



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL  
SUBPOENA AD TESTIFICANDUM  
THE PEOPLE OF THE STATE OF NEW YORK  
**GREETINGS**

**TO:** Beth Garvey  
Acting Counsel to the Governor  
Executive Chamber  
Capitol Building  
Albany, NY 12224

**YOU ARE HEREBY COMMANDED**, pursuant to Executive Law § 63(8) and § 2302(a) of the New York Civil Practice Law and Rules, to appear and attend before the Special Deputies to the First Deputy Attorney General, on March 31, 2021 at 9:30 AM, or any agreed upon adjourned date or time, at One Liberty Plaza, 38<sup>th</sup> Floor, New York, New York 10006 to testify in connection with an investigation into allegations of sexual harassment by Governor Cuomo, or any matter which the Attorney General deems pertinent thereto.

**TAKE NOTICE** that the Attorney General deems the testimony commanded by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.


**TAKE NOTICE** that the examination may be recorded by stenographic, videographic and/or audio means.

**TAKE FURTHER NOTICE** that Your disobedience of this Subpoena, by failing to appear and attend and testify on the date, time and place stated above or on any agreed upon adjourned date or time, **may subject You to penalties and other lawful punishment under** § 2308 of the New York Civil Practice Law and Rules, and/or other statutes.

EXHIBIT

1

**WITNESS, The Honorable Letitia James**, Attorney General of the State of New York,  
this 17th day of March 2021.

By:   
\_\_\_\_\_  
Joon H. Kim  
Jennifer Kennedy Park  
Abena Mainoo  
Special Deputies to the  
First Deputy Attorney General  
[REDACTED]@ag.ny.gov  
[REDACTED]@ag.ny.gov  
[REDACTED]@ag.ny.gov

By: /s/ Anne L. Clark  
\_\_\_\_\_  
Anne L. Clark  
Yannick Grant  
Special Deputies to the  
First Deputy Attorney General  
[REDACTED]@ag.ny.gov  
[REDACTED]@ag.ny.gov



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

**SUBPOENA DUCES TECUM**  
**THE PEOPLE OF THE STATE OF NEW YORK**  
**GREETINGS**

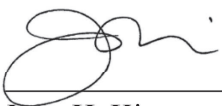
**TO:** Beth Garvey  
Acting Counsel to the Governor  
Executive Chamber  
Capitol Building  
Albany, NY 12224

**YOU ARE HEREBY COMMANDED**, under Executive Law § 63(8) and N.Y. Civil Practice Law and Rules § 2302(a), and/or other statutes, to deliver and turn over to the Special Deputies to the First Deputy Attorney General, on **the 29th day of March, 2021, at 9:30 a.m.**, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006, all documents and information requested in the attached Schedule in accordance with the instructions and definitions contained therein.

**TAKE NOTICE** that the Attorney General deems the documents and information commanded by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

**TAKE FURTHER NOTICE** that Your disobedience of this Subpoena, by failing to deliver the documents and information requested in the attached Schedule on the date, time and place stated above or on any agreed upon adjourned date or time, **may subject You to penalties and other lawful punishment** under § 2308 of the New York Civil Practice Law and Rules and other statutes.

**WITNESS, The Honorable Letitia James**, Attorney General of the State of New York, this 15th day of March, 2021.

By:   
\_\_\_\_\_  
Joon H. Kim  
Jennifer Kennedy Park  
Abena Mainoo  
Special Deputies to the  
First Deputy Attorney General  
[REDACTED]@ag.ny.gov  
[REDACTED]@ag.ny.gov  
[REDACTED]@ag.ny.gov

By: /s/ Anne L. Clark  
\_\_\_\_\_  
Anne L. Clark  
Yannick Grant  
Special Deputies to the  
First Deputy Attorney General  
[REDACTED]@ag.ny.gov  
[REDACTED]@ag.ny.gov

## SCHEDULE

### A. General Definitions and Rules of Construction

1. “All” means each and every.
2. “Any” means any and all.
3. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Subpoena all information or Documents that might otherwise be construed to be outside of its scope.
4. “Communication” means any conversation, discussion, letter, email, text message, instant message, memorandum, meeting, note or other transmittal of information or message, whether transmitted in writing, orally, electronically or by any other means, and shall include any Document that abstracts, digests, transcribes, records or reflects any of the foregoing.
5. “Concerning” means, directly or indirectly, in whole or in part, relating to, referring to, describing, evidencing or constituting.
6. “Custodian” means any Person or Entity that, as of the date of this Subpoena, maintained, possessed, or otherwise kept or controlled such Document.
7. “Document” is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (“email”), instant messages, text messages, Blackberry or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, code (*e.g.*, C/C++/C#, SQL, JavaScript), algorithms, code repositories (*e.g.*, GitHub), commit messages, audit logs, data or databases (*e.g.*, Oracle, postgres or other SQL or non-SQL systems), plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, commit messages, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy

thereof.

8. “Entity” means without limitation any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or other firm or similar body, or any unit, division, agency, department, or similar subdivision thereof.
9. “Identify” or “Identity,” as applied to any Document means the provision in writing of information sufficiently particular to enable the Attorney General to request the Document’s production through subpoena or otherwise, including but not limited to: (a) Document type (letter, memo, etc.); (b) Document subject matter; (c) Document date; and (d) Document author(s), addressee(s) and recipient(s). In lieu of identifying a Document, the Attorney General will accept production of the Document, together with designation of the Document’s Custodian, and identification of each Person You believe to have received a copy of the Document.
10. “Identify” or “Identity,” as applied to any Entity, means the provision in writing of such Entity’s legal name, any d/b/a, former, or other names, any parent, subsidiary, officers, employees, or agents thereof, and any address(es) and any telephone number(s) thereof.
11. “Identify” or “Identity,” as applied to any natural person, means and includes the provision in writing of the natural person’s name, title(s), position(s), any aliases, place(s) of employment, telephone number(s), email address(es), mailing addresses and physical address(es).
12. “Person” means any natural person, or any Entity.
13. “Sent” or “received” as used herein means, in addition to their usual meanings, the transmittal or reception of a Document by physical, electronic or other delivery, whether by direct or indirect means.
14. “Subpoena” means this subpoena and any schedules or attachments thereto.
15. The use of the singular form of any word used herein shall include the plural and vice versa. The use of any tense of any verb includes all other tenses of the verb.

## **B. Particular Definitions**

1. “Complainant” means Charlotte Bennett, Alessandra Biaggi, Lindsey Boylan, Brittany Commisso, Karen Hinton, Ana Liss, Anna Ruch, and any other individual who has made any Complaints known to You, any other member of the Executive Chamber, or the public. For the avoidance of doubt, to the extent additional allegations come to light following the issuance of this Subpoena, individuals who make such allegations should be included in the definition of “Complainant.”

2. “Complaint” means any and all complaints, allegations, comments, accusations, or other statements of workplace misconduct, sexual harassment, sex- or gender-based misconduct, or other behavior or comments of a sexual, abusive or otherwise inappropriate or uncomfortable nature, whether made formally or informally.
3. “County Executive” means any chief executive of New York, and all other officials, employees, personnel, and agents of the counties in the State.
4. “Executive Chamber” means the Executive Chamber of the State of New York, including but not limited to Governor Andrew M. Cuomo, and all other officers, directors, supervisors, personnel, employees, secretaries, interns, fellows, agents, contractors, consultants, representatives, and attorneys of the Executive Chamber, or any other Persons associated with or acting on behalf of the foregoing, or acting on behalf of any predecessors, successors, or affiliates of the foregoing at any point during the relevant time.
5. “Executive Office” means any office within the New York State government in which employees and officers work directly with, work under the control of, answer to or maintain direct contact with the Governor. This includes offices in Albany, Manhattan, and anywhere else in New York State.
6. “Governor” means the New York State Governor Andrew M. Cuomo.
7. “Governor’s Mansion” means the official residence of the Governor, also known as the New York State Executive Mansion.
8. “New York Attorney General” or “Attorney General” means the New York State Office of the Attorney General, including Letitia James.
9. “Respondent,” “You,” or “Your” means Elizabeth (Beth) Garvey, Acting Counsel to the Governor, either in an official or individual capacity.
10. “State” or “New York” means the State of New York.
11. “State Legislature” means the New York State Assembly, including but not limited to its members, employees, personnel, and agents.

### **C. Instructions**

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of Your obligations under law to preserve Documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this Subpoena, shall be construed in any way to narrow, qualify, eliminate or otherwise diminish Your aforementioned preservation obligations.

Nor shall You act, in reliance upon any such agreement or otherwise, in any manner inconsistent with Your preservation obligations under law. No agreement purporting to modify, limit or otherwise vary Your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating or otherwise diminishing such aforementioned preservation obligations, nor shall You act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.

2. Possession, Custody, and Control. The Subpoena calls for all responsive Documents or information in Your possession, custody or control. This includes, without limitation, Documents or information possessed or held by You on any devices, whether personally owned or supplied to you by your employer or held by Your employees, agents, representatives, or consultants or Persons from whom You could request Documents or information. If Documents or information responsive to a request in this Subpoena are in Your control, but not in Your possession or custody, You shall promptly Identify the Person with possession or custody of the Person's obligation to preserve such Documents and provide them to You for production.
3. Documents No Longer in Your Possession. If any Document requested herein was formerly in Your possession, custody or control but is no longer available, or no longer exists, You shall submit a statement in writing under oath that: (a) describes in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including without limitation whether it was misplaced, lost, destroyed or transferred; and if such Document has been destroyed or transferred, the conditions of and reasons for such destruction or transfer and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.
4. No Documents Responsive to Subpoena Requests. If there are no Documents responsive to any particular Subpoena request, You shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the Subpoena request concerned.
5. Format of Production. You shall produce Documents and information responsive to this Subpoena in the format requested by the Office of the New York State Attorney General, as set out in Attachments 1 and 2 or as otherwise agreed upon.
6. Databases. To the extent that any data responsive to the requests herein is maintained in an electronic repository of records, such as a detailed transcription report, such information should be produced by querying the database for



- responsive information and generating a report or a reasonably usable and exportable electronic file (for example, \*.csv and/or \*.xls formats) for review. If it is not possible to export data in this format, You must make the database available to the undersigned for meaningful inspection and review of the information.
7. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization or other order or layout in which it was maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder bearing any title or legend that contains no Document. Likewise, all Documents that are physically attached to each other in Your files shall remain so attached in any production; or if such production is electronic, shall be accompanied by notation or information sufficient to indicate clearly such physical attachment.
  8. Manner of Compliance – Custodians/Search Terms/Technology-Assisted Review. Prior consultation with the Special Deputies to the First Deputy Attorney General is required concerning selection of custodians for document searches (whether electronic or otherwise) or for use of search term filters, predictive coding or other forms of technology-assisted review. The Office of the Attorney General reserves the right to approve, disapprove, modify or supplement any proposed list of custodians, search terms, and/or review methodology. The selection or use of custodians, search term filters, and/or technology-assisted review in no way relieves You of Your obligation to fully respond to these requests for Documents or information.
  9. Document Numbering. All Documents responsive to this Subpoena, regardless of whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
  10. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, You shall insert one or more placeholder page(s) in the production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.
  11. Privilege. If You withhold or redact any Document responsive to this Subpoena on ground of any privilege or other legal doctrine, You shall submit with the

Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld or redacted; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding or redacting the Document. If the legal ground for withholding or redacting the Document is attorney-client privilege, You shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.

12. Your Production Instructions to Be Produced. You shall produce a copy of all written or otherwise recorded instructions prepared by You concerning the steps taken to respond to this Subpoena. For any unrecorded instructions given, You shall provide a written statement under oath from the Person(s) who gave such instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.
13. Cover Letter, Index, and Identifying Information. Accompanying any production(s) made pursuant to this Subpoena, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the Subpoena request(s) to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document. As further set forth in Attachment 2, information must also be included in the metadata and load files of each production concerning the identity of each Document's custodian, as well as information identifying the particular Document requests and/or information to which each document is responsive.
14. Affidavit of Compliance. A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or participating in compliance with this Subpoena, and You shall submit such executed Affidavit(s) of Compliance with Your response to this Subpoena.
15. Identification of Persons Preparing Production. In a schedule attached to the Affidavit of Compliance provided herewith, You shall Identify the natural person(s) who prepared or assembled any productions or responses to this Subpoena. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this Subpoena occurred. You shall further Identify all other natural person(s) able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be.
16. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the Documents and information requested. Documents located or created, and information learned, acquired or created, at any time after

Your response is due shall be promptly produced at the place specified in this Subpoena.

17. No Oral Modifications. No agreement purporting to modify, limit or otherwise vary this Subpoena shall be valid or binding, and You shall not act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
18. Time Period. Unless otherwise specified, the time period covered by this Subpoena shall be from January 1, 2013 forward.

#### **D. Documents to be Produced**

1. Any and all Documents concerning any Complaints concerning the Governor, including investigations thereof.
2. Any and all Communications with or about a Complainant.
3. Any and all Documents reflecting Communications between the Governor and any of the Complainants.
4. Any and all Documents concerning a Complainant's attendance at an event, appointment, or meeting at which the Governor was or would be present, including any at the Executive Offices or the Governor's Mansion.
5. Any and all Documents concerning any change in the position, title, employment, or office of any Complainant.
6. Any and all Documents concerning Communications with the media and public statements about the Complainants or Complaints concerning the Governor.
7. Any and all Documents relating to how to respond to Complaints concerning the Governor, including the nature of any investigations to be conducted about such Complaints.
8. Any and all Documents concerning Communications with members of the State Legislature or County Executives about Complaints concerning the Governor.
9. Any and all Documents concerning retention or deletion of records within the Executive Chamber, including but not limited to Communications between

members, use of Blackberry instant messaging, and other means of communication.

10. Documents sufficient to identify Your employment history at the Executive Chamber, including but not limited to the time period of your employment, Your title(s), Your position(s), Your responsibilities, and Your direct supervisor(s).

11. A list of all Your electronic devices used for any Communication related to the Executive Chamber or the Governor, whether personally owned or supplied to you by the Executive Chamber or the State.

12. A list of all Your email addresses or phone numbers used for any Communication related to the Executive Chamber or the Governor.

## ATTACHMENT 1

### **Electronic Document Production Specifications**

Unless otherwise specified and agreed to by the Office of Attorney General, all responsive documents must be produced in LexisNexis® Concordance® format in accordance with the following instructions. Any questions regarding electronic document production should be directed to the Special Deputy to the First Deputy Attorney General whose email address appears on the subpoena.

1. Concordance Production Components. A Concordance production consists of the following component files, which must be produced in accordance with the specifications set forth below in Section 7.
  - a. ***Metadata Load File.*** A delimited text file that lists in columnar format the required metadata for each produced document.
  - b. ***Extracted or OCR Text Files.*** Document-level extracted text for each produced document or document-level optical character recognition (“OCR”) text where extracted text is not available.
  - c. ***Single-Page Image Files.*** Individual petrified page images of the produced documents in tagged image format (“TIF”), with page-level Bates number endorsements.
  - d. ***Opticon Load File.*** A delimited text file that lists the single-page TIF files for each produced document and defines (i) the relative location of the TIF files on the production media and (ii) each document break.
  - e. ***Native Files.*** Native format versions of non-printable or non-print friendly produced documents.
2. Production Folder Structure. The production must be organized according to the following standard folder structure:
  - data\ (contains production load files)
  - images\ (contains single-page TIF files, with subfolder organization)  
  \0001, \0002, \0003...
  - native\_files\ (contains native files, with subfolder organization)  
  \0001, \0002, \0003...
  - text\ (contains text files, with subfolder organization)  
  \0001, \0002, \0003...
3. De-Duplication. You must perform global de-duplication of stand-alone documents and email families against any prior productions pursuant to this or previously related subpoenas.

4. Paper or Scanned Documents. Documents that exist only in paper format must be scanned to single-page TIF files and OCR'd. The resulting electronic files should be pursued in Concordance format pursuant to these instructions. You must contact the Special Deputy to the First Deputy Attorney General whose email address appears on the subpoena to discuss (i) any documents that cannot be scanned, and (ii) how information for scanned documents should be represented in the metadata load file.
5. Structured Data. Before producing structured data, including but not limited to relational databases, transactional data, and xml pages, you must first speak to the Special Deputy to the First Deputy Attorney General whose email address appears on the subpoena. Structured data is data that has a defined length and format and includes, but is not limited to, relational databases, graphical databases, JSON files, or xml/html pages.
  - a. Relational Databases
    1. Database tables should be provided in CSV or other delimited machine-readable, non-proprietary format, with each table in a separate data file. The preferred delimiter is a vertical bar "|". If after speaking with the Special Deputy to the First Deputy Attorney General and it is determined that the data cannot be exported from a proprietary database, then the data can be produced in the proprietary format so long as the Office of the Attorney General is given sufficient access to that data.
    2. Each database must have an accompanying Data Dictionary.
    3. Dates and numbers must be clearly and consistently formatted and, where relevant, units of measure should be explained in the Data Dictionary.
    4. Records must contain clear, unique identifiers, and the Data Dictionary must include explanations of how the files and records relate to one another.
    5. Each data file must also have an accompanying summary file that provides total row counts for the entire dataset and total row counts.
  - b. Compression
    1. If Documents are provided in a compressed archive, only standard lossless compression methods (e.g., gzip, bzip2, and ZIP) shall be used. Media files should be provided in their original file format, with metadata preserved and no additional lossy encoding applied.

6. Media and Encryption. All documents must be produced on CD, DVD, or hard-drive media. After consultation with the Special Deputy to the First Deputy Attorney General, Documents may also be produced over a secure file transfer protocol (FTP) or a pre-approved cloud-based platform (e.g., Amazon Web Services S3 bucket). All production media must be protected with a strong, randomly generated password containing at least 16 alphanumeric characters and encrypted using Advanced Encryption Standard with 256-bit key length (AES-256). Passwords for electronic documents, files, compressed archives and encrypted media must be provided separately from the media.

7. Production File Requirements.

a. ***Metadata Load File***

- Required file format:
  - ASCII or UTF-8
  - Windows formatted CR + LF end of line characters, including full CR + LF on last record in file.
  - .dat file extension
  - Field delimiter: (ASCII decimal character 20)
  - Text Qualifier: þ (ASCII decimal character 254). Date and pure numeric value fields do not require qualifiers.
  - Multiple value field delimiter: ; (ASCII decimal character 59)
- The first line of the metadata load file must list all included fields. All required fields are listed in Attachment 2.
- Fields with no values must be represented by empty columns maintaining delimiters and qualifiers.
- **Note:** All documents must have page-level Bates numbering (except documents produced only in native format, which must be assigned a document-level Bates number). The metadata load file must list the beginning and ending Bates numbers (BEGDOC and ENDDOC) for each document. For document families, including but not limited to emails and attachments, compound documents, and uncompressed file containers, the metadata load file must also list the Bates range of the entire document family (ATTACHRANGE), beginning with the first Bates number (BEGDOC) of the “parent” document and ending with the last Bates number (ENDDOC) assigned to the last “child” in the document family.
- Date and Time metadata must be provided in separate columns.
- Accepted date formats:
  - mm/dd/yyyy
  - yyyy/mm/dd
  - yyyymmdd

- Accepted time formats:
    - hh:mm:ss (if not in 24-hour format, you must indicate am/pm)
    - hh:mm:ss:mmm
- b. ***Extracted or OCR Text Files***
- You must produce individual document-level text files containing the full extracted text for each produced document.
  - When extracted text is not available (for instance, for image-only documents) you must provide individual document-level text files containing the document’s full OCR text.
  - The filename for each text file must match the document’s beginning Bates number (BEGDOC) listed in the metadata load file.
  - Text files must be divided into subfolders containing no more than 500 to 1000 files.
- c. ***Single-Page Image Files (Petrified Page Images)***
- Where possible, all produced documents must be converted into single-page tagged image format (“TIF”) files. See Section 7.E below for instructions on producing native versions of documents you are unable to convert.
  - Image documents that exist only in non-TIF formats must be converted into TIF files. The original image format must be produced as a native file as described in Section 7.E below.
  - For documents produced only in native format, you must provide a TIF placeholder that states “Document produced only in native format.”
  - Each single-page TIF file must be endorsed with a unique Bates number.
  - The filename for each single-page TIF file must match the unique page-level Bates number (or document-level Bates number for documents produced only in native format).
  - Required image file format:
    - CCITT Group 4 compression
    - 2-Bit black and white
    - 300 dpi
    - Either .tif or .tiff file extension.
  - TIF files must be divided into subfolders containing no more than 500 to 1000 files. Where possible documents should not span multiple subfolders.
- d. ***Opticon Load File***
- Required file format:
    - ASCII
    - Windows formatted CR + LF end of line characters
    - Field delimiter: , (ASCII decimal character 44)
    - No Text Qualifier



- .opt file extension
- The comma-delimited Opticon load file must contain the following seven fields (as indicated below, values for certain fields may be left blank):
  - ALIAS or IMAGEKEY – the unique Bates number assigned to each page of the production.
  - VOLUME – this value is optional and may be left blank.
  - RELATIVE PATH – the filepath to each single-page image file on the production media.
  - DOCUMENT BREAK – defines the first page of a document. The only possible values for this field are “Y” or blank.
  - FOLDER BREAK – defines the first page of a folder. The only possible values for this field are “Y” or blank.
  - BOX BREAK – defines the first page of a box. The only possible values for this field are “Y” or blank.
  - PAGE COUNT – this value is optional and may be left blank.
- **Example:**  
 ABC00001,,IMAGES\0001\ABC00001.tif,Y,,2  
 ABC00002,,IMAGES\0001\ABC00002.tif,,,  
 ABC00003,,IMAGES\0002\ABC00003.tif,Y,,1  
 ABC00004,,IMAGES\0002\ABC00004.tif,Y,,1

e. ***Native Files***

- Non-printable or non-print friendly documents (including but not limited to spreadsheets, audio files, video files and documents for which color has significance to document fidelity) must be produced in their native format.
- The filename of each native file must match the document’s beginning Bates number (BEGDOC) in the metadata load file and retain the original file extension.
- For documents produced only in native format, you must assign a single document-level Bates number and provide an image file placeholder that states “Document produced only in native format.”
- The relative paths to all native files on the production media must be listed in the NATIVEFILE field of the metadata load file.
- Native files that are password-protected must be decrypted prior to conversion and produced in decrypted form. In cases where this cannot be achieved the document’s password must be listed in the metadata load file. The password should be placed in the COMMENTS field with the format Password: <PASSWORD>.
- You may be required to supply a software license for proprietary documents produced only in native format.

**ATTACHMENT 2**  
**Required Fields for Metadata Load File**

<b>FIELD NAME</b>	<b>FIELD DESCRIPTION</b>	<b>FIELD VALUE EXAMPLE<sup>1</sup></b>
DOCID	Unique document reference (can be used for de-duplication).	ABC0001 or ###.#####.###
BEGDOC	Bates number assigned to the first page of the document.	ABC0001
ENDDOC	Bates number assigned to the last page of the document.	ABC0002
BEGATTACH	Bates number assigned to the first page of the parent document in a document family ( <i>i.e.</i> , should be the same as BEGDOC of the parent document, or PARENTDOC).	ABC0001
ENDATTACH	Bates number assigned to the last page of the last child document in a family ( <i>i.e.</i> , should be the same as ENDDOC of the last child document).	ABC0008
ATTACHRANGE	Bates range of entire document family.	ABC0001 - ABC0008
PARENTDOC	BEGDOC of parent document.	ABC0001
CHILDDOCS	List of BEGDOCs of all child documents, delimited by ";" when field has multiple values.	ABC0002; ABC0003; ABC0004...
DOCREQ	List of particular Requests for Documents to be Produced in the subpoena	1; 2; 3 . . .
INTERROG	List of particular Requests for Information or interrogatories in the subpoena	1; 2; 3 . . .
COMMENTS	Additional document comments, such as passwords for encrypted files.	

<sup>1</sup> Examples represent possible values and not required format unless the field format is specified in Attachment 1.

NATIVEFILE	Relative file path of the native file on the production media.	.\Native_File\Folder\...\BEGDOC.ext
SOURCE	For scanned paper records this should be a description of the physical location of the original paper record. For loose electronic files this should be the name of the file server or workstation where the files were gathered.	Company Name, Department Name, Location, Box Number...
CUSTODIAN	Owner of the document or file.	Firstname Lastname, Lastname, Firstname, User Name; Company Name, Department Name...
FROM	Sender of the email.	Firstname Lastname < FLastname @domain >
TO	All to: members or recipients, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
CC	All cc: members, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
BCC	All bcc: members, delimited by ";" when field has multiple values	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
SUBJECT	Subject line of the email.	
DATERCVD	Date that an email was received.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMERCVD	Time that an email was received.	hh:mm:ss AM/PM or hh:mm:ss
DATESENT	Date that an email was sent.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd

TIMESENT	Time that an email was sent.	hh:mm:ss AM/PM or hh:mm:ss
CALBEGDATE	Date that a meeting begins.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALBEGTIME	Time that a meeting begins.	hh:mm:ss AM/PM or hh:mm:ss
CALENDDATE	Date that a meeting ends.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALENDTIME	Time that a meeting ends.	hh:mm:ss AM/PM or hh:mm:ss
CALENDAR DUR	Duration of a meeting in hours.	0.75, 1.5...
ATTACHMENTS	List of filenames of all attachments, delimited by ";" when field has multiple values.	AttachmentFileName.; AttachmentFileName.doc x; AttachmentFileName.pdf; ...
NUMATTACH	Number of attachments.	1, 2, 3, 4...
RECORDTYPE	General type of record.	IMAGE; LOOSE E- MAIL; E-MAIL; E-DOC; IMAGE ATTACHMENT; LOOSE E-MAIL ATTACHMENT; E- MAIL ATTACHMENT; E-DOC ATTACHMENT
FOLDERLOC	Original folder path of the produced document.	Drive:\Folder\...\..\
FILENAME	Original filename of the produced document.	Filename.ext
DOCEXT	Original file extension.	html, xls, pdf
DOCTYPE	Name of the program that created the produced document.	Adobe Acrobat, Microsoft Word, Microsoft Excel, Corel WordPerfect...
TITLE	Document title (if entered).	
AUTHOR	Name of the document author.	Firstname Lastname; Lastname, First Name; FLastname
REVISION	Number of revisions to a document.	18

DATECREATED	Date that a document was created.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMECREATED	Time that a document was created.	hh:mm:ss AM/PM or hh:mm:ss
DATEMOD	Date that a document was last modified.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMEMOD	Time that a document was last modified.	hh:mm:ss AM/PM or hh:mm:ss
FILESIZE	Original file size in bytes.	128, 512, 1024...
PGCOUNT	Number of pages per document.	1, 2, 10, 100...
IMPORTANCE	Email priority level if set.	Low, Normal, High
TIFFSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	Y, C, E, W, N, P
DUPSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	P
MD5HASH	MD5 hash value computed from native file (a/k/a file fingerprint).	BC1C5CA6C1945179FE E144F25F51087B
SHA1HASH	SHA1 hash value	B68F4F57223CA7DA358 4BAD7ECF111B8044F86 31
MSGINDEX	Email message ID	

AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

I, \_\_\_\_\_, being duly sworn, state as follows:

1. I am employed by Respondent in the position of \_\_\_\_\_  
\_\_\_\_\_;
2. Respondent’s productions and responses to the Subpoena of the Attorney General of the State of New York, dated \_\_\_\_\_, 20\_\_\_\_\_ (the “Subpoena”) were prepared and assembled under my personal supervision;
3. I made or caused to be made a diligent, complete and comprehensive search for all Documents and information requested by the Subpoena, in full accordance with the instructions and definitions set forth in the Subpoena;
4. Respondent’s productions and responses to the Subpoena are complete and correct to the best of my knowledge and belief;
5. No Documents or information responsive to the Subpoena have been withheld from Respondent’s production and response, other than responsive Documents or information withheld on the basis of a legal privilege or doctrine;
6. All responsive Documents or information withheld on the basis of a legal privilege or doctrine have been identified on a privilege log composed and produced in accordance with the instructions in the Subpoena;
7. The Documents contained in Respondent’s productions and responses to the Subpoena are authentic, genuine and what they purport to be;
8. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person’s knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and

9. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Affiant

\* \* \*

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_, Notary Public

My commission expires: \_\_\_\_\_



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

**SUBPOENA DUCES TECUM**  
**THE PEOPLE OF THE STATE OF NEW YORK**  
**GREETINGS**

**TO:** Beth Garvey  
Acting Counsel to the Governor  
Executive Chamber  
Capitol Building  
Albany, NY 12224

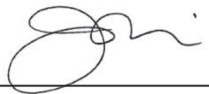
**YOU ARE HEREBY COMMANDED**, under Executive Law § 63(8) and N.Y. Civil Practice Law and Rules § 2302(a), and/or other statutes, to deliver and turn over to the Special Deputies to the First Deputy Attorney General, on ***the 9th day of April, 2021, at 9:30 a.m.***, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006, all documents and information requested in the attached Schedule in accordance with the instructions and definitions contained therein.

**TAKE NOTICE** that the Attorney General deems the documents and information commanded by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

**TAKE FURTHER NOTICE** that Your disobedience of this Subpoena, by failing to deliver the documents and information requested in the attached Schedule on the date, time and place stated above or on any agreed upon adjourned date or time, ***may subject You to penalties and other lawful punishment*** under § 2308 of the New York Civil Practice Law and Rules and other statutes.



**WITNESS, The Honorable Letitia James**, Attorney General of the State of New York, this 6th day of April, 2021.

By:   
\_\_\_\_\_  
Joon H. Kim  
Jennifer Kennedy Park  
Abena Mainoo  
Special Deputies to the  
First Deputy Attorney General  
[REDACTED]@ag.ny.gov  
[REDACTED]  
[REDACTED]@ag.ny.gov  
[REDACTED]  
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By: /s/ Anne L. Clark  
\_\_\_\_\_  
Anne L. Clark  
Yannick Grant  
Special Deputies to the  
First Deputy Attorney General  
[REDACTED]@ag.ny.gov  
[REDACTED]  
[REDACTED]@ag.ny.gov  
[REDACTED]

## SCHEDULE

### A. General Definitions and Rules of Construction

1. “All” means each and every.
2. “Any” means any and all.
3. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Subpoena all information or Documents that might otherwise be construed to be outside of its scope.
4. “Communication” means any conversation, discussion, letter, email, call, text message, instant message, memorandum, meeting, note or other transmittal of information or message, whether transmitted in writing, orally, electronically or by any other means, and shall include any Document that abstracts, digests, transcribes, records or reflects any of the foregoing.
5. “Concerning” means, directly or indirectly, in whole or in part, relating to, referring to, describing, evidencing or constituting.
6. “Custodian” means any Person or Entity that, as of the date of this Subpoena, maintained, possessed, or otherwise kept or controlled such Document.
7. “Document” is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (“email”), instant messages, text messages, Blackberry or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, code (*e.g.*, C/C++/C#, SQL, JavaScript), algorithms, code repositories (*e.g.*, GitHub), commit messages, audit logs, data or databases (*e.g.*, Oracle, postgres or other SQL or non-SQL systems), plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, commit messages, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy

thereof.

8. “Entity” means without limitation any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or other firm or similar body, or any unit, division, agency, department, or similar subdivision thereof.
9. “Identify” or “Identity,” as applied to any Document means the provision in writing of information sufficiently particular to enable the Attorney General to request the Document’s production through subpoena or otherwise, including but not limited to: (a) Document type (letter, memo, etc.); (b) Document subject matter; (c) Document date; and (d) Document author(s), addressee(s) and recipient(s). In lieu of identifying a Document, the Attorney General will accept production of the Document, together with designation of the Document’s Custodian, and identification of each Person You believe to have received a copy of the Document.
10. “Identify” or “Identity,” as applied to any Entity, means the provision in writing of such Entity’s legal name, any d/b/a, former, or other names, any parent, subsidiary, officers, employees, or agents thereof, and any address(es) and any telephone number(s) thereof.
11. “Identify” or “Identity,” as applied to any natural person, means and includes the provision in writing of the natural person’s name, title(s), position(s), any aliases, place(s) of employment, telephone number(s), email address(es), mailing addresses and physical address(es).
12. “Person” means any natural person, or any Entity.
13. “Sent” or “received” as used herein means, in addition to their usual meanings, the transmittal or reception of a Document by physical, electronic or other delivery, whether by direct or indirect means.
14. “Subpoena” means this subpoena and any schedules or attachments thereto.
15. The use of the singular form of any word used herein shall include the plural and vice versa. The use of any tense of any verb includes all other tenses of the verb.

## **B. Particular Definitions**

1. “Complaint” means any and all complaints, allegations, comments, accusations, or other statements of workplace misconduct, sexual harassment, sex- or gender-based misconduct, or other behavior or comments of a sexual, abusive or otherwise inappropriate or uncomfortable nature, whether made formally or informally.
2. “Governor” means the New York State Governor Andrew M. Cuomo.

3. “New York Attorney General” or “Attorney General” means the New York State Office of the Attorney General, including Letitia James.
4. “Respondent,” “You,” or “Your” means Elizabeth (Beth) Garvey, Acting Counsel to the Governor, either in an official or individual capacity.
5. “State” or “New York” means the State of New York.

