STATE OF NEW YORK

10367

IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Joyner) -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to requiring training to reduce abusive conduct and bullying in the workplace

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

Section 1. Legislative intent. The legislature hereby finds and declares that abusive conduct and bullying in the workplace undermines the morale, health, dignity and well-being of public servants and can lead to stress, absenteeism, physical violence and reduced productivity. The legislature further finds and declares it is in the best interest of taxpayers that all state agencies, departments, offices, and taxpayer supported workplaces are free from bullying and other abusive behavior and that annual training should be required to help reduce the incidence of bullying and abusive behavior in the workplace.

§ 2. The labor law is amended by adding a new section 27-e to read as follows:

§ 27-e. Abusive conduct and bullying in the workplace prevention training. 1. For purposes of this section, the following terms shall have the following meanings:

(a) "abusive conduct" means the verbal, non-verbal, or physical conduct of an employee to another employee that, based on its severity, nature and frequency of occurrence, a reasonable person would determine:

(1) is intended to cause intimidation, humiliation, marginalization, or unwarranted distress; or

(2) results in substantial physical or psychological harm as a result of intimidation, humiliation, marginalization, or unwarranted distress; or

(3) exploits an employee's known physical or psychological disability. A single act does not constitute abusive conduct unless it is especially severe and egregious.

(b) "bullying" means the creation of a hostile work environment by conduct or by threats, intimidation or abuse, including cyberbullying, that:

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

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(1) has or would have the effect of unreasonably and substantially interfering with an employee's performance, opportunities or benefits, or mental, emotional or physical well-being; or

(2) reasonably causes or would reasonably be expected to cause an employee to fear for his or her physical safety; or

(3) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to an employee; or

(4) occurs away from the worksite and creates or would foreseeably create a risk of substantial disruption within the work environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach the work location. Acts of bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, creed, color, weight, national origin, ethnic group, disability, familial status, sexual orientation, military status, gender identity or expression or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.

(c) "cyberbullying" means harassment or bullying as defined in paragraph (b) of this subdivision, including subparagraphs one, two, three and four of such subdivision, where such harassment or bullying occurs through any form of electronic communication.

(d) "employer," "employee" and "workplace" shall have the same meaning as used in section twenty-seven-b of this article.

2. The commissioner, in consultation with the state commissioner of human rights, shall develop an abusive conduct and bullying in the workplace prevention training program for all employees.

(a) Such training shall be interactive and include:

(1) an explanation of abusive conduct, bullying and cyberbullying, consistent with the division of human rights;

(2) examples of conduct that would constitute abusive conduct, bullying and cyberbullying and the ramifications of abusive workplace behavior, bullying and cyberbullying;

(3) resources available to employees who believe they have been subjected to abusive conduct, bullying, or cyberbullying; and

(4) information concerning employees' right of redress and all available forms for adjudicating complaints.

(b) The training shall include information addressing conduct by supervisors and any additional responsibilities for such supervisors.

3. No employer shall take retaliatory action against any employee because the employee seeks any form of redress available to them in relation to an abusive workplace, bullying or cyberbullying.

4. Each employee shall receive such training as soon as reasonably practicable and on an annual basis thereafter, provided, however, that all employees shall receive such training on or before September first, two thousand twenty-three.

5. The commissioner may promulgate regulations as he or she deems necessary for the purposes of carrying out the provisions of this section.

6. Employers shall document any reported incidents of abusive behavior, bullying or cyberbullying and provide a summary report to the commissioner on December thirty-first, two thousand twenty-three and each year thereafter. Such report shall include the date of each incident, the nature of the incident and the steps the employer took to address such behavior.

7. Beginning in the year two thousand twenty-six, and every succeeding four years thereafter, the department in consultation with the division

of human rights shall evaluate, using criteria within this section, the impact of the current abusive conduct and bullying in the workplace prevention training program. Upon the completion of each evaluation, the department shall update the training as needed.

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