



PO Box 40482
Olympia, WA 98504-0482

Washington State Senate

Phone: (360) 786-7550
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TO: Senator Don Benton
Senator Linda Evans Parlette
Senator Ann Rivers
Senator Mark Schoesler

FROM: The Senate Facilities and Operations Committee
Senator Becker
Senator Braun
Senator Fraser
Senator Frockt
Senator Hatfield
Senator Hewitt
Senator Tom

RE: Respectful Workplace Complaints

DATE: January 6, 2014

Pursuant to the Senate's Respectful Workplace Policy, an investigative committee was formed to consider complaints filed by Senator Benton against Senators Rivers, Schoesler and Parlette. The committee accepted the findings and recommendations of the investigative committee, and issued notice of its decision on November 26, 2013.

On December 10, Sen. Benton appealed part of the committee's action: he appealed the findings that he had violated the Senate's Respectful Workplace Policy, and he appealed the dismissal of his complaints against Senators Schoesler and Parlette. He did not appeal the findings against Sen. Rivers, nor did he appeal the dismissal of his claim against Sen. Rivers for retaliation. A copy of his appeal is attached, together with the materials submitted by Sen. Benton to F&O, both before and at the time it considered the appeal.

On December 18, Sen. Benton requested that this committee allow him to appear and present his appeal in person. That request was granted, and Sen. Benton presented his appeal on January 3, 2014.

Upon full consideration of the matters before it, the Facilities and Operations Committee, by a vote of 7-0, again adopts the findings and recommendations contained in the report of the investigative committee. Those findings and recommendations are:

- Both Senators Benton and Rivers should be advised to use professional business language while conducting Senate business.
- Resources should be available for the caucuses to assist individual members with interpersonal conflict and techniques to reduce it.
- Senator Benton's complaint that members of the caucus leadership retaliated against Senator Benton is without merit and should be dismissed.
- Sen. Benton's complaint that Sen. Rivers retaliated against him should be dismissed.

With respect to the underlying Respectful Workplace Policy, this committee recommends:

No Senate staff were the subject or object of the disrespectful language involved in this proceeding. The primary focus of the Respectful Workplace Policy is to protect people from exposure to inappropriate or illegal actions by those in a position of greater power or authority. It is the opinion of this Committee that Member-to-Member interactions do not need to have the same strictness of standards as those between Members and staff. This opinion was shared by many of the Members who were interviewed as part of this investigation. Furthermore, many expressed concern about the level of resources being committed to the investigation for exchanges, which while unprofessional, do happen on rare occasions in response to the exceptional stress among Members as legislation is debated. The Facilities & Operations committee may wish to consider further clarifying the distinction between Member-to-Member interactions and Member-to-staff or staff-to-staff interactions.

Additional final issues need to be addressed by this Committee.

In some of the documents submitted to this Committee, the Respectful Workplace Policy (RWP) is mischaracterized. Because of this, we believe that it could be helpful to describe those portions of the policy that are implicated by Sen. Benton's complaints, and how those portions are viewed by this Committee.

1. The pertinent part of the RWP discourages the use of three categories of communication. It states as the following:

No Senator or staff member should engage in any behavior or make any comments that could reasonably be construed as demeaning or derogatory toward another, or which could be reasonably anticipated to have the effect of interfering with an individual's work performance.

These are three different and distinct categories of discouraged communications. A communication violates the policy if it could reasonably be construed as (a) demeaning, (b) derogatory, or (c) having an effect on work performance. If a communication can

reasonably be construed as violating only one of these terms, it can serve as the basis for a policy violation.

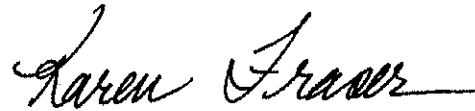
2. It is not necessary that a statement involve cursing in order to violate the RWP. It is not necessary that a statement interfere with one's work. It is not necessary that a statement be made in public. If a statement could reasonably be construed as demeaning or derogatory, it can violate the policy.
3. The following comments – each of which was witnessed by other Senators, and *each of which was admitted by Sen. Rivers and Sen. Benton* – constitute demeaning or derogatory language, or both. (There are other statements in the materials that one could view as demeaning. We choose to adopt the position of the investigative committee and limit this decision accordingly.) As a result, we conclude that each statement constitutes a technical violation of the RWP:
 - a. Sen. Rivers, on the Senate floor: “You are a piece of sh**.”
 - b. Sen. Rivers, in caucus: “You are a piece of sh**.”
 - c. Sen. Benton, following Sen. Rivers’ written apology: “Your apology is hollow....Please get some professional help.”
 - d. Sen. Benton, in caucus: “You are misinformed, as usual.”
 - e. Sen. Benton, in meeting: “You are acting like a trashy trampy-mouthed little girl.”
4. Each of the admissions by Sen. Rivers and Sen. Benton were included in the written materials submitted to this committee. Sen. Rivers’ admissions are contained in her statement of approximately July 11, 2013; Sen. Benton’s admissions are in his email of June 5, 2013, and his appeal to this committee.
5. Sen. Benton correctly states that there is no formal complaint against him. He incorrectly concludes, however, that the committee’s finding in the absence of a formal complaint is “a gross violation of the Senate’s policies.” Senate policy states: “Any [Senator] who receives a complaint of conduct that violates this policy, *or who becomes personally aware of such conduct*, must take steps to investigate such conduct.” The investigative committee received descriptions of behavior by both Senators that it viewed as possible violations of the RWP. The investigative committee, and this Committee, had a duty to investigate the actions of both Senators, and properly applied the RWP, just as it has done in previous matters.

