

Oregon State Legislature Legislative Equity Officer

Conversations about the role of Legislative Equity Officer were held with:

- Current and former Joint Committee on Conduct co-chairs
- Legislative administrators
- Staff representatives of the IBEW
- Representatives from the law firms of Jackson Lewis and Stoel Rives
- Legislative Counsel
- Legislative Human Resources
- The Capitol Diversity, Equity, and Inclusion Committee

The Role of the Legislative Equity Officer (LEO)

This role was conceived and developed as part of a settlement to the legal suit brought by the Oregon Bureau of Labor and Industries Office of Civil Rights against the Oregon State Legislative Assembly. In addition to the creation of the LEO role, monetary compensation for those who were represented in the suit was also rendered. With assistance from the Oregon Law Commission, Legislative Branch Personnel Rule 27 was amended and enacted in August of 2020 and serves as the governing body of law for this position.

Rule 27 at its base is comprehensive and focuses on harassment, discrimination, and a hostile work environment. The overseeing body for the LEO is the Legislative Joint Committee on Conduct comprised of eight members—four from the House and four from the Senate, equally representing both political parties. Four of the eight members serve as Joint Committee co-chairs. The Joint Committee on Conduct oversees the Legislative Equity Office which will encompass the legislative equity officer and designated office staff such as investigators.

Rule 27 lays out the responsibilities of the LEO and the process for investigating and addressing complaints of harassment, discrimination, and hostile behavior in the workplace. The Rule also provides definitions of harassment, hostile work environment, sexual harassment, and retaliation. The Rule delineates reporting procedures, disclosure processes, complaints, safety and remedial measures, as well as the role of the Joint Committee on Conduct. Lastly, the Rule outlines the parameters of confidentiality and transparency and describes the development of training programs for all legislative constituencies.

The LEO position is currently vacant but was filled initially by an interim consultant in preparation for the hire of a full-time professional. The first hire into the LEO role held the position for two months. Currently, two law firms are managing the complaints, investigations, and training programs.

Leadership Context for the Legislative Equity Officer Role

The Legislative Body

The legislative workplace was described as “toxic” and as a collection of offices that are not well organized and lack structure and consistency relative to day to day work policies and office procedures. Legislators, as employers, need more training and support relative to their roles as supervisors and managers in understanding how to appropriately provide accountability for staff and employees. This will be important as the legislators themselves struggle with self-regulation and accountability. There also appears to be a deficit of knowledge regarding risk and compliance in the workplace and the need for clear checks and balances. As the Joint Committee on Conduct co-chairs and committee members may turn over following an election or new session, it will be necessary for the LEO to continually be developing and establishing working relationships with committee members.

The Legislature’s Work Culture

The Legislature is both a political and divisive environment. The political cycle and the limited time in session does not provide stability for the work of the LEO and, as with other administrative offices, programs and policies must be repeated continuously through every legislative cycle. The legislature does not necessarily function as one administrative body with regard to employee expectations and professional accountability as each legislator hires their own staff. The addition of the IBEW union will add another layer of complexity, including a structure of policies and procedures that will govern a specific classification of employees. There is a widely acknowledged power differential between legislators and all other staff as well as universal acknowledgement that only legislators can hold each other accountable.

The Capitol Diversity, Equity, and Inclusion Committee will be an important partner to the LEO. The committee understands the duality of the LEO role with respect to the complexity of the jobs and responsibilities of all the employees relative to the scope of authority afforded to the legislators. The work of the LEO and this committee have multiple points of intersection that will strengthen the overall work culture of the legislative body.

It is clear that the effectiveness of the next person hired as the LEO will be limited unless and until the legislators understand their role in the process as employers and agree individually to some level of accountability to improve the current work environment.

Current View of the Legislative Equity Officer Role

The two professionals who previously held the position, though different in their approach, did not significantly move the needle in terms of developing systems, processes, staffing, or clarity for the outcomes of the position. At the moment the process is seen as very politicized and there is limited confidence that the Joint Conduct Committee and the LEO, as overseers of the process, can get to a place that is apolitical. The position as it is configured is not viewed as having any independence or power and in actuality the LEO has no authority to sanction or discipline. The LEO role is not currently seen as an autonomous arbiter of the complaint process. The management of conduct complaints was described as “feckless” and the Legislature’s commitment to resolving cases was questioned. There is no clarity among staff as to what falls in the Human Relations realm and what falls to the Legislative Equity Officer role.

There is confusion around the ability of the LEO to keep a complaint confidential and it is not widely understood that the Joint Committee on Conduct is not able to maintain the confidentiality of complaints that rise to their level.

