations (Speaker’s Policies) impose a higher standard of behavior on workers than federal and state laws. Unlike Title VII, these rules and regulations are a “civility code,” identifying ideal behavioral standards for all workplace conduct.

<sup>322</sup> See 5 ILCS 420/et seq.

<sup>323</sup> See 5 ILCS 420/3-107. Considering changes to this requirement, the Illinois House Task Force “acknowledged that standards and guidelines would be necessary to define ‘conduct unbecoming,’ especially if the Commission may impose fines and other punishments that may implicate due process.” See *House Task Force Report* (January 30, 2019) at 20 n.33. On January 8, 2019, House Bill 5878—which would add specific penalties for Governmental Ethics Act violations, including for failure to complete anti-sexual-harassment training—was adjourned indefinitely.

<sup>324</sup> See, e.g., *House Rules for the 100th General Assembly* (2017) at Rule 4(c)(6), and *House Rules for the 101st General Assembly* (2019) at Rule 4(c)(6).

<sup>325</sup> This House of Representatives of the One Hundred First Assembly of the State of Illinois renewed Rule 89.5 on January 29, 2019. Available at <http://www.ilga.gov/legislation/101/HR/PDF/10100HR0059lv.pdf> (last visited July 8, 2019).

<sup>326</sup> Ill. Const. Article IV, § 6(d).

The Speaker's Policies were most recently updated in December 2017, which is attached to this report as [Attachment 2](#).

Using the standards of the Ethics Act, the Speaker's Policies expressly prohibit sexual harassment.<sup>327</sup> The Speaker's Policies also specifically prohibit discrimination based on protected classes using similar language to the Illinois Human Rights Act.<sup>328</sup> As described above, however, the language in workplace harassment statutes can create ambiguities about who the statute applies to and what conduct is prohibited. Since the Speaker's Policies track the same language as some of the statutes, without specific examples for the Speaker's Office, those sections can present workers with the ambiguities about appropriate workplace conduct.

The Speaker's Policies, however, go further and require workers to "discharge their duties in a courteous and efficient manner as prescribed by the Office of the Speaker."<sup>329</sup> While "discourteous and inefficient" is somewhat undefined, it is clearly broader than any of the precedent regarding conduct that is sufficiently severe or pervasive to qualify as harassment. For this reason, we used the Speaker's Policies—and corresponding code of conduct for other workers in the Capitol workplace—for our analysis of the three sets of allegations we investigated.

<sup>327</sup> See *id.* at Articles 8 and 5, respectively.

<sup>328</sup> See Speaker's Policies (December 2017) at Article 7. Cf. 775 ILCS 5/1-102(A) and 1-103(Q).

<sup>329</sup> See Speaker's Policies (December 2017) at Article 2.

**Attachment 2.**  
**The Speaker's Office's Personnel Rules and Regulations**  
**(Effective December 2017)**

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ILLINOIS HOUSE OF REPRESENTATIVES

**OFFICE OF THE SPEAKER**

**MICHAEL J. MADIGAN, SPEAKER**

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Personnel Rules and Regulations

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Effective December 11, 2017

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**OFFICE OF THE SPEAKER  
ILLINOIS HOUSE OF REPRESENTATIVES  
PERSONNEL RULES AND REGULATIONS**

The following Personnel Rules and Regulations of the Office of the Speaker of the Illinois House of Representatives (hereafter referred to as “Office of the Speaker”) are provided to establish an orderly system within which work assignments shall be performed.

**1. SCOPE**

These Personnel Rules and Regulations shall apply to all employees under the jurisdiction of the Office of the Speaker.

**2. PURPOSE AND EMPLOYEE CONDUCT**

These personnel rules and regulations are intended to be a guide to employee conduct and the operations of units under the jurisdiction of the Office of the Speaker. Additional guidelines and requirements may be established for each unit as necessary. However, neither these rules and regulations, nor any other personnel documents which may be posted or distributed from time to time, should be considered a contract of employment.

Employees shall discharge their duties in a courteous and efficient manner as prescribed by the Office of the Speaker.

**3. HIRING**

Applicants will be required to provide evidence as to their ability to fulfill the requirements of the position for which they are applying. All decisions related to hiring shall be made by the Speaker or the Chief of Staff.

All new employees are required to present two forms of identification for proof of employment verification. Employees must present a valid driver’s license, State of Illinois I.D. Card, Military I.D., Social Security Card, certified birth certificate, or valid passport.

**4. EMPLOYMENT AT WILL**

All employees under the jurisdiction of the Office of the Speaker are employed “at will”, which means they may be terminated, for any or no reason, and with or without prior notice, at any time, at the option of the Office of the Speaker. The employee may terminate employment upon a two-week written notice. Nothing in these policies or other publication, practice, policy, guideline,

rule, or oral or written representation is to be interpreted to the contrary.

All wages, benefits, policies, procedures, practices and rules of the Office of the Speaker may be interpreted, changed, or eliminated at the discretion of the Office of the Speaker at any time, with or without prior notice.

#### **5. CONTRACTUAL EMPLOYEES**

A contractual employee is defined as an employee hired for a period of less than six months or the duration of session. Employment of a contractual employee may extend more or less than six months depending on the needs of the House of Representatives.

Contractual employees shall not earn vacation, sick leave, personal leave, compensatory time, or be eligible for any of the State-paid benefits granted full-time or part-time employees unless provided for by contract. However, exceptions may be made to this rule at the discretion of the Chief of Staff.

All contractual employees under the jurisdiction of the Office of the Speaker shall be employed as provided by the terms of the contract. Such contracts shall indicate that contractual employees may be terminated, for any or no reason, and with or without prior notice, at any time, at the option of the Office of the Speaker.

