

RECOMMENDATIONS FOR A RESPECTFUL AND HARASSMENT-FREE WORKPLACE

In March 2023, the Pacific Fishery Management Council (Council) adopted a Harassment Reporting Procedures Policy (posted on the [Rules and Procedures](#) page). Under this agenda item, the Council should consider additional steps to promote a respectful and harassment-free work environment. Below is a summary of the staff-recommended measures along with the comments from the Council, Advisory Bodies, and Tribal Governments from March 2023. Details can be found as follows: staff proposals ([Agenda Item G.5, Attachment 5, March 2023](#)), advisory body feedback ([March 2023 Briefing Book](#)), and Council discussion ([YouTube](#)).

Respectful Workplace

Council staff identified additional steps the Council could take to further define expectations of Council process participants. Such measures could foster a more respectful work environment and facilitate the free flow of ideas that best serve the Council’s decision-making process.

Council Operating Procedures

The current Council Operating Procedures (COP) address removal of advisory body members for just cause including violations of marine resource regulations, felony convictions, and reports of sexual harassment or rude and disruptive behavior. The rude or behavioral aspect is based on inappropriate interactions between members of a particular committee and the Council staff assigned to the committee but does not extend to other process participants such as members of the public, state and Federal employees, other Council staff (e.g., Executive Director, Deputy Director, Secretariat, IT), and contractors. Staff recommended editing all relevant COP to include protections for all Council participants, which was supported by the Advisory Bodies that commented on the recommended COP edits. Edits to the COP language are as follows:

“...repeatedly fails to adhere to proper decorum and to show respect for Council participants ~~other panel members, or the panel itself~~, as evidenced by rude and disruptive behavior and/or an unwillingness to refrain from abusive treatment or harassment of other Council participants ~~members and/or Council staff assigned to assist the advisory panel in carrying out its business of providing recommendations to committees and the Council.~~”

Enhancing the Intent to Serve Form

When advisory body members are appointed by the Council they are asked to sign an Intent to Serve form which states they agree to the [Rules of Conduct for Employees and Advisors and Contractors of Regional Fishery Management Councils](#) and to have their contact information published in the roster. They are also provided materials in support of their role including a copy of the COP, SOPP, MSA, etc. Council staff proposed to modify the Intent to Serve form to ask members to commit to following the procedures outlined in the COP and in the [Harassment Procedures Policy](#). Further, the Intent to Serve Form would be modified to include the statement:

“I agree to follow the process and procedures outlined in the Council Operating Procedures and Harassment Reporting Procedures. I commit to promoting an environment that encourages mutual respect, promotes civil discourse, and is free from all forms of harassment and discrimination during Council-sponsored meetings. I understand that as a member of a Council advisory body, I am expected to conduct myself in a professional manner when on Council-funded travel and when attending Council-sponsored meetings for the duration of such travel and meetings, including when the meeting is in recess.”

The Advisory Bodies that commented on updating the Intent to Serve Form supported the recommended edits.

Ground Rules

Advisory body meetings are conducted in an informal formal environment and, while the COP state that advisory body members will “...adhere to proper decorum...” and “...show respect...”, expectations are not defined further. The Council could consider ground rules, which are explicit descriptions of acceptable and unacceptable behaviors for team members, to further define behavioral expectations. The Council could adopt one set of ground rules that apply to all groups or ask each group to establish their own. Below is a draft example of advisory body ground rules provided in March 2023.

Draft Example PFMC Advisory Body Ground Rules¹

All Council participants are responsible for holding each other accountable to the following ground rules. Reports of inappropriate behavior will be taken seriously and followed through to resolution per the Council’s [Council Operating Procedures](#) and [Harassment Procedures Policy](#).

- a. Treat everyone with respect.
- b. Listen and seek to understand differing views or opinions.
- c. Wait to be recognized by the moderator before speaking. Do not interrupt or engage in side-conversations when others have the floor.
- d. Represent information honestly and openly.
- e. Refrain from using offensive, disrespectful, or derogatory language. Personal or organizational attacks or insults will not be tolerated.
- f. Allow for a balance of speaking time – moderate the length and number of times each individual speaks on each topic.

Most of the Advisory Bodies that commented on this issue supported Committee-specific ground rules while the Coastal Pelagic Species Management Team recommended universal ground rules. The Ecosystem Workgroup (EWG) agreed with the ideas presented in the ground rules but did not see a need for advisory bodies to develop their own ground rules separate from the COP and other policies surrounding harassment and other inappropriate behavior. If adopted, the EWG

¹ Modified from [Setting Ground Rules - Civil Discourse and Difficult Decisions](#).

recommends splitting bullet c into two separate points and modifying the first component to apply only to non-advisory body members:

- Non-advisory body members should follow the guidelines set by the moderator before speaking.
- Do not interrupt or engage in side conversations when others have the floor.

Committee Operational Guidelines

The Council could also encourage or task each advisory group to document their unique operations and share them on their advisory group website (see [Advisory Groups webpage](#)). The groups could develop and document techniques they use to facilitate healthy debates and for reviewing, resolving, and finalizing statements. Documenting the individual group protocols would help communicate the expected protocols and meeting decorum to the members and the public.