### **C. Instructions**

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of Your obligations under law to preserve Documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this Subpoena, shall be construed in any way to narrow, qualify, eliminate or otherwise diminish Your aforementioned preservation obligations. Nor shall You act, in reliance upon any such agreement or otherwise, in any manner inconsistent with Your preservation obligations under law. No agreement purporting to modify, limit or otherwise vary Your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating or otherwise diminishing such aforementioned preservation obligations, nor shall You act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
2. Possession, Custody, and Control. The Subpoena calls for all responsive Documents or information in Your possession, custody or control. This includes, without limitation, Documents or information possessed or held by You or any of Your officers, directors, employees, agents, representatives, consultants, divisions, affiliates, subsidiaries or Persons from whom You could request Documents or information. If Documents or information responsive to a request in this Subpoena are in Your control, but not in Your possession or custody, You shall promptly Identify the Person with possession or custody and notify that Person of the Person’s obligation to preserve such Documents and provide them to You for production.
3. Documents No Longer in Your Possession. If any Document requested herein was formerly in Your possession, custody or control but is no longer available, or no longer exists, You shall submit a statement in writing under oath that: (a) describes in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including without limitation whether it was misplaced, lost, destroyed or transferred; and if such Document has been

destroyed or transferred, the conditions of and reasons for such destruction or transfer and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.

4. No Documents Responsive to Subpoena Requests. If there are no Documents responsive to any particular Subpoena request, You shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the Subpoena request concerned.
5. Format of Production. You shall produce Documents and information responsive to this Subpoena in the format requested by the Office of the New York State Attorney General, as set out in Attachments 1 and 2 or as otherwise agreed upon.
6. Databases. To the extent that any data responsive to the requests herein is maintained in an electronic repository of records, such as a detailed transcription report, such information should be produced by querying the database for responsive information and generating a report or a reasonably usable and exportable electronic file (for example, \*.csv and/or \*.xls formats) for review. If it is not possible to export data in this format, You must make the database available to the undersigned for meaningful inspection and review of the information.
7. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization or other order or layout in which it was maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder bearing any title or legend that contains no Document. Likewise, all Documents that are physically attached to each other in Your files shall remain so attached in any production; or if such production is electronic, shall be accompanied by notation or information sufficient to indicate clearly such physical attachment.
8. Manner of Compliance – Custodians/Search Terms/Technology-Assisted Review. Prior consultation with the Special Deputies to the First Deputy Attorney General is required concerning selection of custodians for document searches (whether electronic or otherwise) or for use of search term filters, predictive coding or other forms of technology-assisted review. The Office of the Attorney General reserves the right to approve, disapprove, modify or supplement any proposed list of custodians, search terms, and/or review methodology. The selection or use of custodians, search term filters, and/or technology-assisted review in no way relieves You of Your obligation to fully respond to these requests for Documents or information.
9. Document Numbering. All Documents responsive to this Subpoena, regardless of

- whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
10. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, You shall insert one or more placeholder page(s) in the production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.
  11. Privilege. If You withhold or redact any Document responsive to this Subpoena on ground of any privilege or other legal doctrine, You shall submit with the Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld or redacted; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding or redacting the Document. If the legal ground for withholding or redacting the Document is attorney-client privilege, You shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.
  12. Your Production Instructions to Be Produced. You shall produce a copy of all written or otherwise recorded instructions prepared by You concerning the steps taken to respond to this Subpoena. For any unrecorded instructions given, You shall provide a written statement under oath from the Person(s) who gave such instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.
  13. Cover Letter, Index, and Identifying Information. Accompanying any production(s) made pursuant to this Subpoena, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the Subpoena request(s) to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document. As further set forth in Attachment 2, information must also be included in the metadata and load files of each production concerning the identity of each Document's custodian, as well as information identifying the particular Document requests and/or information to which each document is responsive.
  14. Affidavit of Compliance. A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or

participating in compliance with this Subpoena, and You shall submit such executed Affidavit(s) of Compliance with Your response to this Subpoena.

15. Identification of Persons Preparing Production. In a schedule attached to the Affidavit of Compliance provided herewith, You shall Identify the natural person(s) who prepared or assembled any productions or responses to this Subpoena. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this Subpoena occurred. You shall further Identify all other natural person(s) able to competently testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be.
16. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the Documents and information requested. Documents located or created, and information learned, acquired or created, at any time after Your response is due shall be promptly produced at the place specified in this Subpoena.
17. No Oral Modifications. No agreement purporting to modify, limit or otherwise vary this Subpoena shall be valid or binding, and You shall not act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.

#### **D. Documents to Be Produced**

1. Documents reflecting drafts, copies, or portions of the letter drafted, revised, or otherwise prepared in response to any Complaint by Lindsey Boylan concerning the Governor in or around December 2020, as referenced in the New York Times article titled "How Cuomo's Team Tried to Tarnish One of His Accusers," dated March 16, 2021.

2. If no Document responsive to the above request is currently in Your possession, custody, or control, any Documents sufficient to identify the approximate date(s) on which any copy of the letter referenced above were deleted and by whom.

**ATTACHMENT 1**  
**Electronic Document Production Specifications**

Unless otherwise specified and agreed to by the Office of Attorney General, all responsive documents must be produced in LexisNexis® Concordance® format in accordance with the following instructions. Any questions regarding electronic document production should be directed to the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena.

1. **Concordance Production Components.** A Concordance production consists of the following component files, which must be produced in accordance with the specifications set forth below in Section 7.
  - A. ***Metadata Load File.*** A delimited text file that lists in columnar format the required metadata for each produced document.
  - B. ***Extracted or OCR Text Files.*** Document-level extracted text for each produced document or document-level optical character recognition (“OCR”) text where extracted text is not available.
  - C. ***Single-Page Image Files.*** Individual petrified page images of the produced documents in tagged image format (“TIF”), with page-level Bates number endorsements.
  - D. ***Opticon Load File.*** A delimited text file that lists the single-page TIF files for each produced document and defines (i) the relative location of the TIF files on the production media and (ii) each document break.
  - E. ***Native Files.*** Native format versions of non-printable or non-print friendly produced documents.
2. **Production Folder Structure.** The production must be organized according to the following standard folder structure:
  - data\ (contains production load files)
  - images\ (contains single-page TIF files, with subfolder organization)  
    \0001, \0002, \0003...
  - native\_files\ (contains native files, with subfolder organization)  
    \0001, \0002, \0003...
  - text\ (contains text files, with subfolder organization)  
    \0001, \0002, \0003...
3. **De-Duplication.** You must perform global de-duplication of stand-alone documents and email families against any prior productions pursuant to this or previously related subpoenas.
4. **Paper or Scanned Documents.** Documents that exist only in paper format must be scanned to single-page TIF files and OCR’d. The resulting electronic files should



be pursued in Concordance format pursuant to these instructions. You must contact the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena to discuss (i) any documents that cannot be scanned, and (ii) how information for scanned documents should be represented in the metadata load file.

5. Structured Data. Before producing structured data, including but not limited to relational databases, transactional data, and xml pages, you must first speak to the Special Deputy to the First Deputy Attorney General whose telephone number appears on the subpoena. Structured data is data that has a defined length and format and includes, but is not limited to, relational databases, graphical databases, JSON files, or xml/html pages.

A. Relational Databases

1. Database tables should be provided in CSV or other delimited machine-readable, non-proprietary format, with each table in a separate data file. The preferred delimiter is a vertical bar “|”. If after speaking with the Special Deputy to the First Deputy Attorney General and it is determined that the data cannot be exported from a proprietary database, then the data can be produced in the proprietary format so long as the Office of the Attorney General is given sufficient access to that data.
2. Each database must have an accompanying Data Dictionary.
3. Dates and numbers must be clearly and consistently formatted and, where relevant, units of measure should be explained in the Data Dictionary.
4. Records must contain clear, unique identifiers, and the Data Dictionary must include explanations of how the files and records relate to one another.
5. Each data file must also have an accompanying summary file that provides total row counts for the entire dataset and total row counts.

B. Compression

1. If Documents are provided in a compressed archive, only standard lossless compression methods (e.g., gzip, bzip2, and ZIP) shall be used. Media files should be provided in their original file format, with metadata preserved and no additional lossy encoding applied.

6. Media and Encryption. All documents must be produced on CD, DVD, or hard-drive media. After consultation with the Special Deputy to the First Deputy Attorney General, Documents may also be produced over a secure file transfer protocol (FTP) or a pre-approved cloud-based platform (e.g., Amazon Web Services S3 bucket). All production media must be protected with a strong, randomly generated password containing at least 16 alphanumeric characters and encrypted using Advanced Encryption Standard with 256-bit key length (AES-256). Passwords for electronic documents, files, compressed archives and encrypted media must be provided separately from the media.

7. Production File Requirements.

A. ***Metadata Load File***

- Required file format:
  - ASCII or UTF-8
  - Windows formatted CR + LF end of line characters, including full CR + LF on last record in file.
  - .dat file extension
  - Field delimiter: (ASCII decimal character 20)
  - Text Qualifier: þ (ASCII decimal character 254). Date and pure numeric value fields do not require qualifiers.
  - Multiple value field delimiter: ; (ASCII decimal character 59)
- The first line of the metadata load file must list all included fields. All required fields are listed in Attachment 2.
- Fields with no values must be represented by empty columns maintaining delimiters and qualifiers.
- **Note:** All documents must have page-level Bates numbering (except documents produced only in native format, which must be assigned a document-level Bates number). The metadata load file must list the beginning and ending Bates numbers (BEGDOC and ENDDOC) for each document. For document families, including but not limited to emails and attachments, compound documents, and uncompressed file containers, the metadata load file must also list the Bates range of the entire document family (ATTACHRANGE), beginning with the first Bates number (BEGDOC) of the “parent” document and ending with the last Bates number (ENDDOC) assigned to the last “child” in the document family.
- Date and Time metadata must be provided in separate columns.
- Accepted date formats:
  - mm/dd/yyyy
  - yyyy/mm/dd
  - yyymmdd
- Accepted time formats:
  - hh:mm:ss (if not in 24-hour format, you must indicate am/pm)

- hh:mm:ss:mmm

B. ***Extracted or OCR Text Files***

- You must produce individual document-level text files containing the full extracted text for each produced document.
- When extracted text is not available (for instance, for image-only documents) you must provide individual document-level text files containing the document's full OCR text.
- The filename for each text file must match the document's beginning Bates number (BEGDOC) listed in the metadata load file.
- Text files must be divided into subfolders containing no more than 500 to 1000 files.

C. ***Single-Page Image Files (Petrified Page Images)***

- Where possible, all produced documents must be converted into single-page tagged image format ("TIF") files. See Section 7.E below for instructions on producing native versions of documents you are unable to convert.
- Image documents that exist only in non-TIF formats must be converted into TIF files. The original image format must be produced as a native file as described in Section 7.E below.
- For documents produced only in native format, you must provide a TIF placeholder that states "Document produced only in native format."
- Each single-page TIF file must be endorsed with a unique Bates number.
- The filename for each single-page TIF file must match the unique page-level Bates number (or document-level Bates number for documents produced only in native format).
- Required image file format:
  - CCITT Group 4 compression
  - 2-Bit black and white
  - 300 dpi
  - Either .tif or .tiff file extension.
- TIF files must be divided into subfolders containing no more than 500 to 1000 files. Where possible documents should not span multiple subfolders.

D. ***Opticon Load File***

- Required file format:
  - ASCII
  - Windows formatted CR + LF end of line characters
  - Field delimiter: , (ASCII decimal character 44)
  - No Text Qualifier
  - .opt file extension

- The comma-delimited Opticon load file must contain the following seven fields (as indicated below, values for certain fields may be left blank):
  - ALIAS or IMAGEKEY – the unique Bates number assigned to each page of the production.
  - VOLUME – this value is optional and may be left blank.
  - RELATIVE PATH – the filepath to each single-page image file on the production media.
  - DOCUMENT BREAK – defines the first page of a document. The only possible values for this field are “Y” or blank.
  - FOLDER BREAK – defines the first page of a folder. The only possible values for this field are “Y” or blank.
  - BOX BREAK – defines the first page of a box. The only possible values for this field are “Y” or blank.
  - PAGE COUNT – this value is optional and may be left blank.
- **Example:**  
 ABC00001,,IMAGES\0001\ABC00001.tif,Y,,,2  
 ABC00002,,IMAGES\0001\ABC00002.tif,,,,  
 ABC00003,,IMAGES\0002\ABC00003.tif,Y,,,1  
 ABC00004,,IMAGES\0002\ABC00004.tif,Y,,,1

E. ***Native Files***

- Non-printable or non-print friendly documents (including but not limited to spreadsheets, audio files, video files and documents for which color has significance to document fidelity) must be produced in their native format.
- The filename of each native file must match the document’s beginning Bates number (BEGDOC) in the metadata load file and retain the original file extension.
- For documents produced only in native format, you must assign a single document-level Bates number and provide an image file placeholder that states “Document produced only in native format.”
- The relative paths to all native files on the production media must be listed in the NATIVEFILE field of the metadata load file.
- Native files that are password-protected must be decrypted prior to conversion and produced in decrypted form. In cases where this cannot be achieved the document’s password must be listed in the metadata load file. The password should be placed in the COMMENTS field with the format Password: <PASSWORD>.
- You may be required to supply a software license for proprietary documents produced only in native format.

**ATTACHMENT 2**  
**Required Fields for Metadata Load File**

<b>FIELD NAME</b>	<b>FIELD DESCRIPTION</b>	<b>FIELD VALUE EXAMPLE<sup>1</sup></b>
DOCID	Unique document reference (can be used for de-duplication).	ABC0001 or ###.#####.###
BEGDOC	Bates number assigned to the first page of the document.	ABC0001
ENDDOC	Bates number assigned to the last page of the document.	ABC0002
BEGATTACH	Bates number assigned to the first page of the parent document in a document family ( <i>i.e.</i> , should be the same as BEGDOC of the parent document, or PARENTDOC).	ABC0001
ENDATTACH	Bates number assigned to the last page of the last child document in a family ( <i>i.e.</i> , should be the same as ENDDOC of the last child document).	ABC0008
ATTACHRANGE	Bates range of entire document family.	ABC0001 - ABC0008
PARENTDOC	BEGDOC of parent document.	ABC0001
CHILDDOCS	List of BEGDOCs of all child documents, delimited by ";" when field has multiple values.	ABC0002; ABC0003; ABC0004...
DOCREQ	List of particular Requests for Documents to be Produced in the subpoena	1; 2; 3 . . .
INTERROG	List of particular Requests for Information or interrogatories in the subpoena	1; 2; 3 . . .
COMMENTS	Additional document comments, such as passwords for encrypted files.	

<sup>1</sup> Examples represent possible values and not required format unless the field format is specified in Attachment 1.

NATIVEFILE	Relative file path of the native file on the production media.	.\Native_File\Folder\...\BEGDOC.ext
SOURCE	For scanned paper records this should be a description of the physical location of the original paper record. For loose electronic files this should be the name of the file server or workstation where the files were gathered.	Company Name, Department Name, Location, Box Number...
CUSTODIAN	Owner of the document or file.	Firstname Lastname, Lastname, Firstname, User Name; Company Name, Department Name...
FROM	Sender of the email.	Firstname Lastname < FLastname @domain >
TO	All to: members or recipients, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
CC	All cc: members, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
BCC	All bcc: members, delimited by ";" when field has multiple values	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
SUBJECT	Subject line of the email.	
DATERCVD	Date that an email was received.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMERCVD	Time that an email was received.	hh:mm:ss AM/PM or hh:mm:ss
DATESENT	Date that an email was sent.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd

TIMESENT	Time that an email was sent.	hh:mm:ss AM/PM or hh:mm:ss
CALBEGDATE	Date that a meeting begins.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALBEGTIME	Time that a meeting begins.	hh:mm:ss AM/PM or hh:mm:ss
CALENDDATE	Date that a meeting ends.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALENDTIME	Time that a meeting ends.	hh:mm:ss AM/PM or hh:mm:ss
CALENDAR DUR	Duration of a meeting in hours.	0.75, 1.5...
ATTACHMENTS	List of filenames of all attachments, delimited by ";" when field has multiple values.	AttachmentFileName.; AttachmentFileName.doc x; AttachmentFileName.pdf; ...
NUMATTACH	Number of attachments.	1, 2, 3, 4...
RECORDTYPE	General type of record.	IMAGE; LOOSE E- MAIL; E-MAIL; E-DOC; IMAGE ATTACHMENT; LOOSE E-MAIL ATTACHMENT; E- MAIL ATTACHMENT; E-DOC ATTACHMENT
FOLDERLOC	Original folder path of the produced document.	Drive:\Folder\...\...\
FILENAME	Original filename of the produced document.	Filename.ext
DOCEXT	Original file extension.	html, xls, pdf
DOCTYPE	Name of the program that created the produced document.	Adobe Acrobat, Microsoft Word, Microsoft Excel, Corel WordPerfect...
TITLE	Document title (if entered).	
AUTHOR	Name of the document author.	Firstname Lastname; Lastname, First Name; FLastname
REVISION	Number of revisions to a document.	18

DATECREATED	Date that a document was created.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMECREATED	Time that a document was created.	hh:mm:ss AM/PM or hh:mm:ss
DATEMOD	Date that a document was last modified.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMEMOD	Time that a document was last modified.	hh:mm:ss AM/PM or hh:mm:ss
FILESIZE	Original file size in bytes.	128, 512, 1024...
PGCOUNT	Number of pages per document.	1, 2, 10, 100...
IMPORTANCE	Email priority level if set.	Low, Normal, High
TIFFSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	Y, C, E, W, N, P
DUPSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	P
MD5HASH	MD5 hash value computed from native file (a/k/a file fingerprint).	BC1C5CA6C1945179FE E144F25F51087B
SHA1HASH	SHA1 hash value	B68F4F57223CA7DA358 4BAD7ECF111B8044F86 31
MSGINDEX	Email message ID	



AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

I, \_\_\_\_\_, being duly sworn, state as follows:

1. I am employed by Respondent in the position of \_\_\_\_\_  
\_\_\_\_\_;
2. Respondent's productions and responses to the Subpoena of the Attorney General of the State of New York, dated \_\_\_\_\_, 20\_\_\_\_\_ (the "Subpoena") were prepared and assembled under my personal supervision;
3. I made or caused to be made a diligent, complete and comprehensive search for all Documents and information requested by the Subpoena, in full accordance with the instructions and definitions set forth in the Subpoena;
4. Respondent's productions and responses to the Subpoena are complete and correct to the best of my knowledge and belief;
5. No Documents or information responsive to the Subpoena have been withheld from Respondent's production and response, other than responsive Documents or information withheld on the basis of a legal privilege or doctrine;
6. All responsive Documents or information withheld on the basis of a legal privilege or doctrine have been identified on a privilege log composed and produced in accordance with the instructions in the Subpoena;
7. The Documents contained in Respondent's productions and responses to the Subpoena are authentic, genuine and what they purport to be;
8. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and

9. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Affiant

\* \* \*

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_, Notary Public

My commission expires: \_\_\_\_\_

To: EVERYONE [REDACTED]@exec.ny.gov]

From: Beth Garvey[O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=033511A3D505483B95BF6C15C46B05A4-BETH GARVEY]

Sent: Mon 3/1/2021 4:45:26 PM Eastern Standard Time

Subject: Preservation Notice - FOIL Exempt Attorney- Client Privileged

Attachment: Final Preservation AG 63 (8) review.pdf

---

**IMPORTANT PRESERVATION NOTICE – PLEASE READ IMMEDIATELY**

To: All Executive Chamber Employees

From: Beth Garvey

Date: March 1, 2021

Re: IMPORTANT PRESERVATION NOTICE – PLEASE READ IMMEDIATELY

As you may be aware, the Governor has made a referral, pursuant to Executive Law § 63(8), to the Attorney General, to conduct an inquiry with the assistance of an independent law firm that it selects, into allegations of and circumstances surrounding allegations of sexual harassment made against the Governor. All New York State Executive branch employees have been directed to cooperate fully with this review.

This memorandum is to advise and instruct you to preserve any and all records (including electronic materials), that relate or may relate to any allegations of workplace/sexual harassment by the Governor, including but not limited to: emails on personal and official accounts, text messages, messages on applications such as Signal, whether on personal or government phones, calendars, hand-written notes, voicemails, and any other form of communication in your possession.

Your only obligation at this time is to **preserve** any potentially responsive records, as described above. Thus, it is important that until further notice, you do not discard, delete, overwrite, alter, or destroy any paper documents or electronically stored information related to the above topics.

This request should be interpreted as broadly as possible at this time and should not be limited to allegations of sexual harassment made by Charlotte Bennett and/or Lindsey Boylan. This directive shall be in effect until further notice and supersedes any existing retention policy or procedure to the extent such policy or procedure would result in the destruction of these materials.

If you have any doubt as to whether this Notice applies to a specific document or communication, you should err on the side of caution and preserve the item, and then contact me to discuss the matter. If you have any questions or concerns, please contact me at [REDACTED].



**DO NOT FORWARD  
ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL  
FOIL EXEMPT**

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**STATE OF NEW YORK  
EXECUTIVE DEPARTMENT**



**EQUAL EMPLOYMENT OPPORTUNITY  
In New York State**

**RIGHTS AND RESPONSIBILITIES**

**A Handbook for Employees of New York State Agencies**

**Andrew M. Cuomo  
Governor**

**May 2020**

**EXHIBIT**

**4**

# EMPLOYEE RIGHTS AND RESPONSIBILITIES

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## INTRODUCTION

New York State has long been committed to the principle that all individuals in the State should have an equal opportunity to enjoy a full and productive life, including in their occupational pursuits. Under New York State's Human Rights Law, the first of its kind in the nation, employees are protected from acts of discrimination. Such acts have no place in the workplace.

All State employees have the right to be free from unlawful discrimination in the workplace, together with a responsibility to ensure their actions do not contribute to an atmosphere in which the State's policy of promoting a bias-free work environment is frustrated. In this Handbook, the term "employee" includes interns and non-employees, such as contractors and consultants working in the State workplace and their employees. This Handbook is intended to provide employees of the State of New York with information on their rights and responsibilities under State and federal law with respect to equal employment opportunity. Emphasis will be placed on New York State's Human Rights Law because the protections it provides are generally greater than those granted under federal law. In addition, this Handbook will cover related State laws and Executive Orders.

This Handbook comprises the statewide anti-discrimination policy applicable to State workplaces. Conduct that may not amount to a violation of State or federal law or an Executive Order may nonetheless constitute a violation of the State's anti-discrimination policy, as set forth in this Handbook.

As part of the process of implementing the provisions of this Handbook, Governor Andrew M. Cuomo issued Executive Order 187, to promote more effective, complete and timely investigations of complaints of employment-related protected class discrimination in agencies and departments over which the Governor has executive authority. Effective December 1, 2018, Executive Order 187 transferred the responsibility for conducting investigations of all employment-related discrimination complaints to the Governor's Office of Employee Relations ("GOER"). These investigations include complaints filed by employees, contractors, interns and other persons engaged in employment at these agencies and departments concerning discrimination, retaliation and harassment under federal and New York State law, Executive Orders and policies of the State of New York. All such complaints of protected class employment-related discrimination will be investigated by GOER. A copy of the New York State Employee Discrimination Complaint Form is located on the GOER website (<https://goer.ny.gov/>) at <https://antidiscrimination.goer.ny.gov/>.

## PROTECTED AREAS

The Human Rights Law applies to all State agencies and employees and provides very broad anti-discrimination coverage. The Human Rights Law provides, in section 296.1(a), that it is an unlawful discriminatory practice “[f]or an employer or licensing agency, because of the age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status or status as a victim of domestic violence [of any individual], to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.” Persons with disabilities, and persons with pregnancy-related conditions, are entitled to reasonable accommodation as provided in section 296.3. Accommodation of sabbath observance or other religious practices is required by section 296.10. The Human Rights Law further provides, in sections 296.15 and 296.16, protections from employment discrimination for persons with prior conviction records, or prior arrests, youthful offender adjudications or sealed records.

Each of these protected areas are discussed below, as well as other protections provided by Governor’s Executive Orders and other state laws and policies.

## AGE

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person’s age, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

While most cases of age discrimination concern allegations that an employee was perceived to be “too old” by an employer, under the Human Rights Law it is also discriminatory to base an employment decision on a perception that a person is “too young,” as long as the person is at least 18. However, basing a decision on lack of experience or ability is not discriminatory.

Decisions about hiring, job assignments or training must never be based on age-related assumptions about an employee’s abilities or willingness to learn or undertake new tasks and responsibilities.

All employees must refrain from conduct or language that directly or indirectly expresses a preference for employees of a certain age group. Ageist remarks must be avoided in the workplace.

### **Statutory protection.**

Age discrimination is made unlawful by Human Rights Law § 296.1, § 296.3-a, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and by the

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

federal Age Discrimination in Employment Act (“ADEA”).<sup>1</sup> Under New York law, age discrimination in employment is prohibited against all persons eighteen years of age or older. Under the ADEA, age discrimination is prohibited only against persons forty years of age or older.

### **Executive Order concerning State workers.**

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2, reissuing Executive Order No. 96,<sup>2</sup> which prohibits Age Discrimination in the workplace. The Executive Order notes that every State employee is entitled to work in an age-neutral environment with equal opportunity for hiring, promotion and retraining opportunities.

### **Retirement.**

Mandatory retirement of employees at any specific age is generally prohibited, except as noted below.<sup>3</sup> However, retirement plans may contain an age component for eligibility. Thus, retirement plans may require that persons attain a certain age or have some combination of age and years of service, before being eligible for retirement benefits.<sup>4</sup>

Incentive programs intended to induce employees to retire by granting them greater retirement benefits than those to which they would normally be entitled in order to reduce the size of the work force have generally been found to be lawful. Being eligible for “early retirement” is not coercion based on age. Similarly, that an employee may not be eligible for a retirement benefit or incentive because he or she has not attained a certain age (i.e., “too young”) is also not considered discriminatory.

### **Exceptions.**

The Civil Service Law<sup>5</sup> mandates minimum and maximum hiring ages for police officers. Correction Officers must be at least 21 years of age in order to be appointed.<sup>6</sup> These are lawful exceptions to the provisions of the Human Rights Law.

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<sup>1</sup> 29 U.S.C. § 621 et seq.

<sup>2</sup> Issued by Gov. Mario M. Cuomo on April 27, 1987.

<sup>3</sup> Human Rights Law § 296.3-a(d) but see exceptions below.

<sup>4</sup> Human Rights Law § 296.3-a(g).

<sup>5</sup> N.Y. Civil Service Law § 58; see also N.Y. Executive Law § 215.3.

<sup>6</sup> N.Y. Correction Law § 7(4).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

There are certain limited exceptions to the prohibition on mandatory retirement.<sup>7</sup> For example, officers of the New York State Police are required to retire at age 60,<sup>8</sup> and State park police officers are required to retire at age 62.<sup>9</sup>

In the area of employee benefits, the Human Rights Law does not “preclude the varying of insurance coverage according to an employee's age.”<sup>10</sup>

## RACE AND COLOR

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's race or color, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Discrimination because of a person's membership in or association with an identifiable class of people based on ancestry or ethnic characteristics can be considered racial discrimination.

There is no objective standard for determining an individual's racial identity. Therefore, as an employer, the State defers to an employee's self-identification as a member of a particular race.

The Human Rights Law explicitly provides that the definition of race includes traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.<sup>11</sup> Protective hairstyles include such hairstyles as braids, locks and twists.

“Color” can be an independent protected class, based on the color of an individual's skin, irrespective of their race.

### **Statutory protection.**

Race and color discrimination are unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>12</sup>

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<sup>7</sup> Human Rights Law § 296.3-a(g).

<sup>8</sup> N.Y. Retirement and Social Security Law § 381-b(e).

<sup>9</sup> N.Y. Park, Recreation and Historic Preservation Law § 13.17(4).

<sup>10</sup> Human Rights Law § 296.3-a(g).

<sup>11</sup> Human Rights Law § 292.37 and § 292.38.

<sup>12</sup> 42 U.S.C. § 2000e et seq.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **CREED**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's creed, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Creed" encompasses belief in a supreme being or membership in an organized religion or congregation. Atheism and agnosticism are considered creeds as well. A person is also protected from discrimination because of having no religion or creed. An individual's self-identification with a particular creed or religious tradition is determinative.

#### **Statutory protection.**

Discrimination based on creed is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>13</sup>

#### **Sabbath or holy day observance.**

An employee is entitled to time off for religious observance of a sabbath or holy day or days, in accordance with the requirements of their religion, provided it does not impose an undue hardship to their employer, as explained below.<sup>14</sup> Time off shall also be granted to provide a reasonable amount of time for travel before and after the observance.

The Human Rights Law provides that any such absence from work shall, wherever practicable in the reasonable judgment of the employer, be made up by an equivalent amount of time and work at a mutually convenient time, or shall be charged against any available personal, vacation or other paid leave, or shall be taken as leave without pay.<sup>15</sup> Agencies are not required to permit such absence to be made up at another time, but may agree that the employee may do so.

Leave that would ordinarily be granted for other non-medical personal reasons shall not be denied because the leave will be used for religious observance.<sup>16</sup> Under no circumstances may time off for religious observance be charged as sick leave.<sup>17</sup>

The employee is not entitled to premium wages or benefits for work performed during hours to which such premium wages or benefits would ordinarily be applicable, if the

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<sup>13</sup> 42 U.S.C. § 2000e et seq.

<sup>14</sup> Human Rights Law § 296.10(a).

<sup>15</sup> Human Rights Law § 296.10(b).

<sup>16</sup> Human Rights Law § 296.10(c).

<sup>17</sup> Human Rights Law § 296.10(b).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

employee is working during such hours only to make up time taken for religious observance.<sup>18</sup>

Civil Service Law § 50(9) provides that candidates who are unable to attend a civil service examination because of religious observance can request an alternate test date from the Department of Civil Service without additional fee or penalty.

### **Religious observance or practices.**

An employee who, in accordance with their religious beliefs, observes a particular manner of dress, hairstyle, beard, or other religious practice, should not be unreasonably required to compromise their practice in the workplace. The employer is required by law to make a bona fide effort to accommodate an employee's or prospective employee's religious observance or practice. Employers are required to reasonably accommodate the wearing of attire, clothing, or facial hair in accordance with the requirements of an employee's religion, provided it does not impose an undue hardship on the employer.<sup>19</sup>

### **Request for accommodation.**

All New York State agencies have adopted a procedure for requesting a religious accommodation.<sup>20</sup> An applicant or employee requesting time off or other accommodation of religious observance or practice should clearly state the religious nature of the request and should be willing to work with the employer to reach a reasonable accommodation of the need. Supervisors should consult with their human resources and/or legal departments, as necessary, with respect to requests for accommodation of religious observance or practices.

### **Conflicts with seniority rights.**

In making the effort to accommodate sabbath observance or religious practices, the employer is not obliged to initiate adversarial proceedings against a union when the seniority provisions of a collective bargaining agreement limit its ability to accommodate any employee's religious observance or practice, but may satisfy its duty under this

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<sup>18</sup> Human Rights Law § 296.10(a). "Premium wages" include "overtime pay and compensatory time off, and additional remuneration for night, weekend or holiday work, or for standby or irregular duty." § 296.10(d)(2). "Premium benefit" means "an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due to the employee for an equivalent period of work performed during the regular work schedule of the employee." § 296.10(d)(3).

<sup>19</sup> Human Rights Law § 296.10(a).

<sup>20</sup> With respect to policy and procedures relative to religious accommodation generally, employees should consult the publication "[Procedures for Implementing Reasonable Accommodation of Religious Observance or Practices for Applicants and Employees](#)," and the accompanying "Application to Request Reasonable Accommodation of Religious Observance or Practice."

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section by seeking volunteers willing to waive their seniority rights in order to accommodate their colleague's religious observance or practice. This waiver must be sought from the union that represents the employees covered by such agreement.

### **Undue hardship.**

Before the employer can deny a religious accommodation, the employer must be able to show that accommodating the employee's religious observance or practice would result in undue hardship to the employer. The undue hardship standard applies generally to all accommodation requests, not only those for time off for religious observance. "Undue hardship" means an accommodation requiring significant expense or difficulty, including one that would cause significant interference with the safe or efficient operation of the workplace. Factors that are specifically to be considered are the identifiable costs (such as loss of productivity, or the cost to transfer or hire additional personnel), and the number of individuals who will need time off for a particular sabbath or holy day in relation to available personnel.<sup>21</sup>

Furthermore, in positions that require coverage around the clock or during particular hours, being available even on sabbath or holy days *may* be an essential function of the job. Also, certain uniform appearance standards *may* be essential to some jobs. A requested accommodation will be considered an undue hardship, and therefore not reasonable, if it will result in the inability of an employee to perform an essential function of the job.<sup>22</sup>

### **Exceptions.**

None with regard to employment decisions. Accommodation is limited by reasonableness, conflicting seniority rights and undue hardship, as set forth above.

