

# 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:

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

3 § 7-h. Prevention of sexual harassment in the legislature. 1. It shall  
4 be the policy of the legislature to prevent sexual harassment among the  
5 members, officers, and employees who work in the New York state legisla-  
6 ture, each of whom must be guaranteed a workplace free of harassment.  
7 The provisions of this section apply to the employment conditions of  
8 each house.

9 2. Each house shall issue a strong management policy statement defin-  
10 ing and prohibiting sexual harassment in their respective house. Such  
11 policy statement shall include, but is not limited to, the following  
12 provisions:

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

18 (b) a description of the rights provided to employees, including  
19 interns and fellows, who allege they have been subject to sexual harass-  
20 ment;

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

23 (d) provisions providing for the process of filing of complaints with  
24 the director of human resources in each house, who shall be required to  
25 refer all such complaints to an independent outside counsel or organiza-  
26 tion 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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1 (e) provisions clarifying that members, managers and supervisory who  
2 become aware of conduct that violates the sexual harassment policy are  
3 required to report the conduct, even if the apparent victim does not  
4 wish to make a complaint or asks that the information be kept confiden-  
5 tial; and

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

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

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

19 5. The policy adopted by each house shall provide that upon receipt of  
20 a complaint of sexual harassment to the secretary of the senate or  
21 director of assembly administration as the case may be, a prompt inves-  
22 tigation must be conducted by the outside counsel or organization  
23 retained by the house. The findings, conclusions and recommendations of  
24 the outside counsel or organization shall be completed within sixty days  
25 after the complaint was made. After the witnesses have been interviewed,  
26 the outside counsel or organization shall provide to the accused a writ-  
27 ten general summary of the evidence provided by the complaining party,  
28 which shall not reveal the identity of witnesses unless the secretary of  
29 the senate or director of assembly administration deems it necessary to  
30 do so. The accused employee shall have the opportunity to respond,  
31 either orally or in writing. With respect to employees of each house  
32 only, the secretary of the senate or the director of assembly adminis-  
33 tration as the case may be will have the authority to make the final  
34 determination of appropriate sanction, if any is warranted, after  
35 considering the investigation report and any other evidence brought to  
36 his or her attention. If the secretary of the senate or director of  
37 assembly administration determines that the policy was not violated or  
38 that there is insufficient evidence to make such a finding, the  
39 complainant may appeal to the speaker of the assembly or temporary pres-  
40 ident of the senate in each respective house.

41 6. The independent officer designated in each house shall be required  
42 to investigate all complaints against members and issue a report summa-  
43 rizing findings and recommendation, including any referral to the  
44 respective standing committee on ethics in each house of the legisla-  
45 ture, or law enforcement as may be necessary and appropriate, to remedy  
46 any discriminatory conduct found in such report. The independent officer  
47 shall provide an initial determination of the validity of an allegation  
48 of sexual harassment within sixty days of a complaint and a recommenda-  
49 tion of action within thirty days after the conclusion of the investi-  
50 gation and initial determination.

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

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

1 information concerning the federal and state statutory provisions and  
2 any relevant local laws concerning sexual harassment and remedies avail-  
3 able to victims of sexual harassment. Such training shall be:

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

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

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

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

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

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

18 § 2. This act shall take effect on the same date and in the same  
19 manner as section 1 of subpart E of part KK of chapter 57 of the laws of  
20 2018, takes effect.