

STATE OF NEW YORK

7848

IN SENATE

March 4, 2018

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

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 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
10 is found. Section three of this act sets forth the general effective
11 date of this act.

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

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PART A

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

§ 148. Prevention of sexual harassment by state contractors. 1. Definitions. As used in this section, the following terms shall have the following meanings unless otherwise specified:

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

b. "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.

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

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

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

1 eth of each year during the term of the contract that (i) such contrac-
2 tor has adopted an anti-sexual harassment policy; (ii) such policy has
3 been delivered to each new employee; (iii) such policy has been widely
4 distributed and made available to all employees; and (iv) anti-sexual
5 harassment training has been conducted.

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

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

18 PART B

19 Section 1. The general business law is amended by adding a new section
20 398-f to read as follows:

21 § 398-f. Mandatory arbitration clauses; prohibited. 1. Definitions. As
22 used in this section:

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

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

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

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

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

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

49 b. Exceptions. Nothing contained in this section shall be construed to
50 impair or prohibit an employer from incorporating a non-prohibited
51 clause or other mandatory arbitration provision within such contract,
52 that the parties agree upon.

53 c. Mandatory arbitration clause null and void. The provisions of such
54 a mandatory arbitration clause shall be null and void. The inclusion of

1 such clause in a written contract shall not serve to impair the enforce-
2 ability of any other provision of such contract.

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

5 § 2. This act shall take effect on the first of January next succeed-
6 ing the date on which it shall have become a law.

7 PART C

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

10 35. The term "sexual harassment" means unwelcome sexual advances,
11 requests for sexual favors, or other verbal or physical conduct of a
12 sexual nature if such conduct is made either explicitly or implicitly a
13 term or condition of employment, or submission to or rejection of such
14 conduct is used as the basis for employment decisions affecting an indi-
15 vidual's employment, or such conduct has the purpose or effect of unrea-
16 sonably interfering with an individual's work performance or creating an
17 intimidating, hostile or offensive work environment, even if the
18 complaining individual is not the intended target of the sexual harass-
19 ment.

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

22 § 296-d. Sexual harassment relating to non-employees. 1. An employer
23 may be held liable for the acts of non-employees, with respect to "sexu-
24 al harassment" as such term is defined in subdivision thirty-five of
25 section two hundred ninety-two of this article when the employer, its
26 agents or supervisors knew or should have known that its contractor,
27 vendor, consultant or other person providing services pursuant to a
28 contract in the workplace or employees of such contractor, vendor,
29 consultant or other person providing services pursuant to a contract in
30 the workplace was subjected to "sexual harassment" as such term is
31 defined in subdivision thirty-five of section two hundred ninety-two of
32 this article by an employee and the employer fails to take immediate and
33 appropriate corrective action. In reviewing cases involving the acts of
34 non-employees, the extent of the employer's control and any other legal
35 responsibility which the employer may have with respect to the conduct
36 of those non-employees shall be considered.

37 2. Employers shall take all reasonable steps to prevent sexual harass-
38 ment from occurring.

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

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

51 b. The office of employee relations shall review each proposed agreed
52 judgment, stipulation, decree, agreement to settle, assurance of discon-
53 tinuance or other agreement to resolve any internal complaint, complaint
54 to the United States equal employment opportunity commission or New York

1 division of human rights, or other complaint filed by an employee of a
2 "state agency" as such term is defined by section one hundred forty-
3 eight of the state finance law, that has not been filed in state or
4 federal court, if the act or omission from which such complaint arose
5 involved sexual harassment. The office of employee relations shall not
6 approve such agreement to the extent such agreement includes a proposal
7 for the state to indemnify and save harmless an employee for the employ-
8 ee's individual liability with respect to any portion of the judgement,
9 stipulation, decree, agreement to settle, assurance of discontinuance or
10 other agreement that is based upon an allegation of sexual harassment.

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

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

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

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

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

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

41 (e) Notwithstanding any other law to the contrary, for any claim or
42 cause of action, whether arising under common law, equity, or any
43 provision of law, the factual foundation for which involves sexual
44 harassment as such term is defined in subdivision thirty-five of section
45 two hundred ninety-two of the executive law, in resolving, by agreed
46 judgment, stipulation, decree, agreement to settle, assurance of discon-
47 tinuance or otherwise, no state agency or employee acting in their offi-
48 cial capacity shall have the authority to include or agree to include in
49 such resolution any term or condition that would prevent the disclosure
50 of any or all factual information related to the action unless the
51 condition of confidentiality is the complainant's preference. Any such
52 condition must be provided to the complainant, who shall have twenty-one
53 days to consider the condition. If after twenty-one days, such condi-
54 tion is the complainant's preference, such preference shall be memorial-
55 ized in an agreement signed by the complainant.

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

(d)(i) 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: (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (C) such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(ii) No public entity shall indemnify or save harmless an employee with respect to 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.

(iii) 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.

§ 8. This act shall take effect immediately.

PART D

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

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

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

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

1 rejection of such conduct by an individual is used as the basis for
2 employment decisions affecting such individual; or (iii) such conduct
3 has the purpose or effect of interfering with an individual's work
4 performance or creating an intimidating, hostile, or offensive working
5 environment.

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

22 § 3. This act shall take effect immediately.

23 PART E

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

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

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

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

1 unpaid involved in the operation of the agency, office or department,
2 contractor, vendor or consultant or employee of any contractor, vendor
3 or consultant in the workplace of any agency, office or department.

