

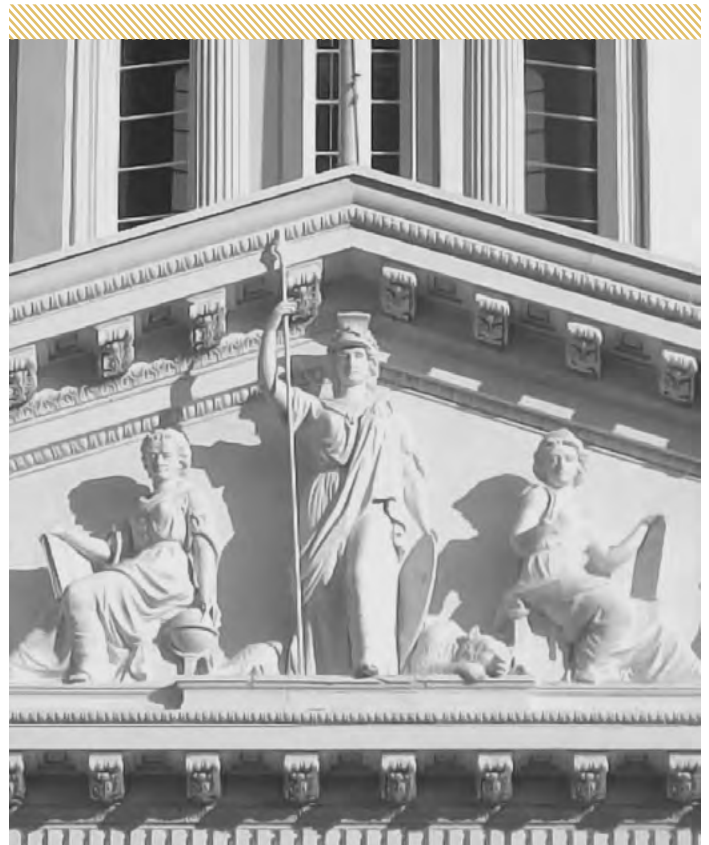
THE WORKPLACE CONDUCT UNIT (WCU) IS A DIVISION OF THE OFFICE OF LEGISLATIVE COUNSEL CREATED TO INVESTIGATE COMPLAINTS OF DISCRIMINATION, HARASSMENT, AND RETALIATION MADE BY MEMBERS OF THE LEGISLATURE, LEGISLATIVE STAFF, AND THIRD PARTIES IN ORDER TO PROMOTE A CULTURE OF RESPECT, CIVILITY, AND DIVERSITY IN THE LEGISLATURE.

WCU investigators are qualified, trained attorneys who are fair and respectful of complainants, witnesses, and respondents. Pursuant to the Legislature's Policy on Appropriate Workplace Conduct (Legislature's Policy), WCU investigators conduct independent and objective investigations of allegations of inappropriate workplace conduct based on a person's protected class, and allegations of retaliation for reporting inappropriate workplace conduct based on a person's protected class. Such protected classes include:

- **AGE** (40 and over)
- **ANCESTRY**
- **COLOR**
- **GENDER**
- **GENDER IDENTITY AND EXPRESSION**
- **GENETIC INFORMATION**
- **MARITAL STATUS**
- **MEDICAL CONDITION** (including cancer and genetic characteristics)
- **MENTAL DISABILITY**
- **MILITARY AND VETERAN STATUS**
- **NATIONAL ORIGIN** (including, but not limited to, language use restrictions)
- **PHYSICAL DISABILITY**
- **RACE**
- **RELIGIOUS CREED** (including, but not limited to, religious dress and grooming practices)
- **SEX** (including, but not limited to, pregnancy, childbirth, breastfeeding, reproductive health decisionmaking, and medical conditions related to pregnancy, childbirth, breastfeeding, and reproductive health decisionmaking)
- **SEXUAL ORIENTATION**
- **ANY OTHER CHARACTERISTIC PROTECTED BY STATE OR FEDERAL LAW**

Conduct that violates the Legislature's Policy may take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, or cartoons that relate to a protected class, such as those that have a racial, sexual, disability, religious, age, or national origin connotation. The conduct need not be unwelcome to the party against whom it is directed; if the conduct reasonably would be considered inappropriate for the workplace, it may violate this policy.

With limited exceptions, the WCU generally investigates allegations of misconduct that took place within three years from the date the misconduct is reported.



INVESTIGATION PROCESS

WCU Assessment of the Complaint

Although the WCU receives many types of complaints, the WCU is only authorized to investigate complaints of workplace misconduct that are within its jurisdiction. Shortly after receiving a report of alleged inappropriate workplace conduct, WCU staff contacts the Reporting Party to obtain additional information about the report. Depending upon how much information the Reporting Party provides to the WCU, WCU staff may need to contact other people or gather other information to assess whether the WCU has jurisdiction over the matter. After obtaining information about the report, WCU staff generally provides the information to one of five independent appointed attorney WCU Panel Members. The Panel Member reviews the information and makes the determination whether the WCU will investigate the alleged misconduct.

In assessing whether the WCU has jurisdiction, and should investigate, a report, the following factors are considered: 1) if there is sufficient information to determine whether the WCU has jurisdiction; 2) whether the claim is made by or against a legislative employee or Member; 3) if the alleged conduct is work-related; 4) if the alleged conduct is based upon a protected class; and 5) whether the alleged conduct took place within three years of the report (in very rare circumstances, the WCU may investigate claims more than three years old).