Sen. Benton also disparages Sen. Dammeier, claiming that Sen. Dammeier’s alleged bias “calls into question the investigative committee’s impartiality.” There is no allegation in the record suggesting that Sen. Benton raised this concern with the investigative committee, even as he continued to submit materials to it, nor did he raise this before F&O at any time prior to his appeal. Regardless of its timing, we believe that it has no merit. The work of Sen. Dammeier and Sen. Fraser on behalf of F&O was exemplary and thorough. Even if Sen. Dammeier suggested that Sen. Benton should have accepted Sen. Rivers’ apology, it does not mean that he was biased in his review of Sen. Benton’s use of language, or that the report he co-authored is faulty in any manner.

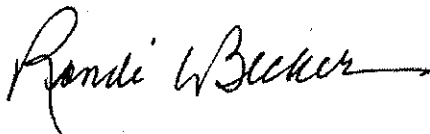
Finally, this Committee must determine whether to release its decisions and the records before it. We note that most of the records are already public, having been previously released to the media by Sen. Benton. That release of records contains the perspective of only one side of this complaint. Concluding that release of its decisions is in the public interest, and that a balanced view of this matter be made available to the public, this Committee authorizes release of the following documents as public records under RCW 42.56.010: the report of the investigative committee and its attachments, the November 26 decision of this committee, and this decision together with its attachments.



Senator Rodney Tom



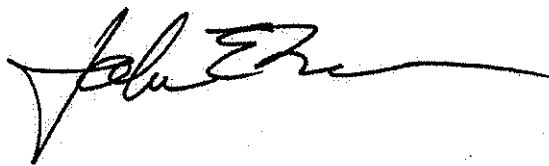
Senator Karen Fraser



Senator Randi Becker



Senator David Frockt



Senator John Braun



Senator Brian Hatfield



Senator Mike Hewitt



RECEIVED

DEC 10 2013

SECRETARY OF THE SENATE

4:51 pm SB

Washington State Senate

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Senator Don Benton
Deputy Majority Leader
17th Legislative District

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E-mail: don.benton@leg.wa.gov

Tuesday, December 10, 2013: 4:00 PM

Appeal: Investigative Committee Findings

Dear members of the Facilities and Operations Committee,

This is an appeal concerning the investigative committee findings for the Facilities and Operations Committee dated November 26, 2013.

This appeal is limited to the findings entitled "Actions by Senator Benton" and the findings entitled "Dismissal of the retaliation complaint against Senators Schoesler and Parlette".

The Findings and Recommendations states that, on three separate occasions, I was in violation of our Respectful Workplace Policy. The findings are inaccurate, unjust and unsupported by the evidence and therefore are the subject of my appeal.

Additionally, the investigative committee dismisses my complaint against Senators Parlette and Schoesler, finding their actions "reasonable and appropriate, and not motivated by retaliation". This decision is not consistent with the Senate's policy concerning retaliation, nor do the findings refute the evidence of Senators Parlette and Schoesler's retaliation. Therefore, I include this finding in my appeal.

Response to section: "Actions by Senator Benton"

In her statement, Senator Rivers alleged that on a number of occasions Senator Benton used unprofessional and highly disrespectful language intended to interfere with her work performance. During the course of the investigation, the Committee independently confirmed three instances with interviews or documents. These three include: the confrontation in the Caucus Room on Monday June 3rd; Senator Benton's June 5th response rejecting Senator River's [sic] emailed apology; and during a follow up meeting in the Secretary of the Senate's office with the Majority Coalition Leadership [Findings and Recommendations of the Investigative Committee, p. 2]

The three instances described above are not violations of our Respectful Workplace Policy. What is more, no formal complaint has ever been filed against me by Senator Rivers, or anyone else. By finding me guilty of these alleged violations, the investigative committee did not follow the Senate's Complaint/Investigation Procedures. Furthermore, the members of the investigative committee went beyond their purpose, which was to investigate the validity of the formal complaint properly filed against Senator Rivers.

In the first instance, my response to Senator Rivers' profanity-laced verbal attack at the Caucus meeting did not engage in any "highly offensive language". As my complaint attests, Senator Rivers interrupted me while I had the floor and personally attacked me using foul language. My discussion was general and was in no way addressed to Senator Rivers. During her tirade, I was silent. As my June 5th response to her email says, there was no exchange. Only when Senator Rivers came to the very end of her tirade did I answer with the statement, "You are misinformed as usual". My answer, while perhaps direct, was true. Equating my direct statement to Senator Rivers' complete loss of control and foul language is unmitigated sophistry. Multiple witnesses verify that I showed tremendous restraint after having been attacked verbally without provocation from Senator Rivers. (See enclosed statements from several witnesses).