#### **6. PROBATIONARY PERIOD**

A probationary period of six months shall be served by all employees hired for positions under the jurisdiction of the Office of the Speaker. An employee may be terminated at any time during the course of the probationary period. Successful completion of the probationary period does not entitle an employee to a right to appeal a decision to terminate the employment relationship.

#### **7. PROHIBITION OF DISCRIMINATION**

Discrimination against any person in recruitment, examination, appointment, hiring, training, promotion, discipline, termination, or conditions of employment because of race, color, religion, military discharge, national origin, ancestry, ethnicity, disability, sexual orientation, age, gender, marital status, or pregnancy is prohibited except to the extent that a bona fide job qualification is involved.

Any cases of alleged discrimination should be immediately reported to an immediate supervisor. A supervisor shall make all reports known to the unit director or section supervisor, and the unit director or section supervisor shall

report to the Chief of Staff. If any supervisor is involved, an employee may report directly to the unit director or section supervisor, or if the unit director or section supervisor is involved, the employee may report directly to the Chief of Staff. If the Chief of Staff is involved, an employee may report directly to the Speaker.

## **8. PROHIBITION OF SEXUAL HARASSMENT**

All employees have the right to work in an environment free from sexual harassment, and all employees shall refrain from sexual harassment. All persons subject to this policy are prohibited from sexually harassing any person, regardless of an employment relationship or lack thereof.

For purposes of this policy, "sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. For purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties and does not require an employment relationship.

Any employee who believes himself/herself to be the object of sexual harassment or who observes another employee being subjected to sexual harassment is encouraged to bring the incident to the attention of the unit director or section supervisor, ethics officer, Chief of Staff, the Speaker, or the Legislative Inspector General. If the alleged harasser is the unit director or section supervisor, or the ethics officer, the complaint should be filed directly with the Chief of Staff. If the Chief of Staff is the alleged harasser, the complaint should be filed with the Speaker. All sexual harassment complaints shall be reported to the ethics officer, and the ethics officer shall establish an action plan. An individual may also submit complaints to the Department of Human Rights or seek outside counsel.

A complaint shall remain confidential unless the complainant agrees to the release of his/her name.

Pursuant to whistleblower protections under the State Officials and Employees Ethics Act, the Whistleblower Act, and the Illinois Human Rights Act, no employee shall be retaliated against for reporting, making a complaint, providing information or testimony, or otherwise assisting or participating in an investigation or proceeding regarding an alleged incident of sexual harassment. Any employee who believes they may be the subject to retaliation should report directly to the ethics officer or Legislative Inspector General. An employee may also contact the Department of Human Rights.

Each unit director or section supervisor is responsible for maintaining a workplace free from sexual harassment. Each unit director or section supervisor must address an observed incident of sexual harassment or a complaint, take prompt action to notify the ethics officer, investigate, ensure that such activity ceases, take appropriate disciplinary action, and maintain strict confidentiality unless the complainant agrees to the release of his/her name. If the unit director or section supervisor fails to take prompt action to investigate an incident or complaint, the complaint should be filed with the Chief of Staff. If the Chief of Staff fails to take prompt action to investigate, the complaint should be filed with the Speaker.

Any employee who violates the prohibition on sexual harassment, or knowingly makes a false report regarding sexual harassment, shall be subject to discipline, including immediate termination, suspension, or reduction in pay. Any such employee additionally may be subject to a fine of up to \$5,000 per violation by the Legislative Ethics Commission. Any person who knowingly makes a false complaint to the Legislative Ethics Commission, the Legislative Inspector General, or any law enforcement official may also be guilty of a Class A misdemeanor.

#### **9. OFFICE HOURS**

Office hours shall be 8:30 a.m. to 4:30 p.m. in Springfield, and 9:00 a.m. to 5:00 p.m. in Chicago. Office hours may be extended at the discretion of the Speaker, the Chief of Staff, the unit director, or section supervisor when the House is in session and/or when work is required.

#### **10. LUNCH HOUR AND BREAKS**

The unit director or section supervisor shall establish a lunch hour schedule to be taken and completed between the hours of 10:00 am and 3:00 pm to assure the office is sufficiently staffed at all times. Lunch hours may not be used to shorten the workday unless the employee receives prior approval. Should the

workload permit, employees may take one 15-minute break in the morning and one 15-minute break in the afternoon.

Taking of the lunch hour and breaks is subject to the needs of the office and the responsibilities of the employee and may be adjusted accordingly. Any employee violating this policy may be subject to disciplinary action and possible dismissal.

#### **11. FULL-TIME MINIMUM HOUR WORK WEEK/FLEX-TIME**

Unless otherwise provided, employees are required to work a minimum of 35 hours per week. Minimum hour requirements for contractual and part-time employees may be established on an individual basis as provided in the contract or at the discretion of the Chief of Staff.

In units where the work schedule will allow, and subject to additional guidelines that may be established by the Chief of Staff, unit director, or section supervisor, employees may meet the minimum weekly hour requirement using up to 3 hours of flex-time per week. Once an employee has exercised as many as 3 hours of flex-time in one week, the unit director or section supervisor should be notified before additional flex-time hours are used for that week. The Chief of Staff, unit director, or section supervisor may approve the use of more than 3 hours of flex-time per week on a case-by-case basis.

For any amount of time “flexed,” which may include irregular hours during the regular workday, that amount of work must be made up by the employee during the same week and recorded by the employee in the employee’s time sheets. Office hours for employees using flex-time may also begin and end earlier or later than established hours.