## **NATIONAL ORIGIN**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's national origin, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

National origin is defined as including ancestry, so an individual born in the United States is nonetheless protected against discrimination based on their ancestors' nationality.<sup>23</sup> An individual's self-identification with a particular national or ethnic group is determinative.

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<sup>21</sup> Human Rights Law § 296.10(d)(1).

<sup>22</sup> Human Rights Law § 296.10(d)(1).

<sup>23</sup> Human Rights Law § 292.8.



## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Statutory protection.**

National origin discrimination is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>24</sup>

### **Language issues.**

Fluency in English may be a job requirement. However, requiring that a person speaks English as their primary language, or be a “native speaker,” may be considered national origin discrimination. In some circumstances, where a particular level of fluency in English is not necessary for job performance, requiring such fluency might also constitute national origin discrimination. The only lawful requirement is for a level of English fluency necessary for the job.

Requiring employees to speak only English at all times in the workplace may be national origin discrimination. Any specific workplace rule about language use must be reasonable and necessary to the efficient conduct of State business. Any such reasonable rule that prohibits or limits the use of a language other than English in the workplace must be clearly communicated to employees before it can be enforced.<sup>25</sup>

Requiring fluency in a language other than English, such as for employment in bilingual positions, is not discriminatory. However, a job qualification of language fluency must be based on an individual’s ability, not on national origin. A requirement that an individual be a “native speaker” of a language other than English is discriminatory.

### **Proof of identity and employment eligibility .**

All New York State employees hired after November 6, 1986 must be able to complete a verified federal Form I-9, which establishes the employee’s identity and eligibility for employment in the United States. Rescinding an offer of employment or terminating employment based upon lack of current employment authorization is required by federal law and is not unlawful discrimination.<sup>26</sup>

### **Citizenship requirements.**

Employees serving in positions designated as “public offices,” as well as peace and police officer positions defined in the New York State Criminal Procedure Law, must be United States citizens.<sup>27</sup>

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<sup>24</sup> 42 U.S.C. § 2000e et seq.

<sup>25</sup> See the federal Equal Employment Opportunity Commission’s regulation at 29 CFR § 1606.7.

<sup>26</sup> US Immigration and Nationality Act § 274A, as modified by the Immigration Reform and Control Act of 1986, Immigration Act of 1990 and Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

<sup>27</sup> Public Officers Law § 3(1); Criminal Procedure Law § 1.20(34) (police officers); Criminal Procedure Law § 2.10 (peace officers).

## **MILITARY STATUS**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's military status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Military status" is defined in the Human Rights Law as a person's participation in the military service of the United States or the military service of the State, including, but not limited to, the armed forces of the United States, the Army National Guard, the Air National Guard, the New York Naval Militia, or the New York Guard.<sup>28</sup>

### **Statutory protection.**

Discrimination on the basis of military status is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace). The federal Uniformed Services Employment and Reemployment Rights Act (USERRA)<sup>29</sup> provides additional protections.

Military leave provisions for State workers (and all public employees) are contained in N.Y. Military Law § 242 and § 243. Under the 2008 amendments to the federal Family and Medical Leave Act (FMLA), employees with a family member who is on active duty or on call to active duty status may be eligible for qualifying exigency leave or military caregiver leave of up to 26 weeks in a 12-month period, based upon the family member's military service.

### **Military leave and job retention rights.**

N.Y. Military Law entitles State employees to a leave of absence for "ordered military duty"<sup>30</sup> or "military duty."<sup>31</sup> Both provisions entitle State employees to return to their jobs with the same pay, benefits, and status they would have attained had they remained in their position continuously during the period of military duty. State employees on leave for military duty continue to accrue years of service, increment, and any other rights or privileges. Under both Military Law and the Human Rights Law, those called to military duty, or who may be so called, may not be prejudiced in any way with reference to promotion, transfer, or other term, condition or privilege of employment. Military Law § 243(5) provides: "State employees on leave for military duty shall suffer no loss of time, service, increment, or any other right or privilege, or be prejudiced in any way with reference to promotion, transfer, reinstatement or

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<sup>28</sup> Human Rights Law § 292.28.

<sup>29</sup> 38 U.S.C. §§ 4301-35.

<sup>30</sup> N.Y. Military Law § 242; pertains to members of the militia, the reserve forces, or reserve components of any branch of the military.

<sup>31</sup> N.Y. Military Law § 243; pertains to active duty in the armed forces or reservists called to active duty.

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continuance in office. Employees are entitled to contribute to the retirement system in order to have leave time count toward determining length of service.”

Similarly, under USERRA, service members who leave their civilian jobs for military service are entitled to return to their jobs with the same pay, benefits, and status they would have attained had they not been away on duty. USERRA also prohibits employers from discriminating against these individuals in employment because of their military service, or for exercising their rights under USERRA.

## SEX

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person’s sex, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Sex/gender discrimination also includes discrimination on the basis of gender identity, pregnancy, childbirth or prenatal leave, sexual orientation and sexual harassment. Each of these is discussed in more depth below.

### **Statutory protection.**

Sex discrimination is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>32</sup>

### **Sex stereotyping.**

Stereotyping based upon sex or gender occurs when conduct, personality traits, or other attributes are considered inappropriate simply because they may not conform to general societal norms or other perceptions about how individuals of either sex should act or look. Making employment decisions based on sex-stereotyped evaluations of conduct, looks or dress can be considered discrimination on the basis of sex or gender.

Discrimination because a person does not conform to gender stereotypes is discrimination based upon sex or gender and may constitute sexual harassment. Derogatory comments directed at a person who has undergone gender dysphoria-related medical treatment could constitute sexual harassment, just as comments about secondary sex characteristics of any person could be sexual harassment.

Sex discrimination can also arise in the context of gender transition issues such as an employer’s refusal to recognize an employee’s sex after transition. For more information on transgender issues, see below: [Gender Identity](#) and [Disability](#).

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<sup>32</sup> 42 U.S.C. § 2000e et seq.

### **Sexual harassment.**

Sexual harassment constitutes sex discrimination. (See below: [Sexual Harassment](#)).

### **Pregnancy and childbirth discrimination.**

Discrimination on the basis of pregnancy or childbirth constitutes sex discrimination. (See below: [Pregnancy, Childbirth and Parental Leave](#)).

### **Exceptions.**

Both State and federal law permit consideration of sex in employment decisions when it is a bona fide occupational qualification (BFOQ). This is, however, an **extremely narrow** exception to the anti-discrimination provisions of the Human Rights Law. Neither customer preference nor stereotyped and generalized views of ability based on sex can form the basis for a BFOQ. However, proof that employing members of a particular sex would impinge on the legitimate personal privacy expectations of an agency's clients, particularly in a custodial environment, may make out a case for a BFOQ.

## **SEXUAL HARASSMENT**

Sexual harassment is a form of sex discrimination and is unlawful. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

### **Statutory protection.**

Sexual harassment is prohibited as a form of sex discrimination under the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>33</sup>

### **Executive Order concerning State workers.**

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2 reissuing Executive Order No. 19,<sup>34</sup> which established State policy on sexual harassment in the workplace.

### **Sexual harassment defined.**

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

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<sup>33</sup> 42 U.S.C. § 2000e et seq.

<sup>34</sup> Issued by Gov. Mario M. Cuomo on May 31, 1983.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

- \* Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- \* Such conduct is made either explicitly or implicitly a term or condition of employment; or
- \* Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

Actions that may constitute sexual harassment based upon a hostile work environment may include, but are not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Sexual harassment need not be severe or pervasive to be unlawful, and can be any sexually harassing conduct that consists of more than petty slights or trivial inconveniences.

It is not a requirement that an individual tell the person who is sexually harassing them that the conduct is unwelcome. In fact, the Human Rights Law now provides that even if a recipient of sexual harassment did not make a complaint about the harassment to the employer, the failure of the employee to complain shall not be determinative of whether the employer is liable.<sup>35</sup>

Sexual harassment can also occur when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is called "quid pro quo" harassment. Only supervisors are deemed to engage in this kind of harassment, because co-workers do not have the authority to grant or withhold benefits.

Every employer in New York State must have a policy on sexual harassment prevention, which includes a procedure for the receipt and investigation of complaints of sexual harassment. This policy and procedure should be distributed to new employees and made available to all staff as needed. Also, each agency must provide appropriate sexual harassment training to its staff.

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<sup>35</sup> Human Rights Law § 296.1(h).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Reporting sexual harassment.**

As with all forms of discrimination and harassment, if an employee, including an intern or contractor working in a State workplace, experiences sexual harassment, or observes it in the workplace, the employee should complain promptly to GOER via the New York State Employee Discrimination Complaint form located at [www.goer.ny.gov](http://www.goer.ny.gov), or by contacting an equal employment officer. If the employing agency is not subject to Executive Order 187, the employee should file a complaint in accordance with their employer's discrimination complaint procedure. The employee may also report such conduct to a supervisor, managerial employee, or personnel administrator. The complaint can be verbal or in writing. If the complaint is verbal, a written complaint will be requested from the employee in order to assist in the investigation. If the employee refuses to reduce the complaint to writing, the supervisor or other individual who received an oral complaint should file it in writing on the NYS Employee Discrimination Complaint Form. Any complaint, whether verbal or written, must be investigated by GOER, or pursuant to the employing agency's policy. Furthermore, any supervisory or managerial employee who observes or otherwise becomes aware of conduct of a sexually harassing nature must report such conduct so that it can be investigated.

If an employee is harassed by a co-worker or a supervisor, it is very important that a complaint be made to a higher authority promptly. An agency cannot stop sexual harassment unless it has knowledge of the harassment. Once informed, the conduct must be reported to GOER or the employing agency, which is required to initiate an investigation and recommend prompt and effective remedial action where appropriate.

See below: [Harassment](#).

### **Sexual harassment by a non-employee.**

The employing agency has the duty to prevent harassment of its employees in the workplace including harassment by individuals who its employees come in contact with, including, but not limited to, vendors, consultants, clients, customers, visitors or interns.

### **Sexual harassment of non-employees.**

Individuals in the workplace, who are performing work under contract, are explicitly protected from sexual harassment (and all other types of workplace discrimination) by Human Rights Law § 296-d.

In accord with statewide policy, employees and interns are subject to discipline for harassment of *anyone* in the workplace, including contractors, clients, vendors, or any members of the public.

## **SEXUAL ORIENTATION**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's sexual orientation, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

The term "sexual orientation" means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.<sup>36</sup>

### **Statutory protection.**

Discrimination on the basis of sexual orientation is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace). Sexual orientation is not a separate protected class under federal law. However, sexual orientation discrimination may also be considered sex discrimination under federal law.

### **Same-sex spouses or partners.**

The New York State Marriage Equality Act, signed by Governor Cuomo on June 24, 2011, and effective on July 24, 2011, authorizes marriages between same-sex couples in the State of New York. New York State also recognizes marriages between same-sex couples performed in any jurisdiction where such marriages are valid. Spousal benefits will be provided to same-sex spouses in the same manner as to opposite-sex spouses of State employees. Failure to offer equal benefits, or to discriminate against an employee in a marriage with a same-sex spouse, is considered discrimination on the basis of sexual orientation.

### **Domestic partners.**

Same-sex partners who are not married may also qualify for benefits. The employee and their partner can fill out the "Application for Domestic Partner Benefits" and "Affidavit of Domestic Partnership and Financial Interdependence," which is available online from the Department of Civil Service. Opposite-sex domestic partners can also qualify for benefits on the same basis as same-sex partners.

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<sup>36</sup> Human Rights Law § 292.27.

## **GENDER IDENTITY OR EXPRESSION**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's gender identity or expression, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

“Gender identity or expression” means an individual’s actual or perceived gender-related identity, appearance, behavior, expressions other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.

A transgender person is an individual who has a gender identity different from the sex assigned to that individual at birth.

Gender dysphoria is a recognized medical condition related to an individual having a gender identity different from the sex assigned at birth.

### **Statutory protection.**

Effective February 24, 2019, the Human Rights Law § 296.1 was amended to explicitly state that discrimination on the basis of gender identity or expression is unlawful. Gender identity or expression may also form the basis of Human Rights Law sex and disability discrimination claims. These protections are explained in regulations promulgated by the Division of Human Rights.<sup>37</sup> Gender identity or expression discrimination may also be considered sex discrimination under federal law. Individuals who are not employees, but work in the State workplace (e.g. interns and contractors) are protected from discrimination on the basis of gender identity or expression by § 296-d.

### **Executive Order concerning State workers.**

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2, reissuing Executive Order No. 33,<sup>38</sup> which prohibits discrimination in employment by executive branch agencies on the basis of gender identity.

### **What protection against discrimination is provided by the Human Rights Law?**

As of February 24, 2019, it is unlawful for an employer to discriminate on the basis of “gender identity or expression.”

The term “sex” when used in the Human Rights Law includes gender identity or expression and the status of being transgender, and discrimination on either basis is

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<sup>37</sup> 9 N.Y.C.R.R. § 466.13

<sup>38</sup> Issued by Gov. David A Paterson on December 16, 2009.



## EMPLOYEE RIGHTS AND RESPONSIBILITIES

sex discrimination. Harassment on either basis qualifies as sexual harassment. (See above: [Sex Stereotyping](#).)

The term “disability” when used in the Human Rights Law includes gender dysphoria or other condition meeting the definition of disability in the Human Rights Law and discrimination on that basis is disability discrimination. Refusal to provide reasonable accommodation for persons with gender dysphoria, where requested and necessary, is also disability discrimination. (See above: [Disability](#).)

While discrimination on the basis of gender identity or expression can take many forms, it includes, but is not limited to, unwelcome verbal or physical conduct, such as derogatory comments, jokes, graffiti, drawings or photographs, touching, gestures, or creating or failing to remedy a hostile work environment. Retaliation is also prohibited. (See below: [Harassment](#) and [Retaliation](#).)

### **Rights with regard to name, title and pronoun.**

An employee is entitled to be addressed by the name, title and pronoun that the employee prefers. Managers, supervisors and other employees should comply with such requests, regardless of the employee’s appearance, anatomy, medical history, sex assigned at birth, or legal name, and without requiring identification or other forms of “proof” of gender identity. It is lawful to use an employee’s legal name in employment related documents, such as for payroll and tax records, and insurance and retirement benefits. Once the employee obtains a court order legally changing their name and gender marker, they are entitled to have all records changed to the employee’s legal name upon presentation of the court order to the Director of Human Resources or their designee.

Failure to use the name, title or pronoun preferred by the employee may constitute discrimination on the basis of gender identity or expression.

### **Access to gender-segregated facilities and programs.**

An employee is entitled to use gender-segregated facilities (e.g. changing rooms, locker rooms, showers, restrooms), and participate in gender-separated programs, consistent with that employee’s gender identity, regardless of appearance, anatomy, medical history, sex assigned at birth, or gender indicated on identification, and without requiring any “proof” of gender identity. An employee is entitled to be free from any discrimination or harassment because of the employee’s use of a particular gender-separated facility. State agencies are not required to change existing facilities to all-gender facilities, or to construct new facilities.

Where single-occupancy facilities exist, any individual may use such facilities, regardless of the gender-designation of such facility. However, an employee may not be required to use a single-occupancy facility because of the employee’s gender identity or expression, including, but not limited to, transgender, gender non-conforming, non-binary, or because of another individual’s concerns.

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### **Dress codes, uniforms, grooming, and appearance standards.**

State agencies may not require dress, uniforms, grooming, or appearance that differ based on gender, sex, or sex stereotypes. Any dress code must be applied consistently, regardless of gender or gender identity.

### **Equal access to employee benefits, leave, and reasonable accommodations.**

An employee is entitled to equal access to benefits, leave, and reasonable accommodations regardless of gender identity. The State offers its employees access to health benefit plans that cover gender dysphoria-related medical treatment, and agencies provide reasonable accommodations to people undergoing gender transition. Requests for leave or reasonable accommodations related to gender should be treated in the same manner as all requests for other health or medical conditions.

## **DISABILITY**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's disability, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

All employees must be able to perform the essential functions of their jobs in a reasonable manner, with or without a reasonable accommodation. Consideration of requests for accommodation of applicants or employees with disabilities is required and should be granted where reasonable.

### **Statutory protection.**

Disability discrimination is unlawful pursuant to Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace). Reasonable accommodation is required of employers pursuant to Human Rights Law § 296.3(a). New York State law has a very broad definition of disability, and generally protects persons with any disabling condition, including temporary disabilities. Disability discrimination is also unlawful under federal law. However, the scope of disability under the provisions of the Americans with Disability Act (ADA) is not as broad.<sup>39</sup> The Federal Rehabilitation Act of 1973 § 503 and § 504<sup>40</sup> also apply to many State workers. Federal law also requires reasonable accommodation.

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<sup>39</sup> 42 U.S.C. § 12111 et seq.

<sup>40</sup> 29 U.S.C. § 793 and § 794.

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Guide dog, hearing dog, and service dog provisions are found in Human Rights Law § 296.14. An employee who uses a guide, hearing or service dog is also protected by Civil Rights Law § 47-a and § 47-b.

### **What is a “disability” under the Human Rights Law?**

A “disability” is:

- \* a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or
- \* a record of such an impairment; or
- \* a condition regarded by others as such an impairment.<sup>41</sup>

Because this definition includes any impairment that is demonstrable by clinical or laboratory diagnostic techniques, it includes most disabling conditions.

### **Reasonable performance.**

An employee with a disability must be able to achieve “reasonable performance” in order to be protected by the Human Rights Law. Reasonable performance is not perfect performance or performance unaffected by the disability, but job performance reasonably meeting the employing agency’s needs to achieve its governmental functions. An employee with a disability is entitled to reasonable accommodation if it will permit the employee to achieve reasonable job performance.

### **Essential functions.**

A function is essential if not performing it would fundamentally change the job for which the position exists. If a function is not essential to the job, then it can be reassigned to another employee, and the employee with a disability may not be required to perform that function.

Employers may ask applicants with disabilities about their ability to perform specific job functions and tasks, as long as all applicants are asked in the same way about their abilities. Employers may require applicants/employees to demonstrate capacity to perform the physical demands of a particular job, in the same way as applicants are asked to demonstrate competence and qualifications in other areas. Such tests of capacity, agility, endurance, etc. are non-discriminatory as long as they can be demonstrated to be related to the specific duties of the position applied for and are uniformly given to all applicants for a particular job category.

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<sup>41</sup> Human Rights Law § 292.21.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Reasonable accommodation.**<sup>42</sup>

A reasonable accommodation is an adjustment or modification made to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. Some examples of reasonable accommodation include:

- \* A modified work schedule;
- \* Reassignment of the non-essential functions of the job;
- \* Acquisition or modification of equipment; and
- \* Provision of an accessible worksite.

All otherwise qualified applicants and employees are entitled to reasonable accommodation of disability. Accommodation is required if it is reasonable and will assist in overcoming an obstacle caused by the disability that prevents the person from applying for the position, from performing the essential functions of the position, or from receiving equal terms, conditions or privileges of the position.

Unless the disability is obvious (e.g. employee's use of a wheelchair) the applicant or employee must inform the employing agency of the need for accommodation. The employee also must provide reasonable medical documentation as requested by the agency and engage in an interactive process with the agency in order to reach an effective and reasonable accommodation.

Once an accommodation has been requested, the agency has an obligation to verify the need for the accommodation. If the need for accommodation exists, then the employing agency has an obligation to seek an effective solution through an interactive process between the agency and the employee.

While the employee can request a particular accommodation, the obligation to provide a reasonable accommodation is satisfied where the accommodation is effective in addressing the individual's limitations such that they can perform their essential job duties in a reasonable manner. The agency has the right to decide which reasonable accommodation will be granted, so long as it is effective in enabling the employee to perform the job duties in a reasonable manner.

An agency may require a doctor's note to substantiate the request, or a medical examination where appropriate, but must maintain the confidentiality of an employee's medical information. The Human Rights Law requires that the employee cooperate in

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<sup>42</sup> With respect to policy and procedures relative to reasonable accommodation generally, employees should consult the publication [Procedures for Implementing Reasonable Accommodation for Applicants and Employees with Disabilities and Pregnancy-related Conditions in New York State Agencies](#).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

providing medical or other information needed to verify the disability, or any additional information that is otherwise necessary for consideration of the accommodation.<sup>43</sup>

Information provided for purposes of reasonable accommodation cannot be used by the agency for another purpose, such as a basis for referring an employee for a medical examination to determine fitness for duty pursuant to Civil Service Law section 72(1), placing the employee on an involuntary leave of absence pursuant to Civil Service Law section 72(5), or other personnel actions.

Many common questions about reasonable accommodation are explained in the reasonable accommodation regulations<sup>44</sup> of the New York State Division of Human Rights, which are available on the Division's website. These regulations may be used by applicants, employees, and agency personnel in order to better understand the reasonable accommodation process.

### **Exceptions.**

The Human Rights Law does not require accommodation of behaviors that do not meet the employer's workplace behavior standards that are consistently applied to all similarly situated employees, even if these behaviors are caused by a disability.<sup>45</sup>

Reasonable accommodation is not required where the disability or the accommodation itself poses a direct threat, which means a significant risk of substantial harm to the health or safety of the employee or others that cannot be eliminated or reduced by reasonable accommodation.<sup>46</sup>

### **Family Medical Leave Act (29 USC sections 2601 to 2654).**

The State as an employer cannot take adverse action against employees who exercise their rights to medical leave for the birth, adoption, or foster care placement of a child, for their own serious health condition, or to care for a family member with a serious health condition which qualifies under the Act. The Act entitles eligible employees to take up to a total of 12 weeks of unpaid leave during a 12-month period. (Military caregivers may be entitled to up to 26 weeks of leave. See above: [Military Status.](#))

### **Civil Service Law §§ 71 and 73.**

The Civil Service Law allows an agency to terminate an employee after one cumulative year of absence for a disability resulting from an occupational injury or disease as defined in the Workers' Compensation Law.<sup>47</sup> This is extended to two years for an individual injured in an assault that causes such injury or disease. The Civil Service

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<sup>43</sup> Human Rights Law § 296.3.

<sup>44</sup> 9 N.Y.C.R.R. § 466.11.

<sup>45</sup> 9 N.Y.C.R.R. § 466.11(g)(1).

<sup>46</sup> 9 N.Y.C.R.R. § 466.11(g)(2).

<sup>47</sup> Civil Service Law § 71.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

Law also allows an agency to terminate an employee who has been continuously absent for one year for a personal injury or illness.<sup>48</sup>

### **Drug and Alcohol-Free Workplace Policy.**

New York State employees are subject to criminal, civil, and disciplinary penalties if they distribute, sell, attempt to sell, possess, or purchase controlled substances while at the workplace or while acting in a work-related capacity. Such illegal acts, even if engaged in while off duty, may result in disciplinary action. In those locations where it is permitted, an employee may possess and use a controlled substance that is properly prescribed for the employee by a physician. Employees are also prohibited from on-the-job use of, or impairment from, alcohol. If a supervisor has a reasonable suspicion that an employee is unable to perform job duties due to the use of controlled substances or alcohol, that employee may be required to undergo medical testing.<sup>49</sup> If the employee has a disability that is drug- or alcohol-related, the employee may be referred to voluntary and confidential participation in the statewide Employee Assistance Program. Other available options include pursuing disability leave procedures or disciplinary measures. On-line supervisory training regarding a drug- and alcohol-free workplace is available through the GOER's Online Learning Center at <https://nyslearn.ny.gov/>.

The Federal Drug-Free Workplace Act of 1988, amended in 1994, requires that all agencies that have contracts with the United States Government that exceed \$100,000, and all agencies that receive federal grants, maintain a drug-free workplace. If an employee is involved in work on a contract or grant covered by this law, they are required to notify their employer of any criminal drug statute conviction, for a violation occurring in the workplace, not less than five days after the conviction. Agencies covered by this law must notify the federal government of the conviction and must take personnel action against an employee convicted of a drug abuse violation.

### **Drug addiction and alcoholism under the Human Rights Law and Regulations.**<sup>50</sup>

An individual who is currently using drugs illegally is not protected under the disability provisions of the Human Rights Law. The law protects individuals who are recovered or recovering drug addicts or alcoholics and may protect alcoholics if the alcoholism does not interfere with job performance.

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<sup>48</sup> Civil Service Law § 73.

<sup>49</sup> For agencies that do not have their own drug/alcohol testing procedures, this test must be done pursuant to Civil Service Law § 72.

<sup>50</sup> See *generally* 9 N.Y.C.R.R. § 466.11(h).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

Intoxication or use of alcohol on the job is not protected. A test to determine the illegal use of drugs is not considered a medical test that is governed by the Human Rights Law. Agencies have differing requirements and policies with regard to drug testing.

If an individual is protected by the Human Rights Law, adjustment to work schedules, where needed to allow for ongoing treatment, is allowed as an accommodation where reasonable, if the individual is still able to reasonably perform the essential functions of the job, including predictable and regular attendance.

See above: [Drug and Alcohol-Free Workplace Policy](#).

### **Guide dogs, hearing dogs, and service dogs.**

Users of guide dogs, hearing dogs, or service dogs that are trained as provided in the Human Rights Law are given protection by the Human Rights Law.<sup>51</sup>

The use of such a dog is not considered a “reasonable accommodation,” but a right protected separately under the Human Rights Law, and the dog owner need not specifically request permission to bring the dog into the workplace. This specific provision has no parallel in the federal ADA, under which the matter would instead be analyzed to determine whether a reasonable accommodation is appropriate.

This right to be accompanied by such dogs in the workplace applies only to dogs that meet the definitions found in the Human Rights Law.

A “guide dog” or “hearing dog” is a dog that is trained to aid a person who is blind, deaf or hard of hearing, is actually used to provide such aid, and was trained by a guide or hearing dog training center or professional guide or hearing dog trainer.<sup>52</sup>

A “service dog” may perform a variety of assistive services for its owner. However, to meet the definition, the dog must be trained by a service dog training center or professional service dog trainer.<sup>53</sup>

Dogs that are considered therapy, companion or other types of assistance dogs, but who have not been professionally trained as stated in the definitions above, are not covered by this provision.<sup>54</sup>

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<sup>51</sup> Human Rights Law § 296.14.

<sup>52</sup> Human Rights Law § 296.14.

<sup>53</sup> Human Rights Law § 296.14.

<sup>54</sup> A dog may be licensed as a “service” dog, and nevertheless not meet the definition of service dog for purposes of the Human Rights Law. N.Y. Agriculture & Markets Law § 110, which requires the licensing of dogs, permits municipalities to exempt from licensing fees various categories of dogs, including “service” and “therapy” dogs, but the section provides no definitions of those categories.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

The provision also does not apply to animals other than dogs, regardless of training.

Dogs not meeting one of the definitions, or animals other than dogs, may provide assistance or companionship to a person with a disability. However, they are generally **not** permitted into the workplace as a reasonable accommodation, because the workplace and other employees can be adversely impacted by animals that are not professionally trained by guide, hearing or service dog trainers, as provided above. The New York State Civil Service Law provides qualified employees with special leave benefits for the purposes of obtaining service animals or guide dogs and acquiring necessary training.<sup>55</sup>

## PREDISPOSING GENETIC CHARACTERISTICS

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of the applicant or employee having a predisposing genetic characteristic, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Testing for such genetic characteristics is prohibited in most circumstances.

### **Statutory protection.**

Discrimination on the basis of a genetic characteristic is unlawful pursuant to Human Rights Law § 296.1, § 296.19, § 296-c (for interns) and § 296-d (for non-employees working in the workplace). It is also covered by the federal Genetic Information Nondiscrimination Act (GINA).<sup>56</sup>

### **What is a predisposing genetic characteristic?**

A predisposing genetic characteristic is defined as “any inherited gene or chromosome, or alteration thereof, . . . determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.”<sup>57</sup>

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<sup>55</sup> Civil Service Law § 6(1).

<sup>56</sup> As with Title VII, the ADA and the ADEA, the Genetic Information Nondiscrimination Act is enforced by the federal Equal Employment Opportunity Commission. When codified, GINA was distributed throughout various sections of Titles 29 and 42 of the United States Code. For more details on GINA, see <http://www.eeoc.gov/laws/types/genetic.cfm>.

<sup>57</sup> Human Rights Law § 292.21-a.



## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **How is the employee or applicant protected?**

It is an unlawful discriminatory practice for any employer to directly or indirectly solicit, require, or administer a genetic test to a person, or solicit or require information from which a predisposing genetic characteristic can be inferred as a condition of employment or pre-employment application.<sup>58</sup> It is also unlawful for an employer to buy or otherwise acquire the results or interpretation of an individual's genetic test results or information from which a predisposing genetic characteristic can be inferred or to make an agreement with an individual to take a genetic test or provide genetic test results or such information.<sup>59</sup>

An employee may give written consent to have a genetic test performed, for purposes of a worker's compensation claim, pursuant to civil litigation, or to determine the employee's susceptibility to potentially carcinogenic, toxic, or otherwise hazardous chemicals or substances found in the workplace environment. The employer may not take any adverse action against an employee on the basis of such voluntary test.<sup>60</sup>

### **Exceptions.**

An employer may require a specified genetic test as a condition of employment where such a test is shown to be directly related to the occupational environment, such that the employee or applicant with a particular genetic anomaly might be at an increased risk of disease as a result of working in that environment.<sup>61</sup> However, the employer may not take adverse action against the employee as a result of such testing.

## **FAMILIAL STATUS**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's familial status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Familial status" includes being pregnant, having a child under the age of 18, having legal custody of any person under the age of 18, or having a person under the age of 18 residing in the home of the designee of the parent, or being in the process of securing custody, adoption or foster care placement of any person under 18.

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<sup>58</sup> Human Rights Law § 296.19(a)(1).

<sup>59</sup> Human Rights Law § 296.19(a)(2).

<sup>60</sup> Human Rights Law § 296.19(c) and (d).

<sup>61</sup> Human Rights Law § 296.19(b).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Statutory protection.**

Discrimination on the basis of familial status is unlawful pursuant to Human Rights Law § 296.1 and § 296-d (for non-employees working in the workplace). Familial status is not a protected class under federal law.

### **Familial status does not include the identity of the children.**

Parents or guardians of children are protected from discrimination on the basis of the **status** of being a parent or guardian, not with regard to who their children are. Therefore, actions taken against an employee because of who their child is, or what that child has done, do not implicate familial status discrimination.

### **Nepotism.**

Nepotism means hiring, granting employment benefits, or giving other favoritism based on the identity of a person's family member. Anti-nepotism rules do not implicate familial status discrimination, because anti-nepotism rules involve the **identity** of the employees as relatives, not their **status** as parent, child, or spouse. The Public Officers Law provides that a State employee may not control or influence decisions to hire, fire, supervise or discipline a family member.<sup>62</sup> Moreover, other acts of nepotism not specifically governed by this provision may violate more general conflict of interest provisions in the New York ethics statutes.

### **What is familial status discrimination?**

Familial status discrimination would include, but not be limited to, making employment decisions about an employee or applicant because:

- \* they are pregnant;
- \* they have children at home, or have "too many" children;
- \* of a belief that someone with children will not be a reliable employee;
- \* they are a single parent;
- \* they are a parent, regardless of living arrangements;
- \* they are living with and caring for a grandchild;
- \* they are a foster parent, or are seeking to become a foster parent, or to adopt a child;
- \* a father has obtained custody of one or more of his children and will be the primary caretaker;
- \* of a belief that mothers should stay home with their children; or
- \* of any other stereotyped belief or opinion about parents or guardians of children under the age of 18.

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<sup>62</sup> Anti-nepotism rules for all State government workplaces are found in N.Y. Public Officers Law § 73.14.

**No requirement of reasonable accommodation.**

The Human Rights Law explicitly states that the familial status provisions do not create any right to reasonable accommodation on that basis.<sup>63</sup> Therefore, the employer is not required to accommodate the needs of the child or children and is not required to grant time off for the parent to attend school meetings, concerts, sporting events, etc., as an accommodation. However, the employer must grant such time off to the same extent that time off is granted to employees for other personal reasons.

The familial status protections do not expand or decrease any rights that a parent or guardian has under the federal Family Medical Leave Act or the New York State Paid Family Leave Act (where these are applicable) to time off to care for family members. (See above: [Family Medical Leave Act and Paid Family Leave.](#))

**Pregnancy and childbirth discrimination.**

Discrimination on the basis of pregnancy constitutes familial status discrimination. (See below: [Pregnancy, Childbirth and Parental Leave.](#))

**MARITAL STATUS**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person’s marital status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

“Marital status” is the condition of being single, married, separated, divorced, or widowed.

**Statutory protection.**

Discrimination on the basis of marital status is unlawful pursuant to Human Rights Law § 296.1 and § 296-c. Marital status is not covered by federal law.

**Marital status does not include the identity of the spouse.**

Discrimination based on the identity of the individual to whom a person is married is not marital status discrimination, as it is only the status of being married, single, divorced, or widowed that is protected. Thus, terminating employment because of the actions of a spouse would not be considered marital status discrimination, because the action was taken not based on the fact that the employee was married but that the employee was married to a particular person.

