

STATE OF NEW YORK

8934

IN ASSEMBLY

January 30, 2024

Introduced by M. of A. BRONSON -- 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, and cyberbullying in the workplace

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

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

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

12 § 27-e. Abusive conduct and bullying in the workplace prevention
13 training, reporting and remediation. 1. For purposes of this section,
14 the following terms shall have the following meanings:

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

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

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

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

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

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1 (b) "bullying" shall mean the creation of a hostile work environment
2 by conduct or by threats, intimidation or abuse, including cyberbully-
3 ing, that:

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

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

9 (3) reasonably causes or would reasonably be expected to cause phys-
10 ical injury or emotional harm to an employee; or

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

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

25 (d) "employer" shall mean the state of New York.

26 (e) "employee" shall mean a public employee working for an employer.

27 (f) "workplace" shall mean any location, permanent or temporary, where
28 an employee performs any work-related duty in the course of his or her
29 employment by an employer.

30 (g) "supervisor" shall mean any person within an employer's organiza-
31 tion who has the authority to direct and control the work performance
32 of an employee, or who has the authority to take corrective action
33 regarding the violation of a law, rule or regulation to which an
34 employee submits written notice.

35 (h) "retaliatory action" shall mean the discharge, suspension,
36 demotion, penalization, or discrimination against any employee, or other
37 adverse employment action taken against an employee in the terms and
38 conditions of employment.

39 2. The commissioner, in consultation with the commissioner of human
40 rights and in conjunction with the representatives of employees, shall
41 develop a written policy statement outlining the responsibility of all
42 state employees to behave in a respectful and civil manner. Such policy
43 statement shall include, at a minimum:

44 (a) clear standards outlining appropriate behavior in the workplace;
45 and

46 (b) a process for reporting incidents of bullying, cyberbullying
47 and/or abusive conduct; and

48 (c) dispute resolution procedures, including non-disciplinary proce-
49 dures, that align with current practices and collective bargaining
50 agreements, if any; and

51 (d) resources for victims of abusive conduct, bullying, or cyberbully-
52 ing to get assistance.

53 3. The commissioner, in consultation with the commissioner of human
54 rights and in conjunction with the representatives of employees, shall
55 develop a training program designed to prevent abusive conduct, bully-
56 ing, and cyberbullying in the workplace for all employees.

1 (a) Such training shall be interactive and include: (i) a review of
2 the policy statement developed pursuant to subdivision two of this
3 section; (ii) an explanation of abusive conduct, bullying and cyberbul-
4 lying; (iii) examples of conduct that would constitute abusive conduct,
5 bullying and cyberbullying and the ramifications of abusive workplace
6 behavior, bullying and cyberbullying; (iv) resources available to
7 employees who believe they have been subjected to abusive conduct,
8 bullying, or cyberbullying, and (v) information concerning employees'
9 right of redress and all available forms for adjudicating complaints.

10 (b) The training shall include information addressing conduct by
11 supervisors and any additional responsibilities for such supervisors to
12 address incidents of abusive conduct, bullying, and cyberbullying in the
13 workplace, including specific training for all supervisors on managing
14 conflict and dispute resolution techniques. No employer shall take
15 retaliatory action against any employee because the employee seeks any
16 form of redress available to them in relation to abusive conduct, bully-
17 ing, or cyberbullying.

18 4. Each employee shall receive such training as soon as reasonably
19 practicable and on an annual basis thereafter, provided, however, that
20 all employees shall receive such training no later than one year after
21 the effective date of this section.

22 5. It shall be the duty of an employer to:

23 (a) be vigilant for signs of abusive conduct, bullying, or cyberbully-
24 ing at work through observation, information seeking, and efforts to
25 proactively resolve any abusive conduct, bullying, or cyberbullying of
26 which they are aware before such inappropriate behavior escalates; and

27 (b) deal sensitively with employees involved in a complaint; and

28 (c) explain the resources available to employees who believe they have
29 been subjected to abusive conduct, bullying, or cyberbullying, and
30 information concerning employees' right of redress and all available
31 forms for adjudicating complaints; and

32 (d) ensure that an employee is not subjected to any retaliatory action
33 because the employee seeks any form of redress available to them in
34 relation to abusive conduct, bullying, or cyberbullying; and

35 (e) monitor and follow up on the situation after a complaint is made
36 to prevent recurrence of such behavior.

37 6. (a) Each employer shall establish a process by which any employee,
38 group of employees, supervisor, or a representative of employees who
39 believes that a violation of this section has occurred may file a writ-
40 ten notice of complaint with such employer.

41 (b) Where an employee or representative of an employee files a written
42 notice of complaint with the employer pursuant to this subdivision, the
43 employer shall investigate such allegations of abusive conduct, bully-
44 ing, or cyberbullying, secure written documentation from all parties
45 involved and work to resolve the issues in a timely manner provided,
46 further that:

47 (1) any employee or supervisor seeking to file a complaint shall
48 confine that complaint to the precise details of each incident of
49 alleged abusive conduct, bullying, or cyberbullying; and

50 (2) complaints alleging abusive conduct, bullying, or cyberbullying
51 should be reported to the complainant's immediate supervisor. Supervi-
52 sors shall consult with the agency's human resources office and provide
53 a response and/or update to the complainant within fourteen calendar
54 days. If the alleged abusive conduct, bullying, or cyberbullying is
55 from the immediate supervisor, the complaint shall be reported to the

1 supervisor's supervisor or directly to the agency's human resources
2 office.

3 (3) complaints from multiple employees within the same agency may be
4 brought to the New York state office of employee relations.

5 7. If an employer finds after the completion of the investigation
6 prescribed in subdivision six of this section that a violation of this
7 section has occurred, such employer shall work to immediately remedy the
8 situation in accordance with the existing disciplinary policies and
9 procedures and in accordance with the terms and conditions of the
10 collective bargaining agreement, if any.

11 8. Each employer shall document and maintain for at least three years
12 after the date a report was filed, records of any reported incidents of
13 abusive conduct, bullying, or cyberbullying and provide a summary report
14 and any supporting documentation, including any complaint forms, to the
15 commissioner or their designee, and the representative of employees on
16 December thirty-first, in the first year succeeding the effective date
17 of this section and each year thereafter. Such report shall include the
18 date of each incident, the nature of the incident and the steps the
19 employer took to address such behavior.

20 9. Beginning in the third year succeeding the effective date of this
21 section, and every succeeding four years thereafter, the department, in
22 conjunction with the representative of employees, shall evaluate, using
23 criteria within this section, the impact of the current abusive conduct
24 and bullying in the workplace prevention training program. Upon the
25 completion of each evaluation, the department, in conjunction with the
26 representative of employees, shall update the training as needed.

27 10. The commissioner may promulgate regulations consistent with exist-
28 ing procedures and collective bargaining agreements, if any, deemed
29 necessary for the purposes of carrying out the provisions of this
30 section, provided, however, that such regulations shall include a writ-
31 ten policy statement outlining the responsibility of all state employees
32 to behave in a respectful and civil manner.

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