#### **12. TIMEKEEPING REQUIREMENTS**

For each pay period, employees shall document the time spent each day on official State business to the nearest quarter hour. Such documentation shall be signed and dated by the employee and submitted to the appropriate supervisor or timekeeper no later than noon on the day following the end of the pay period. In the case of an absent employee due to scheduled time off, the employee is responsible for submitting the necessary documentation on the last day they are scheduled to work. Each unit shall maintain such documentation for at least 2 years; however, the Chief of Staff may require units to maintain documents for an extended period of time.

It is the responsibility of the appropriate supervisor or timekeeper to submit timesheets, as well as any other documents required by the appropriate fiscal office, to the appropriate fiscal office by the end of business day following the end of the pay period. Time sheets shall be submitted on paper and shall be maintained by the appropriate fiscal office for at least 2 years; however the Chief of Staff may require the fiscal offices to maintain time sheets for an extended period of time.

Contractual employees may satisfy this requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement.

### **13. LEGAL HOLIDAYS**

Holidays prescribed by State law shall be observed unless the House is in session and/or when work is required. Additional holidays may be observed at the discretion of the Speaker.

To be eligible for holiday pay, employees shall work the employee's last scheduled work day before the holiday and first scheduled work day after the holiday, unless absence on either or both of these work days is for good cause and approved by the section supervisor or unit director. Contractual employees are not eligible for holiday pay except as provided by contract or prescribed by State law.

### **14. REQUESTS FOR TIME OFF**

All requests for use of vacation, personal, or compensatory time off must receive prior approval from an employee's supervisor. An employee must fill out a request for time off sheet and present it to the supervisor prior to using the time. Exceptions may be made for use of sick days and emergency situations. No time off shall be taken during periods when the House is in session without the prior approval of the unit director.

All supervisors' requests for time off should be approved in advance by the unit director. Unit directors' requests for time off should be approved by the Chief of Staff. Legislative secretaries under the House Clerk's office must have their time off request approved in advance by their assigned Representatives as well as the secretarial supervisor for the caucus.

Failure to follow these procedures could result in the docking of an employee's pay at the discretion of the unit director, subject to approval of the

Chief of Staff. Employees who use a vacation, personal, or compensatory day without prior approval are subject to being docked for the time they were absent, even if they have time available.

**15. COMPENSATORY TIME**

Compensatory time shall be granted, at the discretion of the Speaker, to compensate for extra time worked beyond the normal work schedule. Such time must be used at the convenience of the unit to which the employee is assigned and prior to August 1 of the following year, subject to advance approval of the unit to which the employee is assigned. At the discretion of the Speaker or the Chief of Staff, the deadline may be extended. No salary payment shall be made in lieu of authorized compensatory time not used by the employee.

**16. VACATION**

Full-time employees shall earn vacation time at the following rates, determined by the amount of their creditable State service. Vacation time for eligible part-time employees shall be prorated on the basis of the number of regularly scheduled hours worked per month to the number of regularly scheduled hours worked by full-time employees. Contractual employees shall not earn vacation time unless provided for by contract.

<b>Years of State Service</b>	<b>Days Earned Per Year</b>
0 through 5 years	10 work days
6 through 9 years	15 work days
10 through 14 years	17 work days
15 through 19 years	20 work days
20 through 25 years	22 work days
26 plus years	25 work days

The monthly vacation earn rate is computed in tenths of days. All earn rate changes shall be made at the beginning of the month following completion of the required creditable State service.

A full-time employee in pay status for fifteen days or more during the month shall earn leave at the established rate. (i.e., 15 days - one-half of monthly earn rate; 20 days - full monthly earn rate.)

Leave may be taken in increments of one-fourth, one-half, three-fourths, or full days, **after** it is earned. When accrued leave is taken in increments of one-fourth, one-half, or three-fourths day, no lunch break shall be taken.



Vacation time earned but not taken during the calendar year may be accumulated for no more than two years. Staff employed prior to June 30, 1982 may carry over vacation balance "grandfathered" in June 30, 1982. However, as the excess vacation days are depleted, the maximum carry-over would then fall into the two-year carry-over provision. At the discretion of the Speaker or the Chief of Staff, the deadline may be extended.

Vacation time shall not be taken during periods when the House is in session without the approval of the unit director or section supervisor and the Speaker or the Chief of Staff.

No salary payment shall be made in lieu of vacation not taken, except when an employee terminates employment with the House of Representatives.

#### **17. SICK LEAVE**

Full-time employees shall accrue sick leave at the rate of one day per month. Sick leave for eligible part-time employees shall be prorated on the basis of number of hours worked per month to the number of hours worked by full-time employees. Contractual employees shall not accrue sick leave unless provided for by contract. Sick leave may be used, at the discretion of the unit director or section supervisor, for the following reasons: (i) personal illness, (ii) disability or injury, (iii) appointments with a doctor, dentist or other recognized practitioner in the health field, or (iv) for an immediate family member for appointments with a doctor, dentist or other recognized practitioner in the health field, a serious illness, disability, injury or death. "Immediate family member" shall mean spouse, domestic partner, children (including children of a spouse or children in-law), parent (including stepparent), spouse's parent, grandparent, spouse's grandparent, sibling, spouse's sibling, or any person living in the employee's household.

Employees using sick leave are required to notify their unit director, section supervisor, immediate supervisor, or designee as soon as possible but no later than the prescribed beginning of the scheduled work day. Exceptions to this rule are in order only in the case of an emergency.

Use of sick time on a Monday or Friday to extend a weekend or holiday is prohibited. A unit director or section supervisor may require an employee to furnish a physician's Statement indicating that the employee has been under the physician's care for the period of absence of work.