In the second instance, my June 3rd written response to Senator Rivers' "apology" was not a violation of the Respectful Workplace Policy. I am certainly entitled to reject an apology that I believed was less than adequate and grossly insincere. Nothing in my response to the apology was profane or could logically be inferred to have interfered with Senator Rivers' ability to do her work in the Senate. The response did not contain any "highly offensive language". (See the attached copy of my email). It is also important to note that Senator Rivers' apology was coerced by caucus leadership and did not include an apology for her earlier (April 19th) foul-mouthed tirade against me on the Senate floor.

In the third instance, nothing I said in the Secretary of the Senate's office was in violation of our Respectful Workplace Policy. I can only assume the investigative committee is citing my use of the word "trampy" to make their argument. Equating the use of this word in a closed door meeting with Senator Rivers' abundant, public use of foul language and swear words is ridiculous. Further, Senator Rivers quotes me out of context in her defense. I did not call her a "trashy trampy-mouthed little girl". While discussing her use of foul language on the floor, I said that she was *acting like* a "trashy trampy-mouthed little girl" as an illustration of how very out-of-place her language was as a state senator. My statement was said behind closed doors among senate counsel and a handful of people who were present to discuss my complaint. This is very different than publicly yelling profanities at me on the Senate floor. It is also different than yelling profanities at me in the presence of the entire caucus. If privately describing Senator Rivers' foul language as "trampy" is a violation of our Respectful Workplace Policy, I will need to add a number of other colorful words Senator Rivers called me which I hitherto did not think were in violation. How such language can be described as "demeaning and derogatory" when explicitly meant to help Senator Rivers avoid future violent outbursts is beyond me. Nothing said in this meeting could remotely be construed to interfere with her ability to do her work in the Senate.

(I want to point out that, during this meeting, Senator Rivers said that she would "make up" a complaint against me if I did not withdraw my complaint. Her written statement (concocted several months after the complaint was filed) is evidence of her willingness to fabricate an unverifiable account of a supposedly private meeting.)

On June 14th, MCC leadership tried to implicate me in Senator Rivers' violations. Now I have just refuted a second attempt by the investigative committee to do the same. These experiences make me concerned about future whistleblowers who reveal abuses that caucus leadership does not wish to address. If MCC leadership had been effective in dealing with her embarrassing public behavior on the floor of the Senate we would not even be engaging the F&O committee, and likely her angry outburst in the Caucus Room would not have occurred. Will future whistleblowers also suffer retaliation? During my 20 years as a legislator, I have never had a Respectful Workplace complaint filed against me. Now,

because of petty caucus politics and ineffective caucus leadership, I have been found guilty of violations which I did not commit and are not the subject of any formal complaint. The investigative committee's finding is a gross violation of the Senate's policies on such matters.

Therefore, I insist that the investigative committee strike the section, "Actions by Senator Benton". I also demand to see all written statements, interviews, or any other material used to support these bogus findings.

Dismissal of retaliation complaint against Senators Parlette and Schoesler

In the Findings and Recommendations, the investigative committee states the following: "The Investigative Committee finds that the Majority Coalition Caucus leadership actions were reasonable and appropriate, and not motivated by retaliation". The Findings and Recommendations do not provide any evidence to support this claim. This is surprising, given that the investigative committee has in its possession multiple letters documenting Senators Parlette and Schoesler's attempts to make me withdraw my complaint; Senator Parlette's unilateral and embarrassing action moving my seat in caucus; and the MCC leadership reprimanding and punishing me for Senator Rivers' behavior.

Senators Parlette and Schoesler clearly violated our Retaliation policy:

No Senator or staff person may directly or indirectly use or attempt to use his or her official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command or influence any person to hinder or prevent exercise of the right to complain about conduct prohibited by this policy either personally or on behalf of another person; nor for the filing of a complaint, participation in an investigation, or assisting in the enforcement of a sanction approved by the Facilities and Operations Committee [Other Provisions- Retaliation Prohibited].

...Upon receipt of a complaint, the majority and minority leaders will appoint an investigative committee composed of a Senator from each caucus. [Complaint/ Investigation Procedures: Section IV- Investigative Committee].

Taken together, there is no question that Senators Parlette and Schoesler were in violation of our retaliation policy. Rather than form an investigative committee and *investigate* my complaint, these senators blamed me for Senator Rivers' tirades, disgracefully moved my seat in caucus, and sent me an official letter of reprimand. As far as our Respectful Workplace Policy is concerned, the *intentions* of Senators Parlette and Schoesler are legally irrelevant. The appointment of the investigative committee only occurred after their attempts to intimidate me into withdrawing my complaint had failed. Their actions were clearly designed to intimidate, threaten and coerce me because I had filed the complaint.

Therefore, my complaint against Senators Parlette and Schoesler should not be dismissed.

Senator Dammeier's bias

The grossly inaccurate findings described above confirmed fears I first had when Senator Dammeier was assigned to the investigative committee. Before he was assigned to the committee, Senator Dammeier told me that it was wrong for me not to accept Senator Rivers' June 5th apology. Even though I explained my reasons for not accepting it, he still held that it was a mistake on my part to not let it go. When I

learned that Senator Dammeier had been assigned to the investigative committee some weeks later, I told Senator Tom that I objected to Senator Dammeier being part of the investigative committee. Needless to say, my protest were in vain.