In general, the WCU does not weigh evidence in making a decision about whether to investigate a claim. Additionally, the WCU generally does not investigate claims of a one-time inappropriate comment where the WCU has not received any other complaints against the person who was alleged to have made the comment.

In cases where it is determined that a claim of inappropriate workplace conduct will not be investigated by the WCU, the Reporting Party will receive a letter, which notifies the person that the report will not be investigated. Although the WCU may not investigate a particular claim, the Senate or Assembly may decide to do so if the alleged conduct may violate a policy of the respective house.

Investigation

The WCU maintains the confidentiality of investigations to the greatest extent possible. Complete confidentiality may not be possible because it may be necessary for an investigator to disclose certain information obtained during the course of an investigation in order to conduct a thorough investigation.

Once a determination has been made that the WCU will investigate a claim of inappropriate workplace conduct, the WCU contacts the person who allegedly engaged in the misconduct (the Respondent) by phone to let the person know the WCU will be investigating the claim. The WCU then sends the Respondent, as well as the person who reported the alleged misconduct (the Reporting Party), a letter, informing them of the general nature of the claim and that the WCU will be investigating the claim. In the letter, the WCU also notifies the parties of the name and contact information of the WCU attorney investigator assigned to the investigation.

During an investigation, a WCU investigator interviews pertinent witnesses and gathers relevant evidence about the underlying claim. The investigator does not notify witnesses of the specific claim or the name of the person who reported the claim to the WCU.

In most investigations, the Reporting Party is the first person interviewed and the Respondent is the last person interviewed. Nevertheless, new, related allegations may arise during the investigation process. In such cases, a determination is made whether the related allegations are within the WCU's jurisdiction, and whether to include the allegations in the current investigation. If the decision is made to include the additional allegations in the ongoing investigation, parties and witnesses may need to be re-interviewed. Additionally, if the Respondent provides the names of witnesses who the investigator has not already spoken to, the investigator may need to speak with those witnesses after the Respondent.

The subject of any alleged inappropriate workplace conduct is strongly encouraged to speak to the WCU investigator, but is not required to. Otherwise, current legislative Members and employees are generally required to speak with the WCU if they are witnesses in an investigation.

Prior to the Respondent's interview, the Respondent will receive a letter from the WCU investigator, which includes the specific allegation(s) against the Respondent.

Witnesses and parties are permitted to bring a representative to any WCU interview. The representative need not be an attorney, and can be anyone other than a prospective witness in the case. The investigator will ask about the name of the representative prior to the interview to ensure the person is not a prospective witness in the investigation. The representative may be present for all interviews, as long as the representative does not impede the progress of any interview. If a witness or party is represented by an attorney for purposes of the investigation, the WCU investigator must speak to the witness or party through the attorney or in the presence of the attorney.

As long as the party or witness consents, the investigator records the interview. If a witness or party does not consent to the interview being recorded, the investigator prepares a summary witness statement for the witness to review and approve after the interview. For certain critical interviews, the investigator will bring a second investigator to take notes during a non-recorded interview. Accordingly, investigators will ask the interviewee to let them know prior to the interview whether the interviewee consents to have the interview recorded.

Following the gathering of all relevant evidence and the necessary interviews, the investigator drafts an investigation report for review by a panel of three WCU Panel Members assigned to the matter. The investigation report is an attorney-client privileged document and is not subject to disclosure to parties, witnesses, or other third parties.

Workplace Conduct Unit Panel Review

After a thorough review of an investigation report and the supporting evidence gathered by the WCU investigator, the Panel Members meet and make factual findings. The Panel Members make recommendations to the Senate Rules Committee and/or the Speaker of the Assembly regarding (a) whether the factual findings constitute a violation or violations of the Legislature's Policy and (b) possible responsive action (including disciplinary action where appropriate).

The Senate Rules Committee or the Speaker of the Assembly makes a final determination as to whether the factual findings in an investigation violate the Legislature's Policy and whether to impose any appropriate remedial action. Once these determinations have been made, the Senate or Assembly send letters to the parties, informing them of the conclusion of the investigation.

CONTACT US

If you have any questions, please feel free to contact us in one of the following ways:

- **GENERAL LINE:** (916) 321-3000
- **GENERAL EMAIL:** wcu@wcu.legislature.ca.gov
- **PLEASE ALSO FEEL FREE TO VISIT OUR WEBSITE** at <https://wcu.legislature.ca.gov>

To make a complaint, feel free to contact us by:

- **CALLING THE HOTLINE** at (877) 231-5956
- **VISITING OUR CONFIDENTIAL REPORTING WEBSITE** at <https://secure.ethicspoint.com/domain/media/en/gui/54910/index.html>
- **SENDING A LETTER** to us at 915 L Street, Suite 1260 Sacramento, CA 95814

Retaliation against a person for making a report to the WCU, participating in a WCU investigation, or opposing discrimination, harassment, or retaliation within the Legislature is unacceptable and is subject to investigation and remedial action.

Navigator

The Navigator supports individuals participating in the complaint investigation and resolution process, as well as those who may still be considering whether to engage in the WCU process. The Navigator serves as a unique resource for those who are going through what may be a novel and challenging experience by providing meaningful support to individuals and participants by carefully listening to their questions, sensitively responding to inquiries, and connecting them to the appropriate individual or resources, as necessary. The Navigator is a neutral party and does not have access to confidential case-specific information.

If you have questions about the complaint investigation process and experience, contact the Navigator by:

- **EMAIL:** navigator@wcu.legislature.ca.gov
- **PHONE:** (888) 421-1377