When sick leave has been used for more than 5 consecutive work days, the employee upon his or her return to work may be required to furnish the unit

director or section supervisor with a physician's Statement indicating that the employee or employee's immediate family member has been under the physician's care for the period of absence from work and that the employee or employee's immediate family member has been released from the physician's care and if related to the illness, disability or injury of the employee, the employee is capable of resuming his or her regular duties.

Any employee violating this policy is subject to disciplinary action and possible dismissal.

#### **18. PERSONAL LEAVE**

Full-time employees shall be allowed three days per calendar year for personal business, at the rate of one-half day for each two months worked. New employees hired during the year shall be granted personal leave at the rate of one-half day for each two months' service for the calendar year in which hired. Personal leave shall not be accumulated from year to year and no payment shall be made for unused personal leave.

Contractual employees shall not be granted personal leave unless provided for by contract.

#### **19. LEAVE OF ABSENCE WITHOUT PAY**

Approval of a request for a leave of absence, including family leave, with proper documentation, shall be at the discretion of the Speaker or Chief of Staff. If approved, such leave of absence shall not exceed six months, but may be extended for an additional six months by the Speaker or Chief of Staff. No part-time or contractual employee shall be granted a leave of absence. Failure to return from leave within 5 days after expiration date may be cause for discharge.

#### **20. FAMILY RESPONSIBILITY LEAVE**

If no other leave is appropriate, an eligible employee may request a leave to fulfill family responsibilities, such as provide custodial care to an infant or an incapacitated family member, or respond to the temporary dislocation of the family due to a disaster. Verification of the necessity of such leave is required and may be provided by a physician, or in certain circumstances, a social worker or psychologist's written report, the court, or an independent source. Employees seeking to take this type of leave must provide at least 15 days' advance notice to the unit director, unless such leave is precluded by emergency conditions. Under the Federal Family and Medical Leave Act, the State will continue to pay its portion of health and dental insurance premiums for an employee who takes a leave to care for a sick family member.

## **21. MATERNITY/PATERNITY LEAVE**

Four weeks (20 days) paid maternity or three weeks (15 days) paid paternity leave may be available for eligible employees who become parents. Leave may apply to either the father or mother, but not both if both are employed by the State. Employees who adopt children are also eligible for maternity/paternity leave. Employees will be eligible if certification requirements have been met.

To qualify for leave in the case of a pregnancy, an employee must: (1) be covered by the State group insurance program; (2) pre-certify the pregnancy with his/her insurance carrier no later than the end of the second trimester.; and (3) submit a 'Certification of Pregnancy and Expected Due Date' form completed by the attending physician to the unit director no later than the 26th week of pregnancy. To qualify for leave in the case of adoption, an employee must provide information documenting the adoption to the unit director. All forms and documentation required to be submitted shall be filed in the employee's official personnel file as evidence that requirements were met for the maternity/paternity leave.

Recording of maternity/paternity leave will be handled as a timekeeping procedure much the same as vacation, sick leave, court attendance, and other time away from work with pay benefits. Daily attendance records should be marked MPL for the maternity/paternity paid leave. This leave, whether for a newborn or adoption, is for consecutive days and may not be broken up over a period of time. The leave will normally begin following birth of the child or adoption and should occur prior to commencement of any retirement system disability benefits for which the employee is eligible.

## **22. BEREAVEMENT LEAVE**

Employees experiencing the death of an immediate family member shall be allowed three days paid leave, which shall be taken immediately after the death unless otherwise authorized by the Chief of Staff. "Immediate family member" shall mean spouse, children (including children of a spouse), parent, grandparent, sibling (including sibling of a spouse), spouse's parent or grandparent, or any person living in the employee's household.

## **23. MILITARY LEAVE**

### **Military and Peace Corps Leave**

A leave of absence shall be allowed to an employee who enters military service or the Peace Corps as provided in the Illinois Administrative Code and as

may be required by law.

#### **Military Reserve Training and Emergency Call-Up**

Any full-time employee who is a member of a reserve component of the Armed Services, the Illinois National Guard or the Illinois Naval Militia, shall be allowed annual leave with pay for one full pay period, and such additions or extensions to fulfill the military reserve obligation. Such leaves will be granted without loss of seniority or other accrued benefits.

In the case of an emergency call-up (or order to State active duty) by the Governor, the leave shall be granted for the duration of said emergency with pay and without loss of seniority or other accrued benefits. Military earnings for the emergency call-up paid under the Military Code of Illinois (20 ILCS 1805/1.01, et seq.) must be submitted and assigned to the employing agency, and the employing agency shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earnings for the period, the employing agency shall return the difference to the employee.

To be eligible for reserve leave or emergency call-up pay, the employee must provide the unit director or section supervisor with a certificate from the commanding officer of his/her unit that the leave was taken for either such purpose.

Any full-time employee who is a member of any reserve component of the United States Armed Forces or any reserve component of the Illinois State Militia shall be granted leave from State employment for any period actively spent in such military service including basic training and special or advanced training, whether or not within the State, and whether or not voluntary.

During such basic training and up to 60 days if special or advanced training, if such employee's compensation for military activities is less than his/her compensation as a State employee, he/she shall receive his/her regular compensation as a State employee minus the amount of his/her base pay for military activities. During such training, the employee's seniority and other benefits shall continue to accrue.