I hoped Senator Dammeier would put aside his preconceived opinions and approach his task with an open mind. The Findings and Recommendations—rife with unsupported statements and inaccuracies—confirms my worst fears. Senator Dammeier's bias calls into question the investigative committee's impartiality.

The Findings and Recommendations must be revised

The investigative committee rightly found Senator Rivers to be in violation of our Respectful Workplace Policy. Her behavior was abusive and embarrassing to the Senate as an institution. However, the investigative committee exceeded its authority by accusing me of, and reprimanding me for, violating the Respectful Workplace Policy. Under Senate policy, the investigative committee only has the authority to reprimand me if an official complaint is filed against me and the investigative committee finds me guilty of the violation(s). No such complaint has ever been filed against me.

What is more, the three instances cited by the investigative committee as violations are not violations under current Senate policy (as I have already explained). The investigative committee is so brazen in overstepping its bounds that it does not even bother to provide evidence of the alleged violations. No new documents or interviews have been provided by the investigative committee to support its spurious claims.

Senate caucus leadership appears to be determined to find Senator Rivers and me equally guilty despite the facts. Senators Parlette and Schoesler's efforts, and now the Findings and Recommendations of the investigative committee, reveal a troubling disregard for Senate policy and justice in the name of caucus concord and political protection. This practice does violence to justice and sets a bad precedence for inconvenient complaints. As I said in my original complaint, my only goal is to protect the institution and Senate employees from Senator Rivers' escalating, uncontrolled, and inappropriate behavior in the future. Punishing the victim will discourage whistleblowers and diminish the integrity of the Senate.

Therefore, I insist that all alleged violations by me be struck from the Findings and Recommendations, and that the recommendations be revised accordingly. Additionally, my complaint against Senators Parlette and Schoesler should be reinstated.

This appeal is limited to the items listed in paragraph two, page one of this letter, which are found in the November 26, 2013 report.

Sincerely,



Senator Don Benton
Deputy Majority Leader
17th Legislative District

Statement from Senator Padden: received December 9th, 2013

[The letterhead version of this letter is coming from Senator Padden's office, and should arrive at Senator Benton's office December 11th, 2013. This is the text of the letter, which was sent to Senator Benton's office via email.]

Senator Tom,

I was present in caucus on June 3rd in my usual spot on the west end of the caucus room. Senator Benton was not in his usual spot up front, but was on the side of the conference table closest to the door. Senator Rivers was seated in the row up front with leadership.

Senator Benton addressed the caucus as a whole talking about the caucus media message and how it could be improved. In the middle of his discussion, Senator Rivers went off on the different topic of Senator Benton's alleged overuse of the PIO he shared with her, which she indicated was preventing her from getting out press releases. My ears perked up as I also shared the same PIO at that time. Senator Rivers said some crass and inappropriate words about Senator Benton, for which she later apologized.

Senator Benton did not provoke Senator Rivers in the caucus on June 3rd.

Senator Mike Padden



Washington State Senate

Olympia Office:
PO. Box 40406
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Senator Michael Baumgartner
6th Legislative District

Phone: (360) 786-7610
FAX: (360) 786-1999
Michael.Baumgartner@leg.wa.gov

December 10, 2013

Members of the Senate Facilities and Operations Committee:

I was present in the Caucus Room on June 3, 2013 when Sen. Rivers directed profanity towards Sen. Benton.

Sen. Benton did nothing to warrant Sen. Rivers' use of profanity. Prior to Sen. Rivers' response, Sen. Benton had been directing his comments on media coverage to the entire Caucus.

Sincerely,

A handwritten signature in black ink that reads "Mike Baumgartner".

Sen. Michael Baumgartner



Washington State Senate
SENATOR JANÉA HOLMQUIST NEWBRY
13TH LEGISLATIVE DISTRICT
Commerce & Labor, **Chair** • Trade & Economic Development

December 9, 2013

Senator Rodney Tom, Acting Chair
Facilities and Operations Committee

Dear Senator Tom,

I am writing this letter on behalf of Senator Don Benton. The purpose of this letter is to make clear for the record, that I, as a first hand witness, do not believe Senator Benton did anything to provoke Senator Rivers or violate the respectful workplace rules during the "Senator Ann Rivers caucus incident". While I shared with Senator Fraser and Senator Dammeier what I observed during the interview they conducted with me on September 25, 2013, I would be willing to resubmit a detailed witness statement in writing if the notes from that interview are not available for your review. I am concerned that the facts weren't understood, thus resulting in an unfair finding.

I was present and paying attention during the caucus incident. I was also present during the "Senator Rivers' Floor eruption". While some members may have found the incident that occurred on the Senate Floor more alarming due to the inappropriate use of foul language ('F' word) in a public setting and in the presence of children, I, on the other hand, was more shocked by the incident that occurred in the caucus room.

