

STATE OF NEW YORK

7195

IN SENATE

(Prefiled)

January 3, 2018

Introduced by Sen. STEWART-COUSINS -- read twice and ordered printed,
and when printed to be committed to the Committee on Civil Service and
Pensions

AN ACT to amend the civil service law, the legislative law and the state
finance law, in relation to establishing sexual harassment prevention
protocols within the public sector

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

1 Section 1. Article 7 of the civil service law is amended by adding a
2 new title D to read as follows:

TITLE D

PREVENTION OF SEXUAL HARASSMENT BY EMPLOYEES

Section 110. Adoption of anti-sexual harassment policy.

111. Posting of notice.

112. Preparation of training program.

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8 § 110. Adoption of anti-sexual harassment policy. 1. The head of each
9 department, division, board, commission, bureau, public benefit corpo-
10 ration, public authority or commission shall:

11 (a) Issue a strong management policy statement defining and prohibit-
12 ing sexual harassment in the workplace. The policy statement should
13 inform employees of their rights of redress, and the availability of
14 complaint resolution channels and assistance with incidents of sexual
15 harassment. Such policy statement shall make clear that sexual harass-
16 ment is considered a form of employee misconduct and that sanctions will
17 be enforced against individuals engaging in sexual harassment and
18 against supervisory and managerial personnel who knowingly allow such
19 behavior to continue. Such policy statement shall specify that the defi-
20 inition of an employee shall include interns, temporary employees, and
21 individuals employed pursuant to a fellowship program solely for the
22 purposes of rights and remedies due to an incident of sexual harassment.

23 (b) Widely distribute the policy statement by providing it to all
24 employees, including it in new employee orientation materials, and
25 publicizing it in internal employee publications.

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

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1 (c) Conduct appropriate training to instruct and sensitize all employ-
2 ees.

3 (d) Develop guidelines to ensure the swift and thorough investigation
4 of allegations and complaints of sexual harassment and enforcement of
5 appropriate sanctions including disciplinary actions. The affirmative
6 action or a similarly situated employee officer shall have responsibil-
7 ity for processing such complaints. All investigations shall be
8 conducted with due regard for confidentiality to ensure protection of
9 the complainant and the accused. Victims shall be informed of the vari-
10 ous administrative and legal remedies available in addition to any
11 internal resolution process. The complaint procedure shall provide for
12 subsequent review to determine if the sexual harassment being alleged,
13 if found to be meritorious, has effectively ceased.

14 (e) Enact a timeline within the adopted guidelines, providing for an
15 initial determination on the validity of an allegation of sexual harass-
16 ment within sixty days of an incident being reported by an employee who
17 has been subject to such harassment, and a recommendation of action to
18 be taken in light of the initial determination within ninety days.

19 (f) Provide the governor's office of employee relations with a copy of
20 the policy statement and a brief description of the actions taken and
21 planned in regard to preventing and combating sexual harassment in the
22 workplace, and report all complaints and their resolution to the gover-
23 nor's office of employee relations.

24 2. The governor's office of employee relations shall prepare a model
25 policy to be distributed to each entity covered under subdivision one of
26 this section. For any covered entity under the direct authority of the
27 executive branch, its designated officer may either adopt the model
28 policy or make specific changes to the model policy that take into
29 account particular circumstances facing such agency. Notice must be
30 provided to the governor's office of employee relations when changes to
31 such model policy are made.

32 3. The governor's office of employee relations shall provide informa-
33 tion to the entities covered under this section to assist in the imple-
34 mentation and the operation of provisions under this section.

35 4. Nothing in this section shall be construed to conflict with any
36 other rights of individuals under state or federal law.

37 § 111. Posting of notice. 1. The department, in coordination with the
38 governor's office of employee relations and the division of human
39 rights, shall produce a poster no less than eight and a half feet long
40 and eleven and a half feet wide to be distributed to and posted conspic-
41 uously by all employers in the state which states at a minimum (a) that
42 sexual harassment is a violation of state and federal law; (b)
43 descriptions and examples of sexual harassment; (c) a statement of the
44 range of consequences for committing sexual harassment and/or retaliat-
45 ing against an individual who complains of sexual harassment; (d) the
46 identity of the appropriate state and federal employment discrimination
47 enforcement agencies; and (e) contact information for such agencies.

48 2. The department may utilize a poster generated by the division of
49 human rights to the extent that such poster conforms with the require-
50 ments of this section and is otherwise compliant with the application of
51 article fifteen-A of the executive law to the state workforce.

52 § 112. Preparation of training program. 1. Pursuant to section one
53 hundred ten of this title, each department, division, board, commission,
54 bureau, public benefit corporation, public authority or commission shall
55 conduct appropriate training to prevent sexual harassment in the work-
56 place.

1 2. All training to prevent sexual harassment in the workplace shall
2 include information concerning the federal and state statutory
3 provisions regarding sexual harassment and remedies available to victims
4 of sexual harassment.

5 3. All employees shall complete a training of a minimum of two hours
6 within the first six months of employment, or within six months of the
7 effective date of this section if an employee was employed on or before
8 such effective date.

9 4. In addition to the requirements of subdivision three of this
10 section, all supervisory employees, as deemed by the department, shall
11 complete an annual training of a minimum of one hour, except where a
12 supervisory employee is subject to subdivision three of this section, in
13 which case such employee shall be exempt from training in the first
14 calendar year of employment.