#### **24. DISASTER SERVICE VOLUNTEER LEAVE**

An employee who is a certified disaster service volunteer of the American Red Cross or assigned to the Illinois Emergency Management Agency to assist with disaster relief may be granted leave with pay for up to 20 working days in

any 12-month period to participate in disaster relief services for the American Red Cross or the Illinois Emergency Management Agency. The employee must submit to the unit director or Chief Clerk a letter from the Red Cross or Illinois Emergency Management Agency requesting such service and a letter from the employee requesting leave in accordance with the Disaster Service Volunteer Leave Act. The leave must be approved by the Chief of Staff.

#### **25. ATTENDANCE IN COURT**

Any full-time employee called for jury duty or subpoenaed by a legislative, judicial, or administrative tribunal shall be allowed time away from work with pay. Upon receiving the sum paid for jury duty or witness fee, the employee shall submit the warrant or its equivalent to the Fiscal Unit to be returned to the fund in the State Treasury from which the original payroll warrant was drawn. However, an employee may elect to fulfill such call or subpoena on accrued time off or personal leave and retain the full amount received for such services. Contractual employees shall be allowed time off without pay for such purposes and shall be allowed to retain the sum paid for services rendered.

#### **26. DONATION OF BLOOD OR ORGAN**

Employees employed for at least 6 months may request time off with pay for the purposes of donating an organ, bone marrow, blood, or blood platelets. Contractual employees shall be allowed time off without pay for such purposes.

Employees will not be required to use accumulated sick or vacation leave time before becoming eligible for organ donor leave. Employees may take up to 30 days leave for organ or bone marrow donation in any 12-month period.

An employee may request time off with pay for up to one hour to donate blood every 56 days. When donating double red cells, employees may take a leave of one and a half hours. When donating blood platelets, employees may take a leave of two hours. Employees must obtain approval from their unit director or section supervisor prior to taking time off to donate blood and shall provide documentation indicating the employee made the donation.

#### **27. TARDINESS**

Employees must be at their work station at the prescribed time for the beginning of the work day. An employee is deemed "tardy" if the employee arrives at their work station after the prescribed time for the beginning of the work day.

“Chronic tardiness” occurs when an employee is late at least three unexcused times in a 30 day period. Upon a third offense during the 30 day period, an employee is subject to being docked one quarter day of pay upon the recommendation of the unit director or section supervisor and the approval of the Chief of Staff. Following a third offense, the employee is subject to further disciplinary action or dismissal.

#### **28. TRANSFERRING ACCUMULATED LEAVE**

Employees transferring from another State agency may transfer personal leave, accumulated sick leave earned in State service, and vacation time not to exceed the amount earned during the past two years. Further, the total payout value of the transferred amount shall not exceed the estimated annual compensation payable to the employee.

#### **29. SEPARATION**

Upon termination of employment by means of resignation, retirement, indeterminate layoff, or discharge, provided the employee is not employed in another position in State service within 4 calendar days of such termination, an employee is entitled to be paid for any vacation earned but not taken or forfeited, in addition to one-half of sick time accrued between January 1, 1984 and January 1, 1998. Such payment shall be made in a lump sum on the payroll at the time of separation in the amount prescribed by law and/or the rules of the Department of Central Management Services. All other benefits shall cease at midnight of the employee’s last working day.

Employees, upon termination of their employment with the Office of the Speaker, shall submit to the section supervisor or unit director their House of Representatives photo identification card, all keys, and other items that are the property of the State of Illinois.

#### **30. SICK LEAVE BANK**

The House of Representatives has a sick leave bank for House employees under the jurisdiction of the Speaker and House Operations employees. There are two separate sick banks: one for employees of the Speaker’s office and another for House Operations employees, which includes employees of the Clerk’s Office and legislative secretaries based in Springfield.

A review committee determines employee eligibility pursuant to the guidelines established herein and with the approval of the Chief of Staff. Any decision made by the committee and approved by the Chief of Staff shall be final and binding.

The definition of catastrophic illness or injury shall be as follows: The House of Representatives' sick leave bank is intended to cover temporarily disabled or incapacitated employees or immediate family members as defined herein, resulting from a life threatening illness or injury or illness or injury of other catastrophic proportions. Documentation by a doctor of such catastrophic illness or injury shall be consistent with applicable rules and/or contractual provisions.

"Immediate family member" shall mean spouse, civil union partner, children, parent, or any person living in the employee's household for whom the employee has custodial responsibility or where such person is financially and emotionally dependent on the employee and where the presence of the employee is needed.

**Eligibility requirements for participating employees:**

- An employee must be a full-time House employee with a minimum of 6 months service who has exhausted all available benefits time.
- An employee must have a minimum of 5 days of accumulated sick time on the books to enroll in the sick leave bank and must have donated at least 1 day of sick leave to become a member. However, an employee may donate additional days as desired at the time of enrollment or any time thereafter.
- An employee may use up to 25 days from the sick leave bank per calendar year upon approval of the review committee.
- An employee may voluntarily enroll at any time, after meeting requirements, but must wait 60 calendar days thereafter before utilizing the sick leave bank.
- A participating employee who transfers from one agency to another shall thereby transfer his or her participation in the sick leave bank.
- No employee shall be permitted to withdraw the sick leave he or she has contributed to the sick leave bank.

Abuse of the use of the sick leave bank shall be investigated and upon a finding of wrongdoing on the part of a participating employee, that employee shall repay all sick leave days drawn from the sick leave bank and shall be subject to other disciplinary action. Employee injuries and illnesses compensated under the Workers' Compensation Act or Workers' Occupational Diseases Act shall not be eligible for sick leave bank use.

Upon termination, retirement or death, neither a participating employee nor the participating employee's estate shall be entitled to payment for unused sick leave donated or acquired from the sick leave bank.

