

STATE OF NEW YORK

7848--A

IN SENATE

March 4, 2018

Introduced by Sens. YOUNG, PHILLIPS, MURPHY, AKSHAR, BONACIC, FLANAGAN, FUNKE, GALLIVAN, GOLDEN, GRIFFO, HANNON, HELMING, JACOBS, LANZA, LARKIN, LAVALLE, LITTLE, MARCELLINO, MARCHIONE, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SEWARD, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommended to said committee

AN ACT to amend the state finance law, in relation to prevention of sexual harassment by state contractors (Part A); to amend the general business law, in relation to mandatory arbitration clauses (Part B); to amend the executive law and the public officers law, in relation to individual liability for sexual harassment (Part C); to amend the civil practice law and rules and the general municipal law, in relation to the entering of confidential settlements (Part D); to amend the public officers law and the executive law, in relation to sexual harassment violations and establishing a unit to receive and investigate such claims (Part E); to amend the executive law, the legislative law, the judiciary law, the general municipal law and the public authorities law, in relation to uniform standards for sexual harassment policies for all branches of state and local governments (Part F); and to amend the labor law, in relation to the prevention of sexual harassment in the workplace (Part G)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to combat sexual harassment in the workplace. Each
3 component is wholly contained within a Part identified as Parts A
4 through G. The effective date for each particular provision contained
5 within such Part is set forth in the last section of such Part. Any
6 provision in any section contained within a Part, including the effective
7 date of the Part, which makes reference to a section "of this act",
8 when used in connection with that particular component, shall be deemed
9 to mean and refer to the corresponding section of the Part in which it

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 is found. Section three of this act sets forth the general effective
2 date of this act.

3 PART A

4 Section 1. The state finance law is amended by adding a new section
5 148 to read as follows:

6 § 148. Prevention of sexual harassment by state contractors. 1. Defi-
7 nitions. As used in this section, the following terms shall have the
8 following meanings unless otherwise specified:

9 a. "State agency" means (1) (a) any state department, office, bureau,
10 division, committee, council, or (b) any division, board, office,
11 committee, council, commission or bureau of any state department, or (c)
12 the state university of New York and the city university of New York,
13 including all their constituent units except community colleges and the
14 independent institutions operating statutory or contract colleges on
15 behalf of the state, or (d) a board or commission, a majority of whose
16 members are appointed by the governor; and (2) a "state authority", as
17 defined in subdivision one of section two of the public authorities law.

18 b. "Sexual harassment" means unwelcome sexual advances, requests for
19 sexual favors, or other verbal or physical conduct of a sexual nature if
20 such conduct is made either explicitly or implicitly a term or condition
21 of employment, or submission to or rejection of such conduct is used as
22 the basis for employment decisions affecting an individual's employment,
23 or such conduct has the purpose or effect of unreasonably interfering
24 with an individual's work performance or creating an intimidating,
25 hostile or offensive work environment.

26 c. "Contract" means any contract or other agreement for "government
27 procurement" as such term is defined in subdivision (e) of section one
28 hundred thirty-nine-k of the state finance law, including an amendment,
29 extension, renewal, or change order to an existing contract (other than
30 amendments, extensions, renewals, or change orders that are authorized
31 and payable under the terms of the contract as it was finally awarded or
32 approved by the comptroller, as applicable), for an article of procure-
33 ment. Grants, article eleven-B contracts, program contracts between
34 not-for-profit organizations, as defined in article eleven-B of the
35 state finance law, and the unified court system, intergovernmental
36 agreements, railroad and utility force accounts, utility relocation
37 project agreements or orders, contracts governing organ transplants,
38 contracts allowing for state participation in a trade show, and eminent
39 domain transactions shall not be deemed contracts.

40 2. Every state contractor to whom any contract shall be let shall have
41 in place an anti-sexual harassment policy consistent with current state
42 and federal statutory provisions. Such sexual harassment policy shall be
43 widely distributed and made available to every employee and included in
44 every new employee orientation.

45 3. Every state contractor to whom a contract is let shall conduct
46 appropriate yearly anti-sexual harassment training. Such training shall
47 be no less than two hours in length and interactive and shall (i) define
48 sexual harassment; (ii) provide examples of conduct that would be
49 defined as unlawful sexual harassment; (iii) include but not be limited
50 to information concerning the federal and state statutory provisions
51 concerning sexual harassment and remedies available to victims of sexual
52 harassment; and (iv) inform employees of their rights of redress and the
53 availability and forms of complaint resolution assistance.

4. A clause shall be inserted in all contracts hereafter made or awarded by the state, or by any state agency, requiring a contractor to whom any contract shall be let, granted or awarded, as required by law, to certify to the office of general services not later than June thirtieth of each year during the term of the contract that (i) such contractor has adopted an anti-sexual harassment policy; (ii) such policy has been delivered to each new employee; (iii) such policy has been widely distributed and made available to all employees; and (iv) anti-sexual harassment training has been conducted.

5. If any contractor fails to certify pursuant to subdivision four of this section, such contractor shall have sixty days to cure such defect. If after sixty days the defect has not been cured, the contractor shall be prohibited from obtaining any additional state government contracts until the defect is cured. The office of general services shall prepare and deliver to the governor, the temporary president of the senate and the speaker of the assembly an annual report in September of each year which identifies the number of contractors who, as of September of each year have failed to comply with subdivision four of this section and are prohibited from obtaining any additional state government contracts.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.

PART B

Section 1. The general business law is amended by adding a new section 398-f to read as follows:

§ 398-f. Mandatory arbitration clauses; prohibited. 1. Definitions. As used in this section:

a. The term "employer" shall have the same meaning as provided in subdivision five of section two hundred ninety-two of the executive law.

b. The term "sexual harassment" shall have the same meaning as provided in subdivision thirty-five of section two hundred ninety-two of the executive law.

c. The term "prohibited clause" shall mean any clause or provision in any contract which requires as a condition of the enforcement of the contract or obtaining remedies under the contract that the parties submit to mandatory arbitration to resolve any allegation or claim of an unlawful discriminatory practice of sexual harassment.

d. The term "mandatory arbitration clause" shall mean a term or provision contained in a written contract which requires the parties to such contract to submit any matter thereafter arising under such contract to arbitration prior to the commencement of any legal action to enforce the provisions of such contract and which also further provides language to the effect that the facts found or determination made of the arbitrator or panel of arbitrators in its application to a party alleging an unlawful discriminatory practice based on sexual harassment shall be final and not subject to independent court review.

e. The term "arbitration" shall mean the use of a decision making forum conducted by an arbitrator or panel of arbitrators within the meaning and subject to the provisions of article seventy-five of the civil practice law and rules.