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<sup>63</sup> Human Rights Law §296.3

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Nepotism.**

Nepotism means hiring, granting employment benefits, or other favoritism based on the identity of a person's spouse or other relative. The Public Officers Law provides that a State employee may not control or influence decisions to hire, fire, supervise or discipline a spouse or other relative.<sup>64</sup> Moreover, other acts of nepotism not specifically governed by this provision may violate more general conflict of interest provisions in the New York ethics statutes. Such anti-nepotism rules do not implicate marital status discrimination.

### **What is marital status discrimination?**

Some examples of marital status discrimination are:

- \* expecting an employee to work a disproportionate number of extra shifts or at inconvenient times because he or she is not married, and therefore won't mind.
- \* selecting a married person for a job based on a belief that married people are more responsible or more stable.
- \* giving overtime or a promotion to a married person rather than a single person based on a belief that the single person does not have to support anyone else.

## **STATUS AS A VICTIM OF DOMESTIC VIOLENCE**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's status as a victim of domestic violence, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis. A victim of domestic violence is "any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, strangulation, identity theft, grand larceny or coercion; and (i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and (ii) such act or acts are or are alleged to have been committed by a family or household member."<sup>65</sup>

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<sup>64</sup> Anti-nepotism rules for all State government workplaces are found in N.Y. Public Officers Law § 73.14.

<sup>65</sup> N.Y. Social Service Law §459-a.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Statutory protection.**

Discrimination based on status as a victim of domestic violence is unlawful pursuant to Human Rights Law § 296.1, § 296.22, § 296-c (for interns) and § 296-d (for non-employees working in the workplace). There is no similar federal protection.

### **Executive Order concerning State workers.**

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2, reissuing Executive Order No. 19,<sup>66</sup> which requires adoption of domestic violence and the workplace policies by all executive branch State agencies.

### **Purpose of domestic violence and the workplace policies.**

Domestic violence permeates the lives and compromises the safety of New York State residents with tragic, destructive, and sometimes fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past.

Domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The purpose of the policy is to address the impacts of domestic violence already being felt in the workplace.

The workplace can sometimes be the one place where the victim is not cut off from outside support. The victim's job, financial independence, and the support of the workplace can be part of an effective way out of the abusive situation. Therefore, the domestic violence and the workplace policy aims to support the victim in being able to retain employment, find the resources necessary to resolve the problem, and continue to serve the public as a State employee.

### **Meeting the needs of domestic violence victims.**

A victim of domestic violence can ask the employer for accommodations relating to their status, which can include the following:

- \* Employee's need for time off to go to court, to move, etc., should be granted at least to the extent granted for other personal reasons.
- \* If an abuser of an employee comes to the workplace and is threatening, the incident should be treated in same manner as any other threat situation. It is not to be treated as just the victim's problem which the victim must handle on her or his own. The victim of domestic violence must not be treated as the "cause" of the problem and supervisory employees must take care that no negative action is

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<sup>66</sup> Issued by Gov. Eliot L. Spitzer on October 22, 2007.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

taken against the victim because, for example, the abuser comes to the workplace, the victim asks the employer to notify security about the potential for an abuser to come to the workplace, or the victim provides an employer with information about an order of protection against the abuser.

- \* If a victim needs time off for disability caused by the domestic violence, it should be treated the same as any temporary disability. This includes time off for counseling for psychological conditions caused by the domestic violence. (See above: [Disability](#). Note: temporary disabilities are covered under the Human Rights Law.)
- \* The State's Domestic Violence and the Workplace Policy requires this and more. Employees should consult their agency's policy to understand the support it affords to victims of domestic violence, which may include the following:
  - \* Assistance to the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of domestic violence.
  - \* Assistance with enforcement of all known court orders of protection, particularly orders in which the abuser has been ordered to stay away from the work site.
  - \* Refraining from any unnecessary inquiries about domestic violence.
  - \* Maintenance of confidentiality of information about the domestic violence victim to the extent possible.
  - \* Establishment of a violence prevention procedure, such as a policy to call "911" if an abuser comes to the workplace.
  - \* Working with the domestic violence victim to develop a workplace safety plan.

In addition, the policy also sets out standards for the agency to hold employees accountable who utilize State resources or use their position to commit an act of domestic violence.

### **Human Rights Law reasonable accommodation requirements for leave time.**

State employees have the protections described above, which are more extensive than the protections explicitly afforded employees generally in the State (public and private) by the Human Rights Law. The Law provides for leave time as a reasonable accommodation for the following needs related to the domestic violence:

- \* Medical attention for the victim, or a child who is the victim;
- \* Obtaining services from a domestic violence shelter, program or rape crisis center;
- \* Obtaining psychological counseling, including for a child who is a victim;
- \* For safety planning, or taking action to increase safety, including temporary or permanent relocation;
- \* Obtaining legal services, assisting with prosecution, or appearing in court.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Time off for legal proceedings.**

In addition to the requirement of the domestic violence and the workplace policy that victims be granted reasonable time off to deal with domestic violence, time off for legal proceedings is addressed by the Penal Law. It is illegal for an employer to take any adverse action against an employee who is a victim of a crime for taking time off to appear in court as a witness, to consult with a district attorney, or to obtain an order of protection.<sup>67</sup>

### **Unemployment insurance benefits.**

If a victim must leave a job because of domestic violence, he or she is not necessarily barred from receiving unemployment insurance benefits. Circumstances related to domestic violence may be “good cause” for voluntarily quitting a job. Also, job performance problems related to domestic violence (such as absenteeism or tardiness) will not necessarily bar benefits.<sup>68</sup>

### **Further information and support.**

Dealing with domestic violence requires professional assistance. Domestic violence can be a dangerous or life-threatening situation for the victim and others who may try to become involved. Both victims and employers may contact the NYS Office for the Prevention of Domestic Violence for further information.

## **PREGNANCY, CHILDBIRTH AND FAMILY LEAVE**

Discrimination on the basis of pregnancy constitutes discrimination on the basis of sex and familial status. Furthermore, medical conditions related to pregnancy or childbirth must be reasonably accommodated in the same manner as any temporary disability. Parental leave is available to employees on a gender-neutral basis.

### **Statutory protection.**

Discrimination based on sex and familial status is unlawful pursuant to Human Rights Law § 296.1, § 296-c (for interns based on sex) and § 296-d (for non-employees working in the workplace). Sex, but not familial status, is a protected class under federal law. Reasonable accommodation of pregnancy-related conditions is required by the Human Rights Law.<sup>69</sup> There is no similar requirement under federal law, unless the pregnancy-related condition meets the definition of “disability” under federal law. Also, the federal Family Medical Leave Act and the New York State Paid Family Leave Act

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<sup>67</sup> N.Y. Penal Law § 215.14.

<sup>68</sup> N.Y. Labor Law § 593.

<sup>69</sup> Human Rights Law § 296.3(a).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

(where these are applicable) may entitle an employee leave. (See: [Family Medical Leave Act and Paid Family Leave](#).)

### **Pregnancy discrimination.**

No decision regarding hiring, firing or the terms, condition and privileges of employment may be based on the fact that an applicant or employee is pregnant or has recently given birth. A pregnant individual may not be compelled to take a leave of absence unless pregnancy prevents that individual from performing the duties of the job in a reasonable manner.<sup>70</sup> Disability discrimination may also be implicated where discrimination is based on limitations or perceived limitations due to pregnancy.

### **Reasonable accommodation of pregnancy -related conditions.**

Any medical condition related to pregnancy or childbirth that does prevent the performance of job duties entitles the individual to reasonable accommodation, including time off consistent with the medical leave policies applicable to any disability. The mere fact of being pregnant does not trigger the requirement of accommodation. But, any condition that “inhibits the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques”<sup>71</sup> must be accommodated, when necessary, to allow the employee to perform the essential functions of the job.

An agency may require a doctor’s note to substantiate the request but must maintain the confidentiality of an employee’s medical information. The Human Rights Law requires that the employee cooperate in providing medical or other information needed to verify the pregnancy-related condition, or that is otherwise necessary for consideration of the accommodation.<sup>72</sup> (See above: [Disability](#).)

While pregnancy-related conditions are treated as temporary disabilities for purposes of applying existing regulations under the Human Rights Law, pregnancy-related conditions need not meet any definition of disability to trigger an employer’s obligation to accommodate under the law. Any medically-advised restrictions or needs related to pregnancy will trigger the need to accommodate, including such things as the need for extra bathroom breaks, or increased water intake. The Human Rights Law specifically provides that a pregnancy-related condition includes lactation.

### **Right to express breast milk in the workplace.**

Lactating mothers have the right to express breast milk in the workplace, as follows:

An employer shall provide reasonable unpaid break time or permit an employee to use paid break time or meal time each day to allow an employee to express

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<sup>70</sup> Human Rights Law § 296.1(g) and § 296-c(2)(e).

<sup>71</sup> Human Rights Law § 292.21-f.

<sup>72</sup> Human Rights Law § 296.3.



## EMPLOYEE RIGHTS AND RESPONSIBILITIES

breast milk for her nursing child for up to three years following child birth. The employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, where an employee can express milk in privacy. No employer shall discriminate in any way against an employee who chooses to express breast milk in the work place. (See N.Y. Labor Law § 206-c)

The right to express breast milk in the workplace is NOT an accommodation. However, the employing agency may require lactating mothers to use a procedure to notify the employer that the employee will be expressing breast milk to ensure appropriate scheduling of breaks and use of any lactation facility.

### **Parental leave.**

Any parent of a newborn child, a newly adopted child, or a sick child is entitled to available child care leave without regard to the sex of the parent. Only the woman who gives birth, however, is entitled to any medical leave associated with pregnancy, childbirth and recovery.

In general, the State as an employer cannot take adverse action against employees who take qualifying medical leave for the birth or adoption of a child, for their own serious health condition, or to care for a family member with a serious health condition which qualifies under the federal Family and Medical Leave Act.<sup>73</sup> The Act entitles eligible employees to take up to a total of 12 weeks of unpaid leave during a calendar year.

### **Paid Family Leave.**

The New York State Paid Family Leave Law<sup>74</sup> provides for paid leave to bond with a newly born, adopted or fostered child; care for a close relative with a serious health condition; or assist loved ones when a family member is deployed abroad on active military service. The amount of paid leave available increases to a total of 12 weeks by 2021. State employees not represented by a union in bargaining units 06, 18, 46 and 66 are covered by the law. State employees represented by a union may be covered if Paid Family Leave is collectively bargained for.

More information is available on the New York State website at <https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-information-employees>. This includes information on who is eligible, and how to apply.

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<sup>73</sup> 29 U.S.C. § 2601 et seq.

<sup>74</sup> Workers Compensation Law, art. 9, §§ 200, et seq.

## **PRIOR ARREST RECORDS, YOUTHFUL OFFENDER ADJUDICATIONS AND SEALED CONVICTION RECORDS**

It is an unlawful discriminatory practice for an employer to make any inquiry about any arrest or criminal accusation of an individual, not then pending against that individual, which has been resolved in favor of the accused or adjourned in contemplation of dismissal or resolved by a youthful offender adjudication or resulted in a sealed conviction. It is unlawful to require any individual to divulge information pertaining to any such arrest, criminal accusation or sealed conviction, or to take any adverse action based on such an arrest, criminal accusation or sealed conviction.

### **Statutory protection.**

This protection is provided by Human Rights Law § 296.16.

### **What is unlawful?**

It is generally unlawful to ask an applicant or employee whether he or she has ever been arrested or had a criminal accusation filed against him or her. It is also generally unlawful to inquire about youthful offender adjudications or sealed records. It is **not** unlawful to ask if a person has any currently pending arrests or pending criminal charges. It is also not unlawful to inquire about convictions. (See below: [Previous Conviction.](#))

It is generally unlawful to require an individual to divulge information about the circumstances of an arrest or accusation no longer pending. In other words, the employer cannot demand information from the individual accused in order to “investigate” the circumstances behind an arrest. It is **not** unlawful to require an employee to provide information about the outcome of the arrest, i.e. to demonstrate that it has been terminated in favor of the accused. The agency may be able to take action against an employee for the conduct that led to the arrest but Human Rights Law §296.16 provides that no person “shall be required to divulge information” pertaining to the arrests resolved as set out below.

### **Pending arrest or charges.**

As long as an arrest or criminal accusation remains pending, the individual is not protected. The agency may refuse to hire or may terminate or discipline the employee in accordance with applicable law or collective bargaining agreement provisions. The agency may also question the employee about the pending arrest or accusation, the underlying circumstances, and the progress of the matter through the criminal justice system.

However, if the employee is arrested while employed, is not terminated by the employer, and the arrest is subsequently terminated in favor of the employee, the

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employee cannot then initiate an adverse action against the employee based on the arrest and cannot question the employee about the matter. The employer can require that the employee provide proof of the favorable disposition in a timely manner.

### **What specific circumstances are protected?**

The arrest or criminal accusation must have been:

- \* dismissed, pursuant to Criminal Procedure Law § 160.50;
- \* adjourned in contemplation of dismissal (unless such dismissal has been revoked) pursuant to Criminal Procedure Law §§ 170.55, 170.56, 210.46, 210.47, or 215.10;
- \* disposed of as a youthful offender adjudication, pursuant to Criminal Procedure Law § 720.35 (which are automatically sealed);
- \* resulted in a conviction for a violation, which was sealed pursuant to Criminal Procedure Law § 160.55 (pertaining to certain violations);
- \* resulted in a conviction, which was sealed pursuant to Criminal Procedure Law § 160.58 (pertaining to controlled substances); or
- \* resulted in a conviction, which was sealed pursuant to Criminal Procedure Law § 160.59 (pertaining to certain convictions which may be sealed ten or more years after the end of incarceration).

### **Sealed records.**

Whether or not a record is sealed is a factual question. Many records that could be sealed are not in fact sealed. Sealing a record requires that the court specifically order that the record be sealed. The applicant or employee is responsible to know the status of a sealable conviction. If it is not in fact sealed, then it is a conviction record that can be required to be disclosed. (See below: [Previous Conviction](#).)

### **Exceptions.**

The Human Rights Law explicitly states that arrest inquiries, requests for information, or adverse actions may be lawful where such actions are “specifically required or permitted by statute.”<sup>75</sup>

These provisions do not apply to an application for employment as a police officer or peace officer.<sup>76</sup>

The provisions do not fully apply to an application for employment or membership in any law enforcement agency. For those positions, arrests or criminal accusations that are dismissed pursuant to Criminal Procedure Law § 160.50 may not be subject to inquiry, demands for information, or be the basis of adverse action. However, the other types of

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<sup>75</sup> Human Rights Law § 296.16; see e.g. Civil Service Law § 50(4).

<sup>76</sup> Police and peace officer as defined in Criminal Procedure Law §§ 1.20 and 2.10, respectively.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

terminations (youthful offender adjudication or sealed convictions) may be inquired into and taken into consideration for jobs with law enforcement agencies.

### PREVIOUS CONVICTION RECORDS

It is unlawful to deny any license or employment, to refuse to hire, or terminate, or take an adverse employment action against an applicant or employee, by reason of their having been convicted of one or more criminal offenses, if such refusal is in violation of the provisions of Article 23-A of the Correction Law. The Correction Law provides the standards to be applied and factors to be considered before an employment decision may be based on a previous conviction, including the factor that it is the public policy of the State of New York to encourage the licensure and employment of those with previous criminal convictions

#### **Statutory protection.**

This protection is provided by Human Rights Law § 296.15, in conjunction with Article 23-A of the N.Y. Correction Law.

#### **Factors from the Correction Law.**

The Correction Law provides that an employer may not refuse to hire, or terminate an employee, or take an adverse employment action against an individual, because that individual has been previously convicted of one or more criminal offenses, or because of a belief that a conviction record indicates a lack of "good moral character," **unless** either there is a direct relationship between one or more of the previous criminal offenses and the specific employment sought or held, or employment of the individual would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.<sup>77</sup>

In order to determine whether there is either a direct relationship or unreasonable risk (as mentioned above), the employer must apply the factors set forth in the Correction Law, as follows:

- (a) The public policy of this State, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.

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<sup>77</sup> N.Y. Correction Law § 752.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- (h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.<sup>78</sup>

Also, in making the determination, the employer must give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the individual, which creates a presumption of rehabilitation in regard to any offense specified in the certificate.<sup>79</sup>

The factors must be applied on a case-by-case basis and each of the factors must be considered. The employing agency must take into account the individual's situation by analyzing factors (d) through (g) and must also analyze the specific duties and responsibilities of the job pursuant to factors (b), (c) and (h). If any additional documentation is needed, it must be requested of the applicant or employee before any adverse determination is made. A justification memorandum that merely tracks the statute but without rational application of the factors to the facts of the case may lead to a finding that an adverse determination was arbitrary and capricious.

### **Conviction must be “previous.”**

Individuals are protected for *previous* convictions. A conviction that occurs during employment does not entitle the individual to these protections.

### **Inquiries and misrepresentation.**

Unlike many other areas covered by the Human Rights Law, an employer is not prevented from asking an individual to disclose prior convictions as part of the employment application process or at any time during employment.

If the employer learns at any time that that an applicant or employee has made a misrepresentation with regard to any previous conviction, it may be grounds for denial or termination of employment.<sup>80</sup>

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<sup>78</sup> N.Y. Correction Law § 753.1.

<sup>79</sup> N.Y. Correction Law § 753.2.

<sup>80</sup> N.Y. Correction Law § 751; see also Civil Service Law section 50(4).

### **Interaction with the arrest provisions.**

The arrest provisions<sup>81</sup> of the Human Rights Law interact with the conviction provisions. Although it is **lawful to ask** about previous convictions, it is **unlawful to ask** about previous arrests resolved in an individual's favor, or adjourned in contemplation of dismissal, or about youthful offender adjudications, or about convictions that have been sealed pursuant to Criminal Procedure Law § 160.55 or § 160.58. If any individual with a youthful offender record or a sealed conviction states that he or she has no previous convictions, this is not a misrepresentation. The employer is not entitled to any information about youthful offender records or sealed convictions. (See above: [Prior Arrest.](#))

### **Enforcement only by court action.**

A State employee or an applicant for State employment cannot file a complaint with the Division of Human Rights regarding denial of employment due to a previous conviction. An individual can pursue enforcement under the Human Rights Law only by filing an Article 78 proceeding in State Supreme Court.<sup>82</sup> However, State employees may file complaints with respect to the Prior Arrest provisions of the Human Rights Law with the Division of Human Rights. (See above: [Prior Arrest.](#))

### **Exceptions.**

It is not unlawful to deny employment if, upon weighing the factors set out above, the previous criminal offense bears a direct relationship to the job duties, or if employment of the individual would involve an unreasonable risk to safety or welfare, as explained in more detail above.

An individual may be required to disclose previous convictions, unless they are sealed, as explained in more detail above.

These protections do not apply to "membership in any law enforcement agency."<sup>83</sup>

## **HARASSMENT PROHIBITED**

Harassment in the workplace based upon an individual's protected class status is prohibited. Harassment that creates a hostile work environment, based on the protected categories discussed in this Handbook, is unlawful pursuant to the Human Rights Law. (See above: [Sexual Harassment.](#)) State employees, interns, contractors, and individuals doing business with State employees are entitled to a work environment

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<sup>81</sup> Human Rights Law § 296.16.

<sup>82</sup> N.Y. Correction Law § 755.1.

<sup>83</sup> N.Y. Correction Law § 750.5.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

which promotes respect for all, and actions that demonstrate bias, harassment, or prejudice will not be tolerated.

Harassment consists of words, signs, jokes, pranks, intimidation or physical violence that is directed at an employee or intern because of their membership in any protected class, or perceived class. It also includes workplace behavior that is offensive and based on stereotypes about a particular protected group, or which is intended to cause discomfort or humiliation on the basis of protected class membership.

Harassment is unlawful in all workplaces in New York State, when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful, and can be any harassing conduct that consists of more than petty slights or trivial inconveniences.<sup>84</sup> In fact, the Human Rights Law now provides that even if a recipient of harassment did not make a complaint about the harassment to the employer, the failure of the employee to complain shall not be determinative of whether the employer is liable.<sup>85</sup>

### **Appropriate supervision is not harassment.**

Normal workplace supervision, such as enforcing productivity requirements, requiring competent job performance, or issuing disciplinary warnings or notices, is *not* harassment. If these actions are imposed on the basis of protected class membership, then this may be discrimination in the terms, condition or privileges of employment.

### **Harassment by a non-employee.**

The employing agency has the duty to prevent harassment in the workplace including harassment by non-employees, such as vendors, consultants, clients, customers, visitors or interns.

### **Harassment of non-employees.**

Non-employees in the workplace, who are performing work under contract, are explicitly protected from sexual harassment (and all other types of workplace discrimination) by Human Rights Law § 296-d.

In accord with statewide policy, employees and interns are subject to discipline for harassment of *anyone* in the workplace, including contractors, clients, vendors, or any members of the public.

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<sup>84</sup> Human Rights Law § 296.1(h).

<sup>85</sup> Human Rights Law § 296.1(h).

## **RETALIATION**

Retaliation is prohibited. Retaliation occurs when an adverse action or actions are taken against the employee as a result of filing a discrimination complaint or participating in the filing of, or investigation of, a discrimination complaint, or requesting an accommodation. The adverse action does not need to be job related or occur in the workplace. Retaliation can be any action, more than trivial, that would have the effect of dissuading a reasonable person from making or supporting an allegation of discrimination. Such action may be taken by an individual employee.

Actionable retaliation by an employer can occur after the individual is no longer employed by that employer. This can include giving an unwarranted negative reference for a former employee.

An adverse action is not retaliatory merely because it occurs after the employee engaged in protected activity. Employees continue to be subject to all job requirements and disciplinary rules after having engaged in such activity. In order to make a claim of retaliation, the individual must be able to substantiate the claim that the adverse action was retaliatory.

The prohibition against retaliation protects any individual who has filed a complaint, testified or assisted in any discrimination complaint investigation, or opposed any discriminatory practices forbidden by the Human Rights Law, federal anti-discrimination laws or pursuant to the anti-discrimination provisions of this Handbook. Even if a discrimination complaint is not substantiated as a violation of state or federal law or the policies set forth in this Handbook, the individual is protected if they filed a discrimination complaint, participated in a discrimination-related investigation, or opposed discrimination with good faith belief that the practices were discriminatory on the basis of a protected class status.

### **Administrative or court proceedings.**

A complainant or witness is absolutely protected against retaliation for any oral or written statements made to the Division of Human Rights, the Equal Employment Opportunity Commission, or a court in the course of proceedings, regardless of the merits or disposition of the underlying complaint.

### **Opposing discriminatory practices.**

Opposing discriminatory practices includes:

- \* Filing an internal complaint of discrimination with GOER, with the employing agency or reporting discriminatory actions to a supervisor or other appropriate person, either verbally or in writing;
- \* Participating in an investigation of discrimination complaints;



## EMPLOYEE RIGHTS AND RESPONSIBILITIES

- \* Complaining that another person's rights under the Human Rights Law, federal anti-discrimination statutes or this Handbook were violated; or
- \* Encouraging a fellow employee to report discriminatory practices.

However, behaving inappropriately towards a person whom an employee deems to be engaged in discriminatory or harassing conduct is not protected opposition to alleged discriminatory practices. Employees should instead file a complaint with GOER, or may complain to a supervisor, manager, or human resources officer, who are then required to report the complaint to GOER, or in accordance with any applicable complaint procedure.

Retaliation by an employer is also unlawful pursuant to the Human Rights Law and the Civil Service Law.<sup>86</sup> The federal statutes mentioned in this Handbook also prohibit retaliation.

There is no protection for a person who opposes practices the person finds merely distasteful or wrong, while having no reasonable basis to believe those practices were in violation of the applicable State or federal law, or State policy, as set forth in this Handbook. Furthermore, the prohibition against retaliation does not protect individuals from making false charges of discrimination. An example of this would include filing a complaint with GOER, the Division of Human Rights, the EEOC, or any court, simply because another employee filed a complaint against you or another employee.

## REPORTING DISCRIMINATION IN THE WORKPLACE

As noted throughout this Handbook, any State employee who has been subject to any discrimination, bias, prejudice, harassment or retaliation based on any of the protected classes covered by the Handbook, may file a discrimination complaint with GOER. The New York State Employee Discrimination Complaint Form ("Complaint Form") is located at <https://goer.ny.gov> under the "Anti Discrimination Investigations" heading.

The Complaint Form is a web-based, fillable form, and after inserting the required information, employees can send the complaint directly to GOER. When GOER receives a Complaint Form, the individual submitting the complaint will receive an acknowledgment. The Complaint Form may also be filled out and sent to GOER via email or regular mail at:

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<sup>86</sup> Human Rights Law § 296.7; see also Civil Service Law § 75-B, which gives protection to "whistleblowers."

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

[Antidiscrimination@goer.ny.gov](mailto:Antidiscrimination@goer.ny.gov)

or

Governor's Office of Employee Relations  
Anti Discrimination Investigations Division  
2 Empire State Plaza  
Albany, NY 12223

Employees are not required to (but may) report their allegations of discrimination to their supervisor, upper level management, or their Human Resources Department. Individuals with supervisory duties are required to report the allegations to GOER and should request that the employee file the complaint directly with GOER. The link to this Handbook and the complaint procedure, including the Complaint Form, should also be available on every agency's intranet site and/or employee handbook. If you cannot locate the Complaint Form or the Handbook, please contact your supervisor or manager or the agency's Human Resources Department and they will assist you in obtaining this information.

### **Confidentiality and cooperation.**

All discrimination complaints and investigations will be kept confidential to the extent possible. Documentation and reports will not be disclosed, except to the extent required to implement the policies in this Handbook. Any individual involved in an investigation is advised to keep all information regarding the investigation confidential. Breaches of confidentiality may constitute retaliation, which is a separate and distinct category of discrimination. Any individual who reports discrimination, or who is experiencing discrimination, must cooperate so that a full and fair investigation can be conducted, and any necessary remedial action can be promptly undertaken.

Employees filing a Complaint Form should describe the connection between their protected class and the conduct and/or statement that is the subject of the complaint. Investigations will evaluate whether the conduct found to have occurred violates the policies as set forth in this Handbook, not whether the conduct violates the law. If, after investigation, it is determined that a violation of this Handbook has occurred, appropriate administrative action, up to and including termination, will be recommended.

The procedures for reporting discrimination complaints are designed to ensure the State's anti-discrimination policies are followed, including the State's policies forbidding retaliation. The complaint investigation procedures provide for a prompt and complete investigation as to the complaint of discrimination, and for prompt and effective remedial action where appropriate.

An employee with supervisory responsibility has a duty to report any discrimination that they observe or otherwise know about. A supervisor who has received a report of

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

workplace discrimination has a duty to report it to GOER, or in accordance with the employing agency's policy, even if the individual who complained requests that it not be reported. Any discrimination or potential discrimination that is observed must be reported, even if no complaint has been made. Failure to comply with the duty to report may result in disciplinary and/or administrative action.

### **Discrimination must be investigated and appropriate corrective action taken.**

The employer has the duty to ensure that complaints of workplace discrimination are investigated promptly. If, after investigation, it is determined that discriminatory behavior is occurring, the employing agency has a duty to take prompt and effective corrective action to stop the discriminatory conduct and take such other steps as are appropriate.

Employers cannot take steps to prevent or correct discriminatory or harassing behavior unless the employer knows of the conduct.

## **PURSUING DISCRIMINATION COMPLAINTS EXTERNALLY**

The employing agency's internal complaint procedures are intended to address all complaints of discrimination. Any State employing agency which does not participate in the GOER complaint investigation process is required to have a well-documented and widely disseminated procedure for employees to file, and to ensure investigation of discrimination complaints.

These internal complaint procedures are not intended to satisfy, replace or circumvent options available to employees through negotiated union contracts; federal, state or other civil rights enforcement agencies; and/or the judicial system. Thus, the use of these internal complaint procedures will not suspend any time limitations for filing complaints set by law or rule and will not fulfill any other requirements set by law or rule.

Employees are not required to pursue their employing agency's internal complaint procedure before filing a complaint with any external agency or with a court, based on federal or state or local law.

Listed throughout the Handbook are citations to the various laws that pertain to discrimination. Employees may be able to file complaints pursuant to these laws with administrative agencies and/or in court. There may also be additional remedies available to employees, and employees may wish to seek an attorney's advice prior to determining appropriate steps to take.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

The following agencies can provide information to employees and receive and investigate complaints of employment discrimination pursuant to the New York State Human Rights Law (State Division of Human Rights) or Title VII, ADEA, ADA or GINA (U.S. Equal Employment Opportunity Commission).

- \* New York State Division of Human Rights (“SDHR”)
  - Website: [www.dhr.ny.gov](http://www.dhr.ny.gov)
  - Telephone: (888)392-3644
  - TTY number: (718)741-8300
- \* United State Equal Employment Opportunity Commission (“EEOC”)
  - Website: [www.eeoc.gov](http://www.eeoc.gov)
  - Telephone: (800)669-4000
  - TTY number: (800)669-6820

## GENERAL PROHIBITIONS AND PROVISIONS

### Unlawful inquiries.

It is an unlawful discriminatory practice for an employer to print, circulate, or use any form of application, or to make any inquiry which expresses directly or indirectly, any limitation, specification or discrimination as to any protected class, unless based upon a bona fide occupational qualification.<sup>87</sup>

Even if an inquiry is not asked with the apparent intent to express a limitation, it can become evidence of discriminatory intent in a subsequent action, by creating an appearance of discriminatory motivation. Those interviewing candidates for State positions or promotions should exercise extreme caution so as not to ask any unnecessary question or make any comment that could be interpreted as expressing a discriminatory motivation. This is simply a good employment practice.

Information gathered in furtherance of an affirmative action plan may be lawful, so long as the affirmative action is pursued in a lawful manner (which is beyond the scope of this booklet). Information on protected class membership which is collected for statistical purposes should be retained separately from a candidate’s other information.

### Interns.

Paid interns are employees, and all provisions relating to employees explained in this document apply to paid interns. Unpaid interns are explicitly protected by Human

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<sup>87</sup> Human Rights Law § 296.1(d) and § 296-c(2)(c).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

Rights Law § 296-c, and are entitled to the same protections as employees, in most areas, wherever § 296-c is referenced in the sections above.

Unpaid interns are protected from discrimination in hiring, discharge, or the terms, conditions or privileges of employment as an intern because of the intern's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status. Unpaid interns are also explicitly protected from harassment.

### **Non-employees working in the workplace.**

Non-employees working in any workplace in New York State are entitled to the same protections from discrimination and harassment as employees, pursuant to Human Rights Law § 296-d. Protected non-employees include independent contractors, those receiving their paycheck from a temp agency, vendors, consultants, contracted service providers such as electricians, janitorial workers, and so on.

### **Political activities.**

The Civil Service Law provides that no appointment or selection or removal from employment shall relate to the political opinions or affiliations of any person. No person in the civil service of the State is under any obligation to contribute to any political fund or render any political service and no person shall be removed or otherwise prejudiced for refusing to do so. No person in the civil service shall discharge or promote or reduce or in any manner change the rank or compensation of another for failing to contribute money or any other valuable thing for any political purpose. No person in the civil service shall use their official authority or influence to coerce the political action of any person or body or to interfere with any election.<sup>88</sup> This law is enforced by the New York State Joint Commission on Public Ethics. Complaints regarding this provision should not be filed with the Division of Human Rights or GOER.

### **Diversity.**

New York State is committed to a nondiscriminatory employment program designed to meet all the legal and ethical obligations of equal opportunity employment. Each department develops affirmative action policies and plans to ensure compliance with equal opportunity laws. To assist in building cooperative work environments, which welcome an increasingly diverse workforce, the Department of Civil Service Staffing Services Division, and courses on diversity in the workplace, are available to agencies through GOER. Contact your personnel office for more information about specific agency affirmative action policies and plans. Diversity training information is available under Training & Development on the GOER website at [www.goer.ny.gov](http://www.goer.ny.gov).

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<sup>88</sup> Civil Service Law § 107.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **NOTE**

This Handbook has been prepared for the general information of State employees as a summary of the various federal and state laws, executive orders, and policies that provide protection from discrimination for State employees and comprises the anti-discrimination policy of the State of New York. Employees should also refer to specific laws and executive orders, together with any employee manual and policies of their employing agency for any additional policies and protections that may apply to them.

This Handbook does not grant any legal rights to any employee, nor is it intended to bind the State in any way. Where there is a conflict between any law, regulation, order, policy or collective bargaining agreement and the text of this Handbook, such law, regulation, order, policy or agreement shall be controlling.

The State reserves the right to revise, add to, or delete any portion of this Handbook at any time, in its sole discretion, without prior notice to employees. Moreover, this Handbook is not intended to, and does not create any right, contractual or otherwise, for any employee, not otherwise contained in the particular law or executive order the Handbook summarizes.

This Handbook has been written so as to not conflict with any collective bargaining agreement that the State has entered into with any union representing its unionized employees. If there is any conflict between this Handbook and any collective bargaining agreement, the provisions of the collective bargaining agreement will control. This Handbook shall not constitute a change in any existing term and condition of employment.