Challenges and Priorities of the Legislative Equity Officer Role

- The legislative equity officer has significant responsibilities and little authority. The LEO will need to get out in front of issues and be proactive as well as clarify the values and mission of the Equity Office.
- The actual Legislative Equity Office needs to be set up, staff hired, and administrative processes codified. As there is no parallel administrative structure in the Legislature, the process will need to be carefully crafted.
- The LEO will need to define the behavior that stakeholders agree is acceptable and professional and clarify the accountability of legislative members to reflect the values agreed upon by the legislative body.
- The issue of accountability is very important and will be critical to the person in the role of LEO as well as to the success of reshaping the work environment of the legislature. The Joint Committee on Conduct is an important stakeholder in creating a foundation from which the LEO can build accountability across all constituent groups and the committee needs to see itself in that light.
- Legislative staff are not clear about what the process is when someone goes to the LEO with a complaint. The LEO must be clear and direct about the equity office priorities, must demonstrate subject matter expertise, and must be transparent about the process.
- There is no clear discernment within the wide array of constituents as to the role of the LEO versus the role of human resources. Many of the foundational respectful workplace policies and employment protocols supported by human resources are the base for preventing behavior that escalates to discrimination, retaliation, and harassment. The LEO and the director of human resources need to be close collaborators around training, policies, and procedures that impact the workplace culture.
- There is significant consternation and conflict around what constitutes confidentiality, what are the boundaries and the limits of confidentiality for the LEO, and what are boundaries and limits of confidentiality for the complainant. There needs to be significantly more training and education about this across all employee and affiliated legislative groups.
- The training programs around harassment, discrimination, and hostile work environment need to be more extensive, clear with relatable examples, and easily available to all employees and other impacted groups.
- The LEO needs to professionalize the processes, policies, and the overall approach of those supervising staff; work to understand the scope and diversity of work within the legislative body; and work with managers to create a culture of professionalism and accountability.

Legislative Branch Personnel Rule 27

There was clear consensus that given the experiences of the last two years that Rule 27 needs to be clarified and amended and that the LEO would be responsible for supporting the Joint Committee for Conduct in moving the appropriate changes through the legislative process. Rule 27 was described as confusing in scope with regard to hostile work environment and the legal definition of harassment. The difference between a conduct report and conduct complaint is unclear and training under the Rule is regimented and could be improved to include more stakeholders. Rule 27 was also described as somewhat “disconnected” from what complainants expect in terms of process and the level of confidentiality that can be provided.

Characteristics of the Successful Candidate

- An ability to withstand the pressure of the legislative leadership
- The capacity to operate in an ambiguous and very fluid environment
- Proficiency in managing and mediating conflict
- Experience leading in a complex partisan organization
- An understanding of how successfully confront harassment and discrimination issues
- A person who is approachable, can be a confidant
- A strong administrator— someone who can build the Legislative Equity Office, oversee staff, and develop the mission and values of the office
- “Rock solid trustworthy”
- An ability to rebuild confidence and faith in the processes and procedures that are in place to identify and mitigate harassment and discrimination
- An aptitude for addressing issues of accountability and personal responsibility
- Some experience with, and understanding of, employment laws would be helpful—the ability to discern unlawful conduct versus a responsible workplace
- A familiarity with the process of changing a work culture

The Search Process Moving Forward

Timeline

Given the November elections and the anticipated changes to the Joint Committee on Conduct membership, the current co-chairs will review and approve the recruitment documents and the search timeline. The actual recruitment for the role will begin in mid-January of 2023 following the naming and installation of any new Joint Committee members and/or co-chairs. This also allows the new LEO to start during a long legislative session which will permit significantly greater contact with legislators generally and the Joint Committee on Conduct specifically.

Onboarding

In an effort to support the transition of the new LEO, Spelman Johnson strongly recommends that the law firms of Stoel Rives and Jackson Lewis continue to manage investigations for a significant period of time following the appointment of the new LEO. This overlap in responsibilities will allow the new LEO to learn the legislative culture, processes, and policies as

well as set up the equity office in a manner that permits a smooth transition of existing cases and time to build the internal administrative process that will be necessary to run the office.

Position Compensation

The search for the new LEO will be a national search as Spelman Johnson will be looking broadly for talent across many sectors, not just government but public, private, and non-profit sectors. In our experience equity professionals are cross-sector professionals in that they are able to work in many different industries and organizations and therefore, the Oregon Legislature will be competing for talent nationally across many different sectors. The current salary range for this position of \$10,675 to \$12,212 per month, given the scope and complexity of the role with the competitiveness of the national market for equity professionals, is not adequate. The scope, accountability and risk of the LEO role will require a seasoned and tested administrator. The LEO position, as the head of a legislative agency, should be in relative alignment with the other agency heads. It is Spelman Johnson's recommendation that this position be reviewed and reclassified.

Spelman Johnson, as a Massachusetts-based firm, is bound by Massachusetts' gender pay equity act, which prohibits us from asking a candidate their salary. We do confirm the organization's target salary range with applicants as they move through the process and communicate any concerns raised about salary and benefits to our clients. As our fee is based on the final salary of the successful candidate, we do not generally engage in direct salary negotiations with candidates on behalf of the client. We do work to provide comprehensive information about salary and benefits to final candidates and do work with human resources to ensure that final candidates have their questions answered about the entire compensation package being offered by the organization. We also report to our clients any salary or benefits information that is voluntarily disclosed by candidates.

Additionally, Spelman Johnson does not provide feedback to individual candidates with regard to any aspect of their participation in the search other than a timely status update reflecting the decision of stakeholders to move them forward to subsequent stages of the search.

Follow Up

- All stakeholders may forward referral suggestions of potential candidates and/or networking resources to Spelman Johnson, who will reach out directly to those individuals.
- The Oregon State Legislature understands that all candidates apply through the Spelman Johnson website. Regardless of how candidates enter the application process for this position, they are considered part of the pool that Spelman Johnson is building on behalf of the Legislature.
- Any employment offer extended prior to completion of all vetting, including formal reference checks, informal reference checks, and background investigation, must be contingent upon satisfactory results of all vetting processes.
- Spelman Johnson will be responsible for conducting reference checks for all campus finalists and a background check will be conducted on the final candidate. Any offer to a final candidate should be contingent on a completed background check.

- Spelman Johnson will provide a confidential EEO/affirmative action report of applicant demographic data at any time it is requested by Human Resources as well as provide an updated report at the close of the search to Human Resources.