2. a. Prohibition. No written contract, entered into on or after the effective date of this section shall contain a prohibited clause as defined in paragraph c of subdivision one of this section.

b. Exceptions. Nothing contained in this section shall be construed to impair or prohibit an employer from incorporating a non-prohibited

clause or other mandatory arbitration provision within such contract, that the parties agree upon.

c. Mandatory arbitration clause null and void. The provisions of such a mandatory arbitration clause shall be null and void. The inclusion of such clause in a written contract shall not serve to impair the enforceability of any other provision of such contract.

3. Where there is a conflict between any collective bargaining agreement and this section, such agreement shall be controlling.

§ 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.

PART C

Section 1. Section 292 of the executive law is amended by adding a new subdivision 35 to read as follows:

35. The term "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature if 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 for employment decisions affecting an individual's employment, or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment.

§ 2. The executive law is amended by adding a new section 296-d to read as follows:

§ 296-d. Sexual harassment relating to non-employees. 1. An employer may be held liable for the acts of non-employees, with respect to "sexual harassment" as such term is defined in subdivision thirty-five of section two hundred ninety-two of this article when the employer, its agents or supervisors knew or should have known that its contractor, vendor, consultant or other person providing services pursuant to a contract in the workplace or employees of such contractor, vendor, consultant or other person providing services pursuant to a contract in the workplace was subjected to "sexual harassment" as such term is defined in subdivision thirty-five of section two hundred ninety-two of this article by an employee and the employer fails to take immediate and appropriate corrective action. In reviewing cases involving the acts of non-employees, the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of those non-employees shall be considered.

2. Employers shall take all reasonable steps to prevent sexual harassment from occurring.

§ 3. The executive law is amended by adding a new section 656 to read as follows:

§ 656. Individual liability for sexual harassment. a. For the purposes of this section, "sexual harassment" shall include unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

b. The office of employee relations shall review each proposed agreed judgment, stipulation, decree, agreement to settle, assurance of discontinuance or other agreement to resolve any internal complaint, complaint to the United States equal employment opportunity commission or New York division of human rights, or other complaint filed by an employee of a "state agency" as such term is defined by section one hundred forty-eight of the state finance law, that has not been filed in state or federal court, if the act or omission from which such complaint arose involved sexual harassment. The office of employee relations shall not approve such agreement to the extent such agreement includes a proposal for the state to indemnify and save harmless an employee for the employee's individual liability with respect to any portion of the judgement, stipulation, decree, agreement to settle, assurance of discontinuance or other agreement that is based upon an allegation of sexual harassment.

§ 4. Section 17 of the public officers law is amended by adding a new subdivision 12 to read as follows:

12. (a) For the purposes of this section, "sexual harassment" shall include unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) Notwithstanding any provision of this article or law, the state shall not indemnify and save harmless an employee in the amount of any final judgment obtained against such employee in any state or federal court, or in the amount of any settlement of a claim, of such employee or officer's intentional wrongdoing where there is a finding or admission of sexual harassment in any legal proceeding, subject to a proceeding before a court of competent jurisdiction. Nothing shall prohibit the provisional indemnification for the purpose of an award to the damaged party.

§ 5. Section 17 of the public officers law is amended by adding a new subdivision 13 to read as follows:

13. Any payment to any complainant shall be subject to the state receiving in writing an executed document providing the state with all subrogation rights of the claimant to costs or damages from any responsible party. The state shall at a minimum within thirty days commence an immediate separate summary action or proceeding against the appropriate party to recoup such public monies expended.

§ 6. Subdivision 3 of section 17 of the public officers law is amended by adding a new paragraph (e) to read as follows:

(e) Notwithstanding any other law to the contrary, for any claim or cause of action, whether arising under common law, equity, or any provision of law, the factual foundation for which involves sexual harassment as such term is defined in subdivision thirty-five of section two hundred ninety-two of the executive law, in resolving, by agreed judgment, stipulation, decree, agreement to settle, assurance of discontinuance or otherwise, no state agency or employee acting in their official capacity shall have the authority to include or agree to include in such resolution any term or condition that would prevent the disclosure of any or all factual information related to the action unless the condition of confidentiality is the complainant's preference. Any such condition must be provided to the complainant, who shall have twenty-one

1 days to consider the condition. If after twenty-one days, such condi-
2 tion is the complainant's preference, such preference shall be memorial-
3 ized in an agreement signed by the complainant.

4 § 7. Paragraph (d) of subdivision 4 of section 18 of the public offi-
5 cers law is relettered paragraph (e) and a new paragraph (d) is added to
6 read as follows:

7 (d)(i) For the purposes of this section, "sexual harassment" shall
8 include unwelcome sexual advances, requests for sexual favors, or other
9 verbal or physical conduct of a sexual nature when: (A) submission to
10 such conduct is made either explicitly or implicitly a term or condition
11 of an individual's employment; (B) submission to or rejection of such
12 conduct by an individual is used as the basis for employment decisions
13 affecting such individual; or (C) such conduct has the purpose or effect
14 of interfering with an individual's work performance or creating an
15 intimidating, hostile, or offensive working environment.

16 (ii) No public entity shall indemnify or save harmless an employee
17 with respect to the amount of any final judgment obtained against such
18 employee in any state or federal court, or in the amount of any settle-
19 ment of a claim, of such employee or officer's intentional wrongdoing
20 where there is a finding or admission of sexual harassment in any legal
21 proceeding, subject to a proceeding before a court of competent juris-
22 isdiction. Nothing shall prohibit the provisional indemnification for the
23 purpose of an award to the damaged party.

24 (iii) Any payment to any complainant shall be subject to the public
25 entity receiving in writing an executed document providing the public
26 entity with all subrogation rights of the claimant to costs or damages
27 from any responsible party. The public entity shall at a minimum within
28 thirty days commence an immediate separate summary action or proceeding
29 against the appropriate party to recoup such public monies expended.

30 § 8. This act shall take effect immediately.

31 PART D

32 Section 1. The civil practice law and rules is amended by adding a new
33 section 5003-b to read as follows:

34 § 5003-b. Actions for sexual harassment. With respect to all actions
35 to recover damages for sexual harassment, as defined in section three
36 hundred ninety-eight-f of the general business law, no court shall
37 accept any settlement, including any confidentiality agreement or
38 provision that would prevent the disclosure of any or all factual infor-
39 mation related to the action unless the condition of confidentiality is
40 the complainant's preference and the court has considered the potential
41 impact on the public and finds that the complainant's preference is not
42 a result of intimidation, coercion, retaliation, or threats directed at
43 the complainant. Any such condition must be provided in writing to the
44 complainant and to the court for consideration. If the court determines
45 that any or all of the factual information related to the action shall
46 not be disclosed, the preference shall be memorialized in an agreement
47 signed by the complainant. Provided, however, subject to the provisions
48 of the domestic relations law, a settlement agreement may include a
49 confidentiality provision only if such provision is approved by the
50 court for good cause in an open proceeding.