Why? Simply stated, I was not privy to the conversation leading up to the incident that occurred on the Senate Floor. I only witnessed the outcome – Senator Rivers' loud outburst directed at Senator Benton. In contrast, I observed and clearly heard the conversation and actions that preceded Senator Rivers' outburst in caucus, again directed at Senator Benton. The fact of the matter is, there was clearly no provocation by Senator Benton or any action that would violate the respectful workplace rules. It is for these reasons that her flare-up was so unexpected and shocking to those in the room that were paying attention to the caucus conversation.

While it is unfortunate that I am writing this letter at all, I would hope that if you or I were accused of violating the respectful workplace rules that conclusions would be based on facts and facts only.

Please feel free to follow up with me directly if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Janéa H. Newbry".

Senator Janéa Holmquist Newbry
13th Legislative District

cc: Sen. Hewitt, Sen. Braun, Sen. Becker, Sen. Fraser, Sen. Hatfield, Sen. Frockt, Sen. Dammeier

Hunter, Matt

From: Hunter, Matt on behalf of Benton, Sen. Don
Sent: Wednesday, June 05, 2013 10:41 AM
To: Rivers, Sen. Ann; Bailey, Sen. Barbara; Baumgartner, Sen. Michael; Becker, Sen. Randi; Benton, Sen. Don; Braun, Sen. John; Brown, Sen. Sharon; Carrell, Sen. Michael; Secretary of the Senate; Dammeyer, Sen. Bruce; Ericksen, Sen. Doug; Faln, Sen. Joe; Hewitt, Sen. Mike; Hill, Sen. Andy; Holmquist Newbry, Sen. Janéa; Honeyford, Sen. Jim; King, Sen. Curtis; Litzow, Sen. Steve; O'Ban, Rep. Steve; Padden, Sen. Mike; Parlette, Sen. Linda Evans; Pearson, Sen. Kirk; Rivers, Sen. Ann; Roach, Sen. Pam; Schoesler, Sen. Mark; Smith, Sen. John; Sheldon, Sen. Timothy; Tom, Sen. Rodney
Subject: RE: Apology

Ann,

Let me be clear...there was NO exchange, it was all you. I was commenting in general to the caucus (not you) about our media presence when you decided jump in, unrecognized by the chair, to blame me somehow for you not getting enough press coverage and exploded in a vulgar tirade against me personally.

I sat quietly. Your apology is hollow as it does not include an apology for a similar (but much worse) tirade that included the "F" bomb used in front of pages, gallery guests, senate security and several other members on the floor of the senate during our last week in regular session. I spoke to the Secretary of the Senate about your hostile and embarrassing behavior and he discussed with you the need to make an apology at that time. That apology has never occurred.

This pattern of angry, unprofessional and vulgar tirades must end. While anger and frustration are a large part of our lives as legislators, most of us attempt to retain a professional working relationship with each other. Calling names and using vulgar obscenities is childish and unprofessional and it simply must stop. You create an unpleasant work environment for me and everyone who surrounds you with this type of behavior. Please get some professional help.

Don Benton

-----Original Message-----

From: Rivers, Sen. Ann
Sent: Monday, June 03, 2013 7:36 PM
To: Benton, Sen. Don; @Senate MCC Members
Subject: Apology

Don - I apologize for using profanity to express my feelings about you. You were correct when you pointed out, rightfully, that it was unprofessional.

To my fellow caucus members, I am sorry to have put you in the uncomfortable position of witnessing the exchange.

Best regards - Ann

Sent from my iPad



Washington State Senate

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Senator Don Benton
Deputy Majority Leader
17th Legislative District

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Wednesday, December 18, 2013

Hunter Goodman
Secretary of the Senate

Dear Hunter,

On December 10th, 2013, I submitted a letter to the Facilities and Operations committee, appealing part (but not all) of the Findings and Recommendations submitted by the Investigative committee, which is tasked with investigating my Respectful Workplace complaint against Senator Rivers and my complaint against Senators Parlette and Schoesler. **In addition to this appeal, I request that I be allowed to appear before the F&O committee to present my appeal and answer any questions the members may have.**

It is very important to me that the members of the F&O committee have the facts. The Findings and Recommendations contain false findings that damage my reputation. Furthermore, these same alleged findings excuse members of leadership who clearly violated our policy concerning retaliation. I believe I have a right to face the judicial body and defend myself against false charges.

Our policy requires the F&O committee to meet within thirty days of my appeal, which was filed on December 10th, 2013. Please notify me in advance of the date and time of this meeting so that I may make arrangements to attend.

Sincerely,

A handwritten signature in black ink that reads "Don Benton".

Senator Don Benton
Deputy Majority Leader
17th Legislative District

Submitted by
Senator Benton on 1/3/13

1

Harassment and Discrimination

The Washington State Senate will strive to provide and maintain a work environment free from discrimination, harassment, and other offensive conduct. Senators and staff are expected to conduct themselves so that such behavior does not occur in any action with respect to hiring, firing, compensation, benefits, promotions, reclassification, disciplinary actions, ongoing working relationships, or any other work conditions.

This behavior undermines the integrity of the employment relationship and the self-esteem of the individuals to whom they are directed and negatively affect morale and work performance. All employees should be allowed to work in an environment free from unsolicited and unwelcome comments or conduct. Any Senator or supervisor who knows of violations of this policy will take appropriate steps under this policy to correct/stop such misconduct. Any conduct which violates this policy will not be condoned and may result in disciplinary action.