Start Date December 17, 2019 11:51:20 AM UTC

End Date December 17, 2019 10:08:16 PM UTC

Chat Melissa DeRosa [REDACTED] (IMessage)>, Beth Garvey [REDACTED]  
Account (IMessage)>, Stephanie Benton [REDACTED] (IMessage)>, Jim Malatras  
t [REDACTED] (IMessage)>, Jill DesRosiers [REDACTED] (IMessage)>,  
Rich Azzopardi [REDACTED] (IMessage)>, Rich Azzopardi  
[REDACTED] (Sms)>, Alphonso David [REDACTED] (IMessage)>, Jill  
DesRosiers [REDACTED] (Mms)>, Melissa DeRosa [REDACTED]  
(Sms)>, Stephanie Benton [REDACTED] Jill DesRosiers [REDACTED]  
(Sms)>, Dani Lever [REDACTED] Peter Ajemian [REDACTED] Dani  
Lever [REDACTED] (Mms)>, Melissa DeRosa [REDACTED], Annabel  
Walsh [REDACTED] (IMessage)>, Peter Ajemian [REDACTED] (Mms)>,  
Jim Malatras [REDACTED] Robert <[REDACTED] (IMessage)>, Jim  
Malatras <[REDACTED] (Sms)>, Robert <[REDACTED] (Sms)>, Robert  
[REDACTED] Beth Garvey [REDACTED] (Mms)>, Annabel Walsh  
[REDACTED] (Mms)>, Jim Malatras [REDACTED] (Mms)>, Melissa  
DeRosa [REDACTED] (Mms)>, Stephanie Benton [REDACTED]  
(Mms)>, Beth Garvey [REDACTED] (Sms)>, Annabel Walsh  
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Benton [REDACTED] (Sms)>, Robert <[REDACTED] (Mms)>, Beth  
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Ajemian [REDACTED] (Sms)>, Dani Lever [REDACTED] (Sms)>,  
Annabel Walsh [REDACTED] Peter Ajemian [REDACTED]  
(IMessage)>, Jill DesRosiers [REDACTED], Rich Azzopardi  
[REDACTED]

Jim Malatras <[REDACTED] (IMessage)>

About this [REDACTED] guy. I think you guys actually just hired [REDACTED] 11:51:20



[~/Library/SMS/Attachments/eb/11/at\\_0\\_E7F2ECAAF-9F00-4606-8300-394ACC156CBF/IMG\\_2679.JPG](#)

Beth Garvey [REDACTED] (IMessage)>



Intentionally. 12:04:04

Yes 12:04:05

Melissa DeRosa [REDACTED] (IMessage)>




<https://twitter.com/2avsagas/status/1206635861070221314?s=12> 12:30:25  
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Jill DesRosiers [REDACTED] (iMessage)>

<https://nypost.com/2019/12/16/shawskank-guard-joyce-mitchell-could-be-out-of-jail-in-a-few-weeks/> 12:46:1  
1


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How did I miss tillie was getting out 12:46:2  
1


Jim Malatras <[REDACTED]> (iMessage)>

 Let's make it another moment at the sos 12:56:3  
9


Stephanie Benton [REDACTED] (iMessage)>

 Maybe gov can perform bow renewal for her and her husband. 12:57:5  
That's a good story for the kids. 7

Jim Malatras <[REDACTED]> (iMessage)>

 Liked "Maybe gov can perform bow renewal for her and her husband. That's a good story for the kids." 12:58:4  
6


Rich Azzopardi [REDACTED] (iMessage)>

 LYLE! 12:58:5  
0

Jim Malatras <[REDACTED]> (iMessage)>


 #loveislove and boy she has a lot of love to give 12:59:1  
9

Melissa DeRosa [REDACTED] (iMessage)>

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
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
 Oh good 16:04:4  
2


[https://twitter.com/bern\\_hogan/status/1206968311147384833?s=21](https://twitter.com/bern_hogan/status/1206968311147384833?s=21) 16:04:4  
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
(no sender information available)


 Loved "Oh good" 16:08:0  
6


Stephanie Benton  (iMessage)>

 Say what you will, that lady can sing. 16:17:3  
4

Jim Malatras < (iMessage)>


 Liked "Say what you will, that lady can sing." 16:18:1  
9


Rich Azzopardi  (iMessage)>


 Not wrong 16:18:2  
7


Welp Lindsey got a trump shoutout 22:02:1  
[~/Library/SMS/Attachments/06/06/at\\_0\\_598CEDFC-A90E-4865-B3F6-586DD04B1B88/IMG\\_4743.jpeg](#) 5

<https://www.whitehouse.gov/briefings-statements/letter-president-donald-j-trump-speaker-house-representatives/> 22:02:1  
[~/Library/SMS/Attachments/be/14/at\\_0\\_A165ADA8-DF44-484A-9849-806982557D66/349DF025-98E6-4D47-94D7-85E87EA2C906.pluginPayloadAttachment](#) 6


Melissa DeRosa  (iMessage)>

 Loved "Welp Lindsey got a trump shoutout" 22:02:5  
8


Jill DesRosiers  (iMessage)>

 Lindsey Boylan is a socialist? 22:03:06


Melissa DeRosa [REDACTED] (iMessage)>

 Guys 22:03:27


Rich Azzopardi [REDACTED] (iMessage)>

 Funded by a hedge fund guy. Sure. I'm not thinking too hard about it 22:03:36


Melissa DeRosa [REDACTED] (iMessage)>


 I said the exact same thing to a reporter like an hour ago 22:03:41

Rich Azzopardi [REDACTED] (iMessage)>


 This is peak Tuesday right now 22:04:10

Jim Malatras <[REDACTED]> (iMessage)>

 Here she is at a democratic socialist party meeting. I mean a gala for rich folk 22:06:22

 [~/Library/SMS/Attachments/16/06/at\\_0\\_AED98716-F9BD-4747-AE49-5938EFA1DE97/IMG\\_2680.JPG](#)

Beth Garvey [REDACTED] (iMessage)>

 Where is her kid? Why is she out at a party? Isn't she a mom? 22:08:16



# Explore

Settings

Thread

Lindsey Boylan @LindseyBoylan

Most toxic team environment? Working for @NYGovCuomo.

Jerry Avenaim @avenaim · Dec 5, 2020
Name the worse job you've ever had.

1:00 PM · Dec 5, 2020 · Twitter for iPhone

1,252 Retweets 311 Quote Tweets 9,293 Likes



Lindsey Boylan @LindseyBoylan · Dec 5, 2020
Replying to @LindseyBoylan
I've had many jobs. Waitressing at @Friendlys as a teenager was an infinitely more respectful environment. Even when I had bad customers who tipped poorly.

24 54 884

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
If people weren't deathly afraid of him, they'd be saying the same thing and you'd already know the stories.

26 85 1K

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
Seriously, the messages and texts I receive when I speak the truth about this...it's a whole book of people who have been harmed.

9 53 860

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
Don't be surprised that it's the same small group of white people sitting alongside him at every presser. The same group that he has had by him the whole time, doing his dirty work. If you're not one of those handful, your life working for him is endlessly dispiriting.

13 70 914

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
I tried to quit three times before it stuck. I've worked hard my whole life. Hustled - fake it till you make it style.

That environment is beyond toxic. I'm still unwrapping it years later in therapy!

20 39 776

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
And I'm a privileged person. I could opt out and eventually did. I shudder to think what happens to others. It pisses me off so much.

7 26 672

Lindsey Boylan @LindseyBoylan · Dec 5, 2020
Yes I did not sign whatever they told me to sign when I left. Nope!

29 30 936

Marcella L. Simonetta @marcellalaluna · Dec 5, 2020

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Relevant people

Lindsey Boylan @LindseyBoylan
Mom. Progressive P
4 a Livable City. Fm
& Urban Planner. C
Manhattan Boroug

Andrew Cuomo @NYGovCuomo
Father, fisherman, n
enthusiast, 56th Go

Jerry Avenaim @avenaim
Award winning pho
Fashion, Celebrity, /
-Chicago Native -Lc
Mental Health Advc

What's happening

Entertainment · LIVE
Happy birthday, Tom Holla
Trending with Tom Holland

Music · Trending
JUST ANNOUNCED
17K Tweets

Trending in United States
HELP THE BEAR
People react to a viral TikTok fearlessly pushing a bear awa before running inside to prot 4,843 Tweets

COVID-19 · LIVE
New York: COVID-19: New updates for New York

Holidays · 1 hour ago
Pride Month celebrations k across the world
Trending with #pride, LGBTQ

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Don't miss what's happening

People on Twitter are the first to know.



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Lindsey Boylan @LindseyBoylan · Dec 8, 2020
Yesterday was an extremely weird day, responding to the news world finally waking up about the whispers they have heard about @NYGovCuomo over the years. It's worse than the gossip, by far.

My hope is he is on notice and won't harm more people, especially women.

22 174 1.1K

Lindsey Boylan @LindseyBoylan · Dec 8, 2020
I have very important work to do getting elected so I can help my city recover and my people be heard.

I will not be spending my days responding to the trauma men like @NYGovCuomo have caused every day in power.

Instead I'm getting back to my work.

4 20 265

Lindsey Boylan @LindseyBoylan · Dec 8, 2020
But, you better believe I'll be listening to what I hear out there, @NYGovCuomo. And if other women decide to come forward I will back them up and elaborate.

For now, I am getting back to my important work that made me willing to live in hell so long working for you.

5 40 335

Lindsey Boylan @LindseyBoylan · Dec 8, 2020
When we let our abusers, or onlookers, dictate the conversation we lose. I will not be stopped. I will not be deterred. I will not be minimized and truncated in history as someone that was victimized by a famous and powerful man the world kept elevating.

I will fight.

20 55 442

Replies

D'Abbey-Bonacci @lordgrand7 · Dec 8, 2020
Replying to @LindseyBoylan and @NYGovCuomo
I hope things go well for you @LindseyBoylan. There are women across the globe that have suffered trauma from powerful men. Sadly, it's an enduring reality for too many women. I don't know your story, but I'm acutely aware what trauma inflicted by powerful men can do. Stay strong

1 2 27

Sandra Rios @sabulosaa · Dec 8, 2020
Replying to @LindseyBoylan and @NYGovCuomo
????? unbelievable #StrongerTogether

3

Roger @Roger2dot0 · Dec 8, 2020
Replying to @LindseyBoylan @es\_indivisible and @NYGovCuomo
What are you talkin about?

1

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Andrew Cuomo @NYGovCuomo
Father, fisherman, n...
enthusiast, 56th Go...

What's happening

Music · LIVE

It's Travis Scott's birthday

Trending with Travis Scott, Astro

Trending in United States

BOYFRIEND REVEAL

4,131 Tweets

Trending in United States

Josh Duggar

Former reality television star arrested by federal agents in Thursday, TMZ reports

Trending with 19 Kids and Count...

COVID-19 · LIVE

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Don't miss what's happening

People on Twitter are the first to know.

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Thread

Lindsey Boylan @LindseyBoylan

My first experience of workplace sexual harassment was when my mom got her first real office job after graduating from college when I was in high school.

She was so excited to be taken "seriously." Her bossed isolated her and kissed her. She never had that type of job again.

8:49 AM · Dec 13, 2020 · Twitter for iPhone

1,085 Retweets 375 Quote Tweets 7,614 Likes



Lindsey Boylan @LindseyBoylan · Dec 13, 2020 Replying to @LindseyBoylan

It was then how I learned how hard it is for women. How hard this world can be for us when we are trying to be taken seriously and help our community. How easily jerks can destroy the lives of women.

58 327 3.7K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020

And I promised myself I would never let those kind of guys win. I would work hard my whole life to put myself in positions of power to change things. To end the violence & corruption. Give voice to the voiceless.

I am not stopping. I refuse. I will never give up.

110 378 3.8K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020

Yes, @NYGovCuomo sexually harassed me for years. Many saw it, and watched.

I could never anticipate what to expect: would I be grilled on my work (which was very good) or harassed about my looks. Or would it be both in the same conversation? This was the way for years.

2.5K 13.8K 27.6K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020

Not knowing what to expect what's the most upsetting part aside from knowing that no one would do a damn thing even when they saw it.

No one.

And I \*know\* I am not the only woman.

203 1K 7.5K

Lindsey Boylan @LindseyBoylan · Dec 13, 2020

I'm angry to be put in this situation at all. That because I am a woman, I can work hard my whole life to better myself and help others and yet still fall victim as countless women over generations have. Mostly silently.

I hate that some men, like @NYGovCuomo abuse their power.

714 2K 11.1K

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Lindsey Boylan @LindseyBoylan Mom. Progressive M 4 a Livable City. Fm & Urban Planner. C Manhattan Borough

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BuzzFeed News Last nig Tulsa Raised Millions of Do To Memorialize The 1921 Massacre. Not Much Went The Black Community.

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People on Twitter are the first to know.

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Memorandum

To: Alphonso David, Counsel to the Governor

From: Camille Joseph Varlack, Deputy Director of State Operations,  
Chief Risk Officer and Special Counsel

Re: Confidential Personnel Matter

Date: September 20, 2018

On September 20, 2018, I spoke with ESD Official 1 and ESD Official 2 and [redacted] of Empire State Development (ESD), respectively. Below please find a summary of my conversation.



EXHIBIT  
7



Draft, privileged and confidential - Attorney Client Privileged Communication  
Intra-Agency Communication  
Memo to File

**MEMORANDUM TO FILE**

**To:** Alphonso David, Counsel to the Governor  
**From:** Julia Pinover Kupiec, Assistant Counsel and Chamber Ethics Officer  
**Date:** September 26, 2018  
**Subject:** Employment Counseling for Lindsay Boylan

1. **Purpose**

[REDACTED]

[REDACTED] During the course of this counseling session, Ms. Boylan tendered her resignation voluntarily.

[REDACTED]



Draft, privileged and confidential - Attorney Client Privileged Communication  
Intra-Agency Communication  
Memo to File



3. Ms. Boylan's Resignation

During the meeting Mr. David was clear that she was not being asked to resign, fired, or pushed out in any way. In no uncertain terms he said that she was simply being counseled in response to the complaints that have been made about her from multiple sources.

Towards the close of this meeting Ms. Boylan voluntarily tendered her resignation, indicated that she would be leaving the office for the day and consulting with her own counsel regarding her next steps in Executive Chamber. She was clear that she intended to resign but she wished to think through the timing of her departure. Ms. Boylan expressed that she did not feel she could be effective in the Executive Chamber and as a result wished to move on. She expressed that her main priority was to leave her team – consisting of the two deputies she had hired – to be left in good stead in the Executive Chamber and suggested that they be elevated in position and rank here. Mr. David asked that Ms. Boylan advise him when she wished her resignation to be effective and offered the new year as a possibility.

Within four hours of the meeting, Ms. Boylan sent an email to staff within and outside of the Executive Chamber indicating that she had resigned and that her resignation was effective immediately.

I wrote this memorandum on September 26, 2018 based on contemporaneous notes taken during my personal attendance at the above described meeting on September 26, 2018.

---

/s

Julia Pinover Kupiec  
Executive Chamber Ethics Officer

[REDACTED]

---

**From:** Alphonso David  
**Sent:** Sunday, September 30, 2018 12:29 PM  
**To:** Julia Kupiec; Camille Varlack  
**Subject:** Lindsey Boyland Follow-up

Privileged and confidential  
Attorney client communication  
Attorney work product



[REDACTED]. Further, she has notified practically all state employees and many external stakeholders of her voluntary resignation, which was accepted. We will need to think about whether that issue can be effectively managed. I advised her I would get back to her with a formal response to her request.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

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<https://www.wsj.com/articles/andrew-cuomo-aides-called-former-staffers-to-discredit-accuser-11615512363>

◆ WSJ NEWS EXCLUSIVE | POLITICS

# Gov. Andrew Cuomo Aides Called Former Staffers to Discredit Accuser

Some recipients of the calls said that the outreach felt like attempts to intimidate them



New York Gov. Andrew Cuomo's top aide, Melissa DeRosa, pictured in 2018, coordinated the outreach, according to people familiar with the effort.

PHOTO: MARY ALTAFFER/ASSOCIATED PRESS

By [Khadeeja Safdar](#), [Deanna Paul](#) and [Jimmy Vielkind](#)

Updated March 11, 2021 10:43 pm ET

 Listen to Article (7 minutes)

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In the days after New York Gov. Andrew Cuomo was first accused of sexual harassment by a former aide, the governor's office called at least six former employees either to find out if they had heard from the accuser or to glean information about her in conversations that some said they saw as attempts to intimidate them.

Some of the people who received the calls said they hadn't heard from the administration in months before getting the call about the accuser. One said a caller encouraged them to give reporters any information discrediting the accuser, Lindsey Boylan, who worked as an economic adviser for the Cuomo administration between 2015 and 2018.

The calls were made by current administration officials and former aides who are still close to the governor's office, according to several recipients. The outreach came at the

EXHIBIT  
8

behest of Melissa DeRosa, the governor's top aide, according to people familiar with the effort.

"I felt intimidated, and I felt bewildered," said Ana Liss, a former aide to the governor who received one of the calls.



New York Gov. Andrew Cuomo has denied touching anyone inappropriately and has apologized for any behavior that might have been misinterpreted.

PHOTO: SETH WENIG/PRESS POOL

Ms. Liss, who earlier this month accused Mr. Cuomo of inappropriate behavior, said that Rich Azzopardi, a senior adviser to Mr. Cuomo, phoned her on Dec. 21. The call came eight days after Ms. Boylan said in a post on Twitter that the governor sexually harassed her.

Ms. Liss hadn't worked for the governor in more than five years and couldn't remember the last time the administration had been in touch, she said.

She said Mr. Azzopardi reminded her on the call of how much she had accomplished during her time working for the governor and asked her if she had received a message from Ms. Boylan. She told him she hadn't and said the conversation ended on a friendly note.

Mr. Azzopardi said in a statement: "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

Mr. Azzopardi said the calls weren't coordinated by Ms. DeRosa. "There was no directed effort—this outreach happened organically when everyone's phone started to blow up."

He added that they didn't intimidate anyone.

In Twitter posts after this story was published, Ms. Boylan said she didn't reach out to anyone in December and didn't have a lawyer at the time.

Three former employees from his time as governor and one current aide to Mr. Cuomo have accused the governor of inappropriate behavior or sexual harassment in the workplace, prompting calls from Republicans and high-ranking state Democrats for him to resign.

Advertisement - Scroll to Continue



'I felt intimidated, and I felt bewildered,' said Ana Liss, a former aide to the governor who received one of the calls.

PHOTO: LIBBY MARCH FOR THE WALL STREET JOURNAL

Democrats who dominate the state Assembly have launched an impeachment investigation that will look at the allegations as well as how the Cuomo administration handled Covid-19 in nursing homes. State Attorney General Letitia James is now overseeing an investigation into the accusations made by the former aides and how Mr. Cuomo's office handled the complaints.

Mr. Cuomo has denied touching anyone inappropriately and has apologized for any behavior that might have been misinterpreted. He has also called for New Yorkers to withhold judgment until Ms. James's investigation is complete.

Ms. Boylan has said Mr. Cuomo tried to kiss her on the lips in his office and, during a 2017 flight on his plane, suggested they play strip poker.

A spokeswoman for Mr. Cuomo has denied Ms. Boylan's allegations.

Another former aide, Charlotte Bennett, said Mr. Cuomo asked about her sex life and whether she had relationships with older men. Ms. Liss has said he asked her if she had a boyfriend, touched her on her lower back at a reception and once kissed her hand when she rose from her desk. A fourth woman this week accused the governor of touching her inappropriately during an encounter at the Executive Mansion last year.

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## RELATED COVERAGE

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[Cuomo to Face Impeachment Investigation](#)

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In a statement on Wednesday, Mr. Cuomo said: "As I said yesterday, I have never done anything like this. The details of this report are gut-wrenching. I am not going to speak to the specifics of this or any other allegation given the ongoing review, but I am confident in the result of the Attorney General's report."

The governor, in previous statements, has encouraged women to come forward and said his office would cooperate with Ms. James's inquiry.

But Mr. Cuomo and his aides have gone after accusers and rivals in the past, according to court documents and former staffers.

In October 2000, Mr. Cuomo, when he was the secretary of the Department of Housing and Urban Development, was accused of sex discrimination and harassment in an internal memo filed by Susan Gaffney, a former HUD inspector general. She accused Mr. Cuomo and other HUD officials of intimidation and harassment after she launched a congressionally requested audit into some of the work Mr. Cuomo had overseen.

Ms. Gaffney testified to Congress in 1998 that Mr. Cuomo's aides attempted to smear her, including publicizing an anonymous letter that Mr. Cuomo had allegedly received saying she was targeting minorities.

At one point, Mr. Cuomo assured her that he had nothing to do with the actions by key aides, she said. "I suggested that, if his key aides were acting without his approval, he



should fire them; the Secretary did not respond,” she said in the 1998 testimony, adding that tactics used by Mr. Cuomo and his aides were “dirty tricks” to force her to resign.

Ms. Gaffney couldn't be reached.

After Ms. Boylan tweeted her account in December, she said in a Feb. 24 Medium post that media outlets received “parts of a supposed confidential personnel file” from her time with the administration. Ms. Boylan said in the post that she had never seen the file and that it was an effort to smear her.

In response to Ms. Boylan's claim about her personnel record, Beth Garvey, the acting counsel to the governor, said: “With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate or misleading statements.”

Ms. Boylan also said in the Medium post that “the Governor's loyalists called around town, asking about me.”

One recipient of a call said the caller asked in December if Ms. Boylan had been in touch with the recipient, and what the recipient thought of her claims.

Another recipient of a call said that a caller, a current official in the Cuomo administration, asked if reporters had been contacted about Ms. Boylan and wanted to confirm the nature of the recipient's experience with Ms. Boylan. “The subtext was clear: I was being asked to dish dirt on her,” the recipient said.

Write to Khadeeja Safdar at [khadeeja.safdar@wsj.com](mailto:khadeeja.safdar@wsj.com), Deanna Paul at [deanna.paul@wsj.com](mailto:deanna.paul@wsj.com) and Jimmy Vielkind at [Jimmy.Vielkind@wsj.com](mailto:Jimmy.Vielkind@wsj.com)

## Cuomo Under Fire

New York Gov. Andrew Cuomo faces investigations of sexual harassment accusations and his handling of pandemic-related nursing home data.

**Claims Against Cuomo: What We Know**

**How Impeachment Works in New York**

**A Timeline of the Allegations**

**Aides Called Former Staffers to Discredit Accuser**

**Probe to Examine Possible Staff Help on Memoir**

**Probe Expands to Look at Aide's Calls**

**Cuomo Paid \$5.1 Million for Covid-19 Memoir**

**Cuomo Denies All Allegations of Sexual Harassment**

## UPCOMING EVENTS

June

**24**

2021

11:00 AM - 5:00 PM EDT

Global Food Forum

June

**30**

2021

1:00 PM - 1:45 PM EDT

WSJ Pro Cybersecurity Webinar: Aligning IT and Cybersecurity

June

**30**

2021

7:00 PM - 7:45 PM EDT

WSJ+ Live: Daniel Kahneman and His Co-Authors on the Crisis of 'Noise'

**ADD TO CALENDAR**

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**From:** Peter Ajemian [REDACTED]@exec.ny.gov  
**Subject:** Re: Attorney Client privileged  
**Date:** March 9, 2021 at 2:32 PM  
**To:** Melissa DeRosa [REDACTED]@exec.ny.gov  
**Cc:** Beth Garvey [REDACTED]@exec.ny.gov, Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov, Richard Azzopardi [REDACTED]@exec.ny.gov, Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov, Judith Mogul [REDACTED]@exec.ny.gov



Yes

Sent from my iPad

On Mar 9, 2021, at 2:27 PM, Melissa DeRosa [REDACTED]@exec.ny.gov wrote:

Peter do u see this and r u doing?

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Melissa DeRosa  
**Sent:** Tuesday, March 9, 2021 2:21 PM  
**To:** Beth Garvey; Linda A Lacewell (dfs.ny.gov); Peter Ajemian  
**Cc:** Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul  
**Subject:** Re: Attorney Client privileged

U have to explain what u mean on background - she claimed she tried to leave multiple times etc

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Beth Garvey  
**Sent:** Tuesday, March 9, 2021 2:20 PM  
**To:** Linda A Lacewell (dfs.ny.gov); Peter Ajemian  
**Cc:** Melissa DeRosa; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul  
**Subject:** Re: Attorney Client privileged

Not til friday

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Lacewell, Linda A (DFS)  
**Sent:** Tuesday, March 9, 2021 2:20 PM  
**To:** Peter Ajemian  
**Cc:** Melissa DeRosa; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul  
**Subject:** Re: Attorney Client privileged

Acting Counsel

Sent from my iPhone

On Mar 9, 2021, at 2:18 PM, Peter Ajemian <[REDACTED]@exec.ny.gov> wrote:

Shipping

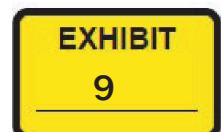
Sent from my iPad

On Mar 9, 2021, at 2:16 PM, Melissa DeRosa [REDACTED]@exec.ny.gov wrote:

Ok

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Peter Ajemian  
**Sent:** Tuesday, March 9, 2021 2:15 PM  
**To:** Melissa DeRosa; Linda A Lacewell (dfs.ny.gov); Beth Garvey



COHEN000633

**Cc:** Richard Azzopardi; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Judith Mogul  
**Subject:** Re: Attorney Client privileged

Privileged/ Draft / Confidential

Spoke with Beth, Linda, Judy. Here's where we landed.

**From Beth Garvey, Special Counsel & Senior Advisor:** "With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate statements made in the press. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

On Mar 9, 2021, at 12:49 PM, Peter Ajemian [REDACTED]@exec.ny.gov> wrote:

Talked thru with Linda. Here's a tweaked version. Beth, will Volforte agree this is accurate? Should these statements start coming from Mitra?

On Mar 9, 2021, at 12:13 PM, Peter Ajemian [REDACTED]@exec.ny.gov> wrote:

### PRIVILEGED / CONFIDENTIAL

Below is what the story looks like. Deadline is 1:30pm. Where did we land on the law?

I tried rewriting the response because we should not be attacking people who make allegations.

My recommendation is to break it up and have the first part from Mike Volforte (if he would be willing) and the second part from the chamber:

"As a general matter, it is within a government entity's discretion to share redacted personnel records, with certain limited exceptions, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate statements made in the press, as was the case in this situation as it related to the circumstances surrounding Ms. Boylan's departure. Given the ongoing review by the State Attorney General, we cannot consider sharing any such documents at this time and cannot comment further at this time."

Timeline of the events in december – Boylan tweets

At the time gov was being considered for AG

Boylan had worked in Cuomo admin for over three years, final title was

Tweets on 11th and 13th

Essay on medium detailing interactions with gov and staff, specifically Lisa Shields allegation

Timing of other women who came forward – charlotte, anna ruch, anna liss.

On march 1, the gov asked AG to do independent investigation

Eric raises questions about why it took so long from boylan's initial tweets to the increase in attention from media, law enforcement – partially because Boylan chose not to talk to press

But also documents that were out there

Within hours of her tweets on dec 13 several outlets reported on the documents – AP described them as personnel memos, Post described personnel, TU docs and personnel records

Several women had complained about her as being harassing, belittling, and

Several women had complained about her as being harassing, belittling, and yelled and general unprofessional

Cites from Post account that there were three black employees who complained to state HR about Boylan, who is white, of being a bully and treating them like children.

From the AP report, cites claim that Boylan resigned after being counseled about the complaints by a top admin lawyer

And then cites statement from Boylan attorney saying she had never seen those documents raised in the news accounts.

Statement from attorney saying expects AG to look into the leak of the documents; goes on to accuse the gov and his staff seeking to smear victims of sexual harassment.

Quotes from gov presser last week – supports a women’s right to come forward and sorry for whatever pain and asked for time to be allowed due process and facts from ag before forming an opinin

Gov has had a history in the past of scorched earth and retaliation tactics.

Statement from Boylan attorney saying she believed she would be retaliated against for going public.

Cites convo with a former senior official in Cuomo admin that in his opinion there was no question the governor would be involved in the decision to release personnel records.

Cites prior reporting about Gaffney accusations – NYP: Gaffney said Cuomo would call her on weekends to berate her, accused him of sex discrimination in 2000, and retaliated against her. Cuomo spox this is nothing more than a diversion from her downloading pornogphrahy in her office and our efforts to get to the bottom of it.

Cites Michael Fiat from 2013 – he gave quotes to Daily Enterprise and the admin moved to fire him. When the press looked into it, an admin official at the time – Howard Glaser – did a radio interview reading aloud items from his personnel file including misconduct allegations including that he had an improper relationship with a subordinate.

Karen Hinton, during Legionnaires outbreak, gov didn’t like a statement she gave and gov called city hall and said if you don’t fire her then BdB would be personally blamed for the nyc deaths.

After leaving the de blasio administration she had a hard time finding work in political PR in her estimation because of Cuomo. NEED RESPONSE

Gov’s attempt to intimate Ron Kim. Include Rich Azzopardi’s denial of his allegations

Cites convos with workplace harassment lawyers who think that the release of the docs could have legal implications and could be seen as retaliatory against legally protected speech in violation of ny human rights law, and that it’s a private use of government property for personal use of defending the gov.

Raises question that employees who raised concern against Boylan may have only wanted that done in private, and wouldn’t have this sort of use in mind.

Spoke to good gov advocate who said the press needed to examine their role in the leak of the doc and that it’s the admin’s MO to bully and terrorize, and that the press may have been complicit in that. RESPONSE

Who leaked the docs?

Who approved it?

Was governor involved?

Cites ASC calling on gov to resign – speaker of assembly stops short of doing

Site: ABC calling on gov to resign - speaker of assembly stops short of doing same

Quotes from conf call where gov says he won't resign

Yesterday the AG announced lawyers

An AG source says the leak of the documents may well be a subject that they investigate.

###

-----Original Message-----

From: Melissa DeRosa [redacted] <[redacted]@exec.ny.gov>

Sent: Tuesday, March 9, 2021 9:00 AM

To: Linda A Lacewell (dfs.ny.gov) [redacted] <[redacted]@dfs.ny.gov>; Beth Garvey [redacted] <[redacted]@exec.ny.gov>

Cc: Peter Ajemian [redacted] <[redacted]@exec.ny.gov>; Richard Azzopardi [redacted] <[redacted]@exec.ny.gov>; Steven Cohen (esd.ny.gov)

[redacted] <[redacted]@esd.ny.gov>; Judith Mogul [redacted] <[redacted]@exec.ny.gov>

Subject: Re: Attorney Client privileged

"Ms. Boylan repeatedly mischaracterized the terms of her departure in the press - she resigned when confronted by allegations of bullying and harassment of three female subordinates at ESD as well as formal complaints against her by her colleagues in the Executive Chamber. She then subsequently asked for her job back, but her request was not granted. As a general matter, it is within a government entity's discretion to share redacted personnel records, with certain limited exceptions -- in those instances, we would seek permission from GOER. However, given the ongoing review by the State Attorney General, we cannot consider sharing any such documents at this time."

---

From: Melissa DeRosa

Sent: Tuesday, March 09, 2021 8:54 AM

To: Linda A Lacewell (dfs.ny.gov); Beth Garvey

Cc: Peter Ajemian; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul

Subject: Re: Attorney Client privileged

"Ms. Boylan repeatedly mischaracterized the terms of her departure in the press - she resigned when confronted by allegations of bullying and harassing three female subordinates at ESD as well as formal complaints against her by her colleagues in the Executive Chamber. She then subsequently asked for her job back, but her request was not granted. As a general matter, it is within a government entity's discretion to share redacted personnel records, with certain limited exceptions -- in those instances, we would seek permission from GOER. However, given the ongoing review by the State Attorney General, we cannot consider sharing any such documents at this time."

---

From: Melissa DeRosa

Sent: Tuesday, March 09, 2021 8:51 AM

To: Linda A Lacewell (dfs.ny.gov); Beth Garvey

Cc: Peter Ajemian; Richard Azzopardi; Steven Cohen (esd.ny.gov); Judith Mogul

COHEN000636

Subject: Re: Attorney Client privileged

"Ms. Boylan repeatedly mischaracterized the terms of her departure in the press - she resigned when confronted by allegations of bullying and harassing three female subordinates at ESD as well as formal complaints against her by her colleagues in the Executive Chamber. She then subsequently asked for her job back, but her request was not granted. As a general matter, it is within a government entity's discretion to share redacted personnel records, with certain limited exceptions -- however, given the ongoing review by the State Attorney General, we cannot consider sharing any such documents at this time."