### **31. ON-THE-JOB INJURY**

All on-the-job injuries should be reported immediately. All employees under the supervision of the Clerk shall report injuries to the section supervisor, who shall report the injury to the Clerk. All other employees shall report injuries to the unit director, who shall report the injury to the Chief of Staff. The employee must also immediately contact the Office of the Speaker's workers' compensation coordinator.

An employee who suffers an on-the-job injury shall be allowed full pay during the first 3 working days of absence without utilization of any accumulated sick leave or other benefits. Thereafter, the employee shall be permitted to utilize accumulated sick leave or other benefits unless the employee has applied for and been granted temporary total disability benefits in lieu of salary or wages pursuant to provisions of the Workers' Compensation Act or through the State's self-insurance program.

In the event such service-connected injury or illness becomes the subject of payment of benefits provided in the Workers' Compensation Act by the Industrial Commission, the courts, the State self-insurance program, or other appropriate authority, the employee shall restore to the State the dollar equivalent which duplicates payment received as sick leave or other accumulated benefit time, and the employee's benefit accounts shall be credited with leave time equivalents.

### **32. SUPERVISION**

#### **Leadership**

All employees under the jurisdiction of the Speaker are responsible to the unit director for supervision and direction in their work. The chain of command is the unit director, the Chief of Staff, and the Speaker of the House.

#### **House Operations**

All employees under the supervision of the Chief Clerk are responsible to their section supervisor for supervision and direction of their work. The chain of command is the section supervisor, the Chief Clerk, the Chief of Staff, and the Speaker of the House.



Legislative secretaries who are assigned to work for two Representatives must accept and complete work assigned by both Representatives on an equal and timely basis. The chain of command is the supervisor, the Chief Clerk, the Chief of Staff, and the Speaker of the House.

#### **Absence of Supervisor**

In the absence of an immediate supervisor, an employee should refer necessary requests and communications to the acting supervisor. It is the responsibility of a supervisor to appoint a staff member approved by the unit director to act in their absence. That person should be able to conduct business as needed and be responsible for the daily supervisory decisions for the day. It is ultimately the responsibility of the supervisor to ensure that the functions of that office can continue in their absence. Further, a supervisor should leave contact information for the acting supervisor and unit director in case of a work emergency where they can be reached if needed.

### **33. DISCIPLINARY ACTION**

A formal written notice of warning may be served upon an employee as a disciplinary measure, at the discretion of the section supervisor or unit director. A copy of such notice shall be placed in the employee's official personnel file. Appropriate disciplinary action or dismissal may be executed by the Speaker or the Chief of Staff. An employee is not entitled to any administrative procedures with regard to any disciplinary action, including dismissal.

### **34. GRIEVANCES**

#### **Leadership**

Any employee dissatisfied with working conditions, treatment, etc., is encouraged to file a written complaint with the unit director. If no satisfactory resolution is obtained, the matter may then be taken to the Chief of Staff, then to the Speaker. Every effort will be made to provide remedies for grievances found to be justified.

#### **House Operations**

In the event an employee wants to appeal a decision made by his/her section supervisor, the line of appeal, after the section supervisor, shall be the Chief Clerk, the Chief of Staff and the Speaker.

#### **Decisions to Discipline and/or Terminate Employment**

These grievance procedures should not be construed as guaranteeing an employee the right to appeal a decision by the Office of the Speaker to discipline or to terminate the employment relationship.

### **35. SALARIES**

Salaries shall be established by the Chief of Staff.

### **36. DEVELOPMENT AND PERFORMANCE RATINGS**

New employees shall serve a six-month probationary period. At the end of the probationary period, a performance evaluation shall be prepared by the section supervisor or unit director.

As directed by the Chief of Staff or the Speaker, periodic individual development and performance ratings shall be completed by the section supervisor or unit director on each employee. The rating shall be discussed with the employee and signed by the section supervisor, unit director, and the employee. Copies shall be provided for the employee, the unit director, and the official personnel file maintained in the fiscal unit.

The records shall be used as an aid in staff development and to substantiate recommendations, termination, and/or disciplinary actions.

### **37. PERSONNEL RECORDS**

Personnel records relating to applications, grievances, evaluations, attendance, earned vacation and sick leave, personal leave, compensatory time, and all other information pertinent to employment, including employee time sheets, shall be maintained in the appropriate fiscal office and shall be considered confidential unless disclosure is required by law. Access to personnel records shall be limited to the custodian of the records, the unit director, Counsel to the Speaker, the Chief of Staff, and the Speaker.

An employee or the employee's designated representative may request inspection of the employee's personnel records as provided under the Personnel Record Review Act (820 ILCS 40/0.01 et seq.). Requests to review personnel records shall be in writing and submitted to the Chief of Staff. All requests are subject to the provisions of the Personnel Record Review Act.

### **38. IDENTITY PROTECTION POLICY**

Employees may be asked to provide a social security number for administrative purposes or to verify employment eligibility. In accordance with the Identity Protection Act (5 ILCS 179/1), the Office of the Speaker has an identity protection policy for the collection, maintenance, and use of social security numbers. A copy of the Office of the Speaker's identity protection policy or the Statement of purpose may be obtained from the unit director.

**39. TRANSFER OF DUTIES**

Any employee may be reassigned or transferred to a different position at the discretion of the Speaker or the Chief of Staff in order to achieve total utilization of staff.

**40. HEADQUARTER ASSIGNMENT**

The Speaker shall designate as the official headquarters for each employee Springfield or Chicago for the purpose of determining travel reimbursement.