4 (ii) Instructions to file a complaint. (A) Complaints may be filed by
5 an employee to any supervisor, managerial employee, personnel adminis-
6 trator, or affirmative action administrator. Any supervisory or manage-
7 rial employee who observes or otherwise becomes aware of conduct of a
8 sexually harassing nature, must report such conduct as set forth in the
9 complaint procedure so that it can be investigated. If the office of
10 employment relations otherwise becomes aware of conduct of a sexually
11 harassing nature, it shall ensure an investigation is opened immediate-
12 ly.

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

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

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

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

40 (D) Any appropriate remedial steps may be taken to prevent intim-
41 idation, retaliation, or coercion of the complainant by the alleged
42 harasser. Such steps may include, but not be limited to, preventing the
43 alleged harasser from contacting the complainant or from discussing the
44 substance of the complaint with the complainant, or removing the alleged
45 harasser from the workplace.

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

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

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

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

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

1 (IV) a determination of any necessary site visits;
2 (2) an interview of the complainant, where necessary;
3 (3) an interview of the alleged harasser, where necessary, which shall
4 conform to the requirements of any applicable collective bargaining
5 agreement or law; and

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

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

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

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

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

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

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

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

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

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

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

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

50 8-a. The legislative ethics commission shall receive and investigate
51 complaints of "sexual harassment" as such term is defined in section
52 seventy-four of the public officers law, received from any "employee" as
53 such term is defined by section eighty-one of this article.

54 a. Standard complaint form. The legislative ethics commission shall
55 ensure that a standard complaint form is available to every employee of
56 the legislature. If an employee makes an oral complaint, the person

1 receiving such complaint shall encourage the employee to fill out a
2 standard complaint form. If the employee does not fill out the complaint
3 form, the person shall fill out such form based on the oral reporting.

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

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

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

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

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

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

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

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

47 (a) Definitions. The following terms shall have the following mean-
48 ings:

49 (i) "sexual harassment" means unwelcome sexual advances, requests for
50 sexual favors, and other verbal or physical conduct of a sexual nature
51 when submission to or rejection of such conduct, explicitly or implicit-
52 ly, affects an individual's employment, unreasonably interferes with an
53 individual's work performance or creates an intimidating, hostile or
54 offensive work environment without regard to actual economic injury to
55 or discharge of the individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 § 219-d. Sexual harassment prevention policy. 1. Notwithstanding any
55 other provision of law to the contrary, the office of court adminis-
56 tration shall develop a sexual harassment prevention policy, applicable

1 to the judiciary and all judiciary employees, which shall include inves-
2 tigation procedures and a standard complaint form. The sexual harassment
3 prevention policy shall include, but not be limited to, the following
4 elements:

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

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

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

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

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

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

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

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

53 (iv) Any appropriate remedial steps may be taken to prevent intim-
54 idation, retaliation, or coercion of the complainant by the alleged
55 harasser. Such steps may include, but not be limited to, preventing the

1 alleged harasser from contacting the complainant or from discussing the
2 substance of the complaint with the complainant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53 (f) Provisions for appropriate annual interactive training for all
54 employees of the judiciary.

55 3. Nothing in this section shall grant any additional legal rights to
56 any employee and nothing in this section abrogates compliance with any

1 law, rule, or regulation that grants rights to an employee. Where there
2 is a conflict between any collective bargaining agreement and this
3 section, such agreement shall be controlling.

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

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

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

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

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

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

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

47 (c) Investigation procedure. (i) The legal counsel shall designate an
48 individual or office to investigate complaints of sexual harassment.
49 Upon receipt of a complaint of sexual harassment, a supervisor, manage-
50 rial employee, personnel administrator, or affirmative action adminis-
51 trator shall immediately report such complaint to the designated indi-
52 vidual, who shall open an investigation. The designated individual shall
53 ensure that he or she does not have a conflict of interest in the alle-
54 gations in the complaint, and if there is any conflict of interest, the
55 individual shall immediately notify the legal counsel, which shall
56 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 legal counsel.

(iii) Any complaint of sexual harassment will be kept confidential, including the identity of 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:

(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;

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

(IV) a determination of any necessary site visits;

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

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

(4) 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 by the legal counsel 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;

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

(d) Copies of the sexual harassment policy, as well as directions for filing a complaint, shall be distributed to all employees of every coun-

ty, city, town, village, school district or other political subdivision upon commencing employment and annually thereafter; and

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

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

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

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

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

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

(ii) "employee" shall include any employee, applicant, intern, fellow, volunteer or other individual involved in the operation of the state or local authority or contractor of every state and local authority, or any employee, contractor, vendor or consultant or employee of any contractor, vendor or consultant in the workplace of the authority.

(b) Instructions to file a complaint. (i) Complaints may be filed by an employee with 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 legal counsel becomes aware of conduct of a sexually harassing nature, it shall ensure an investigation is opened immediately.

(ii) A standard complaint form. A standard complaint form shall be available to every employee of every state and local authority. 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 such complaint shall fill out such form based on the oral reporting.

(c) Investigation procedure. (i) The legal counsel shall designate an individual to investigate complaints of sexual harassment for the authority. 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 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;

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

(d) Contain a statement that employees of state entities also have a right to file a complaint with the joint commission on public ethics,

1 which shall include the contact information for employees to use to file
2 such a complaint;

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

6 (f) Provisions for appropriate annual interactive training for all
7 employees of the authority.

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

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

18 PART G

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

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

30 Such model policy shall clearly state that sexual harassment is
31 considered a form of employee misconduct and that sanctions will be
32 enforced against individuals engaging in sexual harassment and against
33 supervisory and managerial personnel who knowingly allow such behavior
34 to continue.

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

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

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

48 4. The commissioner shall promulgate regulations allowing for the
49 distribution of the information set forth in this section and promoting
50 the availability of the information set forth in this section to employ-
51 ers and the public.

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

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

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