---

From: Melissa DeRosa

Sent: Tuesday, March 09, 2021 8:25 AM

To: Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Beth Garvey

Cc: Peter Ajemian; Richard Azzopardi; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Judith Mogul

Subject: Re: Attorney Client privileged

Let's get on phone and discuss this am

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

Original Message

From: Lacewell, Linda A (DFS)

Sent: Tuesday, March 9, 2021 6:50 AM

To: Beth Garvey

Cc: Peter Ajemian; Melissa DeRosa; Richard Azzopardi; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Judith Mogul

Subject: Re: Attorney Client privileged



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**From:** Melissa DeRosa [REDACTED]@exec.ny.gov]  
**Sent:** 3/14/2021 10:35:59 PM  
**To:** Garvey, Beth (CHAMBER) [REDACTED]@exec.ny.gov]; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]  
**CC:** Benton, Stephanie (CHAMBER) [REDACTED]@exec.ny.gov]; Lis Smith [REDACTED]@gmail.com]; Josh Vlasto [REDACTED]@gmail.com]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Cohen, Steven (ESD) [REDACTED]@esd.ny.gov]; Mitra Hormozi [REDACTED]@wmhllaw.com]  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

retaliatory how? if u want to cut out the last part and make purely factual fine but how is it retaliatory to respond to her attacks factually?

Lindsey routinely circumvented the senior staff and went directly to the governor which disrupted communication and organization. She was asked many times not to go to the Governor directly but to follow protocol and refused, which was an ongoing source of tension.

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**From:** Beth Garvey  
**Sent:** Sunday, March 14, 2021 10:33 PM  
**To:** Melissa DeRosa; Peter Ajemian; Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock  
**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

We don't have to make news with that answer it can be spun as retaliatory.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

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**From:** Melissa DeRosa  
**Sent:** Sunday, March 14, 2021 10:24 PM  
**To:** Peter Ajemian; Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock  
**Cc:** Beth Garvey; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

**some changes - what happened to that last answer? that is NOT what we are shipping -- we discussed this extensively and we are answering that question**

**Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.**

From Rich Azzopardi, senior advisor to the Governor: "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

**She accuses Melissa DeRosa of leaking her personnel file and questions the legality of the leak. Do you or does Melissa have a response?**

**EXHIBIT  
10**

From Beth Garvey, Acting Counsel: "With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate or misleading statements. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

OFF THE RECORD: HOW WOULD LINDSEY KNOW WHO RELEASED IT? WHAT IS THE BASIS FOR HER ASSERTION? WE CAN'T GET INTO SPECS BECAUSE OF THE AG'S INVESTIGATION, BUT PRINTING THAT MELISSA WAS THE ONE WHO GAVE IT TO THE PRESS WOULD BE INACCURATE.

**Boylan describes a culture of hostility and bullying under the governor. She and others recall seeing a dart board with a photo of Bill DeBlasio on it while attending a pool party. Do you or the governor have any comment on the dart board and the intentions behind it?**

**Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.**

From a spokesperson re Stephanie: "Part of Stephanie's job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would communicate with him." (OFF THE RECORD – see attached email sent out recently to a group when GAMC's number was changed)

Re Jill's email: "Regardless of whatever Ms. Boylan believes, she was in no way being 'tracked' by staff – Jill oversaw events and scheduling, so it was her job to understand what relevant senior members of the team – male and female – would be attending Governor events."

From a spokesperson: "All senior staff receive these kinds of instructions, requests and communications – nothing about these exchanges are unique or interesting in this regard."

**She says that she felt objectified and professionally diminished, and recounts an incident at the December 2016 REDC awards during which she says she was ordered to accompany the Governor and Maria Bartiromo on a return helicopter flight rather than remain and continue to engage with her direct-reports on substantive matters.**

From a spokesperson: Lindsey was clearly not 'ordered' to be on the flights as she was not on the flight -- this was not a point of contention.

**Boylan speaks about what she perceived to be a lack of boundaries between the Governor and female staffers. She says that Stephanie Benton asked her, also at a pool party, whether she had yet been swimming in the pool at the governor's residence.**

From a spokesperson: "Stephanie does not believe this is true." If needed Stephanie will say this on the record

**On the subject of the "strip poker" comment that her Medium post claimed the governor made on a flight in October 2017, Boylan disputes the group denial and says that Abbey Fashouer Collins was sitting next to her when the comment was made. –**

**Please refer back to Abbey Collins previous statement which still stands – see below:**

In a joint statement, John Maggiore, Howard Zemsky, Dani Lever, and Abbey Fashouer Collins who were on all of these flights with her added: "We were on each of these October flights and this conversation did not happen."

**She reiterates her claim that the governor kissed her on the lips in 2018.**

From a spokesperson: "This is not true."

**On the subject of Melissa, she recounts a convo in which Melissa screamed at her on the phone – in the final days of lindsey being in her job – July 2018 – when things deteriorated**

**this is not what**

---

**From:** Peter Ajemian  
**Sent:** Sunday, March 14, 2021 10:15 PM  
**To:** Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock  
**Cc:** Beth Garvey; Melissa DeRosa; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

we can do more work during fact checking

---

**From:** Peter Ajemian  
**Sent:** Sunday, March 14, 2021 10:15 PM  
**To:** Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock  
**Cc:** Beth Garvey; Melissa DeRosa; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

ok. fixing that and shipping

---

**From:** Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov>  
**Sent:** Sunday, March 14, 2021 10:12 PM  
**To:** Jeffrey Pollock  
**Cc:** Peter Ajemian; Beth Garvey; Melissa DeRosa; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

nothing about these exchanges IS unique or interesting in this regard."

Sent from my iPhone

On Mar 14, 2021, at 10:07 PM, Jeffrey Pollock [REDACTED]@globalstrategygroup.com> wrote:

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

I'm good as long as you all have fully litigated the last point and we don't need to go back to where we were.

**From:** Peter Ajemian [REDACTED]@exec.ny.gov>  
**Sent:** Sunday, March 14, 2021 10:06 PM  
**To:** Beth Garvey [REDACTED]@exec.ny.gov>; Melissa DeRosa [REDACTED]@exec.ny.gov>; Stephanie Benton [REDACTED]@exec.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>  
**Cc:** Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Mitra Hormozi [REDACTED]@wmhlaw.com>  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

[EXT EMAIL]

**Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.**

From Rich Azzopardi, senior advisor to the Governor: "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

**She accuses Melissa DeRosa of leaking her personnel file and questions the legality of the leak. Do you or does Melissa have a response?**

From Beth Garvey, Acting Counsel: "With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate or misleading statements. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

OFF THE RECORD: HOW WOULD LINDSEY KNOW WHO RELEASED IT? WHAT IS THE BASIS FOR HER ASSERTION? WE CAN'T GET INTO SPECS BECAUSE OF THE AG'S INVESTIGATION, BUT PRINTING THAT MELISSA WAS THE ONE WHO GAVE IT TO THE PRESS WOULD BE INACCURATE.

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**Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.**

From a spokesperson re Stephanie: "Part of Stephanie's job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would

communicate with him.” (OFF THE RECORD – see attached email sent out recently to a group when GAMC’s number was changed)

Re Jill’s email: “Regardless of whatever Ms. Boylan believes, she was in no way being ‘tracked’ by staff – Jill oversaw events and scheduling, so it was her job to understand what relevant senior members of the team— male and female – would be attending Governor events.”

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**She says that she felt objectified and professionally diminished, and recounts an incident at the December 2016 REDC awards during which she says she was ordered to accompany the Governor and Maria Bartiromo on a return helicopter flight rather than remain and continue to engage with her direct-reports on substantive matters.**

From a spokesperson: Lindsey was not even on the flight. Lindsey was not needed for the return flight and it was not a point of contention.

**Boylan speaks about what she perceived to be a lack of boundaries between the Governor and female staffers. She says that Stephanie Benton asked her, also at a pool party, whether she had yet been swimming in the pool at the governor's residence.**

From a spokesperson: "Stephanie does not believe this is true." If needed Stephanie will say this on the record

**On the subject of the "strip poker" comment that her Medium post claimed the governor made on a flight in October 2017, Boylan disputes the group denial and says that Abbey Fashouer Collins was sitting next to her when the comment was made. –**

**Please refer back to Abbey Collins previous statement which still stands – see below:**

In a joint statement, John Maggiore, Howard Zemsky, Dani Lever, and Abbey Fashouer Collins who were on all of these flights with her added: “We were on each of these October flights and this conversation did not happen.”

**She reiterates her claim that the governor kissed her on the lips in 2018.**

From a spokesperson: "As we said before, Ms. Boylan's claims of inappropriate behavior are quite simply false."

**On the subject of Melissa, she recounts a convo in which Melissa screamed at her on the phone – in the final days of Lindsey being in her job – July 2018 – when things deteriorated**

From Rich Azzopardi, senior advisor to the governor: “There is no secret these are tough jobs, and the work is demanding, but we have a top tier team with many employees who have been here for years and many others who have left and returned because they know the work we do matters, a fact that was underscored throughout COVID.”

**From:** Beth Garvey

**Sent:** Sunday, March 14, 2021 9:16 PM

**To:** Peter Ajemian; Melissa DeRosa; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Re: Priv and Confidential - CURRENT DRAFT

I reframed it slightly, it may work at the end as far as contradicting "fear"

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Peter Ajemian

**Sent:** Sunday, March 14, 2021 8:52 PM

**To:** Melissa DeRosa; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Re: Priv and Confidential - CURRENT DRAFT

also - what does this get us?

This occurred months before Ms. Boylan resigned and then unsuccessfully seeking her job back with the Chamber.

---

**From:** Melissa DeRosa

**Sent:** Sunday, March 14, 2021 8:14 PM

**To:** Peter Ajemian; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Priv and Confidential - CURRENT DRAFT

**Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.**

Will look like WSJ – about calls that were made and tenor.

Her ongoing and continued claim that those calls were intimidating or intended to suss out what her plans were or cast aspersions about her.

Melissa and Rich and Abbey Collins are mentioned.

From Rich Azzopardi, senior advisor to the Governor: "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

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**Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.**

Fixated on her – her characterization of him – her interpretation of these events was he was repeatedly inquiring about her and in their own interactions, eye contact, touching, and signaling his interest in ways she found uncomfortable

Incremental new pieces of communiques – from editorial and fact checking standpoint – a cache of communications similar to what we've already seen – Stephanie Benton email from March 2017 sharing the governor's pin, responding to Lindsey getting a bberry, "Smiley face. Feel free to pin gov. he'll be very happy to hear from you." about her being issued a bberry with pin capacity and that's something the gov will be happy about -

From a spokesperson re Stephanie: "Part of Stephanie's job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would communicate with him." (OFF THE RECORD – see attached email sent out recently to a group when GAMC's number was changed)

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LINDSEY WAS NOT EVEN ON THIS FLIGHT – Lindsey was not needed for the return flight and it was not a point of contention.

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**On the subject of Melissa, she recounts a convo in which Melissa screamed at her on the phone – in the final days of Lindsey being in her job – July 2018 – when things became really**

From a spokesperson: "This occurred months before Ms. Boylan resigned and then unsuccessfully seeking her job back with the Chamber. Lindsey regularly bypassed senior staff and went directly to the Governor against protocol, an ongoing source of frustration that was also disruptive. This led to a heated conversation between her and the Secretary and directly contradicts her current position she was 'afraid' of the Governor."



---

**From:** Beth Garvey [REDACTED]@exec.ny.gov]  
**Sent:** 3/14/2021 10:00:02 PM  
**To:** Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov]; DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Benton, Stephanie (CHAMBER) [REDACTED]@exec.ny.gov]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]; Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Dani Lever [REDACTED]@gmail.com]  
**Subject:** Re: peter are we sending this as well? priv

Melissa on last answer why don't we just point back to our statement on hostile work environment- Any way we slice this we could make the retaliation claim here and we just should leave it alone.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Peter Ajemian  
**Sent:** Sunday, March 14, 2021 9:55 PM  
**To:** Melissa DeRosa; Jeffrey Pollock; Stephanie Benton; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Beth Garvey; Richard Azzopardi; Dani Lever  
**Subject:** Re: peter are we sending this as well? priv

yes on w Beth - two min

---

**From:** Melissa DeRosa  
**Sent:** Sunday, March 14, 2021 9:45 PM  
**To:** Jeffrey Pollock; Stephanie Benton; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Beth Garvey; Peter Ajemian; Richard Azzopardi; Dani Lever  
**Subject:** peter are we sending this as well? priv

---

**From:** Melissa DeRosa  
**Sent:** Sunday, March 14, 2021 3:46 PM  
**To:** Jeffrey Pollock; Stephanie Benton; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Beth Garvey; Peter Ajemian; Richard Azzopardi; Dani Lever  
**Subject:** Re: Privileged. Fw: A NEW phone number coming momentarily. Pin will remain the same.

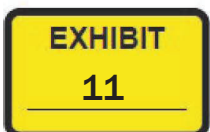
are we sending this?

Peter what time is the deadline and is there one email w everything cobbled together that we should go back through as a group?

---

**From:** Jeffrey Pollock [REDACTED]@globalstrategygroup.com>  
**Sent:** Sunday, March 14, 2021 2:37 PM  
**To:** Stephanie Benton; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Beth Garvey; Peter Ajemian; Melissa DeRosa; Richard Azzopardi; Dani Lever  
**Subject:** Re: Privileged. Fw: A NEW phone number coming momentarily. Pin will remain the same.

Good Start. Keep looking. I'm sure you have more personalized ones



Jefrey Pollock  
President  
D [REDACTED]  
M [REDACTED]  
My pronouns: he, him, his

---

**From:** Stephanie Benton [REDACTED]@exec.ny.gov>  
**Sent:** Sunday, March 14, 2021 2:33:10 PM  
**To:** Judith Mogul [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>; Beth Garvey [REDACTED]@exec.ny.gov>; Peter Ajemian [REDACTED]@exec.ny.gov>; Melissa DeRosa [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Jefrey Pollock [REDACTED]@globalstrategygroup.com>; Dani Lever [REDACTED]@gmail.com>  
**Subject:** Privileged. Fw: A NEW phone number coming momentarily. Pin will remain the same.

[EXT EMAIL]

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

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**From:** Mujica, Robert F (BUDGET) [REDACTED]@budget.ny.gov>  
**Sent:** Sunday, March 14, 2021 2:30 PM  
**To:** Stephanie Benton  
**Subject:** Fwd: A NEW phone number coming momentarily. Pin will remain the same.

Sent from my iPad

Begin forwarded message:

**From:** Stephanie Benton [REDACTED]@exec.ny.gov>  
**Date:** January 28, 2021 at 10:51:49 AM EST  
**Subject:** A NEW phone number coming momentarily. Pin will remain the same.

---

**From:** Stephanie Benton  
**Sent:** Wednesday, January 27, 2021 4:45 PM  
**To:** Robert F Mujica (budget.ny.gov) [REDACTED]@budget.ny.gov>; Kelly Cummings <[REDACTED]@exec.ny.gov>; [REDACTED] Peter Ajemian [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; [REDACTED] Beth Garvey [REDACTED]@exec.ny.gov>; [REDACTED] [REDACTED] [REDACTED]@exec.ny.gov>; David Dively (troopers.ny.gov) [REDACTED]@troopers.ny.gov>; [REDACTED] [REDACTED]@exec.ny.gov>; Brittany Commisso [REDACTED]@exec.ny.gov>  
**Subject:** NEW PIN and # for the CE. Make sure you save now.



Dave Dively please share with your folks.

---

**From:** Beth Garvey [REDACTED]@exec.ny.gov]  
**Sent:** 3/14/2021 10:12:29 PM  
**To:** Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov]; DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]; Benton, Stephanie (CHAMBER) [REDACTED]@exec.ny.gov]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]  
**CC:** Lis Smith [REDACTED]@gmail.com]; Josh Vlasto [REDACTED]@gmail.com]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Cohen, Steven (ESD) [REDACTED]@esd.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com]  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

I spoke to melissa earlier I think she agrees we shouldn't give news to this story if there isn't any and this statement keeping it to prior statements can't create new exposure re retaliation- note her tweets re civil suits.

This is safest

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Jeffrey Pollock  
**Sent:** Sunday, March 14, 2021 10:07 PM  
**To:** Peter Ajemian; Beth Garvey; Melissa DeRosa; Stephanie Benton; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** RE: Priv and Confidential - CURRENT DRAFT

I'm good as long as you all have fully litigated the last point and we don't need to go back to where we were.

---

**From:** Peter Ajemian [REDACTED]@exec.ny.gov>  
**Sent:** Sunday, March 14, 2021 10:06 PM  
**To:** Beth Garvey [REDACTED]@exec.ny.gov>; Melissa DeRosa [REDACTED]@exec.ny.gov>; Stephanie Benton [REDACTED]@exec.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>  
**Cc:** Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Mitra Hormozi [REDACTED]@wmhlaw.com>  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

[EXT EMAIL]

**Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.**

From Rich Azzopardi, senior advisor to the Governor: "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

**She accuses Melissa DeRosa of leaking her personnel file and questions the legality of the leak. Do you or does Melissa have a response?**

EXHIBIT  
12

From Beth Garvey, Acting Counsel: "With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate or misleading statements. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

**OFF THE RECORD: HOW WOULD LINDSEY KNOW WHO RELEASED IT? WHAT IS THE BASIS FOR HER ASSERTION? WE CAN'T GET INTO SPECS BECAUSE OF THE AG'S INVESTIGATION, BUT PRINTING THAT MELISSA WAS THE ONE WHO GAVE IT TO THE PRESS WOULD BE INACCURATE.**

**Boylan describes a culture of hostility and bullying under the governor. She and others recall seeing a dart board with a photo of Bill DeBlasio on it while attending a pool party. Do you or the governor have any comment on the dart board and the intentions behind it?**

**Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.**

From a spokesperson re Stephanie: "Part of Stephanie's job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would communicate with him." (OFF THE RECORD – see attached email sent out recently to a group when GAMC's number was changed)

Re Jill's email: "Regardless of whatever Ms. Boylan believes, she was in no way being 'tracked' by staff – Jill oversaw events and scheduling, so it was her job to understand what relevant senior members of the team— male and female – would be attending Governor events."

From a spokesperson: "All senior staff receive these kinds of instructions, requests and communications – nothing about these exchanges are unique or interesting in this regard."

**She says that she felt objectified and professionally diminished, and recounts an incident at the December 2016 REDC awards during which she says she was ordered to accompany the Governor and Maria Bartiromo on a return helicopter flight rather than remain and continue to engage with her direct-reports on substantive matters.**

From a spokesperson: Lindsey was not even on the flight. Lindsey was not needed for the return flight and it was not a point of contention.

**Boylan speaks about what she perceived to be a lack of boundaries between the Governor and female staffers. She says that Stephanie Benton asked her, also at a pool party, whether she had yet been swimming in the pool at the governor's residence.**

From a spokesperson: "Stephanie does not believe this is true." If needed Stephanie will say this on the record

**On the subject of the "strip poker" comment that her Medium post claimed the governor made on a flight in October 2017, Boylan disputes the group denial and says that Abbey Fashouer Collins was sitting next to her when the comment was made. –**

**Please refer back to Abbey Collins previous statement which still stands – see below:**

In a joint statement, John Maggiore, Howard Zemsky, Dani Lever, and Abbey Fashouer Collins who were on all of these flights with her added: "We were on each of these October flights and this conversation did not happen."

**She reiterates her claim that the governor kissed her on the lips in 2018.**

From a spokesperson: "As we said before, Ms. Boylan's claims of inappropriate behavior are quite simply false."

**On the subject of Melissa, she recounts a convo in which Melissa screamed at her on the phone – in the final days of Lindsey being in her job – July 2018 – when things deteriorated**

From Rich Azzopardi, senior advisor to the governor: "There is no secret these are tough jobs, and the work is demanding, but we have a top tier team with many employees who have been here for years and many others who have left and returned because they know the work we do matters, a fact that was underscored throughout COVID."

---

**From:** Beth Garvey  
**Sent:** Sunday, March 14, 2021 9:16 PM  
**To:** Peter Ajemian; Melissa DeRosa; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

I reframed it slightly, it may work at the end as far as contradicting "fear"

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

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**From:** Peter Ajemian  
**Sent:** Sunday, March 14, 2021 8:52 PM  
**To:** Melissa DeRosa; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

also - what does this get us?

This occurred months before Ms. Boylan resigned and then unsuccessfully seeking her job back with the Chamber.

---

**From:** Melissa DeRosa

**Sent:** Sunday, March 14, 2021 8:14 PM

**To:** Peter Ajemian; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Priv and Confidential - CURRENT DRAFT

**Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.**

Will look like WSJ – about calls that were made and tenor.

Her ongoing and continued claim that those calls were intimidating or intended to suss out what her plans were or cast aspersions about her.

Melissa and Rich and Abbey Collins are mentioned.

From Rich Azzopardi, senior advisor to the Governor: “After Ms. Boylan’s tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up.”

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OFF THE RECORD: HOW WOULD LINDSEY KNOW WHO RELEASED IT? WHAT IS THE BASIS FOR HER ASSERTION? WE CAN'T GET INTO SPECS BECAUSE OF THE AG'S INVESTIGATION, BUT PRINTING THAT MELISSA WAS THE ONE WHO GAVE IT TO THE PRESS WOULD BE INACCURATE.

**Boylan describes a culture of hostility and bullying under the governor. She and others recall seeing a dart board with a photo of Bill DeBlasio on it while attending a pool party. Do you or the governor have any comment on the dart board and the intentions behind it?**

**Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.**

Fixated on her – her characterization of him – her interpretation of these events was he was repeatedly inquiring about her and in their own interactions, eye contact, touching, and signaling his interest in ways she found uncomfortable

Incremental new pieces of communiques – from editorial and fact checking standpoint – a cache of communications similar to what we’ve already seen – Stephanie Benton email from March 2017 sharing the governor’s pin, responding to Lindsey getting a bberry, “Smiley face. Feel free to pin gov. he’ll be very happy to hear from you.” about her being issued a bberry with pin capacity and that’s something the gov will be happy about -

From a spokesperson re Stephanie: “Part of Stephanie’s job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would communicate with him.” (OFF THE RECORD – see attached email sent out recently to a group when GAMC’s number was changed)

Re Jill’s email: “Regardless of whatever Ms. Boylan believes, she was in no way being ‘tracked’ by staff – Jill oversaw events and scheduling, so it was her job to understand what relevant senior members of the team—male and female – would be attending Governor events.”

From a spokesperson: “All senior staff receive these kinds of instructions, requests and communications – nothing about these exchanges are unique or interesting in this regard.”

**She says that she felt objectified and professionally diminished, and recounts an incident at the December 2016 REDC awards during which she says she was ordered to accompany the Governor and Maria Bartiromo on a return helicopter flight rather than remain and continue to engage with her direct-reports on substantive matters.**

LINDSEY WAS NOT EVEN ON THIS FLIGHT – Lindsey was not needed for the return flight and it was not a point of contention.

**Boylan speaks about what she perceived to be a lack of boundaries between the Governor and female staffers. She says that Stephanie Benton asked her, also at a pool party, whether she had yet been swimming in the pool at the governor's residence.**

From a spokesperson: "Stephanie does not believe this is true." If needed Stephanie will say this on the record



**On the subject of the "strip poker" comment that her Medium post claimed the governor made on a flight in October 2017, Boylan disputes the group denial and says that Abbey Fashouer Collins was sitting next to her when the comment was made. –**

**Please refer back to Abbey Collins previous statement which still stands – see below:**

In a joint statement, John Maggiore, Howard Zemsky, Dani Lever, and Abbey Fashouer Collins who were on all of these flights with her added: "We were on each of these October flights and this conversation did not happen."

**She reiterates her claim that the governor kissed her on the lips in 2018.**

From a spokesperson: "As we said before, Ms. Boylan's claims of inappropriate behavior are quite simply false."

**On the subject of Melissa, she recounts a convo in which Melissa screamed at her on the phone – in the final days of Lindsey being in her job – July 2018 – when things became really**

From a spokesperson: "This occurred months before Ms. Boylan resigned and then unsuccessfully seeking her job back with the Chamber. Lindsey regularly bypassed senior staff and went directly to the Governor against protocol, an ongoing source of frustration that was also disruptive. This led to a heated conversation between her and the Secretary and directly contradicts her current position she was 'afraid' of the Governor."

---

**From:** Peter Ajemian [REDACTED]@exec.ny.gov]  
**Sent:** 3/15/2021 4:07:17 PM  
**To:** DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]; Garvey, Beth (CHAMBER) [REDACTED]@exec.ny.gov]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]  
**CC:** Benton, Stephanie (CHAMBER) [REDACTED]@exec.ny.gov]; Lis Smith [REDACTED]@gmail.com]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com]  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

**DRAFT**

Stephanie - OK?

**LB says in 2018 the gov made fun of benton's haircut so often that Benton cried about it in front of lindsey.**

From Stephanie Benton: "That's not right. The Governor has always treated me with decency and respect."

---

**From:** Peter Ajemian  
**Sent:** Monday, March 15, 2021 2:55 PM  
**To:** Melissa DeRosa; Beth Garvey; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

Ok. I'm shipping the updated answer from Gov and Beth's additional line, and I'll tell him I'll have an answer on Rob soon.

---

**From:** Melissa DeRosa  
**Sent:** Monday, March 15, 2021 2:04 PM  
**To:** Peter Ajemian; Beth Garvey; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

yes and when they walk us through the story i still reserve the right to re-raise the point on the LB argument she and i had

---

**From:** Peter Ajemian  
**Sent:** Monday, March 15, 2021 1:59 PM  
**To:** Melissa DeRosa; Beth Garvey; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

So I'm not missing something, it's the one change at the end right?

---

**EXHIBIT**  
**13**

**From:** Melissa DeRosa

**Sent:** Monday, March 15, 2021 1:56 PM

**To:** Beth Garvey; Peter Ajemian; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Re: Priv and Confidential - CURRENT DRAFT

there were some changes from last night that did make it into the final draft -see highlighted below

**Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.**

From Rich Azzopardi, senior advisor to the Governor: "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

**She accuses Melissa DeRosa of leaking her personnel file and questions the legality of the leak. Do you or does Melissa have a response?**

From Beth Garvey, Acting Counsel: "With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate or misleading statements. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

OFF THE RECORD NOTE: How would Lindsey know who released the information? What is the basis for her assertion? We can't get into the specifics because of the AG's review, but it would be inaccurate to say Melissa was the one who gave the information to the press.

**Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.**

From a spokesperson re Stephanie: "Part of Stephanie's job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would communicate with him."

Re Jill's email, from a spokesperson: "Regardless of whatever Ms. Boylan believes, she was in no way being 'tracked' by staff – Jill oversaw events and scheduling, so it was her job to understand what relevant senior members of the team—male and female – would be attending Governor events."

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on a return helicopter flight rather than remain and continue to engage with her direct-reports on substantive matters.

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From a spokesperson: "Stephanie does not believe this is true." (If needed Stephanie will say this on the record.)

**On the subject of the "strip poker" comment that her Medium post claimed the governor made on a flight in October 2017, Boylan disputes the group denial and says that Abbey Fashouer Collins was sitting next to her when the comment was made. –**

Please refer back to Abbey Collins previous statement which still stands – see below:

In a joint statement, John Maggiore, Howard Zemsky, Dani Lever, and Abbey Fashouer Collins who were on all of these flights with her added: "We were on each of these October flights and this conversation did not happen."

**She reiterates her claim that the governor kissed her on the lips in 2018.**

From Gov Cuomo: this did not happen.

---

**From:** Beth Garvey  
**Sent:** Monday, March 15, 2021 1:55 PM  
**To:** Peter Ajemian; Jeffrey Pollock; Melissa DeRosa; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** RE: Priv and Confidential - CURRENT DRAFT

Prefer this.

---

**From:** Peter Ajemian [REDACTED]@exec.ny.gov>  
**Sent:** Monday, March 15, 2021 1:53 PM  
**To:** Beth Garvey [REDACTED]@exec.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Melissa DeRosa [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>  
**Cc:** Stephanie Benton [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Mitra Hormozi [REDACTED]@wmhlaw.com>  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

Beth, OK?

Additional statement from Beth Garvey, acting counsel: "Due to the ongoing review by the Attorney General, we will not provide any documents at this time."

And then I'm going to say over the phone, off the record there's nothing additional we will provide at this time given the review - if the changes in the future I will of course keep you in mind. And I think it would make sense to move to the fact checking phase and we will see if there's anything further we need to correct or comment on.

---

**From:** Peter Ajemian  
**Sent:** Sunday, March 14, 2021 11:09 PM  
**To:** Beth Garvey; Jeffrey Pollock; Melissa DeRosa; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

I'm leaving it out for now and sending the rest

---

**From:** Beth Garvey  
**Sent:** Sunday, March 14, 2021 11:02 PM  
**To:** Jeffrey Pollock; Melissa DeRosa; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

This is safer, but not without risk- it's all new.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Beth Garvey  
**Sent:** Sunday, March 14, 2021 10:49 PM  
**To:** Jeffrey Pollock; Melissa DeRosa; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

Lindsey routinely circumvented the senior staff and went directly to the governor which disrupted communication and organization and was an ongoing source of tension.

I don't think we have said this before.  
It's fine if in fact she was asked many times, I thought we didn't know that factually.  
Still could be retaliation.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Jeffrey Pollock  
**Sent:** Sunday, March 14, 2021 10:41 PM  
**To:** Beth Garvey; Melissa DeRosa; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** RE: Priv and Confidential - CURRENT DRAFT

Beth look at the version that Melissa just sent which is close to what we said before. That's what I would like to do.

---

**From:** Beth Garvey [REDACTED]@exec.ny.gov>  
**Sent:** Sunday, March 14, 2021 10:40 PM  
**To:** Melissa DeRosa [REDACTED]@exec.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Peter Ajemian [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>  
**Cc:** Stephanie Benton [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Mitra Hormozi [REDACTED]@wmhlaw.com>  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

[EXT EMAIL]

This is new- we haven't said it, and i'm not sure our records reflect this. It's our "recollection" but the records previously released don't have this fact. It is completely relevant, but it can also look like we are inventing facts to suit us.

If, like you said, there's no there there with this story, and we are just pushing back on an anecdote you acknowledged to all of us earlier is true, we are just creating \*new\* liability for a retaliation claim that is ultimately gov's personally.

So his lawyers should weigh in.

It is purely our discretion to release records or disclose, so motive is what carries this. Is anecdote false? No, it's true, you said it was true, so it is just us taking a shot at her. This is something that creates significant risk. I would say no.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Melissa DeRosa  
**Sent:** Sunday, March 14, 2021 10:34 PM  
**To:** Jeffrey Pollock; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Beth Garvey; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

if we cant send this i'd like to understand legally why. we cannot just send the hostile work envior quote which doesnt answer the quesiton

Lindsey routinely circumvented the senior staff and went directly to the governor which disrupted communication and organization. She was asked many times not to go to the Governor directly but to follow protocol and refused, which was an ongoing source of tension - - the opposite dynamic that lindsey now claims.

---

**From:** Jeffrey Pollock [REDACTED]@globalstrategygroup.com>  
**Sent:** Sunday, March 14, 2021 10:30 PM  
**To:** Melissa DeRosa; Peter Ajemian; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Beth Garvey; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

Lawyers need to either overrule or not. The lawyers should have the priority on this Melissa

Jeffrey Pollock  
President  
D [REDACTED]  
M [REDACTED]  
My pronouns: he, him, his

---

**From:** Melissa DeRosa [REDACTED]@exec.ny.gov>  
**Sent:** Sunday, March 14, 2021 10:26:50 PM  
**To:** Peter Ajemian [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>  
**Cc:** Beth Garvey [REDACTED]@exec.ny.gov>; Stephanie Benton [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Mitra Hormozi [REDACTED]@wmhlaw.com>  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

[EXT EMAIL]

The entire point is to make clear that despite the fact that she is saying she was afraid and didn't want to be near him the point is that she was constantly going to him directly

From a spokesperson: "Lindsey regularly bypassed senior staff and went directly to the Governor against protocol, an ongoing source of frustration for members of the staff that was also disruptive. This led to a heated conversation between her and the Secretary and directly contradicts her current position she was 'afraid' of the Governor."

---

**From:** Melissa DeRosa  
**Sent:** Sunday, March 14, 2021 10:24 PM  
**To:** Peter Ajemian; Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock  
**Cc:** Beth Garvey; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

i do NOT agree

we are not giving that answer to that question -we need to be direct and factual here

---

**From:** Peter Ajemian

**Sent:** Sunday, March 14, 2021 10:15 PM

**To:** Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock

**Cc:** Beth Garvey; Melissa DeRosa; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Re: Priv and Confidential - CURRENT DRAFT

we can do more work during fact checking

---

**From:** Peter Ajemian

**Sent:** Sunday, March 14, 2021 10:15 PM

**To:** Linda A Lacewell (dfs.ny.gov); Jeffrey Pollock

**Cc:** Beth Garvey; Melissa DeRosa; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Re: Priv and Confidential - CURRENT DRAFT

ok. fixing that and shipping

---

**From:** Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov>

**Sent:** Sunday, March 14, 2021 10:12 PM

**To:** Jeffrey Pollock

**Cc:** Peter Ajemian; Beth Garvey; Melissa DeRosa; Stephanie Benton; Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Re: Priv and Confidential - CURRENT DRAFT

nothing about these exchanges IS unique or interesting in this regard."

Sent from my iPhone

On Mar 14, 2021, at 10:07 PM, Jeffrey Pollock [REDACTED]@globalstrategygroup.com> wrote:

*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.*

I'm good as long as you all have fully litigated the last point and we don't need to go back to where we were.