51 § 2. The general municipal law is amended by adding a new section 70-b
52 to read as follows:

53 § 70-b. Confidential settlements. a. For the purposes of this section,
54 sexual harassment includes unwelcome sexual advances, requests for sexu-

1 al favors, and other verbal or physical conduct of a sexual nature when:
2 (i) submission to such conduct is made either explicitly or implicitly a
3 term or condition of an individual's employment; (ii) submission to or
4 rejection of such conduct by an individual is used as the basis for
5 employment decisions affecting such individual; or (iii) such conduct
6 has the purpose or effect of interfering with an individual's work
7 performance or creating an intimidating, hostile, or offensive working
8 environment.

9 b. Notwithstanding any other law to the contrary, for any claim or
10 cause of action, whether filed or unfiled, actual or potential, and
11 whether arising under common law, equity, or any provision of law, the
12 factual foundation for which involves sexual harassment, in resolving,
13 by agreed judgment, stipulation, decree, agreement to settle, assurance
14 of discontinuance or otherwise, every county, city, town, village,
15 school district and other political subdivision, official or employee
16 acting in their official capacity shall not have the authority to
17 include or agree to include in such resolution any term or condition
18 that would prevent the disclosure of any or all factual information
19 related to the action unless the condition of confidentiality is the
20 complainant's preference. Any such condition must be provided to the
21 complainant, who shall have twenty-one days to consider the condition.
22 If after twenty-one days, such condition is the complainant's prefer-
23 ence, such preference shall be memorialized in an agreement signed by
24 the complainant.

25 § 3. This act shall take effect immediately.

26 PART E

27 Section 1. Subdivision 3 of section 74 of the public officers law is
28 amended by adding a new paragraph j to read as follows:

29 j. No officer or employee of a state agency, member of the legislature
30 or legislative employee shall commit an act of sexual harassment while
31 serving in his or her official capacity. For the purposes of this
32 section, "sexual harassment" shall include unwelcome sexual advances,
33 requests for sexual favors, and other verbal or physical conduct of a
34 sexual nature when submission to such conduct is made either explicitly
35 or implicitly a term or condition of an individual's employment,
36 submission to or rejection of such conduct by an individual is used as
37 the basis for employment decisions affecting such individual or such
38 conduct has the purpose or effect of interfering with an individual's
39 work performance or creating an intimidating, hostel, or offensive work-
40 ing environment.

41 § 2. Subdivision 4 of section 74 of the public officers law, as
42 amended by chapter 14 of the laws of 2007, is amended to read as
43 follows:

44 4. a. Violations. In addition to any penalty contained in any other
45 provision of law any such officer, member or employee who shall knowingly
46 and intentionally violate any of the provisions of this section may
47 be fined, suspended or removed from office or employment in the manner
48 provided by law. Any such individual who knowingly and intentionally
49 violates the provisions of paragraph b, c, d or i of subdivision three
50 of this section shall be subject to a civil penalty in an amount not to
51 exceed ten thousand dollars and the value of any gift, compensation or
52 benefit received as a result of such violation. Any such individual who
53 knowingly and intentionally violates the provisions of paragraph a, e or
54 g of subdivision three of this section shall be subject to a civil

penalty in an amount not to exceed the value of any gift, compensation or benefit received as a result of such violation.

b. Sexual harassment violations. In addition to any penalty contained in any other provision of law any such officer, member or employee who shall violate the provisions of paragraph j of subdivision three of this section shall be subject to a civil penalty of up to ten thousand dollars, and may be subject to proceedings for suspension or removal from office or employment by the appropriate administrative action, which shall conform to any applicable collective bargaining agreement or law.

§ 3. Subdivision 9 of section 94 of the executive law is amended by adding a new paragraph (o) to read as follows:

(o) Establish a unit to receive and investigate complaints of sexual harassment that constitute violations of paragraph j of subdivision three of section seventy-four of the public officers law. Such unit shall maintain a phone number to receive complaints, and post such number and instructions for filing a complaint of sexual harassment on the commission's publicly accessible website.

§ 4. Subdivision 13 of section 94 of the executive law is amended by adding a new paragraph (d) to read as follows:

(d) For an alleged violation of paragraph j of subdivision three of section seventy-four of the public officers law, filing a complaint shall not constitute an election of remedies. An individual shall not be required to exhaust other available administrative remedies to file a complaint. Neither the filing of a complaint at the conclusion of any investigation by the commission shall restrict a complainant's right to bring a separate action administratively or in a court of law. Notice to any complainant shall be provided upon the closure of any investigation. However, the individual shall notify the commission of any separate administrative action or action in the court of law relating to the same complaint. The commission may stay the matter before it pending the determination/conclusion of the separate action.

§ 5. This act shall take effect immediately.

PART F

Section 1. The executive law is amended by adding a new section 655 to read as follows:

§ 655. Sexual harassment prevention policy. a. Notwithstanding any other provision of law to the contrary, the office of employee relations shall develop a sexual harassment prevention policy, applicable to each agency, office or department, which shall include information relating to how and with whom to file a complaint; the investigation procedures and a standard complaint form. The sexual harassment prevention policy shall include, but not be limited to, the following elements:

(i) Definitions. For the purposes of this section, the following terms shall have the following meanings:

(A) "sexual harassment" shall include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(B) "employee" shall include any agency, office or department employee, applicant, intern, fellow, volunteer or other individual paid or unpaid involved in the operation of the agency, office or department, contractor, vendor or consultant or employee of any contractor, vendor or consultant in the workplace of any agency, office or department.

(ii) Instructions to file a complaint. (A) Complaints may be filed by an employee to any supervisor, managerial employee, personnel administrator, or affirmative action administrator. Any supervisory or managerial employee who observes or otherwise becomes aware of conduct of a sexually harassing nature, must report such conduct as set forth in the complaint procedure so that it can be investigated. If the office of employment relations otherwise becomes aware of conduct of a sexually harassing nature, it shall ensure an investigation is opened immediately.

(B) A standard complaint form. A standard complaint form shall be available to every employee in the new employee orientation material and on the agency, office, or department's intranet. If an employee makes an oral complaint, the person receiving such complaint shall encourage the employee to fill out a standard complaint form. If the employee does not fill out the complaint form, the person receiving the complaint shall fill out such form based on the oral reporting.

(iii) Investigation procedure. (A) The office of employee relations shall designate an individual to investigate complaints of sexual harassment for each agency, office, and department. Upon receipt of a complaint of sexual harassment, a supervisor, managerial employee, personnel administrator, or affirmative action administrator shall immediately report such complaint to the designated individual, who shall open an investigation. The designated individual shall ensure that he or she does not have a conflict of interest in the allegations in the complaint, and if there is any suspected conflict of interest, the individual shall immediately notify the office of employee relations, which shall designate a new individual to conduct the investigation.

