STATE OF NEW YORK

8755

IN SENATE

May 10, 2018

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the legislative law, in relation to policies regarding the prevention of sexual harassment in the legislature

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

Section 1. The legislative law is amended by adding a new section 7-h to read as follows:

§ 7-h. Prevention of sexual harassment in the legislature. 1. It shall be the policy of the legislature to prevent sexual harassment among the members, officers, and employees who work in the New York state legislature, each of whom must be guaranteed a workplace free of harassment. The provisions of this section apply to the employment conditions of each house.

2. Each house shall issue a strong management policy statement defining and prohibiting sexual harassment in their respective house. Such policy statement shall include, but is not limited to, the following provisions:

(a) a clear prohibition of sexual harassment; defining sexual harassment as a form of employee misconduct and affirming that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue;

(b) a description of the rights provided to employees, including interns and fellows, who allege they have been subject to sexual harassment;

(c) clarification that the definition of an employee shall include interns, fellows and volunteers;

(d) provisions providing for the process of filing of complaints with the director of human resources in each house, who shall be required to refer all such complaints to an independent outside counsel or organization retained by the house or jointly by both houses;

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

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(e) provisions clarifying that members, managers and supervisory who become aware of conduct that violates the sexual harassment policy are required to report the conduct, even if the apparent victim does not wish to make a complaint or asks that the information be kept confidential; and

(f) a requirement that the house or the houses jointly retain outside counsel or organizations, which will be responsible for investigation and reports of findings, conclusions and recommendations for additional action based on complaints of sexual harassment.

3. The policy shall define "employee" for the purposes of this section to include, but not be limited to, interns, temporary employees, and individuals employed pursuant to a fellowship solely for the purposes of rights and remedies due to an incident of sexual harassment.

4. Such policy statement shall be widely distributed by providing it to all employees, including it in new employee orientation materials and publicizing it in internal employee publications and on their public websites. Each employee shall submit written acknowledgement of his or her receipt of such policy statement.

5. The policy adopted by each house shall provide that upon receipt of a complaint of sexual harassment to the secretary of the senate or director of assembly administration as the case may be, a prompt investigation must be conducted by the outside counsel or organization retained by the house. The findings, conclusions and recommendations of the outside counsel or organization shall be completed within sixty days after the complaint was made. After the witnesses have been interviewed, the outside counsel or organization shall provide to the accused a written general summary of the evidence provided by the complaining party, which shall not reveal the identity of witnesses unless the secretary of the senate or director of assembly administration deems it necessary to do so. The accused employee shall have the opportunity to respond, either orally or in writing. With respect to employees of each house only, the secretary of the senate or the director of assembly administration as the case may be will have the authority to make the final determination of appropriate sanction, if any is warranted, after considering the investigation report and any other evidence brought to his or her attention. If the secretary of the senate or director of assembly administration determines that the policy was not violated or that there is insufficient evidence to make such a finding, the complainant may appeal to the speaker of the assembly or temporary president of the senate in each respective house.

6. The independent officer designated in each house shall be required to investigate all complaints against members and issue a report summarizing findings and recommendation, including any referral to the respective standing committee on ethics in each house of the legislature, or law enforcement as may be necessary and appropriate, to remedy any discriminatory conduct found in such report. The independent officer shall provide an initial determination of the validity of an allegation of sexual harassment within sixty days of a complaint and a recommendation of action within thirty days after the conclusion of the investigation and initial determination.

7. The outside counsel or organizations retained pursuant to paragraph (f) of subdivision two of this section shall not be subject to termination but for good cause by the legislature or the temporary president or speaker of the assembly as the case may be.

8. Each house shall conduct appropriate training to instruct and sensitize all employees. All trainings shall include, at a minimum,

information concerning the federal and state statutory provisions and any relevant local laws concerning sexual harassment and remedies available to victims of sexual harassment. Such training shall be:

(a) for members of the legislature, at least two hours within the first six months of a member's election;

(b) for officers or employees of the legislature, at least two hours within the first six months of employment;

(c) for both members and officers or employees of the legislature, at least two hours within six months of the effective date of this section if an officer or employee was employed on or before the effective date of this section, and every year thereafter; and

(d) for employees of the legislature deemed to be supervisory employees by the appointing authority, an additional one hour every year.

9. The provisions of this section shall be deemed to be in compliance with section two hundred one-g of the labor law.

10. Nothing in this section shall be construed to conflict with any other rights of individuals under local, state or federal law.

§ 2. This act shall take effect on the same date and in the same manner as section 1 of subpart E of part KK of chapter 57 of the laws of 2018, takes effect.