---

**From:** Peter Ajemian [REDACTED]@exec.ny.gov>

**Sent:** Sunday, March 14, 2021 10:06 PM

**To:** Beth Garvey [REDACTED]@exec.ny.gov>; Melissa DeRosa [REDACTED]@exec.ny.gov>; Stephanie Benton [REDACTED]@exec.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Linda A Lacewell (dfs.ny.gov) [REDACTED]dfs.ny.gov>

**Cc:** Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov)



██████████@esd.ny.gov>; Mitra Hormozi ██████████@wmhlaw.com>

Subject: Re: Priv and Confidential - CURRENT DRAFT

[EXT EMAIL]

**Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.**

From Rich Azzopardi, senior advisor to the Governor: "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

**She accuses Melissa DeRosa of leaking her personnel file and questions the legality of the leak. Do you or does Melissa have a response?**

From Beth Garvey, Acting Counsel: "With certain limited exceptions, as a general matter, it is within a government entity's discretion to share redacted employment records, including in instances when members of the media ask for such public information and when it is for the purpose of correcting inaccurate or misleading statements. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

OFF THE RECORD: HOW WOULD LINDSEY KNOW WHO RELEASED IT? WHAT IS THE BASIS FOR HER ASSERTION? WE CAN'T GET INTO SPECS BECAUSE OF THE AG'S INVESTIGATION, BUT PRINTING THAT MELISSA WAS THE ONE WHO GAVE IT TO THE PRESS WOULD BE INACCURATE.

**Boylan describes a culture of hostility and bullying under the governor. She and others recall seeing a dart board with a photo of Bill DeBlasio on it while attending a pool party. Do you or the governor have any comment on the dart board and the intentions behind it?**

**Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.**

From a spokesperson re Stephanie: "Part of Stephanie's job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would communicate with him." (OFF THE RECORD – see attached email sent out recently to a group when GAMC's number was changed)

Re Jill's email: "Regardless of whatever Ms. Boylan believes, she was in no way being 'tracked' by staff – Jill oversaw events and scheduling, so it was her job to understand what relevant senior members of the team— male and female – would be attending Governor events."

From a spokesperson: "All senior staff receive these kinds of instructions, requests and communications – nothing about these exchanges are unique or interesting in this regard."

**She says that she felt objectified and professionally diminished, and recounts an incident at the December 2016 REDC awards during which she says she was ordered to accompany the Governor and Maria Bartiromo**

**on a return helicopter flight rather than remain and continue to engage with her direct-reports on substantive matters.**

From a spokesperson: Lindsey was not even on the flight. Lindsey was not needed for the return flight and it was not a point of contention.

**Boylan speaks about what she perceived to be a lack of boundaries between the Governor and female staffers. She says that Stephanie Benton asked her, also at a pool party, whether she had yet been swimming in the pool at the governor's residence.**

From a spokesperson: "Stephanie does not believe this is true." If needed Stephanie will say this on the record

**On the subject of the "strip poker" comment that her Medium post claimed the governor made on a flight in October 2017, Boylan disputes the group denial and says that Abbey Fashouer Collins was sitting next to her when the comment was made. –**

**Please refer back to Abbey Collins previous statement which still stands – see below:**

In a joint statement, John Maggiore, Howard Zemsky, Dani Lever, and Abbey Fashouer Collins who were on all of these flights with her added: "We were on each of these October flights and this conversation did not happen."

**She reiterates her claim that the governor kissed her on the lips in 2018.**

From a spokesperson: "As we said before, Ms. Boylan's claims of inappropriate behavior are quite simply false."

**On the subject of Melissa, she recounts a convo in which Melissa screamed at her on the phone – in the final days of Lindsey being in her job – July 2018 – when things deteriorated**

From Rich Azzopardi, senior advisor to the governor: "There is no secret these are tough jobs, and the work is demanding, but we have a top tier team with many employees who have been here for years and many others who have left and returned because they know the work we do matters, a fact that was underscored throughout COVID."

---

**From:** Beth Garvey

**Sent:** Sunday, March 14, 2021 9:16 PM

**To:** Peter Ajemian; Melissa DeRosa; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Re: Priv and Confidential - CURRENT DRAFT

I reframed it slightly, it may work at the end as far as contradicting "fear"

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Peter Ajemian

**Sent:** Sunday, March 14, 2021 8:52 PM

**To:** Melissa DeRosa; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

---

**From:** Lis Smith; Josh Vlasto; Judith Mogul; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

also - what does this get us?

This occurred months before Ms. Boylan resigned and then unsuccessfully seeking her job back with the Chamber.

---

**From:** Melissa DeRosa

**Sent:** Sunday, March 14, 2021 8:14 PM

**To:** Peter Ajemian; Stephanie Benton; Jeffrey Pollock; Linda A Lacewell (dfs.ny.gov)

**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi

**Subject:** Priv and Confidential - CURRENT DRAFT

**Boylan alleges that former and current aides and allies of the Governor have retaliated against her in a variety of ways, including making calls about her.**

Will look like WSJ – about calls that were made and tenor.

Her ongoing and continued claim that those calls were intimidating or intended to suss out what her plans were or cast aspersions about her.

Melissa and Rich and Abbey Collins are mentioned.

From Rich Azzopardi, senior advisor to the Governor: “After Ms. Boylan’s tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up.”

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**Boylan describes a culture of hostility and bullying under the governor. She and others recall seeing a dart board with a photo of Bill DeBlasio on it while attending a pool party. Do you or the governor have any comment on the dart board and the intentions behind it?**

**Boylan says, as previously alleged in her Medium post, that the governor fixated on her, tracked her location through aides to an extent she found uncomfortable, and showed a level of interest that she found inappropriate in their interpersonal interactions.**

Fixated on her – her characterization of him – her interpretation of these events was he was repeatedly inquiring about her and in their own interactions, eye contact, touching, and signaling his interest in ways she found uncomfortable

Incremental new pieces of communiques – from editorial and fact checking standpoint – a cache of communications similar to what we've already seen – Stephanie Benton email from March 2017 sharing the governor's pin, responding to Lindsey getting a bberry, "Smiley face. Feel free to pin gov. he'll be very happy to hear from you." about her being issued a bberry with pin capacity and that's something the gov will be happy about -

From a spokesperson re Stephanie: "Part of Stephanie's job is to make sure senior staff know how and when they can get in touch with the Governor, and Blackberry pin is how any member of the team would communicate with him." (OFF THE RECORD – see attached email sent out recently to a group when GAMC's number was changed)

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**She says that she felt objectified and professionally diminished, and recounts an incident at the December 2016 REDC awards during which she says she was ordered to accompany the Governor and Maria Bartiromo on a return helicopter flight rather than remain and continue to engage with her direct-reports on substantive matters.**

LINDSEY WAS NOT EVEN ON THIS FLIGHT – Lindsey was not needed for the return flight and it was not a point of contention.

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From a spokesperson: "As we said before, Ms. Boylan's claims of inappropriate behavior are quite simply false."

**On the subject of Melissa, she recounts a convo in which Melissa screamed at her on the phone – in the final days of Lindsey being in her job – July 2018 – when things became really**

From a spokesperson: “This occurred months before Ms. Boylan resigned and then unsuccessfully seeking her job back with the Chamber. Lindsey regularly bypassed senior staff and went directly to the Governor against protocol, an ongoing source of frustration that was also disruptive. This led to a heated conversation between her and the Secretary and directly contradicts her current position she was ‘afraid’ of the Governor.”

To: Linda A Lacewell (dfs.ny.gov [REDACTED]@dfs.ny.gov]  
From: Beth Garvey[O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=033511A3D505483B95BF6C15C46B05A4-BETH GARVEY]  
Sent: Thur 3/4/2021 10:10:05 AM Eastern Standard Time  
Subject: Fw: Bennett complaint

---

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Richard Azzopardi [REDACTED]@exec.ny.gov>  
**Sent:** Thursday, March 4, 2021 10:06 AM  
**To:** [REDACTED]  
**Cc:** Beth Garvey  
**Subject:** Fw: Bennett complaint

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Lyons, Brendan [REDACTED]@TimesUnion.com>  
**Sent:** Thursday, March 4, 2021 10:04 AM  
**To:** Richard Azzopardi  
**Subject:** Bennett complaint

Good morning,

Looking at Beth Garvey's statement from last weekend there is no indication that GOER was notified or that the matter was referred to that office for a formal investigation. Is there a reason that was not done and is it the chamber's position that Executive Order 187 does not apply to the Executive Chamber?

Thanks.

Brendan



**Brendan J. Lyons**  
Managing Editor Enterprise, Investigations/Capitol Bureau  
[REDACTED]@timesunion.com  
645 Albany Shaker Rd, Albany, NY 12211  
Ph: [REDACTED] @Brendan\_LyonsTU



Sat, Feb 27, 4:40 PM

so charlotte story getting posted in times very soon

sending you what peter sent to times

Oh my god

have been on phone all day and obvi charlotte has told

She spoke to them?

in depth

detailed

Oh my god.

Ok

Tell me what I can do to help if anything

...nothing i just feel like i want





Oh my god.

Ok

Tell me what I can do to help if anything

no nothing i just feel like i want to tell the staff

we didn't know until today

Let's see what happens

Sat, Feb 27, 6:24 PM

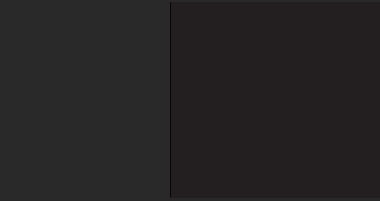
Redacted in original production



iMessage







### Cuomo Is Accused of Sexual Harassment by a 2nd Former Aide

[nytimes.com](https://www.nytimes.com)

Redacted in original production



iMessage



To: Press Office[Press.Office@exec.ny.gov]  
From: Press Office[Press.Office@exec.ny.gov]  
Sent: Sat 2/27/2021 6:39:00 PM Eastern Standard Time  
Subject: STATEMENT FROM GOVERNOR ANDREW M. CUOMO

---



For Immediate Release: 2/27/2021

GOVERNOR ANDREW M. CUOMO

**STATEMENT FROM GOVERNOR ANDREW M. CUOMO**

"Ms. Bennett was a hardworking and valued member of our team during COVID. She has every right to speak out.

"When she came to me and opened up about being a sexual assault survivor and how it shaped her and her ongoing efforts to create an organization that empowered her voice to help other survivors, I tried to be supportive and helpful. Ms. Bennett's initial impression was right: I was trying to be a mentor to her. I never made advances toward Ms. Bennett nor did I ever intend to act in any way that was inappropriate. The last thing I would ever have wanted was to make her feel any of the things that are being reported.

"This situation cannot and should not be resolved in the press; I believe the best way to get to the truth is through a full and thorough outside review and I am directing all state employees to comply with that effort. I ask all New Yorkers to await the findings of the review so that they know the facts before making any judgements. I will have no further comment until the review has concluded."

**STATEMENT FROM BETH GARVEY, SPECIAL COUNSEL AND SENIOR ADVISOR TO THE GOVERNOR**

"Ms. Bennett's concerns were treated with sensitivity and respect and in accordance with applicable law and policy.

"The matter was promptly escalated to special counsel. Ms. Bennett received the transfer she requested to a position in which she had expressed a long-standing interest, and was thoroughly debriefed on the facts which did not include a claim of physical contact or inappropriate sexual conduct. She was consulted regarding the resolution, and expressed satisfaction and appreciation for the way in which it was handled.

"The determination reached based on the information Ms Bennett provided was that no further action was required which was consistent with Ms Bennett's wishes.

"Although in no way required by law, the Governor has requested an independent review and all staff will cooperate in that endeavor. Former Federal Judge Barbara Jones will lead the review."

###

Additional news available at [www.governor.ny.gov](http://www.governor.ny.gov)  
New York State | Executive Chamber | [press.office@exec.ny.gov](mailto:press.office@exec.ny.gov) | 518.474.8418

[UNSUBSCRIBE](#)

**EXHIBIT**  
**16**

From: Beth Garvey [REDACTED]@exec.ny.gov  
Subject: eo 187  
Date: March 10, 2021 at 5:44 PM  
To: Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov



### III. Combating Harassment and Discrimination in State Agencies

#### a. Definitions

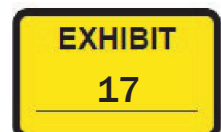
i. “Affected State Agency” shall mean all agencies and departments over which the Governor has executive authority.

ii. “Protected class discrimination” shall mean employment-related discrimination that is unlawful pursuant to federal laws, rules or regulations and/or state laws, rules or regulations, including but not limited to, Title VII of the Federal Civil Rights Act, the Americans with Disabilities Act, and the New York State Human Rights Law.

b. In order to promote the effective, complete and timely investigation of complaints of employment-related protected class discrimination, as of December 1, 2018, the Governor’s Office of Employee Relations (GOER) shall be responsible for conducting all investigations into employment-related discrimination complaints filed by employees, contractors, interns or other persons engaged in employment at Affected State Agencies as defined in Article III(a)(i) of this Order.

c. Such Affected State Agencies shall transfer the investigation function pursuant to Civil Service Law 70.2 to GOER and continue to permit such employees as are assigned by GOER to investigate complaints of protected class discrimination within their entity and shall cooperate fully with any and all investigations.

This is a crime, so if reported this way to GOER they would say this  
This is conduct which constitutes a crime, and needs to be reported to law enforcement, and we will take your report and hold it in abeyance until they pursue or conclude their investigation.



COHEN000638



Governor's Office of Employee Relations  
 Anti Discrimination Investigations Division  
 Empire State Plaza  
 Agency Building 2  
 Albany, New York 12223  
[antidiscrimination@goer.ny.gov](mailto:antidiscrimination@goer.ny.gov)

# New York State Employee Discrimination Complaint Form

**Instructions:** Use this form to file a claim of discrimination based on race, color, national origin, creed/religion, age, disability, military status, arrest/criminal conviction record, marital/familial status, predisposing genetic characteristics, pregnancy and related conditions, domestic violence victim status, gender/sex, sexual harassment, sexual orientation, gender identity, and/or retaliation.

Complete and return this form to the **Governor's Office of Employee Relations, Anti Discrimination Investigations Division.**

## Section 1: Complainant Information

### Full Name

Beth Garvey on behalf of Brittany Commisso

### Preferred Email Address (for complaint related communications)

[Redacted]@exec.ny.gov

### Agency/Employer

Executive Chamber/Lt. Governor

### Title/Business Unit/Facility

Special Counsel/Senior Advisor

### Work Schedule (days/hours)

Mon-Sun 9-5+

### Work Location/Address

Room [Redacted] The Capitol Albany, NY 12224

### Work Phone #

[Redacted]

### Home Address

Redacted in original production

### Personal Phone #

Redacted in original production

## Section 2: Supervisory Information

### Immediate Supervisor Name

Lauren Grasso (Ms. Commisso's)

### Title

Office Administrator

### Work Location/Address

Room [Redacted]

### Work Phone #

[Redacted]

### 2nd Level Supervisor Name

[Redacted]

### Title

Chief of Staff

### Work Location/Address

Room [Redacted]

### Work Phone #

[Redacted]

## Section 3: Details of Claim

### 1. Your claim of discrimination is based upon (check all that apply):

- |  |  |   |   |
|--|--|---|---|
| <input type="checkbox"/> Race            | <input type="checkbox"/> Age                               | <input type="checkbox"/> Marital/Familial Status              | <input type="checkbox"/> Gender/Sex   |
| <input type="checkbox"/> Color           | <input type="checkbox"/> Disability                        | <input type="checkbox"/> Predisposing Genetic Characteristics | <input type="checkbox"/> Sexual Harassment  |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Military Status                   | <input type="checkbox"/> Pregnancy and Related Conditions     | <input type="checkbox"/> Sexual Orientation                                       |
| <input type="checkbox"/> Creed/Religion  | <input type="checkbox"/> Arrest/Criminal Conviction Record | <input type="checkbox"/> Domestic Violence Victim Status      | <input type="checkbox"/> Gender Identity  |
|  |  |   | <input type="checkbox"/> Retaliation (for having engaged in a protected activity) |

### 2. Your claim of discrimination is made against:

#### Name 1

Andrew Cuomo

#### Title

Governor

#### Agency

Executive Chamber/Lt. Governor

#### Facility/Work Location

The Capitol Albany NY 12224

#### Work Phone

[Redacted]

Relationship to you:  Supervisor  Co-worker  Subordinate  Other → Please Specify: \_\_\_\_\_

#### Name 2

\_\_\_\_\_

#### Title

#### Agency

\_\_\_\_\_

#### Facility/Work Location

The Capitol Albany NY 12224

#### Work Phone

Relationship to you:  Supervisor  Co-worker  Subordinate  Other → Please Specify: \_\_\_\_\_



Continued --->



# New York State Employee Discrimination Complaint Form

**3. Date(s) discrimination occurred:**

Unk

**Is the discrimination continuing?**

Yes  No

**4. Please describe the alleged discriminatory conduct and the reasons the conduct is discriminatory. Please include the names of witnesses, if any, and attach supporting documentation, if available. Attach additional pages, if necessary.**

On Monday, March 8th, Executive Assistant #3 and Executive Assistant #2 contacted Judy Mogul, Special Counsel, and myself by phone to tell us that on the evening of March 6th, while socializing outside of the office, Brittany Commisso had spoken to them about alleged inappropriate conduct by the Governor towards her. There had been a conversation earlier in the week (they said Monday but based on our understanding of the conversation, which was after the Governor's press briefing Wednesday we think Wednesday, Brittany alluded to an interaction that made her upset, without specifics as to the nature of that interaction. They did not report to Judy or myself at that juncture.

The conduct alleged on Saturday March 8 was both verbal statements as well as physical actions, such as hugs "several times" that made complainant uncomfortable. That conduct occurred over approximately 18 months.

The complainant also alleged that there was an incident at the Executive Mansion, that the Governor closed the door to the office and kissed her once, and felt her breasts. EA #3 and EA #2 reported this conduct using the word "groping" - they were not clear on the timing of this incident.

EA #3 and EA #2 reported that Ms. Commisso had retained an attorney, Brian Premo.

I attempted to reach Mr. Premo after first consulting with the Attorney General's Office, [REDACTED] (initially) and [REDACTED] indicated that we should not delay our process internally and if the normal course of such a complaint would be to investigate we should do so. Since the allegation involved a physical interaction which, if true, could constitute a crime, we would have to report to law enforcement, [REDACTED] indicated we should follow our normal process.

Judy and I consulted with outside counsel, Mitra Hormozi. Ms. Hormozi also reached out to confirm this directive with Joon Kim, one of the subsequently named independent investigators. Mr. Premo did not return calls until March 9. We impressed upon him our obligation to report to law enforcement if this conduct occurred, he confirmed that this was his client's claim, and he would prefer to proceed civilly via an

**5. Have you filed a claim regarding this complaint with a federal, state, or local government agency?**

Yes  No

**6. Have you instituted a legal suit or court action regarding this complaint?**

Yes  No

**7. Have you hired an attorney with respect to the allegations in the complaint?**

Yes  No

**8. This complaint form was completed by:**

- Complainant
- Supervisor/Manager
- Affirmative Action Administrator

**Beth Garvey**

Signature

Digitally signed by Beth Garvey  
Date: 2021.03.11 17:48:07 -05'00'

**03/11/21**

Date

Return the completed form (by email or mail) to the Governor's Office of Employee Relations, Anti Discrimination Investigations Division:

**Empire State Plaza  
Agency Building 2  
Albany, New York 12223  
antidiscrimination@goer.ny.gov**



# Governor's Office of Employee Relations

ANDREW M. CUOMO  
Governor

MICHAEL N. VOLFORTE  
Director

## Complainant Name Beth Garvey

Discrimination Number

Complaint Number

Form Number [REDACTED]

## Filer Information

**Who is Filing** On Behalf of an Individual

**Employment Type** Employee

**Agency** Chamber

**Facility**

**Employer**

**Title** Acting Counsel to the Governor

**Preferred Contact Type** Email Address

**When to Contact** Any Time

**Phone Number** [REDACTED]

**Email Address** [REDACTED]@exec.ny.gov

**Street** [REDACTED] The Capitol

**City** Albany

**State** NY

**Zip** 12224

## The Person I Am Filing On Behalf Of

**On Behalf Of This Individual** Alyssa McGrath

**Employment Type** Employee

**Agency** Chamber

**Facility**

**Employer** Executive Chamber

**Title** Executive Assistant

**Work Location/Address** [REDACTED] The Capitol

## My Supervisor's Information

**Supervisor Information** Lauren Grasso

**Work Location/Address** [REDACTED] Capitol Albany, NY 12224

**Title** Director of Administrative Services

**Phone Number** [REDACTED]

**Email Address** [REDACTED]@exec.ny.gov



# Governor's Office of Employee Relations

**ANDREW M. CUOMO**  
Governor

**MICHAEL N. VOLFORTE**  
Director

## The Person I Am Filing Against

### Respondent Details

Name: Andrew Cuomo | Email: [REDACTED]@exec.ny.gov | Phone: [REDACTED] | Relation to you:  
Supervisor | Additional Info:

**Agency** Chamber  
**Facility**

## What Happened

**County** Albany

**Age** No

**Arrest/Criminal Conviction Record** No

**Color** No

**Creed/Religion** No

**Disability** No

**Domestic Violence Victim Status** No

**Gender Identity** No

**Gender/Sex** Yes

**Marital/Familial Status** No

**Military Status** No

**National Origin** No

**Predisposing Genetic Characteristics** No

**Pregnancy & Related Conditions** No

**Race** No

**Retaliation** No

**Sexual Harassment** Yes

**Sexual Orientation** No

**Start Date** 3/19/2021

**Ongoing** Yes

**End Date**

### Narrative

The allegations were relayed to the New York Times and are available here.

<https://www.nytimes.com/2021/03/19/nyregion/alyssa-mcgrath-cuomo-harassment.html>

The individual seems to be alleging sexual harassment. She is represented By Mariann Wang of Cutie Hecker and Wang.

**Filed with Fed State Local** No

**Legal Suit/Court Action** No



# Governor's Office of Employee Relations

**ANDREW M. CUOMO**  
Governor

**MICHAEL N. VOLFORTE**  
Director

**Hired Attorney** Yes



**From:** Beth Garvey [REDACTED]@exec.ny.gov  
**Subject:** Re: ??? Re: Beth/ Judy/ Linda this stuff needs to go. Pleaser review. Re: on background and on the records if lawyers ok - priv and confidential  
**Date:** March 11, 2021 at 9:18 PM  
**To:** Richard Azzopardi [REDACTED]@exec.ny.gov, Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov  
**Cc:** Melissa DeRosa [REDACTED]@exec.ny.gov, Judith Mogul [REDACTED]@exec.ny.gov, Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov, Peter Ajemian [REDACTED]@exec.ny.gov

BG

Good- also judy asked if we should run by mitra and paul-- I think no they will not know facts and if we have overnight we can walk through but if it needs to go tonight we either no comment or go without them.  
Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Richard Azzopardi  
**Sent:** Thursday, March 11, 2021 8:38 PM  
**To:** Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov))  
**Cc:** Melissa DeRosa; Beth Garvey; Judith Mogul; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Peter Ajemian  
**Subject:** Re: ??? Re: Beth/ Judy/ Linda this stuff needs to go. Pleaser review. Re: on background and on the records if lawyers ok - priv and confidential

With more edits

on background:

This person was recommended for a job that had recently been available by her employer at the time as well as former county/congressional officials. She was hired based on her recommendations and past experiences

The Governor took photos w nearly every person at that particular event, posing hugging w men and women alike (if you'd like photos we can get them for you but this was neither gendered nor specific to one person). she was not hired based on her appearance -- the salary she requested from how she presented it to us matched both what she was making at her current job plus the money she would lose by not being able to take a second weekend job due to time demands of the job

--Source A once wore a red plaid shirt to the office; the governor told her she looked like a lumberjack. IF THIS HAPPENED, IT WAS CLEARLY A JOKE

—Source A asked the governor whether he wanted her personal cell phone number in order to reach her if he needed anything outside of work hours. The governor responded as if she were making a romantic advance, which was not source A's intent —NO MEMORY OF THIS CONVERSATION, BUT IF IT HAPPENED IT WAS CLEARLY A JOKE

—source A heard rumors that the governor's administration would prevent staffer who wanted to leave his office from securing other jobs — THAT WAS AN OLD RUMOR FROM EARLY DAYS OF THIS ADMINISTRATION — THE OFFICE FULLY SUPPORTS THOSE WHO WISH TO MOVE ON, OFTEN FOCUSED ON TIMING TO ENSURE ORDERLY TRANSITION OF DUTIES

—source A recalls that when she first began working in the governor's office, she

EXHIBIT

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COHEN000818

felt that Cuomo's senior female staff did not like that the governor seemed to express interest in her. – IF THAT WAS HER INTERPRETATION, IT WAS NOT ACCURATE – THE ONLY THING THE SENIOR STAFF WAS FOCUSED ON WAS GOVERNMENT COMPETENCE AND GETTING THE JOB DONE

—the governor asked source A about her dating life – THE GOVERNOR ASKS MEN AND WOMEN IN THE OFFICE ABOUT THEIR LIVES – the reality is, everyone works really hard and this is his way of acknowledging they have a life outside the office.

She recalls that the governor seemed to enjoy this dynamic, and asked her about "the mean girls". That group was generally understood to include Melissa DeRosa, Jill DesRosiers, Stephanie Benton, and Linda Lacewell. Source A recalls that female senior staff would frequently not make eye contact with her when she approach them to converse – AGAIN, THIS IS SILLY, AND WE QUESTION IF THIS WOULD BE WRITTEN ABOUT MEN. TO BE CLEAR LINDA WAS NOT EVEN WORKING IN NEW YORK FOR MUCH OF THIS TIME AND ALSO THIS PERSON WORKED IN THE CHAMBER, TOP STAFFERS: SECRETARY TO THE GOVERNOR, THE COMMUNICATIONS DIRECTOR AND STATE OPERATIONS DIRECTOR WERE MEN

The following queries relate to source C:

—in 2015, source C interviewed for a speechwriting position in the governor's office and was hired within 24 hours. Source C was given a desk close to the governor's office. In her time as a speechwriter, she wrote 30 sets of remarks, of which the governor used only one. – THERE ARE MANY MALE AND FEMALE SPEECHWRITERS WHO PREPARE REMARKS FOR THE GOVERNOR AND WHOSE REMARKS HE ULTIMATELY DOES NOT USE. THEIR WORK GENERALLY INFORMS THE FINAL PRODUCT, BUT HE TENDS TO WRITE THE FINAL VERSIONS HIMSELF.

– SIMILARLY, HIS FATHER HAD MANY SPEECH WRITERS BUT ALSO ULTIMATELY TYPICALLY WROTE HIS OWN REMARKS

—Source C was a Black woman and felt that she was brought into the office as a token rather than as a valued contributor – WE ARE SORRY IF SHE FELT THIS WAY. IT IS NOT TRUE. WE Hired HER BASED ON HER PAST EXPERIENCE

WAY, IT IS NOT TRUE – WE HIRED HER BASED ON HER PAST EXPERIENCE, WHICH INCLUDED SPEECH WRITING.

—on the day after Amazon pulled out of its deal to open HQ2 in New York, Biaggi says she received a call from the governor at 9:30 am in which he yelled at her for having criticized the deal. – THE SENATE DEMOCRATS OPPOSITION TO AMAZON COST NEW YORKERS THOUSANDS OF GOOD PAYING JOBS – IT WASN'T A SECRET THEN OR NOW THAT WE HELD THEM RESPONSIBLE AND DISAGREED WITH THEIR DECISIONS

—another former staffer in the governor's office recalls a day, two years into her tenure, when she was awoken for work purposes at 4am and worked until 11pm. She spent the whole day at her computer receiving emails from Melissa DeRosa that severely reprimanded her. The staffer did not feel that she could get up to eat or use the restroom. The next day, DeRosa saw this staffer in the office and introduced herself as if they had never before met. This was the fourth such introduction DeRosa had made. –MELISSA DOES NOT REMEMBER THIS BUT READILY ACKNOWLEDGES THAT HER WORK DAY GENERALLY STARTS AT 4 AM AND ENDS WHEN HER HEAD HITS THE PILLOW – AGAIN SHE IS NOTORIOUSLY BAD WITH NAMES AND FACES – IF THIS INCIDENT UPSET THIS PERSON, SHE APOLOGIZES.

On there record if lawyers OK:

—source A noted that the governor and his top female aides expected that women in the office dress well and expensively. – THERE WAS NOT NOW NOR WAS THERE EVER AN EXPECTATION THAT WOMEN WOULD DRESS A CERTAIN WAY FROM SENIOR FEMALE STAFF – IN FACT, SENIOR FEMALE STAFF TYPICALLY DRESS IN ANYTHING FROM JEANS WITH BLAZERS TO SUITS TO DRESSES – PEOPLE DRESS HOWEVER THEY ARE COMFORTABLE IN THE OFFICE UNLESS THERE IS A PUBLIC FACING EVENT OR MEETING IN THE OFFICE FOR WHICH THE EXPECTATION IS THAT ALL STAFF – MALE AND FEMALE – ARE DRESSED PROFESSIONALLY

—Liss recalls that in December, she received a call from Rich Azzopardi asking her if she had been in contact with Lindsay Boylan – RICH'S ON THE RECORD ON THIS "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

—One day, Cuomo asked source A to come to his office and look up car parts on eBay. He sat in a chair and turned it toward her, while asking her to work at his computer, which required her to bend over in close proximity to him, while wearing a skirt and heels. THE GOVERNOR IS NOTORIOUSLY TECHNOLOGICALLY INEPT -- MALE AND FEMALE STAFFERS HAVE FOR YEARS

THE GOVERNOR IS NOT USUALLY TECHNOLOGICALLY LITERATE AND FEW SMALL STATE EMPLOYEES ASSISTED THE GOVERNOR WITH HIS COMPUTER

on background:-- IF SHE WAS UNCOMFORTABLE ASSISTING HIM WITH THE COMPUTER, SHE DID NOT LET ANYONE KNOW AT THE TIME

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

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**From:** Lacewell, Linda A (DFS)  
**Sent:** Thursday, March 11, 2021 8:19 PM  
**To:** Richard Azzopardi  
**Cc:** Melissa DeRosa; Beth Garvey; Judith Mogul; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Peter Ajemian  
**Subject:** Re: ??? Re: Beth/ Judy/ Linda this stuff needs to go. Pleaser review. Re: on background and on the records if lawyers ok - priv and confidential

I don't see any issues and looks much the same as earlier today but Beth should hopefully approve

Sent from my iPhone

On Mar 11, 2021, at 8:17 PM, Richard Azzopardi [REDACTED] [@exec.ny.gov](mailto:razzopardi@exec.ny.gov) wrote:

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

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**From:** Richard Azzopardi  
**Sent:** Thursday, March 11, 2021 7:57 PM  
**To:** Melissa DeRosa; Beth Garvey; Judith Mogul; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov))  
**Cc:** Peter Ajemian  
**Subject:** Beth/ Judy/ Linda this stuff needs to go. Pleaser review. Re: on background and on the records if lawyers ok - priv and confidential

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Melissa DeRosa  
**Sent:** Thursday, March 11, 2021 7:27 PM  
**To:** Beth Garvey; Richard Azzopardi; Judith Mogul; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov))  
**Cc:** Peter Ajemian  
**Subject:** on background and on the records if lawyers ok - priv and confidential

on background:

This person was recommended for a job that had recently been available by her employer at the time as well as former county/congressional officials. She was hired based on her recommendations and past experiences

The Governor took photos w nearly every person at that particular event, posing hugging w men and women alike (if you'd like photos we can get them for you but this was neither gendered nor specific to one person). she was not hired based on her appearance -- the salary she requested from how she presented it to us matched both what she was making at her current job plus the money she would lose by not being able to take a second weekend job due to time demands of the job

--Source A once wore a red plaid shirt to the office; the governor told her she looked like a lumberjack. IF THIS HAPPENED, IT WAS CLEARLY A JOKE

COHEN000821

—Source A asked the governor whether he wanted her personal cell phone number in order to reach her if he needed anything outside of work hours. The governor responded as if she were making a romantic advance, which was not source A's intent —NO MEMORY OF THIS CONVERSATION, BUT IF IT HAPPENED IT WAS CLEARLY A JOKE

—source A heard rumors that the governor's administration would prevent staffer who wanted to leave his office from securing other jobs — THAT WAS AN OLD RUMOR FROM EARLY DAYS OF THIS ADMINISTRATION — THE OFFICE FULLY SUPPORTS THOSE WHO WISH TO MOVE ON, OFTEN FOCUSED ON TIMING TO ENSURE ORDERLY TRANSITION OF DUTIES

—source A recalls that when she first began working in the governor's office, she felt that Cuomo's senior female staff did not like that the governor seemed to express interest in her. — IF THAT WAS HER INTERPRETATION, IT WAS NOT ACCURATE — THE ONLY THING THE SENIOR STAFF WAS FOCUSED ON WAS GOVERNMENT COMPETENCE AND GETTING THE JOB DONE

—the governor asked source A about her dating life — THE GOVERNOR ASKS MEN AND WOMEN IN THE OFFICE ABOUT THEIR LIVES — the reality is, everyone works really hard and this is his way of acknowledging they have a life outside the office.

