

# 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 effec-  
7 tive 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.

LBD14890-05-8

1

## PART A

2 Section 1. The state finance law is amended by adding a new section  
3 148 to read as follows:

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

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

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

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

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

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

52 4. A clause shall be inserted in all contracts hereafter made or  
53 awarded by the state, or by any state agency, requiring a contractor to  
54 whom any contract shall be let, granted or awarded, as required by law,  
55 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.

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

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

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

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

27 § 8. This act shall take effect immediately.

28 PART D

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

31 § 5003-b. Actions for sexual harassment. With respect to all actions  
32 to recover damages for sexual harassment, as defined in section three  
33 hundred ninety-eight-f of the general business law, no court shall  
34 accept any settlement, including any confidentiality agreement or  
35 provision that would prevent the disclosure of any or all factual infor-  
36 mation related to the action unless the condition of confidentiality is  
37 the complainant's preference and the court has considered the potential  
38 impact on the public and finds that the complainant's preference is not  
39 a result of intimidation, coercion, retaliation, or threats directed at  
40 the complainant. Any such condition must be provided in writing to the  
41 complainant and to the court for consideration. If the court determines  
42 that any or all of the factual information related to the action shall  
43 not be disclosed, the preference shall be memorialized in an agreement  
44 signed by the complainant. Provided, however, subject to the provisions  
45 of the domestic relations law, a settlement agreement may include a  
46 confidentiality provision only if such provision is approved by the  
47 court for good cause in an open proceeding.

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

50 § 70-b. Confidential settlements. a. For the purposes of this section,  
51 sexual harassment includes unwelcome sexual advances, requests for sexu-  
52 al favors, and other verbal or physical conduct of a sexual nature when:  
53 (i) submission to such conduct is made either explicitly or implicitly a  
54 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, hostel, 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.

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

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

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

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

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

31 § 5. This act shall take effect immediately.

32 PART F

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

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

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

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

53 (B) "employee" shall include any agency, office or department employ-  
54 ee, 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 immedi-  
12 ately.

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 anoth-  
12 er 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 implic-  
52 itly, 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 immedi-  
26 ately.

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.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 § 6. The public authorities law is amended by adding a new section  
11 2854 to read as follows:

12 § 2854. Sexual harassment prevention policy. 1. Notwithstanding any  
13 other provision of law to the contrary, every state and local authority  
14 shall require its legal counsel to develop a sexual harassment  
15 prevention policy, applicable to all employees of such authority, which  
16 shall include investigation procedures and a standard complaint form.  
17 The sexual harassment prevention policy shall include, but not be limit-  
18 ed to, the following elements:

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

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

28 (ii) "employee" shall include any employee, applicant, intern, fellow,  
29 volunteer or other individual involved in the operation of the state or  
30 local authority or contractor of every state and local authority, or any  
31 employee, contractor, vendor or consultant or employee of any contrac-  
32 tor, vendor or consultant in the workplace of the authority.

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

41 (ii) A standard complaint form. A standard complaint form shall be  
42 available to every employee of every state and local authority. If an  
43 employee makes an oral complaint, the person receiving such complaint  
44 shall encourage the employee to fill out a standard complaint form. If  
45 the employee does not fill out the complaint form, the person receiving  
46 such complaint shall fill out such form based on the oral reporting.

47 (c) Investigation procedure. (i) The legal counsel shall designate an  
48 individual to investigate complaints of sexual harassment for the  
49 authority. Upon receipt of a complaint of sexual harassment, a supervi-  
50 sor, managerial employee, personnel administrator, or affirmative action  
51 administrator shall immediately report such complaint to the designated  
52 individual, who shall open an investigation. The designated individual  
53 shall ensure that he or she does not have a conflict of interest in the  
54 allegation in the complaint, and if there is any conflict of interest,  
55 the individual shall immediately notify the legal counsel, which shall  
56 designate a new individual to conduct the investigation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (d) Contain a statement that employees of state entities also have a  
56 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.