Prohibited Conduct

A. Discrimination

Discrimination occurs when an adverse action or decision with respect to employment is made on the basis of protected status. Persons having questions about discrimination may contact the Washington State Human Rights Commission for assistance during regular working hours at 753-6770. Such contact does not necessarily constitute the filing of a formal complaint with the agency.

As used in this policy, "protected status" means: race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, as defined in RCW Chapter 49.60.

B. Harassment

As used in this policy, the term "harassment" includes but is not limited to comments, slurs, jokes, innuendos, cartoons, pranks, requests for favors or other verbal or physical conduct of a sexual, racial, or other nature, related to a protected status, when:

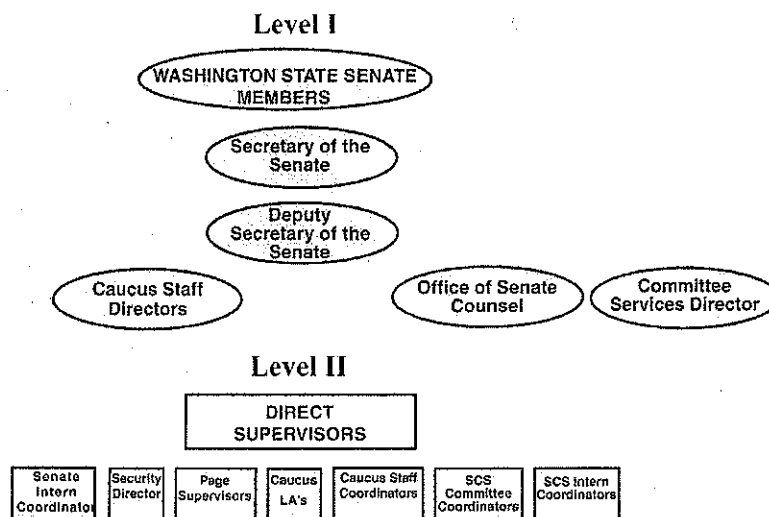
- Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis of employment decisions affecting the individual; or
- Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

No Senator or staff member shall attempt to influence, control or otherwise affect the career, salary, job tasks or performance of a staff person through harassment.

C. Other Offensive Conduct

No Senator or staff member should engage in any behavior or make any comments that could

Harassment & Discrimination Policy Required Action Regarding A Respectful Workplace



unlawful or tortious conduct under state or federal law, the facilitator should consult with Senate Counsel.

III. Supervisor Investigations

Any Level I or Level II supervisor, as designated in the chart below, who receives a complaint of conduct that violates this policy, **or who becomes personally aware of such conduct, must take steps to investigate such conduct.** If the conduct appears to constitute unlawful or tortious conduct under state or federal law, the supervisor should consult with Senate Counsel. **If a staff member wants his or her complaint acted on, he or she should contact a Level I supervisor, or his or her direct supervisor in Level II.**

Level I: The individuals occupying these positions **must** take steps to remedy a situation involving a violation of this policy about which they have knowledge and which involves **any** Senate staff.

Level II: The individuals occupying these positions **must** take steps to remedy a situation involving a violation of this policy about which they have knowledge and which **involves a Senate staff person over whom they have direct supervisory responsibilities;** if the matter is outside of their direct supervisory responsibilities they must bring the matter to the attention of the appropriate Level II supervisor or a Level I supervisor for remedial action.

All other individuals who are aware of conduct that violates this policy should report such information to an appropriate supervisor, except for facilitators who are required to keep conversations with complainants confidential to the greatest extent possible. (See Section II. Facilitator Process and Functions)

When reviewing conduct that may violate the policy, supervisors shall limit inquiries about and discussions of the conduct to those who have a "need-to-know". Persons with a "need-to-know" will usually include the complainant, the person who is alleged to be committing the behavior and his or her supervisor, and possible witnesses to the conduct. Supervisors may also consult with Senate Counsel. If it is determined that conduct violating this policy has occurred, the supervisor shall impose, or recommend, the appropriate disciplinary action. The complainant and the facilitator, if one is involved, shall be informed of any action taken by supervisors.

IV. Investigative Committee

In addition to the facilitator process and supervisory investigations, complaints may be filed by notifying the majority and minority leaders. Upon receipt of a complaint, the majority and minority leaders will appoint an investigative committee composed of a Senator from each caucus. In the event that the majority or minority leader is the subject of the complaint, the complaint should be filed with the majority and minority caucus chairs who will appoint the investigative committee. This process may also be initiated by investigating supervisory staff or persons accused of conduct which violates this policy. Senate Counsel will serve as staff to the appointed members. Other resources may be used with approval of the appointing authority.

All efforts will be made to handle the complaint and the investigation in a confidential manner throughout this process. The investigation may include interviews with the parties who are directly involved, and where necessary, members and/or staff who may have observed or have knowledge of the alleged violation of this policy or who may be similarly situated with the complainant. **The respondent (the person who is the subject of the complaint) shall receive notice of the nature of the complaint and identity of complainant.**

Findings, recommendations, and supporting documentation will be forwarded to the Senate Facilities and Operations Committee for appropriate action. The complainant and respondent, as well as any other persons determined by the committee to have a substantial involvement in the matter, will be notified of the committee's findings and recommendations in writing.