She recalls that the governor seemed to enjoy this dynamic, and asked her about "the mean girls". That group was generally understood to include Melissa DeRosa, Jill DesRosiers, Stephanie Benton, and Linda Lacewell. Source A recalls that female senior staff would frequently not make eye contact with her when she approach them to converse — AGAIN, THIS IS SILLY, AND WE QUESTION IF THIS WOULD BE WRITTEN ABOUT MEN. AT THE TIME THIS PERSON WORKED IN THE CHAMBER, TOP STAFFERS: SECRETARY TO THE GOVERNOR, THE COMMUNICATIONS DIRECTOR AND STATE OPERATIONS DIRECTOR WERE MEN

The following queries relate to source C:

—in 2015, source C interviewed for a speechwriting position in the governor's office and was hired within 24 hours. Source C was given a desk close to the

governor's office. In her time as a speechwriter, she wrote 30 sets of remarks, of which the governor used only one. – THERE ARE MANY MALE AND FEMALE SPEECHWRITERS WHO PREPARE REMARKS FOR THE GOVERNOR AND WHOSE REMARKS HE ULTIMATELY DOES NOT USE. THEIR WORK GENERALLY INFORMS THE FINAL PRODUCT, BUT HE TENDS TO WRITE THE FINAL VERSIONS HIMSELF.

– SIMILARLY, HIS FATHER HAD MANY SPEECH WRITERS BUT ALSO ULTIMATELY TYPICALLY WROTE HIS OWN REMARKS

—Source C was a Black woman and felt that she was brought into the office as a token rather than as a valued contributor – WE ARE SORRY IF SHE FELT THIS WAY, IT IS NOT TRUE – WE HIRED HER BASED ON HER PAST EXPERIENCE, WHICH INCLUDED SPEECH WRITING.

—on the day after Amazon pulled out of its deal to open HQ2 in New York, Biaggi says she received a call from the governor at 9:30 am in which he yelled at her for having criticized the deal. – THE SENATE DEMOCRATS OPPOSITION TO AMAZON COST NEW YORKERS THOUSANDS OF GOOD PAYING JOBS – IT WASN'T A SECRET THEN OR NOW THAT WE HELD THEM RESPONSIBLE AND DISAGREED WITH THEIR DECISIONS

—another former staffer in the governor's office recalls a day, two years into her tenure, when she was awoken for work purposes at 4am and worked until 11pm. She spent the whole day at her computer receiving emails from Melissa DeRosa that severely reprimanded her. The staffer did not feel that she could get up to eat or use the restroom. The next day, DeRosa saw this staffer in the office and introduced herself as if they had never before met. This was the fourth such introduction DeRosa had made. –MELISSA DOES NOT REMEMBER THIS BUT READILY ACKNOWLEDGES THAT HER WORK DAY GENERALLY STARTS AT 4 AM AND ENDS WHEN HER HEAD HITS THE PILLOW – AGAIN SHE IS NOTORIOUSLY BAD WITH NAMES AND FACES – IF THIS INCIDENT UPSET THIS PERSON, SHE APOLOGIZES.

On there record if lawyers OK:

—source A noted that the governor and his top female aides expected that women in the office dress well and expensively. – THERE WAS NOT NOW NOR WAS THERE EVER AN EXPECTATION THAT WOMEN WOULD DRESS A CERTAIN WAY FROM SENIOR FEMALE STAFF – IN FACT, SENIOR FEMALE STAFF DRESS RANGE FROM JEANS WITH BLAZERS TO SUITS TO

DRESSES – PEOPLE DRESS HOWEVER THEY ARE COMFORTABLE IN THE OFFICE UNLESS THERE IS A PUBLIC FACING EVENT OR MEETING IN THE OFFICE FOR WHICH THE EXPECTATION IS THAT ALL STAFF – MALE AND FEMALE – ARE DRESSED PROFESSIONALLY

—Liss recalls that in December, she received a call from Rich Azzopardi asking her if she had been in contact with Lindsay Boylan – RICH'S ON THE RECORD ON THIS "After Ms. Boylan's tweets in December, she, and her lawyers and members of the press began reaching out to former members of the Chamber, many of whom never worked with her. Those former members of the Chamber called to let various staff people know and convey that they were upset by the outreach. As a result, we proactively reached out to some former colleagues to check in and make sure they had a heads up."

—One day, Cuomo asked source A to come to his office and look up car parts on eBay. He sat in a chair and turned it toward her, while asking her to work at his computer, which required her to bend over in close proximity to him, while wearing a skirt and heels.  
– THE GOVERNOR IS NOTORIOUSLY TECHNOLOGICALLY INEPT -- MALE AND FEMALE STAFFERS HAVE FOR YEARS ASSISTED THE GOVERNOR WITH HIS COMPUTER

on background:– IF SHE WAS UNCOMFORTABLE ASSISTING HIM WITH THE COMPUTER, SHE DID NOT LET ANYONE KNOW AT THE TIME

The following queries relate to Yuh-Line Niou:

—Niou alleges that she was not given assistance obtaining hand sanitizer or masks in the spring of 2020, as Covid-19 was hitting her district

—Niou alleges that she repeatedly requested these supplies, but that the governor's office responded by telling her that she had not requested them

We do not play politics with COVID, period. In the early days of the pandemic, supplies were limited and we prioritized healthcare intuitions. Once we received more supplies, we expanded our reach. On May 8<sup>th</sup>, the Assemblymember received 10 cases of 2 oz bottles (500 2 oz bottles) and 25 cases of gallons (100 gallons) of the NYS Clean.

—It has been widely reported that the governor's daughter [REDACTED] previously dated a New York State trooper. In the fall of 2020, the trooper was transferred out of the governor's mansion. Why was the trooper transferred out of Cuomo's office? Do you have a comment for those observers who have speculated that the transfer was intended to intimidate the trooper? THIS TROOPER REQUESTED A

was intended to intimidate the trooper? THIS TROOPER REQUESTED A TRANSFER. Statement from Beau Duffy, State Police spokesman "[REDACTED] requested a voluntary transfer to Troop B this past May, stating that he wanted to gain more field experience and further his career advancement track to the rank of sergeant. Such requests are routine, and it was granted."

**OTHER:**

—source A remembers that the governor asked her to send email messages to several state officials asking them, as she remembers it, "if they liked their jobs" and "wanted to keep them" —WE HAVE NO RECOLLECTION OF THIS — WE ASK FOR SOME EVIDENCE THAT THIS HAPPENED

—source A considers her experience in the governor's office one of verbal and mental abuse, and describes the work style in the governor's office as one of coercive control — IF SHE FELT THAT WAY, SHE DID NOT CONVEY THAT AT THE TIME AND WE'RE SORRY IF SHE HAD A NEGATIVE EXPERIENCE

The following allegations relate to a woman I'll refer to as source B:

The following queries relate to Ana Liss:

—Ana Liss says that the governor frequently called her nicknames such as Sparky, Blondie, Sweetheart, and Honey — THE GOVERNOR USES NICKNAMES FOR MEN AND WOMEN ALIKE.

—Ana Liss says that [REDACTED] once told her that the governor liked her and thought she was cute -- WE WOULD NEED TO ASK [REDACTED] — IF SHE SAID THAT, IT WASN'T BASED ON ANYTHING SHE WAS TOLD

—Liss says that [REDACTED] told her that when the governor was present, she needed to look very good — AGAIN, WOULD NEED TO ASK [REDACTED]; BUT IF SHE SAID THIS IT WAS NOT BASED ON ANYTHING SHE WAS INSTRUCTED TO SAY/DO BY ANY OTHER STAFF

**OTHER**

The following queries relate to Alessandra Biaggi:



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—in 2016, Biaggi took a job working for Alphonso David

—soon after she was hired, she attended a party at the governor's office. The governor approached her, grabbed her elbow, and complimented her on her dance moves. —WHEN/WHERE WAS THIS PARTY? WE HAVE NO RECORD OF BIAGGI ATTENDING A PARTY — WOULD LIKE TO TRY TO RUN THIS DOWN BUT CANNOT BASED ON THE INFORMATION PROVIDED HERE

—Biaggi left the governor's office to run for office herself, but saw the governor again at a wedding in 2018. He greeted her, kissed her face, and asked her fiancé, who was standing nearby, whether he was jealous

—after Biaggi had won her primary election, on the day before the general election, she says she received a call from the governor's office alerting her that the governor wanted to see her. Biaggi brought two campaign staffers to the meeting, but the governor's staff did not permit them to go with her into the meeting. At the end of her meeting with Cuomo, which was largely unremarkable, the governor asked her, "Tell me again how your grandfather's career ended?" She told him that he knew the answer to the question, but he insisted that he did not. She then left the meeting.

There are a series of general queries we'd like comment on:

—a source who I'll refer to as source D recalls a party at the governor's mansion in 2017 to which a number of new staff members were invited. During the party, source D recalls that several members of the governor's staff took part in an extended joke aimed at Melissa DeRosa, consisting of showing DeRosa a series of photographs of prominent state officials and asking DeRosa if she could identify them, which she could not.

—several former staffers allege that the governor was interested in public appearances first and foremost, and policy announcements were made in service of those appearances, rather than the other way around — A look at the record shows the exact opposite. Among other policy victories, the Governor passed a \$15 minimum wage, free tuition at public colleges and the strongest paid family leave and gun safety laws in the nation. These are all issues that Washington is still catching up on.



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**From:** Beth Garvey [REDACTED]@exec.ny.gov]  
**Sent:** 3/1/2021 4:03:00 PM  
**To:** Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov]; DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Cohen, Steven (ESD) [REDACTED]@esd.ny.gov]  
**CC:** Josh Vlasto [REDACTED]@gmail.com]; Dani Lever [REDACTED]@gmail.com]; Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Lis Smith [REDACTED]@gmail.com]; 'Jefrey Pollock' [REDACTED]@globalstrategygroup.com]  
**Subject:** RE: privileged & confidential - please see. FW: Comment on 2019 wedding interaction

I think we need to lean in to – we have an ongoing review now, a referral has been made, no further comment on this or related matters.

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**From:** Peter Ajemian [REDACTED]@exec.ny.gov>  
**Sent:** Monday, March 1, 2021 4:00 PM  
**To:** Melissa DeRosa [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>; Judith Mogul [REDACTED]@exec.ny.gov>; Beth Garvey [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>  
**Cc:** Josh Vlasto [REDACTED]@gmail.com>; Dani Lever [REDACTED]@gmail.com>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]@gmail.com>; 'Jefrey Pollock' [REDACTED]@globalstrategygroup.com>  
**Subject:** privileged & confidential - please see. FW: Comment on 2019 wedding interaction

I think we have to refer to yesterday's statement.

**From:** Jesse McKinley [REDACTED]@nytimes.com>  
**Sent:** Monday, March 1, 2021 3:53 PM  
**To:** Richard Azzopardi [REDACTED]@exec.ny.gov>; Peter Ajemian [REDACTED]@exec.ny.gov>  
**Subject:** Comment on 2019 wedding interaction

Rich, Peter,

Working on an article with Matt Flegenheimer, who interviewed the main subject, that involves an accusation by a 33-year-old woman, who says that the governor touched her inappropriately at a 2019 wedding (Gareth's, though he is not mentioned), and tried to kiss her even after she had conveyed her discomfort.

The woman, Anna Ruch, is on the record. She said in an interview that the governor put his hand on her bare lower back and after she removed it, the governor asked if he could kiss her, placing his palms on her face against her wishes and drawing closer as she pulled her head away. He then kissed her on the cheek.

There are photos of this moment, some of which are bouncing around Instagram.

I'll reflect the governor's previous comments on the Bennett/Boylan accusations, but can, of course, include any additional comment.

Jesse

--

EXHIBIT  
21

Jesse McKinley

New York Times

Bureau Chief

Albany

[REDACTED]

[REDACTED]

Twitter: @jessemckinley

Skype: [REDACTED]

Instagram: jessemckinley70

To: Melissa DeRosa [REDACTED]@exec.ny.gov]; Richard Azzopardi [REDACTED]@exec.ny.gov]; Peter Ajemian [REDACTED]@exec.ny.gov]; Judith Mogul [REDACTED]@exec.ny.gov]; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com]  
Cc: Lis Smith [REDACTED]@gmail.com]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Dani Lever [REDACTED]@gmail.com]  
From: Beth Garvey [O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=033511A3D505483B95BF6C15C46B05A4-BETH GARVEY]  
Sent: Thur 3/18/2021 12:33:43 PM Eastern Daylight Time  
Subject: RE: beth/mitra - are you guys OK here? we already gave the first part and the second ins context/fact - priv

ok

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From: Melissa DeRosa [REDACTED]@exec.ny.gov>  
Sent: Thursday, March 18, 2021 12:32 PM  
To: Beth Garvey [REDACTED]@exec.ny.gov]; Richard Azzopardi [REDACTED]@exec.ny.gov]; Peter Ajemian [REDACTED]@exec.ny.gov]; Judith Mogul [REDACTED]@exec.ny.gov]; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com>  
Cc: Lis Smith [REDACTED]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Dani Lever [REDACTED]@gmail.com>  
Subject: RE: beth/mitra - are you guys OK here? we already gave the first part and the second ins context/fact - priv

"This administration has a long history of hiring talented male and female reporters in the Chamber and across agencies."

If he pushes for specifics we could give some off the record -- everyone OK w that?

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From: Beth Garvey [REDACTED]@exec.ny.gov>  
Sent: Thursday, March 18, 2021 12:17 PM  
To: Melissa DeRosa [REDACTED]@exec.ny.gov]; Richard Azzopardi [REDACTED]@exec.ny.gov]; Peter Ajemian [REDACTED]@exec.ny.gov]; Judith Mogul [REDACTED]@exec.ny.gov]; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com>  
Cc: Lis Smith [REDACTED]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Dani Lever [REDACTED]@gmail.com>  
Subject: RE: beth/mitra - are you guys OK here? we already gave the first part and the second ins context/fact - priv

So maybe

"As a point of fact, this administration has a long history of hiring talented male and female reporters, including very quickly hiring Don Kaplan and Brian Conybear after being impressed with their work"

---

From: Melissa DeRosa [REDACTED]@exec.ny.gov>  
Sent: Thursday, March 18, 2021 12:00 PM  
To: Beth Garvey [REDACTED]@exec.ny.gov]; Richard Azzopardi [REDACTED]@exec.ny.gov]; Peter Ajemian [REDACTED]@exec.ny.gov]; Judith Mogul [REDACTED]@exec.ny.gov]; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com>  
Cc: Lis Smith [REDACTED]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Dani Lever [REDACTED]@gmail.com>  
Subject: RE: beth/mitra - are you guys OK here? we already gave the first part and the second ins context/fact - priv

Certainly don Kaplan and brian conybear

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From: Beth Garvey [REDACTED]@exec.ny.gov>  
Sent: Thursday, March 18, 2021 11:48 AM  
To: Melissa DeRosa [REDACTED]@exec.ny.gov]; Richard Azzopardi [REDACTED]@exec.ny.gov]; Peter Ajemian [REDACTED]@exec.ny.gov]; Judith Mogul [REDACTED]@exec.ny.gov]; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com>  
Cc: Lis Smith [REDACTED]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Dani Lever [REDACTED]@gmail.com>  
Subject: RE: beth/mitra - are you guys OK here? we already gave the first part and the second ins context/fact - priv

Fixed typo it's Pat, right?

I think her point in the article isn't that it would have been weird to be hired, but that it happened after one interaction. Do any of these fit that model? Where we can say that it was very soon after interacting and being impressed with the work...

Rather than just a list.

---

From: Melissa DeRosa [REDACTED]@exec.ny.gov>  
Sent: Thursday, March 18, 2021 11:41 AM  
To: Richard Azzopardi [REDACTED]@exec.ny.gov]; Peter Ajemian [REDACTED]@exec.ny.gov]; Beth Garvey [REDACTED]@exec.ny.gov]; Judith Mogul [REDACTED]@exec.ny.gov]; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com>  
Cc: Lis Smith [REDACTED]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Dani Lever [REDACTED]@gmail.com>  
Subject: beth/mitra - are you guys OK here? we already gave the first part and the second ins context/fact - priv

And this as well, right rich?

"I'm not aware of these specifics, but it is my understanding that it wasn't uncommon, especially early on when the Attorney General's press office was relatively small, for the then Attorney General and senior staff to engage directly with members of the press on articles."



"As a point of fact, this administration has a long history of hiring male and female reporters, including Tom Topousis, Don Kaplan, Brian Conybeare, Beth DeFalco, Glenn Blain, Ken Lovett, Kirsten Connolly, Pat Bailey, Freeman Klopott, Brian Nearing, Hailey Viccaro."

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**From:** Richard Azzopardi <[REDACTED]@exec.ny.gov>  
**Sent:** Thursday, March 18, 2021 11:29 AM  
**To:** Melissa DeRosa <[REDACTED]@exec.ny.gov>; Peter Ajemian <[REDACTED]@exec.ny.gov>; Beth Garvey <[REDACTED]@exec.ny.gov>; Judith Mogul <[REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>; Mitra Hormozi <[REDACTED]@wrmlaw.com>  
**Cc:** Lis Smith <[REDACTED]>; Jeffrey Pollock <[REDACTED]@globalstrategygroup.com>; Dani Lever <[REDACTED]@gmail.com>  
**Subject:** Re: Priv and Confidential

Added some more

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Melissa DeRosa  
**Sent:** Thursday, March 18, 2021 11:25 AM  
**To:** Peter Ajemian; Beth Garvey; Richard Azzopardi; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Mitra Hormozi  
**Cc:** Lis Smith <[REDACTED]>; Jeffrey Pollock; Dani Lever  
**Subject:** RE: Priv and Confidential

Ronan asked if we have a response to Valerie Beauman. I think we just refer back to previous comments that he never meant to make anyone feel uncomfortable but also never touched anyone inappropriately (which she acknowledged in her statement). Sound right?

### Transcript – GAMC 3/3

<https://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-cuomo-announces-event-arts-and-entertainment-venues>

Let me make an unrelated announcement if I can. I want to address the recent allegations that have been made against me. As you probably know, the Attorney General is doing an independent review and I will fully cooperate with that review. Now, the lawyers say I shouldn't say anything when you have a pending review until that review is over. I understand that, I'm a lawyer too, but I want New Yorkers to hear from me directly on this.

First, I fully support a woman's right to come forward and I think it should be encouraged in every way. I now understand that I acted in a way that made people feel [REDACTED]. It was unintentional and I truly and deeply apologize for it. I feel awful about it and frankly, I'm embarrassed by it, and that's not easy to say but that's the truth. But this is what I want you to know, and I want you to know this from me directly - I never touched anyone inappropriately. I never touched anyone inappropriately. I never knew at the time that I was making anyone feel uncomfortable. I never knew at the time that I was making anyone feel uncomfortable. I certainly never, ever meant to offend anyone or hurt anyone or cause anyone any pain. That is the last thing I would ever want to do.

I ask the people of this state to wait for the facts from the Attorney General's report before forming an opinion. Get the facts please before forming an opinion and the Attorney General is doing that review. I will fully cooperate with it and then you will have the facts and make a decision when you know the facts.

I also want you to know that, I have learned from what has been an incredibly difficult situation for me as well as other people, and I've learned an important lesson. I'm sorry. I'm sorry for whatever pain I caused anyone. I never intended it um and I will be the better for this experience.

"This administration has a long history of hiring reporters – male and female."

examples: Tom Topousis, Don Kaplan, Brian Conybeare, Beth DeFalco, Walt McClure, Glenn Blain, Ken Lovett, Kirsten Connolly, Pat Bailey, Freeman Klopott, Brian Nearing, Hailey viccaro

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**From:** Melissa DeRosa <[REDACTED]@exec.ny.gov>  
**Sent:** Wednesday, March 17, 2021 10:09 PM  
**To:** Beth Garvey <[REDACTED]@exec.ny.gov>; Richard Azzopardi <[REDACTED]@exec.ny.gov>; Peter Ajemian <[REDACTED]@exec.ny.gov>; Judith Mogul <[REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>; Mitra Hormozi <[REDACTED]@wrmlaw.com>  
**Cc:** Lis Smith <[REDACTED]>; Jeffrey Pollock <[REDACTED]@globalstrategygroup.com>; Dani Lever <[REDACTED]@gmail.com>  
**Subject:** Priv and Confidential

1) We quote a prominent reporter at a major newspaper as saying that Cuomo himself and his aides often shout at reporters. (Melissa DeRosa is specifically identified as an aide who did this.) Do you or the governor or Melissa have any comment?

"It's no secret that the office has had a number of difficult conversations with reporters over the years – we respect tough reporters and hope they respect us."

2) We report that at a February 2014 off the record dinner with the NYT (already publicly reported elsewhere), Cuomo, after several drinks and in front of a number of her colleagues, began "shouting" at Times journalist Susanne Craig, eventually telling her "I'm going to ruin you. As long as I live I will never speak to you again." We report that he then stormed out of the restaurant. Do you or the governor have any comment?

"Dinner had ended and there was a tense disagreement over a recent damaging article that the Governor was not even offered a chance to adequately respond to -- the Governor said it was unprofessional and he did not want to engage with the reporter further and that was the extent of it."

3) We report that Cuomo spread false rumors that [REDACTED] is gay. Do you or the governor have any comment?

"This is hurtful, ludicrous and not true."

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**From:** Beth Garvey  
**Sent:** Wednesday, March 17, 2021 9:27 PM  
**To:** Melissa DeRosa; Richard Azzopardi; Peter Ajemian; Judith Mogul; Linda A Lacewell (dfs.ny.gov); Mitra Hormozi  
**Cc:** Lis Smith [REDACTED]; Jeffrey Pollock  
**Subject:** Re: privileged / confidential

Looping mitra on the thread

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Melissa DeRosa  
**Sent:** Wednesday, March 17, 2021 8:57 PM  
**To:** Richard Azzopardi; Peter Ajemian; Beth Garvey; Judith Mogul; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Lis Smith [REDACTED]; Jeffrey Pollock  
**Subject:** Re: privileged / confidential

I think that's right on number 1

on #2 - dinner had been paid for and he did not say 'i'll ruin you'

#3 - this has no tipped over to the absurd

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**From:** Richard Azzopardi  
**Sent:** Wednesday, March 17, 2021 8:46 PM  
**To:** Peter Ajemian; Beth Garvey; Judith Mogul; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Melissa DeRosa; Lis Smith [REDACTED]; Jeffrey Pollock  
**Subject:** Re: privileged / confidential

The answer to one should be we respect tough reporters and hope they respect tough flaks.

No idea about three but that sounds nuts.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Rich Azzopardi [REDACTED]  
**Sent:** Wednesday, March 17, 2021 8:44 PM  
**To:** Peter Ajemian; Beth Garvey; Judith Mogul; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Melissa DeRosa; Lis Smith [REDACTED]; Jeffrey Pollock  
**Subject:** Re: privileged / confidential

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Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Peter Ajemian  
**Sent:** Wednesday, March 17, 2021 8:39 PM  
**To:** Beth Garvey; Judith Mogul; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Richard Azzopardi; Melissa DeRosa; Lis Smith [REDACTED]; Jeffrey Pollock  
**Subject:** Re: privileged / confidential

These came in 30 minutes ago but I just saw it because he sent to my gmail. What is the deal with #2 and #3?

—  
Keeping you apprised of any details as they arise: further to Boylan's claim about witnessing Cuomo shouting at a reporter, we provide some additional context.

- 1) We quote a prominent reporter at a major newspaper as saying that Cuomo himself and his aides often shout at reporters. (Melissa DeRosa is specifically identified as an aide who did this.) Do you or the governor or Melissa have any comment?
- 2) We report that at a February 2014 off the record dinner with the NYT (already publicly reported elsewhere), Cuomo, after several drinks and in front of a number of her colleagues, began "shouting" at Times journalist Susanne Craig, eventually telling her "I'm going to ruin you. As long as I live I will never speak to you again." We report that he then stormed out of the restaurant. Do you or the governor have any comment?
- 3) We report that Cuomo spread false rumors that ██████████ is gay. Do you or the governor have any comment?

If you could please send any responses tonight, that would be very helpful.

On Mar 17, 2021, at 2:23 PM, Peter Ajemian ██████████ <@exec.ny.gov> wrote:

Privileged / Confidential

Beth, Judy – can you please loop Mitra?

New Yorker Fact Check

New information added in last hour: on the day that Lindsey Boylan was tweeting back in December allegation of harassment, there was a group of people helping the gov with comms related to this incident. They were planning a call to discuss the tweets and how to respond: Mdr, Rich Azzopardi, Peter Ajemian, Steve Cohen – the group was exchanging the tweets and then a group email was circulated to plan a call - we were on an email planning a call to talk about the tweets.

The point of the call was to discuss how to address the tweets and deal with the situation: several options discussed including a letter that included discussion of Lindsey's reputation and credibility.

This is the letter that was referenced by the Times – drafted but never sent

The group decided not to send the letter but realized Lindsey faced complaints in the workplace – she had bullied colleagues including women of color in the workplace – and that those complaints were reflected in her personnel file [Ronan has a primary source (a person involved) who told him this].

But the decision was made by that group that the file would be shared with reporters.

The person who ended up making the calls to reporters was Rich Bamberger, and that he was calling reporters and telling them to call the governor's office, and then Azzopardi then sent the files to the reporters.

After that, later in the day, the complaints that were in the file ended up in the AP, TU and NYP.

Lindsey tells Ronan that she believes the person who released the files was Melissa.

(her sense is Melissa was involved in the decision and she doesn't know about the level of detail in Ronan's reporting)

Someone told Ronan that Melissa had been involved in leaks like this in the past, and that Rich Azzopardi had been involved in disseminating sensitive material through intermediaries. [no example given; the person who told him this has seen these sensitive materials—NEED TO ASK RONAN]

Statement from Beth Garvey

After Lindsey tweeted, gov's office called people who had worked under Lindsey seeking information.

Mentions WSJ piece from last week.

Lindsey also said she saw the calls as a tactic she in her experience had observed the governor use in other instances to smear and discredit and intimidate them – she views it as part of a history of doing this.

Statement from Azzopardi about the proactive outreach: This wasn't an effort to intimidate – it was to check and inform them that she had been contacting people.

She had several roles in the state government between 2015-2018.

A couple of incidences –

Lindsey recalled a time when Steph had a haircut and gov made fun of her in front of other people and she was crying in response to that.

Stephanie's statement: this is untrue – decency and respect.

Lindsey mentions ██████████ – gov talked about him being fat. ██████████ declined to comment.

She mentioned a party at pool house at mansion where she saw dartboard w face of BdB – a spox declined to comment on the dartboard.

Her first interaction with the governor was after a speech he gave at MSG on Jan 6 2016, and that she felt he was paying an unusual level of attention to her. It was not long after that that her boss Zemsky told her that GAMC had a crush on her. Howard didn't respond to request for comment.

She said over the next two years that the gov repeatedly commented on her appearance and touched her in unprofessional ways. Specifically, he would put his hand on her lower back. He would find a way to touch her in passing such as when getting on or off a plane. And that he frequently stared at her legs.

[NEED TO ADD A RESPONSE FROM GOV HERE]



She told her mother at one point that a Cuomo staffer had asked Lindsey's boss if she would be at an event that the gov was attending. In 2016.

A spokesman for the gov said the staffer over saw events and it would have been her job to understand who was there male and female.

REDC awards December 2016 – we report that after the awards, an aide to gamc demanded that Lindsey go back to ny on a plane w Cuomo instead of staying behind with the staffers who work for her. The aide declined to comment on the matter. Incident with Maria Bartiromo. (the aide is not named)

A spox said the flight arrangements were not a point of contention.

Stephanie emailing Lindsey suggesting she look up a woman who people had told Lindsey had been romantically linked to governor.

Stephanie wrote in an email; "you could be sisters except your're the better looking etc"

Albany conventuion center holiday party later in December 2016 – Lindsey said that when she saw the governor, she went to another part of the room.

Later that day, Andrew Ball called her and said the governor wanted to see her in his office. Ball declined to comment. She got to the office, gamc showed her things in the office including cigar box which he said was a gift from president Clinton and that he made comments referencing Clinton's sexual behavior (not an outright direct comment), and she found that – she felt like the cigar box was a reference to he

She said gamc knew Lindsey idolized Hillary, and making any sort of reference or joke about – she felt distressed by the situation around the cigar box.

The comments about her looks and huis paying attention to her continued through the rest of the time she worked in the office

2017 flight on a private plane in which the gov said to her let's play strip poker" – four Cuomo staffers on the plane denied this interaction occurred (staffers not named)

She said that in 2018 she went to several meetings held on the ground floor of the gov's mansion. And she told Ronan that at the conclusion of one of the meetings, as she was making her way to the door, his new puppy started jumping up and down near her. The puppy was a Siberian sheppard malmout mix named Captain.

She reached out to calm him down and backed away. And the gov said, jokingly, if he were a dog, he would "mount" her as well.

She said she remembered being "grossed out" by what he said but shrugged it off.

PLACEHOLDER FOR COMMENT?

In the summer of 2018, she had a one on one briefing with the governor in his ny office. When she was trying to leave, he blocked her from getting out by moving in front of her. And as she tried to move forward, he kissed her on the lips. She said in no way was it plutonic and she felt mortified.

Cuomo: This did not happen.

She told Ronan that at one point after this incident in 2018, MDR called her about a work matter and screamed at her and said, "What the fuck did you do?" Lindsey said "I'm not speaking to you," and hung up. MDR and spox declined to comment on the interaction.

[related to how Lindsey reacted and responded to people in the office, as there had been reports about her her behavior – she felt her mental health is deteriorating after all these incidents at that she claimed happen – implication is the things she was experiencing may have caused her to be difficult to her subordinates – bled out into how she interacted with people at work]

Then Ronan talks about the personnel files – The files supposedly say she was a bully to other women including black women. She said that in her more than three years working in the admin, she never had a performance review, and she had never seen these personnel files and was unaware of the incidents that have been reported. She also said that she never saw an HR or personnel file for anyone who worked in the office, much less herself. In her view, there's no real HR function independent of the gov and his closest aides.

COMMENT?

She says she tried to quit several times during that summer of 2018 and she eventually resigned in September of 2018.

She said even after she resigned, she still remained publicly supportive of Cuomo because she knew it was important to have his support if she wanted to continued in ny politics.

Lindsey: "you can't leave; if you leave, you're destroyed and there's no other place to go."

She recalled a time she was in the car with gamc and Melissa after a trip – she recalls him "obliterating" someone on the phone. She assumed it was a staffer, but she found out it was a famous reporter. "His main source of power is destroying you [people] in the press." She sees her situation and the files that were sent to reporters as an extension of his power over the press.

[Under 5000 words]

There are pieces of evidence from her:

1. Email that her mother sent following a ohone call they had in which (2016) – her mother was responding saying "it sounds very inappropriate what he's saying to you"
2. Email asking if she would be at event – forward o event – she sent a text saying I wish I could be recognized for my talents not my appearance
3. Email from Stephanie about better looking sister
4. Text from Melissa where she is trying to convince Lindsey to stay at the job (July 2018), and that's when Lindsey said beginning of 2018 she was trying to quit multiple times (after one of those times, mdr sent her a text asking her to stay
  - a. "I know it was a tough day today. We hope to see you back here tomorrow with the team helping to get things done." [this appears in the piece]
  - b. No other texts from Melissa

Quotes from people who know Lindsey – quotes about what Lindsey was telling them about her experience in the gov's office – for example when then the gov was touching her back, she told a friend about that

There are unnamed people in the story saying they observed Lindsey being hostile in the workplace.

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Charlotte Bennett mentioned

Are there any other accusers mentioned? Mention Anna Rusch – her experience at a wedding reception. No mentions of sixth accuser, Liss or Hinton.

Biaggi – she has no doubt that the gov leaked personnel files and subjected lindsey to a smear campaign. The gov's pattern of abusive behavior has always informed and it's pervasive in the admin. She experienced a culture where people were harassed and retaliated against. The behavior cies the gov and it's enforced by his aides.

RESPONSES BY END OF DAY OR THIS EVENING.

HOW TO PROCEED - DO WE WANT TO DO A CALL WITH RONAN AND FACT CHECKER?

Cc: Robert F Mujica (budget.ny.gov)[redacted]@budget.ny.gov]

To: [redacted]@ag.ny.gov; [redacted]@ag.ny.gov]

From: Beth Garvey[O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=033511A3D505483B95BF6C15C46B05A4-BETH GARVEY]

Sent: Sun 2/28/2021 3:18:55 PM Eastern Standard Time

Subject: Edited,

Attachment: Blank 62.docx

Attachment: ATT00001.txt

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I am hereby making a referral pursuant to Executive Law Section 63 (8) to engage a qualified independent private attorney or attorneys to be designated as special deputy attorney generals to investigate allegations of sexual harassment against the Governor. The attorney general will make a selection of such qualified independent private attorney or attorneys in consultation with the Chief Judge of the Court of Appeals. The Chamber and all employees will cooperate fully with this investigation.