(B) An investigation into a complaint of sexual harassment shall take no more than ninety days from the filing of the complaint. If additional time is needed to complete an investigation due to its complexity, a request for an extension may be submitted to the office of employee relations.

(C) Any complaint of sexual harassment will be kept confidential, including the identity of the complainant, witnesses and the identity of the alleged harasser to the extent practicable during the course of the investigations.

(D) Any appropriate remedial steps may be taken to prevent intimidation, retaliation, or coercion of the complainant by the alleged harasser. Such steps may include, but not be limited to, preventing the alleged harasser from contacting the complainant or from discussing the substance of the complaint with the complainant, or removing the alleged harasser from the workplace.

(E) Such procedures shall also include, at a minimum:

(1) the development of a preliminary investigation plan, which shall include at a minimum:

(I) an examination of: the circumstances surrounding the allegations; the employment history of the parties; the place, date, location, time, and duration of the incident in question; and prior relevant incidents or allegations, whether reported or unreported;

(II) identification of the complainant, alleged harasser, and any relevant witnesses;

1 (III) identification and communication of any legal hold request on
2 any relevant documents, emails or phone records to legal counsel; and

3 (IV) a determination of any necessary site visits;

4 (2) an interview of the complainant, where necessary;

5 (3) an interview of the alleged harasser, where necessary, which shall
6 conform to the requirements of any applicable collective bargaining
7 agreement or law; and

8 (4) any other relevant information relating to the allegations.

9 (iv) Completion of the investigation. (A) After the completion of an
10 investigation, the individual who conducted the investigation shall
11 draft a report, using a standard format developed by the office of
12 employee relations. Such report shall contain, at minimum, a summary of
13 relevant documents; a list of all individuals interviewed and a summary
14 of their statements; a timeline of events; a summary of prior relevant
15 incidents; and an analysis of the allegations and evidence.

16 (B) The report shall be submitted to the counsel at the agency,
17 office, or department for review and recommendation. No more than thirty
18 days after the completion of such investigation, a legal determination
19 shall be issued. If there is a determination that the complaint or a
20 component of such complaint is substantiated, appropriate administrative
21 action shall be taken, which shall conform to any applicable collective
22 bargaining agreement or law.

23 b. Such policy shall also include, but not be limited to the follow-
24 ing:

25 (i) Contain a statement that sexual harassment is unlawful pursuant to
26 state and federal civil rights laws, and shall be prohibited conduct in
27 all state agencies, offices, and departments;

28 (ii) Contain a statement that retaliation against a complainant,
29 witness or any other individual participating in the investigation proc-
30 ess is unlawful and will not be tolerated;

31 (iii) Contain a statement that employees also have the right to file a
32 complaint with the United States equal employment opportunity commis-
33 sion, and the New York division of human rights;

34 (iv) Contain a statement that employees of state entities also have a
35 right to file a complaint with the joint commission on public ethics,
36 which shall include the contact information for employees to use to file
37 such a complaint;

38 (v) Copies of the sexual harassment policy, as well as directions for
39 filing a complaint, shall be distributed to all employees of state agen-
40 cies, offices, departments, including the executive department upon
41 commencing employment and annually thereafter; and

42 (vi) Provisions for appropriate annual interactive training for all
43 employees of state agencies, offices, and departments, including the
44 executive department.

45 c. Nothing in this section shall grant any additional legal rights to
46 any employee and nothing herein abrogates compliance with any law, rule,
47 or regulation that grants rights to an employee. Where there is a
48 conflict between any collective bargaining agreement and this section,
49 such agreement shall be controlling.

50 § 2. Section 80 of the legislative law is amended by adding a new
51 subdivision 8-a to read as follows:

52 8-a. The legislative ethics commission shall receive and investigate
53 complaints of "sexual harassment" as such term is defined in section
54 seventy-four of the public officers law, received from any "employee" as
55 such term is defined by section eighty-one of this article.

1 a. Standard complaint form. The legislative ethics commission shall
2 ensure that a standard complaint form is available to every employee of
3 the legislature. If an employee makes an oral complaint, the person
4 receiving such complaint shall encourage the employee to fill out a
5 standard complaint form. If the employee does not fill out the complaint
6 form, the person shall fill out such form based on the oral reporting.

7 b. Investigation procedure. Upon the receipt of a complaint based on
8 sexual harassment the executive director of the legislative ethics
9 commission or his or her designee shall designate an individual to
10 investigate the complaint of sexual harassment. The designated individ-
11 ual shall ensure that he or she does not have a conflict of interest in
12 the allegations in the complaint, and if there is any conflict of inter-
13 est, the legislative ethics commission shall immediately notify the
14 legislature and the legislative ethics commission shall designate another
15 individual to conduct the investigation. Notice shall be provided to
16 the persons involved.

17 c. (i) The complainant shall be notified of the statutory period in
18 which to file a complaint with the United States equal opportunity
19 commission and the New York state division of human rights.

20 (ii) An investigation into a complaint of sexual harassment shall take
21 no more than ninety days from the filing of the complaint. If additional
22 time is needed to complete an investigation due to its complexity, the
23 time may be extended an additional ten days at the discretion of the
24 legislative ethics commission.

25 (iii) Any complaint of sexual harassment will be kept confidential,
26 including the identity of complainant, witnesses and the identity of the
27 alleged harasser to the extent practicable during the course of the
28 investigations.

29 (d) Completion of the investigation. (i) After the completion of an
30 investigation, the individual who conducted the investigation shall
31 draft a report, using a standard format developed by the legislative
32 ethics commission. Such report shall contain, at a minimum, a summary of
33 relevant documents; a list of all individuals interviewed and a summary
34 of their statements; a timeline of events; a summary of prior relevant
35 incidents; and an analysis of the allegations and evidence.

36 (ii) No more than thirty days after the completion of such investi-
37 gation, a legal determination shall be issued. If there is a determi-
38 nation that the complaint or a component of such complaint is substanti-
39 ated, appropriate administrative action shall be taken, which shall
40 conform to any applicable collective bargaining agreement or law.

41 § 3. Article 5 of the legislative law is amended by adding a new
42 section 81 to read as follows:

43 § 81. Sexual harassment prevention policy. 1. Notwithstanding any
44 other provision of law to the contrary, each house of the legislature
45 shall develop a sexual harassment prevention policy, applicable to
46 members of the legislature and all legislative employees, which shall
47 include investigation procedures and a standard complaint form. The
48 sexual harassment prevention policy shall include, but not be limited
49 to, the following elements:

50 (a) Definitions. The following terms shall have the following mean-
51 ings:

52 (i) "sexual harassment" means unwelcome sexual advances, requests for
53 sexual favors, and other verbal or physical conduct of a sexual nature
54 when submission to or rejection of such conduct, explicitly or implicit-
55 ly, affects an individual's employment, unreasonably interferes with an
56 individual's work performance or creates an intimidating, hostile or

1 offensive work environment without regard to actual economic injury to
2 or discharge of the individual.