15 5. Training curriculum and scheduling of such trainings required under
16 this title shall be coordinated by the governor's office of employee
17 relations.

18 § 2. The legislative law is amended by adding a new section 7-h to
19 read as follows:

20 § 7-h. Prevention of sexual harassment in the legislature. It shall be
21 the policy of the legislature to prevent sexual harassment among the
22 members, officers, and employees of the legislature.

23 1. Each house shall issue a strong management policy statement defin-
24 ing and prohibiting sexual harassment in the workplace. Such policy
25 statement shall inform employees of their rights of redress, and the
26 availability of complaint resolution channels and assistance with inci-
27 dents of sexual harassment. Such policy statement shall make clear that
28 sexual harassment is considered a form of employee misconduct and that
29 sanctions will be enforced against individuals engaging in sexual
30 harassment and against supervisory and managerial personnel who knowin-
31 gly allow such behavior to continue. Such policy statement shall specify
32 that the definition of an employee include interns, temporary employees,
33 and individuals employed pursuant to a fellowship program solely for the
34 purposes of rights and remedies due to an incident of sexual harassment.
35 Such policy statement shall be widely distributed by providing it to all
36 employees, including it in new employee orientation materials, and
37 publicizing it in internal employee publications and on their public
38 websites. Each employee shall submit acknowledgement of his or her
39 receipt of such policy statement.

40 2. Each house shall develop guidelines to ensure the swift and thor-
41 ough investigation of allegations and complaints of sexual harassment
42 and enforcement of appropriate sanctions including disciplinary actions.
43 An officer shall be designated by each house in its management policy
44 statement who shall have responsibility for processing complaints. Due
45 to the sensitivity of the issue, particular efforts should be made to
46 conduct investigations with due regard for confidentiality to ensure
47 protection of the complainant and the accused. Although the intent is to
48 address and resolve such matters at the workplace, victims shall be
49 informed of the various administrative and legal remedies available. The
50 complaint procedure should provide for subsequent review to determine if
51 the sexual harassment has been effectively stopped. The speaker of the
52 assembly and the temporary president of the senate may jointly designate
53 an officer to handle investigations and disposition of allegations and
54 complaints of sexual harassment in both houses, or may appoint an offi-
55 cer in each house respectively.

1 3. An officer who has been designated in each house or jointly desig-
2 nated by the speaker of the assembly and the temporary president of the
3 senate, as the case may be, shall be required to investigate all
4 complaints and issue a report summarizing findings and recommended
5 action, including any referral to the respective standing committee on
6 ethics in each house of the legislature, or law enforcement as may be
7 necessary and appropriate, to remedy any discriminatory conduct found in
8 such report. The officer shall provide an initial determination on the
9 validity of an allegation of sexual harassment within sixty days of an
10 incident being reported by an employee who has been subject to such
11 harassment, and a recommendation of action to be taken in light of the
12 initial determination within thirty days after the conclusion of the
13 investigation and initial determination.

14 4. Upon the completion of an investigation and recommendation for
15 action to be taken based on an allegation of sexual harassment, the
16 officer designated pursuant to subdivision three of this section shall
17 transmit to the legislative ethics commission the final report, and
18 shall redact all identifying information within the report to ensure the
19 confidentiality of the parties. The legislative ethics commission, upon
20 receipt of such report, shall post a copy of the report on its website
21 in a publicly accessible place.

22 5. Each house shall conduct appropriate training to instruct and
23 sensitize all employees. All trainings shall include, at a minimum,
24 information concerning the federal and state statutory provisions
25 concerning sexual harassment and remedies available to victims of sexual
26 harassment. Such training shall be (i) for members of the legislature,
27 at least two hours within the first six months of a member's election;
28 (ii) for officers or employees of the legislature, at least two hours
29 within the first six months of employment; (iii) for both members and
30 officers or employees of the legislature, at least two hours within six
31 months of the effective date of this section if an officer or employee
32 was employed on or before the effective date, and every year thereafter;
33 and (iv) for employees of the legislature deemed to be supervisory
34 employees by the appointing authority, an additional one hour every
35 year.

36 6. Nothing in this section shall be construed to conflict with any
37 other rights of individuals under state or federal law.

38 § 3. The state finance law is amended by adding a new section 148 to
39 read as follows:

40 § 148. Prevention of sexual harassment by state contractors. 1. Defi-
41 nition. For the purposes of this section, "state contractor" shall mean
42 a business which employs fifty people or more, or receives contracts
43 with the state valued at an aggregate value of one million dollars or
44 more per year.

45 2. Anti-sexual harassment policy. State contractors shall be required
46 to adopt a strong management policy statement which (i) defines and
47 prohibits sexual harassment in the workplace; (ii) provides examples of
48 conduct which would be defined as unlawful sexual harassment; and (iii)
49 informs employees of their rights of redress, the availability of
50 complaint resolution channels and assistance with incidents of sexual
51 harassment. Such policy statement shall be widely distributed by provid-
52 ing it to all employees, including it in new employee orientation, and
53 publicizing it in internal employee publications.

54 3. Anti-sexual harassment training. State contractors shall be
55 required to conduct appropriate training to prevent sexual harassment in
56 the workplace. Such training programs shall include information

1 concerning the federal and state statutory provisions concerning sexual
2 harassment and remedies available to victims of sexual harassment.
3 Training shall be a minimum of two hours on a yearly basis for all
4 employees of a state contractor, except for all employees of a state
5 contractor on the effective date of this section, where it shall be
6 within six months of such effective date.

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