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Comments to the Oregon Law Commission on Capitol Sexual Harassment Policies

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Thank you for the opportunity to submit testimony as the Law Commission contemplates improvements to the Capitol's sexual harassment policies and procedures. As is true in many workplaces, we know and hear from women working in the Capitol that they have experienced inappropriate conduct, touching, harassment and intimidation; we know that this situation isn't limited to just one Senator, whose behavior was tolerated for decades before being made public last year, despite it being a well-known issue to most Capitol insiders, staff and lobby. Clearly change is overdue and we appreciate the work the Commission is doing to make meaningful and significant recommendations to reform the process, including recommendations on changes to statute and the Oregon Constitution. We look forward to participating in this conversation and offering our comments on recommendations as they are considered and proposed. At this point, however, we'd like to offer our reflections on the existing situation and culture that we believe are important to consider.

As women who work and advocate in the Capitol, we recognize the unique power dynamics that exist in politics and the need for improved processes for reporting and investigating allegations of sexual harassment - regardless of whether the victim is another legislator, a staffer employed by a different legislator or candidate for office, a lobbyist working in the building or a citizen activist. Sexual harassment, by its very nature, occurs when there is an unequal balance of power between two individuals and someone with more power is able to intimidate, harass and silence someone with less power. This generally happens in the context of an employment relationship, but not always. The Capitol is a space where power imbalances frequently occur outside of the typical employer-employee relationship. The lines get even blurrier when considered in the context of the revolving door that is typical of the political process: staffers go on to work as lobbyists, interns become legislative assistants, campaign staff move into roles as political staff, while lobbyists and staff frequently engage with legislators on campaigns. We believe the entire spectrum must be considered if we are to truly make meaningful reforms and create a zero tolerance environment where all people can feel safe and free from sexual harassment while engaging in the political process.

As the Commission considers its recommendations, we'd like to offer several hypothetical scenarios that we believe an improved process should be able to address appropriately and should be considered as recommendations are made. We hope that these scenarios will be helpful in understanding the unique dynamic of the Capitol and political process that surround the more formal aspect of mere legislation. We realize the lines are blurry and there are several places where official state business, off-hour work-related events and campaigns overlap and yet power imbalances still exist.

- A lobbyist who is being sexually harassed by a legislator reports the harassment to the offending legislator's leadership office and staff. The lobbyist is told that if they make a formal complaint, they will lose access to all members of that particular caucus. The lobbyist, who had hoped for leadership support and a quiet resolution outside of the formal process is subsequently reluctant to take further action;
- A campaign staffer, who aspires to work as a legislative assistant, is harassed at campaign events by another legislator who regularly attends candidate events. The campaign staffer does eventually get hired as a legislative assistant in an office that works closely with the offending legislator and is then reluctant to work with them or be near them for fear of further harassment.
- A lobbyist who is sexually harassed by a legislator at several lobby fundraisers and campaign events. The lobbyist depends on that particular legislator and Committee Chair for success on their legislative agenda;
- A senior staff member in a leadership office routinely solicits lower ranking legislative assistants at off-hour, but work-related events. Lower ranking staff, with political aspirations, don't feel like a complaint would be taken seriously or that their future job prospects would be compromised if they raised the issue formally. The senior staff member is known by lower ranking legislative assistants for this behavior, yet none are willing to come forward;
- An intern experiencing sexual harassment by a supervising Legislative Assistant is asked by the legislator to decide if the offending LA should be terminated. The intern does not feel qualified to make this decision so opts to continue working in the office alongside their harasser; or
- A legislator who is known by all in the Capitol to engage in inappropriate touching, side-hugging and generally making other legislators, staff and lobbyists uncomfortable. This occurrence is known by many in the Capitol and witnessed with regularity. Yet no formal complaints are made.

As an organization, we work very hard to bring women into the civic systems and structures that create the rules that impact us, and this means sometimes bringing them into the Capitol, too. Our Capitol is one of the places where decisions will be made for us about how and when we get to care for our families if we work, about how we access our healthcare, about whether programs we depend on will be funded, and, yes, about what even counts as discrimination, harassment and intimidation under law. This is the place where our rights as Oregonians are established; women deserve to be there and to feel safe there, free from intimidation and harassment. Unfortunately, our Capitol does not currently have a culture that supports women in speaking out, or of adequately responding when they do. We do not have sufficient systems in place to quickly address concerns, to ameliorate harm, or to protect women from further harassment. This is why many individuals are reluctant to come forward with more formal complaints.

As the Commission considers improvements to the process, we encourage inclusion of all individuals engaged in the political process, including staff, campaign staff, lobbyists, legislators, and citizen advocates. Some areas to consider:

- Everybody should understand what the process is for raising complaints of sexual harassment, how complaints are investigated and how their political futures will be protected from retaliation. Many individuals are scared to bring forward formal complaints because they don't understand the process or because someone has tried to intervene and circumvent a more formal complaint from going forward. We believe the process needs to be strengthened and individuals better educated about how complaints are handled and their rights protected.
- We also recognize that sometimes the entire institution can be intimidating and that a designated third party, outside of the legislative process, may be a place where individuals feel safer in raising complaints. For example, an intern may not be fully aware of what the formal process is, finding inadequate resolution from their own legislative supervisor and yet still fearful to raise the issue to Human Resources, Legislative Counsel or a Leadership Office for fear of political retaliation; these individuals may not come forward due to a fear they won't be believed or an uncertainty about how the process will unfold.
- We believe the current 1-year statute of limitations for bringing sexual harassment complaints forward is far too short and should be extended. There needs to be some mechanism to formally reprimand and punish offending legislators as well as provide satisfactory remedy for victims who may not want to bring formal legal complaints.

Beyond these initial recommendations, we appreciate the thorough review of other states' policies and procedures on sexual harassment complaints and believe many there are many valuable processes found in other states to incorporate into our own.

We appreciate the work the Oregon Law Commission is undertaking to recommend improvements in the sexual harassment process going forward. We are hopeful that final recommendations will address the systemic problem and lead to implementation the urgent reforms that are needed to both address the harm caused and to prevent future incidents. We hope these recommendations include improvements to current policy and procedure, necessary statute changes and constitutional changes.