3 (ii) "employee" shall include any legislative employee, applicant,
4 intern, fellow, volunteer or other individual paid or unpaid involved in
5 the operation of the legislature, contractor, vendor or consultant or
6 employee of any contractor, vendor or consultant in the workplace of the
7 legislature.

8 (b) Instructions to file a complaint. (i) Complaints may be filed by
9 an employee to any supervisor, managerial employee, personnel adminis-
10 trator, affirmative action administrator or the legislative ethics
11 commission. Any supervisory or managerial employee who observes or
12 otherwise becomes aware of conduct of a sexually harassing nature, shall
13 report such conduct as set forth in the complaint procedure so that it
14 can be investigated.

15 (ii) A standard complaint form. A standard complaint form shall be
16 available to every employee of the legislature. If an employee makes an
17 oral complaint, the person receiving such complaint shall encourage the
18 employee to fill out a standard complaint form. If the employee does not
19 fill out the complaint form, the person receiving such complaint shall
20 fill out such form based on the oral reporting.

21 (c) Investigation procedure. (i) The legislature shall designate an
22 independent attorney specializing in employment law to investigate
23 complaints based on sexual harassment. Notice shall be provided to the
24 persons involved. The complainant shall also be notified of the statuto-
25 ry period in which to file a complaint with the United States equal
26 opportunity commission and the New York state division of human rights
27 and the right to file their complaint with the legislative ethics
28 commission, and the joint commission on public ethics.

29 (ii) An investigation into a complaint of sexual harassment shall take
30 no more than ninety days from the filing of the complaint. If the inde-
31 pendent attorney conducting the investigation needs additional time to
32 complete an investigation due to its complexity, the time may be
33 extended an additional ten days at the discretion of the retained attor-
34 ney. The parties involved shall be notified of the extension by the
35 chief personnel officer or his or her designee and shall again be
36 advised of the statutory period to file a complaint with the United
37 States equal employment opportunity commission and the New York State
38 division of human rights and their right to file their complaint with
39 the legislative ethics commission, and the joint commission on public
40 ethics.

41 (iii) Any complaint of sexual harassment will be kept confidential,
42 including the identity of complainant, witnesses and the identity of the
43 alleged harasser to the extent practicable during the course of the
44 investigations.

45 (iv) Any appropriate remedial steps shall be taken to prevent intim-
46 idation, retaliation, coercion or threats or promises of retaliation
47 directed at the complainant or others including any potential witness or
48 other party, by the alleged harasser or anyone acting on the harasser's
49 behalf. Such steps may include, but not be limited to, preventing the
50 alleged harasser from contacting the complainant or from discussing the
51 substance of the complaint with the complainant.

52 (v) Such procedures shall also include, at a minimum:

53 (A) the development of a preliminary investigation plan, which shall
54 include at a minimum:

55 (1) an examination of: the circumstances surrounding the allegations;
56 the employment history of the parties; the place, date, location, time,

1 and duration of the incident in question; and prior relevant incidents
2 or allegations;

3 (2) identification of the complainant, alleged harasser, and any rele-
4 vant witnesses;

5 (3) identification and communication of any legal hold request on any
6 relevant documents, emails or phone records to legal counsel; and

7 (4) a determination of any necessary site visits;

8 (B) an interview of the complainant, where necessary;

9 (C) an interview of the alleged harasser, where necessary, which shall
10 conform to the requirements of any applicable collective bargaining
11 agreement or law; and

12 (D) any other relevant information relating to the allegations.

13 (d) Completion of the investigation. (i) After the completion of an
14 investigation, the individual who conducted the investigation shall
15 draft a report, using a standard format developed by the legislature.
16 Such report shall contain, at a minimum, a summary of relevant docu-
17 ments; a list of all individuals interviewed and a summary of their
18 statements; a timeline of events; a summary of prior relevant incidents;
19 and an analysis of the allegations and evidence.

20 (ii) The report shall contain a legal recommendation and be completed
21 no more than thirty days after the completion of such investigation. If
22 there is a determination that the complaint or a component of such
23 complaint is substantiated in whole or in part, appropriate administra-
24 tive action shall be taken, which shall conform to any applicable
25 collective bargaining agreement or law.

26 2. Such policy shall also include, but not be limited to the follow-
27 ing:

28 (a) Contain a statement that sexual harassment is unlawful pursuant to
29 state and federal civil rights laws, and shall be prohibited conduct in
30 the legislature;

31 (b) Contain a statement that retaliation against a complainant,
32 witness or any other individual participating in the investigation proc-
33 ess is unlawful and will not be tolerated;

34 (c) Contain a statement that employees also have the right to file a
35 complaint with the legislative ethics commission, the United States
36 equal employment opportunity commission, and the New York division of
37 human rights and the statutory periods within which such complaints
38 shall be filed;

39 (d) Contain a statement that employees of state entities also have a
40 right to file a complaint with the joint commission on public ethics,
41 which shall include the contact information for employees to use to file
42 such a complaint;

43 (e) Copies of the sexual harassment policy, as well as directions for
44 filing a complaint, shall be distributed to the members of the legisla-
45 ture and to all employees of the legislature upon commencing employment
46 and annually thereafter; and

47 (f) Provisions for appropriate annual interactive training for all
48 members of the legislature and employees of the legislature.

49 3. Nothing in this section shall grant any additional legal rights to
50 any employee and nothing in this section abrogates compliance with any
51 law, rule, or regulation that grants rights to an employee. Where there
52 is a conflict between any collective bargaining agreement and this
53 section, such agreement shall be controlling.

54 § 4. The judiciary law is amended by adding a new section 219-d to
55 read as follows:

1 § 219-d. Sexual harassment prevention policy. 1. Notwithstanding any
2 other provision of law to the contrary, the office of court adminis-
3 tration shall develop a sexual harassment prevention policy, applicable
4 to the judiciary and all judiciary employees, which shall include inves-
5 tigation procedures and a standard complaint form. The sexual harassment
6 prevention policy shall include, but not be limited to, the following
7 elements:

8 (a) Definitions. For the purposes of this section, the following terms
9 shall have the following meanings:

10 (i) "sexual harassment" means unwelcome sexual advances, requests for
11 sexual favors, and other verbal or physical conduct of a sexual nature
12 when submission to or rejection of such conduct, explicitly or implicit-
13 ly, affects an individual's employment, unreasonably interferes with an
14 individual's work performance or creates an intimidating, hostile or
15 offensive work environment without regard to actual economic injury to
16 or discharge of the individual.