**41. TRAVEL REIMBURSEMENT**

Reimbursement for travel expenses shall be made to eligible employees on appropriate documentation and in accordance with the Legislative Travel Guide prepared by the Legislative Travel Control Board. However, exceptions to the rules regarding lower rates of reimbursement may be made at the discretion of the Speaker.

Employees seeking reimbursement for travel must annually certify they maintain a valid driver's license and carry vehicle liability insurance coverage of at least the following amounts:

- \$25,000 bodily injury or death of one person in one accident;
- \$50,000 bodily injury or death of two or more persons in one accident; and
- \$20,000 injury to or destruction of property of others in one accident.

**42. OUT-OF-STATE TRAVEL**

Out-of-State travel requests may be granted at the discretion of the Speaker or the Chief of Staff after a properly completed travel request form has been filed with the Chief of Staff.

**43. SMOKE-FREE ILLINOIS POLICY**

The Smoke Free Illinois Act prohibits smoking in public places or any portion of a building open to the public.

The Illinois Department of Public Health, State certified local public health departments, and local law enforcement agencies have authority to enforce the provisions of the Act. Any person may register a complaint for a violation with any of these agencies. A person who smokes in an area where smoking is prohibited may be fined between \$100 and \$250.

House employees located in the capitol complex in Springfield should register their complaints directly to the Secretary of State's police office. House employees located in Chicago or other locations should register their complaints with one of the above mentioned local enforcement agencies.

#### **44. USE OF TELEPHONES AND PORTABLE MEDIA**

State telephones shall be used for official State business only. Unless otherwise prohibited by law, employees may make limited and reasonable use of State telephones for personal business, which use shall not interfere with an employee's official duties, provided that employees shall reimburse the State for any additional charges. House of Representatives employees are prohibited from accepting collect telephone calls.

Employees may make limited and reasonable use of personal cell phones and electronic communication devices for personal use. The use should not interfere with an employee's official duties nor be a distraction in the work environment as determined by a supervisor and/or unit director. Abuse of this policy may result in a restriction on their use and potential disciplinary action at the discretion of the unit director.

Employees with access to portable media items, such as televisions, radios, computer games and videos, should use reasonable discretion in their use. No employee should engage in using these items for entertainment functions outside of their break or lunch time and noise levels must be kept to levels as not to interfere with the work environment in the office.

It is the responsibility of the supervisor to monitor the use of TV, radio, and computers in the office and regulate accordingly. Should the use of TV, radio, or computers become a distraction in the work environment, they shall be removed or restricted accordingly at the discretion of the unit director.

#### **45. USE OF COMPUTERS**

State computers shall be used for official State business only. Unless otherwise prohibited by law, employees may make limited and reasonable use of State computers for personal business, which use shall not interfere with an employee's official duties, provided that employees shall reimburse the State for any additional charges.

All hardware and software provided by the Office of the Speaker is the property of the Office of the Speaker and shall not be altered in any unauthorized fashion. Examples of prohibited alterations include, but are not limited to, downloading any online material (including instant messenger software) or adding unauthorized hardware to a computer.

Only the computer operations personnel are authorized to make changes to hardware or software provided to the House of Representatives by the Office of the Speaker. Authorization may be granted to other individuals by the computer operations department. The authorized user is responsible for the cost of repairing or replacing hardware or software damaged as a result of negligence or abuse committed by the user.

#### **Use of the Internet**

The internet access provided by the Office of the Speaker shall be used by employees for official State business only. Unless otherwise prohibited by law, employees may make limited and reasonable use of State internet access for personal business, which use shall not interfere with an employee's official duties, provided that employees shall reimburse the State for any additional charges resulting. Users shall not put sensitive or confidential information on the Internet. Users shall not send or request offensive or harassing material, and shall not visit websites that contain such material. Internet use history may be reviewed periodically and employees will be held accountable for inappropriate use.

#### **Use of Electronic Mail (e-mail)**

The e-mail system provided for the use of employees of the House of Representatives by the Office of the Speaker shall be used for official State business only. In order to protect the system against viruses, no e-mail or e-mail attachment from an unknown source shall be opened directly from the e-mail management program or saved directly to the hard drive.

Unless otherwise prohibited by law, employees may make limited and reasonable use of State computers for personal business, which use shall not interfere with an employee's official duties, provided that employees shall reimburse the State for any additional charges.

E-mail sent through the House of Representatives computer system is not confidential and is subject to review without the consent or knowledge of the sender or receiver. Employees will be held accountable for inappropriate use.

#### **46. COMMERCIAL SOLICITATION/DISTRIBUTION**

The House of Representatives prohibits commercial solicitation and/or distribution activities during working hours by employees for personal benefit such as selling cosmetics, cleaning products, or other goods or services.

However, the Speaker of the House of Representatives or his designee may, upon request, authorize the solicitation and or distribution by employees for charitable and nonprofit purposes.

#### **47. PROHIBITED POLITICAL ACTIVITIES**

Employees under the jurisdiction of the Speaker of the House shall not engage in prohibited political activity as set forth in Section 5-15 of the State Officers and Employees Ethics Act. Any employee who disregards this policy shall be subject to disciplinary action.

#### **48. GIFTS**

Employees under the jurisdiction of the Speaker shall not solicit or accept gifts in violation of the State's gift ban as set forth in the State Officers and Employees Ethics Act. Employees with questions pertaining to the gift ban should contact the ethics officer.

#### **49. STATEMENT OF ECONOMIC INTEREST**

In accordance with the Governmental Ethics Act, the Speaker shall designate those staff members under his jurisdiction who will be required to file statements of economic interest. The forms are to be distributed to all applicable employees by the ethics officer. The form should be completed and returned to the ethics officer for filing. A copy will be maintained in the employee's personnel file and the original will be sent to the Secretary of State's index division prior to the filing deadline.