Appeals

Within 14 calendar days of receipt, complainants or respondents who disagree with the investigative committee's findings and recommendations may appeal to the Senate Facilities and Operations Committee by filing all information they wish to have considered with the Committee Chair. The committee will conduct its review of the appeal within 30 calendar days of receipt. The committee may conduct further investigations. The committee will maintain the confidentiality of the investigation throughout its deliberations and conclusions. Upon completion of its decision, the Committee may release any findings, conclusions or reports or

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portions thereof, if it determines that such release is in the public interest.

Final action will be transmitted in writing to all persons who were notified by the investigative committee. A copy of the final report and all supporting documentation shall be filed with the Secretary of the Senate. Confidentiality shall be maintained by the Secretary of the Senate; however, information that does not disclose identifying details may be disclosed by the Secretary of the Senate.

Disciplinary or Remedial Action

In the case of Senators, disciplinary action includes, but is not limited to, reprimand, censure, or expulsion. For staff, appropriate action includes, but is not limited to, verbal or written reprimand, probation, suspension, or termination.

The Senate Facilities and Operations Committee will take final action on the recommendations, except in the case of the censure or expulsion of a member. In such cases, the Secretary of the Senate, at the direction of the Facilities and Operations Committee, will provide a method for conducting a vote of the Senate in the event that the Legislature is not in session.

If the committee believes that the facts may constitute a criminal violation, it will notify the appropriate law enforcement agency.

In cases of alleged discrimination, the employment action taken or not taken will be subject to review and action by the Facilities and Operations Committee.

Other Provisions

Retaliation Prohibited

No Senator or staff person may directly or indirectly use or attempt to use his or her official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command or influence any person to hinder or prevent exercise of the right to complain about conduct prohibited by this policy either personally or on behalf of another person; nor may any such action be taken in retaliation for the filing of a complaint, participation in an investigation, or assisting in the enforcement of a sanction approved by the Facilities and Operations Committee.

Filing Further Actions

The complainant is responsible for determining the applicable statute of limitations for outside action with the Human Rights Commission, the Equal Employment Opportunity Commission, a court, or through the Senate complaint process. The Senate complaint process **does not** suspend the time period for filing a complaint outside the Senate. In the event the complainant wishes to file an action, he or she shall be provided the appropriate addresses and telephone numbers for those governmental organizations.

Communication of Policy to Staff and Members

New staff will have a copy of the policy included in their employee packets, and will be required to sign an acknowledgement that they have read the policy and will comply with its provisions, to be included in their personnel files.

All Senators and staff must complete training sessions, signing an acknowledgement that they have read the policy and will comply with its provisions, and will be supplied with a copy of the policy. Each acknowledgement shall be considered a public record under Title 42 RCW. The Senate policy will be incorporated into the Senate Personnel Policies and Procedures, which are also included in the Senate Reference Manual.

Senatorial Liability for Actions

The Senate reserves the right to seek indemnification from Senators whose actions give rise to a claim or claims, including all damages or other amounts paid resulting therefrom, and any increased risk management premiums the Senate may incur, arising from violation of the Respectful Workplace Policy.

REQUEST OF APPEAL:

#1

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(4)

Findings and Recommendations of the Investigative Committee

Senator Benton's June 13th complaints about Senator Rivers

- The Committee concludes that Senator Rivers used demeaning and derogatory language in violation of the Respectful Workplace Policy on the two occasions indicated by Senator Benton's complaint. Senator Rivers acknowledged her inappropriate language and emailed an apology following the incident in the Caucus Room
- The Committee also noted and validated two other factors that were considered relevant but did not excuse the violations:
 - Witnesses who observed the two members on the Senate floor stated that Senator Rivers attempted to separate herself from Senator Benton by asking him more than once to leave her alone, which he did not do.
 - Senator Rivers apologized by email to Senator Benton and the Majority Coalition Caucus for her use of unprofessional language toward Senator Benton during a caucus meeting.

MOVE TO STRIKE FROM REPORT

Actions by Senator Benton

- In her statement, Senator Rivers alleged that on a number of occasions Senator Benton used unprofessional and highly disrespectful language intended to interfere with her work performance. During the course of the investigation, the Committee independently confirmed three instances with interviews or documents. These three included: the confrontation in the Caucus Room on Monday June 3rd; Senator Benton's June 5th response rejecting Senator River's emailed apology; and during a follow up meeting in the Secretary of the Senate's office with the Majority Coalition Leadership.
- The Committee concludes that Senator Benton used derogatory and demeaning language toward Senator Rivers that could be reasonably anticipated to interfere with her work performance, in violation of the Senate's Respectful Workplace Policy.
- The Committee noted and validated that in some instances Senator Benton's violations occurred during attempts to resolve his complaint against Senator Rivers. Having an active complaint in process does not relieve a member from compliance with the policy.

Recommendations:

- ~~Both Senators~~ should be counseled to use professional business language while conducting Senate business.
- Resources should be available for the caucuses to assist individual members with interpersonal conflict and techniques to reduce it.