17 (ii) "employee" shall include any employee, applicant, intern, fellow,
18 volunteer or other individual paid or unpaid involved in the operation
19 of the judiciary, contractor, vendor or consultant, or employee of any
20 contractor, vendor or consultant in the work place of the judiciary.

21 (b) Instructions to file a complaint. (i) Complaints may be filed by
22 an employee to any supervisor, managerial employee, personnel adminis-
23 trator, or affirmative action administrator. Any supervisory or manage-
24 rial employee who observes or otherwise becomes aware of conduct of a
25 sexually harassing nature, must report such conduct as set forth in the
26 complaint procedure so that it can be investigated. If the office of
27 court administration otherwise becomes aware of conduct of a sexually
28 harassing nature, it shall ensure an investigation is opened immediate-
29 ly.

30 (ii) A standard complaint form. A standard complaint form shall be
31 available to every employee in the judiciary. If an employee makes an
32 oral complaint, the person receiving such complaint shall encourage the
33 employee to fill out a standard complaint form. If the employee does not
34 fill out the complaint form, the person receiving such complaint shall
35 fill out such form based on the oral reporting.

36 (c) Investigation procedure. (i) The office of court administration
37 shall designate an individual to investigate complaints of sexual
38 harassment. Upon receipt of a complaint of sexual harassment, a supervi-
39 sor, managerial employee, personnel administrator, or affirmative action
40 administrator shall immediately report such complaint to the designated
41 individual, who shall open an investigation. The designated individual
42 shall ensure that he or she does not have a conflict of interest in the
43 allegations in the complaint, and if there is any conflict of interest,
44 the individual shall immediately notify the office of court adminis-
45 tration, which shall designate a new individual to conduct the investi-
46 gation.

47 (ii) An investigation into a complaint of sexual harassment shall take
48 no more than ninety days from the filing of the complaint. If additional
49 time is needed to complete an investigation due to its complexity, a
50 request for an extension may be submitted to the office of court admin-
51 istration.

52 (iii) Any complaint of sexual harassment will be kept confidential,
53 including the identity of the complainant, witnesses and the identity of
54 the alleged harasser to the extent practicable during the course of the
55 investigations.

1 (iv) Any appropriate remedial steps may be taken to prevent intim-
2 idation, retaliation, or coercion of the complainant by the alleged
3 harasser. Such steps may include, but not be limited to, preventing the
4 alleged harasser from contacting the complainant or from discussing the
5 substance of the complaint with the complainant.

6 (v) Such procedures shall also include, at a minimum:

7 (A) the development of a preliminary investigation plan, which shall
8 include at a minimum:

9 (1) an examination of: the circumstances surrounding the allegations;
10 the employment history of the parties; the place, date, location, time,
11 and duration of the incident in question; and prior relevant incidents
12 or allegations, whether reported or unreported;

13 (2) identification of the complainant, alleged harasser, and any rele-
14 vant witnesses;

15 (3) identification and communication of any legal hold request on any
16 relevant documents, emails or phone records to legal counsel; and

17 (4) a determination of any necessary site visits;

18 (B) an interview of the complainant, where necessary;

19 (C) an interview of the alleged harasser, where necessary, which shall
20 conform to the requirements of any applicable collective bargaining
21 agreement or law; and

22 (D) any other relevant information relating to the allegations.

23 (d) Completion of the investigation. (i) After the completion of an
24 investigation, the individual who conducted the investigation shall
25 draft a report, using a standard format developed by the office of court
26 administration. Such report shall contain, at a minimum, a summary of
27 relevant documents; a list of all individuals interviewed and a summary
28 of their statements; a timeline of events; a summary of prior relevant
29 incidents; and an analysis of the allegations and evidence.

30 (ii) The report shall be submitted to an individual designated by the
31 office of court administration to review the report and make a legal
32 recommendation. No more than thirty days after the completion of such
33 investigation, a legal determination shall be issued. If there is a
34 determination that the complaint or a component of such complaint is
35 substantiated, appropriate administrative action shall be taken, which
36 shall conform to any applicable collective bargaining agreement or law.

37 2. Such policy shall also include, but not be limited to the follow-
38 ing:

39 (a) Contain a statement that sexual harassment is unlawful pursuant to
40 state and federal civil rights laws, and shall be prohibited conduct in
41 the judiciary;

42 (b) Contain a statement that retaliation against a complainant,
43 witness or any other individual participating in the investigation proc-
44 ess is unlawful and will not be tolerated;

45 (c) Contain a statement that employees also have the right to file a
46 complaint with the United States equal employment opportunity commis-
47 sion, and the New York division of human rights;

48 (d) Contain a statement that employees of state entities also have a
49 right to file a complaint with the joint commission on public ethics,
50 which shall include the contact information for employees to use to file
51 such a complaint;

52 (e) Copies of the sexual harassment policy, as well as directions for
53 filing a complaint, shall be distributed to all employees of the office
54 of court administration upon commencing employment and annually there-
55 after; and

1 (f) Provisions for appropriate annual interactive training for all
2 employees of the judiciary.

3 3. Nothing in this section shall grant any additional legal rights to
4 any employee and nothing in this section abrogates compliance with any
5 law, rule, or regulation that grants rights to an employee. Where there
6 is a conflict between any collective bargaining agreement and this
7 section, such agreement shall be controlling.

8 § 5. The general municipal law is amended by adding a new section 686
9 to read as follows:

10 § 686. Sexual harassment prevention policy. 1. Notwithstanding any
11 other provision of law to the contrary, every county, city, town,
12 village, school district and other political subdivision shall require
13 its legal counsel to develop a sexual harassment prevention policy,
14 applicable to all employees of such political subdivision, which shall
15 include investigation procedures and a standard complaint form. The
16 sexual harassment prevention policy shall include, but not be limited
17 to, the following elements:

18 (a) Definitions. For the purposes of this section, the following terms
19 shall have the following meanings:

20 (i) "sexual harassment" means unwelcome sexual advances, requests for
21 sexual favors, and other verbal or physical conduct of a sexual nature
22 when submission to or rejection of such conduct, explicitly or implicit-
23 ly, affects an individual's employment, unreasonably interferes with an
24 individual's work performance or creates an intimidating, hostile or
25 offensive work environment without regard to actual economic injury to
26 or discharge of the individual.

27 (ii) "employee" shall include any employee, applicant, intern, fellow
28 volunteer or other individual involved in the operation of the county,
29 city, town, village, school district or other political subdivision, or
30 contractor of every county, city, town, village, school district and
31 other political subdivision or any employee, contractor, vendor or
32 consultant or employee of any contractor, vendor or consultant in the
33 workplace of every county, city, town, village, school district and
34 other political subdivision.