The Advisory Bodies that commented on Committee Operational Guidelines supported development of Committee-specific guidelines. The Groundfish Management Team, Habitat Committee, and Highly Migratory Species Advisory Subpanel noted they already had or were developing such guidelines.

Harassment

Retaliation

In March 2023, the Council expressed concern regarding retaliation of individuals who report harassment. The [Harassment Reporting Procedures](#) expressly prohibits retaliation as follows “The Council will not tolerate harassment or retaliation against those who report harassment.” The Council could consider adding this same language into COP 1, under the Decorum section, as follows below:

Decorum

Participants in the Council process are expected to participate in a manner that is professional and respectful of Council members, staff, advisors, committee members, and the public. Harassment will not be tolerated. Preventing harassment is everyone’s responsibility and individuals who experience or observe harassment are strongly encouraged to come forward to ensure a safe working environment for everyone involved in the Council process. Council process participants who observe, experience, or receive a report of harassment, including but not limited to sexual harassment or assault, should report the matter as soon as possible to an appropriate official as described in the Harassment Procedures Policy. The Council will not tolerate harassment or retaliation against those who report harassment.

The Council Personnel Rules include a Whistleblower Policy, as recommended by our auditor and consistent with policies implemented by other Councils. Such policies encourage individuals to come forward with credible information on illegal practices or policy violations, specifies that the organization will protect the employee from retaliation, and identifies parties to whom such information can be reported. The language is as follows:

“It is the intent of the Council to adhere to all applicable laws and regulations. The purpose of this Employee Protection Policy is to encourage the organization’s goal of full legal

compliance. The support of all employees is necessary to achieve this result. To this end, any employee who reasonably believes that a policy, practice, or activity of the Council is in violation of law has a right to file a complaint with the U.S. Department of Commerce's Office of Inspector General. This right notwithstanding, any employee with such concerns is encouraged to report those concerns to the Council for review and any necessary correction.

The Council will not retaliate against employees who disclose or threaten to disclose to the Department, any activity, policy, or practice of the Council that the employee reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate of public policy concerning the health, safety, welfare, or protection of the environment.”

Additional Recommendations

At the March 2023 meeting, the Tribes recommended providing examples of harassment (referencing example materials from [state of Wisconsin](#)), diversity in the identities of the people to whom participants are supposed to report harassment, and clarity on the response to harassment reports ([Agenda Item G.5.a, Tribal Report 1, March 2023](#)). The tribal recommendations were also supported by several of the advisory bodies and were discussed by the Council.

The Council could consider providing examples of harassment either as a standalone document or incorporated within the COPs. These guidelines would be distinct from the legal prohibitions against discrimination on the basis of a protected characteristic, which is the focus of the [Harassment Reporting Procedures](#). Council staff found several examples that could inform the development of such materials, including the [National Oceanic and Atmospheric Administration \(NOAA\) Sexual Assault and Sexual Harassment Prevention and Response Policy](#) which defines sexual harassment and sexual assault. A Council document would need to be developed in close coordination with General Counsel and other experts given the unique structure of the Council process.

The Council also discussed the potential for anonymous harassment reporting and/or reporting to a third party. Council staff conducted some preliminary research on these concepts and found that such systems offer two outcomes. The first is to accept the report noting that there will be no subsequent investigation since the report is anonymous. The second outcome of anonymous reporting is a response back to the reporter, encouraging them to provide a formal account so the account can be investigated. When reports are investigated, the reporter is notified when the investigation is complete and when appropriate action has been taken. Due to the confidential nature of these investigations, findings must remain confidential and are not shared with the reporter. The Council's [Harassment Reporting Procedures](#) also require the Council to maintain a record of each harassment allegation.

The [NOAA policy](#) defines confidentiality and anonymity which may be helpful for Council discussions.

.01 Confidentiality – Any party receiving information from the report of an alleged sexual assault or sexual harassment, or while performing an investigation into such an allegation,

shall keep the information confidential. “Confidentiality” means that the information shall only be shared with others who have a need to know the information to conduct their official duties. This may, but does not necessarily, include management officials, investigators, employee and labor relations specialists, and legal counsel. Any employee who shares or discloses information pertaining to an allegation or investigation of sexual assault or sexual harassment to an individual who does not have a need to know, or to the public, may be subject to discipline in accordance with Section 11 of this Order.

.02 Anonymity – The anonymity of an individual alleging sexual assault or sexual harassment cannot be guaranteed. An individual may request to make an anonymous report, and every effort will be made to protect the individual’s identity. However, it is often difficult to conceal the identity of an individual during an investigation because of the circumstances and nature of the allegations. Moreover, anonymity cannot be guaranteed where the safety of other employees or the public is at risk (where, for example, there is an allegation of a sexual assault, and the alleged offender is still at large). If an employee wants to ensure anonymity and does not want to initiate an investigation but still wishes to discuss an incident, whether work related or not, he or she may utilize the resources provided by the SASH Helpline (see Section 8.02), as well as other employee help organizations (see Section 8.03).

PFMC
05/31/23