MOVE TO STRIKE "BOTH SENATORS" AND INSERT "SENATOR RIVERS"

Request #2 OF APPEAL

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Senator Benton's June 25th complaint against Senators Schoesler, Parlette and Rivers

The Majority Coalition leadership attempted to address the conflict between Senators Benton and Rivers by meeting with them together and by taking specific actions to reduce the circumstances in which the two members would come into direct contact. **SENATOR PARLETTE'S UNILATERAL ACTION MOVING SENATOR BENTON'S SEAT WAS INAPPROPRIATE.**

The Investigative Committee finds that the Majority Coalition Caucus leadership actions were ~~reasonable and appropriate, and not motivated by retaliation.~~ **CONSTITUTED** →

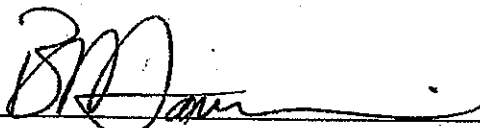
With respect to Sen. Rivers, the Committee finds that the Senate policy pertaining to anti-retaliation requires that, in order to constitute "retaliation," a member must "use his or her official authority or influence." Since Senator Rivers is not in a position of authority over Senator Benton, and since the two are strictly peers, we find that element lacking here.

Recommendations:

- Senator Benton's complaint that members of the caucus leadership retaliated against Senator Benton is ~~without merit and should be dismissed.~~ **FOUND TO BE WITH MERIT.**
- Sen. Benton's complaint that Sen. Rivers retaliated against him should be dismissed. **LEADERSHIP SHOULD BE COUNSELED TO COMPLETE ALL INVESTIGATIONS BEFORE TAKING ANY UNILATERAL ACTION AGAINST ANY COMPLAINANT**

Considerations for the Respectful Workplace Policy

No Senate staff were the subject or object of the disrespectful language involved in this investigation. The primary focus of the Respectful Workplace Policy is to protect people from exposure to inappropriate or illegal actions by those in a position of greater power or authority. It is the opinion of this Committee that Member-to-Member interactions do not need to have the same strictness of standards as those between Members and staff. This opinion was shared by many of the Members who were interviewed as part of this investigation. Furthermore, many expressed concern about the level of resources being committed to the investigation for exchanges, which while unprofessional, do happen on rare occasions in response to the exceptional stress among Members as legislation is debated. The Facilities & Operations committee may wish to consider further clarifying the distinction between Member-to-Member interactions and Member-to-staff or staff-to-staff interactions.



Sen. Bruce Dammeier
November 9, 2013



Sen. Karen Fraser
November 9, 2013

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Hunter, Matt

From:

Sent:

To:

Hunter, Matt on behalf of Benton, Sen. Don

Wednesday, June 05, 2013 10:41 AM

Rivers, Sen. Ann; Bailey, Sen. Barbara; Baumgartner, Sen. Michael; Becker, Sen. Randi; Benton, Sen. Don; Braun, Sen. John; Brown, Sen. Sharon; Carrell, Sen. Michael; Secretary of the Senate; Dammeler, Sen. Bruce; Ericksen, Sen. Doug; Fain, Sen. Joe; Hewitt, Sen. Mike; Hill, Sen. Andy; Holmquist Newbry, Sen. Janée; Honeyford, Sen. Jim; King, Sen. Curtis; Litzow, Sen. Steve; O'Ban, Rep. Steve; Padden, Sen. Mike; Parlette, Sen. Linda Evans; Pearson, Sen. Kirk; Rivers, Sen. Ann; Roach, Sen. Pam; Schoesler, Sen. Mark; Smith, Sen. John; Sheldon, Sen. Timothy; Tom, Sen. Rodney
RE: Apology

Where is the foul and demeaning language?

Subject:

Ann,

Let me be clear...there was NO exchange, it was all you. I was commenting in general to the caucus (not you) about our media presence when you decided jump in, unrecognized by the chair, to blame me somehow for you not getting enough press coverage and exploded in a vulgar tirade against me personally.

I sat quietly. Your apology is hollow as it does not include an apology for a similar (but much worse) tirade that included the "F" bomb used in front of pages, gallery guests, senate security and several other members on the floor of the senate during our last week in regular session. I spoke to the Secretary of the Senate about your hostile and embarrassing behavior and he discussed with you the need to make an apology at that time. That apology has never occurred.

This pattern of angry, unprofessional and vulgar tirades must end. While anger and frustration are a large part of our lives as legislators, most of us attempt to retain a professional working relationship with each other. Calling names and using vulgar obscenities is childish and unprofessional and it simply must stop. You create an unpleasant work environment for me and everyone who surrounds you with this type of behavior. Please get some professional help.

Don Benton

-----Original Message-----

From: Rivers, Sen. Ann

Sent: Monday, June 03, 2013 7:36 PM

To: Benton, Sen. Don; @Senate MCC Members

Subject: Apology

Don - I apologize for using profanity to express my feelings about you. You were correct when you pointed out, rightfully, that it was unprofessional.

To my fellow caucus members, I am sorry to have put you in the uncomfortable position of witnessing the exchange.

Best regards - Ann

Sent from my iPad