35 (b) Instructions to file a complaint. (i) Complaints may be filed by
36 an employee with any supervisor, managerial employee, personnel adminis-
37 trator, or affirmative action administrator. Any supervisory or manage-
38 rial employee who observes or otherwise becomes aware of conduct of a
39 sexually harassing nature, must report such conduct as set forth in the
40 complaint procedure so that it can be investigated. If the legal counsel
41 of the county, city, town, village, school district or other political
42 subdivision becomes aware of conduct of a sexually harassing nature, it
43 shall ensure an investigation is opened immediately.

44 (ii) A standard complaint form. A standard complaint form shall be
45 available to every employee in every county, city, town, village, school
46 district or other political subdivision. If an employee makes an oral
47 complaint, the person receiving such complaint shall encourage the
48 employee to fill out a standard complaint form. If the employee does not
49 fill out the complaint form, the person receiving such complaint shall
50 fill out such form based on the oral reporting.

51 (c) Investigation procedure. (i) The legal counsel shall designate an
52 individual or office to investigate complaints of sexual harassment.
53 Upon receipt of a complaint of sexual harassment, a supervisor, manage-
54 rial employee, personnel administrator, or affirmative action adminis-
55 trator shall immediately report such complaint to the designated indi-
56 vidual, who shall open an investigation. The designated individual shall

1 ensure that he or she does not have a conflict of interest in the alle-
2 gations in the complaint, and if there is any conflict of interest, the
3 individual shall immediately notify the legal counsel, which shall
4 designate a new individual to conduct the investigation.

5 (ii) An investigation into a complaint of sexual harassment shall take
6 no more than ninety days from the filing of the complaint. If additional
7 time is needed to complete an investigation due to its complexity, a
8 request for an extension may be submitted to the legal counsel.

9 (iii) Any complaint of sexual harassment will be kept confidential,
10 including the identity of complainant, witnesses and the identity of the
11 alleged harasser to the extent practicable during the course of the
12 investigations.

13 (iv) Any appropriate remedial steps may be taken to prevent intim-
14 idation, retaliation, or coercion of the complainant by the alleged
15 harasser. Such steps may include, but not be limited to, preventing the
16 alleged harasser from contacting the complainant or from discussing the
17 substance of the complaint with the complainant.

18 (v) Such procedures shall also include, at a minimum:

19 (1) the development of a preliminary investigation plan, which shall
20 include at a minimum:

21 (I) an examination of: the circumstances surrounding the allegations;
22 the employment history of the parties; the place, date, location, time,
23 and duration of the incident in question; and prior relevant incidents
24 or allegations, whether reported or unreported;

25 (II) identification of the complainant, alleged harasser, and any
26 relevant witnesses;

27 (III) identification and communication of any legal hold request on
28 any relevant documents, emails or phone records to legal counsel; and

29 (IV) a determination of any necessary site visits;

30 (2) an interview of the complainant, where necessary;

31 (3) an interview of the alleged harasser, where necessary, which shall
32 conform to the requirements of any applicable collective bargaining
33 agreement or law; and

34 (4) any other relevant information relating to the allegations.

35 (d) Completion of the investigation. (i) After the completion of an
36 investigation, the individual who conducted the investigation shall
37 draft a report, using a standard format developed by the legal counsel.
38 Such report shall contain, at minimum, a summary of relevant documents;
39 a list of all individuals interviewed and a summary of their statements;
40 a timeline of events; a summary of prior relevant incidents; and an
41 analysis of the allegations and evidence.

42 (ii) The report shall be submitted to an individual designated by the
43 legal counsel to review the report and make a legal recommendation. No
44 more than thirty days after the completion of such investigation, a
45 legal determination shall be issued. If there is a determination that
46 the complaint or a component of such complaint is substantiated, appro-
47 priate administrative action shall be taken, which shall conform to any
48 applicable collective bargaining agreement or law.

49 2. Such policy shall also include, but not be limited to the follow-
50 ing:

51 (a) Contain a statement that sexual harassment is unlawful pursuant to
52 state and federal civil rights laws, and shall be prohibited conduct;

53 (b) Contain a statement that retaliation against a complainant,
54 witness or any other individual participating in the investigation proc-
55 ess is unlawful and will not be tolerated;

1 (c) Contain a statement that employees also have the right to file a
2 complaint with the United States equal employment opportunity commis-
3 sion, and the New York division of human rights;

4 (d) Copies of the sexual harassment policy, as well as directions for
5 filing a complaint, shall be distributed to all employees of every coun-
6 ty, city, town, village, school district or other political subdivision
7 upon commencing employment and annually thereafter; and

8 (e) Provisions for appropriate annual interactive training for all
9 employees of the political subdivision.

10 3. Nothing in this section shall grant any additional legal rights to
11 any employee and nothing in this section abrogates compliance with any
12 law, rule, or regulation that grants rights to an employee. Where there
13 is a conflict between any collective bargaining agreement and this
14 section, such agreement shall be controlling.

15 § 6. The public authorities law is amended by adding a new section
16 2854 to read as follows:

17 § 2854. Sexual harassment prevention policy. 1. Notwithstanding any
18 other provision of law to the contrary, every state and local authority
19 shall require its legal counsel to develop a sexual harassment
20 prevention policy, applicable to all employees of such authority, which
21 shall include investigation procedures and a standard complaint form.
22 The sexual harassment prevention policy shall include, but not be limit-
23 ed to, the following elements:

24 (a) Definitions. For the purposes of this section, the following terms
25 shall have the following meanings:

26 (i) "sexual harassment" means unwelcome sexual advances, requests for
27 sexual favors, and other verbal or physical conduct of a sexual nature
28 when submission to or rejection of such conduct, explicitly or implicit-
29 ly, affects an individual's employment, unreasonably interferes with an
30 individual's work performance or creates an intimidating, hostile or
31 offensive work environment without regard to actual economic injury to
32 or discharge of the individual.

33 (ii) "employee" shall include any employee, applicant, intern, fellow,
34 volunteer or other individual involved in the operation of the state or
35 local authority or contractor of every state and local authority, or any
36 employee, contractor, vendor or consultant or employee of any contrac-
37 tor, vendor or consultant in the workplace of the authority.

38 (b) Instructions to file a complaint. (i) Complaints may be filed by
39 an employee with any supervisor, managerial employee, personnel adminis-
40 trator, or affirmative action administrator. Any supervisory or manage-
41 rial employee who observes or otherwise becomes aware of conduct of a
42 sexually harassing nature, must report such conduct as set forth in the
43 complaint procedure so that it can be investigated. If the legal counsel
44 becomes aware of conduct of a sexually harassing nature, it shall ensure
45 an investigation is opened immediately.