#### **50. ETHICS OFFICER**

In accordance with Section 25-23 of the State Officers and Employees Ethics Act, the Speaker shall designate an ethics officer for employees under his jurisdiction. The ethics officer shall respond to employee questions regarding application of the State Officers and Employees Ethics Act and related laws.

#### **51. ETHICS AND SEXUAL HARASSMENT TRAINING**

Employees under the jurisdiction of the Office of the Speaker shall annually complete an ethics training program and a sexual harassment training program conducted by the Office of the Speaker. New employees shall complete the ethics and sexual harassment training programs within 30 days of beginning employment. Each unit director or section supervisor, or their designee, is responsible for notifying employees of training deadlines and for notifying the ethics officer when employees under their supervision have completed the required training.

#### **52. DRESS CODE**

Employees are required to dress in professional business attire on days that the House is in session. When not in session, employees are to maintain a business casual professional dress which excludes jeans, shorts, and t-shirts. Jeans may be worn on Fridays when the House is not in session. Exceptions to the dress code may apply for certain positions or at the discretion of unit director

for the purposes of a special project. It is the responsibility of the supervisor and the unit director to guarantee that a professional working environment is being maintained at all times.

### **53. USE OF STATE VEHICLES**

Employee use of a State vehicle that is the property of the House shall be approved through the Clerk's office where a record of a current driver's license and insurance card must be on file. Any damage or negligence in the use of a State vehicle may result in the employee assuming responsibility for its repair. Further, traffic or parking violations issued to the driver of the State vehicle are the responsibility of the employee, not the Office of the Speaker.

### **54. USE OF DRUGS AND ALCOHOL**

The inappropriate use of drugs and consumption of alcohol by employees during working hours is prohibited. However, the appropriate use of prescription or over-the-counter drugs is allowed.

Disciplinary action and potential termination of employment may be imposed upon an employee for violation of this policy. Violation of this policy includes but is not limited to:

- Reporting for work or working under the influence of narcotics, non-prescription drugs, or controlled substances.
- The use, sale, or possession of narcotics, non-prescription drugs, or controlled substances while in the office or on office time.
- Reporting to work or working under the influence of alcohol.

Employees seeking professional medical assistance in dealing with a controlled substance abuse problem may seek confidential counseling by calling 1-866-659-3848.

### **55. EMERGENCY PROCEDURES**

Each employee of the House will be provided with an emergency evacuation plan for dealing with emergency situations such as fire, tornado, or potential security threats. It is the responsibility of the employee to review the plan to ensure they are aware of the procedures should an emergency situation occur.

Automated External Defibrillators are located in the following areas:

Capitol Building

- House chamber behind a wood panel in the northwest corner near the Assistant Doorkeeper
- Paramedic's Office on the second floor
- Fourth floor at the east end in Room 419
- Fifth floor near the west stairs
- House Committee Room 122

Stratton Building

- Second floor in the center section of the north wing
- Second floor in the center section of the south wing

**56. FREEDOM OF INFORMATION ACT**

An employee receiving a request invoking the Freedom of Information Request Act shall immediately report the request to the Office of the Clerk.





OFFICE OF THE SPEAKER  
HOUSE OF REPRESENTATIVES

ACKNOWLEDGEMENT OF RECEIPT  
OF PERSONNEL RULES AND REGULATIONS  
FOR THE OFFICE OF THE SPEAKER

I, \_\_\_\_\_, hereby acknowledge that I have received and read the Personnel Rules and Regulations for Office of the Speaker. I understand that these Rules and Regulations do not constitute a contract of employment. Furthermore, I understand my employment is at will and neither I nor the employer is bound to a commitment of employment for a period of time other than that previously established in any contract or agreement for services, and the rights of either party to terminate the employment relationship are not limited by these Rules and Regulations. I acknowledge that failure to abide by these Rules and Regulations may be cause for discipline, including termination.

Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_

Office/Unit: \_\_\_\_\_

Date: \_\_\_\_\_

**ACKNOWLEDGEMENT OF PROHIBITION OF SEXUAL HARASSMENT  
OFFICE OF THE SPEAKER**

I, \_\_\_\_\_, hereby acknowledge I have received and read the Personnel Rules and Regulations for Office of the Speaker, and agree to the following:

- 1) I understand that sexual harassment, as defined in these Rules and Regulations, is prohibited.
- 2) I am encouraged to report any alleged violation of this policy, whether I am the object of sexual harassment or observe another person being subjected to sexual harassment. I understand that such reports can be made to my supervisor, unit director, the Ethics Officer, the Chief of Staff, the Speaker, the Legislative Inspector General, or the Department of Human Rights, and that such reports shall remain confidential unless I consent to the release or use of my name. I also recognize that I may also seek outside counsel or utilize any other resources to seek counseling or assistance.
- 3) I understand the Office of the Speaker has a policy, as required by the State Officials and Employees Ethics Act, as well as the Illinois Human Rights Act, prohibiting any retaliation for reporting allegations of sexual harassment, and that if I believe I am subject to retaliation by anyone, including another employee or the Speaker, I should report the retaliation to the Ethics Officer, the Legislative Inspector General, or the Department of Human Rights.
- 4) I understand that a violation of the prohibition of sexual harassment, or knowingly making a false report regarding sexual harassment, may result in immediate termination, suspension, or reduction in pay, and that I may be subject to additional fines by the Legislative Ethics Commission.

Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_

Office/Unit: \_\_\_\_\_

Date: \_\_\_\_\_