46 (ii) A standard complaint form. A standard complaint form shall be
47 available to every employee of every state and local authority. If an
48 employee makes an oral complaint, the person receiving such complaint
49 shall encourage the employee to fill out a standard complaint form. If
50 the employee does not fill out the complaint form, the person receiving
51 such complaint shall fill out such form based on the oral reporting.

52 (c) Investigation procedure. (i) The legal counsel shall designate an
53 individual to investigate complaints of sexual harassment for the
54 authority. Upon receipt of a complaint of sexual harassment, a supervi-
55 sor, managerial employee, personnel administrator, or affirmative action
56 administrator shall immediately report such complaint to the designated

individual, who shall open an investigation. The designated individual shall ensure that he or she does not have a conflict of interest in the allegation in the complaint, and if there is any conflict of interest, the individual shall immediately notify the legal counsel, which shall designate a new individual to conduct the investigation.

(ii) An investigation into a complaint of sexual harassment shall take no more than ninety days from the filing of the complaint. If additional time is needed to complete an investigation due to its complexity, a request for an extension may be submitted to the authority.

(iii) Any complaint of sexual harassment will be kept confidential, including the identity of the complainant, witnesses and the identity of the alleged harasser to the extent practicable during the course of the investigations.

(iv) Any appropriate remedial steps may be taken to prevent intimidation, retaliation, or coercion of the complainant by the alleged harasser. Such steps may include, but not be limited to, preventing the alleged harasser from contacting the complainant or from discussing the substance of the complaint with the complainant.

(v) Such procedures shall also include, at a minimum:

(A) the development of a preliminary investigation plan, which shall include at a minimum:

(1) an examination of: the circumstances surrounding the allegations; the employment history of the parties; the place, date, location, time, and duration of the incident in question; and prior relevant incidents or allegations, whether reported or unreported;

(2) identification of the complainant, alleged harasser, and any relevant witnesses;

(3) identification and communication of any legal hold request on any relevant documents, emails or phone records to legal counsel; and

(4) a determination of any necessary site visits;

(B) an interview of the complainant, where necessary;

(C) an interview of the alleged harasser, where necessary, which shall conform to the requirements of any applicable collective bargaining agreement or law;

(D) any other relevant information relating to the allegations.

(d) Completion of the investigation. (i) After the completion of an investigation, the individual who conducted the investigation shall draft a report, using a standard format developed by the legal counsel. Such report shall contain, at minimum, a summary of relevant documents; a list of all individuals interviewed and a summary of their statements; a timeline of events; a summary of prior relevant incidents; and an analysis of the allegations and evidence.

(ii) The report shall be submitted to an individual designated to review the report and make a legal recommendation. No more than thirty days after the completion of such investigation, a legal determination shall be issued. If there is a determination that the complaint or a component of such complaint is substantiated, appropriate administrative action shall be taken, which shall conform to any applicable collective bargaining agreement or law.

2. Such policy shall also include, but not be limited to the following:

(a) Contain a statement that sexual harassment is unlawful pursuant to state and federal civil rights laws, and shall be prohibited conduct;

(b) Contain a statement that retaliation against a complainant, witness or any other individual participating in the investigation process is unlawful and will not be tolerated;

1 (c) Contain a statement that employees also have the right to file a
2 complaint with the United States equal employment opportunity commis-
3 sion, and the New York division of human rights;

4 (d) Contain a statement that employees of state entities also have a
5 right to file a complaint with the joint commission on public ethics,
6 which shall include the contact information for employees to use to file
7 such a complaint;

8 (e) Copies of the sexual harassment policy, as well as directions for
9 filing a complaint, shall be distributed to all employees of the author-
10 ity upon commencing employment and annually thereafter; and

11 (f) Provisions for appropriate annual interactive training for all
12 employees of the authority.

13 3. Nothing in this section shall grant any additional legal rights to
14 any employee and nothing in this section abrogates compliance with any
15 law, rule, or regulation that grants rights to an employee. Where there
16 is a conflict between any collective bargaining agreement and this
17 section, such agreement shall be controlling.

18 § 7. This act shall take effect one year after it shall have become a
19 law. Effective immediately, the addition, amendment and/or repeal of any
20 rule or regulation necessary for the implementation of this act on its
21 effective date are authorized to be made and completed on or before such
22 effective date.

23 PART G

24 Section 1. The labor law is amended by adding a new section 44 to read
25 as follows:

26 § 44. Prevention of sexual harassment. 1. The department shall produce
27 a strong model management policy defining and prohibiting sexual harass-
28 ment in the workplace. Such model policy shall (a) define sexual harass-
29 ment and provide examples of conduct that would be defined as unlawful
30 sexual harassment; (b) include but not be limited to information
31 concerning the federal and state statutory provisions concerning sexual
32 harassment and remedies available to victims of sexual harassment; and
33 (c) inform employees of their rights of redress and the availability and
34 forms of complaint resolution assistance available.

35 Such model policy shall clearly state that sexual harassment is
36 considered a form of employee misconduct and that sanctions will be
37 enforced against individuals engaging in sexual harassment and against
38 supervisory and managerial personnel who knowingly allow such behavior
39 to continue.

40 2. The department shall produce a model training program to prevent
41 sexual harassment in the workplace. (a) Such model training program
42 shall be interactive and no less than two hours in length and include
43 (i) a definition of sexual harassment; (ii) examples of conduct that
44 would be defined as unlawful; and (iii) information concerning the
45 federal and state statutory provisions concerning sexual harassment and
46 remedies available to victims of sexual harassment.

47 (b) Such department shall also include information in such model
48 program specifically addressing conduct by supervisors as both partic-
49 ipants in a general training program and in a supervisor-specific
50 program to prevent sexual harassment in the workplace.

51 3. The department shall consult with the division of human rights in
52 the production of the information set forth under this section.

53 4. The commissioner shall promulgate regulations allowing for the
54 distribution of the information set forth in this section and promoting

1 the availability of the information set forth in this section to employ-
2 ers and the public.

3 § 2. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law.

5 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
6 sion, section or part of this act shall be adjudged by any court of
7 competent jurisdiction to be invalid, such judgment shall not affect,
8 impair, or invalidate the remainder thereof, but shall be confined in
9 its operation to the clause, sentence, paragraph, subdivision, section
10 or part thereof directly involved in the controversy in which such judg-
11 ment shall have been rendered. It is hereby declared to be the intent of
12 the legislature that this act would have been enacted even if such
13 invalid provisions had not been included herein.

14 § 3. This act shall take effect immediately provided, however, that
15 the applicable effective date of Parts A through G of this act shall be
16 as specifically set forth in the last section of such Parts.